

Response Deadline: October 13, 2021 at 4:00 p.m. (Prevailing Eastern Time)
Hearing Date and Time: October 20, 2021 at 11:00 a.m. (Prevailing Eastern Time)

PILLSBURY WINTHROP SHAW PITTMAN LLP
 31 West 52nd Street
 New York, NY 10019-6131
 Telephone: 212-858-1000
 Facsimile: 212-858-1500
 Leo T. Crowley
 Patrick E. Fitzmaurice
 Kwame O. Akuffo

Counsel for GUC Recovery Trustee

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

-----	X	
In re:	:	Chapter 11
	:	
JCK LEGACY COMPANY, <i>et al.</i> ,	:	Case No. 20-10418(MEW)
	:	
Debtors. ¹	:	(Jointly Administered)
	:	
-----	X	

**GUC RECOVERY TRUSTEE’S OBJECTION TO PROOF OF CLAIM
 NO. 2666 FILED BY THE PENSION BENEFIT GUARANTY CORPORATION**

William A. Brandt, Jr., in his capacity as trustee (the “**GUC Recovery Trustee**”) of the JCK Legacy Company GUC Recovery Trust (the “**GUC Recovery Trust**”) created under the GUC Recovery Trust Agreement (the “**Trust Agreement**”) and the confirmed *First Amended Joint Chapter 11 Plan of Distribution of JCK Legacy Company and its affiliated Debtors and Debtors in Possession* (the “**Plan**”) [Docket No. 879], by and through undersigned counsel, files this objection (the “**Objection**”), pursuant to section 502(b) of title 11 of the United States Code (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 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’ 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.



“**Bankruptcy Code**”) and Rule 3007 of the Federal Rules of Bankruptcy Procedure (“**Bankruptcy Rule**”), for entry of an order, substantially in the form attached as **Exhibit A** (the “**Proposed Order**”), disallowing and expunging Proof of Claim No. 2666 filed by the Pension Benefit Guaranty Corporation (“**PBGC**”).

In support of this Objection, the GUC Recovery Trustee submits the *Declaration of John Lowell* (the “**Lowell Decl.**”) attached as **Exhibit B**, and respectfully represents as follows:

JURISDICTION

1. This Court has jurisdiction to consider this Objection pursuant to 28 U.S.C. §§ 157 and 1334.
2. This is a core proceeding pursuant to 28 U.S.C. § 157(b).
3. Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.
4. The statutory predicate for the relief requested herein is section 502(b) of the Bankruptcy Code.

BACKGROUND

A. General Overview

5. On February 13, 2020 (the “**Petition Date**”), The McClatchy Company, a corporation organized under the laws of the state of Delaware, and certain of its affiliates (the “**Debtors**”), filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code with the U.S. Bankruptcy Court for the Southern District of New York. The chapter 11 cases have been jointly administered for procedural purposes, and all claims against the Debtors have been transferred to and consolidated in the bankruptcy case for the lead debtor, JCK Legacy Company.

6. On May 21, 2020, this Court entered an *Order Establishing Bar Dates for Filing Proofs of Claim and Approving Form and Manner of Notice Thereof* (the “**Bar Date Order**”), and

set July 10, 2020 at 5:00 p.m. (ET), as the deadline for creditors to file proofs of claim against the Debtors [Docket No. 485].

7. Notice of the Bar Date Order was mailed and also published in the *New York Times* as required by the Bar Date Order. *See* Docket Nos. 485, 513.

8. On September 25, 2020, this Court entered an order (the “**Confirmation Order**”) confirming the Plan, which became effective on September 30, 2020 (the “**Effective Date**”). *See* Docket Nos. 879, 886.

B. GUC Recovery Trustee

9. The Plan and Confirmation Order provide for the establishment of the GUC Recovery Trust pursuant to the Trust Agreement on the Effective Date, at which time the GUC Recovery Trustee was appointed to administer the GUC Recovery Trust. Confirmation Order at 11, 42; Trust Agreement, § 2.1; Plan, § 6.20.

10. Under the Trust Agreement, the GUC Recovery Trustee is authorized to review, object to, settle and resolve all general unsecured claims filed against the Debtors’ estates. Trust Agreement, § 6.1. The GUC Recovery Trustee is also authorized to take any action that may be or could have been taken by any officer or director of the Debtors or their estates with respect to the GUC Recovery Trust Assets, *id.* at § 2.2(e), represent the Debtors’ estate before any court of competent jurisdiction on matters concerning the GUC Recovery Trust, *id.* at § 2.2(m), to enter into any agreement that is consistent with the Plan, the Confirmation Order and the GUC Recovery Trust, *id.* at § 2.2(u), and to take any action that is reasonably necessary to administer the GUC Recovery Trust and the Plan. *Id.* at § 2.2(aa).

C. Pension Plan and PBGC Proofs of Claim

11. Prior to the Petition Date, the Debtors established and maintained The McClatchy Company Retirement Plan (the “**Pension Plan**”), a qualified single-employer defined benefit pension plan, pursuant to Title IV of the Employee Retirement Income Security Act of 1974 (ERISA), *as amended*, 29 U.S.C. §§ 1301-1461 (2018).

12. Effective as of August 31, 2020, the Pension Plan was terminated through an Agreement for Appointment of Trustee and Termination of Plan between the Debtors and PBGC. PBGC became the statutory trustee for the Pension Plan on September 4, 2020. As described in more detail below, PBGC asserts that when the Pension Plan terminated, the Pension Plan’s assets were insufficient to cover the benefit liabilities owed to plan participants.

13. On July 8, 2020, PBGC timely filed three proofs of claim. Proof of Claim No. 1765 asserted a claim of \$1,008,000,000 for unfunded benefit liabilities; that is for the difference between assets of the Pension Plan and an estimate by PBGC of the liabilities of the Plan under 29 U.S.C. § 1362. Proof of Claim No. 1772 asserted a claim of \$90,210,000 for unpaid insurance premiums; that is for termination premiums related to flat-rate and variable rate premiums, 29 U.S.C. § 1306, and resulting from a distressed termination under 29 U.S.C. §§ 1341(c)(2)(B)(ii) or (iii), or an involuntary termination under 29 U.S.C. § 1342. Proof of Claim No. 1876 asserted an amount of \$80,428,564 for unpaid minimum funding contributions; that is for minimum funding contributions required under ERISA, 29 U.S.C. § 1082, and the Internal Revenue Code, 26 U.S.C. §§ 412, 430, to ensure that the Pension Plan does not have an accumulated unfunded benefit liability.

14. On October 22, 2020, PBGC filed two amended proofs of claim. Proof of Claim No. 2666 amends Proof of Claim No. 1876 and asserts a revised amount of \$126,001,676 for

unpaid minimum funding contributions (the “**Minimum Funding Contribution Claim**”). Proof of Claim No. 2667 amends Proof of Claim No. 1765 and asserts a revised amount of \$877,500,000 for unfunded benefit liabilities under the Pension Plan (the “**Unfunded Benefit Liability Claim**” together with the Minimum Funding Contribution Claim, the “**PGBC Claims**”).² On December 8, 2020, PBGC filed Proof of Claim No. 2689, which amends Proof of Claim No. 1772 and asserts a revised amount of \$101,729,550 for unpaid insurance premiums.³

15. With respect to the Unfunded Benefit Liability Claim, PBGC asserts that the Pension Plan did not have sufficient assets to cover the benefit liabilities of the Pension Plan and, the amount sought with the Unfunded Benefit Liability Claim represents PBGC’s estimate of the difference between the Pension Plan’s assets and its expected liabilities. *See* Exhibit D at ¶¶ 6, 8.

16. With respect to the Minimum Funding Contribution Claim, PBGC asserts that \$126,001,676 is owed to PBGC as trustee of the Pension Plan because 29 U.S.C. § 1342(d)(1)(B)(ii) authorizes the appointed trustee (*i.e.*, PBGC) “to collect for the plan any amounts due the plan, including but not limited to the power to collect from the persons obligated to meet the requirements of section 1082 of [ERISA] or the terms of the plan.” Exhibit C at ¶ 6.

RELIEF REQUESTED

17. Pursuant to section 502(b) of the Bankruptcy Code and Bankruptcy Rule 3007, the GUC Recovery Trustee seeks entry of the Proposed Order disallowing and expunging the Minimum Funding Contribution Claim in its entirety because it is duplicative of the Unfunded Benefit Liability Claim.

² The Minimum Funding Contribution Claim is attached as **Exhibit C**, and the Unfunded Benefit Liability Claim is attached as **Exhibit D**.

³ Although Proof of Claim No. 2689 is not an issue in this Objection, the GUC Recovery Trustee reserves all rights with respect to the claim.

