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PROPOSED ATTORNEYS FOR MONARCH LANDING, INC.

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

In re:	§	CASE NO. 10-34178
	§	
MONARCH LANDING, INC.,	§	CHAPTER 11
	§	(Joint Administration Pending)
Debtor.	§	

DEBTOR'S APPLICATION FOR AUTHORITY TO EMPLOY
WHITEFORD, TAYLOR & PRESTON L.L.P. AS ATTORNEYS
FOR DEBTOR AND DEBTOR IN POSSESSION

Monarch Landing, Inc., the debtor and debtor in possession herein (the "Debtor" or "Monarch"), by counsel, files this application for authority to employ Whiteford, Taylor & Preston L.L.P. ("WTP") as its attorneys, and states as follows:

Jurisdiction

1. This Court has jurisdiction over this Application pursuant to 28 U.S.C. §§ 157 and 1334. Venue lies properly in this Court pursuant to 28 U.S.C. §§ 1408 and 1409. This matter is a core proceeding pursuant to 28 U.S.C. § 157.

2. The relief sought by this Motion is based upon sections 327(a), 328, 330 and 1107 of 11 U.S.C. § 101, *et seq.* (the “Bankruptcy Code”).

The Chapter 11 Case

3. On June 15, 2010 (the “Petition Date”), the Debtor filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code. The Debtor intends to continue in the possession of its property and the management of its business as a debtor in possession pursuant to sections 1107 and 1108 of the Bankruptcy Code.

4. No creditors committee has been appointed in this case by the United States Trustee.

Related Chapter 11 Proceeding

5. Contemporaneous with the filing of the Debtor’s case, Naperville Campus, LLC (“Naperville”), filed a petition for relief under Chapter 11 of the Bankruptcy Code in this Court (Case No. 10-10-34177). The Debtor leases its principal Facility from Naperville and has various financial as well as contractual relationships with Naperville.

6. Approximately nine (9) months prior to the Petition Date, Naperville’s parent corporation, Senior Living Retirement Communities, LLC formerly known as Erickson Retirement Communities, LLC (“Senior Living”) and certain other of its related entities¹ filed for

¹ The Debtors in Senior Living’s chapter 11 cases are: (i) Erickson Retirement Communities, LLC; (ii) Ashburn Campus, LLC; (iii) Columbus Campus, LLC; (iv) Concord Campus GP, LLC; (v) Concord Campus, LP; (vi) Dallas Campus GP, LLC; (vii) Dallas Campus, LP; (viii) Erickson Construction, LLC; (ix) Erickson Group, LLC; (x)

bankruptcy in this Court (Main Case No. 09-37010). Senior Living developed and managed the Facility for the Debtor. Senior Living's Chapter 11 Plan was confirmed on April 16, 2010 ("ERC's Plan"). Senior Living and its related entities cases are still pending before this Court.

The Debtor and Its Business Operations

7. The Debtor was established on August 10, 2004, as a Maryland nonstock corporation to operate a continuing care retirement community in Naperville, Illinois (the "Facility"), which opened in July, 2006. The Debtor is classified as an Internal Revenue Code Section 501(c)(3) organization based on its mission to provide affordable senior housing to seniors. The Debtor is a supported organization of National Senior Campuses, Inc. ("NSC"), a not-for-profit organization organized to support the Debtor and 16 other not-for-profit organizations that operate Continuing Care Retirement Communities ("CCRCs"). NSC is the sole member of the Debtor and appoints all of the members of the Debtor's board of directors.

8. The Facility and NSC's other CCRCs are designed to offer seniors a continuum of care during their retirement years from independent living to skilled nursing care on the same campus. These facilities provide affordable living accommodations and related healthcare and support services to a target market of middle-income seniors aged sixty-two (62) years and older.

