

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

BLITZ U.S.A., Inc., *et al.*,¹

Debtors.

BLITZ U.S.A., INC., *et al.*,

Plaintiffs,

vs.

TABITHA ALEXSON AS NATURAL
GUARDIAN AND NEXT FRIEND FOR ETHAN
GROOMS; JASMINE ALEXIS BALLEW, A
MINOR, BY AND THROUGH HER GUARDIAN
AD LITEM, KAREN BRITT PEELER AND
JASMINE BALLEW; JERRY C. BARNETT AND
DANIEL R. FULTON; MIGUEL BARRERA,
INDIVIDUALLY AND AS PERSONAL
REPRESENTATIVE OF THE ESTATE OF
SIXIALEFREDO BARRERA; LANDON
BEADORE, BY AND THROUGH HIS PARENTS,
PAUL BEADORE AND MELISSA WEEKS, AND
MELISSA WEEKS, AND PAUL BEADORS,
INDIVIDUALLY; CHRISTOPHER BOSSE;
AMANDA BURCH, INDIVIDUALLY AND AS
NEXT FRIEND AND NATURAL GUARDIAN
FOR TIMOTHY BURCH; CHRISTOPHER
DRONEY; JESSICA FENN AND JEREMIAH
FENN, SR., INDIVIDUALLY AND ON BEHALF
OF THEIR DECEASED SON AND DAUGHTER,
JEREMIAH FENN, JR. AND JA'EL FENN;
KAYLEE FREELAND, A MINOR; CHAD
FUNCHESS; KAREN GUENIOT-KORNEGAY,
INDIVIDUALLY, AND ON BEHALF OF ALL OF

) Chapter 11

) Case No. 11-13603 (PJW)

) (Joint Administration Requested)

) Adv. Proc. No. 11-53578 (PJW)

) **Proposed Hearing Date: 11/10/11 at a
time to be determined**

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, include: Blitz U.S.A., Inc. (8104); LAM 2011 Holdings, LLC (8742); Blitz Acquisition Holdings, Inc. (8825); Blitz Acquisition, LLC (8979); Blitz RE Holdings, LLC (9071); and F3 Brands, LLC (2604). The location of the Debtors' corporate headquarters and the Debtors' service address is: 404 26th Ave. NW, Miami, OK 74354.



THE WRONGFUL DEATH BENEFICIARIES OF)
MATTHEW DYLAN KORNEGAY; WADE)
GUILFORD; ROBERT JACOBY; RANDALL)
JOHNSON; CARMEN LOPEZ AND SANTIAGO)
ROSA, GUARDIANS AD LITEM FOR JESUS)
SANTIAGO ROSA, CARMEN LOPEZ AND)
SANTIAGO ROSA IN THEIR OWN RIGHT, AND)
JESUS SANTIAGO ROSA, IN HIS OWN RIGHT;)
MARY JO PIERCE FOR B.P., A MINOR, BY HIS)
MOTHER AND NATURAL GUARDIAN;)
SHERRI PURVIS INDIVIDUALLY AND AS)
NEXT FRIEND AND NATURAL GUARDIAN)
FOR JAMES C. PURVIS; LORI SHICKEL, BOTH)
INDIVIDUALLY AND AS MOTHER AND NEXT)
FRIEND OF JORDAN SHICKEL, A MINOR;)
ROBYN SMITH, FOR DEVAN VANBRUNT, A)
MINOR, BY HIS MOTHER AND NATURAL)
GUARDIAN; STATE FARM LLOYDS, AS)
SUBROGEE OF ERIC AND TAMMY BALCH;)
DENNIES THORNTON, A MINOR, BY AND)
THROUGH HIS NEXT FRIEND AND FATHER,)
DAVID THORNTON; DYLAN J. TREVINO, A)
MINOR, SUING BY HIS NEXT FRIEND AND)
GUARDIAN, DIANA TREVINO, AND DIANA)
TREVINO, INDIVIDUALLY; KENNETH WARD)
AND CURTIS WARD; RICHARD L YIM, JR.; and)
JOHN DOES 1-1000,)

Defendants.)