BASIS FOR RELIEF

A. Legal Standard

18. Section 502 of the Bankruptcy Code governs the allowance and disallowance of claims. 11 U.S.C. § 502. Generally, a proof of claim filed is deemed allowed unless a party in interest objects. 11 U.S.C. § 502(a). If an objection is filed, section 502(b) requires the court to determine the amount of the claim and allow it, unless the claim falls in one of the enumerated categories under sections 502(b)(1)-(9). *See* 11 U.S.C. § 502(b). Among other provisions, section 502(b) provides that a claim may be disallowed if it is unenforceable against the debtor under applicable law. 11 U.S.C. § 502(b)(1).

19. The objecting party has the initial “burden of putting forth evidence sufficient to refute the validity of the claim.” *In re Metex Mfg. Corp.*, 510 B.R. 735, 740 (Bankr. S.D.N.Y. 2014) (citation omitted). “By producing ‘evidence equal in force to the prima facie case,’ an objector can negate a claim’s presumptive legal validity, thereby shifting the burden back to the claimant to ‘prove by a preponderance of the evidence that under applicable law the claim should be allowed.’” *In re Residential Capital, LLC.*, 518 B.R. 720, 731 (Bankr. S.D.N.Y. 2014) (quoting *In re Motors Liquidation Co.*, 2013 WL 5549643, at *3 (S.D.N.Y. 2013)).

20. A creditor cannot recover on the same debt twice. *See In re Finley, Kumble, Wagner, Heine, Underberg, Manley, Myerson & Casey*, 160 B.R. 882, 894 (Bankr. S.D.N.Y. 1993) (“In bankruptcy, multiple recoveries for an identical injury are generally disallowed.”). Objections to identical or duplicate claims are appropriate because “to allow one creditor to assert two dollars in claims for every one dollar of loss from the same debtor violates principles of ratable distribution and offends notions of uniform treatment for creditors.” *In re Chateaugay Corp.*, 115 B.R. 760, 782-84 (Bankr. S.D.N.Y. 1990), *aff’d*, 130 B.R. 690 (S.D.N.Y. 1991), *vacated per consent order*,

Nos. 89-CV-6012 and 90-CV-6048, 1993 WL 388809 (S.D.N.Y. June 16, 1993). Accordingly, “claims that assert a right to payment on the same liability for which payment is sought in another claim filed by the same creditor state no independent right to recovery and are unenforceable to the extent of the duplication. *In re GGS Liquidation, Inc.*, No. 01-31751, 2016 WL 6808510, at *3 (Bankr. N.D. Ill. Nov. 14, 2016) (citing *In re Pierport Dev. & Realty, Inc.*, 491 B.R. 544, 547 (Bankr. N.D. Ill. 2013)).

B. The Minimum Funding Contribution Claim is Duplicative of the Unfunded Benefit Liability Claim

21. The GUC Recovery Trustee has determined that the Minimum Funding Contribution Claim is duplicative of the Unfunded Benefit Liability Claim because both claims⁴ seek recovery from the Debtors for minimum funding contributions that the Debtors were required to, but did not, make to the Pension Plan.

22. Under ERISA and the Internal Revenue Code, a plan sponsor is required to make minimum funding contributions into a funding standard account, which must be maintained by the plan sponsor. Lowell Decl. ¶ 3; *see also* 29 U.S.C. § 1082; 26 U.S.C. § 412. Minimum funding contribution requirements are satisfied if at the end of the plan year, the plan does not have an accumulated unfunded benefit liability. *Id.* *See also* 29 U.S.C. § 1082(a)(2); 26 U.S.C. § 412(a)(2).

23. PBGC may terminate a plan if the plan sponsor fails to satisfy the minimum funding contribution requirements or if the plan does not have sufficient assets to pay all benefits. *Id.* ¶ 4; 29 U.S.C. § 1342(a). In a case of a distress or involuntary termination, such as termination of the Pension Plan, PBGC becomes statutory trustee of the plan and is empowered to collect any amount due under the plan, including unfunded benefit liabilities. *Id.* *See also* 29 U.S.C. §§ 1341, 1342,

⁴ To be clear, the GUC Recovery Trustee understands that the Unfunded Benefit Liability Claim seeks additional amounts beyond the unpaid minimum funding contribution and does not contend that those amounts are duplicative of the amounts sought in the Minimum Funding Contribution Claim.

1362(b)(1)(A). The amount of an unfunded benefit liability is determined if “the present value of the guaranteed benefits of the plan exceeds the value of the assets of the plan.” *Chateaugay*, 115 B.R. at 783. *See also* Lowell Decl. ¶ 4; 29 U.S.C. § 1301(18)(A) and (B).

24. A minimum funding contribution claim is an asset of the plan and therefore a subset of an unfunded benefit liability claim because “a substantial portion of [an unfunded benefit liability] is attributable to the fact that the [pension] plan has not yet realized any recovery on one of its major assets, the plan’s claims for *unpaid contributions*.” *Chateaugay*, 115 B.R. at 783 (emphasis added). *See also* Lowell Decl. ¶ 4.

25. Because minimum funding contribution claims and unfunded benefit liability claims overlap and are duplicative to that extent, courts in this district and elsewhere have reduced or offset either claim on a dollar-for-dollar basis to avoid duplication. *See, e.g., In re Simetco, Inc.*, No. 93-61772, 1996 WL 651001 (Bankr. N.D. Ohio, Feb. 15, 1996), *aff’d*, No. 96-CV-608, 1996 U.S. Dist. LEXIS 22979, at *7-9 (N.D. Ohio Jul. 23, 1996) (reducing unfunded benefit liability claim by the full amount of the minimum funding contribution claim because the latter was duplicative of the former); *In re Finley, Kumble, Wagner, Heine, Underberg, Manley, Myerson & Casey*, 160 B.R. 882, 894 (Bankr. S.D.N.Y. 1993) (offsetting unfunded benefit liability claim against minimum funding contribution claim because it is inequitable for PBGC to assert two dollars of claims for every one dollar of loss from the same debtor); *Chateaugay*, 115 B.R. at 784 (reducing unfunded liability dollar for dollar for every allowed unpaid contribution claim because to allow PBGC “two dollars of claims against the same [d]ebtor for one dollar of loss violates the principles of equality of distribution and uniformity of treatment of creditors”).

26. Moreover, to the extent PBGC seeks to assert a minimum funding contribution claim “in its individual capacity” and “in its capacity as successor plan trustee,” as suggested by

PBGC in its statement in support of the Minimum Funding Contribution Claim, *see* Exhibit C at ¶ 6, such an assertion of both claims violates principles of ratable distribution and equal treatment of creditors that are fundamental to the Bankruptcy Code.

27. In addressing PBGC's claim to recover an unmade minimum funding contribution in both its individual capacity and in its capacity as successor plan trustee, the court in *Chateaugay* held:

Allowing the PBGC two dollars of claims against the same Debtor for one dollar of loss violates the principles of equality of distribution and uniformity of treatment of creditors that are fundamental to the Code. To the extent that the unpaid contribution claims of each plan are allowed in any of the [Debtors'] Chapter 11 cases, any amounts which would otherwise be allowed in these cases as Insufficiency Claims must be disallowed as duplicative.

Chateaugay, 115 B.R. at 784. The court in *Finley* similarly illustrated the inequities of PBGC's position:

If, for the purposes of example only, the minimum funding requirement is \$ 500,000 and the asset insufficiency is \$ 1,000,000, then assuming a distribution of thirty cents on the dollar, the estate will pay \$ 150,000 in actual dollars to satisfy the minimum funding obligation. PBGC and Pension Trustee maintain that they can assert an unsecured claim for \$ 350,000 in addition to their \$ 1,000,000 asset insufficiency claim. PBGC and Pension Trustee therefore seek to be paid thirty cents on the dollar for \$ 500,000, plus an additional thirty cents on the dollar for the remaining \$ 350,000. Debtor's estate would then be liable for \$ 255,000 on a \$ 500,000 claim, even though the rate of distribution for creditors is thirty cents on the dollar. We find such a result inconsistent with the letter and spirit of Title 11.

Pension Trustee's Deficiency Claim is therefore disallowed to the extent that Pension Trustee's Deficiency claim duplicates PBGC's Unfunded Benefits Claim. Additionally, PBGC's Deficiency Claim will be offset by the allowed amount of the Pension Trustee's Minimum Funding Claim.

Finley, 160 B.R. at 894 and n.26 (“The \$ 500,000 minimum funding requirement is part of the total \$ 1,000,000 asset insufficiency. Subtracting the duplicative minimum funding claim, the remaining \$ 500,000 is multiplied by 0.30 to reach the total claim amount paid by the estate.”).

28. The result should be no different here. Given the duplicative nature of the PBGC Claims, the GUC Recovery Trustee submits that the Minimum Funding Contribution Claim should be disallowed and expunged in its entirety to avoid duplication with the Unfunded Benefit Liability Claim. Elimination of the Minimum Funding Contribution Claim would avoid the inequitable result of a double recovery for PBGC on its claims to recover unpaid minimum funding contributions and ensure that all general unsecured creditors are similarly treated for purposes of ratable distribution of the GUC Recovery Trust Assets under the Plan.

