

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

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<i>In re</i>	:	<b>Chapter 11</b>
	:	
<b>JCK LEGACY COMPANY, et al.,</b>	:	<b>Case No. 20-10418 (MEW)</b>
	:	
<b>Debtors.<sup>1</sup></b>	:	<b>(Jointly Administered)</b>
	:	
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**STIPULATION AND AGREED ORDER  
FURTHER MODIFYING THE AUTOMATIC STAY TO PERMIT CERTAIN  
PROCEEDINGS IN CONNECTION WITH THE DESMOND LAWSUIT**

THIS STIPULATION AND AGREED ORDER (this “Stipulation and Order”) is entered into as of September 10, 2020, between (i) Beth Desmond (“Desmond”) and (ii) The News and Observer Publishing Company (“The N&O,” and together with Desmond, the “Parties”).

**RECITALS**

WHEREAS, on February 13, 2020 (the “Petition Date”), each of the above captioned debtors (collectively, the “Debtors”), including The N&O, commenced a case by filing a petition for relief under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”) in the United States Bankruptcy Court for the Southern District of New York (the “Bankruptcy Court”). The chapter 11 cases are jointly administered.

WHEREAS, prior to the Petition Date, on November 29, 2012, Desmond commenced an action in North Carolina state court against defendants The N&O and Mandy

<sup>1</sup> The last four digits of Debtor JCK Legacy Company’s tax identification number are 0478. Due to the large number of debtor entities in these chapter 11 cases, for which the Debtors have requested joint administration, a complete list of the debtor entities and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information may be obtained on the website of the Debtors’ proposed claims and noticing agent at <http://www.kccllc.net/McClatchy>. The location of the Debtors’ service address for purposes of these chapter 11 cases is: 2100 Q Street, Sacramento, California 95816.



Locke (“Locke”) styled *Beth Desmond v. The News and Observer Publishing Company, McClatchy Newspapers, Inc., Mandy Locke, et. al.*, Wake County Superior Court File No. 12 CVS 16656 (the “Desmond Lawsuit”).

WHEREAS, after the Petition Date, on May 12, 2020, Desmond filed a motion with the Bankruptcy Court [Docket No. 438] (the “Motion”) to modify the automatic stay under section 362 of the Bankruptcy Code (the “Automatic Stay”) so that (i) Desmond be permitted to continue defending against an appeal before the Supreme Court of North Carolina (the “NC Supreme Court”) under case number 132P18-2 (the “Appeal”) of a judgment (the “Judgment”) she obtained against The N&O and Locke; (ii) if Desmond were successful in her defense against the Appeal, she be permitted to execute upon a supersedeas bond posted by The N&O (the “Bond”), and attempt recovery against any available insurance proceeds and against Locke, individually, for the amount of the Judgment that exceeds the Bond amount; and (iii) the NC Supreme Court be permitted to issue a decision resolving the Appeal (the “Appeal Opinion”).

WHEREAS, on June 30, 2020, the Bankruptcy Court entered an order [Docket No 592] (the “Prior Stay Modification Order”) (i) modifying the Automatic Stay solely to the extent necessary to permit the NC Supreme Court to issue the Appeal Opinion and (ii) establishing a procedure by which the Parties may, if necessary, subsequently submit a stipulation and agreed order to permit Desmond to recover against the Bond and/or insurance, all as more fully set forth in the Prior Stay Modification Order.

WHEREAS, on August 14, 2020, the NC Supreme Court issued the Appeal Opinion affirming in part, reversing in part, and remanding in part, the decision of the North Carolina Court of Appeals with respect to the Desmond Lawsuit.

WHEREAS, on September 3, 2020, the NC Supreme Court issued its mandate with respect to the Appeal Opinion (the “Mandate”).

WHEREAS, the Parties expect to file petitions for rehearing with the NC Supreme Court with respect to the Appeal Opinion (the “Rehearing Petitions”), which Rehearing Petitions are due by no later than fifteen (15) days after the entry of the Mandate (*i.e.*, September 18, 2020).

WHEREAS, on August 21, 2020, the Debtors filed the *Joint Chapter 11 Plan of Distribution of The McClatchy Company and its Affiliated Debtors and Debtors in Possession* [Docket No. 780, Ex 1] (as may be amended, modified, and/or supplemented from time to time the “Chapter 11 Plan”).

WHEREAS, each of the Parties have agreed, on the terms and conditions set forth herein, to seek a consensual order from the Bankruptcy Court further modifying the Automatic Stay solely to the extent necessary to permit the filing and adjudication of the Rehearing Petitions.

NOW THEREFORE, IT IS HEREBY STIPULATED BY THE PARTIES, BY AND THROUGH THEIR RESPECTIVE UNDERSIGNED COUNSEL, AND, UPON BANKRUPTCY COURT APPROVAL HEREOF, IT SHALL BE ORDERED THAT:

1. The Automatic Stay is further modified to the extent necessary for (i) each of the Parties to file and prosecute its respective Rehearing Petitions and all other pleadings related thereto or in connection therewith and (ii) the Rehearing Petitions to proceed to final adjudication by the NC Supreme Court.

2. Following the issuance of the NC Supreme Court’s adjudication of the Rehearing Petitions, and prior to the Effective Date (as defined in the Chapter 11 Plan),

Desmond may seek further relief from the automatic stay by the Debtors and Desmond submitting a stipulation and proposed order (the “Stipulation and Further Proposed Order”) providing for the lifting of the automatic stay to permit Desmond to recover against the Bond and/or Insurance and the Debtors filing of a certification of counsel on the docket of these Chapter 11 Cases that each of (i) the Office of the United States Trustee for Region 2, (ii) counsel to the Official Committee of Unsecured Creditors, (iii) counsel to the DIP Administrative Agent, (iv) counsel to the Chatham Creditors, and (v) counsel to Brigade have been provided with a copy of the Stipulation and Further Proposed Order and have no objections thereto.

3. Each of the undersigned counsel represents that he/she is authorized to execute this Stipulation and Order on behalf of his/her respective client(s).

4. The Parties acknowledge that this Stipulation and Order constitutes the entire agreement by and among the Parties with respect to the subject matter hereof, and all prior agreements, stipulations, negotiations and understandings with respect to the subject matter hereof are canceled and superseded by this Stipulation and Order; *provided* that the foregoing shall not apply to the Prior Stay Modification Order.

5. The fourteen (14) day stay provided by Bankruptcy Rule 4001(a)(3) is hereby waived. The Parties are authorized and empowered to take all actions necessary to implement the relief granted in this Stipulation and Order.

6. The Bankruptcy Court shall retain exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, or enforcement of this Stipulation and Order.

*[Remainder of page left blank intentionally; signature page follows]*

STIPULATED AND AGREED AS OF THE DATE FIRST WRITTEN ABOVE:

**DORSEY & WHITNEY LLP**

/s/ Samuel S. Kohn

Samuel S. Kohn  
51 W. 52nd Street  
New York, New York 10019  
Telephone: (212) 415-9200  
Fax: (212) 953-7201

*Attorneys for Beth Desmond*

**TOGUT, SEGAL & SEGAL LLP**

/s/ Kyle J. Ortiz

Albert Togut  
Kyle J. Ortiz  
One Penn Plaza, Suite 3335  
New York, New York 10119  
Telephone: (212) 594-5000  
Fax: (212) 967-4258

*Counsel to Debtors and Debtors in  
Possession*

**IT IS SO ORDERED.**

Dated: New York, New York  
September 17, 2020

s/Michael E. Wiles

THE HONORABLE MICHAEL E. WILES  
UNITED STATES BANKRUPTCY JUDGE