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**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

In re:

MADISON SQUARE BOYS & GIRLS CLUB,  
INC.

Debtor.<sup>1</sup>

Chapter 11

Case No. 22-10910 (SHL)

**APPELLANT XCLAIM'S AMENDED<sup>2</sup> STATEMENT OF ISSUES ON APPEAL AND  
DESIGNATION OF ITEMS TO BE INCLUDED IN THE RECORD ON APPEAL**

Pursuant to Rule 8009(a) of the Federal Rules of Bankruptcy Procedure, Xclaim Inc. ("**Xclaim**"), by and through its undersigned counsel, respectfully submits the following statement of issues to be presented on appeal and designation of items for inclusion in the record on appeal in connection with Xclaim's appeal from the following: (1) the *Memorandum of Decision* [Docket No. 143], and (2) the *Final Order Authorizing Retention and Appointment of Epiq Corporate Restructuring, LLC as Claims and Noticing Agent Under 28 U.S.C. § 156(c), 11 U.S.C. § 105(a), and Local Rule 5075-1 and Granting Related Relief* [Docket No. 86] entered in the above-

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<sup>1</sup> The last four digits of the Debtor's federal tax identification numbers are 6792. The Debtor's mailing address is 250 Bradhurst Avenue, New York, New York 10039.

<sup>2</sup> Xclaim is amending its Statement of Issues on Appeal and Designation of Items to be Included in the Record on Appeal, filed on September 15, 2022 [Docket No. 199] solely to include the filing date and docket number of designation number 11.

captioned chapter 11 by the United States Bankruptcy Court for the Southern District of New York (the “**Bankruptcy Court**”).

**STATEMENT OF ISSUES TO BE PRESENTED ON APPEAL**

1. Whether the Bankruptcy Court erred in holding that the retention of Epiq Corporate Restructuring, LLC (“**Epiq**”) by debtor Madison Square Boys & Girls Club, Inc. must exclude any file sharing arrangement with Xclaim, including but not limited to the Access Agreement dated June 24, 2022 (the “**Access Agreement**”).

2. Whether the Bankruptcy Court erred in holding that Epiq may not be compensated by Xclaim for services using data that Epiq obtains as claims agent and may not enter into such a business relationship with Xclaim, including without limitation because the Clerk of the Court would not be permitted to enter into such a business arrangement or receive such fees.

**DESIGNATION OF RECORD ON APPEAL**

Xclaim designates the following items to be included in the record on appeal pursuant to Bankruptcy Rule 8009(a). Each designated item shall include any and all exhibits and/or attachments thereto. Xclaim reserves the right to supplement this designation and the record on appeal.

<b>Item No.</b>	<b>Filing Date</b>	<b>Docket No. (Case No. 22-10910)</b>	<b>Pleading/Document/Exhibit</b>
1	6/29/22	2	<i>Debtor’s Application for Entry of an Order Authorizing Retention and Appointment of Epiq Corporate Restructuring, LLC as Claims and Noticing Agent Under 28 U.S.C § 156(c), 11 U.S.C. § 105(a) and Granting Related Relief</i>
2	7/1/22	33	<i>Interim Order Authorizing Retention and Appointment of Epiq Corporate Restructuring, LLC as Claims and Noticing Agent Under 28 U.S.C § 156(c), 11 U.S.C. § 105(a) and Granting Related Relief</i>

<b>Item No.</b>	<b>Filing Date</b>	<b>Docket No. (Case No. 22-10910)</b>	<b>Pleading/Document/Exhibit</b>
3	7/13/22	55	<i>Letter from Epiq Corporate Restructuring to the Honorable Sean H. Lane Regarding Xclaim Access Agreement</i>
4	7/21/22	82	<i>Transcript of Hearing Held on July 20, 2022 at 11:05 AM re: Second Day Hearing</i>
5	7/22/22	84	<i>Transcript of Hearing Held on July 1, 2022 at 11:05 AM re: First Day Hearing</i>
6	7/29/22	86	<i>Final Order Authorizing Retention and Appointment of Epiq Corporate Restructuring, LLC as Claims and Noticing Agent Under 28 U.S.C § 156(c), 11 U.S.C. § 105(a) and Granting Related Relief</i>
7	8/18/22	143	<i>Memorandum of Decision</i>
8	9/1/22	180	<i>Xclaim Inc. 's Motion for Entry of an Order Clarifying or Vacating the Court's August 18, 2022 Memorandum of Decision</i>
9	9/1/22	181	<i>Notice of Appeal</i>
10	9/13/22	197	<i>Order Regarding the Court's August 18, 2022 Memorandum of Decision</i>
11	9/16/22	202	<i>Transcript of Status Conference Held on September 12, 2022 re: Xclaim Inc. 's Motion for Entry of an Order Clarifying or Vacating the Court's August 18, 2022 Memorandum of Decision</i>

Dated: September 23, 2022  
Los Angeles, CA

Respectfully submitted,

**LATHAM & WATKINS LLP**

By: /s/ Kimberly A. Posin  
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