NOTICE

29. Notice of this Objection has been given to parties on the master service list who have agreed to accept service by email and by first-class mail to: (a) the United States Trustee; (b) the Attorney General of the United States; (c) Office of the United States Attorney for the Southern District of New York; and (d) PBGC. The GUC Recovery Trustee submits that such notice is sufficient and no other or further notice need be provided.

CONCLUSION

WHEREFORE, the GUC Recovery Trustee requests that this Court enter the Proposed Order attached as **Exhibit B**: (a) disallowing and expunging the Minimum Funding Contribution Claim in its entirety; and (b) granting such other and further relief as the Court deems just and proper.

Dated: September 20, 2021

New York, New York

/s/ Leo T. Crowley

PILLSBURY WINTHROP SHAW PITTMAN LLP

Leo T. Crowley

Patrick E. Fitzmaurice

Kwame O. Akuffo

31 West 52nd Street

New York, New York 10019

Telephone: (212) 858-1000

Facsimile: (212) 858-1500

leo.crowley@pillsburylaw.com

patrick.fitzmaurice@pillsburylaw.com

kwame.akuffo@pillsburylaw.com

Counsel for GUC Recovery Trustee

Response Deadline: October 13, 2021 at 4:00 p.m. (Prevailing Eastern Time)
Hearing Date and Time: October 20, 2021 at 11:00 a.m. (Prevailing Eastern Time)

PILLSBURY WINTHROP SHAW PITTMAN LLP
31 West 52nd Street
New York, NY 10019-6131
Telephone: 212-858-1000
Facsimile: 212-858-1500
Leo T. Crowley
Patrick E. Fitzmaurice
Kwame O. Akuffo

Counsel for GUC Recovery Trustee

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

.....	X	
In re:	:	Chapter 11
	:	
JCK LEGACY COMPANY, <i>et al.</i> ,	:	Case No. 20-10418(MEW)
	:	
Debtors. ¹	:	(Jointly Administered)
	:	
.....	X	

NOTICE OF OBJECTION AND HEARING

PLEASE TAKE NOTICE that William A. Brandt, Jr., in his capacity as trustee of the JCK Legacy Company GUC Recovery Trust, filed the *GUC Recovery Trustee's Objection to Proof of Claim No. 2666 Filed By The Pension Benefit Guaranty Corporation* (the "**Objection**") with the United States Bankruptcy Court for the Southern District of New York (the "**Bankruptcy Court**").

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' 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.

PLEASE TAKE FURTHER NOTICE that any response to the Objection must be filed on or before **October 13, 2021 at 4:00 p.m. (ET)** (the “**Response Deadline**”) with the Bankruptcy Court, Courtroom 617, One Bowling Green, New York, New York 10004. At the same time, you must serve a copy of any response by the Response Deadline upon the undersigned counsel to the movant and to:

- (a) The Debtors, JCK Legacy Company, c/o FTI Consulting, Inc., 1201 W. Peachtree Street, NW, Suite 500, Atlanta, Georgia 30309, Attn.: Sean M. Harding (sean.harding@fticonsulting.com);
- (b) Counsel for the Plan Administration Trustee, Skadden, Arps, Slate, Meagher & Flom LLP, One Manhattan West, New York, New York 10001, Attn.: Shana A. Elberg (shana.elberg@skadden.com) and Bram A. Stochlic (bram.stochlic@skadden.com), 300 South Grand Avenue, Suite 3400, Los Angeles, California 90071, Attn.: Van C. Durrer, II (van.durrer@skadden.com), and Destiny N. Almogue (destiny.almogue@skadden.com) and 525 University Avenue, Palo Alto, California 94301 Attn.: Jennifer Madden (jennifer.madden@skadden.com);
- (c) Co-counsel for the Plan Administration Trustee, Togut, Segal & Segal LLP, One Penn Plaza, Suite 3335, New York, New York 10119, Attn.: Albert Togut (altogut@teamtogut.com) and Kyle J. Ortiz (kortiz@teamtogut.com);
- (d) The GUC Recovery Trust, c/o DSI Consulting, Inc., 110 East 42nd Street, Suite 1818, New York, New York 10017 Attn.: William A. Brandt., Jr. (bbrandt@DSIconsulting.com);
- (e) Counsel for the GUC Recovery Trustee, Pillsbury Winthrop Shaw Pittman LLP, 31 West 52nd Street, New York, New York. Attn.: Leo T. Crowley (leo.crowley@pillsburylaw.com), Patrick Fitzmaurice (patrick.fitzmaurice@pillsburylaw.com), and Kwame O. Akuffo (kwame.akuffo@pillsburylaw.com);
- (f) The Office of the United States Trustee, U.S. Federal Office Building, 201 Varick Street, Room 1006, New York, New York 10014, Attn.: Benjamin J. Higgins and Brian S. Masumoto; and
- (g) Any party that has requested notice pursuant to Bankruptcy

Rule 2002.

Only those responses made in writing and timely filed in accordance with the above procedures will be considered by the Bankruptcy Court.

PLEASE TAKE FURTHER NOTICE THAT, unless the telephonic hearing procedures set forth in General Order M-543 (Morris, C.J.) are amended, the hearing to consider the Objection shall be held **telephonically via Court Solutions LLC on October 20, 2021, at 11:00 am (ET)** before the Honorable Michael E. Wiles in the Bankruptcy Court, Courtroom 617, One Bowling Green, New York, New York 10004. Instructions to register for Court Solutions LLC are attached to Gen. Ord. M-543.

PLEASE TAKE FURTHER NOTICE THAT if you fail to respond in accordance with this Notice and by the Response Deadline, the Bankruptcy Court may grant the relief requested in the Objection without further notice or a hearing.

Dated: September 20, 2021
New York, New York

/s/ Leo T. Crowley
PILLSBURY WINTHROP SHAW PITTMAN LLP
Leo T. Crowley
Patrick E. Fitzmaurice
Kwame O. Akuffo
31 West 52nd Street
New York, New York 10019
Telephone: (212) 858-1000
Facsimile: (212) 858-1500
leo.crowley@pillsburylaw.com
patrick.fitzmaurice@pillsburylaw.com
kwame.akuffo@pillsburylaw.com

Counsel for GUC Recovery Trustee

Exhibit A

Declaration of John Lowell

PILLSBURY WINTHROP SHAW PITTMAN LLP
31 West 52nd Street
New York, NY 10019-6131
Telephone: 212-858-1000
Facsimile: 212-858-1500
Leo T. Crowley
Patrick E. Fitzmaurice
Kwame O. Akuffo

Counsel for GUC Recovery Trustee

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

.....	X	
In re:	:	Chapter 11
	:	
JCK LEGACY COMPANY, <i>et al.</i> ,	:	Case No. 20-10418(MEW)
	:	
Debtors. ¹	:	(Jointly Administered)
	:	
.....	X	

**DECLARATION OF JOHN LOWELL IN SUPPORT OF GUC RECOVERY
TRUSTEE'S OBJECTION TO CLAIM NO. 2666 FILED BY PBGC²**

Pursuant to 28 U.S.C. § 1746, I, John Lowell, submit this declaration (the "**Declaration**") under the penalty of perjury and state that the following is true to the best of my knowledge, information, and belief:

1. I am a Partner at October Three Consulting, LLC, with more than 30 years of experience as an actuary, consulting in the benefits and compensation space. I am an Associate of the Society of Actuaries, an Enrolled Actuary under ERISA, a Fellow of the Conference of Consulting Actuaries, and a Member of the American Academy of Actuaries. I have served as

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' 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 and not otherwise defined herein shall have the meaning ascribed to them in the Objection.

President of the Conference of Consulting Actuaries, and was on its Board of Directors from 2010 through 2020. I have also served as Conference of Consulting Actuaries Council Delegate to the International Actuarial Association.

2. All statements in this Declaration are based on my review of the Minimum Funding Contribution Claim, the Unfunded Benefits Liability Claim and experience performing actuarial analysis of such claims.

3. ERISA and the Internal Revenue Code require a plan sponsor of a single-employer pension benefit plan to make minimum funding contributions to the plan and maintain such contributions in a funding standard account. 29 U.S.C. § 1082; 26 U.S.C. §§ 412, 430. A plan sponsor satisfies the minimum funding requirements if, as of the end of plan year, the plan does not have an accumulated funding deficiency in its funding standard account. 29 U.S.C. § 1082(a)(2); 26 U.S.C. § 412(a)(2).

4. A plan may be terminated by PBGC if the plan sponsor fails to satisfy the minimum funding contribution requirements or if the plan does not have sufficient assets to fund all benefits. 29 U.S.C. § 1342(a). In a case of a distress or involuntary termination, such as termination of the Pension Plan, PBGC becomes statutory trustee of the plan and is responsible for collecting any amount due under the plan, including unfunded benefit liabilities. 29 U.S.C. §§ 1341, 1342, 1362(b)(1)(A). A claim for unfunded benefit liabilities is the difference between the value of plan's assets and the value of benefit liabilities as of the plan termination date. 29 U.S.C. § 1301(18)(A) and (B).

