

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

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: **Chapter 11**
: **Case No. 15-10578 (MEW)**
: **Jointly Administered**
: **Debtors.**
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CASE MANAGEMENT ORDER NO. 1

The Court having received the *Motion of Debtors Pursuant to 11 U.S.C. § 105(a) and Fed. R. Bankr. P. 1015(c), 2002(m), and 9007 for Entry of Order Implementing Certain Notice and Case Management Procedures* dated March 12, 2015 (ECF Doc. # 13) and having deferred consideration of the same during the hearing on March 13, 2015; and the Court having reviewed the proposed case management order and having considered the same, and having determined that a modified version of the proposed order is appropriate for the purpose of allowing the more efficient handling of these procedurally consolidated Chapter 11 cases (the “**Chapter 11 Cases**”) and proceedings related to these cases,

IT IS HEREBY ORDERED, pursuant to Sections 105(a) and 105(d) of Title 11 of the United States Code (the “**Bankruptcy Code**”) and Rules 1015(c), 2002(m), 9007 and 9014(e) of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), that the following procedures will apply in the Chapter 11 Cases and in all adversary proceedings filed in connection with the Chapter 11 Cases (“**Adversary Proceedings**”). All provisions of the Bankruptcy Rules, the Local Bankruptcy Rules for the Southern District of New York (the “**Local Rules**”), and the Chambers Rules, shall apply except as expressly modified herein.

General Case Administration

1. The Debtors' claims and noticing agent, Prime Clerk LLC (the "**Claims and Noticing Agent**") is authorized, but not directed, to establish a case website available at <https://cases.primeclerk.com/chassix> (the "**Case Website**"), where, among other things, key dates and information about the Chapter 11 Cases will be posted.

2. All notices, motions, applications, other requests for relief, and all briefs, memoranda, affidavits, declarations, and other documents filed in support of such papers seeking relief (collectively, "**Requests for Relief**"), all objections or responses to Requests for Relief ("**Objections**"), and all replies to such Objections ("**Replies**," and together with Requests for Relief and Objections, "**Documents**") shall be filed electronically with the Court.

3. Documents that relate to the Chapter 11 Cases shall be filed on the docket of *In re Chassix Holdings, Inc., et al.*, Ch. 11 Case No. 15-10578 (MEW), pursuant to the procedures specified in the Local Rules and the Chambers Rules. Documents that relate to an Adversary Proceeding shall be filed only in the docket for that Adversary Proceeding.

4. Unless otherwise directed by the Court, proposed orders should be emailed to Chambers (in Word or WordPerfect format) promptly only *after* the Court grants the requested relief.

Notices of Hearings

5. A "**Notice of Hearing**" shall be affixed to all Requests for Relief (excluding Complaints in Adversary Proceedings) and shall include the following: (i) the title of the Request for Relief; (ii) a brief description of the relief that is sought; (iii) the deadline for the filing of objections or other responses (the "**Objection Deadline**"); (iv) the date of the hearing at which the Request for Relief shall be considered by the Court; and (v) a statement that the relief requested may be granted without a hearing if no Objection is timely filed and served.

6. The applicable Objection Deadline and hearing date shall appear on the upper right corner of the first page of the Notice of Hearing and on the upper right corner of the first page of each Request for Relief and any Objection thereto.

Memoranda of Law and Supporting Authorities

7. Unless prior permission has been granted, memoranda of law in support of Requests for Relief and Objections are limited to thirty-five (35) pages, and memoranda of law in support of Replies are limited to fifteen (15) pages. All memoranda shall be double-spaced, 12-point font, with margins of at least one inch. Memoranda of ten (10) pages or more shall contain a table of contents and a table of authorities.

8. If any reference is made in a Document to (i) an order entered in another case or (ii) an excerpt from a Judge's dictated decision, the party filing such Document must file as an attachment to the Document a copy of the order relied upon or the transcript of the entire decision in order for the Court to consider the citation as precedent or persuasive.

Parties Entitled to Service – Chapter 11 Cases

9. The Claims and Noticing Agent shall maintain a master service list (the “**Master Service List**”), which shall include the following parties:

- (i) the attorneys for the Debtors, Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 (Attn: Ray C. Schrock, P.C.);
- (ii) the Office of the United States Trustee, 201 Varick Street, Suite 1006, New York, New York 10014 (Attn: Susan Golden, Esq. and Andrea B. Schwartz, Esq.);
- (iii) the attorneys for the statutory committee of unsecured creditors appointed in the Chapter 11 Cases (the “**Creditors’ Committee**”), when appointed, at the address to be provided by such attorneys to the Claims and Noticing Agent; and

- (iv) any other party in interest who files a Notice of Appearance and a request for service of Documents as set forth in paragraph 10.