9. Senior Living was the developer of the Facility. Senior Living and its affiliates are not related to or affiliated with the Debtor or NSC. The Debtor has entered into a master lease agreement and certain other agreements with Naperville. In addition, the Debtor and Senior Living have entered into a management and marketing agreement (the "Management Agreement"), pursuant to which Senior Living it to manage the community. As of April 30, 2010, pursuant to a transitional subcontract agreement, Senior Living subcontracted its right and

Houston Campus, LP; (xi) Kansas Campus, LLC; (xii) Littleton Campus, LLC; (xiii) Novi Campus, LLC; (xiv) Senior Campus Services, LLC; (xv) Warminster Campus GP, LLC; and (xvi) Warminster Campus, LP.

obligations under the Management Agreement to Erickson Living Management, LLC (“ELM”), which is presently managing the Debtor’s Facility (the “Transitional Subcontract Agreement”). In return for its management services, the Debtor pays ELM a monthly management fee, per the Management Agreement. The Debtor also reimburses ELM for the costs of: (a) marketing the re-occupancy of the units at the Facility; (b) the salary and benefits of the Debtor’s employees and ELM’s management personnel located at the Facility, and (c) the Debtor’s share of certain other centralized services.

10. The Debtor leases the Facility from Naperville (which Senior Living owns, directly or indirectly) pursuant to a master lease. As of the Petition Date, the Facility had 362 completed independent living units and a seventy one percent (71%) occupancy rate. It was originally anticipated that the Facility would include up to 1,498 independent living units, 96 assisted living units and 132 skilled nursing beds.

11. The Debtor’s capital structure consists of permanent financing in the form of project bonds and special tax district bonds. The Debtor’s receipts from its operations are not sufficient to cover its debt service and operating expenses, and the Facility is having difficulty attracting the middle market customer to which it is supposed to appeal. There is significant competition in the greater Chicago area, which has caused the Facility’s occupancy rate to increase at a rate which is lower than expected. Moreover, the Chicago metropolitan area’s employment rates and home prices have declined more than in other markets, thereby causing the Debtor to have problems selling units as well as causing significant liquidity and capital structure difficulties.

Events Leading to Chapter 11 Filing

12. As mentioned previously, the Debtor leases the Facility from Naperville (which Senior Living owns, directly or indirectly) pursuant to a master lease.

13. Under the terms of Senior Living's Plan, Wells Fargo Bank, N.A., the bond trustee for the Facility (the "Bond Trustee"), was to negotiate in good faith with the Debtor and Redwood-ERC Senior Living Holdings, LLC, a Maryland limited liability company ("Redwood"), regarding the possible sale of the Facility to Redwood during the 90-day period following the confirmation of the Plan (i.e. from April 30, 2010 through July 31, 2010) (the "Negotiation Period").² Although the Bond Trustee had an obligation to negotiate in good faith during the Negotiation Period, approximately two weeks ago, the Bond Trustee inappropriately effectuated a set-off against the Debtor's cash reserves in the amount of \$15,166,737.69. The Bond Trustee's actions threatened to destabilize the Debtor's operations and, as a result of such actions, the Debtor filed this Chapter 11 proceeding to stop the Bond Trustee from causing further damage to its operations and, thereby, threatening the well being of its residents.

14. Additionally, beginning in December of 2009, the Bond Trustees began removing amounts held in escrow for the benefit of the Debtors in order to pay their professional fees. In

² Section 6.2.3.1 of Senior Living's Plan provides:

Disposition. During the 90-day period immediately following the Plan Confirmation Date, Redwood will negotiate (non-exclusively) in good faith with the applicable NFPs and Bond Trustees for the Bond Communities to reach a resolution regarding such Bond Communities. During such 90-day period, the applicable NFP, with the consent of the applicable Bond Trustee, may market the applicable Bond Community for sale with the consent of the applicable Bond Trustee and letter of credit provider, may consummate such sale. At the conclusion of the 90-day period, if the parties have reached a resolution with respect to a particular Bond Community then the Debtor will facilitate a definitive agreement regarding such a resolution for such Bond Community. If Redwood does not reach an agreement with respect to resolution of a particular Bond Community during this 90-day period that is acceptable to Redwood, the applicable NFP, the letter of credit provider and the applicable Bond Trustee, then promptly at the end of such 90-day period, ERC's interests in the entity related to such Bond Community (Naperville Campus, LLC, Linconshire Campus, LLC and/or Hingham Campus, LLC, as applicable will be transferred to the applicable NFP.