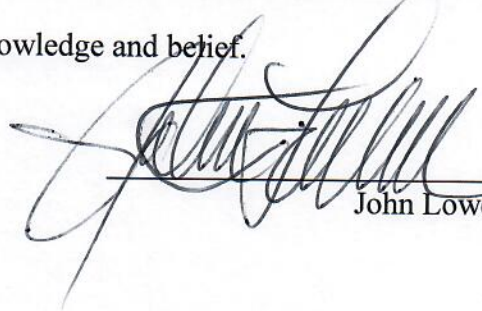
5. A minimum funding contribution claim is an asset of the plan and therefore a subset of an unfunded benefit liability claim because a substantial portion of the unfunded benefit liabilities is attributable to the unrealized amount of one of its major plan assets, *i.e.*, a claim for

unpaid minimum funding contributions (which are being asserted separately by PBGC under Proof of Claim No. 2666).

6. The Minimum Funding Contribution Claim asserted by PBGC is a subset of the Unfunded Benefit Liability Claim. Were the Minimum Funding Contribution Claim allowed, it would reduce the unfunded benefit liability and therefore the Unfunded Benefit Liability Claim. Because both the Minimum Funding Contribution Claim and the Unfunded Benefit Liability Claim overlap and are duplicative in nature, the Minimum Funding Contribution Claim should be disallowed and expunged in its entirety.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is the true and correct to the best of my knowledge and belief.

Dated: September 20, 2021



John Lowell

Exhibit B

Proposed Order

PILLSBURY WINTHROP SHAW PITTMAN LLP
31 West 52nd Street
New York, NY 10019-6131
Telephone: 212-858-1000
Facsimile: 212-858-1500
Leo T. Crowley
Patrick E. Fitzmaurice
Kwame O. Akuffo

Counsel for GUC Recovery Trustee

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

.....	X	
In re:	:	Chapter 11
	:	
JCK LEGACY COMPANY, <i>et al.</i> ,	:	Case No. 20-10418 (MEW)
	:	
Debtors. ¹	:	(Jointly Administered)
	:	
.....	X	

**ORDER GRANTING GUC RECOVERY TRUSTEE'S OBJECTION TO PROOF OF
CLAIM NO. 2666 FILED BY THE PENSION BENEFIT GUARANTY CORPORATION**

Upon consideration of the *GUC Recovery Trustee's Objection to Proof of Claim No. 2666 Filed by the Pension Benefit Guaranty Corporation* (the "**Objection**") to disallow and expunge Proof of Claim No. 2666 ("**Proof of Claim No. 2666**") filed by PBGC²; and the *Declaration of John Lowell*; and the Court having jurisdiction to consider the Objection and relief requested under 28 U.S.C. §§ 157 and 1334; and the Objection and relief requested being a core proceeding under 28 U.S.C. § 157(b)(2); and venue being proper before this Court under 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Objection having been provided; and it appearing that no

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' 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 and not otherwise defined herein shall have the meaning ascribed to them in the Objection.

other notice is needed; and such relief being in the best interest of the Debtors' estates and its creditors, and the GUC Recovery Trust; and the Court having considered all papers submitted; and for good cause shown;

It is hereby **ORDERED** that:

1. The Objection is **SUSTAINED** to the extent set forth herein.
2. Proof of Claim No. 2666 is hereby disallowed and expunged in its entirety.
3. The GUC Recovery Trustee or the claims agent is authorized and directed to modify the claims register in accordance with the terms of this Order.
4. This Court shall retain jurisdiction over any matter arising from or related to the implementation or interpretation of this Order.

Dated: October __, 2021
New York, NY

Michael E. Wiles
United States Bankruptcy Judge

Exhibit C

Proof of Claim No. 2666

Fill in this information to identify the case:

Debtor The McClatchy Company

United States Bankruptcy Court for the: Southern District of New York
(State)

Case number 20-10418

Official Form 410
Proof of Claim

04/19

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies or any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. Do not send original documents; they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.

Part 1: Identify the Claim

1. Who is the current creditor?	<u>Pension Benefit Guaranty Corporation</u> Name of the current creditor (the person or entity to be paid for this claim)	
	Other names the creditor used with the debtor _____	
2. Has this claim been acquired from someone else?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. From whom? _____	
3. Where should notices and payments to the creditor be sent?	Where should notices to the creditor be sent? <u>Pension Benefit Guaranty Corporation</u> <u>1200 K Street, N.W.</u> <u>Suite 340</u> <u>Washington, DC 20005</u> Contact phone <u>202-229-6607</u> Contact email <u>manbeck.emily@pbgc.gov</u> Uniform claim identifier for electronic payments in chapter 13 (if you use one): _____	Where should payments to the creditor be sent? (if different) Contact phone _____ Contact email _____
4. Does this claim amend one already filed?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes. Claim number on court claims registry (if known) <u>1876</u> Filed on <u>07/08/2020</u> MM / DD / YYYY	
5. Do you know if anyone else has filed a proof of claim for this claim?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Who made the earlier filing? _____	



Part 2: Give Information About the Claim as of the Date the Case Was Filed

6. Do you have any number you use to identify the debtor?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: ____
7. How much is the claim? \$ 126,001,676.00	Does this amount include interest or other charges? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).
8. What is the basis of the claim?	Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card. Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c). Limit disclosing information that is entitled to privacy, such as health care information. <u>Please see attached Statement in Support.</u>
9. Is all or part of the claim secured?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. The claim is secured by a lien on property. Nature or property: <input type="checkbox"/> Real estate: If the claim is secured by the debtor's principle residence, file a <i>Mortgage Proof of Claim Attachment</i> (Official Form 410-A) with this <i>Proof of Claim</i> . <input type="checkbox"/> Motor vehicle <input type="checkbox"/> Other. Describe: _____ Basis for perfection: _____ Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.) Value of property: \$ _____ Amount of the claim that is secured: \$ _____ Amount of the claim that is unsecured: \$ _____ (The sum of the secured and unsecured amount should match the amount in line 7.) Amount necessary to cure any default as of the date of the petition: \$ _____ Annual Interest Rate (when case was filed) _____ % <input type="checkbox"/> Fixed <input type="checkbox"/> Variable
10. Is this claim based on a lease?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Amount necessary to cure any default as of the date of the petition. \$ _____
11. Is this claim subject to a right of setoff?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Identify the property: _____



12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?

☒ No

☐ Yes. Check all that apply:

Amount entitled to priority

A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.

☐ Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).

\$ _____

☐ Up to \$3,025* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).

\$ _____

☐ Wages, salaries, or commissions (up to \$13,650*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).

\$ _____

☐ Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).

\$ _____

☐ Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).

\$ _____

☐ Other. Specify subsection of 11 U.S.C. § 507(a)() that applies.

\$ _____

* Amounts are subject to adjustment on 4/01/22 and every 3 years after that for cases begun on or after the date of adjustment.

13. Is all or part of the claim pursuant to 11 U.S.C. § 503(b)(9)?

☒ No

☐ Yes. Indicate the amount of your claim arising from the value of any goods received by the debtor within 20 days before the date of commencement of the above case, in which the goods have been sold to the Debtor in the ordinary course of such Debtor's business. Attach documentation supporting such claim.

\$ _____

Part 3: Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

☐ I am the creditor.

☒ I am the creditor's attorney or authorized agent.

☐ I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.

☐ I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgement that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have reasonable belief that the information is true and correct.

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

Executed on date 10/22/2020
MM / DD / YYYY

/s/Erika E. Barnes
Signature

Print the name of the person who is completing and signing this claim:

Name Erika E. Barnes
First name Middle name Last name

Title Assistant General Counsel

Company Pension Benefit Guaranty Corporation
Identify the corporate servicer as the company if the authorized agent is a servicer.

