

**IN THE UNITED STATES BANKRUPTCY COURT
DISTRICT OF KANSAS**

In re:)	
)	
)	Case No. 12-22602
DICKINSON THEATRES, INC.,)	
a Kansas corporation,)	Chapter 11
)	
Debtor.)	

**DECLARATION OF RON HORTON, PRESIDENT AND CEO OF
DEBTOR DICKINSON THEATRES, INC., IN SUPPORT OF THE
CHAPTER 11 PETITION AND FIRST DAY PLEADING**

I, Ron Horton, declare as follows

1. I am the President and Chief Executive Officer of Dickinson Theatres, Inc. ("DTI" or the "Debtor"). Additionally, I am the sole shareholder of all of DTI's stock. In these capacities, I am familiar with DTI's day-to-day operations, business and financial affairs, and books and records.

2. To enable DTI to minimize the adverse effects of the commencement of the above-captioned chapter 11 case (the "Chapter 11 Case") on its business, thereby preserving and maximizing the value of its estate, DTI has requested various types of relief in the "first day" pleadings and applications (each, a "First Day Pleading") described below.¹ I am familiar with the contents of each First Day Pleading (including the exhibits and schedules thereto) and I believe that the relief sought in each First Day Pleading: (a) is necessary to enable DTI to operate in Chapter 11 with minimal disruption or loss of productivity and value; (b) constitutes a critical element to achieving a successful result in this chapter 11 case; and (c) is in the best interests of DTI's estate and its creditors.

¹ Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in their respective First Day Pleading.

3. Except as otherwise indicated, all facts set forth herein are based upon: (a) my personal knowledge; (b) information learned from my review of relevant documents; and (c) information supplied to me by other members of DTI's management and DTI's advisors. I am authorized to submit this Declaration on behalf of DTI, and, if called upon to testify, I could and would testify competently to the facts set forth herein.

I. BACKGROUND

4. On September 21, 2012 (the "Petition Date"), DTI filed its voluntary petition in this Court for reorganization relief under Chapter 11 the Bankruptcy Code, commencing DTI's Chapter 11 Case. DTI continues to operate its business and manage its properties as debtor-in-possession pursuant to Sections 1107(a) and 1108 of the Bankruptcy Code. No request for the appointment of a trustee or examiner has been made in this Chapter 11 Case and, as of the date of the filing of this Declaration, no official committees have been appointed or designated.

A. Storied History of DTI.

5. DTI has been in the movie theatre exhibition industry for over ninety (90) years, primarily in the Midwest. In 1920, company founder Glen W. Dickinson, Sr., started DTI when he purchased a small two-screen theatre in Manhattan, Kansas. The theatre was known as Dickinson Marshall Theatre and was christened in November 1920 as DTI's first theatre. After overwhelming success with his first venture in the motion picture exhibition, Mr. Dickinson soon added a second market for DTI to operate in — the Dickinson Bowersock Theatre sprung up in Lawrence, Kansas. A second Lawrence theatre was soon opened, and within a brief period of time, DTI had expanded its size and scope to include theatres in Junction City, Kansas; Ellsworth, Kansas; Beloit, Kansas; Great Bend, Kansas; and Springfield, Missouri.

6. By 1931, DTI had grown to parent 26 theatres and continued to expand. It was at that time Mr. Dickinson decided to relocate the company headquarters to Lawrence, Kansas. In 1946, DTI branched out to introduce its first drive-in theatre. The first DTI drive-in opened in Pittsburg, Kansas and was followed in 1948 by the construction of the 81 Drive-In Theatre in Salina, Kansas, the Shawnee Drive-In in Shawnee, Kansas and the Leawood Drive-In Theatre in Leawood, Kansas.

7. Company expansion and diversification continued under the operation of Glen W. Dickinson, Jr. as theatres sprung up in Waterloo, Iowa; Quincy, Illinois; Monroe, Missouri; Noel, Missouri; Anderson, Missouri; and Branson, Missouri. After more expansion, the company decided to relocate DTI's corporate headquarters to Mission, Kansas. Over the next ten (10) years DTI focused its long term growth, as the construction of a major motor hotel complex the Glenwood Manor Motor Hotel, began at 95th and Metcalf, just a short distance away from what would be DTI's "Flagship" Glenwood Theatre, already in construction. The "new" Glenwood Theatre received instant recognition for movie theatre comfort, quality and design. It's overwhelming popularity with the public and film companies soon warranted the construction of additional screens and expansion to the complex. The decade of the 1960's also marked the passing of the company's founder, Glen W. Dickinson, Sr. in 1963. The company was passed on to Glen W. Dickinson, Jr. who would go on to run DTI for the next 20 years.

8. One of the company's most significant milestones occurred in early 1980 when DTI purchased 25 screens from Mann Theatres. The acquisition increased the company's size from 46 screens to 71 screens with operation in 4 states. Glen W. Dickinson, Jr. passed away in 1983, leaving the leadership of the company to Kent Dickinson, the second of three sons. The other two, Jon Scott Dickinson and Glen Wood Dickinson III assisted as vice presidents for the

company. Throughout the 1980's under Kent Dickinson's administration, existing theatre properties were refurbished and updated with the latest technology. New luxurious theatre complexes were constructed over the next few years and included major multiplexes in Kansas City, Kansas; Wichita, Kansas; Springfield, Missouri; and Columbia, Missouri.

9. In October 1992 Wood Dickinson III was named president of DTI. During Wood Dickinson's appointment to office, DTI opened its first 12-screen motion picture entertainment complex, the SouthGlen Theatre in suburban Overland Park, Kansas, as well as the new Plaza Cinema 6 facility in Leavenworth, Kansas. 1995 marked DTI's 75th anniversary and a year of great success. DTI introduced the "Crown Jewel" to the Kansas City area, opening the extraordinary WestGlen 12 Theatre in Shawnee, Kansas. Destined to become Dickinson's most luxurious movie center and model operation for excellence, the WestGlen soared expectations and later expanded to 18 screens. With a minimum addition of 20 new screens during 1995, DTI was operating 168 screens in 39 locations throughout Mid-America.

