

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF VIRGINIA  
Richmond Division**

In re:	)	
	)	Chapter 11
	)	
PIER 1 IMPORTS, INC., et al., <sup>1</sup>	)	Case No. 20-30805 (KRH)
	)	
Debtors.	)	(Jointly Administered)
	)	

**NOTICE OF AND MOTION TO ALLOW REMOTE TESTIMONY**

Cynthia Scarsella has filed papers with the Court to seeking approval to provide remote testimony.

**Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)**

If you do not want the Court to grant the relief sought in this motion, or if you want the Court to consider your views on the motion, then on or before **December 19, 2022**, you must file a written response explaining your position with the Court at the following address:

William C. Redden, Clerk  
U.S. Bankruptcy Court  
Eastern District of Virginia, Richmond Division  
701 East Broad Street, Suite 4000  
Richmond, VA 23219

You must also mail a copy to:

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<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are set forth in the Debtors' Motion for Entry of an Order (I) Directing Joint Administration of Chapter 11 Cases and (II) Granting Related Relief [Docket No. 3]. The location of the Debtors' service address is 100 Pier 1 Place, Fort Worth, Texas 76102.

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You must also attend a hearing to be held on **December 21, 2022 at 11:00 a.m.** in Judge Huennekens' Courtroom, United States Bankruptcy Court, U.S. Courthouse, 701 E. Broad Street, Room 5000, Richmond, Virginia 23219. The hearing may be conducted by electronic means, including by telephone or video conference, as directed by the Court. Additional information regarding procedures for hearings before the Court, including telephonic and/or videoconference hearings, in light of the ongoing public response to COVID-19 are available by visiting the Court's website at: <https://www.vaeb.uscourts.gov/>.

If you or your attorney do not take these steps, the Court may decide that you do not oppose the relief sought in the Motion and may enter an Order granting that relief.

### **MOTION TO ALLOW REMOTE TESTIMONY**

Comes now, Cynthia Scarsella ("Ms. Scarsella"), by counsel, pursuant to Rule 43 of the Federal Rules of Civil Procedure (the "Rules"), as made applicable to this proceeding by Rule 9017 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), submits the following Motion to Allow Remote Testimony, requesting the Court permit Ms. Scarsella and her Personal Injury Counsel (defined herein) to testify via ZoomGov at the final hearing of the pending Motion for Relief from Plan Injunction scheduled to be heard January 17, 2023 at 11:00 a.m. In support of this Motion, Ms. Scarsella states the following:

1. On February 17, 2020 (the "Petition Date"), Pier 1 Imports, Inc. and seven affiliated entities (collectively the "Debtors") filed petitions in this Court under Chapter 11 of Title 11 of the United States Code. On February 18, 2020, the petitions were administratively consolidated under Bankruptcy Case No. 20-30805 (KRH) by order of this Court.

2. Jurisdiction is conferred upon this Court pursuant to 28 U.S.C. § 1334. This matter is a "core" proceeding as set forth under 28 U.S.C. § 157.

3. On or about October 14, 2016, Ms. Scarsella, by counsel, filed a verified complaint

(the “Complaint”) against Pier 1 Imports (US), Inc. (“Pier 1”) in the Supreme Court of the State of New York, New York County (the “State Court”), initiating a case identified by Index Number 158690/2016 (the “State Court Action”).

4. As of the Petition Date, the State Court Action was stayed by the automatic stay of Section 362 (the “Automatic Stay”). On July 30, 2020, an Order Confirming the Amended Joint Chapter 11 Plan was entered in this bankruptcy case, replacing the Automatic Stay with the Plan Injunction (the “Plan Injunction”).

5. On October 18, 2022, Ms. Scarsella filed a Motion for Relief from Plan Injunction (the “Motion for Relief”) (ECF No. 1483), seeking relief from the Plan Injunction to proceed with the State Court Action. The final hearing on the Motion for Relief is scheduled for January 17, 2023 at 11:00 a.m. in this Court (the “Final Hearing”).

6. The anticipated testimony of Ms. Scarsella, and her personal injury counsel The Shakhnevich Law Group, PC (“Personal Injury Counsel”), will be comprised of the facts surrounding the filing of the State Court Action and the progress made during the pendency of the State Court Action prior to the Petition Date.

7. Ms. Scarsella resides in New York and is currently scheduled to undergo hand surgery on January 3, 2023. Additionally, Ms. Scarsella is 59 years old and suffers from chronic back pain. Traveling from New York to Virginia would place a considerable burden on Ms. Scarsella’s health and wellbeing.

8. Pursuant to Rule 43 as made applicable to the Final Hearing by Bankruptcy Rule 9017, the Court, “for good cause in compelling circumstances and with appropriate safeguards... may permit testimony in open court by contemporaneous transmission from a different location.”

9. Considering the continuing levels of high transmission with respect to the COVID-

19 pandemic, in the Commonwealth and in the State of New York, Ms. Scarsella's current health status presents a compelling circumstance warranting a departure from the usual requirement of face-to-face testimony, and appropriate safeguards may be established in allowing Ms. Scarsella, and her Personal Injury Counsel, to submit testimony, via ZoomGov or another appropriate telecommunication platform.

WHEREFORE, Cynthia Scarsella respectfully requests that this Court enter an Order allow Ms. Scarsella and The Shakhnevich Law Group, PC to provide testimony, over ZoomGov at the final hearing on the Motion for Relief from Plan Injunction scheduled January 17, 2023 at 11:00 a.m. and for such other relief as the Court deems just and proper.

Dated: December 5, 2022

Respectfully submitted,

CYNTHIA SCARSELLA

By: /s/ Karl A. Moses, Jr.  
Counsel

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*Counsel for Cynthia Scarsella*

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on this 5<sup>th</sup> day of December 2022, I caused a copy of the foregoing to be served through the Court's CM/ECF system on the 2002 Service List receiving notices in these cases.

/s/ Karl A. Moses, Jr. \_\_\_\_\_