

**UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**
www.flmb.uscourts.gov

IN RE:

Chapter 11 Cases

RED LOBSTER MANAGEMENT LLC,¹

Case No. 6:24-bk-02486-GER

Jointly Administered with

RED LOBSTER RESTAURANTS LLC,
RLSV, INC.,
RED LOBSTER CANADA, INC.,
RED LOBSTER HOSPITALITY LLC,
RL KANSAS LLC,
RED LOBSTER SOURCING LLC,
RED LOBSTER SUPPLY LLC,
RL COLUMBIA LLC,
RL OF FREDERICK, INC.,
RED LOBSTER OF TEXAS, INC.,
RL MARYLAND, INC.,
RED LOBSTER OF BEL AIR, INC.,
RL SALISBURY, LLC,
RED LOBSTER INTERNATIONAL HOLDINGS LLC,

Case No. 6:24-bk-02487-GER
Case No. 6:24-bk-02488-GER
Case No. 6:24-bk-02489-GER
Case No. 6:24-bk-02490-GER
Case No. 6:24-bk-02491-GER
Case No. 6:24-bk-02492-GER
Case No. 6:24-bk-02493-GER
Case No. 6:24-bk-02494-GER
Case No. 6:24-bk-02495-GER
Case No. 6:24-bk-02496-GER
Case No. 6:24-bk-02497-GER
Case No. 6:24-bk-02498-GER
Case No. 6:24-bk-02499-GER
Case No. 6:24-bk-02500-GER

Debtors.

**PLAN ADMINISTRATOR'S TWENTY-EIGHTH OMNIBUS
OBJECTION TO CERTAIN CLAIMS
(§ 503(b)(9) ADMINISTRATIVE EXPENSE CLAIMS)**

¹ The Debtors in these Chapter 11 Cases, along with the last four digits of each Debtor's federal tax identification number are Red Lobster Management LLC (6889); Red Lobster Sourcing LLC (3075); Red Lobster Supply LLC (9187); RL Kansas LLC (2396); Red Lobster Hospitality LLC (5297); Red Lobster Restaurants LLC (4308); RL Columbia LLC (7825); RL of Frederick, Inc. (9184); RL Salisbury, LLC (7836); RL Maryland, Inc. (7185); Red Lobster of Texas, Inc. (1424); Red Lobster of Bel Air, Inc. (2240); RLSV, Inc. (6180); Red Lobster Canada, Inc. (4569); and Red Lobster International Holdings LLC (4661). The Debtors' principal offices are located at 450 S. Orange Avenue, Suite 800, Orlando, FL 32801.

THIS IS AN OBJECTION TO YOUR CLAIM. THE OBJECTING PARTY IS ASKING THE COURT TO DISALLOW, EXPUNGE, RECLASSIFY, OR REDUCE THE CLAIM THAT YOU FILED IN THIS BANKRUPTCY CASE.

CLAIMANTS RECEIVING THIS OBJECTION SHOULD LOCATE THEIR NAMES AND CLAIMS ON EXHIBIT A TO THE OBJECTION. YOU SHOULD IMMEDIATELY CONTACT THE OBJECTING PARTY TO RESOLVE THE DISPUTE. IF YOU DO NOT REACH AN AGREEMENT, YOU MUST FILE A RESPONSE TO THIS OBJECTION AND SEND A COPY OF YOUR RESPONSE TO THE NOTICE PARTIES (DEFINED HEREIN) WITHIN 21 DAYS AFTER THE OBJECTION WAS SERVED ON YOU.

YOUR RESPONSE MUST STATE WHY THE OBJECTION IS NOT VALID. IF YOU DO NOT FILE A RESPONSE WITHIN 21 DAYS AFTER THE OBJECTION WAS SERVED ON YOU, YOUR CLAIM MAY BE DISALLOWED WITHOUT A HEARING.

Mark Smith, in his capacity as the Plan Administrator (the “Plan Administrator”) for the estates of Red Lobster Management LLC and its Debtor Affiliates (collectively, the “Debtors”) in these chapter 11 cases (the “Chapter 11 Cases”), by and through undersigned counsel, files this omnibus objection (the “Objection”) seeking entry of an order (the “Proposed Order”), substantially in the form attached hereto as Exhibit 1, reclassifying administrative expense claims asserted pursuant to 11 U.S.C. § 503(b)(9) (collectively, the “§ 503(b)(9) Claims”) asserted by the claimants identified on Exhibit A to the Proposed Order (collectively, the “§ 503(b)(9) Claimants”).

In support of this Objection, the Plan Administrator submits the *Declaration of Mark Smith in Support of the Plan Administrator’s Twenty-Eighth Omnibus Objection to Certain Claims (§ 503(b)(9) Administrative Expense Claims)* (the “Smith Decl.”), attached hereto as Exhibit 2 and incorporated herein, state the following:

Jurisdiction and Venue

1. This Court has jurisdiction to consider this Objection pursuant to 28 U.S.C. §§ 157 and 1334.

2. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue in this Court is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

3. The statutory predicates for the relief sought in this Objection are Sections 105 and 502 of title 11 of the United States Code (the “Bankruptcy Code”) and Rule 3007 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and Rule 3007-1 of the Local Rules for the Middle District of Florida Bankruptcy Court (the “Local Rules”).

Background

A. Procedural Background

4. On May 19, 2024 (the “Petition Date”), each of the Debtors commenced with this Court voluntary cases under chapter 11 of the Bankruptcy Code.