doing so, the Bond Trustees did not follow the requisite procedures for removing such funds as proscribed in the bond documents, primarily the submission of bills and request of payment from Sedgebrook or Monarch Landing. Moreover, the Bond Trustees neglected to provide notice of their removal of the funds to either Sedgebrook or Monarch Landing. To date, the Bond Trustees have removed \$835,136 from the Sedgebrook reserve account, and \$792,562 from the Monarch Landing reserve account. The actions of the Bond Trustee have threatened to destabilize Monarch's operations by severely limiting liquidity and endangering its residents. The Debtors filed these chapter 11 proceedings to protect their assets and to stop the Bond Trustee from causing further damage to their operations and threatening the well being of their residents.

The Need for Legal Services

15. The Debtor requires the assistance of counsel in order to pursue a successful reorganization of its debts and to assist the Debtor with the performance of its duties as a debtor and debtor in possession herein. The Debtor also requires counsel to, among other things, assist it in fulfilling its duties under State and Federal laws, advise it on the legal aspects of contracts, leases, financings, and other business matters, defend the Debtor in litigation and to prosecute litigation on its behalf. In short, the Debtor requires the full range of traditional business legal services as well as legal services unique to a bankruptcy reorganization proceeding.

The Employment of WTP as Counsel to the Debtor

16. The Debtor has selected WTP to represent it as a debtor and debtor in possession in this case because WTP has considerable experience in insolvency and bankruptcy matters, including representation of debtors in large chapter 11 cases. The Debtor has also selected WTP

because it believes WTP is well qualified to represent the Debtor as a debtor and debtor in possession. Additionally, WTP has represented the Debtor for a number of years and is quite knowledgeable regarding the Debtor's business operations.

The Services to be Rendered

17. The Debtor has retained WTP to assist it with, among other things, the preparation of its bankruptcy petition and all related documents and pleadings and, subject to approval from this Court, with the prosecution of its chapter 11 case.

18. The professional services that the Debtor may request WTP to render include:

- a. providing the Debtor legal advice with respect to its powers and duties as a debtor in possession and in the operation of its business and management of its property;
- b. representing the Debtor in defense of any proceedings instituted to reclaim property or to obtain relief from the automatic stay under § 362(a) of the Bankruptcy Code;
- c. representing the Debtor in any proceedings instituted with respect to the Debtor's use of cash collateral;
- d. preparing any necessary applications, answers, orders, reports and other legal papers, and appearing on the Debtor's behalf in proceedings instituted by or against the Debtor;
- e. assisting the Debtor in the preparation of schedules, statement of financial affairs, and any amendments thereto, which the Debtor may be required to file in this case;
- f. assisting the Debtor in the preparation of a plan of reorganization and disclosure statement;
- g. assisting the Debtor with any disposition of assets;
- h. assisting the Debtor with all legal matters, including, among others, all securities, corporate, real estate, tax, employee relations, general litigation, and bankruptcy legal work; and
- i. performing all of the legal services for the Debtor which may be necessary or desirable herein.

The Standards for Approving Employment

19. Section 327(a) empowers the trustee, with the Court's approval, to employ attorneys "that do not hold or represent an interest adverse to the estate, and that are disinterested persons, to represent or assist the trustee in carrying out the trustee's duties under this title." 11 U.S.C. § 327(a). Section 1107(a) provides that "a debtor in possession shall have all the rights ... and powers, and shall perform all the functions and duties ... of a trustee serving in a case under this chapter. 11 U.S.C. § 1107(a). Section 1107(b) provides that "a person is not disqualified for employment under section 327 of this title by a debtor in possession solely because of such person's employment by or representation of the debtor before the commencement of the case." 11 U.S.C. § 1107(b). WTP satisfies all of these standards, as set forth below.

Connections with Parties in Interest

20. To the best of the Debtor's knowledge, WTP has no connection with the Debtor, its creditors or any other party-in-interest in this case, their respective attorneys or accountants, the United States Trustee, or any person employed in the office of the United States Trustee, except as may be described the Verified Statement of Attorneys to be Employed by Debtor (the "Verified Statement") which is filed herewith.

