

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

In re:)	Chapter 11
)	
DIRECTORY DISTRIBUTING)	Case No. 16-47428-659
ASSOCIATES, INC.,)	
)	
Debtor,)	Hearing Date: May 4, 2020
)	Hearing Time: 11:00 a.m.
)	
)	

MOTION FOR ENTRY OF AN ORDER (A) ESTABLISHING THE FINAL DATE FOR FLSA CLAIMANTS TO FILE PROOFS OF CLAIM AND PROCEDURES FOR FILING PROOFS OF CLAIM; (B) APPROVING THE FORM OF A PLAN SUMMARY TO BE TRANSMITTED TO FLSA CLAIMANTS, THE PUBLISHERS, AND THE FLSA COUNSEL; (C) APPROVING SOLICITATION AND NOTICE PROCEDURES WITH RESPECT TO CONFIRMATION OF THE FIRST AMENDED PLAN; (D) ESTABLISHING VOTING DEADLINES AND PROCEDURES FOR VOTE TABULATION; (E) SCHEDULING A HEARING ON CONFIRMATION OF FIRST AMENDED PLAN; AND (F) GRANTING RELATED RELIEF

John P. Vaclavek (the "Trustee"), the Court-appointed Chapter 11 Trustee of Directory Distributing Associates, Inc. (the "Debtor" or "DDA"), the debtor in the above-captioned bankruptcy case (the "Chapter 11 Case"), moves the Court for the entry of an order (a) establishing the final date for FLSA Claimants¹ to file proofs of claim and procedures for filing proofs of claim, (b) approving the form of a Plan and Disclosure Statement summary to be sent to FLSA Claimants, the Publishers, and FLSA Counsel; (c) approving solicitation and notice procedures with respect to confirmation of the First Amended Plan (as such term is defined below); (d) establishing voting deadlines and procedures for vote tabulation; (e) scheduling a hearing on confirmation of the First Amended Plan; and (f) granting related relief.

¹ All capitalized words or phrases not otherwise defined herein shall have the meanings set forth in the First Amended Plan.

I. JURISDICTION

1. This Court has jurisdiction over this Motion pursuant to 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue of this proceeding is proper in this District pursuant to 28 U.S.C. §§ 1408 and 1409.

2. The bases for the relief sought herein are §§ 105, 1125, 1126, and 1128 of Chapter 11 of Title 11 of the United States Code, 11 U.S.C. §§ 101 *et seq.* (the "**Bankruptcy Code**") and Rules 2002, 3003, 3017, 3018, 3020, and 9006 of the Federal Rules of Bankruptcy Procedure (the "**Rules**").

II. BACKGROUND

3. On October 14, 2016, DDA filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the Eastern District of Missouri (the "**Court**").

4. On February 7, 2017, the Court ordered the appointment of a Chapter 11 trustee. On February 13, 2017, the Office of the United States Trustee filed an Application seeking the appointment of John P. Vaclavek as trustee, and on February 17, 2017, John P. Vaclavek filed a notice of acceptance of appointment with the Court. As a result of the foregoing, John P. Vaclavek is the duly-appointed and acting Chapter 11 trustee for DDA.

5. The Debtor filed the Chapter 11 Case primarily to address two pending prepetition lawsuits filed against it under the Fair Labor Standards Act, 29 U.S.C. §201 *et seq.* ("**FLSA**"): (a) *Walker vs. Directory Distributing Associates, Inc., et al.* (the "**Walker Case**"); and (b) *Krawczyk v. Directory Distributing Associates, Inc., et al.* (the "**Krawczyk Case**") (the *Walker Case* and the *Krawczyk Case* are sometimes collectively referred to as the "**FLSA Cases**"). The FLSA Cases give rise to three

different sets of claims: (a) the disputed, contingent and unliquidated claims of approximately 47,000 individual FLSA claimants (such claims shall collectively be referred to as “**FLSA Claims**” and such claimants shall collectively be referred to as the “**FLSA Claimants**”) alleging violations under the FLSA; (b) the disputed, contingent and unliquidated claims of the counsel representing certain of the FLSA Claimants (collectively “**FLSA Counsel**”), who maintain they have a statutory right under the FLSA to recover their fees and expenses from the Debtor; and (c) the disputed, contingent and unliquidated claims of the publishers of the telephone books delivered by the FLSA Claimants (collectively, the “**Publishers**”) that were named as defendants in the FLSA Cases, and whose claims are based on contractual rights of indemnity against the Debtor.

6. On November 19, 2018, the Trustee filed a Plan of Liquidation Proposed by John P. Vaclavek, Chapter 11 Trustee (ECF No. 259) (the “**Original Plan**”). To accompany the Original Plan, the Trustee also filed (i) a Disclosure Statement for the Amended Plan of Liquidation Proposed by John P. Vaclavek, Chapter 11 Trustee (ECF No. 260) (the “**Original Disclosure Statement**”), and (ii) other related motions (the “**Related Motions**”).

7. On December 21, 2018, the Court approved the form of a Notice to consider approval of the Original Disclosure Statement and the Related Motions (ECF No. 283) (the “**Original Disclosure Statement Notice**”). The Original Disclosure Statement Notice established a deadline of January 31, 2019 (“**Original Disclosure Statement Objection Deadline**”) for FLSA Claimants to file objections or responses to the Original Disclosure Statement. A hearing to consider approval of the Original

Disclosure Statement was scheduled for February 7, 2019.

8. The Original Disclosure Statement Notice was thereafter served on the then identified FLSA Claimants on December 28, 2018 and December 31, 2018. See Affidavits of Service (ECF Nos. 292 and 294).

9. On February 7, 2019, the Court heard argument and considered evidence in support of and in opposition to the Original Disclosure Statement and Related Motions. At the request of the parties made after the conclusion of the hearing, the Court deferred ruling and took all of the matters under advisement.

10. The principal parties in interest then engaged in renewed settlement discussions, culminating in an agreement between the Trustee, the FLSA Counsel, the Publishers, and DDA's shareholders (the "**Shareholders**").

III. FIRST AMENDED PLAN AND FIRST AMENDED DISCLOSURE STATEMENT; FLSA CLAIMANTS LIST

11. After extensive consultation with counsel for the principal parties-in-interest, the Trustee recently filed an First Amended Plan of Liquidation Proposed by John P. Vaclavek, Chapter 11 Trustee (Dated as of April 1, 2020)(ECF No. 570)(the "**First Amended Plan**").

A. Procedures Used to Develop a List of FLSA Claimants to be Used to Provide All Necessary Notices

12. The FLSA Claimants are impaired under the First Amended Plan and are thus entitled to cast a ballot to accept or reject the First Amended Plan. The Trustee believes 46,673 FLSA Claimants are eligible to receive distributions under the First Amended Plan and are therefore entitled to receive the FLSA Claimant Solicitation Package (as defined below.

13. The Trustee has spent considerable time and resources in developing as

complete and accurate list as possible of FLSA Claimants, together with updated addresses. The Trustee previously retained Epiq Corporate Restructuring, LLC ("**Epiq**") as its notice agent in the Chapter 11 Case. The Trustee also previously identified a list of individual FLSA Claimants eligible to receive distributions under the Original Plan (the "**Original FLSA List**"). The Trustee provided Epiq with the Original FLSA List and asked it to update the addresses. Epiq searched the names on the Original FLSA List through the ALLFIND database to locate updated addresses. Epiq thereafter ran the resulting names and addresses through the National Change of Address ("**NCOA**") database to locate additional address changes.² The resulting list was then used to mail the Original Disclosure Statement Notice.

14. As a result of the agreements embodied in the First Amended Plan, about 4,600 additional individuals will be included as FLSA Claimants and thus will be eligible to receive distributions in the First Amended Plan (such additional individuals shall be referred to as the "**New Individuals**"). The Trustee provided Epiq with an updated carrier list that included the New Individuals. Epiq then completed a new ALLFIND and NCOA search for all identified FLSA Claimants. The resulting list of FLSA Claimants, with updated addresses (the "**FLSA Claimants List**"), will be used to send the FLSA Claimant Solicitation Package. In addition, the Trustee will provide the FLSA Claimant Solicitation Package to those approximately 160 FLSA Claimants who have notified the Court of their current addresses at the address those claimants have provided to the Court.

**B. Additional Disclosures Regarding The List Of Eligible FLSA Carriers
In The *Walker* Case**

² See generally Declaration of Brian Karpuk in support of various motions (ECF No. 277) filed on December 11, 2018.