**BLITZ U.S.A., INC., *ET AL.*'S MOTION FOR A TEMPORARY
RESTRAINING ORDER AND PRELIMINARY INJUNCTION
STAYING THE PCGC LITIGATION AND FUTURE
PCGC ACTIONS AGAINST CERTAIN THIRD-PARTIES**

Blitz U.S.A., Inc., *et al.* (“**Blitz**,” “**Plaintiffs**” and/or the “**Debtors**”), debtors and debtors-in-possession in the above-captioned chapter 11 cases, file this motion (the “**Motion**”) seeking entry of an order, in substantially the form attached hereto as **Exhibit A**, for a temporary restraining order pursuant to Rule 7065 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”) and section 105 of title 11 of the

United States Code (the “**Bankruptcy Code**”) to immediately enjoin the PCGC Litigation and Future PCGC Actions (as those terms are defined below), and an order seeking an extension of the automatic stay to enjoin the PCGC Litigation and Future PCGC Actions pursuant to sections 362 and 105 of the Bankruptcy Code, or, in the alternative, an order enjoining the PCGC Litigation and Future PCGC Actions during the pendency of the Debtors’ bankruptcy cases pursuant to section 105 of the Bankruptcy Code. In support of this Motion, Blitz states as follows:

Jurisdiction

1. This Court has jurisdiction over this Motion under 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2).
2. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.
3. The statutory predicates for the relief requested herein are sections 105 and 362 of the Bankruptcy Code and Rules 7001(7), 7001(9), and 7065 of the Bankruptcy Rules.

Background²

4. The Debtors are the industry leader in portable consumer gas containers (“PCGCs”). Since its inception as the supplier of the traditional, olive-drab “jerry can” to the U.S. military throughout World War II, Blitz and its predecessor companies have evolved into the producer of the best fuel containment products in the world. Today, the

² The Declaration of Rocky Flick, President and Chief Executive Officer of Blitz U.S.A., Inc. in Support of Debtors’ Chapter 11 Petitions and First Day Motions, filed in the chapter 11 cases, is incorporated herein by reference as if fully set forth herein.

red plastic jerry can is an American icon. Blitz sells its PCGCs through various retailers, including Wal-Mart, which is Blitz's largest customer.

5. Blitz, along with Wal-Mart and each of the other defendants, including, among others, Blitz's other alleged resellers, Kinderhook Capital Fund II, L.P. ("**Kinderhook**"), which is a majority shareholder in Debtor LAM 2011 Holdings, LLC ("**LAM**"), and Kinderhook Industries, LLC ("**Kinderhook Industries**"), which provides management services to Kinderhook and Debtors (collectively, the "**Other Defendants**") have been named as defendants in thirty-six pending PCGC lawsuits (the "**PCGC Litigation**"). The lawsuits allege design and manufacturing defects and failure to warn on account of personal injuries and/or death that allegedly occurred as a result of fires or explosions that arose when Blitz PCGCs were used or stored in the vicinity of flames or other combustion sources. Additional lawsuits involving PCGCs likely are to be filed in the future (the "**Future PCGC Actions**").

6. Upon the filing of these chapter 11 cases, plaintiffs in the PCGC Litigation (together with the future John Doe litigants, the "**PCGC Claimants**") are stayed from prosecuting their claims against the Debtors. However, the PCGC Claimants may seek to continue prosecuting their claims against the Other Defendants.

7. The continued litigation against the Other Defendants would adversely impact the Debtors' estates and threaten the Debtors with imminent harm. As explained more fully below and other filings contemporaneously herewith -- including Debtors' verified complaint and the declaration filed in support of this Motion -- the Debtors have obligations to indemnify, defend and/or participate in PCGC Litigation against Wal-Mart or Kinderhook Industries, and Wal-Mart may attempt to setoff damages or costs from

