

AUGLAIZE COUNTY
COMMON PLEAS COURT
FILED

IN THE COMMON PLEAS COURT OF AUGLAIZE COUNTY, OHIO
CIVIL DIVISION

2018 OCT -5 AM 1:28

I. JEAN MECKSTROTH
CLERK OF COURTS

PAUL MASTRONARDI
Plaintiff,

-VS-

LUIS CHIBANTE, *et al.*,
Defendants.

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CASE NO. 2017-CV-144

**JOURNAL ENTRY—ORDERS CHANGING
TIME/PROCEDURE AT HEARING
ON CLAIMS AND OBJECTIONS
SCHEDULED TO COMMENCE
OCTOBER 29, 2018**

It is the responsibility of the Court to review each claim presented by each Claimant and to determine whether the claim shall be allowed, in whole or in part, and if allowed, whether each is a secured, administrative or unsecured claim against the proceeds of the sale of the assets of the dissolved entities.

As previously ordered with notice provided to all parties, claimants and objectors, this case will come before the court for hearing on all claims and objections thereto, BUT due to the number of items to be heard, the Court modifies the time so that the hearing will commence at 8:30 a.m. on October 29, 2018, as further detailed below.

As further explained below, no person is required to attend the hearing. All claims will be considered, along with all objections, whether persons appear in person or simply rely upon the documents they submitted.

For those who choose to attend, Claimants, Objectors and parties are hereby notified of the following procedures which will be followed on day or days of the hearing, as necessity may require, subject to further orders:

1. First, at **8:30 a.m. on Monday, October 29, 2018**, the court will consider all claims for which there has been no objection filed.
 - a. With respect to those claims, the court will first address those non-objected claims for which the Receiver has recommended allowing as filed, and will accept evidence and information on whether these claims should be allowed, and if so, whether they are secured, administrative or unsecured claims.
 - b. With respect to those claims, the court will next address those non-objected to claims for which the Receiver has not recommended allowing as filed, and will accept evidence and information on whether these claims should be allowed, and if so, whether they are secured, administrative or unsecured claims.
 - c. Any claim which includes a claim for attorney fees will not be included in this grouping, as the court has been requested to rule on attorney fees and those matters will be called later.
2. Next, the court will consider all claims for which there has been an objection filed in the following order:

- a. Subject to subparagraph (b), below, the court will consider those claims submitted by claimants who are totally unrelated (either directly, indirectly through immediate family members, corporate or partnership entities and their shareholders, or otherwise) to any of the parties to this litigation and the underlying entities that have been dissolved herein and their shareholders or partners, and will accept evidence and information on whether these claims should be allowed in whole or in part, and if so, whether they are secured, administrative or unsecured claims in whole or in part.
 - b. Any claim within the grouping in subparagraph (a), above, that includes a claim for attorney fees will come before the court for hearing on the reasonableness and necessity of those attorney fees in accordance with the relevant statutes and this court's legal and equitable powers and responsibilities with respect to such claims for attorney fees.
 - c. Within this grouping, the Court will consider Claim 59, Bank of Montreal, the objections thereto, and the reasonableness and necessity of those attorney fees in accordance with the relevant statutes and this courts legal and equitable powers with respect to such claims, **commencing at 1:00 p.m. on October 29, 2018**; the Court will take this matter out of order, if necessary, and will conclude that matter before moving on to other matters, picking up where we left off if necessary.
 - d. Subject to the paragraphs below, the Court will also consider Claim 45 and then those claims submitted by claimants who are related (either directly, indirectly through immediate family members, corporate or partnership entities and their shareholders, or otherwise) to any of the parties to this litigation and the underlying entities that have been dissolved herein and their shareholders or partners, and will accept evidence and information on whether these claims should be allowed, and if so, whether they are secured, administrative or unsecured claims. Any claim within this grouping that includes a claim for attorney fees will also come before the court for hearing on the reasonableness and necessity of those attorney fees in accordance with the relevant statutes and this courts legal and equitable powers with respect to such claims for attorney fees.
3. Due to the number of matters to come before the Court, and by agreement of counsel for the Claimants and Objectors, the Court will continue this hearing to Tuesday, October 30, 2018, at 8:30 a.m. to consider Claim No. 47, including the pending motion filed by the Receiver on February 26, 2018, and the objections to said claim as raised in pleadings filed in this case, and will accept evidence and information on whether the claims within Claim 47 should be allowed, and if so, whether they are secured, administrative or unsecured claims. Any portion of this claim that includes a claim for attorney fees will also come before the court for hearing on the reasonableness and necessity of those attorney fees in accordance with the relevant statutes and this court's legal and equitable powers with respect to such claims. As the Receiver made the original motion in a portion of this claim, the Court will consider the evidence adduced at hearing and the Receiver shall make no recommendation with respect to that portion of this claim.

4. Finally, On October 30, 2018, after Claim 47, the Court will consider Claims Numbered 40, 42, 43, 46, 48, 55, and 56, submitted by Golden Acre Farms, Inc., and by the parties, Paul Mastronardi and Luis Chibante and 1797540 Ontario, Inc., and the underlying entities that have been dissolved herein and their shareholders or partners, and the objections thereto, and will accept evidence and information on whether these claims should be allowed, and if so, whether they are secured, administrative or unsecured claims. Any claim within this grouping that includes a claim for attorney fees will also come before the court for hearing on the reasonableness and necessity of those attorney fees in accordance with the relevant statutes and this courts legal and equitable powers with respect to such claims for attorney fees.

This hearing shall continue from day to day until all claims and objections thereto have been fully heard and submitted to the Court, and all parties and counsel shall prepare accordingly. **It is the Claimant's responsibility to provide proof of their claim with sufficient evidence to support its amount and its priority, if any.**

Claimants and Objectors will each be given fifteen (15) minutes to present their evidence in support of their claims and objections. Those persons who desire to take longer than **fifteen (15) minutes** to present their evidence in support of their claims and objections should request a specific amount of time in writing to the Court on or before **October 24, 2018**, via **FAX** to the attention of T. Maze at (419) 739-6771.

Anticipated arguments may be submitted in writing for the court's consideration prior to or at the time of the hearing. No written arguments or supplementation of evidence will be allowed after the conclusion of the hearing, at which time the claims and objections shall be deemed submitted.

Claimants, objectors and parties may choose to rely upon the documents submitted. Persons wishing to waive their appearance accordingly are requested as a courtesy to the Court to notify the court of their intention to waive their appearance. **Waiver of appearance does not in any way waive the claim or the objection made by the person waiving appearance, and all claims and objections will be considered by the Court.** Failure to appear will simply be deemed a waiver of appearance and not prejudice the claim.

It is the intention of the court to keep the hearing moving, but will proceed so that all claimants, objectors and interested persons may submit any relevant evidence. While the court cannot anticipate the number of participants (so the hearing may proceed slower than anticipated), the hearing will proceed until all claims and objections have been heard and submitted to the Court.

The Clerk shall cause a copy of this Order to be sent by electronic means to the Claimants and to counsel at their electronic addresses listed on the proofs of claim referenced above; and by regular U.S. mail to the Claimants who have not listed email addresses at their addresses of record; and shall post a copy of this ORDER on the court's websites as a separate item on the Mastronardi/Chibante litigation site.

IT IS SO ORDERED.



Judge Frederick D. Pepple