15. In the interests of full disclosure, the Trustee discusses herein the special challenges he faced in arriving at an accurate list of eligible FLSA Claimants who filed opt-in notices in the *Walker* Case.

16. In 2012, several years before the Trustee's appointment, the Texas state court then presiding over the *Walker* Case authorized sending notices to over 114,000 individuals who may have delivered telephone books for DDA during the period June 25, 2009 through December 21, 2012. The Texas state court established March 29, 2013 (the "**Walker Opt-In Deadline**") as the final date for the affected individuals to submit opt-in consent forms.

17. At the time, DDA established a procedure to monitor and log in all returned consent forms on a master spreadsheet. After accounting for forms with incomplete information and obviously duplicate forms, DDA initially concluded that 19,071 individuals submitted opt-in forms in the *Walker* Case, including opt-in forms submitted after the *Walker* Opt-In Deadline (the "**DDA Walker List**").³

18. Upon his appointment, the Trustee obtained possession of DDA's master spreadsheet and several boxes of opt-in forms submitted in the *Walker* Case. Since the Trustee had no reason to believe the DDA *Walker* List contained material inaccuracies, the Trustee relied on the accuracy of the DDA *Walker* List. However, the Trustee requested the counsel for the *Walker* plaintiffs to share their own list of opt-ins, which counsel did in February of 2019 (the "**Plaintiffs' Walker List**"). The Trustee then spent considerable time in reconciling the DDA *Walker* List with the Plaintiffs' *Walker* List. The Trustee compared the lists using computer programs and identified approximately 827

material discrepancies between the DDA *Walker* List and the Plaintiffs' *Walker* List. The Trustee's office then manually reviewed every one of the 827 material discrepancies and determined over 95% of the discrepancies were duplicates with different spellings or other disparate information that precluded the duplicate entries from being flagged by electronic means. This manual review concluded that there were only about 35 more carriers on the Plaintiffs' *Walker* List than on the DDA *Walker* List, so the Trustee added these additional carriers to the DDA *Walker* List. The Trustee also spent considerable time attempting to complete missing address and/or opt-in date information for the individuals who opted-in to the *Walker* Case.

19. In many instances, the Trustee had to exercise discretion about eliminating seemingly duplicate opt-in forms or completing address information that was missing on the opt-in submission itself. The final DDA *Walker* List, which is included within the FLSA Claimants List, represents the Trustee's absolute best efforts to complete and reconcile all *Walker* Case opt-ins, regardless of whether the opt-in forms were submitted before or after the *Walker* Opt-In Deadline and regardless of whether DDA or the Trustee has any record that the carriers on the list actually delivered books for DDA. The Trustee cannot guarantee that the resulting list is completely free of errors because of the difficulty in interpreting and logging over 19,000 forms completed (mostly) more than seven years ago.

C. Creation Of FLSA Claimants List

³ For the avoidance of any doubt, the term "DDA *Walker* List" includes (a) all opt-ins recorded by DDA, whether or not DDA had a record of such individual working for DDA, and (b) all opt-ins received after the *Walker* Opt-In Deadline.

20. After completion of the tasks described herein, including Epiq's work to update the addresses, the Trustee intends to use the FLSA Claimants List to send the FLSA Claimant Solicitation Package.

D. Issues Regarding Social Security Numbers for the FLSA Claimants

21. The damages sought by the FLSA Claimants in the FLSA Cases consist of two components: (a) wage payments, i.e. amounts allegedly needed to bring the FLSA Claimants' compensation up to the federal minimum wage and amounts allegedly needed to compensate FLSA Claimants for unpaid overtime (collectively, "**Wage Damages**"), and (b) statutory liquidated damages of up to two times the Wage Damages ("**Liquidated Damages**"). See generally 29 U.S.C. § 216(b).

22. The settlements of the FLSA Claims contained in the Plan require careful consideration on how to report properly the payments to the relevant taxing authorities and how to withhold taxes that are due on account of such payments.

23. Amounts received by the FLSA Claimants on account of their Wage Damages are subject to normal payroll withholding for state and federal income taxes and the employee's portion of the required FICA and Medicare contributions. The FLSA Claims Trust will be responsible to issue Form W-2 reports ("**W-2**") in the amount of their Wage Damages to each FLSA Claimant who receives a distribution under the Plan

24. Amounts received by the FLSA Claimants on account of their Liquidated Damages are not considered wages and are not subject to state and federal withholdings. Such payments, however, are considered taxable income to the FLSA Claimant, and the FLSA Claims Trust will issue Form-1099 reports ("**1099**") to each FLSA Claimant who receives \$600.00 or more on account of such claimant's Liquidated Damages.

25. The tax reporting requirements outlined above required the Trustee and the FLSA Claimants to agree upon an allocation of the distributions to be made under the First Amended Plan between Wage Damages and Liquidated Damages. The First Amended Plan provides that one-half of the distributions received by a FLSA Claimant shall be allocated to Wage Damages and the remaining one-half of the distribution shall be allocated to Liquidated Damages. The Internal Revenue Service generally accepts voluntary allocations so long as they are entered into in an adversarial context, at arm's length and in good faith. Bagely v. Commissioner, 105 T.C. 396, 406 (1995), aff'd 121 F.3d 393 (8th Cir. 1997).

26. In anticipation of the eventual need to supply Form W-2 and/or 1099 information to the FLSA Claimants who receive distributions under the First Amended Plan, the Trustee reviewed the Debtor's records to determine the social security numbers for the FLSA Claimants. Of the 46,673 individuals on the FLSA Claimants List, the Trustee had complete social security number information for 44,445 individuals (the "**Complete SSN Information List**"). However, the Trustee was unable to locate in DDA's records complete social security numbers for 2,228 individuals (the "**Incomplete SSN List**").

27. In order to verify the accuracy of the information in DDA's files for those individuals on the Complete SSN Information List, Epiq will upload the name and social security numbers for the individuals on this list to a site maintained by the Internal Revenue Service, which offers a free service to verify a large volume of social security numbers. The Trustee believes this search will verify the social security information for a vast majority of the carriers on the Complete SSN Information (such carriers whose

information is verified by the SSNVS search will be on the “**Verified List**” and those individuals for whom a potential variance has been identified will be on the “**Potential SSN Variances List**”). The Incomplete List and the Potential SSN Variance List shall collectively be referred to as the “**Unverified List.**”

28. As will be explained in more detail below, the Trustee proposes to send slightly different Proof of Claim forms to the FLSA Claimants depending on whether the FLSA Claimant is on the Verified List or the Unverified List.

IV. **RELIEF REQUESTED**

A. **Establishing the Final Date for FLSA Claimants to File FLSA Proofs of Claim and Procedures for Filing FLSA Claims**

i. **Claims Bar Date**

29. Bankruptcy Rule 3003(c)(3) provides: “[t]he Court shall fix and for cause shown may extend the time within which proofs of claim or interest may be filed.” Bankruptcy Rule 2002(a)(7) requires at least twenty-one days’ notice by mail of the time fixed for filing proofs of claim pursuant to Bankruptcy Rule 3003(c)(3).

30. While the Court previously established a claims bar date for non-FLSA related claims (the “**Non-FLSA Bar Date Order**”), it has not yet established a claims bar date for Holders of FLSA Claims, the FLSA Counsel, or claims by the Publishers. The Trustee submits that no claims bar date is necessary for the FLSA Counsel Claims and the Publishers’ Claims because the First Amended Plan allows those claims and provides a specific treatment for those claimants. However, in order to proceed with confirmation of the First Amended Plan, it is now necessary to establish a bar date for FLSA Claims.

31. The Trustee requests that July 8, 2020 be established as the final date

(“**FLSA Claims Bar Date**”) for Holders of FLSA Claims to file proofs of claim (“**FLSA Proofs of Claim**”) for FLSA Claims. Holders of FLSA Claims who fail to file FLSA Proofs of Claim on or before the FLSA Claims Bar Date shall (a) forever be barred, estopped, and enjoined from asserting any claim against the Debtor, the Trustee or DDA’s bankruptcy estate, (b) forever be barred from receiving any distributions on account of the First Amended Plan if it is confirmed by the Court, and (c) not be entitled to receive any further notices or mailing in connection with the Chapter 11 Case.