those actions against amounts that it owes to the estate. Aside from Wal-Mart, certain of the other alleged resellers that have been named in PCGC Litigation have asserted common law and statutory rights to indemnification from Blitz. Moreover, the claims against the Debtors' resellers may be covered by the Debtors' commercial insurance and accordingly the continuation of the claims against the Debtors' resellers will deplete (and perhaps exhaust) the Debtors' insurance assets. Therefore, the continued prosecution of these claims will deplete the Debtors' estate. Further, Blitz is contractually obligated to defend Wal-Mart, and Blitz's representatives may be contractually required to participate in other of the PCGC Litigation and the Other Defendants' defense thereof, diverting employee and financial resources that are essential to its efforts to reorganize under chapter 11. Even in the absence of any contractual obligation, as a practical matter, Blitz will be required to participate in the defense of PCGC Litigation against any of the Other Defendants because the PCGC Litigation represents a direct assault on Blitz's best-selling products and may result in findings of fact and conclusions of law that parties will seek to use against the Debtors in subsequent litigation. Allowing adverse findings against its best-selling products to go undefended would adversely affect the Debtors' ability to reorganize and emerge from chapter 11 bankruptcy.

Relief Requested

8. By this Motion, the Debtors seek a temporary restraining order enjoining any further PCGC Litigation and Future PCGC Actions and any discovery as against the

Debtors until the Court rules on the Debtors' request to extend the automatic stay to the PCGC Litigation. The Debtors also seek relief from any requirement to post a bond.³

9. Blitz also seeks this Court's declaration that, pursuant to sections 362(a) and 105(a) of the Bankruptcy Code, the automatic stay is extended to stay the continued prosecution of PCGC Litigation and the impending prosecution of Future PCGC Actions against the Other Defendants. In the alternative, Blitz seeks a preliminary injunction pursuant to section 105 of the Bankruptcy Code to stay the continued prosecution of the PCGC Litigation and the Future PCGC Actions against the Other Defendants during the pendency of the Debtors' chapter 11 cases. The Debtors also seek to restrain any discovery from the Debtors in the PCGC Litigation and the Future PCGC Actions.

10. Out of an abundance of caution, Blitz also seeks a declaration that its efforts to remove and transfer the PCGC Litigation (as described in the memorandum of law in support of this Motion, filed contemporaneously herewith), including the claims against the Other Defendants, are not subject to the automatic stay.⁴

Basis for Relief

11. As more fully set forth in the accompanying memorandum of law and Blitz's Verified Complaint, extension of the automatic stay or injunctive relief to prevent

³ Although Federal Rule of Civil Procedure 65(c) requires the posting of a bond as a prerequisite to a preliminary injunction, Federal Rule of Bankruptcy Procedure 7065 exempts an application made by a debtor, trustee, or debtor in possession from the bond requirement. FED. R. BANKR. P. 7065; *see, e.g., In re Young*, 193 B.R. 620, 628 (Bankr. D.D.C. 1996). Accordingly, the Debtors request that this Court forgo imposing such bond requirement if the injunctive relief is granted.

⁴ Blitz believes that removal and transfer under 28 U.S.C. § 157(b)(2)(5) is a ministerial act not subject to the stay. Blitz requests this declaration only out of an abundance of caution, and not because such a declaration is required prior to removal and transfer.

further continuation or commencement of the PCGC Litigation is necessary to prevent the following irreparable harm to the Debtors and their estate:

- **First**, the Debtors have contractual obligations to defend and/or indemnify Wal-Mart and Kinderhook Industries, thereby causing an expenditure of estate funds and other resources. The Supplier Agreement between Blitz U.S.A., Inc. and Wal-Mart provides that Wal-Mart may setoff amounts owed under the Supplier Agreement against its payables to Blitz (which are currently approximately \$4 million). Moreover, certain of the other defendant resellers have sought common law and statutory indemnification from the Debtors on account of the claims brought against them in the PCGC Litigation. Finally, the defense and settlement of the PCGC Litigation against Blitz's resellers will continue to deplete Blitz's commercial insurance policies. Therefore, absent a stay of the PCGC Litigation, a judgment against the Other Defendants will directly affect the Debtors' estate.

