

1 GLASER WEIL FINK HOWARD
2 AVCHEN & SHAPIRO LLP
3 CYNTHIA M. COHEN (SB#93639)
4 ccohen@glaserweil.com
5 PETER M. BRANSTEN (SB#113352)
6 pbransten@glaserweil.com
7 GLASER WEIL FINK HOWARD
8 AVCHEN & SHAPIRO LLP
9 333 South Hope Street, Suite 2610
10 Los Angeles, California 90071
11 Telephone: (310) 553-3000
12 Facsimile: (310) 556-2920

13 Attorneys for Defendants
14 Alan Gladstone, Scott Gladstone, Loren Pannier,
15 Kevin Reilly, Shepherd Pryor, J.E. Rick Bunka, and
16 Janet Grove

17
18 **UNITED STATES BANKRUPTCY COURT**
19
20 **CENTRAL DISTRICT OF CALIFORNIA**
21
22 **SANTA ANA DIVISION**

23 In re
24 ANNA'S LINENS, INC.,
25 Debtor.

26 Case No. 8:15-bk-013008-TA
27 Chapter 7

28 **OPPOSITION TO MOTION FOR
ORDER AUTHORIZING PAYMENT
AND DISTRIBUTION OF
SETTLEMENT PROCEEDS**

Hearing
Date: May 8, 2018
Time: 11:00 a.m.
Place: Courtroom

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Individual Defendants Alan Gladstone, Scott Gladstone, Loren Pannier, Kevin Reilly, Shepherd Pryor, J.E. Rick Bunka and Janet Grove, defendants in *Naylor, et al. v. Salus Capital Partners, LLC, et al.*, Adv. Case No 8:15-ap-01482-TA (the “Adversary Proceeding”) oppose the “Motion for Order Authorizing the Payment of Contingency Fee and Substantial Contribution Fee [Etc.]” (the “Payment and Distribution Motion”) on the following grounds:

1. The Motion is premised on this Court’s granting of the motion to approve a proposed settlement agreement (the “Settlement Agreement”) between the plaintiffs in the Adversary Proceeding and the Lender Defendants in the Adversary Proceeding. The Settlement Agreement and the motion seeking its approval (the “Settlement Motion”) seek an order of this Court determining that the Settlement Agreement is a good faith settlement within the meaning of Cal. Civ. Proc. Code § 877.6.

2. The Individual Defendants have filed written opposition to that part of the Settlement Motion that seeks a good faith settlement determination under Section 877.6. The Individual Defendants have not argued whether the Settlement Agreement satisfies applicable law for approval of adversary settlements.

3. To the extent the Payment and Distribution Motion requires that this Court grant the Settlement Motion inclusive of its request for a determination that the Settlement Agreement is a good faith settlement within the meaning of Section 877.6, the Payment and Distribution Motion must be denied because it is not possible for this Court to determine that the Settlement Agreement is a good faith settlement within the meaning of Section 877.6 for all of the reasons set forth in the Individual Defendants’ opposition to the Settlement Motion. Those reasons (incorporated herein as if set forth *in haec verba*) therefore require denial of the Payment and Distribution Motion.

4. Should this Court, despite the opposition of the Individual Defendants, grant the Settlement Motion in its entirety inclusive of its request for a determination that the Settlement Agreement is a good faith settlement within the meaning of Section 877.6, the Individual Defendants intend to appeal from such a ruling. Accordingly, the Individual Defendants request that this Court refrain from granting the Payment and Distribution Motion until decision on an appeal from the Settlement Motion or, at the very least, stay actual payment and distribution of the

1 funds until determination of the appeal.

2 5. To the extent the Payment and Distribution Motion does not require that the
3 Settlement Agreement be determined to be a good faith settlement within the meaning of Section
4 877.6, the Individual Defendants do not oppose the Payment and Distribution Motion.