32. The Trustee further requests that the order entered in connection with this Motion specify the FLSA Claims Bar Date shall not apply to (a) any Persons who were required to file proofs of claim in the Non-FLSA Bar Date Order; (b) claims held by the Publishers; (c) claims held by the FLSA Counsel; and (d) claims arising after the Petition Date (the “**Excluded Claimants**”).

33. After accounting for the Excluded Claimants, the only creditors who will be subject to the FLSA Claims Bar Date will be the FLSA Claimants, whose claims are treated under Class 2 of the First Amended Plan.

34. The Trustee requests that he be authorized and directed to provide notice of the FLSA Claims Bar Date to the FLSA Claimants in the FLSA Claimant Confirmation Hearing Notice, which will be sent to all FLSA Claimants as part of the FLSA Claims Solicitation Package.

ii Procedures for Filing FLSA Proofs of Claim and Resolving Duplicate Claims

35. The Trustee requests that this Court approve alternative methods for Holders of FLSA Claims to submit FLSA Proofs of Claim. Specifically, the Trustee requests this Court to approve the submission of FLSA Proofs of Claim by either (a)

mailing a proof of claim form to Epiq at the address to be provided to FLSA Claimants (“**Mail Option**”), or (b) electronic submission at the website maintained by Epiq for this case (“**Internet Option**”).

36. The Trustee proposes to modify Official Form B 410 in several respects that are designed to make it easier for FLSA Claimants to complete their FLSA Proofs of Claim. The proof of claim form will be personalized to reflect the Trustee’s calculation of the number of DDA FLSA Compensable Workweeks for that claimant. The FLSA Claimant will be able to accept the pre-populated number of DDA FLSA Compensable Workweeks or insert a different number.

37. Two variations of the proof of claim forms will be used for FLSA Claimants. The first proof of claim form will be sent only to the FLSA Claimants on the Verified List and will not require the recipient to include a social security number on the form. The second proof of claim form will be sent only to those FLSA Claimants on the Unverified List (“**Unverified SSN FLSA Claimants**”) will require the recipient to include a social security number on the form.

38. A copy of the proposed proof of claim forms to be sent to the FLSA Claimants is attached hereto as Exhibit A (the “**FLSA Proof of Claim Form**”). The highlighted language on page 3 of Exhibit A will be not be included the forms sent to the FLSA Claimants on the Verified List, but the highlighted language will be included on the forms sent to the FLSA Claimants on the Unverified List.

39. The Trustee further proposes that, consistent with section 7.04 of the First Amended Plan, if any Unverified SSN FLSA Claimant returns a FLSA Proof of Claim on a timely basis but fails to include a complete and social security number on the claim

form, such FLSA Claim shall not be an Allowed FLSA Claim and such claimant shall not receive any distributions under the Plan. Notwithstanding the foregoing, no FLSA Proof of Claim that is timely filed and otherwise allowable shall be disallowed solely because of the FLSA Claimant's failure to include a phone number or email address on the FLSA Proof of Claim.

40. The FLSA Proof of Claim Form contains instructions on how to submit a completed FLSA Proof of Claim using either the Mail Option or the Internet Option. An FLSA Proof of Claim Form submitted using the Internet Option shall be deemed electronically signed by the FLSA Claimant.

41. The Trustee also requests that procedures be established in respect of FLSA Proofs of Claim signed by an individual on behalf of a deceased FLSA Claimant ("**Deceased FLSA Claimant**"). The Trustee submits that the signer of such a FLSA Claim filed on behalf of a Deceased FLSA Claimant must certify on the FLSA Proof of Claim that the Deceased FLSA Claimant has in fact died and that such signer is authorized to receive the distribution due to such Deceased FLSA Claimant. The Trustee submits that the Trustee and the FLSA Trustee may rely upon the signer's certification without any further documentation, provided, however, that nothing shall preclude any party with standing to object to a claim filed by an individual on behalf of a Deceased FLSA Claimant.

42. Given the large volume of expected FLSA Claims, the Trustee also proposes a protocol to deal with and process multiple claims filed by the same FLSA Claimant ("**Duplicate Claims**") as follows:

- a. FLSA Proofs of Claim shall be deemed "Duplicate Claims" so long as they are filed by the same FLSA Claimant, even if they are filed in different

amounts, unless any later filed FLSA Proof of Claim is marked as an amended claim in the applicable location of the FLSA Proof of Claim form, in which case the latest filed FLSA Proof of Claim shall be deemed an “Amended Claim.”

- b. If Duplicate Claims are submitted using the Mail Option, the first claim form received by Epiq will be deemed the operative claim for such FLSA Claimant and all other claims submitted by such FLSA Claimant using the Mail Option shall be disregarded.
- c. If Duplicate Claims are submitted using the Internet Option, the first claim electronically submitted shall be deemed the operative claim for such FLSA Claimant and all other claims submitted by such FLSA Claimant shall be disregarded.
- d. If Duplicate Claims are submitted using both the Mail Option and the Internet Option, the first claim form received by Epiq via the Mail Option shall be deemed the operative claim for such FLSA Claimant and all other claims submitted by such FLSA Claimant shall be disregarded.
- e. If an Amended Claim is submitted by any Option, the last claim form received by Epiq shall be deemed the operative claim for such FLSA Claimant and all other claims submitted by such FLSA Claimant shall be disregarded.

B. Approval Of Summary Of First Amended Plan And Plan Summary

43. Rule 3017(d) permits a plan proponent to transmit a “court-approved summary of the plan” in lieu of the full plan. Similarly, Section 1125(c) of the Bankruptcy Code provides “the same disclosure statement shall be transmitted to each holder of a claim or interest of a particular class, but there may be transmitted different disclosure statements, differing in amount, detail or kind of information, as between classes.”

44. The Trustee has prepared a proposed summary of the First Amended Plan that also will serve as a disclosure statement. It is attached hereto as Exhibit B (“**Plan Summary**”). The Plan Summary is written in “plain English” and will provide Holders of FLSA Claims a more meaningful description of the Chapter 11 Case than they would receive from the First Amended Plan itself, which is a dry, technical

document full of legal jargon.

45. Other than the FLSA Claimants, the only impaired creditors entitled to vote on the First Amended Plan are the Publishers and the FLSA Counsel, both of whom were extensively involved in the negotiation and drafting of the First Amended Plan. The Publishers and the FLSA counsel have informed the Trustee they require no additional information about the Debtor, the Chapter 11 Case, or the First Amended Plan before casting their respective Ballots. Therefore, the Trustee submits there is no need for a separate disclosure statement under the unique facts of this case and that the Plan Summary shall be deemed the “Disclosure Statement” in the Chapter 11 Case.

46. The Trustee requests the Court to approve the Plan Summary and authorize and direct the Trustee to send the Plan Summary to the FLSA Claimants as part of the FLSA Claimant Solicitation Package and to the Publishers and the FLSA Counsel as part of the Non-FLSA Claimant Solicitation Package .

C. Approval Of The Form Of Ballots

47. The Trustee requests approval for two types of ballots for voting to accept or reject the First Amended Plan. One ballot would be sent to the Holders of claims under Class 3 and Class 4 of the First Amended Plan (the “Non-FLSA Claimant Ballot”). The other form of ballot would be sent to the Holders of the FLSA Claims (the “FLSA Claim Ballot”) as part of the Non-FLSA Claimant Solicitation Package.

i. Non-FLSA Claim Ballots

48. The Non-FLSA Claimant Ballot, personalized to each claimant, would be sent to the Publishers (who hold Class 3 claims under the Plan) and to the FLSA Counsel (who hold Class 4 claims under the Plan). The Trustee submits the Non-FLSA Claimant Ballot is consistent with Official Form 14 and that any changes from the

Official Form 14 are appropriate to adapt to the circumstances of the Chapter 11 Case.

49. In the event that the Publishers and/or the FLSA Counsel vote on the Plan, the Publishers have agreed that they will submit one Ballot for Class 3 and the FLSA Counsel have agreed that they will submit one Ballot for Class 4 and that the votes for such classes shall be tabulated in accordance with the single Ballot filed in each Class.