- **Second**, the Debtors have an obligation to participate in the PCGC Litigation, thereby distracting the Debtors' employees and representatives from their reorganization efforts. And, even if no such contractual obligation existed, because the cases against the Other Defendants concern the Debtors' products, and claimants are likely to attempt to use the findings in those cases against Blitz in subsequent litigation, Blitz nonetheless will be compelled to participate. Therefore, Blitz will be forced to divert senior management time and resources, and to participate in discovery, if litigation continues against the Other Defendants, thereby sapping the Debtors' resources and impeding the reorganization process.

- **Third**, Blitz risks collateral estoppel and evidentiary prejudice if litigation continues against the Other Defendants. This risk is particularly acute in this Chapter 11, where the Debtors plan to seek the transfer all PCGC Litigation to the District Court for resolution through, *e.g.*, common issue trials and/or estimation for purposes of plan feasibility. Concurrent litigation concerning Blitz's PCGCs would not only distract from this process, but it has the potential to create inconsistent findings of fact and law.

12. The likelihood of irreparable harm to the Debtors and their estates in the absence of injunctive relief far outweighs any harm to the PCGC Claimants in the PCGC Litigation. The PCGC Claimants will not be harmed if the continuation of the litigation is temporarily enjoined until the effective date of the Debtors' plan of reorganization.

13. Further, the injunctive relief requested herein will serve the public interest by promoting compliance with the Congressional purpose of the automatic stay,

furthering the Debtors' reorganization efforts, and facilitating a resolution of the PCGC Litigation claims in a more efficient, effective and fair manner.

14. Under these circumstances, a temporary restraining order is required to preserve the effectiveness of the automatic stay and safeguard the Debtors' prospects for a successful reorganization. Although temporary restraining orders are generally limited to 14 days, before that period expires and for good cause, this Court may extend its order for an additional 14 days. FED. R. BANKR. P. 7065(b)(2). The prospects of holding a meaningful preliminary injunction hearing within 14 days of the entry of a temporary restraining order are minimal given the number of Defendants to this adversary proceeding, and the fact that an official committee of unsecured creditors has not yet been established in the underlying chapter 11 cases. Accordingly, to conserve its and the parties' time and resources, this Court should find good cause for an extension and enter a temporary restraining order for the maximum period allowed under Rule 7065, 28 days, and set a hearing on this Motion on or before that date. Alternatively, the Court should enter a temporary restraining order extending for 14 days during which the parties may move for a good-cause extension and should further order that this Motion will be heard 14 days from the entry of the temporary restraining order, unless and until the temporary restraining order is extended and the hearing date could be extended for the same period of time.

Memorandum of Law

15. Contemporaneously herewith, the Debtors are filing a Memorandum of Law in Support of this Motion, which includes citations to the applicable authorities and a discussion of their application to this Motion.

Notice

16. The Debtors have provided notice of the Motion to: (a) the Office of the United States Trustee for the District of Delaware; (b) the entities listed on the Consolidated List of Creditors Holding the 50 Largest Unsecured Claims filed pursuant to Bankruptcy Rule 1007(d); (c) counsel to the agent for the Debtors' proposed postpetition secured lenders; (d) counsel to the agent for the Debtors' prepetition secured lenders; and (e) to the extent practicable, the counsel of record for the PCGC Claimants and Other Defendants. In light of the nature of the relief requested, the Debtors respectfully submit that no further notice is necessary.

No Prior Request

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

WHEREFORE, for each of the foregoing reasons and for the reasons stated in their supporting Memorandum of Law the Debtors respectfully request that the Court enter an order substantially in the form attached hereto as **Exhibit A**:

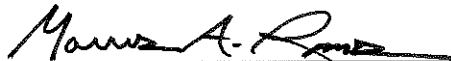
- A. Entering a temporary restraining order enjoining and staying the PCGC Litigation and any Future PCGC Actions against the Other Defendants and any discovery as against the Debtors in connection with the PCGC Litigation until the Court has ruled on the Debtors' request to extend the automatic stay to the PCGC Litigation and Future PCGC Actions or, alternatively, to enjoin and stay such actions under Bankruptcy Code 105; and
- B. Extending the duration of the temporary restraining order for the maximum period allowed under Bankruptcy Rule 7065, 28 days, and setting a hearing on this Motion on or before that date or, alternatively, extending for 14 days the period during which parties may move for a good-cause extension and further ordering that any such good-cause extension motion will be heard 14 days from the entry of the temporary restraining order, unless and until the temporary restraining order is

extended and the hearing date could be extended for the same period of time.