5
6 Dated: April 24, 2018

GLASER WEIL FINK HOWARD
AVCHEN & SHAPIRO LLP
CYNTHIA M. COHEN
PETER M. BRANSTEN

7
8
9 By /s/ Cynthia M. Cohen

Cynthia M. Cohen

10
11 Attorneys for Defendants
Alan Gladstone, Scott Gladstone, Loren Pannier,
12 Kevin Reilly, Shepherd Pryor, J.E. Rick Bunka,
and Janet Grove
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:

333 S. Hope St., Suite 2610, Los Angeles, CA 90071

A true and correct copy of the foregoing document entitled (*specify*): **OPPOSITION TO MOTION FOR ORDER AUTHORIZING PAYMENT AND DISTRIBUTION OF SETTLEMENT PROCEEDS** will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d); and **(b)** in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (*date*) April 24, 2018, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

SEE ATTACHED SERVICE LIST

☒ Service information continued on attached page

2. SERVED BY UNITED STATES MAIL:

On (*date*) April 24, 2018, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

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3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (*state method for each person or entity served*): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (*date*) April 24, 2018, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

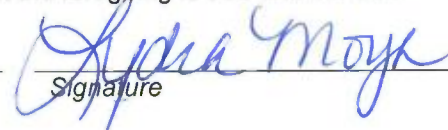
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I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

April 24, 2018
Date

Lydia Moya
Printed Name


Signature

ELECTRONIC MAIL NOTICE LIST

The following is the list of parties who are currently on the list to receive email notice/service for this case.

- Todd M Arnold tma@lnbyb.com
- Wesley H Avery wavery@thebankruptcycenter.com, lucy@averytrustee.com
- James C Bastian jbastian@shbllp.com
- Cristina E Bautista , ecf.lax.docket@kattenlaw.com,nicole.jones@kattenlaw.com
- Alan Betten abetten@sagallaw.com
- Karen C Bifferato kbifferato@connollygallagher.com, kbifferato@connollygallagher.com
- Mikel R Bistrow mikel.bistrow@dinsmore.com, caron.burke@dinsmore.com
- Wanda Borges ecfcases@borgeslawllc.com
- Dustin P Branch branchd@ballardspahr.com, carolod@ballardspahr.com; hubenb@ballardspahr.com; Pollack@ballardspahr.com
- Peter M Bransten pbransten@glaserweil.com, kmorin@lgbfirm.com
- Jerrold L Bregman ecf@bg.law, jbregman@bg.law
- Jess R Bressi jess.bressi@dentons.com, kimberly.sigismondo@dentons.com
- Robert Brier bbrier@bihlaw.com, smann@bihlaw.com
- Mark Bringardner Mark@stollaw.com
- Heather D Brown heather@hdbrownlaw.com
- David L Bruck bankruptcy@greenbaumlaw.com, cdeluca@greenbaumlaw.com
- Larry Butler notices@becket-lee.com
- Frank Cadigan frank.cadigan@usdoj.gov
- Gary O Caris gcaris@diamondmccarthy.com, vgarcia@diamondmccarthy.com
- Sara Chenetz schenetz@perkinscoie.com, dlax@perkinscoie.com;cmallahi@perkinscoie.com
- Shirley Cho scho@pszjlaw.com
- Shawn M Christianson cmcintire@buchalter.com, schristianson@buchalter.com
- Gail L Chung GL@outtengolden.com, JXH@outtengolden.com; kdeleon@outtengolden.com; JAR@outtengolden.com; RSR@outtengolden.com; rfisher@outtengolden.com; rima-8863@ecf.pacerpro.com; jquinonez@outtengolden.com
- Ronald Clifford rclifford@blakeleyllp.com, ecf@blakeleyllp.com; seb@blakeleyllp.com; info@ecf.inforuptcy.com
- Cynthia M Cohen ccohen@glaserweil.com, lmoya@glaserweil.com
- Leslie A Cohen leslie@lesliecohenlaw.com, jaime@lesliecohenlaw.com; allie@lesliecohenlaw.com
- Lee A Collins LCOLLINS@BOYARMILLER.COM
- Sean B Cooney scooney@shb.com, scooney@shb.com
- Joseph Corrigan Bankruptcy2@ironmountain.com
- Randy J Creswell rcreswell@perkinsthompson.com, lmccleer@perkinsthompson.com
- Jeffry A Davis jdavis@mintz.com, docketing@mintz.com
- Joseph P Davis davisjo@gtlaw.com, wangm@gtlaw.com;laik@gtlaw.com
- Michael W Davis mdavis@bg.law, ecf@bg.law
- Richard F DeLossa rdelossa@kelleydrye.com, wtaylor@kelleydrye.com
- Denise Diaz Denise.Diaz@rmsna.com

This form is mandatory. It has been approved for use by the United States Bankruptcy Court for the Central District of California.