50. The Trustee requests the Non-FLSA Claimant Ballot (as personalized, substantially in the form attached hereto as Exhibits C and D) be approved and that the Trustee be authorized and directed to send the appropriate Non-FLSA Claimant Ballot to the Publishers and the FLSA Counsel as part of the Non-FLSA Claimant Solicitation Package.

ii. FLSA Claimant Ballot

51. The Trustee proposes that a FLSA Claimant Ballot substantially in the form attached hereto as Exhibit E would be sent to all FLSA Claimants as part of the FLSA Claimant Solicitation Package. The FLSA Claimant Ballot is based on Official Form 14, but it has been modified from the Official Form in certain respects in order to make it more easily understandable to the FLSA Claimants and to accommodate certain unique aspects of the Chapter 11 Case. For instance, the FLSA Claimant Ballot (a) makes it clear that FLSA Claimants are not required to vote on the First Amended Plan in order to receive distributions thereunder, (b) includes instructions on how to submit a vote on the First Amended Plan by both electronic means and by timely returning a paper copy of the FLSA Claimant Ballot to Epiq, and (c) is personalized for each FLSA Claimant by including the amount of the DDA Compensable Workweeks as calculated by the Trustee using DDA' s work records.

52. The Trustee also requests the FLSA Claimant Ballot be approved and that the Trustee be authorized and directed to send the FLSA Claimant Ballot to the FLSA Claimants as part of the FLSA Claimant Solicitation Package. The Non-FLSA Claim Ballot and the FLSA Claim Ballot shall collectively be referred to as the "**Ballots**".

D. Approval Of Confirmation Hearing Notice

53. In accordance with Rules 2002 and 3017(d), the Trustee proposes to provide notice of the Confirmation Hearing using two different forms and notice protocols, depending on the nature of the recipient's claim.

54. First, the Trustee proposes to give notice of the Confirmation Hearing to the FLSA Claimants by mailing to each of the FLSA Claimants included on the FLSA Claimants List a written notice substantially in the form attached hereto as Exhibit F ("**FLSA Claimant Confirmation Hearing Notice**"). The FLSA Claimant Confirmation Hearing Notice is written in a more accessible, "plain English" style and contains information on how the recipient may view and download from the Internet, free of charge, relevant pleadings, including the First Amended Plan and related pleadings.

55. The FLSA Claimant Confirmation Hearing Notice also contains information about the FLSA Claims Bar Date, the procedures for filing FLSA Proofs of Claim, the procedures for voting on the First Amended Plan, the deadline to object to confirmation of the First Amended Plan and other related information.

56. Second, the Trustee proposes to give notice by mail of the Confirmation Hearing to all parties entitled to such notice other than the FLSA Claimants using a written notice substantially in the form of notice attached hereto as Exhibit G ("**Non-FLSA Claimants Confirmation Hearing Notice**").

57. In addition, the Trustee proposes that FLSA Counsel can post the

documents comprising the FLSA Claims Solicitation Packet on the website www.ddadeliveryworkersgroup.com ("**FLSA Counsel Website**") at their cost. The Trustee and FLSA Counsel will cooperate to ensure that the information posted on Epiq's website and the FLSA Counsel website will be consistent.

E. Approval Of Solicitation Package

58. Rule 3017(d) sets forth the materials that must be provided to Holders of claims entitled to vote on a Chapter 11 plan. The Trustee proposes to include slightly different materials to FLSA Claimants than to Non-FLSA Claimants.

i. Holders of Publishers' Claims and FLSA Counsel Claims

59. On or before May 8, 2020, the Trustee proposes to send by first class mail to Holders of the Publishers' Claims and the FLSA Counsel Claims, the following materials:

- The First Amended Plan;
- The Plan Summary;
- The Non-FLSA Claimants Confirmation Hearing Notice;
- The Non-FLSA Claimant Ballot; and
- Such other materials as the Court may direct.

(collectively, these materials shall be referred to as the "**Non-FLSA Claims Solicitation Packet**").

ii. Holders of FLSA Claims

60. On or before May 8, 2020, the Trustee proposes to serve by first class mail the following materials on each of the FLSA Claimants, using the most current FLSA Claimants List:

- The Plan Summary

- The FLSA Claimants Confirmation Hearing Notice;
- The FLSA Claimant Ballot;
- The FLSA Proof of Claim Form;
- A pre-addressed business reply envelope that FLSA Claimants may return their Ballot and/or FLSA Proof of Claim to Epiq; and
- Such other materials as the Court may direct.

(collectively, these materials shall be referred to as the “**FLSA Claims Solicitation Packet**”).

F. Establishment Of Voting Deadline And Procedures For Vote Tabulation

61. The Trustee requests that this Court approve alternative methods for Holders of Claims allowed to vote on the First Amended Plan, including FLSA Claimants, to cast their Ballots. Specifically, the Trustee requests this Court approve the submission of Ballots by either (a) mail to Epiq at the address provided to the creditors (“**Mail Voting Option**”), or (b) electronically at the website maintained by Epiq for this case (“**Internet Voting Option**”).

62. Rule 3017(c) provides that, in connection with or before approval of a disclosure statement, a Court shall fix a time within which the holders of claims or equity security interests may accept or reject a Chapter 11 plan. The Trustee requests the Court fix July 8, 2020 as the deadline (the “**Voting Deadline**”) by which all Ballots for accepting or rejecting the First Amended Plan must be received using the Mail Voting Option or the Internet Voting Option.

i Mail Voting Option

63. To be counted, all Ballots submitted by the Mail Voting Option must be properly executed and completed and mailed, hand-delivered, delivered by overnight

courier so as to be **actually received** by Epiq by the Voting Deadline.

ii. Internet Voting Option

64. Epiq will include on the website it maintains in this case a portal that can be used by creditors entitled to vote on the First Amended Plan to cast their Ballots. All Ballots submitted pursuant to the Internet Voting Option will be deemed electronically signed by the creditor.

65. To be counted, all Ballots submitted by the Internet Voting Option must be properly submitted on the Internet portal on or before the Voting Deadline.

iii. Amount of Claim for Voting Purposes; Non-Voting Class; Ballot Tabulation

66. L.B.R. 3018(B)(4) shall govern the submission of Ballots with the following exceptions:

- a. Notwithstanding L.B.R. 3018 (B)(4) and solely for purposes of voting to accept or reject the First Amended Plan and not for the purpose of the allowance of, or distributions on account of a claim, the Trustee proposes that each FLSA Claim for which a FLSA Claimant Ballot is properly submitted be temporarily allowed in an amount equal to the DDA FLSA Individual Claimant's Settlement Amount for such individual claimant, irrespective of whether such individual claimant filed a FLSA Proof of Claim for a different amount.
- b. Notwithstanding L.B.R. 3018 (B)(4) and solely for purposes of voting to accept or reject the First Amended Plan and not for the purpose of the allowance of, or distributions on account of, a claim, the Trustee proposes that each Non-FLSA Claim for which a Non-FLSA Claimant Ballot is properly submitted be temporarily allowed in an amount equal to the amount listed on each such Non-FLSA Claimant Ballot, unless the Trustee files an objection to the amount so listed.

67. The Trustee proposes to file a report of the balloting as required by L.B.R. 3018(A) (the "**Voting Report**") by no later than July 15, 2020, and to serve the Voting Report as set forth in L.B.R. 3018(A).

G. Establishment of Objection Procedures and Confirmation Hearing Date

68. Pursuant to Rules 3020(b)(1), objections to confirmation of a plan must be filed and served “within a time fixed by the Court.”

69. The Trustee requests the Court to order that objections to confirmation of the First Amended Plan, if any: (a) be in writing; (b) state the name and address of the responding party and the amount and nature of the claim or interest of such party; (c) state with particularity the legal and factual basis for any response; (d) conform to the Rules; and (e) be filed with the Court by the Voting Deadline.

70. The proposed timing for filing and service of objections and proposed modifications to the First Amended Plan, if any, will afford the Court, the Trustee, and other parties-in-interest sufficient time to consider the objections to the First Amended Plan prior to the Confirmation Hearing.

H. Approval of Form of Notices to Non-Voting Classes

71. Rule 3017(d) provides, in pertinent part

If the Court orders that the disclosure statement and the plan or a summary of the plan shall not be mailed to any unimpaired class, notice that the class is designated in the plan as unimpaired and notice of the name and address of the person from whom the plan or summary of the plan and disclosure statement may be obtained upon request and at the plan proponent's expense, shall be mailed to members of the unimpaired class together with the notice of the time fixed for filing objections to and the hearing on confirmation.

72. Claims in Class 1 (General Unsecured Claims) are unimpaired and are conclusively presumed to accept the First Amended Plan. See 11 U.S.C. § 1126(f). Accordingly, Class 1 is not eligible vote to accept or reject the Plan. The Trustee

proposes to send to Holders of unimpaired claims a notice of not-voting status, substantially in the form attached hereto as Exhibit H. ("**Non-Voting Status Notice**").⁴

73. The Trustee proposes that the Confirmation Hearing may be continued from time to time upon request of the Trustee or otherwise at the Court's direction, either by notice or by announcing the continuance in open Court without further notice.