5. On May 31, 2024, the Office of the United States Trustee for the Middle District of Florida (the “U.S. Trustee”) appointed an official committee of unsecured creditors in these Chapter 11 Cases (the “Creditors’ Committee”). *See* ECF No. 250. No request has been made for the appointment of a trustee or examiner.

6. The Debtors continue to operate their businesses and to manage their affairs as debtors-in-possession pursuant to Sections 1107(a) and 1108 of the Bankruptcy Code.

7. For a detailed description of the Debtors and their operations, the Debtors respectfully refer the Court and parties in interest to the Declaration of Jonathan Tibus in Support of Debtors’ Chapter 11 Petitions and First Day Relief [ECF No. 6] (the “First Day Declaration”). Those facts are incorporated by reference herein.

8. On May 22, 2024, this Court entered an order approving the retention of Epiq Corporate Restructuring, LLC (“Epiq”) as the Debtors’ claims and noticing agent. [ECF No. 156].

9. Pursuant to the Notice of Chapter 11 Bankruptcy Case entered on May 24, 2024 (the “Notice”), the general claims bar date in these Chapter 11 Cases was July 28, 2024 (the “General Bar Date”), and the deadline for all governmental agencies to file proofs of claim is November 15, 2024. [ECF No. 194].

10. On September 6, 2024, the Court entered a *Findings of Fact, Conclusions of Law, and Order (I) Approving the Adequacy of the Disclosure Statement on a Final Basis, (II) Confirming the Joint Chapter 11 Plan for Red Lobster Management LLC and Its Debtor Affiliates, (III) Setting Deadlines, and (IV) Setting Post-Confirmation Status Conference* [ECF No. 1140].

B. Claims Reconciliation Process

11. On August 1, 2024, this Court entered an Order granting the *Debtors’ Motion for Entry of an Order (I) Approving Omnibus Claims Objection Procedures and (II) Authorizing Additional Claims Objection Categories for Omnibus Claim Objections* [ECF No. 760] approving the Debtors’ proposed claim objection procedures (the “Objection Procedures”). This Objection is filed in accordance with the Objection Procedures.

12. To date, individuals and entities have filed over 3,000 proofs of claim in these Chapter 11 Cases. All proofs of claims received in these Chapter 11 Cases are recorded on the official claims register, (the “Claims Register”).

13. In the ordinary course of business, including subsequent to the Petition Date, the Debtors maintained books and records (the “Books and Records”) that reflect, among other things, the Debtors’ liabilities and the amounts owed to their creditors. The Plan Administrator, with the assistance of the his professionals, are in the process of reviewing the Books and Records and

reconciling the proofs of claim with the Books and Records to determine the validity of the proofs of claim.

14. In the claim review process, the Plan Administrator has determined that the § 503(b)(9) Claims incorrectly assert administrative expense status under 11 U.S.C. § 503(b)(9), whether in full or in part, and should be reclassified to Class 4 General Unsecured Claims to the extent administrative expense priority status is asserted. More specifically, while each of the proof of claim forms for the § 503(b)(9) Claims checks “Yes” to the question “[d]oes this claim qualify as an Administrative Expense under 11 U.S.C. § 503(b)(9)” and inserted an “[a]mount that qualifies as an Administrative Expense” under that statute, the amounts asserted under each of the § 503(b)(9) Claims reflect only claims for unpaid *services*, ineligible for administrative expense priority under Section 503(b)(9), or, in limited circumstances, claims for goods delivered *more than 20 days* before the petition date or a combination of goods and services in which the provision of services predominates. Accordingly, since Section 503(b)(9) provides administrative expense status only for “the value of any *goods* received by the debtor within 20 days before the commencement of the case . . . in which the goods have been sold to the debtor in the ordinary course of such debtor’s business,” the § 503(b)(9) Claims should be reclassified as general unsecured claims.

Relief Requested

15. By this Objection, the Plan Administrator seeks entry of an order, pursuant to Section 502(b) of the Bankruptcy Code and Bankruptcy Rule 3007, reclassifying the § 503(b)(9) Claims identified on **Exhibit A** to the Proposed Order.

Basis for Relief

A. Proof of Claim Standard

16. Section 502(a) of the Bankruptcy Code provides that “[a] claim or interest, proof of which is filed under section 501 of this title, is deemed allowed, unless a party in interest . . . objects.” 11 U.S.C. § 502. The Debtors have the duty to object to the allowance of any claim that is improper. *See* 11 U.S.C. § 1106(a)(1); *see also In re S. Cinemas, Inc.*, 256 B.R. 520, 526 (Bankr. M.D. Fla. 2000).

17. As set forth in Bankruptcy Rule 3001(f), a properly executed and filed proof of claim constitutes *prima facie* evidence of the validity and the amount of the claim under section 502(a) of the Bankruptcy Code. The burden of proof is to the objecting party, usually a debtor or a trustee, to rebut the *prima facie* validity of the claim. *In re Eddy*, 572 B.R. 774, 778-79 (Bankr. M.D. Fla. 2017). “If the [D]ebtor satisfies his obligation, the burden then shifts back to the creditor ‘to prove the validity of the claim by a preponderance of the evidence.’” *In re Baggett Bros. Farm Inc.*, 315 F. App’x 840, 843 (11th Cir. 2009) (quoting 4 Collier on Bankruptcy ¶ 502.02[3][f] (15th ed. rev. 2007)). While there are shifting evidentiary burdens, the ultimate burden of persuasion is always on the claimant. *See S. Cinemas, Inc.*, 256 B.R. at 526. The objecting party is not required to disprove the claim. *In re King*, 305 B.R. 152, 164 (Bankr. S.D.N.Y. 2004).