Address _____

Contact phone _____ Email _____



For phone assistance: Domestic (866) 810-6898 | International (424) 236-7215

Debtor: 20-10418 - The McClatchy Company District: Southern District of New York, New York Division		
Creditor: Pension Benefit Guaranty Corporation 1200 K Street, N.W. Suite 340 Washington, DC, 20005 Phone: 202-229-6607 Phone 2: Fax: 202-326-4138 Email: manbeck.emily@pbgc.gov	Has Supporting Documentation: Yes, supporting documentation successfully uploaded Related Document Statement:	
	Has Related Claim: No Related Claim Filed By:	
	Filing Party: Authorized agent	
Other Names Used with Debtor:	Amends Claim: Yes - 1876, 07/08/2020 Acquired Claim: No	
Basis of Claim: Please see attached Statement in Support.	Last 4 Digits: No	Uniform Claim Identifier:
Total Amount of Claim: 126,001,676.00	Includes Interest or Charges: No	
Has Priority Claim: No	Priority Under:	
Has Secured Claim: No Amount of 503(b)(9): No Based on Lease: No Subject to Right of Setoff: No	Nature of Secured Amount: Value of Property: Annual Interest Rate: Arrearage Amount: Basis for Perfection: Amount Unsecured:	
Submitted By: Erika E. Barnes on 22-Oct-2020 2:01:16 p.m. Eastern Time Title: Assistant General Counsel Company: Pension Benefit Guaranty Corporation		

United States Bankruptcy Court for the Southern District of New York		
Indicate Debtor against which you assert a claim by checking the appropriate box below. (Check only one Debtor per claim form.)		
<input checked="" type="checkbox"/> The McClatchy Company (Case No. 20-10418) <input type="checkbox"/> Aboard Publishing, Inc. (Case No. 20-10419) <input type="checkbox"/> Bellingham Herald Publishing, LLC (Case No. 20-10420) <input type="checkbox"/> Belton Publishing Company, Inc. (Case No. 20-10421) <input type="checkbox"/> Biscayne Bay Publishing, Inc. (Case No. 20-10422) <input type="checkbox"/> Cass County Publishing Company (Case No. 20-10423) <input type="checkbox"/> Columbus-Ledger Enquirer, Inc. (Case No. 20-10424) <input type="checkbox"/> Cypress Media, Inc. (Case No. 20-10417) <input type="checkbox"/> Cypress Media, LLC (Case No. 20-10425) <input type="checkbox"/> East Coast Newspapers, Inc. (Case No. 20-10426) <input type="checkbox"/> El Dorado Newspapers (Case No. 20-10427) <input type="checkbox"/> Gulf Publishing Company, Inc. (Case No. 20-10428) <input type="checkbox"/> Herald Custom Publishing of Mexico, S. de R.L. de C.V. (Case No. 20-10429) <input type="checkbox"/> HLB Newspapers, Inc. (Case No. 20-10430) <input type="checkbox"/> Idaho Statesman Publishing, LLC (Case No. 20-10431) <input type="checkbox"/> Keltatim Publishing Company, Inc. (Case No. 20-10432) <input type="checkbox"/> Keynoter Publishing Company, Inc. (Case No. 20-10433) <input type="checkbox"/> Lee's Summit Journal, Incorporated (Case No. 20-10434) <input type="checkbox"/> Lexington H-L Services, Inc. (Case No. 20-10435)	<input type="checkbox"/> Macon Telegraph Publishing Company (Case No. 20-10436) <input type="checkbox"/> Mail Advertising Corporation (Case No. 20-10437) <input type="checkbox"/> McClatchy Big Valley, Inc. (Case No. 20-10438) <input type="checkbox"/> McClatchy Interactive LLC (Case No. 20-10439) <input type="checkbox"/> McClatchy Interactive West (Case No. 20-10440) <input type="checkbox"/> McClatchy International Inc. (Case No. 20-10441) <input type="checkbox"/> McClatchy Investment Company (Case No. 20-10442) <input type="checkbox"/> McClatchy Management Services, Inc. (Case No. 20-10443) <input type="checkbox"/> McClatchy News Services, Inc. (Case No. 20-10445) <input type="checkbox"/> McClatchy Newspapers, Inc. (Case No. 20-10444) <input type="checkbox"/> McClatchy Property, Inc. (Case No. 20-10446) <input type="checkbox"/> McClatchy Resources, Inc. (Case No. 20-10447) <input type="checkbox"/> McClatchy Shared Services, Inc. (Case No. 20-10448) <input type="checkbox"/> McClatchy U.S.A., Inc. (Case No. 20-10449) <input type="checkbox"/> Miami Herald Media Company (Case No. 20-10450) <input type="checkbox"/> N & O Holdings, Inc. (Case No. 20-10451) <input type="checkbox"/> Newsprint Ventures, Inc. (Case No. 20-10452) <input type="checkbox"/> Nittany Printing and Publishing Company (Case No. 20-10453) <input type="checkbox"/> Nor-Tex Publishing, Inc. (Case No. 20-10454)	<input type="checkbox"/> Oak Street Redevelopment Corporation (Case No. 20-10888) <input type="checkbox"/> Olympian Publishing, LLC (Case No. 20-10455) <input type="checkbox"/> Olympic-Cascade Publishing, Inc. (Case No. 20-10456) <input type="checkbox"/> Pacific Northwest Publishing Company, Inc. (Case No. 20-10457) <input type="checkbox"/> Quad County Publishing, Inc. (Case No. 20-10458) <input type="checkbox"/> San Luis Obispo Tribune, LLC (Case No. 20-10459) <input type="checkbox"/> Star-Telegram, Inc. (Case No. 20-10460) <input type="checkbox"/> Tacoma News, Inc. (Case No. 20-10461) <input type="checkbox"/> The Bradenton Herald, Inc. (Case No. 20-10462) <input type="checkbox"/> The Charlotte Observer Publishing Company (Case No. 20-10463) <input type="checkbox"/> The News & Observer Publishing Co. (Case No. 20-10464) <input type="checkbox"/> The State Media Company (Case No. 20-10465) <input type="checkbox"/> The Sun Publishing Company, Inc. (Case No. 20-10466) <input type="checkbox"/> Tribune Newsprint Company (Case No. 20-10467) <input type="checkbox"/> Tru Measure, LLC (Case No. 20-10468) <input type="checkbox"/> Wichita Eagle and Beacon Publishing Company, Inc. (Case No. 20-10469) <input type="checkbox"/> Wingate Paper Company (Case No. 20-10470)

Official Form 410 Proof of Claim

04/19

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Other than a claim under 11 U.S.C. § 503(b)(9), this form should not be used to make a claim for an administrative expense arising after the commencement of the case.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies or any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. **Do not send original documents;** they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed.

Part 1: Identify the Claim		
1. Who is the current creditor?	Pension Benefit Guaranty Corporation Name of the current creditor (the person or entity to be paid for this claim) Other names the creditor used with the debtor _____	
2. Has this claim been acquired from someone else?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. From whom? _____	
3. Where should notices and payments to the creditor be sent?	Where should notices to the creditor be sent? Emily E. Manbeck Name 1200 K Street, N.W. Number Street Washington DC 20005 City State ZIP Code U.S.A. Country Contact phone (202) 229-6607 Contact email manbeck.emily@pbgc.gov Uniform claim identifier for electronic payments in chapter 13 (if you use one): _____	Where should payments to the creditor be sent? (if different) Name Number Street City State ZIP Code Country Contact phone _____ Contact email _____
4. Does this claim amend one already filed?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes. Claim number on court claims registry (if known) <u>1876</u> Filed on <u>07/08/2020</u> MM / DD / YYYY	
5. Do you know if anyone else has filed a proof of claim for this claim?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Who made the earlier filing? _____	

6. Do you have any number you use to identify the debtor?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: ____ _
7. How much is the claim? \$ 126,001,676.00	Does this amount include interest or other charges? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).
8. What is the basis of the claim?	Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card. Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c). Limit disclosing information that is entitled to privacy, such as health care information. See summary page.
9. Is all or part of the claim secured?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. The claim is secured by a lien on property. Nature of property: <input type="checkbox"/> Real estate: If the claim is secured by the debtor's principal residence, file a <i>Mortgage Proof of Claim Attachment</i> (Official Form 410-A) with this <i>Proof of Claim</i> . <input type="checkbox"/> Motor vehicle <input type="checkbox"/> Other. Describe: _____ Basis for perfection: _____ Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.) Value of property: \$ _____ Amount of the claim that is secured: \$ _____ Amount of the claim that is unsecured: \$ _____ (The sum of the secured and unsecured amount should match the amount in line 7.) Amount necessary to cure any default as of the date of the petition: \$ _____ Annual Interest Rate (when case was filed) _____ % <input type="checkbox"/> Fixed <input type="checkbox"/> Variable
10. Is this claim based on a lease?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Amount necessary to cure any default as of the date of the petition. \$ _____
11. Is this claim subject to a right of setoff?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Identify the property: _____

12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?

☒ No

☐ Yes. Check all that apply:

A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.

☐ Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B). \$ _____

☐ Up to \$3,025* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7). \$ _____

☐ Wages, salaries, or commissions (up to \$13,650*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4). \$ _____

☐ Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8). \$ _____

☐ Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5). \$ _____

☐ Other. Specify subsection of 11 U.S.C. § 507(a)() that applies. \$ _____

* Amounts are subject to adjustment on 4/01/22 and every 3 years after that for cases begun on or after the date of adjustment.

13. Is all or part of the claim pursuant to 11 U.S.C. § 503(b)(9)?

☒ No

☐ Yes. Indicate the amount of your claim arising from the value of any goods received by the debtor within 20 days before the date of commencement of the above case, in which the goods have been sold to the Debtor in the ordinary course of such Debtor's business. Attach documentation supporting such claim.