I. Trustee To Supplement Filings to Complete Blanks Or Make Other Non-Material Changes in the First Amended Plan

74. The First Amended Plan as filed on April 1, 2020 contains blanks in paragraphs 1.38, 1.51, and 8.01 (the "**Blanks**"). The Blanks are attributable to expense calculations that are impossible to quantify at the time the First Amended Plan was filed. In order to provide the most accurate information possible to creditors, particularly the FLSA Claimants, the Trustee also requests that the Court authorize the Trustee to complete the Blanks in the First Amended Plan at or around the time of the hearing on this Motion with the most recent data then available and to make any other non-material modifications to the First Amended Plan that are necessary or desirable to facilitate the solicitation of votes on the First Amended Plan. The Trustee also requests the Court to authorize the Trustee to make any other non-material changes in the First Amended Plan and work with the Clerk's office without the need to file a "second amended plan," to the fullest extent possible under the Rules, local practice, and the ECF filing system.

J. COVID-19 Considerations

75. The Trustee requests authority to modify any notices attached to this

⁴ DDA's Shareholders (Class 5) will receive nothing under the First Amended Plan and are therefore deemed to have rejected the Plan. Given the Shareholders' active participation in the drafting and formulation of the First Amended Plan, the Trustee submits that the Shareholders have more than adequate notice of the First Amended Plan and does not propose to send the Non-Voting Status Notice to the Shareholders.

Motion to accommodate courtroom access issues that may be present for any hearings scheduled in accordance with the Motion or the First Amended Plan.

WHEREFORE, the Trustee respectfully requests that the Court enter an order granting this Motion, approving the form of the exhibits attached hereto, authorizing and directing the Trustee to take all actions necessary to comply with the terms of this Motion, and granting such other and further relief as is appropriated.

Dated April 1, 2020.

THOMPSON COBURN LLP

By: /s/ David A. Warfield
David A. Warfield, MO # 34288
dwarfield@thompsoncoburn.com
One US Bank Plaza
St. Louis, MO 63101
(314) 552-6000
Fax (314) 552-7000

Counsel for John P. Vaclavek, Chapter 11
Trustee

Exhibits

Exhibit	Description
A	FLSA Proof of Claim Form
B	Plan Summary
C	Non-FLSA Claimant Ballot - Publishers
D	Non-FLSA Claimant Ballot – FLSA Counsel
E	FLSA Claimant Ballot
F	FLSA Claimant Confirmation Hearing Notice
G	Non-FLSA Claimant Confirmation Hearing Notice
H	Non-Voting Status Notice

Fill in this information to identify the case:

Debtor: Directory Distributing Associates, Inc.

United States Bankruptcy Court for the Eastern District of Missouri

Case number 16-47428

Instructions

1. You must complete ALL parts of the proof of claim to be eligible to receive payment. **PLEASE PRINT CLEARLY OR TYPE.**
2. If you fill out this paper form, please use blue or black ink. If you file an electronic claim, be sure that you fill out ALL sections of the form.
3. To be valid, you must sign the proof of claim.
4. If you attach any documents in support of your claim, do not send originals, they will be destroyed after scanning. If the documents are not available, explain in an attachment.
5. You may consult with an attorney about this proof of claim if you wish. The Bankruptcy Court and Epiq cannot answer legal questions about this proof of claim.
6. You must return this proof of claim or electronically file it so that it is actually received or filed on or before July 8, 2020. There will be no extensions of this deadline. If your claim is received after July 8, 2020, you will not be entitled to receive any payment.
7. No other methods of filing will be accepted.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Part 1: Identify the Claim

1. Name of the carrier on record:

Name _____

Street Address _____

City, State Zip Code _____

2. Corrections to Carrier Name and Contact Information:	If the address above is incorrect, provide the correct address for payments and notices below	Other Names You used with the debtor:
	_____	_____
	Name _____	_____
	Number _____ Street _____	
	City _____ State _____ ZIP Code _____	

3. Does this claim amend one already filed?

No

Yes. Claim number on court claims registry (if known) _____ Filed on _____ MM / DD / YYYY

Claim Amendment The first claim you file is your claim unless you amend or change that claim. If you amend or change that claim, the amended or changed claim is your claim unless the Bankruptcy Court orders otherwise.

MOVE ON TO PART 2

Part 2: Information About Your Claim

4. What is the basis of the claim?

Check only those that apply.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

A. Claim Against Directory Distributing Associates, Inc. (DDA) for violations of the Fair Labor Standards Act (FLSA), including, but not limited to unpaid wages and overtime.

By checking this box, you certify under penalty of perjury that you delivered telephone books from June 25, 2009 to December 31, 2015 for DDA.

Estimate of Your Compensable Workweeks: [----]

If you agree with the estimate of your DDA Compensable Workweeks above, you can move on to question 4.B.

If you disagree with the estimate of your DDA Compensable Workweeks above, you must state how many total DDA Compensable Workweeks you believe you are entitled to: _____. You must also attach documents that support you worked additional DDA Compensable Workweeks.

B. Other Claim Against DDA. If you have a claim against DDA other than the FLSA Claim in 4.A, you must identify the basis for your claim, the amount that you claim is owed to you, and attach all documents supporting your claim.

Amount you claim is owed: _____

Basis for claim: _____

If you do not assert another claim, you can move on to Part 5. **Part 4(C) should be completed only if you delivered books for companies other than DDA from May 10, 2013 to the present.**

C. Claim for Violations of the FLSA, including, but not limited to unpaid wages and overtime for delivery of AT&T, YP, Dex, or Thryv (collectively, Publishers) telephone books for a company **other than** DDA.

By checking this box, you certify under penalty of perjury that you delivered Publishers' books at some point between May 10, 2013 to the present for Product Development Corporation or Other: _____. If you select "Other" you must provide the name of the company.

If you check the box in the first line of question 4.C. above, you will be entitled to the non-DDA Minimum Distribution (estimated at \$40).

If you do not have a claim for more than the non-DDA Minimum Distribution, you can move on to Part 3.

If you assert a claim for more than the non-DDA Minimum Distribution, you must provide the number of workweeks you delivered Publishers' books for a company **other than** DDA: _____.

Your response is subject to verification and, if the claimed delivery company and/or workweeks cannot be verified, you may be asked to provide documents supporting your claimed non-DDA deliveries.

NOTE: APPLICABLE STATE AND FEDERAL WITHHOLDING AMOUNTS WILL BE DEDUCTED IN CALCULATING THE AMOUNT YOU RECEIVE.

MOVE ON TO PART 3

Part 3: Sign Below

5. The person completing this proof of claim must sign and date it.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both.
18 U.S.C. §§ 152, 157, and 3571.

I have examined the information in this *Proof of Claim* and have a reasonable belief that the information is true and correct.

Please check one:

I am the carrier set forth below

The carrier has died and I am the personal representative of the carrier's estate or otherwise authorized to receive the distribution for the carrier.

Social Security No. (required): _____ - _____ - _____

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

_____ Executed on date _____
Signature MM / DD / YYYY

Print the name of the person who is completing and signing this claim:

Name _____
First Name Middle name Last Name

Contact phone: _____ - _____ - _____ Email: _____

**THE PROOF OF CLAIM MUST BE SIGNED TO BE VALID
UNSIGNED FORMS WILL NOT BE DEEMED TO BE TIMELY FILED**

Send your completed proof of claim by one of the following methods:

Send the original to:
Directory Distributing Associates, Inc. Claims Processing Center
c/o Epiq Bankruptcy Solutions, LLC
P.O Box [---]
Beaverton, OR 97076-[---]

Electronically file your proof of claim
at:
O
R [---]

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

In re:) Case No.: 16-47428
)
DIRECTORY DISTRIBUTING ASSOCIATES,) Chapter 11 Proceeding
INC.,)
) SUMMARY OF FIRST AMENDED PLAN OF
Debtor.) LIQUIDATION

You are receiving this Summary because some records show that you delivered telephone books published by the Publishers¹ (a) for Directory Distributing Associates, Inc. (“DDA”) between June 25, 2009 and December 31, 2015 and, for some people, (b) for Product Development Corporation (“PDC”) or another company besides DDA between May 10, 2013 and the date this notice was mailed to you.