- Eldia M Diaz-Olmo diazolmo@villamil.net, eldia.diazolmo@gmail.com
- John P Dillman houston_bankruptcy@publicans.com
- Caroline Djang caroline.djang@bbklaw.com, arthur.johnston@bbklaw.com; lisa.spencer@bbklaw.com
- Keith S Dobbins kdobbinslaw@aol.com
- Jonathan R Doolittle jdoolittle@reedsmith.com, renee-pelusi-2054@ecf.pacerpro.com; rpelusi@reedsmith.com; ashively@reedsmith.com; dkelley@reedsmith.com; bob miller@kilmerlaw.com; cbroock@kilmerlaw.com; llhommedieu@kilmerlaw.com
- Glen Dresser gombd@aol.com
- Reid E Dyer reiddy@mvallaw.com, davidwheeler@mvallaw.com
- Lei Lei Wang Ekvall lekval@swelawfirm.com, csheets@swelawfirm.com; gcruz@swelawfirm.com; hdavis@swelawfirm.com
- Gary B Elmer gelmer@ciardilaw.com
- Amanda N Ferns aferns@fernslaw.com, mmakalintal@fernslaw.com
- M Douglas Flahaut flahaut.douglas@arentfox.com
- Margaret G Foley mgfoley05@gmail.com
- Joseph D Frank jfrank@fgllp.com, rheiligman@fgllp.com; ccarpenter@fgllp.com; jkleinman@fgllp.com
- Roger F Friedman rfriedman@rutan.com
- John-Patrick M Fritz jpf@lnbyb.com, JPF.LNBYB@ecf.inforuptcy.com
- Thomas M Gaa tgaa@bbslaw.com
- Lauren N Gans lgans@shensonlawgroup.com
- Sidney Garabato sgarabato@epiqsystems.com, rjacobs@ecf.epiqsystems.com
- Jeffrey K Garfinkle jgarfinkle@buchalter.com, docket@buchalter.com; dcyrankowski@buchalter.com
- John S Garner , semerson@frfirm.com
- Richard Girgado rgirgado@counsel.lacounty.gov
- Barry S Glaser bglaser@swesq.com, erhee@swesq.com
- Ronald E Gold rgold@fbtlaw.com, joguinn@fbtlaw.com
- Stanley E Goldich sgoldich@pszjlaw.com
- David B Golubchik dbg@lnbyb.com, dbg@ecf.inforuptcy.com
- David M Goodrich dgoodrich@wglp.com, vrosales@lwgfllp.com
- Leon B Gordon sonya.ragsdale@mvbalaw.com
- William A Gray bgray@sandsanderson.com, rarrington@sandsanderson.com
- Irving M Gross img@lnbyb.com, john@lnbyb.com
- Steven T Gubner sgubner@bg.law, ecf@bg.law
- Ralph P Guenther rguenther@montereylaw.com
- Mina Hakakian mhakakian@lwmpartners.com
- Michael J Hauser michael.hauser@usdoj.gov
- James H Henderson henderson@title11.com, ginny@title11.com
- William H Heslup william.heslup@illinois.gov
- Matthew C. Heyn Matthew.Heyn@doj.ca.gov, mcheyn@outlook.com
- Mark S Horoupian mhoroupian@sulmeyerlaw.com, ppenn@sulmeyerlaw.com; mhoroupian@ecf.inforuptcy.com; dperez@sulmeyerlaw.com; ppenn@ecf.inforuptcy.com

This form is mandatory. It has been approved for use by the United States Bankruptcy Court for the Central District of California.