\$ _____

Part 3: Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

- ☐ I am the creditor.
- ☒ I am the creditor's attorney or authorized agent.
- ☐ I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.
- ☐ I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgement that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have reasonable belief that the information is true and correct.

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

Executed on date 10/22/2020
MM / DD / YYYY

/s/ Erika E. Barnes
Signature

Print the name of the person who is completing and signing this claim:

Name	Erika	E.	Barnes
	First name	Middle name	Last name
Title	Assistant General Counsel		
Company	Pension Benefit Guaranty Corporation		
	Identify the corporate servicer as the company if the authorized agent is a servicer.		
Address	1200 K Street, N.W.		
	Number	Street	
	Washington	DC	20005 U.S.A.
	City	State	ZIP Code Country
Contact phone	(202) 229-3460		Email <u>barnes.erika@pbgc.gov</u>

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

In re:)	Chapter 11
)	
JCK Legacy Company, et al.,)	Case No. 20-10418
)	
Debtor.)	

**STATEMENT OF THE PENSION BENEFIT GUARANTY CORPORATION
IN SUPPORT OF ITS AMENDED CLAIM FOR MINIMUM FUNDING
CONTRIBUTIONS DUE TO THE PENSION PLAN**

The Pension Benefit Guaranty Corporation (“PBGC”), on behalf of The McClatchy Company Retirement Plan (the “Pension Plan”), hereby submits its Statement in Support of its amended claim for minimum funding contributions that are due to the Pension Plan, against The McClatchy Company (“Debtor”) and each of the other Debtors, stating:

1. PBGC is a wholly-owned United States government corporation, and an agency of the United States, that administers the defined benefit pension plan termination insurance program under Title IV of the Employee Retirement Income Security Act of 1974, *as amended*, 29 U.S.C. §§ 1301-1461 (2018) (“ERISA”). PBGC guarantees the payment of certain pension benefits upon the termination of a single-employer pension plan covered by Title IV of ERISA. When an underfunded plan terminates, PBGC generally becomes trustee of the plan and, subject to certain statutory limitations, pays the plan’s unfunded benefits with its insurance funds. *See* 29 U.S.C. §§ 1321-1322, 1342, 1361.

2. The Pension Plan is a single-employer defined benefit pension plan covered by Title IV of ERISA. *See* 29 U.S.C. § 1321.

3. On February 13, 2020, each of the Debtors filed a voluntary petition under Chapter 11 of the Bankruptcy Code. By Order of this Court, Debtors’ cases are consolidated for procedural purposes only, and are being jointly administered under case number 20-10418.

4. On September 4, 2020, PBGC became the statutory trustee of the Pension Plan, through an Agreement for Appointment of Trustee and Termination of Plan between the Debtor and PBGC. The date of termination for the Pension Plan is August 31, 2020.

5. On August 31, 2020, each of the Debtors was a contributing sponsor of the Pension Plan, 29 U.S.C. § 1301(a)(13), or a member of a contributing sponsor's controlled group, 29 U.S.C. § 1301(a)(14).

6. The contributing sponsor of the Pension Plan and each member of its controlled group are jointly and severally liable to the Pension Plan for contributions necessary to satisfy the minimum funding standards under sections 412 and 430 of the Internal Revenue Code ("IRC") and sections 302 and 303 of ERISA. IRC § 412(c)(11) (2007) (effective for pension plan years beginning on or before Dec. 31, 2007); *see also* 29 U.S.C.A. § 1082(c)(11) (2007) (same); and IRC § 412(b)(1) & (2) (2009) (effective for pension plan years beginning after Dec. 31, 2007); *see also* 29 U.S.C.A. § 1082(b)(1) & (2) (2009) (same).¹ As the Pension Plan has terminated, this liability is owed to PBGC as the trustee appointed under 29 U.S.C. § 1342. *See* 29 U.S.C. § 1342(d)(1)(B)(ii) (a trustee appointed under § 1342(b) has the power "to collect for the plan any amounts due the plan, including but not limited to the power to collect from the persons obligated to meet the requirements of section 1082 of this title or the terms of the plan") and 29 U.S.C. § 1362(c). Also, the Debtor may be contractually obligated to contribute to the Pension Plan.

7. On July 8, 2020, PBGC filed a proof of its claim against each of the Debtors for the Minimum Funding Contributions due to the Pension Plan, in the estimated amount of

¹ References to the IRC, or to 29 U.S.C.A. §§ 1082 and 1083, with a date of 2007 refer to the pre-PPA 2006 provisions in effect for pension plan years beginning *on or before* December 31, 2007. References with a date of 2009 refer to the PPA 2006 provisions in effect for pension plan years beginning *after* December 31, 2007.

\$80,428,564. PBGC understands that this claim was registered as Claim Number 1876. PBGC has since revised the estimated amount of this claim to \$126,001,676.

8. This claim is asserted as a general unsecured claim.

9. Documents supporting this claim include the Pension Plan document with applicable amendments; relevant collateral agreements, if any; United States Internal Revenue Service Form 5500s; and annual actuarial valuation reports for the Pension Plan. On information and belief, Debtors or members of their controlled group have in their possession and control copies or originals of these documents.

10. PBGC is not aware of any other claim for these contributions having been filed by any person with responsibility for administering the affairs of the Pension Plan.

11. PBGC's investigation of this matter is continuing. The agency reserves the right to amend, modify and supplement this proof of claim and/or to file additional proofs of claim. The filing of this proof of claim is not intended to be and shall not be construed as (1) an election of remedy or (2) a waiver or limitation of any rights of PBGC, the Pension Plan or any of its beneficiaries or participants.

12. Under the Order Establishing Bar Dates for Filing Proofs of Claim and Approving Form and Manner of Notice Thereof signed by this Court on May 21, 2020 (Dkt. 485), this single proof of claim shall be deemed to constitute the filing of a proof of claim against each and every Debtor, asserted as a joint and several liability, in this jointly administered proceeding.

Dated: Washington, D.C.
October 22, 2020

C. PAUL CHALMERS
Acting General Counsel

KARTAR S. KHALSA
Deputy General Counsel
ERIKA E. BARNES
Assistant General Counsel
ERIN C. KIM
KIMBERLY E. NEUREITER
EMILY E. MANBECK
Attorneys
Office of the General Counsel
PENSION BENEFIT GUARANTY CORPORATION
1200 K Street, N.W.
Washington, D.C. 20005-4026
(202) 229-6607
(202) 326-4138
manbeck.emily@pbgc.gov and
efile@pbgc.gov

- and -

SCHAFER AND WEINER, PLLC
JOSEPH K. GREKIN (P52165)
70950 Woodward Ave., Suite 100
Bloomfield Hills, MI 48304
(248) 540-3340
jgrekin@schaferandweiner.com

Exhibit D

Proof of Claim No. 2667

Fill in this information to identify the case:

Debtor The McClatchy Company

United States Bankruptcy Court for the: Southern District of New York
(State)

Case number 20-10418

Official Form 410
Proof of Claim

04/19

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies or any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. Do not send original documents; they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.

Part 1: Identify the Claim

1. Who is the current creditor?	<u>Pension Benefit Guaranty Corporation</u> Name of the current creditor (the person or entity to be paid for this claim)	
	Other names the creditor used with the debtor _____	
2. Has this claim been acquired from someone else?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. From whom? _____	
3. Where should notices and payments to the creditor be sent?	Where should notices to the creditor be sent? <u>Pension Benefit Guaranty Corporation</u> <u>1200 K Street, N.W.</u> <u>Suite 340</u> <u>Washington, DC 20005</u> Contact phone <u>202-229-6607</u> Contact email <u>manbeck.emily@pbgc.gov</u>	Where should payments to the creditor be sent? (if different) Contact phone _____ Contact email _____ Uniform claim identifier for electronic payments in chapter 13 (if you use one): _____
4. Does this claim amend one already filed?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes. Claim number on court claims registry (if known) <u>1765</u> Filed on <u>07/08/2020</u> MM / DD / YYYY	
5. Do you know if anyone else has filed a proof of claim for this claim?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Who made the earlier filing? _____	



Part 2: Give Information About the Claim as of the Date the Case Was Filed

6. Do you have any number you use to identify the debtor?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: _____
7. How much is the claim? \$ 877,500,000.00	Does this amount include interest or other charges? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).
8. What is the basis of the claim?	Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card. Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c). Limit disclosing information that is entitled to privacy, such as health care information. <u>Please see attached Statement in Support.</u>
9. Is all or part of the claim secured?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. The claim is secured by a lien on property. Nature or property: <input type="checkbox"/> Real estate: If the claim is secured by the debtor's principle residence, file a <i>Mortgage Proof of Claim Attachment</i> (Official Form 410-A) with this <i>Proof of Claim</i> . <input type="checkbox"/> Motor vehicle <input type="checkbox"/> Other. Describe: _____ Basis for perfection: _____ Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.) Value of property: \$ _____ Amount of the claim that is secured: \$ _____ Amount of the claim that is unsecured: \$ _____ (The sum of the secured and unsecured amount should match the amount in line 7.) Amount necessary to cure any default as of the date of the petition: \$ _____ Annual Interest Rate (when case was filed) _____ % <input type="checkbox"/> Fixed <input type="checkbox"/> Variable
10. Is this claim based on a lease?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Amount necessary to cure any default as of the date of the petition. \$ _____
11. Is this claim subject to a right of setoff?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Identify the property: _____



12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?