10. In September of 1999, Wood Dickinson III, the last of the Dickinson family, decided to move on to other industry related and personal ventures. In his place, John Hartley, head of purchasing for DTI, assumed control of the company. Reviving the company mission to provide the best of family entertainment, the following years showed a rebirth of DTI. After more than 30 years in the business, John Hartley retired and sold the company to me. Today, I continue to lead the company into the digital age. The company currently operates 18 theatre locations with 210 screens across 7 states.

B. Organizational Structure: Overview of DTI's Operations

11. Presently, DTI is a Kansas corporation with its principal place of business at 6801 W. 107th Street, Overland Park, Kansas.

12. As set forth above, DTI presently operates 18 different theatre locations with 210 screens across 7 states.

C. Movie Exhibition Industry and Competition

13. Motion picture theatres are the primary initial distribution channel for new motion picture releases. The theatrical success of a motion picture is very important factor in establishing its value in the cable television, DVD and other ancillary markets. Debtor believes that the public will continue to recognize the value of viewing a movie on a large screen with superior audio and visual quality, while enjoying a variety of concessions and sharing the experience with a larger audience. The Motion Picture Association of America reported that during 2011, domestic attendance was 1.3 billion with 221.2 million people in the U.S. and Canada attending at least one movie in 2011. Variances in year-to-year attendance are primarily related to the overall popularity and supply of motion pictures.

14. However, the film exhibition industry in the United States does face several challenges. Most notably, the increased popularity of vending machine style distributors, online/streaming of content and home theaters place more pressure on film exhibitors to create a more enhanced entertainment experience. One aspect of the enhanced experience has been seen in megaplexes which are theatres with predominantly stadium-style seating (seating with an elevation between rows to provide unobstructed viewing) and other amenities to enhance the movie-going experience. Consumers have demonstrated their demand for the amenities in the new megaplex theaters by being willing to travel farther to see a movie in such theaters. This megaplex trend has even caused some megaplex theaters to be built too close to other megaplex theaters. In addition, long-term leases of existing theater facilities often reduce the industry's ability to retire older screens as quickly and inexpensively as they might like.

15. Second, the percentage of box office revenue that film distributors can command as licensing fees are higher because there are so many screens competing for the right to license the films. Today film rental (the amount paid by exhibitors to film companies) is paid as an aggregate with such cost having increased by 3-4% over the last 10 year period. In part, this is due to the increased number of megaplexes increasing demand for quality first run film. In turn, the large number of screens makes it possible for a larger number of consumers to see a movie during the early weeks of a run, but studios now demand more from theaters for film rental.

16. Third, during 2012 particularly, there have been fewer box office hits than in the recent past. The Debtor's Business is seasonal in nature, with the highest attendance and revenues generally occurring during the summer months and holiday seasons. Summer 2012 was not a strong season, and there is traditionally a decline in box office revenues during the Olympic games. Fewer customers also reduces income from concessions, from video games in the lobbies and from on-screen advertising.

17. Finally, Debtor competes against both local and national exhibitors, some of which may have substantially greater financial resources. The Debtor's theatres are subject to varying degrees of competition in the geographic areas in which they operate. Competitors may be national circuits, regional circuits or smaller independent exhibitors. Competition is often intense with respect to attracting patrons and licensing motion pictures.

D. Pre-petition Operational Matters

a. Pre-petition Vendor Debt

18. Debtor mainly licenses "first-run" motion pictures from distributors owned by major film production companies and from independent distributors that generally acquire licensing rights from smaller production companies. These licenses are on a film-by-film and

theatre-by-theatre basis. Negotiations with distributors are based on several factors, including theatre location, competition, season of the year and motion picture content. North American film distributors typically establish geographic film licensing zones and allocate available film to one theatre within that zone.

19. Film zones generally encompass a radius of three to five miles in metropolitan and suburban markets, depending primarily upon population density. In film zones where the Company is the sole exhibitor, the Company obtains film licenses by selecting a film from among those offered and negotiating directly with the distributor. In film zones where there is competition, a distributor will allocate its films among the exhibitors in the zone.

20. Licenses entered between distributors and exhibitors now encompass a fixed percentage of theatre admissions as the license fee for such films. Some of these license arrangements are under a Master Lease, whereas others are associated with a film by film license – in effect, by accepting the film for exhibition the exhibitor agrees to the terms set by the distributor as the film is delivered/received.

21. Concessions sales are the second largest source of revenue for Debtor after box office admissions. Concession items include popcorn, soft drinks, candy and other products. Debtor's strategy emphasizes prominent and appealing concessions counters designed for rapid service and efficiency. Debtor's primary concessions products are various sizes of popcorn, soft drinks, candy and hot dogs, all of which Debtor sells at each of its theatres. Debtor negotiates prices for its concessions products and supplies directly with concessions vendors to obtain volume discounts or bulk rates.

22. Debtor believes that its relations with vendors have been generally satisfactory.

23. DTI has accrued past due invoices from vendors, principally suppliers of food and beverage for the movie theatres. As of the Petition Date, DTI was indebted in an amount in excess of \$5,000 on account of past due invoices from food and beverage vendors. Several of these vendors have commenced legal action against DTI, though none of these actions have yet resulted in a judgment.