18. The Plan Administrator objects to each of the § 503(b)(9) Claims identified on **Exhibit A** to the Proposed Order, which improperly assert administrative expense ninth priority status under Section 503(b)(9) of the Bankruptcy Code. Based on a review of the § 503(b)(9) Claims, the plain and unambiguous language in Section 503(b)(9) of the Bankruptcy Code, and applicable caselaw, the Plan Administrator has determined that there is no basis for the administrative expense priority status asserted with respect to the § 503(b)(9) Claims, whether in

whole or in part. To allow such claims to remain and be treated as priority claims would result in those claimants receiving a disproportionately higher distribution on account of the asserted liabilities to the detriment of other similarly situated claimants.

B. The § 503(b)(9) Claims Are Not Entitled to Administrative Expense Status

19. The § 503(b)(9) Claimants assert priority status under section 503(b)(9) of the Bankruptcy Code. Section 503(b)(9) of the Bankruptcy Code does not apply to the § 503(b)(9) Claims, because it provides administrative expenses ninth priority status for “the value of any *goods* received by the debtor within 20 days before the commencement of the case . . . in which the goods have been sold to the debtor in the ordinary course of such debtor’s business.” *Id.* (emphasis supplied).

20. Because the primary goal of the Bankruptcy Code is to secure equal distribution among creditors, it is well established that priority statutes are to be strictly construed and that priority should not be given to certain claims unless found on a clear statutory purpose. *See Howard Delivery Serv., Inc. v. Zurich Am. Ins. Co.*, 547 U.S. 651, 667 (2006) (“[W]e are guided in reaching our decision by the equal distribution objective underlying the Bankruptcy Code, and the corollary principle that provisions allowing preferences must be tightly construed.”); *Nathanson v. Nat’l Labor Relations Bd.*, 344 U.S. 25, 29 (1952) (“[I]f one claimant is to be preferred over others, the purpose should be clear from the statute.”); *In re Hutchison*, 223 B.R. 586, 588 (Bankr. M.D. Fla. 1988) (“Priority statutes are to be given strict construction since every such claim reduces the funds available to general creditors.”).

21. As explained by the Eleventh Circuit in *In re Paschen*, 296 F.3d 1203, 1207 (11th Cir. 2002), “[i]n construing a statute we must begin, and often should end as well, with the language of the statute itself. When the language of a statute is unambiguous, we need go no

further, because we must presume that Congress said what it meant and meant what it said.” *Id.* (citing and quoting *United States v. Steele*, 147 F.3d 1316, 1318 (11th Cir. 1998) (en banc)). “It is well-settled that courts are required to apply the plain meaning canon of statutory construction in interpretation of the Bankruptcy Code.” *In re Am. Steel Prod., Inc.*, 197 F.3d 1354, 1356 (11th Cir. 1999). “[T]he duty of interpretation does not arise for a statute when the plain language of the statute admits to only one meaning.” *In re Cox*, 338 F.3d 1238, 1242 (11th Cir. 2003) (quoting *Caminetti v. United States*, 242 U.S. 470, 37 S.Ct. 192, 61 L.Ed. 442 (1917)).

22. Section 503(b)(9) of the Bankruptcy Code offers a claimant administrative expense status only where the claimant sells goods received by a debtor within 20 days of the commencement of the debtor’s chapter 11 case and were sold to the debtor in the ordinary course of its business. “Consistent with the plain language of the statute, allowed administrative expenses under § 503(b)(9) should *only* be for claims arising from the sale and delivery of goods to the Debtors, *not from the provision of services.*” *In re Circuit City Stores, Inc.*, 416 B.R. 531, 535-35 (Bankr. E.D. Va. 2009) (emphasis supplied) (collecting cases); *In re Goody’s Family Clothing, Inc.*, 401 B.R. 131, 135 (Bankr. D. Del. 2009) (“under the plain meaning of the term “goods” in both the UCC and the English language and based upon the distinction between “goods” and “services” throughout in the Bankruptcy Code, a claim for an administrative expense under section 503(b)(9) *cannot be a claim for services provided.*”) (emphasis supplied). Because the Bankruptcy Code does not define the term “goods,” most courts construing that term use the definition found in the Uniform Commercial Code since that definition is widely accepted, adopted for commercial transactions, and is more useful than a general dictionary definition. *See 4 Collier on Bankruptcy* ¶ 503.16[1] (Richard Levin & Henry J. Sommer eds., 16th ed.) (citing cases); *Circuit City Stores*, 416 B.R. at 537–39 (adopting predominate factor formulation). In relevant part, this definition

provides that “goods” are comprised of “all things (including specially manufactured goods) which are movable at the time of identification to the contract for sale other than the money in which the price is to be paid, investment securities (Article 8) and things in action.” U.C.C. § 2-105.

