

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

IN RE:

WESCO AIRCRAFT HOLDINGS INC., *et al.*,¹
Debtors.

Chapter 11

Case No. 23-90611 (MI)
(Jointly Administered)

WESCO AIRCRAFT HOLDINGS, INC., *et al.*,
Plaintiffs,

Adv. Pro. No. 23-03091 (MI)

v.

SSD INVESTMENTS LTD, *et al.*,
Defendants.

SSD INVESTMENTS, LTD., *et al.*,
Counterclaim Plaintiffs,

v.

WESCO AIRCRAFT HOLDINGS, INC., *et al.*,
Counterclaim Defendants.

**MOTION (I) AUTHORIZING THE DEBTORS AND NON-DEBTOR COUNTERCLAIM
DEFENDANTS TO FILE CERTAIN EXHIBITS UNDER SEAL FOR
APRIL 11, 2024 AND (II) LIMITING NOTICE THEREOF**

¹ The Debtors operate under the trade name Incora and have previously used the trade names Wesco, Pattonair, Haas, and Adams Aviation. A complete list of the Debtors in these chapter 11 cases, with each one's federal tax identification number and the address of its principal office, is available on the website of the Debtors' noticing agent at <http://www.kccllc.net/Incora/>. The service address for each of the Debtors in these cases is 2601 Meacham Blvd., Ste. 400, Fort Worth, TX 76137.



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If you object to the relief requested, you must respond in writing. Unless otherwise directed by the Court, you must file your response electronically at <https://ecf.txsb.uscourts.gov/> within twenty-one days from the date this motion was filed. If you do not have electronic filing privileges, you must file a written objection that is actually received by the clerk within twenty-one days from the date this motion was filed. Otherwise, the Court may treat the pleading as unopposed and grant the relief requested.

The Debtors and Non-Debtor Counterclaim Defendants respectfully submit this *Motion (I) Authorizing The Debtors and Non-Debtor Counterclaim Defendants To File Certain Exhibits Under Seal And (II) Limiting Notice Thereof* (the “**Motion**”) and state as follows:

I. JURISDICTION AND VENUE

1. This Court has jurisdiction over the Motion pursuant to 28 U.S.C. §§ 1334. This is a core proceeding under 28 U.S.C. § 157(b). Venue is proper in this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

II. SUMMARY

2. Pursuant to Section 107(b) of the Bankruptcy Code, Rule 9018 of the Federal Rules of Bankruptcy Procedure, Rule 9037-1 of the Local Rules for the Bankruptcy Court for the Southern District of Texas, and the Stipulated Protective Order, Main Case ECF No. 724 (the “**Protective Order**”), the Debtors and Non-Debtor Counterclaim Defendants respectfully request an order authorizing the sealing of certain Exhibits (the “**Sealed Exhibits**”) to the Debtors’ and Non-Debtor Counterclaim Defendants’ Witness and Exhibit List for trial to begin

on and after April 11, 2024 (the “***Exhibit List***”) (ECF No. 1112) and directing that the exhibits remain under seal and not be made publicly available.

III. BACKGROUND

3. On June 1, 2023, the Debtors filed for relief under Chapter 11.

4. On June 1, 2023, the Debtors initiated this Adversary Proceeding (ECF No. 1).

5. On July 9, 2023, the Debtors filed their *First Amended Complaint and Counterclaim Answer* (ECF No. 63).²

6. On July 31, 2023, the Parties (as defined in the Scheduling Order) to this Adversary Proceeding, including the Debtors, the Non-Debtor Counterclaim Defendants, the Defendants, the Counterclaim Plaintiffs (other than Defendants), and the Official Committee of Unsecured Creditors (the “***UCC***”) entered into the *Stipulated Comprehensive Scheduling Order* (“***Scheduling Order***”) (ECF No. 141).

7. On September 9, 2023, the Court entered the Stipulated Protective Order (Main Case ECF No. 724) (the “***Protective Order***”), which governs the exchange and disclosure of “Confidential Information” or “Highly Confidential – Professionals’ Eyes Only Information,” as defined therein, in these chapter 11 cases.³

8. On January 25, 2024, trial began in this Adversary Proceeding.

9. On April 9, 2024 the Debtors and Non-Debtor Counterclaim Defendants filed their Witness and Exhibit List for trial to begin on and after April 11, 2024. *See* ECF No. 1112.

² Capitalized terms used but not otherwise defined herein shall have the meaning ascribed in Debtors’ First Amended Complaint, ECF No. 63 (the “***Debtors’ First Amended Complaint***”), as applicable. Unless otherwise indicated, citations to the electronic case filing docket, ECF, are to the docket of this Adversary Proceeding.

³ The parties to this Adversary Proceeding executed and filed the Protective Order on July 31, 2023. (*See* Main Case ECF No. 724).

The Exhibits filed therewith contain information that has been designated “Confidential Information” or “Highly Confidential – Professionals’ Eyes Only Information.”

10. Contemporaneously with the filing of the Exhibit List, the Debtors’ and Non-Debtor Counterclaim Defendants’ Exhibits are filed under seal. *See* ECF Nos. 1112-1-3.