No Adverse Interest

21. The Debtor submits that WTP represents no interest adverse to the Debtor as a debtor in possession or to the Debtor's estate in the matters upon which WTP is to be engaged for the Debtor.

Disinterested Person

22. The Debtor further submits that WTP is a "disinterested person" as that term is

defined in section 101(14) of the Bankruptcy Code.

Compensation

23. Section 328(a) of the Bankruptcy Code permits the employment of a professional “on any reasonable terms and conditions of employment, including on a retainer.” 11 U.S.C. § 328(a). The Debtor desires to employ WTP under a general retainer because of the extensive legal services required, the cost of which cannot be estimated.

24. WTP has received from the Debtor and is presently holding the sum of approximately \$91,942.36 as a retainer toward the services rendered and expenses incurred during this chapter 11 case, as set forth more fully in the Disclosure of Compensation filed contemporaneously with this Application.

25. Subject to this Court’s approval and in accordance with sections 330 and 331 of the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, and any rules or other procedures that may be fixed by this Court, the Debtor requests that WTP be compensated, on an hourly basis, for professional services rendered, plus reimbursement of actual and necessary expenses incurred by WTP.

Best Interests of the Estate

26. As set forth above, WTP satisfies all the requirements for employment as attorneys for the Debtor under sections 327(a) and 1107 of the Bankruptcy Code.

27. The employment of WTP as attorneys for the Debtor is in the best interests of the Debtor’s estate and is appropriate under 11 U.S.C. §§ 327 and 328.

Notice

28. Notice of this Motion has been provided to: (a) the Office of the United States Trustee; (b) the Debtor’s 20 largest unsecured creditors (until an official committee of unsecured

creditors is appointed and has retained counsel, in which event, such committee's counsel); (c) counsel to the Bond Trustee; (d) counsel to Erickson Retirement Communities, LLC; (e) counsel to Erickson Living Management, LLC; (f) Fifth Third Bank, as issuing party of the letter of credit and (g) those persons who have formally appeared and requested service in these proceedings pursuant to Bankruptcy Rule 2002. The Debtor submits that, in light of the nature of the relief requested, no other or further notice is necessary or required.

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Conclusion

WHEREFORE, the Debtor respectfully requests that it be authorized to employ WTP under a general retainer to represent it in this case and that it be granted such other and further relief as is just and proper.

Dated: June 21, 2010
Baltimore, MD

MONARCH LANDING, INC.

By: /s/ James P. Hayes

CERTIFICATE OF SERVICE

I certify that on the 22nd day of June, 2010, a copy of the foregoing was sent by electronic mail or First Class U. S. Mail, postage prepaid, on all parties on the attached service list.

/s/ J. Mark Chevallier

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Brentwood, TN 37027

APCO Worldwide Washington DC
700 12th Street, NW Suite 800
Washington, DC 20005

Emerald Restaurant Service Inc.
201 Airport Drive
Joliet, IL 60431

FCA, Inc.
2852 West Ogden Ave.
Naperville, IL 60540

Floor Installation Techs Inc.
1273 Marks Ct.
Naperville, IL 60565

Get Fresh Produce
1441 Brewer Creek Blvd.
Bartlett, IL 60103

Grainger
Dept. 865530927
Palatine, IL 60038-0001

Grieshaber, Mark
8711 Beverly Lane
Orlando Park, IL 60462

Gulf South Medical Supply
Attn: Melanie Brewer
4345 South Point Blvd.
Jacksonville, FL 32216

Healthcare Cosmetology Services, In
PO Box 850243
Braintree, MA 02185

Imbert Intl Inc.
Dept 20-1084
PO Box 5940
Carol Stream, IL 60197-5940

Inside Out Painting
1125 Paramount Parkway, Suite G
Batavia, IL 60510

Lencioni Wholesale Meats, Inc
1000 Brown Street
Wauconda, IL 60084

Mickey's Linen
PO Box 5789
Villa Park, IL 60181

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Skyline Restoration, Inc.
5435 W. 110th St., Suite 7
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Supreme Lobster
200 E. North Avenue
Villa Park, IL 60181-1221