23. The Plan Administrator acknowledges that certain of the § 503(b)(9) Claims include minor claims for goods attendant to the services provided by the Claimants. Nonetheless, Eleventh Circuit precedent teaches that, when a contract provides for both the sale of both goods and services, “the court determines whether their predominant factor, their thrust, their purpose, reasonably stated, is the rendition of service, with goods incidentally involved (e.g., contract with artist for painting) or is a transaction of sale, with labor incidentally involved (e.g., installation of a water heater in a bathroom).” *See BMC Indus., Inc. v. Barth Indus., Inc.*, 160 F.3d 1322, 1329 (11th Cir. 1998); *see also, e.g., In re Sunshine-Jr. Stores, Inc.*, 240 B.R. 788, 794 (Bankr. M.D. Fla. 1999) (noting that “[u]nder Florida law, contractors are viewed as service providers, not merchants,” and holding that a contractor hired to remove and replace old gas tanks and a canopy at a gas service station was a service provider under *BMC Indus., supra*). Continuing, the court noted certain factors that were significant (but not determinative), including the language of the contract, how the matter is billed, and whether movable goods are involved, and stated that, whether a contract is predominately one for goods or services is one of fact but can be decided as a question of law where there are no material facts concerning the contract’s provisions. *BMC Indus.*, 160 F.3d at 1330-31.

24. Here, the § 503(b)(9) Claimants provided services only or, to the extent any goods were included at all, the provision of services predominated.² Accordingly, none of the § 503(b)(9) Claimants are entitled to administrative expense ninth priority status for any amount under Section

² Smith Decl., ¶ 5.

503(b)(9) of the Bankruptcy Code. *See American Gen. Fin.*, 296 F.3d at 1207 (“When the language of a statute is unambiguous, we need go no further, because we must presume that Congress said what it meant and meant what it said.”); *BMC Indus., Inc.*, *supra* (adopting predominate factor test).

25. A review of the § 503(b)(9) Claims, when compared against the plain and unambiguous language in 11 U.S.C. § 503(b)(9), confirms that none of the § 503(b)(9) Claims is entitled to administrative expense ninth priority status for any amount since all provided services alone or, to the extent goods were sold, the transactions were predominately for the provision of services.

Separate Contested Matters

26. In accordance with the Objection Procedures, each claim subject to this Objection and the response thereto shall constitute a separate contested matter as contemplated by Bankruptcy Rule 9014, and any order entered by this Court will be deemed a separate order with respect to such claim.

Reservation of Rights

27. Nothing contained in this Objection or any order granting the relief requested in this Objection, herein, and no action taken pursuant to such relief requested or granted, is intended as or shall be construed or deemed to be: (a) an admission as to the amount of, basis for, or validity of any claim against any of the Debtors under the Bankruptcy Code or other applicable nonbankruptcy law; (b) an impairment or waiver of the Plan Administrator’s or any other party in interest’s right to dispute any claim against, or interest in, any Debtor, its property, or its estate on any grounds; (c) a promise or requirement to pay any claim; (d) an assumption, adoption, or rejection of any agreement, contract, or lease under Section 365 of the Bankruptcy Code; (e) an

implication, admission, or finding that any particular claim is an administrative expense claim, other priority claim, or otherwise of a type specified or defined in this Objection or any order granting the relief requested by this Objection; (f) an implication, admission, or finding as to (i) the validity, priority, enforceability, or perfection of any lien on, security interest in, or other encumbrance on the property of any Debtor or its estate or (ii) a waiver or limitation on any party's ability to challenge, recharacterize as equity, void, claw back, or seek other relief with respect to any particular payments authorized hereunder; (g) an impairment or waiver of any claims or causes of action which may exist against any entity; or (h) a waiver of the Plan Administrator's or any other party in interest's rights under the Bankruptcy Code or any other applicable law.

28. The Plan Administrator expressly reserves the right to amend, modify, or supplement this Objection, and to file additional objections to any other claims (filed or not) that may be asserted. Should one or more of the grounds of objection stated in this Objection be overruled, the Plan Administrator reserves the right to object to the § 503(b)(9) Claims on any other ground that bankruptcy and non-bankruptcy law permits.

Conclusion

WHEREFORE, the Plan Administrator respectfully requests that the Court enter an order, substantially in the form attached hereto as **Exhibit 1** (i) granting the relief requested herein and (ii) grant such other and further relief as the Court may deem just and proper.

Dated: September 19, 2024

Respectfully submitted,

/s/ Paul Steven Singerman

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– and –

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Counsel for Plan Administrator

Exhibit 1

**UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**
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IN RE:

Chapter 11 Cases

RED LOBSTER MANAGEMENT LLC,¹

Case No. 6:24-bk-02486-GER

Jointly Administered with

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Debtors.

**ORDER SUSTAINING PLAN ADMINISTRATOR'S TWENTY-EIGHTH
OMNIBUS OBJECTION TO CERTAIN CLAIMS
(§ 503(b)(9) ADMINISTRATIVE EXPENSE CLAIMS)**

THIS CASE came before the Court upon the objection (the “Objection”)² [ECF No. ____]
of the Plan Administrator, pursuant to Sections 105 and 502 of the Bankruptcy Code and

¹ The Debtors in these Chapter 11 Cases, along with the last four digits of each Debtor's federal tax identification number are Red Lobster Management LLC (6889); Red Lobster Sourcing LLC (3075); Red Lobster Supply LLC (9187); RL Kansas LLC (2396); Red Lobster Hospitality LLC (5297); Red Lobster Restaurants LLC (4308); RL Columbia LLC (7825); RL of Frederick, Inc. (9184); RL Salisbury, LLC (7836); RL Maryland, Inc. (7185); Red Lobster of Texas, Inc. (1424); Red Lobster of Bel Air, Inc. (2240); RLSV, Inc. (6180); Red Lobster Canada, Inc. (4569); and Red Lobster International Holdings LLC (4661). The Debtors' principal offices are located at 450 S. Orange Avenue, Suite 800, Orlando, FL 32801.

² Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Objection.

Bankruptcy Rule 3007, seeking entry of an order (this “Order”) reclassifying the claims identified on the attached Exhibit A (the “§ 503(b)(9) Claims”); and upon consideration of the record of these Chapter 11 cases and the *Declaration of Mark Smith in Support of the Plan Administrator’s Twenty-Eighth Omnibus Objection to Certain Claims (§ 503(b)(9) Administrative Expense Claims)*; and the Court having jurisdiction to consider the Objection and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334; and venue being proper before this Court; consideration of the Objection and the relief requested being a core proceeding pursuant to 28 U.S.C. § 157(b); due and proper notice of the Objection having been provided to all interested parties; the Court having noted that the Objection contained the negative notice legend approved by the Court by Order dated August 1, 2024 [ECF No. 760], which informed the parties of their opportunity to respond within 21 days of the date of service; the Court having noted that no party filed a response within the time permitted and the Court therefore considers the matter to be unopposed; and the Court having found and determined that the relief sought in the Objection is in the best interests of the Debtors’ estates, their creditors and all parties in interest, and that the legal and factual bases set forth in the Objection establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor, it is

ORDERED THAT:

1. The Objection is sustained.
2. The § 503(b)(9) Claims set forth on the attached Exhibit A, whether such Claims assert priority status in whole or in part, are reclassified to general unsecured claims.
3. The Plan Administrator is authorized to modify the Claims Register to reflect the relief granted by this Order.

4. Nothing in this Order shall affect any party's rights with respect to the § 503(b)(9) Claims as modified, and all parties' rights with respect to such claims are reserved, including, for the avoidance of doubt, the Plan Administrator's or any estate representative's rights to object in the future to any § 503(b)(9) Claim on any grounds permitted by bankruptcy or nonbankruptcy law.

5. Nothing in this Order shall be deemed (i) an admission as to the validity of any claim or as an allowance of any claim; (ii) a waiver of the Plan Administrator's right to dispute any claim, including the claims set forth on **Exhibit A** hereto, on any grounds, including, but not limited to, pursuant to section 502(d) of the Bankruptcy Code; (iii) a promise or requirement to pay any claim; (iv) an implication or admission that any claim is of a type referenced or defined in this Objection; (v) a waiver or limitation of any of the Plan Administrator's right under the Plan, the Bankruptcy Code, or applicable law; or (vi) a waiver of any other objection to the § 503(b)(9) Claims.

6. Each § 503(b)(9) Claim and the objections by the Plan Administrator thereto, as set forth on **Exhibit A** hereto, constitutes a separate contested matter as contemplated by Bankruptcy Rule 9014. This Order shall be deemed a separate Order with respect to each such § 503(b)(9) Claim. Any stay of this Order pending appeal by any claimants whose claims are subject to this Order shall only apply to the contested matter which involves such claimant and shall not act to stay the applicability and/or finality of this Order with respect to the other contested matters listed in the Objection or this Order.

7. Notwithstanding any applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, or the Local Rules, this Order shall be effective immediately upon its entry.

8. The Court shall retain jurisdiction to construe and enforce this Order.

#

(Attorney Paul Steven Singerman is directed to serve a copy of this order on interested parties who are non-CM/ECF users and to file a proof of service within three days of entry of the order.)

Exhibit A

Twenty - Eighth Omnibus Objection
 Exhibit A - Claims to Be Reclassified

ASSERTED

MODIFIED

	NAME	CLAIM #	DEBTOR	PRIORITY STATUS	AMOUNT	DEBTOR	PRIORITY STATUS	AMOUNT
1	APPALACHIAN ELECTRONICS 726 DOVER AVE PO BOX 1627 MOUNT CARMEL, TN 37645	10710	Red Lobster Management LLC Red Lobster Management LLC	503(b)(9) Unsecured	\$310.54 \$906.37	Red Lobster Management LLC Red Lobster Management LLC	503(b)(9) Unsecured	\$0.00 \$1,216.91
				Subtotal	\$1,216.91		Subtotal	\$1,216.91
Reason: Modified priority reflects that, although the claimant asserted priority under 11 U.S.C. § 503(b)(9), according to Debtors' books and records and/or documentation filed with the proof of claim, claim is not for goods sold and/or goods received outside of the prescribed 20-day receipt period and therefore ineligible for 503(b)(9) priority status .								
2	HENTHORN PLUMBING ATTN MATTHEW HENTHORN PO BOX 610086 REDWOOD CITY, CA 94061	10945	Red Lobster Management LLC	503(b)(9)	\$444.50	Red Lobster Management LLC Red Lobster Management LLC	503(b)(9) Unsecured	\$0.00 \$444.50
							Subtotal	\$444.50
Reason: Modified priority reflects that, although the claimant asserted priority under 11 U.S.C. § 503(b)(9), according to Debtors' books and records and/or documentation filed with the proof of claim, claim is not for goods sold and/or goods received outside of the prescribed 20-day receipt period and therefore ineligible for 503(b)(9) priority status .								
3	RCJCREH CORPORATION 8570 OAKBROOK RIDGE ROCKFORD, MI 49341	10329	Red Lobster Management LLC Red Lobster Management LLC	503(b)(9) Unsecured	\$544.00 \$7,102.00	Red Lobster Management LLC Red Lobster Management LLC	503(b)(9) Unsecured	\$0.00 \$7,646.00
				Subtotal	\$7,646.00		Subtotal	\$7,646.00
Reason: Modified priority reflects that, although the claimant asserted priority under 11 U.S.C. § 503(b)(9), according to Debtors' books and records and/or documentation filed with the proof of claim, claim is not for goods sold and/or goods received outside of the prescribed 20-day receipt period and therefore ineligible for 503(b)(9) priority status .								
	TOTAL				\$9,307.41	TOTAL		\$9,307.41

