

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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	:	Chapter 11
In re	:	
	:	Case No. 17-11936 (JLG)
COCOA SERVICES, L.L.C., <u>et al.</u> , ¹	:	
	:	Jointly Administered
Debtors.	:	
	:	
	:	
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**ORDER ESTABLISHING DEADLINE FOR FILING
PROOFS OF CLAIM AND APPROVING THE
FORM AND MANNER OF NOTICE THEREOF**

Upon the application (the “Application”)² of Cocoa Services, L.L.C. (“Cocoa Services”) and Morgan Drive Associates, L.L.C. (“Morgan Drive”), the debtors and debtors-in-possession (each a “Debtor” and together, the “Debtors”), for an order, pursuant to Rule 3003(c)(3) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), fixing a deadline (the “Bar Date”) and establishing procedures for filing proofs of claim in the Debtors’ Bankruptcy Cases and approving the form and manner of service thereof; and the Court having jurisdiction to consider the Application and the relief requested therein in accordance with 28 U.S.C. §§ 157 and 1334 the Amended Standing Order of Reference M-431, dated January 31, 2012 (Preska, C.J.); and consideration of the Application and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and the Court having found and determined that the relief sought in the Application is in the best interests of the Debtors, the estates and creditors; and that adequate notice

¹ The Debtors and the last four digits of their respective taxpayer identification numbers are as follows: Cocoa Services, L.L.C. (3769); Morgan Drive Associates, L.L.C. (2335). The Debtors’ principal office is located at 400 Eagle Court, Swedesboro, New Jersey 08085.

² Capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the Application.

has been given and that no further notice is necessary; and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT

1. The Application is granted.
2. Except as otherwise provided herein, all persons and entities, (including, without limitation, individuals, partnerships, corporations, joint ventures and trusts) that assert a claim as defined in section 101(5) of the Bankruptcy Code, against the Debtors that arose prior to July 14, 2017 (the “Petition Date”) (whether such claim is secured, unsecured or priority, and including, without limitation, administrative expense claims arising under section 503(b)(9) of the Bankruptcy Code), shall file a proof of such claim (each a “Proof of Claim” and, collectively, “Proofs of Claim”) so that it is received on or before **November 2, 2017 at 5:00 p.m. (prevailing Eastern Time)** (the “**General Bar Date**”).
3. Notwithstanding any other provision hereof, Proofs of Claim filed by “Governmental Units” (as defined in section 101(27) of the Bankruptcy Code) must be filed on or before **January 10, 2018 at 5:00 p.m. (prevailing Eastern Time)** (the “**Governmental Bar Date**,” and together with the General Bar Date, the “**Bar Dates**”).
4. The following procedures for the filing of Proofs of Claim shall apply:
 - (a) Proofs of Claim filed must substantially conform to Official Bankruptcy Form No. 410 (the “Proof of Claim Form”);³
 - (b) Proofs of Claim either must be filed: (a) electronically through the website of the Debtor’s Court-approved claims and noticing agent, Prime Clerk LLC (“Prime Clerk”), using the interface available on such website located at <https://cases.primeclerk.com/cocoaservices> under the link entitled “Submit a Claim” (the “Electronic Filing System”); (b) by mailing the original Proof of Claim

³ Official Bankruptcy Form 410 can be found at www.uscourts.gov/forms/bankruptcy-forms, the Official Website for the United States Bankruptcy Courts. A modified Proof of Claim Form which allows creditors to assert 503(b)(9) Claims will be mailed to known creditors and made available on the website established in the Bankruptcy Cases: <https://cases.primeclerk.com/cocoaservices> .

by U.S. Postal Service mail, overnight mail or hand delivery so as to be received before the applicable bar date to Cocoa Services, L.L.C. Claims Processing Center, c/o Prime Clerk LLC, 830 3rd Avenue, 3rd Floor, New York, NY 10022 or (c) by delivering the original Proof of Claim by hand to the United States Bankruptcy Court, Southern District of New York, One Bowling Green, Room 534, New York, NY 10004.