Sysco Food Services - Chicago
PO Box 5037
Des Plaines, IL 60017-5037

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PO Box 4648
Carol Stream, IL 60197-4648

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**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

In re:	§	CASE NO. 10-34178
	§	
MONARCH LANDING, INC.,	§	CHAPTER 11
	§	(JOINT ADMINISTRATION PENDING)
Debtor.	§	

**VERIFIED STATEMENT OF ATTORNEYS TO BE
EMPLOYED BY DEBTOR AND DEBTOR IN POSSESSION**

Martin T. Fletcher and Whiteford, Taylor & Preston L.L.P., as the proposed attorneys of Monarch Landing, Inc., the debtor and debtor in possession herein (the “Debtor” or “Monarch”), pursuant to Federal Rule of Bankruptcy Procedure 2014(a), respectfully represent:

1. I, Martin T. Fletcher, am a partner of Whiteford, Taylor & Preston L.L.P. (“WTP”), with its principal office located at Seven Saint Paul Street, Baltimore, Maryland 21202-1636, and have been duly admitted to practice law in the State of Maryland. This Statement is submitted in support of the Debtor’s Application for Authority to Employ Whiteford, Taylor & Preston, L.L.P. as Attorneys for the Debtor (the “Application”).

2. Neither I, WTP, nor any partner, counsel or associate thereof, insofar as I have been able to ascertain, has any interest adverse to the Debtor.

3. WTP is a “disinterested person” as that term is defined in section 101(14) of title 11 of the United States Code, 11 U.S.C. §§ 101, *et seq.* (the “Bankruptcy Code”) in that WTP, its partners, counsel and associates:

- a. are not creditors, equity security holders or insiders of the Debtor;
- b. are not and were not within two (2) years before the date of filing of the Debtor’s petition, a director, officer or employee of the Debtor; and

c. do not have an interest materially adverse to the interest of the Debtor's estate or any class of creditors or equity security holders, by reason of any direct or indirect relationship to, connection with, or interest in, the Debtor, or for any other reason.

4. WTP has no connection with the Debtor or its creditors, any other party-in-interest in the Debtor's chapter 11 case, their respective attorneys or accountants, the United States Trustee, or any person employed in the office of the United States Trustee, except as follows: (a) WTP has a workers' compensation and insurance defense practice through which various insurance companies may occasionally retain WTP to defend insureds against third-party claims on matters unrelated to the Debtor or its bankruptcy proceeding, which insureds may happen to be unsecured creditors of the Debtor; (b) WTP has been retained by CNA Global Specialty Lines to defend a personal injury claim brought by the employee of a contractor who performed services at Oak Crest Village, Inc., a sister non-profit to Monarch and Sedgebrook, Inc. ("Sedgebrook"), against the Oak Crest management company, Erickson Retirement Communities, LLC ("Erickson") and various of its affiliates. Neither Monarch nor Sedgebrook are parties in this litigation but their manager, Erickson, is one of the co-defendants defended by WTP through CNA; and (c) additionally, WTP has represented National Senior Campuses and its 17 supported non-profit corporations, including Monarch and Sedgebrook, in the restructuring of the various Erickson entities previously before this Court. To be clear, WTP will not be representing any creditors in any matter in the Debtor's reorganization proceeding. Additionally, WTP does not represent Erickson Living Management, LLC, the purchaser of substantially all of Erickson's management assets. Moreover, any matters in the Debtor's case that are directly adverse to any client of WTP will be handled by other counsel for the Debtor, not WTP. Again, no such other client-creditors have been identified to date.

5. As with any bankruptcy case, it is difficult to say with certainty that all material relationships have been discovered at the inception of the Debtor's case. Accordingly, WTP will periodically update its conflicts database and if any new material relationships are discovered, they will be disclosed in a supplemental filing with the Court.