Exhibit 2

**UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
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Case No. 6:24-bk-02498-GER

RL SALISBURY, LLC,

Case No. 6:24-bk-02499-GER

RED LOBSTER INTERNATIONAL HOLDINGS LLC,

Case No. 6:24-bk-02500-GER

Debtors.

**DECLARATION OF MARK SMITH IN SUPPORT OF PLAN ADMINISTRATOR'S
TWENTY-EIGHTH OMNIBUS OBJECTION TO CERTAIN CLAIMS
(§ 503(b)(9) ADMINISTRATIVE EXPENSE CLAIMS)**

I, Mark Smith, declare that the following is true to the best of my knowledge, information and belief:

¹ The Debtors in these Chapter 11 Cases, along with the last four digits of each Debtor's federal tax identification number are Red Lobster Management LLC (6889); Red Lobster Sourcing LLC (3075); Red Lobster Supply LLC (9187); RL Kansas LLC (2396); Red Lobster Hospitality LLC (5297); Red Lobster Restaurants LLC (4308); RL Columbia LLC (7825); RL of Frederick, Inc. (9184); RL Salisbury, LLC (7836); RL Maryland, Inc. (7185); Red Lobster of Texas, Inc. (1424); Red Lobster of Bel Air, Inc. (2240); RLSV, Inc. (6180); Red Lobster Canada, Inc. (4569); and Red Lobster International Holdings LLC (4661). The Debtors' principal offices are located at 450 S. Orange Avenue, Suite 800, Orlando, FL 32801.

1. I am the Plan Administrator for the estates of Red Lobster Management LLC and its Debtor Affiliates (collectively, the “Debtors”). Consequently, I am familiar with the Debtors’ Books and Records. This declaration (the “Declaration”) is submitted in support of the *Plan Administrator’s Twenty-Eighth Omnibus Objection to Certain Claims (§ 503(b)(9) Administrative Expense Claims)* (the “Objection”) filed contemporaneously herewith.

2. Except as otherwise indicated, all statements in this Declaration are based upon (i) my personal knowledge, and/or (ii) my review (or the review of persons under my supervision) of the Books and Records provided to me by the Debtors’ professionals and consultants, the Schedules and Statements filed in the Chapter 11 cases, the relevant proofs of claim, and the Claims Register, as well as relevant documents and other information prepared or collected by the Debtors’ consultants or professionals. As to matters involving United States bankruptcy law or rules or other applicable laws, I relied on the advice of counsel or other advisors to the Debtors. In making my statements based on my review of the Books and Records, relevant documents, and other information prepared or collected by the Debtors’ professionals and consultants, I have relied upon these professionals and consultants accurately recording, preparing, or collecting such documentation and other information. I have access to the Books and Records.

3. If I were called to testify as a witness in this matter, I could and would competently testify to each of the facts set forth herein based upon my personal knowledge, and on my review of the documents referenced above. I am authorized to submit this Declaration on behalf of the Debtors.

4. I have reviewed each of the § 503(b)(9) Claims, and the Debtors’ Books and Records.

5. To the best of my knowledge and belief, and based on the information and records available to me, the § 503(b)(9) Claims listed on **Exhibit A** to the Proposed Order are claims that are not entitled to administrative expense ninth priority in accordance with Section 503(b)(9) of the Bankruptcy Code because the § 503(b)(9) Claimants provided services only or, if they provided goods and services, the provision of services was the predominate focus of the contractual undertakings.

Dated: September 19, 2024

/s/ Mark Smith

Mark Smith

Not individually, but solely in his capacity as the
Plan Administrator

Cover Notice

**UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**
www.flmb.uscourts.gov

IN RE:

Chapter 11 Cases

RED LOBSTER MANAGEMENT LLC,¹

Case No. 6:24-bk-02486-GER

Jointly Administered with

RED LOBSTER RESTAURANTS LLC,
RLSV, INC.,
RED LOBSTER CANADA, INC.,
RED LOBSTER HOSPITALITY LLC,
RL KANSAS LLC,
RED LOBSTER SOURCING LLC,
RED LOBSTER SUPPLY LLC,
RL COLUMBIA LLC,
RL OF FREDERICK, INC.,
RED LOBSTER OF TEXAS, INC.,
RL MARYLAND, INC.,
RED LOBSTER OF BEL AIR, INC.,
RL SALISBURY, LLC,
RED LOBSTER INTERNATIONAL HOLDINGS LLC,

Case No. 6:24-bk-02487-GER
Case No. 6:24-bk-02488-GER
Case No. 6:24-bk-02489-GER
Case No. 6:24-bk-02490-GER
Case No. 6:24-bk-02491-GER
Case No. 6:24-bk-02492-GER
Case No. 6:24-bk-02493-GER
Case No. 6:24-bk-02494-GER
Case No. 6:24-bk-02495-GER
Case No. 6:24-bk-02496-GER
Case No. 6:24-bk-02497-GER
Case No. 6:24-bk-02498-GER
Case No. 6:24-bk-02499-GER
Case No. 6:24-bk-02500-GER

Debtors.