The parties described in this paragraph shall hereafter be referred to as the “**Rule 2002 Parties.**”

10. Any party in interest that wishes to receive service of Documents in the Chapter 11 Cases and wishes to be added to the list of Rule 2002 Parties pursuant to subpart (iv) of paragraph 9 of this Order shall file a notice of appearance (a “**Notice of Appearance**”) and request for service of papers in accordance with Bankruptcy Rules 2002 and 9010(b). The Notice of Appearance shall include the following: (i) the requesting party’s name and address; (ii) the name of the client, if applicable; (iii) the requesting party’s telephone number; (iv) the requesting party’s e-mail address for service by electronic transmission; (v) the requesting party’s address for service by U.S. mail, hand delivery, and/or overnight delivery; and (vi) the requesting party’s facsimile number for service by facsimile.

11. The Master Service List shall contain addresses, facsimile numbers, and e-mail addresses. The Claims and Noticing Agent shall use reasonable efforts to update the Master Service List as often as practicable, but in no event less frequently than every thirty (30) days. The Claims and Noticing Agent shall provide a copy of the most up-to-date version of the Master Service List to any party in interest requesting a copy of the same and a copy of the Master Service List shall be posted on the Case Website commencing as of the date that is ten (10) days from the date hereof.

12. Pursuant to Bankruptcy Rule 2002(i), Documents that relate to motions or applications for relief that are governed by subdivisions (a)(2), (a)(3) and (a)(6) of Bankruptcy Rule 2002 need only be served upon (a) the Rule 2002 Parties, and (b) any other person or entity

known to have a particularized interest in the subject matter of that Document (an “**Affected Party**”).

13. Notices and Documents filed in connection with an Adversary Proceeding need be served only on the parties to that Adversary Proceeding, the United States Trustee, the attorneys for any official committee appointed in the Chapter 11 Cases, and any other Affected Party.

14. In all other respects, service shall be made and at the times, and to the parties, specified in the Bankruptcy Rules and the Local Rules.

Manner of Service

15. Service and delivery of all Documents shall be made electronically, except that:

- (i) If any individual or entity certifies, in a Notice of Appearance, that such individual or entity does not maintain and cannot practicably obtain an e-mail address, then Documents shall be served upon such individuals or entities by U.S. mail, by overnight delivery, or by facsimile, at the discretion of the party who is serving the relevant Document; and
- (ii) if a Document cannot be annexed to an e-mail (because of its size, technical difficulties, or otherwise), the party serving such Document may (i) serve the entire Document by U.S. Mail or overnight delivery, including the proposed form(s) of order and any exhibits, attachments, and other relevant materials, or (ii) e-mail the parties being served and include a notation that the Document cannot be annexed and will be (a) mailed if requested, or (b) posted on the Case Website.

16. Pursuant to Local Rule 9070-1, one hard copy of each Document, including those filed electronically, shall be delivered to the Clerk of the Court for transmittal to the United

States Trustee. In addition, one hard copy of each Document shall be marked “Chambers Copy” and delivered in an unsealed envelope to Chambers, not later than the next business day following the date on which such Document is electronically filed. For the avoidance of doubt, it is not necessary to provide Chambers with copies of proofs of claim, notices of appearance, or Documents filed in connection with transfers of claims, unless such Documents are relevant to disputes to be resolved by the Court.

17. Upon the completion of noticing any particular matter, the party seeking relief shall file within three (3) business days either an affidavit of service or a certification of service attaching the list of parties that received notice; provided that parties shall not be required to serve the affidavits of service on such recipients.

Scheduling

18. The Debtors shall be authorized to schedule, in cooperation with the Court, periodic omnibus hearings (the “**Omnibus Hearings**”) at which matters shall be heard. Upon scheduling, the Claims and Noticing Agent shall post the date of the Omnibus Hearings on the Case Website. The Court shall schedule additional Omnibus Hearings on request of the Debtors, and, upon scheduling, the Claims and Noticing Agent shall post the date of the Omnibus hearing on the Case Website. Entities may contact the Claims and Noticing Agent for information concerning all scheduled Omnibus Hearings.