6. WTP's principal attorneys designated to represent the Debtor and their existing standard hourly rates chargeable to the Debtor range from \$290 to \$580. The paralegals likely to assist these attorneys bill at a standard hourly rate of \$230 per hour. The hourly rates set forth above are subject to periodic adjustments to reflect economic and other conditions. The hourly rates are currently slated to be reviewed for adjustment by WTP following the end of the fourth calendar quarter of 2010. Appropriate supplementation of the requisite disclosure will be presented at that time.

7. The hourly rates set forth above are WTP's standard hourly rates for work of this nature. These rates are set at a level designed to fairly compensate WTP for the work of its attorneys and paralegals and to cover fixed and routine overhead expenses. It is WTP's policy to charge its clients in all areas of practice for all other expenses incurred in connection with their cases. The expenses charged to clients include, among other things, telephone and telecopier toll and other charges, mail and express mail charges, special or hand delivery charges, document processing, photocopying charges, charges for mailing supplies provided by WTP to outside copying services for use in mass mailings, travel expenses, expenses for "working meals," computerized research and transcription costs, as well as non-ordinary overhead expenses such as secretarial and other overtime. WTP will charge for these expenses in a manner and at rates consistent with charges made generally to WTP's other clients. WTP believes that it is fairer to

charge these expenses to the clients incurring them than to increase its hourly rates and spread the expenses among all clients.

8. WTP, together with other professionals that may be employed by the Debtor in this chapter 11 case, and under the direction of the Debtor's management, will seek to provide professional services in the most efficient way possible and with a minimum of duplication.

9. No promises have been received by WTP nor by any partner, counsel or associate thereof as to compensation in connection with this case other than in accordance with the provisions of the Bankruptcy Code. WTP has no agreement with any other entity to share with such entity any compensation received by WTP in connection with this chapter 11 case.

I, Martin T. Fletcher, one of the partners of Whiteford, Taylor & Preston L.L.P., declare under penalty of perjury that the forgoing is true and correct.

Dated: June 21, 2010
Baltimore, MD

WHITEFORD, TAYLOR & PRESTON L.L.P.

By: /s/ Martin T. Fletcher
Martin T. Fletcher (Bar No. 07608)
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**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

In re:	§	CASE NO. 10-34178
	§	
MONARCH LANDING, INC.,	§	CHAPTER 11
	§	(Joint Administration Pending)
Debtor.	§	

**ORDER AUTHORIZING EMPLOYMENT OF WHITEFORD, TAYLOR & PRESTON
L.L.P. AS ATTORNEYS FOR THE DEBTOR AND DEBTOR IN POSSESSION¹**

Upon consideration of the Application for Authority to Employ Whiteford, Taylor & Preston L.L.P. as Attorneys for the Debtor and Debtor in Possession (the “Application”) filed by the above-captioned debtor and debtor in possession herein (the “Debtor”), the Verified Statement of Martin T. Fletcher, a partner of Whiteford, Taylor & Preston L.L.P. (“WTP”), pursuant to Bankruptcy Rule 2014(a), and the Disclosure of Compensation submitted under Bankruptcy Rule 2016(b), and it appearing that WTP is duly qualified to represent the Debtor in its case before this Court, and the Court being satisfied that WTP neither holds nor represents an interest adverse to the Debtor or its estate, that its employment is necessary and is in the best interest of the Debtor, its estate, and its creditors, and it appearing that adequate notice of the Application has been provided and that no further notice of said Application need be given; and after consideration of any objections made thereto and after any hearing thereon, and it appearing

¹ Capitalized terms not defined herein shall have those meanings prescribed in the Motion.

that good cause exists for granting the relief requested in the Application; it is, by the United States Bankruptcy Court for the Northern District of Texas – Dallas Division

ORDERED that the Application be and it hereby is **APPROVED**, effective as of the Petition Date; and it is further,

ORDERED that the Debtor be and hereby is authorized to employ WTP as counsel to represent it as a debtor and debtor in possession in this case on the terms set forth in the Application, with compensation and reimbursement of expenses subject to further Order of this Court, and it is further

ORDERED, that WT&P shall comply in all respects with N.D. TX L.B.R. 2016.1 and the Rules of the Court as set forth in the United States Bankruptcy Court Northern District of Texas Attorney Desk Reference, including Appendix B thereof.

End of Order