**NOTICE OF PLAN ADMINISTRATOR'S TWENTY-EIGHTH
OMNIBUS CLAIMS OBJECTION**

**THIS IS AN OBJECTION TO YOUR CLAIM. THE OBJECTING
PARTY IS ASKING THE COURT TO DISALLOW, EXPUNGE,
RECLASSIFY, OR REDUCE THE CLAIM THAT YOU FILED IN
THIS BANKRUPTCY CASE.**

¹ The Debtors in these Chapter 11 Cases, along with the last four digits of each Debtor's federal tax identification number are Red Lobster Management LLC (6889); Red Lobster Sourcing LLC (3075); Red Lobster Supply LLC (9187); RL Kansas LLC (2396); Red Lobster Hospitality LLC (5297); Red Lobster Restaurants LLC (4308); RL Columbia LLC (7825); RL of Frederick, Inc. (9184); RL Salisbury, LLC (7836); RL Maryland, Inc. (7185); Red Lobster of Texas, Inc. (1424); Red Lobster of Bel Air, Inc. (2240); RLSV, Inc. (6180); Red Lobster Canada, Inc. (4569); and Red Lobster International Holdings LLC (4661). The Debtors' principal offices are located at 450 S. Orange Avenue, Suite 800, Orlando, FL 32801.

CLAIMANTS RECEIVING THIS OBJECTION SHOULD LOCATE THEIR NAMES AND CLAIMS ON EXHIBIT A TO THE OBJECTION. YOU SHOULD IMMEDIATELY CONTACT THE OBJECTING PARTY TO RESOLVE THE DISPUTE. IF YOU DO NOT REACH AN AGREEMENT, YOU MUST FILE A RESPONSE TO THIS OBJECTION AND SEND A COPY OF YOUR RESPONSE TO THE NOTICE PARTIES (DEFINED HEREIN) WITHIN 21 DAYS AFTER THE OBJECTION WAS SERVED ON YOU.

YOUR RESPONSE MUST STATE WHY THE OBJECTION IS NOT VALID. IF YOU DO NOT FILE A RESPONSE WITHIN 21 DAYS AFTER THE OBJECTION WAS SERVED ON YOU, YOUR CLAIM MAY BE DISALLOWED WITHOUT A HEARING.

Important Information Regarding the Objection

Grounds for the Objection. By the Objection, the Plan Administrator is seeking to **reclassify** your claim(s) on the grounds that your claim(s) improperly asserts the wrong classification and is inconsistent with the Debtors' books and records. The claim(s) subject to the Objection may be found on the schedules attached to the Objection, a copy of which has been provided with this notice.

Objection Procedures. On August 1, 2024, the United States Bankruptcy Court for the Middle District of Florida (the "Court") entered an order [ECF No. 760] approving procedures for filing and resolving objections to claims asserted against the Debtors in these Chapter 11 Cases (the "Objection Procedures"). A copy of the Objection Procedures is included with this notice. Please review the Objection Procedures to ensure your response to the Objection, if any, is timely and correctly filed and served.

Response and Service. If you disagree with the Objection filed with respect to your claim, you must file a response (each, a "Response") with the Court and serve such Response in accordance with the procedures described below, and appear at the Hearing (as defined herein). Your Response must be (i) filed with the Clerk of the Court, George C. Young Federal Courthouse, 400 W. Washington Street, Suite 5100, Orlando, FL 32801; (ii) sent by email or mail on the parties below; or (iii) filed through CM/ECF to include the parties listed below; **and** (iv) served so as to be actually received by 4:00 p.m. (prevailing Eastern Time) on **October 10, 2024** (the "Response Deadline") by the following parties (the "Notice Parties"):

Plan Administrator	Counsel to the Plan Administrator	United States Trustee	GUC Trustee
Mark Smith, Plan Administrator, c/o Vantage Point Advisory, Inc. 691 John Wesley Dobbs Ave. NE Suite V142 Atlanta, GA 30312 Email: mark.smith@v antagepointadv isory.com	Berger Singerman LLP 1450 Brickell Avenue, Suite 1900 Miami, Florida 33131 <u>Attn:</u> Paul Steven Singerman, Esq. Email: singerman@bergersingerman.c om	United States Trustee Attn: Scott E Bomkamp 400 W. Washington Street Suite 1100 Orlando, FL 32801 407-648-6301 ext. 150 Email: scott.e.bomkamp@usd oj.gov	META Advisors, LLC 175 Greenwich Street 3 World Trade Center New York, NY 10007 <u>Attn:</u> Jimm Carr Email: jcarr@kelleydry e.com

Response Contents. Each Response must contain the following (at a minimum):

a caption with the name of the Court, the name of the applicable Debtor or Debtors, the case number, and the title of the Objection to which the Response is directed;

a concise statement setting forth the reasons why the Court should not grant the Objection with respect to your claim, including the specific factual and legal bases upon which you rely in opposing the Objection;

copies of documentation or other evidence of your claim not previously filed with proof of such claim on which your Response is based (excluding confidential, proprietary, or other protected information, copies of which **must** be provided to the counsel to the Debtors, subject to appropriate confidentiality constraints, if any);

a declaration or other statement of a person with personal knowledge of the relevant facts that support the Response; and

the following contact information for the responding party:

the name, address, telephone number, and email address of the responding claimant or the name, address, telephone number, and email address of the claimant's attorney or designated representative to whom the attorneys for the Debtors should serve a reply to the Response, if any; or

the name, address, telephone number, and email address of the party with authority to reconcile, settle, or resolve the Objection on your behalf.