The Debtors further request that the Court enter an order:

- A. Declaring that the automatic stay of section 362(a) of the Bankruptcy Code extends to the commencement or continuation of PCGC Litigation against the Other Defendants until the effective date of a plan of reorganization in the underlying chapter 11 case or final order of this Court;
- B. Temporarily enjoining the commencement or continuation of PCGC Litigation against Wal-Mart or the Other Defendants pursuant to section 105(a) of the Bankruptcy Code until the effective date of a plan of reorganization in the underlying chapter 11 case or final order of this Court;
- C. Declaring that Blitz's efforts to remove and transfer the PCGC Litigation, including claims against Wal-Mart, are not subject to the automatic stay;
- D. Enjoining any discovery as against the Debtors related to the PCGC Litigation; and
- E. Authorizing any other further relief as deemed necessary by the Court.

Dated: November 9, 2011
Wilmington, Delaware



Daniel J. DeFranceschi (No. 2732)
Michael J. Merchant (No. 3854)
Marcos A. Ramos (No. 4450)
Julie A. Finocchiaro (No. 5303)
Amanda R. Steele (No. 5530)
RICHARDS, LAYTON & FINGER, P.A.
One Rodney Square
920 North King Street
Wilmington, Delaware 19801
Telephone: (302) 651-7700
Facsimile: (302) 651-7701

Proposed Attorneys for Plaintiffs

EXHIBIT A

Proposed Order

| | | |
|--|---|----------------------------------|
| In re: |) | Chapter 11 |
| BLITZ U.S.A., INC., <i>et al.</i> , ¹ |) | Case No. 11-13603 (PJW) |
| Debtors. |) | (Joint Administration Requested) |
| <hr/> | | |
| BLITZ, U.S.A., INC., <i>et al.</i> , |) | |
| Plaintiffs, |) | |
| vs. |) | Adv. Proc. No. 11-53578 (PJW) |
| TABITHA ALEXSON AS NATURAL |) | |
| GUARDIAN AND NEXT FRIEND FOR ETHAN |) | |
| GROOMS; JASMINE ALEXIS BALLEW, A |) | |
| MINOR, BY AND THROUGH HER GUARDIAN |) | |
| AD LITEM, KAREN BRITT PEELER AND |) | |
| JASMINE BALLEW; JERRY C. BARNETT AND |) | |
| DANIEL R. FULTON; MIGUEL BARRERA, |) | |
| INDIVIDUALLY AND AS PERSONAL |) | |
| REPRESENTATIVE OF THE ESTATE OF |) | |
| SIXIALFREDO BARRERA; LANDON |) | |
| BEADORE, BY AND THROUGH HIS PARENTS, |) | |
| PAUL BEADORE AND MELISSA WEEKS, AND |) | |
| MELISSA WEEKS, AND PAUL BEADORS, |) | |
| INDIVIDUALLY; CHRISTOPHER BOSSE; |) | |
| AMANDA BURCH, INDIVIDUALLY AND AS |) | |
| NEXT FRIEND AND NATURAL GUARDIAN |) | |
| FOR TIMOTHY BURCH; CHRISTOPHER |) | |
| DRONEY; JESSICA FENN AND JEREMIAH |) | |
| FENN, SR., INDIVIDUALLY AND ON BEHALF |) | |
| OF THEIR DECEASED SON AND DAUGHTER, |) | |
| JEREMIAH FENN, JR. AND JA'EL FENN; |) | |
| KAYLEE FREELAND, A MINOR; CHAD |) | |
| FUNCHESS; KAREN GUENIOT-KORNEGAY, |) | |
| INDIVIDUALLY, AND ON BEHALF OF ALL OF |) | |
| THE WRONGFUL DEATH BENEFICIARIES OF |) | |
| MATTHEW DYLAN KORNEGAY; WADE |) | |
| GUILFORD; ROBERT JACOBY; RANDALL |) | |