- (c) Proofs of Claim will be deemed filed only when **received** by Prime Clerk or by the Clerk of the Court on or before the applicable Bar Date.
- (d) Proofs of Claim sent by facsimile, telecopy, or electronic mail transmission (other than Proofs of Claim filed electronically through the Electronic Filing System) **will not** be accepted.
- (e) Proofs of Claim must (i) be signed by the claimant, or, if the claimant is not an individual, by an authorized agent of the claimant under penalty of perjury; (ii) set forth with specificity the legal and factual bases for the alleged claim; (iii) include supporting documentation (if voluminous, attach a summary) or an explanation as to why documentation is not available; (iv) be in the English language; and (v) be denominated in United States currency (using the exchange rate, if applicable, as of the Petition Date).
- (f) Proofs of Claim must specify the name and case number of the Debtor against which the claim is filed; if the holder asserts a claim against more than one Debtor or has claims against different Debtors, a separate proof of claim form must be filed with respect to each Debtor.
- (g) Except as provided herein, all persons or entities, (including, without limitation, individuals, partnerships, corporations, joint ventures, trusts and governmental units) that assert a claim (whether secured, unsecured or priority, and including administrative expense claims arising under section 503(b)(9) of the Bankruptcy Code), as defined in section 101(5) of the Bankruptcy Code, against the Debtors that arose prior to the Petition Date and fails to file its Proof of Claim in the manner provided herein shall be forever barred, estopped and enjoined from asserting such claims against the Debtors.

5. The following persons or entities need not file a Proof of Claim on or prior to the applicable Bar Date:

- (a) Any person or entity that has already filed a proof of claim against the Debtors with the Court in a form substantially similar to the Official Bankruptcy Form 410;
- (b) Any person or entity whose claim is listed on the Schedules filed by the Debtors, **provided** that (a) the claim is **not** scheduled as “disputed,”

“contingent” or “unliquidated;” (b) the claimant does not disagree with the amount, nature and priority of the claim as set forth in the Schedules; and (c) the claimant does not dispute that the claim is an obligation of the specific Debtor against which the claim is listed on the Schedules;

- (c) Any holder of a claim that heretofore has been allowed by order of the Court entered on or before the applicable Bar Date;
- (d) Any person or entity whose claim has been paid in full by any of the Debtors;
- (e) Any holder of a claim for which specific deadlines have previously been fixed by this Court;
- (f) Any Debtor having a claim against another Debtor;
- (g) Any holder of a claim allowable under section 503(b) and section 507(a)(2) of the Bankruptcy Code as an expense of administration of any of the Debtors’ estates, except any holder of a 503(b)(9) Claim which claim must be asserted by filing a Proof of Claim on or prior to the General Bar Date; and
- (h) Bank of the West to the extent such claims arise under or are related to the Final Order Pursuant to 11 U.S.C. §§ 361, 362 and 363 and Rules 4001(b), 4001(d) and 9014 of the Federal Rules of Bankruptcy Procedure (I) Authorizing Use of Cash Collateral by Cocoa Services, L.L.C. and (II) Providing Adequate Protection Thereof [Docket No. 76] (the “Cash Collateral Order”) or the Prepetition Loan Documents (as defined in the Cash Collateral Order). Any person or entity that holds a claim that arises from the rejection of an executory contract or unexpired lease shall file a Proof of Claim by the later of (i) the General Bar Date, (ii) 30 days after the effective date of the rejection of such executory contract or unexpired lease or (iii) the date set by the Court in the order authorizing the rejection of such executory contract or unexpired lease.

6. Holders of equity security interests in the Debtors need not file proofs of interest with respect to the ownership of such interests, provided, however, that if any such holder asserts a claim against the Debtors (including a claim relating to an equity interest or the purchase or sale of such equity interest), a proof of such claim must be filed on or prior to the General Bar Date pursuant to the procedures set forth in this Order.

7. **Any person or entity that holds a claim that arises from the rejection of an executory contract or unexpired lease must file a Proof of Claim based on such rejection by the later of: (i) the General Bar Date, (ii) 30 days after the effective date of the rejection of such executory contract or unexpired lease, or (iii) the date set by the Court in the applicable order authorizing such rejection. [JLG]**

8. If the Debtors amend or supplement the Schedules subsequent to the date hereof, the Debtors shall give notice of any amendment or supplement to the holders of claims affected thereby, and such holders shall be afforded thirty-five (35) days from the date of such notice to file proofs of claim in respect of their claims and shall be given notice of such deadline.

9. Subject to the terms and provisions of the Cash Collateral Order, nothing in this Order shall prejudice the rights of the Debtors or any other party in interest to dispute or assert offsets, recoupment rights or defenses to any claim reflected in the Schedules or in any Proof of Claim filed in this Bankruptcy Cases.

10. Pursuant to Bankruptcy Rule 3003(c)(2), all holders of claims that fail to comply with this Order by timely filing a proof of claim shall not be treated as a creditor with respect to such claim for the purposes of voting and distribution.