Failure to Respond. A Response that is not filed and served in accordance with the procedures set forth herein may not be considered by the Court at the Hearing. **Absent an agreement with the Debtors resolving the Objection to a claim, failure to timely file and serve a Response as set forth herein and appear at the Hearing may result in the Court granting the Objection without further notice or hearing.** Upon entry of an order, affected creditors will be served with a notice of entry, and a copy, of the order.

Hearing on the Objection

Date, Time, and Location. A hearing (the “Hearing”) on the Objection will be held on **October 23, 2024, at 10:00 a.m. (prevailing Eastern Time)**, before the **Honorable Grace E. Robson, in the United States Bankruptcy Court, George C. Young Federal Courthouse, 400 W. Washington Street, Courtroom 6D, 6th Floor, Orlando, Florida 32801. The Hearing may be adjourned to a subsequent date in these Chapter 11 Cases in the Debtors’ sole discretion.** You must attend the Hearing if you disagree with the Objection and have filed a Response. Contested claims for which (a) a Response is filed in accordance with the procedures, but such Response is not resolved prior to the Hearing, and (b) an appearance is made at the Hearing, may be heard at the Hearing or adjourned to a subsequent hearing in the Plan Administrator’s sole discretion. If a subsequent hearing is determined to be necessary, the Plan Administrator shall file with the Court and serve on the affected claimants a notice of the hearing (the date of which shall be determined in consultation with the affected claimant(s)).

Discovery. If the Plan Administrator determines that discovery is necessary in advance of a hearing on an Objection, the Plan Administrator may serve notice on the affected claimant and its counsel of record that the scheduled hearing will be treated as a status conference during which the parties may request that the Court issue a scheduling order to facilitate dismissal or resolution of the litigation. Any such notice may be incorporated into the initial agenda letter for the hearing or may be provided by separate notice.

Additional Information

Questions or Information. Copies of Objection Procedures and any other pleadings (the “Pleadings”) filed in these Chapter 11 Cases are available at <https://dm.epiq11.com/case/redlobster/info>. You may also obtain copies of any of the Pleadings for a fee at the Court’s website at <https://www.flmb.uscourts.gov>. A login identification and password to the Court’s Public Access to Court Electronic Records (“PACER”) are required to access this information and can be obtained through the PACER Service Center at <https://www.pacer.uscourts.gov>.

Reservation of Rights

NOTHING IN ANY OMNIBUS OBJECTION OR OBJECTION NOTICE IS INTENDED OR SHALL BE DEEMED TO CONSTITUTE (A) AN ADMISSION AS TO THE AMOUNT OF, BASIS FOR, OR VALIDITY OF ANY CLAIM AGAINST ANY OF THE DEBTORS UNDER THE BANKRUPTCY CODE OR OTHER APPLICABLE NONBANKRUPTCY LAW; (B) AN IMPAIRMENT OR WAIVER OF ANY DEBTOR’S OR ANY OTHER PARTY IN INTEREST’S RIGHT TO DISPUTE ANY CLAIM AGAINST, OR INTEREST IN, ANY

DEBTOR, ITS PROPERTY, OR ITS ESTATE ON ANY GROUNDS; (C) A PROMISE OR REQUIREMENT TO PAY ANY CLAIM; (D) AN ASSUMPTION, ADOPTION, OR REJECTION OF ANY AGREEMENT, CONTRACT, OR LEASE UNDER SECTION 365 OF THE BANKRUPTCY CODE; (E) AN IMPLICATION, ADMISSION OR FINDING THAT ANY PARTICULAR CLAIM IS AN ADMINISTRATIVE EXPENSE CLAIM, OTHER PRIORITY CLAIM, OR OTHERWISE OF A TYPE SPECIFIED OR DEFINED IN THIS MOTION OR ANY ORDER GRANTING THE RELIEF REQUESTED BY THIS MOTION; (F) AN IMPLICATION, ADMISSION, OR FINDING AS TO (I) THE VALIDITY, PRIORITY, ENFORCEABILITY, OR PERFECTION OF ANY LIEN ON, SECURITY INTEREST IN, OR OTHER ENCUMBRANCE ON THE PROPERTY OF ANY DEBTOR OR ITS ESTATE OR (II) A WAIVER OR LIMITATION ON ANY PARTY'S ABILITY TO CHALLENGE, RECHARACTERIZE AS EQUITY, VOID, CLAW BACK, OR SEEK OTHER RELIEF WITH RESPECT TO ANY PARTICULAR PAYMENTS AUTHORIZED HEREUNDER; (G) AN IMPAIRMENT OR WAIVER OF ANY CLAIMS OR CAUSES OF ACTION WHICH MAY EXIST AGAINST ANY ENTITY; OR (H) A WAIVER OF ANY DEBTOR'S OR ANY OTHER PARTY IN INTEREST'S RIGHTS UNDER THE BANKRUPTCY CODE OR ANY OTHER APPLICABLE LAW.

Dated: September 19, 2024

Respectfully submitted,

/s/ Paul Steven Singerman

Paul Steven Singerman

Florida Bar No. 378860

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– and –

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Counsel for Plan Administrator