24. DTI has also accrued past due invoices from movie distributors principally for the nonpayment of receiving movies from said distributors. As of the Petition Date, DTI was indebted in an amount in excess of \$350,000 on account of past due invoices from the movie distributors. The payment of the movie distributors is critical to DTI's successful reorganization in Chapter 11. If DTI is unable to continue its relationships with the movie distributors it will be unable to show movies and attract customers to its movie theatres.

25. Finally, as of the Petition Date, DTI owed an unknown amount of money to its vendors on account of goods delivered to DTI during the twenty-day period prior to the Petition Date, which vendors may assert that such sums may be entitled to administrative claim priority under section 503(b)(9) of the Bankruptcy Code. DTI reserves all of its rights to object to the priority, allowance or payment of any such claims.

b. DTI's Employees and Employee Matters

26. Debtor currently employs approximately 36 full-time employees, and approximately 650 part-time employees (the "Employees") at the various theatres. The full-time employees receive typical benefits for a company the size of Debtor, including but not limited to health insurance, disability insurance, vacation pay, severance pay and life insurance. The part-time employees receive no benefits. Debtor believes that its relationship with employees is generally satisfactory.

E. Events Leading Up To DTI's Chapter 11 Filing

27. The primary events leading up to this filing center on related party or similar dealings of the prior controlling shareholder of DTI. In particular, above market rate contracts with entities owned by relatives of such shareholder and the acquisition of real estate outside the course and scope of Dickinson's film exhibition business. In addition, unfavorable leasing terms in theater leases with yet other parties has also had a dramatically negative effect on DTI's operations over the last several years. The full extent of these negative aspects only becoming known after such shareholder's interest in Debtor was purchased in January 2012. Over the course of approximately ten years, these circumstances have cost Debtor, on estimate, in excess of \$3,000,000 and currently have Debtor handcuffed by over \$700,000 in annual payments for related party, outside of business scope and unprofitable theater ventures.

28. In an effort to bring lease arrangements in line as to theaters, four theaters have been analyzed with their leased to be affirmed, some pursuant to prepetition renegotiations. Others are hoped to be renegotiated in this process with the exact disposition of such locations, if such efforts fail, to be determined as quickly and efficiently as possible.

29. Industry changes and competition are also a factor. Motion picture theatres are the primary initial distribution channel for new motion picture releases. The theatrical success of a motion picture is very important factor in establishing its value in the cable television, DVD and other ancillary markets. While the movie experience is changing, Debtor believes that the public will continue to recognize the value of viewing a movie on a large screen with superior audio and visual quality, while enjoying a variety of concessions and sharing the experience with a larger audience. The Motion Picture Association of America reported that during 2011, domestic attendance was 1.3 billion with 221.2 million people in the U.S. and Canada attending

at least one movie in 2011. Variances in year-to-year attendance are primarily related to the overall popularity and supply of motion pictures.

II. First Day Pleadings

A. Administrative Motions

a. Ex Parte Motion for an Order Establishing Noticing Requirements with Respect to All Proceedings Herein (the "Minimum Notice Motion")

30. As a procedural matter, DTI requests that the Court enter an order which establishes minimum noticing requirements for all proceedings herein. With so many parties in interest, DTI will incur substantial expense in copying costs, postal charges and other handling expenses relative to large mailings frequently required by the normal notice provisions in the Bankruptcy Code and the Bankruptcy Rules. Many pleadings and notices often involve merely administrative and housekeeping matters that do not directly or adversely affect the substantive rights of most creditors and interested parties. Thus, by establishing the minimum notice requirements, the administrative expenses incurred in the Chapter 11 cases can be greatly reduced without prejudice to the numerous parties in interest.

31. To achieve the relief sought in the Minimum Notice Motion, DTI will create an Official Service List which shall be composed of: (a) DTI and its counsel; (b) the U.S. Trustee; (c) the members of any Official Unsecured Creditors Committee, and counsel for any such Committee(s); (d) unless and until any Official Committee of Unsecured Creditors is appointed, the creditors listed on the List of Twenty Largest Unsecured Creditors filed by DTI in this case; and (e) any person or entity that files an Entry of Appearance and Request for Notice. DTI will file with the Court the Official Service List and will thereafter periodically file and serve on the members of the Official Service List an amended Official Service List with the Court to reflect

changes, additions and deletions. The Official Service List will then be available to any parties in interest for use in this Chapter 11 case.

b. Motion of the Debtor for Entry of an Order Establishing Bar Dates for Filing Proofs of Prepetition Secured and Unsecured and § 503(b)(9) Administrative Expense Claims (the "Bar Date Motion")

32. The circumstances of this Chapter 11 Case justifies fixing the Bar Dates as at the time of the filing of this case, the Debtor has in excess of 140 creditors. It is essential for the Debtor to quickly ascertain the full nature, extent and scope of the Claims asserted against its estate, as the Debtor expects to emerge from Chapter 11 as expeditiously as possible. Accordingly, the Debtor requests that the Court set the Bar Dates for the filing of Claims against the Debtor's estate.

33. To this end, the Debtor requests that the Court set November 5, 2012, as the General Bar Date for filing Claims, which is more than 35 after the Debtor filed its petition.

34. The Debtor anticipates that certain Creditors may assert Claims in connection with the Debtor's rejection of executory contracts and unexpired leases pursuant to section 365 of the Bankruptcy Code. The Debtor proposes that, for any Claim relating to the Debtor's rejection of an executory contract or unexpired lease that is approved by an order of the Court, unless otherwise stated in such order, the bar date for filing any such Claim shall be the Rejection Bar Date, which is thirty (30) days after the effective date of any order authorizing the rejection of an executory contract or unexpired lease as the bar date by which a proof of Claim relating to the Debtor's rejection of such contract or lease must be filed.

c. Motion of the Debtor for an Order Establishing Procedures for the Assertion of Section 503(b)(9) Claims Relating to Goods Received Within Twenty Days Prior to the Petition Date (the "503(b)(9) Procedures Motion")

35. Prior to the Petition Date and in the ordinary course of its Business, the Debtor purchased a wide variety of goods used in their business operations, including, among other things, various food, beverage, cleaning supplies, ticket supplies, and other goods used in the ordinary course of its Business (collectively, the "Goods"). Such Goods are received by the Debtor on a regular basis.