DDA and the Publishers were sued in two separate lawsuits (“FLSA Lawsuits”) alleging they violated the law by not paying minimum wage and/or overtime to certain carriers. Those allegations were denied. DDA stopped operating and then filed for bankruptcy in the Bankruptcy Court for the Eastern District of Missouri (the “Bankruptcy Court”) in 2016. DDA’s bankruptcy filing stopped the FLSA Lawsuits.

The FLSA Lawsuits involves very complicated legal issues and it is unclear what the outcome would be at any trial in the FLSA Lawsuits. No one can predict if any carrier would receive any amount or if DDA and the Publishers would win after any trial in the FLSA Lawsuits.

Because of these complications and after lengthy negotiations, an agreement has been reached that may result in you receiving some money. The agreement is contained in the First Amended Plan of Liquidation (April 1, 2020) (the “Plan”) filed in the Bankruptcy Court.

Under the Plan, DDA, DDA’s shareholders and the Publishers will contribute up to a total of \$10,000,000 to fund payments to carriers such as you, as well as to pay the lawyers for the carriers, other creditors of DDA, DDA’s final expenses, and the costs of the Plan. After all other creditors and expenses are paid, including \$4,000,000 to the carriers’ lawyers, DDA expects the amount available to all carriers will be approximately \$ [REDACTED], which will be divided among approximately 46,675 eligible carriers, some of whom delivered Publishers’ books only for DDA and some of whom delivered Publishers books for DDA and for Product Development Corporation (“PDC”) or another non-DDA company. All payments will be subject to state and federal withholdings.

Each carrier who delivered Publishers’ books for DDA will be eligible to receive approximately \$ [REDACTED] for each workweek (Sunday through Saturday) for which they allegedly did not receive minimum wage and/or overtime (“Compensable Workweek”). If records show that a carrier who worked for DDA in the covered time period did not have any Compensable Workweeks, then that person will be paid \$40.00. The number of Compensable Workweeks and the approximate amount you will receive for DDA deliveries is listed on the green pages included in this mailing. Any carrier can dispute the number of Compensable Workweeks on the green pages or whether s/he had any Compensable Workweeks using the procedures below.

In addition, each carrier who delivered Publishers’ books for PDC or another non-DDA company will be eligible to receive approximately \$60 for each Compensable Workweek. If records show that a carrier who worked for PDC or another non-DDA company in the covered time period did not have any Compensable Workweeks, then that person will be paid \$40.00.

If the Bankruptcy Court approves the Plan, you will not be able to sue DDA, certain individuals who were named in one of the FLSA Lawsuits, or the Publishers, for any additional damages for telephone book

¹ Publishers means AT&T Services, Inc., and its affiliated non-publishing entities, AT&T Corp. and AT&T Inc.; any entity that formerly did business as AT&T Advertising & Publishing, AT&T Advertising Solutions, or Pacific Bell Directory; AT&T Advertising Solutions; YP Shared Services LLC; YP Advertising & Publishing LLC; YP LLC; YP Holdings LLC; Dex Media Inc.;Thryv Holdings, Inc., Thryv, Inc.; and any lawful successors.

deliveries for Publishers' books during the period from [REDACTED] to July 8, 2020. This prohibition on filing suit applies and will be true whether or not you file a claim.

WHAT YOU MUST DO TO RECEIVE PAYMENT

To be eligible to receive payment, you **must** file a claim with Epiq Corporate Restructuring, LLC ("Epiq") the authorized notice agent in the case, and Epiq must **receive** that claim on or before July 8, 2020. There will be **no** extensions of this deadline. If your claim is received after July 8, 2020, you will not be entitled to receive any payment.

The green pages included in this mailing explain how to file a claim and submit it by mail or on line. If you disagree with the number of DDA Compensable Workweeks listed on the green pages included in this mailing, you can say so on your claim form and you can submit documents with your claim proving that you worked more DDA Compensable Workweeks.

To qualify for an additional payment for deliveries on behalf of PDC or another non-DDA company, you must certify under oath on the green form that you delivered books for PDC or another non-DDA company, identify the company/ies, and state the number of weeks you delivered books for each company.

When you sign the green form, you will be certifying that the statements in that form are true and correct. All claim forms will be reviewed. Certain parties are entitled to object to statements that are or appear incorrect and, if that happens, you will be required to present proof of your statements.

VOTING ON THE PLAN AND COURT HEARING

In addition, you can vote to accept or reject the Plan. Voting is separate from filing your claim: **you are not required to vote on the Plan to receive your payment.** A ballot for voting, together with instructions, is enclosed in this mailing on the blue pages. The Bankruptcy Court must receive your ballot with your vote on or before July 8, 2020 to be counted. **There will be no extensions of this deadline.** The Bankruptcy Court will consider the results of the voting to decide whether to approve the Plan. If the Court does not approve the Plan, then you will not receive the payments described in this statement.

YOU MUST FILE A CLAIM TO RECEIVE A PAYMENT, WHETHER OR NOT YOU VOTE ON THE PLAN.

The Bankruptcy Court will hold a hearing to consider the Plan on July 20, 2020 in St. Louis, Missouri. You do not have to attend this hearing to receive payment, although you may need to attend a later hearing if there is an objection to your claim. The notice of hearing included in this packet contains additional information about the July 20, 2020 hearing if you want to participate.

QUESTIONS

This is only a summary of the Plan. If you want to view the entire Plan, you can view it for free at <http://dm.epiq11.com/directory> or www.ddadeliveryworkersgroup.com. If you have any questions you may call [REDACTED] for a recorded message or you may send an email to [REDACTED]. Any calls to the undersigned counsel will be referred to [REDACTED] for response.

Dated: May __, 2020

THOMPSON COBURN LLP

By: /s/ David A. Warfield
David A. Warfield, MO # 34288
ddatrustee@thompsoncoburn.com
One US Bank Plaza, Suite 3200
St. Louis, MO 63101
Tel.: (314) 552-XXXX

Counsel for the Trustee for Directory Distributing Associates, Inc.

Item 3. ACKNOWLEDGEMENTS AND CERTIFICATION. By signing this Ballot, the undersigned acknowledges that he has been provided with a copy of the Plan Summary. The undersigned further certifies that (i) he is the attorney for the FLSA Counsel, (ii) the FLSA Counsel have designated him as their agent and attorney-in-agent for the purposes of signing and submitting this Ballot, and (iii) he has full power and authority to submit this Ballot on behalf of the FLSA Counsel.

Print or Type Name of Claimant: FLSA Counsel

Name of signatory Russell Post, Esq.

Street Address: 1221 McKinney Street
Suite 4500

City, State, and Zip Code: Houston, TX 77010-2010

Telephone Number: 713-951-3700

Date Completed: _____

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

In re:)
) Case No. 16-47428
)
DIRECTORY DISTRIBUTING)
ASSOCIATES, INC.,) Chapter 11
)
)
Debtor)
)

**BALLOT FOR ACCEPTING OR REJECTING
FIRST AMENDED PLAN OF LIQUIDATION PROPOSED BY JOHN P. VACLAVEK,
CHAPTER 11 TRUSTEE (Class 3)**

To: Marc A. Levinson, Esq., The Orrick Building, 405 Howard Street
San Francisco, CA 94105-2669

John P. Vaclavek, the Chapter 11 Trustee (the "Trustee") of Directory Distributing Associates, Inc. (the "Debtor") filed the First Amended Plan of Plan of Liquidation Proposed by John P. Vaclavek, Chapter 11 Trustee (the "First Amended Plan") and a Plan Summary (the "Plan Summary"). The Plan Summary provides information to assist you in deciding how to vote your ballot.

If your ballot is not received on or before July 8, 2020, and such deadline is not extended, your vote will not count as either an acceptance or rejection of the First Amended Plan. If the First Amended Plan is confirmed by the Bankruptcy Court it will be binding on you whether or not you vote.

**IN ORDER TO VOTE TO ACCEPT OR REJECT THE FIRST AMENDED PLAN,
PLEASE COMPLETE THE FOLLOWING:**

Item 1. AMOUNT OF CLAIM. The Publishers¹ collectively hold a claim against the Debtor in the amount of \$ _____.