11. The Debtors and Non-Debtor Counterclaim Defendants request that the Court issue an order authorizing the Debtors and Non-Debtor Counterclaim Defendants to (i) file under seal, (ii) serve on the parties that are entitled, and (iii) keep sealed for an indefinite period of time, the Debtors’ and Non-Debtor Counterclaim Defendants’ Exhibits filed under seal at ECF Nos. 1112-1-3.

12. If the producing parties agree, or the Court so orders, some or all of the Exhibits may be de-designated of their designation as Confidential or Highly Confidential – Professionals’ Eyes Only Information, in which case the Debtors and Non-Debtor Counterclaim Defendants will move to unseal the relevant information.

IV. BASIS FOR RELIEF

13. Pursuant to section 107(b) of the Bankruptcy Code, the Court is authorized to issue orders to protect entities with respect to certain confidential information. *See* 11 U.S.C. § 107(b). Additionally, section 105(a) of the Bankruptcy Code, which codifies the Bankruptcy Court’s inherent equitable powers, empowers the Court to “issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.” 11 U.S.C. § 105(a).

14. Bankruptcy Rule 9018 implements section 107(b) of the Bankruptcy Code and provides in pertinent part: “On motion or on its own initiative, with or without notice, the court

may make any order which justice requires (1) to protect the estate or any entity in respect of a trade secret or other confidential research, development, or commercial information . . .” Fed. R. Bankr. P. 9018.

15. There is a strong presumption in favor of public access to court records. *See Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 598, 602 (1978).

16. However, sections 105(a) and 107(b) of the Bankruptcy Code and Bankruptcy Rule 9018 authorize this Court to limit public access under certain circumstances. *See, e.g., In re Gen. Homes Corp.*, 181 B.R. 898, 903 (Bankr. S.D. Tex. 1995) (“The court has authority to seal court records, in order to protect trade secrets or confidential research, development, or confidential information . . .”); *accord Jones v. RealPage, Inc.*, 2021 WL 268824, at *2 (N.D. Tex. Jan. 27, 2021) (quoting *Rodriguez v. United Rentals (N. Am.), Inc.*, 2018 WL 4184321, at *1 (S.D. Miss. Aug. 31, 2018)) (“Federal courts routinely limit the public’s access to commercially sensitive and proprietary information.”).

17. Because the Exhibits at ECF Nos. 1112-1-3 contain information that is designated as “Confidential Information” or “Highly Confidential – Professionals’ Eyes Only Information,” the Protective Order requires the filing of the Debtors’ and Non-Debtor Counterclaim Defendants’ Exhibits under seal.

V. CONCLUSION

WHEREFORE, the Debtor and Non-Debtor Counterclaim Defendants respectfully request that this Court enter an order that: (a) grants the Motion; and (b) grants all other relief that this Court deems just and proper.

Dated: April 9, 2024

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CERTIFICATE OF SERVICE

I certify that on April 9, 2024, I caused a copy of the foregoing document to be served by the Electronic Case Filing System for the United States Bankruptcy Court for the Southern District of Texas.

/s/ Michael S. Etkin

Michael S. Etkin

**UNITED STATES BANKRUPTCY COURT
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Counterclaim Plaintiffs,

v.

WESCO AIRCRAFT HOLDINGS, INC., et al.,

Counterclaim Defendants.

**ORDER GRANTING THE DEBTORS' AND NON-DEBTOR COUNTERCLAIM
DEFENDANTS' MOTION TO FILE CERTAIN EXHIBITS UNDER SEAL AND
LIMITING NOTICE THEREOF**

¹ The Debtors operate under the trade name Incora and have previously used the trade names Wesco, Pattonair, Haas, and Adams Aviation. A complete list of the Debtors in these chapter 11 cases, with each one's federal tax identification number and the address of its principal office, is available on the website of the Debtors' noticing agent at <http://www.kccllc.net/Incora/>. The service address for each of the Debtors in these cases is 2601 Meacham Blvd., Ste. 400, Fort Worth, TX 76137.

Upon consideration of the *Motion (I) Authorizing The Debtors and Non-Debtor Counterclaim Defendants To File Certain Exhibits Under Seal And (II) Limiting Notice Thereof* (the “***Motion***”), the Court having jurisdiction to consider this matter and relief requested therein pursuant to 28 U.S.C. § 1334; consideration of this Motion being a core proceeding pursuant to 28 U.S.C. § 157; notice of the Motion having been adequate and appropriate under the circumstances; and after due deliberation and sufficient cause appearing; it is hereby:

1. ORDERED that the Debtors and Non-Debtor Counterclaim Defendants are authorized to file under seal certain exhibits on the Exhibit List at ECF Nos. 1112-1-3; it is further

2. ORDERED that the Debtors and Non-Debtor Counterclaim Defendants are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Motion.

3. This Order is without prejudice to the rights of any party-in-interest, including the Debtors and Non-Debtor Counterclaim Defendants, to seek to unseal the Exhibits, or any part thereof;

4. The Court retains jurisdiction with respect to all matters arising from or related to the implementation of this order.

SIGNED:

MARVIN ISGUR
UNITED STATES BANKRUPTCY JUDGE