36. In the 503(b)(9) Motion, the Debtor seeks entry of an order pursuant to Sections 105(a) and 503 the Bankruptcy Code and Bankruptcy Rules 3002 and 3003 establishing exclusive procedures for the assertion of any claims under Section 503(b)(9) of the Bankruptcy Code.

37. This usual process of deferring claims litigation to later in a Chapter 11 case avoids burdening the debtor with claims litigation during the early stages of a case, when the debtor faces a host of pressing financial, operational, and structural issues. Moreover, by employing the customary claims administration process in this case, the Debtor will be able to structure the claims review process to maximize efficiency. For example, the Debtor will be able to analyze all claims of various categories in one coordinated process, and will be able to structure contested litigation so that multiple claims can be addressed at the same hearing, to the extent permitted by this Court. Accordingly, witnesses will not need to come to Court time and time again, and such an organized process will otherwise reduce the expense of the claims administration and reconciliation process for the benefit of the Debtor's estate and its creditors.

B. Financing Motions

a. Motion of Debtor for Entry of Interim and Final Orders: (A) Authorizing Debtor to Obtain Postpetition Financing From

Peoples Bank; (B) Granting Liens and Superpriority Claims in Favor of Peoples Bank; (C) Authorizing Use of Peoples Bank's Cash Collateral; (D) Granting Adequate Protection to Peoples Bank; and (E) Scheduling a Final Hearing (the "Peoples Postpetition Financing and Cash Collateral Motion")

38. The Debtor requests that the Court authorize it to obtain senior secured, superpriority post-petition financing consisting of the People's DIP Facility from the DIP Lender. The Debtor's obligations under the People's DIP Facility will be secured by junior liens on Debtor's assets encumbered by liens and mortgages of lenders other than People's, senior liens on any assets of the Debtor that are presently unencumbered, and priming liens on all assets of the Debtor that are presently encumbered by the liens and mortgages of People's as the Pre-petition Lender, all without regard to any lease provision requiring a landlord's consent to any such lien.

39. In addition, the People's DIP Facility will be secured by a first lien on certain improved real property owned by the Debtor's subsidiary, Midwest Cinemas, LLC, and commonly known as 6801 West 107th Street, Overland Park, Kansas (the "Building"). Midwest Cinemas, LLC, will be a co-borrower on the People's DIP Facility.

40. The proposed financing will be provided by People's. The Debtor's obligations thereunder, including obligations to reimburse People's for any draws on the People's DIP Facility, will be senior to all liens and obligations under the People's Pre-petition Credit Agreement (as defined below). As such, the liens created under the People's DIP Credit Agreement are priming liens with respect to liens currently held by People's as Pre-petition Lender. The liens securing the People's DIP Facility will not prime any consensual liens granted by the Debtor in favor of any secured party that held priority over the liens of People's as Pre-petition Lender as of the Petition Date.

41. Pending entry of the final order authorizing the Peoples DIP Credit Agreement (the "Final DIP Order"), DTI requests that the Court authorize DTI, on an interim basis (the "Interim DIP Order"), to: (a) obtain issuance of the Peoples DIP Credit Agreement; (b) use cash collateral as provided in the Interim DIP Order; (c) grant to the DIP Lender the liens and superpriority claims described herein; (d) provide adequate protection to Peoples as the Pre-petition Lender, as described herein and in the Interim DIP Order; (e) approve the proposed notice of the Final Hearing; and (f) schedule the Final Hearing.

42. The terms and conditions of the Peoples DIP Facility are fair and reasonable and were negotiated extensively by well-represented, independent parties in good faith and at arms'-length. Accordingly, Peoples as the DIP Lender, and all obligations incurred under the Peoples DIP Credit Agreement, should be accorded the benefits of Section 364(e) of the Bankruptcy Code.

43. DTI requires the use of Cash Collateral to fund its day-to-day operations. The use of Cash Collateral will enable DTI to continue to satisfy its vendors, service its customers, pay its employees and operate its Business in the ordinary course and in an orderly and reasonable manner to preserve and enhance the value of its estate for the benefit of all stakeholders. Indeed, absent such relief, DTI's Business will be brought to an immediate halt, with damaging consequences for DTI and its estate and creditors. Additionally, the movie theatres will cease to operate and will go dark, to the material detriment of the properties' value. The interests of Peoples as the Pre-petition Lender in the Cash Collateral will be protected by the adequate protection set forth above. Peoples as the Pre-petition Lender has consented to the use of the Cash Collateral on the terms set forth herein and in the Interim DIP Order.

44. DTI has an urgent and immediate need for cash to continue to operate. Currently, DTI does not have sufficient unencumbered funds with which to operate its Business on an ongoing basis. Absent authorization from the Court to obtain secured credit, as requested, on an interim basis pending a final hearing on the Peoples Postpetition Financing and Cash Collateral Motion, DTI will be immediately and irreparably harmed. The availability of use of post-petition secured credit will provide necessary assurance to DTI's vendors, employees and customers of its ability to meet its near-term obligations. Failure to meet these obligations and to provide these assurances likely would have a long-term negative impact on the value of DTI's Business, to the detriment of all parties in interest. Accordingly, the interim relief requested is critical to preserving and maintaining the going concern value of DTI.

b. Motion of Debtor for Entry of Interim and Final Orders: (A) Authorizing Debtor to Obtain Postpetition Financing From 6801 West 107th, LLC; (B) Granting Liens and Superpriority Claims in Favor of 6801 West 107th, LLC; and (C) Scheduling a Final Hearing (the "6801 West Postpetition Financing Motion")

45. The Debtor requests that the Court authorize it to obtain secured post-petition financing consisting of the 6801 West DIP Facility. The Debtor's obligations under the 6801 West DIP Facility will be secured by a junior lien on all assets presently subject to pre-petition liens in favor of lenders other than 6801 West, and junior liens on assets subject to any post-petition liens in favor of People's Bank.