19. Hearings in connection with claims objections, pre-trial conferences and trials related to adversary proceedings, approval of a disclosure statement, confirmation, and any other Request for Relief filed by the Debtors, may be scheduled for dates other than the Omnibus Hearing dates; provided that initial pre-trial conferences scheduled in connection with adversary proceedings involving the Debtors shall be set on the next available Omnibus Hearing date that

is at least forty-five (45) days after the filing of the complaint; and provided further that hearings on all other Requests for Relief filed by a party other than the Debtors must be scheduled for an Omnibus Hearing except for Requests for Relief requiring emergency relief.

20. If a Document is filed by a party other than the Debtors and purports to set a hearing date inconsistent with these Case Management Procedures (an “**Inconsistent Filing**”), the hearing shall be scheduled, without the necessity of Court order, for the first Omnibus Hearing date after the applicable notice period has expired, and the Debtors shall provide such party with notice of the Case Management Procedures within three (3) business days of receipt of the Inconsistent Filing.

21. Paragraphs 18 through 20 of this Order are without prejudice to the right of any party in interest to seek the scheduling of a matter on an expedited or emergency basis. Any party making a request for such scheduling shall first attempt to reach agreement with the attorneys for other Affected Parties (including the attorneys for the Debtors if the Debtors are not the parties seeking the expedited hearing) as to the need for an expedited hearing. All requests for expedited relief shall comply with the Bankruptcy Rules and the Local Rules.

22. If a Request for Relief seeks relief of a kind described in Bankruptcy Rules 2002(a) or (b), the hearing to consider such Request for Relief shall be set in accordance with the time period set forth in Bankruptcy Rules 2002(a) and (b) and 9006. For all other Requests for Relief, with the exception of Requests for Relief filed pursuant to the Presentment Procedures (as hereinafter defined), Requests for Relief shall not be considered unless filed and served at least fourteen (14) calendar days before the next applicable hearing date; provided that if any party is served by U.S. mail, the Request for Relief must be filed and served at least seventeen (17) calendar days before the next applicable hearing; and provided further, that nothing in the Case

Management Procedures shall prejudice the right of any party to move the Court to request an enlargement or reduction of any time period under Bankruptcy Rules 9006(b) and (c).

23. The deadline to file an Objection (the “**Objection Deadline**”) to any Request for Relief shall be (i) at least seven (7) calendar days before the applicable hearing date or (ii) any date otherwise ordered by the Court. The Objection Deadline may be extended with the consent of the movant or applicant. If such an extension has been agreed upon, the movant or applicant shall obtain approval of such extension from Chambers.

24. Unless otherwise ordered by the Court, Replies shall be filed with the Court and served in accordance with these Case Management Procedures on or before 12:00 noon (Eastern Time) at least two (2) business days prior to the date of the applicable hearing.

25. Notwithstanding paragraphs 18 through 24, a party may settle or present a proposed order for approval by the Court in accordance with Local Rule 9074-1; provided that the presentment of a proposed order pursuant to Local Rule 9074-1(c), or any other similar administrative or standard order, must be filed and served at least seven (7) calendar days before the presentment date (the “**Presentment Procedures**”).

Agenda Letters

26. By two (2) business days before a scheduled hearing, the Debtors shall file with the Court a letter (the “**Agenda Letter**”) setting forth each matter to be heard at the hearing (the letter must be updated after the initial submission, if necessary) and shall serve the letter(s), by e-mail or facsimile on: (i) the Court; (ii) the U.S. Trustee; (iii) the Creditors’ Committee; (iv) counsel to any other statutory committee appointed in the Chapter 11 Cases; and (vi) any party that filed Documents referenced in the Agenda Letter; provided that an Agenda Letter shall not be required where the Debtors have less than forty-eight (48) hours notice of the hearing.

27. The Agenda Letter will include, to the extent known by the Debtors: (i) the docket number and title of each matter scheduled to be heard at the hearing, including the initial filing and any Objections, Replies, or Documents related thereto; (ii) whether the matter is contested or uncontested, (iii) whether the matter has been settled or is proposed to be continued; and (iv) other comments that will assist the Court; provided that the matters listed on the Agenda Letter shall be limited to matters of substance and shall not include administrative filings such as notices of appearance and affidavits of service.

Adjournments and Settlements

28. Parties may, by consent, agree to adjourn matters from a scheduled hearing date to a new hearing date, provided that adjournments under the following circumstances are not permitted without the prior approval of the Court:

- (i) Adjournments agreed to after the time when an Agenda Letter is due;
- (ii) Adjournments of longer than thirty (30) days; or
- (iii) Adjournments that have been preceded by two or more prior adjournments.