☒ No

☐ Yes. Check all that apply:

Amount entitled to priority

A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.

☐ Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).

\$ _____

☐ Up to \$3,025* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).

\$ _____

☐ Wages, salaries, or commissions (up to \$13,650*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).

\$ _____

☐ Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).

\$ _____

☐ Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).

\$ _____

☐ Other. Specify subsection of 11 U.S.C. § 507(a)() that applies.

\$ _____

* Amounts are subject to adjustment on 4/01/22 and every 3 years after that for cases begun on or after the date of adjustment.

13. Is all or part of the claim pursuant to 11 U.S.C. § 503(b)(9)?

☒ No

☐ Yes. Indicate the amount of your claim arising from the value of any goods received by the debtor within 20 days before the date of commencement of the above case, in which the goods have been sold to the Debtor in the ordinary course of such Debtor's business. Attach documentation supporting such claim.

\$ _____

Part 3: Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

☐ I am the creditor.

☒ I am the creditor's attorney or authorized agent.

☐ I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.

☐ I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgement that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have reasonable belief that the information is true and correct.

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

Executed on date 10/22/2020
MM / DD / YYYY

/s/Erika E. Barnes
Signature

Print the name of the person who is completing and signing this claim:

Name Erika E. Barnes
First name Middle name Last name

Title Assistant General Counsel

Company Pension Benefit Guaranty Corporation
Identify the corporate servicer as the company if the authorized agent is a servicer.

Address _____

Contact phone _____ Email _____



For phone assistance: Domestic (866) 810-6898 | International (424) 236-7215

Debtor: 20-10418 - The McClatchy Company District: Southern District of New York, New York Division		
Creditor: Pension Benefit Guaranty Corporation 1200 K Street, N.W. Suite 340 Washington, DC, 20005 Phone: 202-229-6607 Phone 2: Fax: 202-326-4138 Email: manbeck.emily@pbgc.gov	Has Supporting Documentation: Yes, supporting documentation successfully uploaded Related Document Statement:	
	Has Related Claim: No Related Claim Filed By:	
	Filing Party: Authorized agent	
Other Names Used with Debtor:	Amends Claim: Yes - 1765, 07/08/2020 Acquired Claim: No	
Basis of Claim: Please see attached Statement in Support.	Last 4 Digits: No	Uniform Claim Identifier:
Total Amount of Claim: 877,500,000.00	Includes Interest or Charges: No	
Has Priority Claim: No	Priority Under:	
Has Secured Claim: No Amount of 503(b)(9): No Based on Lease: No Subject to Right of Setoff: No	Nature of Secured Amount: Value of Property: Annual Interest Rate: Arrearage Amount: Basis for Perfection: Amount Unsecured:	
Submitted By: Erika E. Barnes on 22-Oct-2020 2:21:27 p.m. Eastern Time Title: Assistant General Counsel Company: Pension Benefit Guaranty Corporation		

United States Bankruptcy Court for the Southern District of New York

Indicate Debtor against which you assert a claim by checking the appropriate box below. **(Check only one Debtor per claim form.)**

<input checked="" type="checkbox"/> The McClatchy Company (Case No. 20-10418)	<input type="checkbox"/> Macon Telegraph Publishing Company (Case No. 20-10436)	<input type="checkbox"/> Oak Street Redevelopment Corporation (Case No. 20-10888)
<input type="checkbox"/> Aboard Publishing, Inc. (Case No. 20-10419)	<input type="checkbox"/> Mail Advertising Corporation (Case No. 20-10437)	<input type="checkbox"/> Olympian Publishing, LLC (Case No. 20-10455)
<input type="checkbox"/> Bellingham Herald Publishing, LLC (Case No. 20-10420)	<input type="checkbox"/> McClatchy Big Valley, Inc. (Case No. 20-10438)	<input type="checkbox"/> Olympic-Cascade Publishing, Inc. (Case No. 20-10456)
<input type="checkbox"/> Belton Publishing Company, Inc. (Case No. 20-10421)	<input type="checkbox"/> McClatchy Interactive LLC (Case No. 20-10439)	<input type="checkbox"/> Pacific Northwest Publishing Company, Inc. (Case No. 20-10457)
<input type="checkbox"/> Biscayne Bay Publishing, Inc. (Case No. 20-10422)	<input type="checkbox"/> McClatchy Interactive West (Case No. 20-10440)	<input type="checkbox"/> Quad County Publishing, Inc. (Case No. 20-10458)
<input type="checkbox"/> Cass County Publishing Company (Case No. 20-10423)	<input type="checkbox"/> McClatchy International Inc. (Case No. 20-10441)	<input type="checkbox"/> San Luis Obispo Tribune, LLC (Case No. 20-10459)
<input type="checkbox"/> Columbus-Ledger Enquirer, Inc. (Case No. 20-10424)	<input type="checkbox"/> McClatchy Investment Company (Case No. 20-10442)	<input type="checkbox"/> Star-Telegram, Inc. (Case No. 20-10460)
<input type="checkbox"/> Cypress Media, Inc. (Case No. 20-10417)	<input type="checkbox"/> McClatchy Management Services, Inc. (Case No. 20-10443)	<input type="checkbox"/> Tacoma News, Inc. (Case No. 20-10461)
<input type="checkbox"/> Cypress Media, LLC (Case No. 20-10425)	<input type="checkbox"/> McClatchy News Services, Inc. (Case No. 20-10445)	<input type="checkbox"/> The Bradenton Herald, Inc. (Case No. 20-10462)
<input type="checkbox"/> East Coast Newspapers, Inc. (Case No. 20-10426)	<input type="checkbox"/> McClatchy Newspapers, Inc. (Case No. 20-10444)	<input type="checkbox"/> The Charlotte Observer Publishing Company (Case No. 20-10463)
<input type="checkbox"/> El Dorado Newspapers (Case No. 20-10427)	<input type="checkbox"/> McClatchy Property, Inc. (Case No. 20-10446)	<input type="checkbox"/> The News & Observer Publishing Co. (Case No. 20-10464)
<input type="checkbox"/> Gulf Publishing Company, Inc. (Case No. 20-10428)	<input type="checkbox"/> McClatchy Resources, Inc. (Case No. 20-10447)	<input type="checkbox"/> The State Media Company (Case No. 20-10465)
<input type="checkbox"/> Herald Custom Publishing of Mexico, S. de R.L. de C.V. (Case No. 20-10429)	<input type="checkbox"/> McClatchy Shared Services, Inc. (Case No. 20-10448)	<input type="checkbox"/> The Sun Publishing Company, Inc. (Case No. 20-10466)
<input type="checkbox"/> HLB Newspapers, Inc. (Case No. 20-10430)	<input type="checkbox"/> McClatchy U.S.A., Inc. (Case No. 20-10449)	<input type="checkbox"/> Tribune Newsprint Company (Case No. 20-10467)
<input type="checkbox"/> Idaho Statesman Publishing, LLC (Case No. 20-10431)	<input type="checkbox"/> Miami Herald Media Company (Case No. 20-10450)	<input type="checkbox"/> Tru Measure, LLC (Case No. 20-10468)
<input type="checkbox"/> Keltatim Publishing Company, Inc. (Case No. 20-10432)	<input type="checkbox"/> N & O Holdings, Inc. (Case No. 20-10451)	<input type="checkbox"/> Wichita Eagle and Beacon Publishing Company, Inc. (Case No. 20-10469)
<input type="checkbox"/> Keynoter Publishing Company, Inc. (Case No. 20-10433)	<input type="checkbox"/> Newsprint Ventures, Inc. (Case No. 20-10452)	<input type="checkbox"/> Wingate Paper Company (Case No. 20-10470)
<input type="checkbox"/> Lee's Summit Journal, Incorporated (Case No. 20-10434)	<input type="checkbox"/> Nittany Printing and Publishing Company (Case No. 20-10453)	
<input type="checkbox"/> Lexington H-L Services, Inc. (Case No. 20-10435)	<input type="checkbox"/> Nor-Tex Publishing, Inc. (Case No. 20-10454)	

Official Form 410 Proof of Claim

04/19

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Other than a claim under 11 U.S.C. § 503(b)(9), this form should not be used to make a claim for an administrative expense arising after the commencement of the case.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies or any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. **Do not send original documents;** they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed.