46. The proposed financing will be provided by 6801 West as DIP Lender. The Debtor's obligations thereunder, including obligations to reimburse the DIP Lender for any costs under the 6801 West DIP Facility, will be junior to all liens and obligations under any Pre-petition Credit Agreements (as defined below). As such, the liens created under the 6801 West DIP Facility are not priming liens with respect to liens currently held by any of the Debtor's pre-

petition lenders, as well as any consensual or nonconsensual liens that are junior in priority to the liens securing the Debtor's obligations under the Pre-petition Credit Agreements.

47. Pending entry of the final order authorizing the 6801 West DIP Credit Agreement (the "Final DIP Order"), the Debtor requests that the Court authorize the Debtor, on an interim basis (the "Interim DIP Order"), to: (a) obtain issuance of the 6801 West DIP Credit Agreement; (b) grant to 6801 West as the DIP Lender the liens and superpriority claims described herein; (c) provide adequate protection to any pre-petition lender, as described herein and in the Interim DIP Order; (d) approve the proposed notice of the Final Hearing; and (e) schedule the Final Hearing.

48. Approval of the 6801 West DIP Facility will provide DTI with additional operating cash such that it will be able to avoid: (a) irreparable harm to DTI's Business; (b) deplete going concern value; and (c) jeopardize its ability to reorganize and maximize value. Accordingly, the timely approval of the relief requested herein on an interim basis is imperative.

49. DTI has an urgent and immediate need for cash to continue to operate. Currently, DTI does not have sufficient unencumbered funds with which to operate its Business on an ongoing basis. Absent authorization from the Court to obtain secured credit, as requested, on an interim basis pending a final hearing on the 6801 West Postpetition Financing Motion, DTI will be immediately and irreparably harmed. The availability of use of post-petition secured credit will provide necessary assurance to DTI's vendors, employees and customers of its ability to meet its near-term obligations. Failure to meet these obligations and to provide these assurances likely would have a long-term negative impact on the value of DTI's Business, to the detriment of all parties-in-interest. Accordingly, the interim relief requested is critical to preserving and maintaining the going concern value of DTI.

C. Operational Motions

a. Motion of the Debtor, Pursuant to 11 U.S.C. §§ 105(a) and 363(b) for Authorization to Pay Claims of Critical Trade Vendors (the "Critical Vendors Motion")

50. In order to obtain and facilitate essential post-petition vendor support on acceptable terms so that DTI may continue to sell concessions and maintain its point-of-sale information system and motion picture exhibition equipment, DTI seeks authorization to satisfy the claims of certain highly specialized vendors who are critical to the reorganization effort (the "Critical Trade Vendors").

51. DTI proposes to pay the pre-petition claims (the "Critical Vendor Claims") of the Critical Trade Vendors that agree to supply DTI with inventory or services on credit terms that are the same or better than those provided to DTI during the first quarter of 2012 (the "Acceptable Credit Terms"). DTI reserves the right to obtain written confirmation of the Acceptable Credit Terms prior to paying any Critical Trade Vendors' claims. DTI's Critical Trade Vendors fall into primarily two categories: (1) servicers and suppliers of movie exhibition material (notably film); and (2) vendors of concessions inventory.

52. The Critical Trade Vendors' claims, estimated to be approximately \$800,000 are not substantial in comparison with (i) the value that DTI's estate will receive from the uninterrupted supply of goods and services to DTI's theatres and (ii) the in excess of \$5 million in pre-petition claims against DTI as of the Petition Date.

53. DTI's failure to pay Critical Vendor Claims pursuant to the terms and conditions set forth in the Critical Vendors Motion would result in immediate and irreparable harm. The refusal of any one of the Critical Vendors to continue transacting with DTI could halt DTI's movie theatre operations, prevent DTI from being able to carry on their day-to-day business and,

thus, severely impair DTI's business. As a result, DTI would fail to operate a competitive movie theatre, and it would surely lose their customers to other competing theatres.

b. Motion of the Debtor, Pursuant to 11 U.S.C. § 105(a), For Authorization to Continue Customer Programs (the "Customer Programs Motion")

54. In the Customer Programs Motion, DTI seeks entry of an order authorizing, but not directing, payment of amounts and satisfaction of certain obligations related to certain customer programs in the ordinary course of business and to continue such customer programs on a postpetition basis. DTI believes that the majority of the amounts to be paid with regard to the customer programs will arise postpetition and, therefore, will be entitled to administrative expense priority under section 503 of the Bankruptcy Code. Nevertheless, because certain of the customer programs may give rise to postpetition payment obligations from prepetition practices, DTI also seeks authority to make such payments in the ordinary course of its business.

55. In the ordinary course of business, as is customary in the cinema industry, DTI maintains various programs and policies for the benefit of its audience. The programs and policies maintained by DTI include:

Gift Certificates. DTI sells gift certificates that may be used by the holders of the gift certificates for free admission or to purchase concessions.

Advance Sales Policy/Group Ticket Sales. DTI sells to mostly local companies individual and blocks of tickets in advance of a particular movie showing, often at a discount.

(The Gift Certificate and Advance Sales Policy and other similar customer programs are, collectively referred to herein as, the "Customer Programs".)