The relevant Agenda Letter may include notice of matters that have been consensually adjourned to a later hearing date in lieu of parties filing a separate notice of such adjournment.

29. Parties are encouraged to settle disputes. If a settlement is reached as to any matter that is scheduled for a hearing, the parties to such matter are directed to notify Chambers of such settlement as promptly as is practicable.

Hearing Procedures

30. The initial hearing on all Requests for Relief will be a non-evidentiary hearing, unless: (i) the motion is of a type specified in Local Rule 9014-2(b), (c), (d), or (e) or (ii) the Court otherwise directs in advance of the hearing.

31. If, upon or after the filing of a motion, any party wishes an evidentiary hearing on a motion not covered under Local Rule 9014-2, such party must confer with all other parties involved to determine whether there is agreement that an evidentiary hearing is appropriate. In the absence of an ability to agree, the Court will consider requests for an evidentiary hearing by conference call. Notwithstanding Local Rule 9014-2, the Court may, upon advance request and for cause shown, order that the initial hearing on a motion of the type specified in Local Rule 9014-2(c), (d), or (e) will be a non-evidentiary hearing. Generally, interests of judicial economy and the absence of disputed material issues of fact will collectively suggest that a non-evidentiary hearing is appropriate on motions subject to Local Rule 9014-2(c), (d) or (e).

32. Concurrently with any determination that an evidentiary hearing is necessary or desirable, Chambers must be notified with an estimate of expected trial time; parties may be informed that a different return date is necessary if the available time on the requested day is insufficient. Any motion noticed as an evidentiary hearing must prominently state, just below the return date in the upper right-hand corner, "Evidentiary Hearing Requested."

33. A Request for Relief (other than a Complaint in an Adversary Proceeding) may be granted without a hearing upon the submission of a declaration of no objection and a proposed order in the manner set forth in the applicable Local Rules. If the Court grants the requested relief it will so notify the parties. If the Court does not grant the requested relief, the matter will be heard as originally scheduled.

Telephonic Appearances

34. A party who wishes to participate via a live telephone line must notify the Debtors and must request permission from Chambers at least forty-eight (48) hours prior to the scheduled hearing. A party who wishes to participate via a listen-only telephone line need not request

permission from Chambers and need provide only such advance notice as is required by Court Call procedures.

35. If a party is participating telephonically, that party must arrange such telephonic participation with Court Call, adhering to the Case Management Procedures for telephonic participation applicable in the United States Bankruptcy Court for the Southern District of New York, as well as those required by Chambers. Those participating by phone may not use speakerphones, unless first authorized by the Court; by reason of technical limitations of the equipment, and the way speakerphones disrupt proceedings in the courtroom, speakerphone authorizations usually will not be granted. Parties participating by phone (and especially by speakerphone) must put their phones on “mute” except when they need to be heard. Parties so participating are not to put their phones on “hold” under any circumstances.

Discovery

36. Expedited discovery in contested matters in the Chapter 11 Cases is authorized without further Court order. This authorization is without prejudice to the rights of any party or witness to seek protective order relief if the time to respond or appear, or the burden of the requested discovery, is unreasonable or for other cause shown. Parties are expected to work informally and cooperatively to effect any necessary discovery, with due recognition of the time exigencies that are typical in bankruptcy litigation.

37. Parties are required in the first instance to resolve discovery and due diligence disputes by negotiation in good faith and, if necessary, a conference call with the Court without submission of papers. The Court will make itself available for such calls, but such calls will not be scheduled until and unless the parties have first tried and failed to resolve the disputed matters themselves. Unless otherwise ordered by the Court, no Motion with respect to a discovery or

due diligence dispute may be filed unless the parties have first conferred in good faith to resolve it and also sought to resolve the matter by conference call with the Court.

Miscellaneous

38. Nothing in this Order shall prejudice the rights of any party in interest to seek an amendment or waiver of the provisions of this Order upon a showing of good cause.

39. Parties in interest may seek to amend the Case Management Procedures from time to time throughout the Chapter 11 Cases.

40. Within three (3) business days of entry of this Order, the Claims and Noticing Agent shall serve a printed copy of this Order upon all parties on the Master Service List and post a copy of this Order on the Case Website.

41. This Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation and/or enforcement of this Order.

Dated: March 20, 2015
New York, New York

s/Michael E. Wiles
United States Bankruptcy Judge