Part 1: Identify the Claim

1. Who is the current creditor?	Pension Benefit Guaranty Corporation Name of the current creditor (the person or entity to be paid for this claim) Other names the creditor used with the debtor _____	
2. Has this claim been acquired from someone else?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. From whom? _____	
3. Where should notices and payments to the creditor be sent? Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)	Where should notices to the creditor be sent? Emily E. Manbeck Name 1200 K Street, N.W. Number Street Washington DC 20005 City State ZIP Code U.S.A. Country Contact phone (202) 229-6607 Contact email manbeck.emily@pbgc.gov Uniform claim identifier for electronic payments in chapter 13 (if you use one): _____	Where should payments to the creditor be sent? (if different) Name Number Street City State ZIP Code Country Contact phone _____ Contact email _____
4. Does this claim amend one already filed?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes. Claim number on court claims registry (if known) 1765 Filed on 07/08/2020 MM / DD / YYYY	
5. Do you know if anyone else has filed a proof of claim for this claim?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Who made the earlier filing? _____	

6. Do you have any number you use to identify the debtor?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: ____ _
7. How much is the claim? \$ 877,500,000.00	Does this amount include interest or other charges? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).
8. What is the basis of the claim?	Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card. Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c). Limit disclosing information that is entitled to privacy, such as health care information. See summary page.
9. Is all or part of the claim secured?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. The claim is secured by a lien on property. Nature of property: <input type="checkbox"/> Real estate: If the claim is secured by the debtor's principal residence, file a <i>Mortgage Proof of Claim Attachment</i> (Official Form 410-A) with this <i>Proof of Claim</i> . <input type="checkbox"/> Motor vehicle <input type="checkbox"/> Other. Describe: _____ Basis for perfection: _____ Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.) Value of property: \$ _____ Amount of the claim that is secured: \$ _____ Amount of the claim that is unsecured: \$ _____ (The sum of the secured and unsecured amount should match the amount in line 7.) Amount necessary to cure any default as of the date of the petition: \$ _____ Annual Interest Rate (when case was filed) _____ % <input type="checkbox"/> Fixed <input type="checkbox"/> Variable
10. Is this claim based on a lease?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Amount necessary to cure any default as of the date of the petition. \$ _____
11. Is this claim subject to a right of setoff?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Identify the property: _____

12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?

☒ No

☐ Yes. Check all that apply:

A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.

☐ Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B). \$ _____

☐ Up to \$3,025* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7). \$ _____

☐ Wages, salaries, or commissions (up to \$13,650*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4). \$ _____

☐ Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8). \$ _____

☐ Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5). \$ _____

☐ Other. Specify subsection of 11 U.S.C. § 507(a)() that applies. \$ _____

* Amounts are subject to adjustment on 4/01/22 and every 3 years after that for cases begun on or after the date of adjustment.

13. Is all or part of the claim pursuant to 11 U.S.C. § 503(b)(9)?

☒ No

☐ Yes. Indicate the amount of your claim arising from the value of any goods received by the debtor within 20 days before the date of commencement of the above case, in which the goods have been sold to the Debtor in the ordinary course of such Debtor's business. Attach documentation supporting such claim.

\$ _____

Part 3: Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

- ☐ I am the creditor.
- ☒ I am the creditor's attorney or authorized agent.
- ☐ I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.
- ☐ I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgement that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have reasonable belief that the information is true and correct.

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

Executed on date 10/22/2020
MM / DD / YYYY

/s/ Erika E. Barnes

Signature

Print the name of the person who is completing and signing this claim:

Name	Erika	E.	Barnes
	First name	Middle name	Last name
Title	Assistant General Counsel		
Company	Pension Benefit Guaranty Corporation		
	Identify the corporate servicer as the company if the authorized agent is a servicer.		
Address	1200 K Street, N.W.		
	Number	Street	
	Washington	DC	20005 U.S.A.
	City	State	ZIP Code Country
Contact phone	(202) 229-3460		Email <u>barnes.erika@pbgc.gov</u>

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

In re:)	Chapter 11
)	
JCK Legacy Company, et al.,)	Case No. 20-10418
)	
Debtors.)	

**STATEMENT OF THE PENSION BENEFIT GUARANTY CORPORATION
IN SUPPORT OF ITS AMENDED CLAIM FOR UNFUNDED BENEFIT LIABILITIES**

The Pension Benefit Guaranty Corporation (“PBGC”) hereby submits this Statement in Support of its amended claim against The McClatchy Company (“Debtor”) and each of the other Debtors for the unfunded benefit liabilities of The McClatchy Company Retirement Plan (“Pension Plan”), stating:

1. PBGC is a wholly-owned United States government corporation, and an agency of the United States, that administers the defined benefit pension plan termination insurance program under Title IV of the Employee Retirement Income Security Act of 1974, *as amended*, 29 U.S.C. §§ 1301-1461 (2018) (“ERISA”). PBGC guarantees the payment of certain pension benefits upon the termination of a single-employer pension plan covered by Title IV of ERISA. When an underfunded plan terminates, PBGC generally becomes trustee of the plan and, subject to certain statutory limitations, pays the plan’s unfunded benefits with its insurance funds. *See* 29 U.S.C. §§ 1321-1322, 1342, 1361.

2. The Pension Plan is a single-employer defined benefit pension plan covered by Title IV of ERISA. *See* 29 U.S.C. § 1321.

3. On February 13, 2020, each of the Debtors filed a voluntary petition under Chapter 11 of the Bankruptcy Code. By Order of this Court, Debtors’ cases are consolidated for procedural purposes only, and are being jointly administered under case number 20-10418.

4. On September 4, 2020, PBGC became the statutory trustee of the Pension Plan, through an Agreement for Appointment of Trustee and Termination of Plan between the Debtor and PBGC. The date of termination for the Pension Plan is August 31, 2020.

5. On August 31, 2020, each of the Debtors was a contributing sponsor of the Pension Plan, 29 U.S.C. § 1301(a)(13), or a member of a contributing sponsor's controlled group, 29 U.S.C. § 1301(a)(14).

6. When the Pension Plan terminated, the assets of the Pension Plan were insufficient to cover the benefit liabilities of the Pension Plan. This insufficiency is the amount of the Pension Plan's unfunded benefit liabilities. *See* 29 U.S.C. § 1362(b).

7. Upon termination of the Pension Plan, its contributing sponsor and each member of the contributing sponsor's controlled group became jointly and severally liable to PBGC for the total amount of the Pension Plan's unfunded benefit liabilities. 29 U.S.C. § 1362(a), (b); *see* 29 U.S.C. § 1301(a)(18).

8. On July 8, 2020, PBGC filed a proof of its contingent claim against each of the Debtors for the Pension Plan's unfunded benefit liabilities, in the estimated amount of \$1,008,800.00. PBGC understands this claim was registered as Claim Number 1765. PBGC has revised the estimated amount of this claim based on the Pension Plan's termination date. The estimated amount of the Pension Plan's unfunded benefit liabilities is \$877,500,000.

9. This claim is asserted as a general unsecured claim.

10. By filing this claim, PBGC asserts its claim and demands payment of the unfunded benefit liabilities of the Pension Plan upon the Pension Plan's termination date.

11. Documents supporting this claim include the Pension Plan document with applicable amendments; relevant collateral agreements, if any; United States Internal Revenue

Service Form 5500s; and annual actuarial valuation reports for the Pension Plan. On information and belief, Debtors or members of their controlled group have in their possession and control copies or originals of these documents.

12. PBGC's investigation of this matter is continuing. The agency reserves the right to amend, modify and supplement this proof of claim and/or to file additional proofs of claim. This claim may be subject to a right of setoff by PBGC as an agency of the United States government, and the right of the United States to withhold subject to offset amounts due from other federal entities. The filing of this proof of claim is not intended to be and shall not be construed as (1) an election of remedy or (2) a waiver or limitation of any rights of PBGC, the Pension Plan or any of its beneficiaries or participants.

13. Under the Order Establishing Bar Dates for Filing Proofs of Claim and Approving Form and Manner of Notice Thereof signed by this Court on May 21, 2020 (Dkt. 485), this single proof of claim shall be deemed to constitute the filing of a proof of claim against each and every Debtor, asserted as a joint and several liability, in this jointly administered proceeding.

Dated: Washington, D.C.
October 22, 2020

C. PAUL CHALMERS
Acting General Counsel
KARTAR S. KHALSA
Deputy General Counsel
ERIKA E. BARNES
Assistant General Counsel
ERIN C. KIM
KIMBERLY E. NEUREITER
EMILY E. MANBECK
Attorneys
Office of the General Counsel
PENSION BENEFIT GUARANTY CORPORATION
1200 K Street, N.W.

Washington, D.C. 20005-4026
(202) 229-6607
(202) 326-4138
manbeck.emily@pbgc.gov *and*
efile@pbgc.gov

- and -

SCHAFER AND WEINER, PLLC
JOSEPH K. GREKIN (P52165)
70950 Woodward Ave., Suite 100
Bloomfield Hills, MI 48304
(248) 540-3340
jgrekin@schaferandweiner.com