56. DTI's customers are the life blood of its business. Any curtailment of DTI's ability to continue to provide the same service and programs to its customers, and the resulting negative public perception, may enable DTI's competitors to take advantage of DTI and may cause substantial harm to DTI's business generally. Accordingly, considering the extremely

minimal expense of the relief requested in the Customer Programs Motion, as compared to the size of this Chapter 11 case, entry of an order granting the relief requested herein is appropriate, and, indeed, essential to DTI's ability to successfully reorganize.

- c. **Debtor's Motion for an order: (A) Authorizing, But Not Directing, Dickinson Theatres, Inc., to (1) Pay Certain Accrued Pre-Petition Wages, Salaries and Employee Benefits, (2) Permit Employees to Use Accrued Pre-Petition Vacation Time, (3) Permit Employees' Pre-Petition Reimbursable Business Expenses, (4) Continue Employee Benefit Plans, and (5) Directing All Banks to Honor Pre-Petition Checks for Payment of Pre-Petition Obligations; (B) Authorizing Related Relief; and (C) Authorizing, But Not Directing, The Release of Withholding Taxes and Employee Contributions (the "Wage Motion")**

57. In the Wage Motion, DTI requests that this court enter an Order authorizing DTI to pay various employee-related pre-petition obligations of DTI as described below. To minimize the Employee's personal hardships and to enhance DTI's ability to retain such Employees in this uncertain time, DTI seeks authority to pay certain pre-petition claims arising on account of the Employees for, *inter alia*, wages (including but not limited to salaries, commissions, bonuses and other compensation), vacation and other paid leave, federal and state withholding taxes, payroll taxes, contribution to employee benefit plans, health claims, the Reimbursable Expenses (as defined below), and all other employee benefits which DTI pays in the ordinary course of business (collectively, the "Pre-Petition Employee Compensation Claims"), including, as defined in the Wage Motion, the Unpaid Compensation, the Employee Deductions, the Employee Benefits, the Health Benefits, the Employee Insurance Benefits, and the Other Benefits (collectively the "Pre-Petition Employee Benefit Claims," the Pre-petition Employee Benefit Claims and the Pre-Petition Employee Compensation Claims are, collectively, the "Pre-Petition Employee Claims").

58. Pre-Petition Employee Compensation Claims. In its ordinary course of business, DTI: (a) issues payroll checks to its salaried, hourly and temporary Employees; and (b) pays contract labor pursuant to invoices received in the ordinary course of its business.

59. DTI's current work force consists of approximately 680 Employees, approximately 600 of whom are part-time Employees. Most of the Employees are paid hourly on a biweekly basis, for a two-week pay period. DTI also has approximately 80 salaried Employees. All of DTI's non-salaried Employees were last paid on September 21, 2012 for the period ending September 13, 2012. DTI's total estimated gross payroll for all Employees is approximately \$80,000 for each pay period. Thus, assuming all payroll checks issued on September 7, 2012, have cleared, DTI estimates that the total accrued non-salaried Employees pre-petition wages claim is approximately \$40,000 as of the Petition Date. DTI must also pay certain payroll taxes including FICA, FUTA, SUTA and withholding taxes as required by federal, state and/or local authorities.

60. Employee Benefits. DTI has established various plans and policies to provide its Employees insurance programs and workers' compensation coverage (collectively, the "Employee Benefits").

61. Reimbursable Business Expenses. Prior to the Petition Date and in the ordinary course of its business, DTI reimbursed Employees and officers for certain expenses incurred in the scope of their employment. As of the Petition Date, DTI estimates that it owes approximately \$500 consisting of DTI's expenses relating to, among other things, business-related travel expenses, business meals, car expenses, mileage reimbursements, and miscellaneous business expenses (collectively, the "Reimbursable Expenses"). All of the Reimbursable Expenses were incurred by the Employees on DTI's behalf and with the

understanding that they would be reimbursed. Accordingly, to avoid harm to such individuals, DTI seeks to be authorized, but not required, to pay the Reimbursable Expenses in the ordinary course of business.

62. Banks to Honor Prepetition Checks. In the event that an employee, after the Petition Date, attempts to cash a check issued by DTI pre-petition and in satisfaction of a Employee Obligations, DTI seeks an order directing all banks to honor pre-petition checks of payment of such employee claims.

63. Release Withheld Employee Taxes and Contributions. DTI deducts from its Employees' paychecks, among other items: (a) payroll taxes and the Employees' portions of FICA and statutory unemployment taxes; and (b) legally-ordered deductions such as wage garnishments, child support, and tax levies (collectively, the "Employee Deductions"). DTI forwards the amounts equal to the Employee Deductions from its general operating accounts to appropriate third-party recipients. These funds were deducted from Employee paychecks but, due to the commencement of the Chapter 11 Case, may not have been forwarded to appropriate third-party recipients. By this Motion, DTI seeks authority to forward the Employee Deductions to the appropriate parties.

64. The payment of Pre-Petition Employee Claims will not prejudice the other creditors in these proceedings. The substantial majority of the Pre-Petition Employee Claims are priority claims. Thus, the distribution of assets of DTI's estate to general unsecured creditors will not be effected by the payment made pursuant to the terms of Wage Motion it affects only the timing of such payments.

65. It is essential to DTI that it retains Employees to continue operations pending the Chapter 11 Case. Many Employees live from paycheck to paycheck and rely exclusively on

receiving their full compensation or reimbursement of their expenses in order to continue to pay their daily living expenses. These Employees will be exposed to significant financial problems if DTI is not permitted to pay certain of the Employee Obligations and Employee Payments. Moreover, DTI believes that if it is not granted the relief requested herein, Employee morale and loyalty will be jeopardized at a time when Employee support is critical, and likely waning. DTI believes such uncertainty will cause significant anxiety at precisely the time that DTI needs its Employees to perform their jobs at peak efficiency.