Item 2. VOTE ON THE FIRST AMENDED PLAN. The Publishers hereby vote to:

¹ The Publishers include AT&T Services, Inc.; its affiliated non-publishing entities sued in the FLSA Litigation (consisting of AT&T Corp. and AT&T Inc.); former AT&T entities named in the FLSA Litigation (consisting of AT&T Advertising, L.P., AT&T Advertising & Publishing, AT&T Advertising Solutions, and Pacific Bell Directory); and their lawful successors any entity that formerly did business as AT&T Advertising Solutions which YP acquired in 2012; YP affiliated entities named in the FLSA Litigation (consisting of YP Western Directory LLC; YP Shared Services LLC; YP Advertising & Publishing, LLC, as successor to AT&T Advertising, L.P.; YP LLC as successor to YP Shared Services LLC; YP Holdings LLC); and their lawful successors, including, but not limited to, Dex Media, Inc.; Thryv Holdings, Inc.; and Thryv, Inc.

- Check one box: Accept the First Amended Plan
 Reject the First Amended Plan

Item 3. ACKNOWLEDGEMENTS AND CERTIFICATION. By signing this Ballot, the undersigned acknowledges that he has been provided with a copy of the Plan Summary. The undersigned further certifies that (i) he is the attorney for the Publishers, (ii) the Publishers have designated him as their agent and attorney-in-agent for the purposes of signing and submitting this Ballot, and (iii) he has full power and authority to submit this Ballot on behalf of the Publishers.

Print or Type Name of Claimant:	Publishers
Name of signatory	Marc A. Levinson, Esq.
Street Address:	The Orrick Building 405 Howard Street
City, State, and Zip Code:	San Francisco, CA 94105-2669
Telephone Number:	415-773-5700
Date Completed:	_____

Item 3. ACKNOWLEDGEMENTS AND CERTIFICATION. I acknowledge that I have been provided with a copy of the Plan and Disclosure Statement.

Print or Type Name of Claimant: _____

Name of signatory _____

Address: _____

Telephone Number (optional): _____

Email address (optional): _____

Date Completed: _____
(mo)/(day)/(year)

Please sign below

NAME
STREET ADDRESS
CITY, STATE ZIP CODE

Your Estimated Compensable
Workweeks: _____

The estimated amount you will receive if
the Plan is approved: _____ *

*This amount may change slightly
depending on other claims and
expenses and part of it is subject to
withholding taxes.

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

In re:) Chapter 11
)
DIRECTORY DISTRIBUTING) Case No. 16-47428
ASSOCIATES, INC.,)
)
Debtor.)

**NOTICE TO CARRIERS OF RIGHTS AND DEADLINES WITH RESPECT TO
DIRECTORY DISTRIBUTING ASSOCIATES, INC.'S BANKRUPTCY CASE**

You are receiving this Notice because records show that you delivered telephone books published by the Publishers¹ for Directory Distributing Associates, Inc. ("DDA") between June 25, 2009 and December 31, 2015. DDA and the Publishers were sued in two separate lawsuits, one in Texas and one in California ("FLSA Litigation"), alleging they violated the law by not paying minimum wage and/or overtime to certain carriers. Those allegations were denied. DDA stopped operating and then filed for bankruptcy in the Bankruptcy Court for the Eastern District of Missouri (the "Bankruptcy Court") in 2016. DDA's bankruptcy filing stopped the FLSA Litigation.

DDA's bankruptcy trustee (the "Trustee"), the lawyers representing some of the carriers in the Texas and California cases and others reached a preliminary agreement on behalf of their clients to resolve the issues raised in the Texas and California cases and to provide payments to carriers. They put that agreement into a plan of liquidation (the "Plan") that provides for payments to carriers who file claims with the Bankruptcy Court.

The Plan must be approved by the Bankruptcy Court before you can receive any payments. Before that happens, carriers have to vote on whether to accept or reject the Plan. This Notice explains how you can vote on the Plan and what will happen at the hearing where the Bankruptcy Court will decide whether to approve the Plan or not.

The Bankruptcy Court authorized this Notice. You are not being sued or being charged with any wrongdoing. Instead, this Notice tells you how your claims for potential unpaid or underpaid wages and overtime might be affected by DDA's bankruptcy case and how you can potentially receive a payment in that case.

¹ Publishers means AT&T Services, Inc., and its affiliated non-publishing entities, AT&T Corp. and AT&T Inc.; any entity that formerly did business as AT&T Advertising & Publishing, AT&T Advertising Solutions, or Pacific Bell Directory; AT&T Advertising Solutions; YP Shared Services LLC; YP Advertising & Publishing LLC; YP LLC; YP Holdings LLC; Dex Media Inc.; Thryv Holdings, Inc., Thryv, Inc.; and any lawful successors.

WHAT DO I NEED TO KNOW ABOUT THE BANKRUPTCY CASE AT THIS TIME?

The Trustee filed the Plan and a Summary of Plan of Liquidation (“Plan Summary”) that gives you a summary of how the Plan affect your rights. On May __, 2020, the Bankruptcy Court approved the mailing of this Notice to carriers and procedures and deadlines for carriers like you to file claim forms called proofs of claim, to vote for or against the Plan, and to object to the Plan (if you want to do so).

WHAT DOCUMENTS AM I RECEIVING?

In this mailing you received four documents:

1. This Notice.
2. The Plan Summary, which gives a summary of what the Plan says.
3. A green Proof of Claim form you must submit if you want to receive any payment.
4. A blue Ballot you must submit if you want to vote on the Plan.
5. A postage paid, preaddressed envelope for you to use to return the Proof of Claim and/or the Ballot by mail.

You did not receive a complete copy of the Plan because it is very long. However, you may download a copy of the Plan for free at <http://dm.epiq11.com/directory> or www.ddadeliveryworkersgroup.com.

HOW DOES THE PLAN PAY CARRIERS? HOW DO I GET PAID?

As described in more detail in the Plan Summary, the Plan creates a pool of money that will be available to pay carriers who file their green Proof of Claim form on time. What any carrier can receive depends on how many “Compensable Workweeks” (Sunday to Saturday) s/he worked for DDA or another company delivering Publishers’ books. All payments will be subject to state and federal withholdings.

If the Court approves the Plan, the Trustee estimates you will be entitled to receive approximately the gross amount listed on the green Proof of Claim form included in this mailing for the work you did for DDA. The green Proof of Claim form explains what to do if you disagree with the Trustee’s estimate of your number of Compensable Workweeks.

In addition, you may be eligible to receive additional amounts if you delivered Publishers’ telephone books for companies other than DDA, such as Product Development Corporation. The green Proof of Claim form explains what information to provide to receive additional amounts if you delivered Publishers’ telephone books for companies other than DDA.

Please review the green Proof of Claim form carefully. You cannot receive any money unless you submit that Proof of Claim by mail or Internet so that it is **received on or before July 8, 2020**. Instructions to submit the green Proof of Claim are below and on the green Proof of Claim form. If you return your Proof of Claim by mail, please make certain the form is filled out completely and that your handwritten information is readable.

HOW CAN I SUBMIT A PROOF OF CLAIM?

A green Proof of Claim form is included in this mailing. You should review the Proof of Claim for additional instructions on how to prepare and submit it.

Your Proof of Claim must be submitted by mail or on line to the address listed on that form so that it *actually is received* by **July 8, 2020**. Proofs of claim submitted through any other means will not be accepted.

Proofs of claim submitted by mail must be sent to the address on the enclosed business reply envelope. If you use the business reply envelope, you will not have to pay postage. Proofs of Claim also can be submitted through the Internet for free at the following website: [---].

You must submit a Proof of Claim to receive a distribution. If you do not submit a Proof of Claim, or if your Proof of Claim is not actually received by July 8, 2020 date above, you will not be entitled to any distribution.

HOW ELSE DOES THE PLAN AFFECT ME?

The Plan contains releases and injunctions that will affect your rights. You should review Article XI of the Plan for a complete discussion of those releases and injunctions, but a summary of the release and injunctions is as follows:

The Plan releases the Publishers, DDA's shareholders, and certain individuals from the FLSA Claims. The Plan also releases DDA's shareholders and certain individuals from actions to recover money from them related to DDA. The Plan provides for all FLSA Claims, including claims of the FLSA Counsel, to be channeled and paid only from an FLSA Claims Trust.

The releases and injunctions apply to all DDA's creditors, including all carriers who delivered telephone books for DDA. If the Plan is approved, parties receiving this notice will be unable to sue DDA and certain other parties that contracted with DDA for the delivery of telephone books except as provided in the Plan.

This is a summary only and is qualified in all respects by the language of the Plan.