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JOHNSON; CARMEN LOPEZ AND SANTIAGO
ROSA, GUARDIANS AD LITEM FOR JESUS
SANTIAGO ROSA, CARMEN LOPEZ AND
SANTIAGO ROSA IN THEIR OWN RIGHT, AND
JESUS SANTIAGO ROSA, IN HIS OWN RIGHT;
MARY JO PIERCE FOR B.P., A MINOR, BY HIS
MOTHER AND NATURAL GUARDIAN;
SHERRI PURVIS INDIVIDUALLY AND AS
NEXT FRIEND AND NATURAL GUARDIAN
FOR JAMES C. PURVIS; LORI SHICKEL, BOTH
INDIVIDUALLY AND AS MOTHER AND NEXT
FRIEND OF JORDAN SHICKEL, A MINOR;
ROBYN SMITH, FOR DEVAN VANBRUNT, A
MINOR, BY HIS MOTHER AND NATURAL
GUARDIAN; STATE FARM LLOYDS, AS
SUBROGEE OF ERIC AND TAMMY BALCH;
DENNIES THORNTON, A MINOR, BY AND
THROUGH HIS NEXT FRIEND AND FATHER,
DAVID THORNTON; DYLAN J. TREVINO, A
MINOR, SUING BY HIS NEXT FRIEND AND
GUARDIAN, DIANA TREVINO, AND DIANA
TREVINO, INDIVIDUALLY; KENNETH WARD
AND CURTIS WARD; RICHARD L YIM, JR.; and
JOHN DOES 1-1000,

Defendants.

**ORDER GRANTING BLITZ U.S.A., INC., *ET AL.*'S MOTION FOR A TEMPORARY
RESTRAINING ORDER STAYING THE PCGC LITIGATION AND FUTURE PCGC
ACTIONS AGAINST CERTAIN THIRD PARTIES**

This matter coming before the Court on the above-captioned plaintiffs' (the "**Plaintiffs**") *Verified Complaint for Declaratory and Injunctive Relief* (the "**Complaint**") and *Blitz U.S.A., Inc., et al.'s Motion for a Temporary Restraining Order and Preliminary Injunction Staying the PCGC Litigation and Future PCGC Actions Against Certain Third Parties* (the "**Motion**")²; and the Court having reviewed the Complaint and the Motion, which include a request for a temporary restraining order, as well as the *Declaration of James R. King in Support of Blitz*

² Capitalized terms in this Order shall, unless otherwise noted, have the meanings given to them in Debtors' Complaint and Motion.

U.S.A., Inc.'s Motion for a Temporary Restraining Order and Preliminary Injunction Staying the PCGC Litigation and Future PCGC Actions Against Wal-Mart, Inc. and Blitz's Other Retailers and other evidence and argument submitted by the Plaintiffs in support thereof, the Court finds and concludes as follows:

A. The Plaintiffs in these adversary proceedings are debtors Blitz U.S.A., Inc., *et al.* The Defendants in these adversary proceedings are those parties listed in paragraphs 13 through 37 of the Complaint, as well as John Does 1-1000. The Defendants listed in paragraphs 13 through 37 of the Complaint are all plaintiffs or potential plaintiffs in lawsuits that seek to hold or may seek to hold third-parties Wal-Mart, Kinderhook, Kinderhook Industries, or the remaining Other Defendants liable in actions that include claims and/or causes of action that allege damages related to portable consumer gas containers ("PCGCs") manufactured, sold, or distributed by the above-captioned debtors (the "**Debtors**"). Defendants John Does 1-1000 are each a prospective plaintiff who may at any time while the above-captioned chapter 11 cases are pending seek to file and prosecute Future PCGC Actions.

B. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).