- Brian D Huben hubenb@ballardspahr.com, carolod@ballardspahr.com
- Joan Huh joan.huh@cdtfa.ca.gov
- James KT Hunter jhunter@pszjlaw.com
- William E Ireland wireland@hbblaw.com, cdraper@hbblaw.com
- Ronald N Ito Ronald.Ito@doj.ca.gov, Susan.Lincoln@doj.ca.gov
- Nina Z Javan nina@wsrlaw.net, elayna@wsrlaw.net
- Jeanne M Jorgensen jjorgensen@pj-law.com, cpage@pj-law.com
- Eve H Karasik ehk@lnbyb.com
- Ori Katz okatz@sheppardmullin.com,
cshulman@sheppardmullin.com; ezisholtz@sheppardmullin.com
- Doah Kim doah.kim@whitecase.com
- Simon Kimmelman skimmelman@sillscummis.com
- Stuart I Koenig Skoenig@leechtishman.com, sfrey@leechtishman.com; jabrams@leechtishman.com
- Michael S Kogan mkogan@koganlawfirm.com
- Jason B Komorsky ecf@bg.law, jkomorsky@bg.law
- Matthew Kramer mkramer@wwhgd.com, iperez@wwhgd.com
- Jeffrey C Krause jkrause@gibsondunn.com, dtrujillo@gibsondunn.com; jstern@gibsondunn.com
- Mette H Kurth mkurth@foxrothschild.com, mette-kurth-7580@ecf.pacerpro.com
- Jeffrey S Kwong jsk@lnbyb.com, jsk@ecf.inforuptcy.com
- David Brian Lally davidlallylaw@gmail.com
- Ian Landsberg ian@landsberg-law.com, casey@landsberg-law.com; lisa@landsberg-law.com;
diana@landsberg-law.com; yesi@landsberg-law.com; ilandsberg@ecf.inforuptcy.com
- William J Levant wlevant@kaplaw.com, wlevant@gmail.com
- Lori A Lewis lewisl004@mail.maricopa.gov
- James V Lombardi jlombardi@rossbanks.com, kjohnson@rossbanks.com; cnivens@rossbanks.com
- Melissa Davis Lowe mdavis@shbllp.com, avernon@shbllp.com; cdopeso@shbllp.com
- David J Mahoney efilings@spallp.com
- Kathleen P March kmarch@bkylawfirm.com, kmarch3@sbcglobal.net
- Robert S Marticello Rmarticello@swelawfirm.com,
csheets@swelawfirm.com; gcruz@swelawfirm.com; hdavis@swelawfirm.com
- David A Mawhinney david.mawhinney@klgates.com
- Gordon G May hpc@ggb-law.com
- Thor D McLaughlin tmclaughlin@allenmatkins.com, igold@allenmatkins.com
- David W. Meadows david@davidwmeadowslaw.com
- Joel S. Miliband jmiliband@brownrudnick.com
- Christopher Minier becky@ringstadlaw.com
- Eric A Mitnick MitnickLaw@aol.com
- Sean N Nagel , ldc@dr-slo.com
- Karen S. Naylor knaylor@burd-naylor.com
- Karen S. Naylor Karen@ringstadlaw.com
- Karen S Naylor (TR) alane@ringstadlaw.com, knaylor@IQ7technology.com
- Brian R Nelson becky@ringstadlaw.com, brian@ringstadlaw.com
- Mark A Neubauer mneubauer@carltonfields.com,
mlrodriguez@carltonfields.com; smcloughlin@carltonfields.com

This form is mandatory. It has been approved for use by the United States Bankruptcy Court for the Central District of California.

- Mike D Neue mneue@dynamic-law.com, mwjaraki@me.com
- Kevin M Newman knewman@menterlaw.com, kmnbk@menterlaw.com
- Victor W Newmark bankruptcy@evict.net
- William Novotny william.novotny@mwmf.com
- Abigail V O'Brient avobrient@mintz.com, docketing@mintz.com; DEHashimoto@mintz.com; SARamuta@mintz.com
- Juliet Y Oh jyo@lnbrb.com, jyo@lnbrb.com
- Keith C Owens kowens@venable.com, khoang@venable.com; DGIge@venable.com
- Ernie Zachary Park ernie.park@bewleylaw.com
- Paul J Pascuzzi ppascuzzi@ffwplaw.com
- Kristen N Pate ggpbk@ggp.com
- Christopher J Petersen cjpetersen@blankrome.com, gsolis@blankrome.com
- David M Poitras dpoitras@jmbm.com, bt@jmbm.com; vr@jmbm.com; dmp@ecf.inforuptcy.com
- David L Pollack pollack@ballardspahr.com, petlaka@ballardspahr.com
- Jeffrey N Pomerantz jpomerantz@pszjlaw.com
- Kelly L Pope kpope@downeybrand.com, mfrazier@downeybrand.com; courtfilings@downeybrand.com
- David L Prince dlp@redchamber.com
- Jennifer Pruski jpruski@trainorfairbrook.com
- David M Reeder , jle@vrmlaw.com
- David M Reeder dmr@vrmlaw.com, jle@vrmlaw.com
- Todd C. Ringstad becky@ringstadlaw.com
- Steven B Sacks , jnakaso@sheppardmullin.com
- Steven B Sacks ssacks@sheppardmullin.com, jnakaso@sheppardmullin.com
- Diane W Sanders austin.bankruptcy@publicans.com
- Nanette D Sanders becky@ringstadlaw.com
- Allan D Sarver ADS@asarverlaw.com
- Scott A Schiff sas@soukup-schiff.com
- Lance A Selfridge lances@lbbslaw.com, Susan.Awe@lewisbrisbois.com
- James R Selth jim@wsrlaw.net, jselth@yahoo.com; melissa@wsrlaw.net; vinnet@ecf.inforuptcy.com
- Michael J Shane mshane@eplawyers.com, bsilva@eplawyers.com
- Jeffrey S Shinbrot jeffrey@shinbrotfirm.com, sandra@shinbrotfirm.com
- William H Short bill.short@arlaw.com, candice.carter@arlaw.com
- Evan D Smiley esmiley@swelawfirm.com, gcruz@swelawfirm.com; csheets@swelawfirm.com; hdavis@swelawfirm.com
- Lindsey L Smith lls@lnbyb.com, lls@ecf.inforuptcy.com
- Louis F Solimine Louis.Solimine@thompsonhine.com
- Owen M Sonik osonik@pbfc.com, tpope@pbfc.com
- Howard Steinberg steinbergh@gtlaw.com, pearsallt@gtlaw.com; laik@gtlaw.com
- Rick A Steinberg rsteinberg@nakblaw.com
- Norman C Sullivan jgarner@frfirm.com, semerson@frfirm.com
- Salina R Thomas bankruptcy@co.kern.ca.us
- United States Trustee (SA) ustpreion16.sa.ecf@usdoj.gov
- Daniel R Utain dutain@kaplaw.com, kcoughlin@kaplaw.com