66. The Employee Deductions principally represent Employee earnings which Employees or, in the case of garnishments, judicial authorities have designated for deduction from Employee paychecks and payment accordingly. The failure to pay these benefits could result in hardship to certain Employees. DTI expects inquiries from garnishors regarding DTI's failure to submit, among other things, child support and alimony payments, which are not DTI's property but rather have been withheld from Employee paychecks. Moreover, if DTI cannot remit these amounts, its Employees may face legal action due to DTI's failure to submit these payments.

67. DTI's Employees are valuable assets. Deterioration in Employee morale and welfare at this critical time undoubtedly would adversely impact DTI, the value of its assets and businesses, and its ability to reorganize under Chapter 11 of the Bankruptcy Code.

d. Debtor's Motion for Entry of An Order Under 11 U.S.C. §§ 105, 363, 364, 1107 and 1108 Authorizing (i) Maintenance of Existing Bank Accounts, (ii) Continued Use of Existing Business Forms, and (iii) Continued Use of Existing Cash Management Systems (the "Cash Management Motion")

68. In the Cash Management Motion, DTI seeks a waiver of the United States Trustee's requirement that the pre-petition bank accounts be closed and that new post-petition

bank accounts be opened. If enforced in this case, such requirements would disrupt DTI's business and would impair DTI's efforts to reorganize.

69. DTI employs an integrated, centralized cash management system (the "Cash Management System") involving a series of independent depository accounts at the myriad of different locales in which operational proceeds are deposited. In general DTI maintains local bank accounts for each individual theater (collectively, the "Local Accounts") and a primary/concentration account at People's Bank in Overland Park, Kansas which earns interest (the "Concentration Account"). In addition, DTI maintains certain "zero balance accounts" at People's (the "Zero Balance Accounts") (the Local Accounts, Concentration Account and Zero Balance Accounts are, collectively, the "Bank Accounts"). The Zero Balance Accounts do not earn interest. Rather, when DTI writes checks on its Zero Balance Accounts and such checks are presented to People's Bank, funds sufficient to pay the amount of each check are automatically transferred from DTI's Concentration Account to DTI's Zero Balance Account.

70. People's Bank is, upon information and belief, which has been designated as an authorized depository for debtor-in-possession accounts by the United States Trustee. DTI believes that substantially all of DTI's bank accounts are in financially stable banking institutions with FDIC and FSLIC insurance. Each of the financial institutions are either authorized depositories in this or other jurisdictions or are of equal financial sophistication and security as those financial institutions that are authorized.

71. Closing and changing over the myriad of Bank Accounts to debtor-in-possession accounts will likely result in confusion and delays in payments to administrative creditors, including DTI's employees, and disruption to DTI's operations. To ensure a smooth transition into Chapter 11 with minimal disruption, and to aid in the DTI's efforts to reorganize, it is

essential that DTI be permitted to continue to maintain its existing Bank Accounts and if necessary, open new accounts, wherever they are needed, irrespective of whether such banks are designated depositories in the District of Kansas.

72. Additionally, in order to minimize expenses to the estate, DTI also requests that it be authorized to use all correspondence, business forms (including, but not limited to, letterhead, purchase orders, invoices, etc.) and checks existing immediately prior to the Petition Date, without reference to DTI's status as debtor-in-possession.

73. The basic structure of the Cash Management System, described in the Cash Management Motion, constitutes DTI's ordinary, usual and essential business practice. The Cash Management System is similar to those commonly employed by companies in the same industry and/or corporate enterprises of comparable size and complexity to the present case. The widespread use of such systems is attributable to the numerous benefits they provide, including the ability: (a) to tightly control corporate funds; (b) to ensure cash availability; and (c) to reduce administrative expenses by facilitating the movement of funds and the development of timely and accurate account balance and presentment information.

74. If DTI is not permitted to continue to utilize its Cash Management System its operations will not only be severely impaired, but critical funds may not be collected on account of certain accounts receivable and valuable resources will be expended unnecessarily implementing a new cash management system. It is critical both to the continued operation of DTI's business and to the preservation of the value of the business that DTI continues to utilize its existing Cash Management System without disruption.

e. Motion for Order Under Sections 105(a) and 365(a) Authorizing the Debtor-in-Possession to Reject Certain Unexpired Leases and Executory Contracts (the "Lease Rejection Motion")

75. DTI is a party to four unexpired leases of non-residential real property whereupon three separate movie theatres are operated and where DTI formerly operated a movie theatre prior to ceasing operations. The first lease pertains to an operating movie theatre located at 1901 North 7 Highway, Blue Springs, Missouri 64015, commonly known as the Blue Springs 8 Theatre (the "Blue Springs Lease"). The second lease pertains to an operating movie theatre located at 2151 North Penstemon Street, Wichita, Kansas 67226, commonly known as the Northrock 14 Theatre (the "Northrock Lease"). The third lease pertains to a movie theatre which DTI recently ceased operations located at 3400 South 4th Street, Leavenworth, Kansas 66048, formerly known as the Leavenworth Theatre (the "Leavenworth Lease"). The fourth lease pertains to a movie theatre located at 1901 Northwest Expressway Suite 2100, Oklahoma City, Oklahoma 73118, commonly known as the Penn Square 10 Theatre (the "Penn Square Lease") (the Blue Springs Lease, Northrock Lease, Leavenworth Lease and Penn Square Lease are, collectively, the "Leases"). DTI asserts reasonably believes, in its sound business judgment, continued performance thereunder is burdensome and fails to provide any tangible benefit to DTI, its estate, creditors or interest holders.