WHAT IS GOING TO HAPPEN NEXT IN THE BANKRUPTCY?

The Bankruptcy Court will hold a hearing on **July 20, 2020 at 11:00 a.m. (Central Time)** to consider whether to approve the Plan.

WHAT ARE MY NEXT STEPS?

Submitting a Claim

As stated above, you must submit your green Proof of Claim form so that it is received on or before **July 8, 2020** in order to receive any payment under the Plan.

Voting on the Plan

A blue Ballot is included in this mailing that you can use to vote for or against the Plan if you want. You should review the Ballot for additional instructions on how to prepare and submit it.

Your Ballot must be submitted by mail or on line to the address listed on that form so that it *actually is received* by **July 8, 2020**. Ballots submitted through any other means will not be accepted.

Ballots submitted by mail must be sent to the address on the enclosed business reply envelope. If you use the business reply envelope, you will not have to pay postage. Ballots also can be submitted through the Internet for free at the following website: [---].

No one can retaliate against you if you vote for or against the Plan. You do not have to vote on the Plan to receive a payment, but you must submit a green Proof of Claim form so that it *actually is received* on or before **July 8, 2020** in order to receive a distribution.

Objecting to the Plan

If you want to object to the Plan, you must do so no later than **July 8, 2020**. Any objection must: (i) be in writing; (ii) state your name, address, telephone number, and e-mail address; (iii) say what you object to; and (iv) tell why you object. You can get a form for this purpose for free on the Internet at <http://dm.epiq11.com/directory>. You should mail your objection to the Clerk of the Court at the following address:

United States Bankruptcy Court
Eastern District of Missouri
111 South 10th St., 4th Floor
St. Louis, MO 63102
Attn: Directory Distributing Associates, Inc., No. 16-47428

You must mail your objection early enough so the Clerk of the Court receives it on or before **July 8, 2020**.

Objections filed by attorneys must be filed through the CM/ECF system on the Bankruptcy Court's website at <https://www.ecf.moeb.uscourts.gov>.

No one can retaliate against you if you object to the Plan.

WHEN AND WHERE ARE THE July 20, 2020 HEARINGS AND CAN I ATTEND?

The Bankruptcy Court will hold a hearing on whether to approve the Plan on **July 20, 2020 at 11:00 Central Time**. The hearing will occur before the Honorable Kathy A. Surratt-States, Chief United States Bankruptcy Judge, at the Thomas F. Eagleton United States Courthouse, 111 South 10th St., Courtroom 7 North, St. Louis, MO 63102.

You may attend or participate in the hearing if you want to do so. You will be allowed to tell the Bankruptcy Court about your objection so long as you have submitted a written objection as described above. **You do not have to attend or participate in the hearing to be eligible to receive money.**

Please review the Bankruptcy Court's website at www.moeb.uscourts.gov before coming to the hearing to become familiar with the requirements for the Court, including directions, where you can park, disability access, the requirement to bring valid photo identification in order to enter the Courthouse, and for updates on the COVID-19 virus that may impact access to the Courthouse.

Dated this [---] day of _____, 2020.

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

In re:)
) Case No. 16-47428
DIRECTORY DISTRIBUTING)
ASSOCIATES, INC.,) Chapter 11
)
Debtor)
)

**NOTICE OF NON-VOTING STATUS UNDER THE FIRST AMENDED PLAN OF LIQUIDATION
FILED BY JOHN P. VACLAVEK, CHAPTER 11 TRUSTEE**

PLEASE TAKE NOTICE OF THE FOLLOWING:

1. On October 14, 2016 (the "Petition Date"), the above-captioned Debtor filed a voluntary petition for relief Under Chapter 11 of Title 11 of the United States Code (the "Bankruptcy Code").

2. On April 1, 2020, John P. Vaclavek, Chapter 11 Trustee (the "Trustee") filed the First Amended Plan of Liquidation Proposed by John P. Vaclavek. Chapter 11 Trustee (dated March [--], 2020 (the "First Amended Plan").

3. You are receiving this Notice because you have been identified the holder of a general unsecured claim against Directory Distributing Associates, Inc. ("DDA").

4. If the Court confirms the First Amended Plan, the holders of general unsecured claims (Class 1) will be paid in full on the effective date of the First Amended Plan. Because they are unimpaired under the First Amended Plan, holders of general unsecured claims are conclusively presumed to have accepted the First Amended Plan under 11 U.S.C. §1126(f) and are thus not entitled to vote on the First Amended Plan.

5. If you wish to challenge the Trustee's classification of your claim or interest, you must file a motion, pursuant to Bankruptcy Rule 3018(a) (a "Rule 3018 Motion") requesting the Court to temporarily allow your claim or interest in a different classification or amount for purposes of voting to accept or reject the First Amended Plan. All Rule 3018 Motions must be filed on or before July 8, 2020. You must comply with the Bankruptcy Court's rules and procedures for electronic filing. A hearing on the Rule 3018 Motion will be held at the same date, time and place as the Confirmation Hearing (see below).

6. In addition, if you wish to object to the First Amended Plan, you must file an objection on or before on July 8, 2020. You must comply with the Bankruptcy Court's rules and procedures for electronic filing.

7. The Confirmation Hearing will be held at the United States Bankruptcy Court for the Eastern District of Missouri, Kathy A. Surratt-States, Courtroom 7-North, 111 S. Tenth Street, St. Louis, Missouri 63102 on July 20, 2020 at 11:00 a.m. (prevailing Central Time). The

Confirmation Hearing may be continued from time to time without further notice other than the announcement of the adjourned date at the Confirmation Hearing or any continued hearing.

Dated: _____, 2020

THOMPSON COBURN LLP

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Counsel for John P. Vaclavek, Chapter 11 Trustee

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

In re:) Chapter 11
)
DIRECTORY DISTRIBUTING) Case No. 16-47428
ASSOCIATES, INC.,)
) **Hearing Date: July 20, 2020**
Debtor.) **Hearing Time: 11:00 a.m.**
) **Objection Deadline: July 8, 2020**
)
)

**NOTICE OF HEARING ON CONFIRMATION OF THE FIRST AMENDED
PLAN OF LIQUIDATION PROPOSED BY JOHN P. VACLAVEK, CHAPTER 11
TRUSTEE (Dated as of April 1, 2020) (CLASSES 3 AND 4)**

PLEASE TAKE NOTICE that on May , 2020, the United States Bankruptcy Court for the Eastern District of Missouri approved the Plan Summary (the "**Plan Summary**"), which accompanies the First Amended Plan of Liquidation Proposed by John P. Vaclavek (dated as of April 1, 2020) (the "**First Amended Plan**"), and further approved use of the Plan Summary as a disclosure statement in this case.

PLEASE TAKE FURTHER NOTICE that the Bankruptcy Court will conduct a hearing (the "**Confirmation Hearing**")¹ on **July 20, 2020, at 11:00 a.m.**, to consider confirmation of the First Amended Plan at the Thomas F. Eagleton Courthouse, 111 S. Tenth St., Courtroom 7-North, St. Louis, Missouri.

PLEASE TAKE FURTHER NOTICE that copies of the Plan, the Plan Summary, this Notice, a Ballot, and other materials are being served on the representatives of the Holders of Class 3 and Class 4 Claims under the Plan.

The Objection Deadline

PLEASE TAKE FURTHER NOTICE that written objections, if any, to the confirmation of the First Amended Plan must be filed with the Clerk of the Bankruptcy Court, Thomas F. Eagleton Courthouse, 111 S. Tenth St., Courtroom 7-South, St. Louis, Missouri (electronic filing required) on or before July 8, 2020 (the "Objection Deadline**"). Any such objections shall state with particularity all grounds for the objection such objection and shall provide the specific text that the objecting party believes to be appropriate to strike from or insert into the Plan. The Bankruptcy Court shall overrule any objection to the Plan that is filed above after the Objection Deadline.**

The Voting Deadline

PLEASE TAKE FURTHER NOTICE THAT the Court has established a deadline of **July 8, 2020** for the submission of ballots for acceptance or rejection of the Plan (the "**Voting**

¹ Capitalized terms used herein but not defined have the meaning ascribed to such terms in the First Amended Plan.

Deadline”). All ballots shall be mailed so that they are received before the Voting Deadline. Ballots should be mailed to **[Insert Epiq information]** on or before July 8, 2020, and unless the deadline is extended, such creditor’s vote will not count as either an acceptance or rejection of the Plan.

Dated: May [redacted], 2020

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Trustee