This form is mandatory. It has been approved for use by the United States Bankruptcy Court for the Central District of California.

- Kimberly Walsh bk-kwalsh@texasattorneygeneral.gov
- Howard J Weg hweg@robinskaplan.com
- Jeffrey T Wegner jeffrey.wegner@kutakrock.com, lisa.peters@kutakrock.com
- David R. Weinstein dweinstein@weinsteinlawfirm.net
- Daniel J Weintraub dan@wsrlaw.net, elayna@wsrlaw.net;vinnet@ecf.inforuptcy.com
- Gilbert B Weisman notices@becket-lee.com
- Elizabeth Weller dallas.bankruptcy@publicans.com
- Lee G Werner leegwerner@gmail.com
- Steven Werth swerth@sulmeyerlaw.com,
asokolowski@sulmeyerlaw.com; kmccamey@sulmeyerlaw.com; asokolowski@ecf.inforuptcy.com;
swerth@ecf.inforuptcy.com
- Brian D Wesley brian.wesley@doj.ca.gov
- Eric R Wilson kdwbankruptcydepartment@kelleydrye.com, MVicinanza@ecf.inforuptcy.com
- Brian Barour Yeretian byeretian@jhindsllaw.com, yeretian@gmail.com
- Roye Zur rzur@lgbfirm.com, srichmond@lgbfirm.com;emeza@lgbfirm.com;njanbay@lgbfirm.com

**SPECIAL NOTICE LIST
(NON ECF FILERS)
SERVICE VIA U.S. MAIL**

John T Banks
Perdue Brandon Fielder Collins & Mott
3301 Northland Dr, Ste 505
Austin, TX 78731

Ivan M Castro Ortiz
Aldarondo & Lopez Bras
ALB Plaza #16 Carr.199, Ste 400
Guaynabo, P.R. 00969

International Business Machines
Credit LLC (ICC)
IBM Corporation
275 Viger East
Montreal, Quebec H2X 3R7

IBM Credit LLC
c/o Paul Wearing
Special Handling Group - MD NC317
North Castle Drive
Armonk, NY 10504

Christina Flores
Flores, Flores, Canales & Chu, PLLC
5517 McPherson, Ste 14
Laredo, TX 78041

Todd R Gabriel
Law Offices of Todd R Gabriel
3525 Del Mar Heights Rd, Ste 240
San Diego, CA 92130-2122

SERVED BY OVERNIGHT MAIL

Presiding Judge

Honorable Theodor C Albert
United States Bankruptcy Court - Central District of California
411 West Fourth Street, Suite 5085 / Courtroom 58
Santa Ana, CA 92701-4593

Office of The United States Trustee

Frank Cadigan
Assistant United States Trustee
411 West Fourth Street
Suite 7160
Santa Ana, CA 92701