76. DTI has concluded that the Leases have no value through assumption and assignment to a third-party purchaser and that the Leases no longer provide any benefit to DTI. In an effort to minimize post-petition administrative costs, and in the exercise of the DTI's sound business judgment, DTI has determined that it is in its best interests and in the best interests of the estate, creditors and interest holders to reject the Leases.

77. Additionally, as a result of DTI's movie theatre Business, some of the properties subject to the Leases have ancillary contracts which assist DTI in operating the movie theatres. Pertaining to the Blue Springs 8 Theatre, DTI is a party to a contract with Allied Waste Services

of Kansas City for the collection of trash (the "Trash Collection Contract"). DTI also is a party to a contract with the Olathe Christian School, Inc., for the sale of certain real estate (the "Real Estate Contract") (The Trash Collection Contract and Real Estate Contract are collectively, the "Miscellaneous Contract," the Leases and Miscellaneous Contracts are, collectively, the "Rejected Contracts"). In addition to the rent and other charges payable under the Leases, the respective Miscellaneous Contracts make the DTI's Business unprofitable.

f. Motion for Entry of Interim and Final Orders, Pursuant to Section 366 of the Bankruptcy Code, (I) Prohibiting Utilities From Altering, Refusing or Discontinuing Services on Account of Prepetition Invoices; (II) Determining That The Utilities Are Adequately Assured of Future Payment; (III) Establishing Procedures for Determining Requests For Additional Assurance of Future Payment; (IV) Granting Certain Related Relief; and (V) Scheduling a Final Hearing Date (the "Utilities Motion")

78. DTI currently uses electric, natural gas, heat, water, sewer, waste removal, cable, phone and other similar services provided by multiple Utility Companies. DTI's Utility Companies provide traditional utility services related to the day-to-day operation of the DTI's various facilities and offices. DTI estimates that its aggregate average monthly obligations to the Utility Companies on account of services rendered total approximately \$80,000 based on the average monthly payments made to the various Utility Companies. DTI believes that it is generally current on all prepetition obligations due the Utility Companies, other than the accrued, but unbilled, prepetition obligations for utility services.

79. Uninterrupted utility service is essential to DTI's ongoing movie theatre operations. DTI could not operate its movie theatres in the absence of continuous utility service. Should any Utility Company refuse or discontinue service, even for a brief period of time, DTI may be forced to cease its operations, resulting in a substantial disruption of its business and loss

of revenue. The temporary or permanent discontinuation of utility services would irreparably harm DTI.

g. Motion of Debtor For an Order: (A) Authorizing, but not Directing, the Debtor to Pay Prepetition Taxes and Regulatory Fees; and (B) Directing Financial Institutions to Honor and Process Checks Related to Prepetition Taxes and Regulatory Fees (the "Prepetition Taxes Motion")

80. DTI in the ordinary course of its business, incurs various tax obligations. The process by which DTI remits the various tax obligations varies, depending on the nature of the tax at issue and Taxing Authority to which the relevant tax is paid.

81. In connection with the normal operation of its business, DTI is sometimes required to collect certain Sales and Use Taxes and must remit these taxes to various governmental entities of the jurisdictions in which DTI conducts business. The process by which DTI remits Sales and Use Taxes varies, depending on the nature of the tax at issue and Taxing Authority to which the relevant tax is paid.

82. DTI also is required by certain regulatory authorities to pay certain Regulatory Fees. The process by which DTI remits such Regulatory Fees varies, depending on the nature of the fee at issue and the regulatory authority to which the relevant Regulatory Fee is paid.

83. DTI pays the Taxes and Regulatory Fees to the Taxing Authorities on a periodic basis with funds drawn by checks (the "Checks") or by means of electronic fund transfers (the "Electronic Transfers") whether sent directly to the Taxing Authorities or sent to a third party administrator who pays the appropriate Taxing Authorities. Prior to the Petition Date, certain Taxing Authorities were sent Checks or Electronic Transfers in respect of such obligations that may not have cleared DTI's banks or other financial institutions (together, the "Banks") as of the

Petition Date. DTI has also not received certain bills from certain Taxing Authorities for taxes owed pre-petition.

84. DTI in the Prepetition Taxes Motion seeks authority to pay, in its sole discretion, in the ordinary course of its business and on their normal due dates, all undisputed prepetition Taxes and Regulatory Fees owed to the Taxing Authorities, including all Taxes and Regulatory Fees subsequently determined upon audit to be owed for periods prior to the Petition Date. To the extent any Check or Electronic Transfer has not cleared the Banks as of the Petition Date, DTI requests the Court to authorize and direct the Banks, when requested by DTI in its sole discretion, to clear the Checks or Electronic Transfers. To the extent the Taxing Authorities have not otherwise received payment for all prepetition Taxes and Regulatory Fees owed, DTI seeks authorization to issue replacement checks, or to provide for other means of payment to the Taxing Authorities, to the extent necessary to pay all outstanding Taxes and Regulatory Fees owing for periods prior to the Petition Date.

85. Any delay in paying the obligations relating to the Taxes and Regulatory Fees could be detrimental to DTI, its creditors and its estate. Indeed, DTI's ability to manage and run its business operations with as little disruption as possible requires, in part, that it remains in good standing with the relevant Taxing Authorities.

h. Debtor's Motion for Order Assuming in Part, and Rejecting in Part, the Amended and Restated Master Lease Agreement with Spirit Master Funding, LLC (the "Spirit Assumption/Rejection Motion")

86. The Debtor asserts in its reasonable business judgment that portions of an Amended Master Lease with Spirit is too burdensome to continue with and is electing to reject a portion of the Amended Master Lease under Section 365.

Executed on September 21, 2012

s/ Ronald Horton
Ronald Horton
CEO and President
Dickinson Theatres, Inc.