C. This Court's failure to grant a temporary restraining order pending a hearing on the Debtors' request for preliminary and declaratory relief would result in irreparable harm to the Debtors. The Debtors have demonstrated that they may be subject to indemnification or other claims from one or more of the Other Defendants; that the continued prosecution of the PCGC Litigation will distract personnel with responsibility in and for the Debtors' bankruptcy cases and the relief Debtors seek in these bankruptcy cases; that the continued prosecution of the PCGC Litigation may expose the Debtors to the risk of collateral

estoppel, evidentiary prejudice, or other potentially preclusive determinations of fact or law; and that the continued prosecution of the PCGC Litigation may require the Debtors to actively participate in discovery, other pretrial proceedings and/or trials in order to avoid potentially preclusive determinations of fact or law and/or evidentiary prejudice, all to the detriment of the Debtors and their estates. The failure of this Court to act immediately also would allow new claims to be filed against the Other Defendants. Accordingly, the Debtors have demonstrated that they will suffer “immediate and irreparable injury, loss, or damage” in the absence of immediate relief. FED. R. BANKR. P. 7065(b).

D. The Debtors have made reasonable and diligent efforts to identify and provide expedited notice to the known counsel for the PCGC Claimants. Further, service on John Does 1-1000 is impossible because these individuals are putative plaintiffs for Future PCGC Actions against the Other Defendants and are unknown at this time.

E. Accordingly, this Court finds it appropriate to enter a temporary restraining order pursuant to Federal Rule of Bankruptcy Procedure 7065.

F. The Court further finds that the prospects of holding a meaningful preliminary injunction hearing within 14 days of this Order are minimal given the number of Defendants and the fact that an official committee of unsecured creditors has not yet been established in these chapter 11 cases. Accordingly, to conserve its and the parties’ time and resources, this Court finds good cause for an extension and will enter a temporary restraining order extending for the maximum period allowed under Federal Rule of Bankruptcy Procedure 7065 (28 days) and set a hearing on this Motion on or before that date.

G. The legal and factual bases set forth in the Motion and at the hearing establish just cause for the relief granted herein.

Based on these findings, the Court hereby ORDERS that:

1. The automatic stay is hereby extended to the Other Defendants and the PCGC Litigation is hereby stayed in its entirety.
2. Defendants are prohibited and enjoined from filing or continuing to prosecute any action or claim against the Other Defendants until 28 days after the date of entry of this Order.
3. This Order is entered without prejudice to the Debtors' right to request this Court to extend this Order to include other entities or persons not previously identified in the Debtors' Complaint and Motion.
4. The hearing on the Debtors' request for injunctive and declaratory relief shall be held before The Honorable _____ at the United States Bankruptcy Court for the District of Delaware, 824 North Market Street, __ Floor, Courtroom __, Wilmington, Delaware 19801 on _____, 2011 at __:__.m. (prevailing Eastern Time).
5. All parties in interest shall file and serve responses and objections, if any, to the Debtors' requests for injunctive and declaratory relief so as to be actually received on or before _____, 2011 at 4:00 p.m. (Eastern Standard Time) by (a) counsel to the Plaintiffs, Richards, Layton & Finger, P.A., One Rodney Square, 920 North King Street, Wilmington, Delaware 19801, Attn: Daniel J. DeFranceschi, Esq. and Marcos A. Ramos, Esq.; (b) counsel to any statutory committee appointed in these chapter 11 cases; and (c) the Office of the United States Trustee for the District of Delaware, 844 North King Street, Wilmington, Delaware 19801, Attn: Richard Schepacarter, Esq.
6. The Plaintiffs are relieved from posting any security pursuant to Rule 7065 of the Federal Rules of Bankruptcy Procedure.
7. This Order shall be promptly filed in the clerk's office and entered in the record.

8. This Order shall continue in full force and effect until the Court enters an order after the preliminary injunction hearing.

9. The Court retains jurisdiction over this Order and the relief granted herein.

Dated: November __, 2011
Wilmington, Delaware

UNITED STATES BANKRUPTCY JUDGE