11. The Bar Date Notice and Proof of Claim Form (the "Bar Date Notice Package"), substantially in the forms annexed hereto, are approved in all respects and shall be deemed adequate and sufficient if served by first-class mail within five (5) days after entry of this Order on:

- (a) The United States Trustee;
- (b) Counsel for Bank of the West;
- (c) All persons or entities that request notice of the proceedings in the Bankruptcy Cases as of the date of entry of an order in respect of this Application;

- (d) All persons or entities that have filed claims against the Debtors in the Bankruptcy Cases as of the date of entry of an order in respect of this Application;
- (e) All creditors and other known holders of claims as of the date of entry of an Order in respect of this Application, including all persons or entities listed in the Schedules as holding claims;
- (f) All parties to executory contracts and unexpired leases of the Debtors;
- (g) All parties to pending litigation against the Debtors as of the date of entry of an order in respect of this Application;
- (h) the Internal Revenue Service, the United States Attorney's Office for the Southern District of New York, and all applicable Governmental Units; and
- (i) such additional persons and entities as deemed appropriate by the Debtors.

12. Prior to mailing the Bar Date Notice and the Proof of Claim Form, the Debtors may fill in, or caused to be filled in, any missing dates and other information, correct any typographical errors, conform the provisions thereof to the provisions of the Order, and make such other, non-material changes as the Debtors deem necessary or appropriate.

13. The Debtors shall not be required to mail any Bar Date Notice Package to any party to whom they have mailed a notice required under the Bankruptcy Rules during the Bankruptcy Cases and such notice has been returned to the Debtors without instructions for forwarding such notice to the current address of the intended party.

14. The Debtors shall cause Prime Clerk to post the Bar Date Notice and the Proof of Claim Form on the website established by Prime Clerk for the Bankruptcy Cases: <https://cases.primeclerk.com/cocoaservices>.

15. Any person or entity who desires to rely on the Schedules will have the responsibility for determining that the claim is accurately listed in the Schedules (with respect to amount, classification and otherwise).

16. Pursuant to Bankruptcy Rule 3003(c), any holder of a claim against the Debtors who is required, but fails, to file a Proof of Claim in accordance with this Order on or before the holder's applicable Bar Date shall be forever barred, estopped and enjoined from asserting such claim against the Debtors (or filing a proof of claim with respect thereto), and such holder shall not be permitted to participate in voting or any distribution in Debtors' Bankruptcy Cases on account of such claim or to receive further notices regarding such claim.

17. The Debtors and Prime Clerk are authorized and empowered to take such steps and perform such acts as may be necessary to implement and effectuate the terms of this Order.

18. Entry of this Order is without prejudice to the right of the Debtors to seek a further order of this Court fixing a date by which holders of claims or interests not subject to the Bar Dates established herein must file such proofs of claim or interest or be barred from doing so.

19. This Court shall retain jurisdiction to hear and determine all matters arising from or related to this Order.

Dated: New York, NY
September 21, 2017

/s/ James L. Garrity, Jr.
UNITED STATES BANKRUPTCY JUDGE

ANNEX I

NOTICE OF BAR DATES

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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 In re : Chapter 11
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 COCOA SERVICES, L.L.C., et al.,¹ : Case No. 17-11936 (JLG)
 :
 Debtors. : Jointly Administered
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**NOTICE OF DEADLINES REQUIRING FILING OF PROOFS OF CLAIM
ON OR BEFORE NOVEMBER 2, 2017 (GENERAL BAR DATE) AND
JANUARY 10, 2018 (GOVERNMENTAL BAR DATE)**

**TO ALL PERSONS AND ENTITIES WITH CLAIMS
AGAINST THE DEBTORS SET FORTH BELOW:**

Name of Debtor	Case Number	Tax Identification Number
Cocoa Services, L.L.C.	17-11936 (JLG)	22-3203769
Morgan Drive Associates, L.L.C.	17-11938 (JLG)	45-3482335
OTHER NAMES USED BY THE DEBTORS IN THE LAST 8 YEARS		
Cocoa Services, L.P.		

The United States Bankruptcy Court for the Southern District of New York entered an order (the “Bar Date Order”) establishing (i) **November 2, 2017, at 5:00 p.m. (prevailing Eastern Time)** as the last date and time for each person or entity (including, without limitation, individuals, partnerships, corporations, joint ventures, and trusts) to file a proof of claim (“Proof of Claim”) based on prepetition claims against the Debtor and including without limitation, any claim under section 503(b)(9) of the Bankruptcy Code (the “General Bar Date”); and (ii) **January 10, 2018, at 5:00 p.m. (prevailing Eastern Time)** as the last date and time for each governmental unit (as defined in section 101(27) of the Bankruptcy Code) to file a Proof of Claim based on prepetition claims against the Debtors (the “Governmental Bar Date” and, together with the General Bar Date, the “Bar Dates”).

The Bar Dates and the procedures set forth below for the filing of Proofs of Claim apply to all claims against the Debtors that arose prior to July 14, 2017 (the “Filing Date”), the date on which the Debtors commenced cases under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”), except for those holders of the claims listed in Section 4 below that are specifically excluded from the filing requirements.

¹ The Debtors and the last four digits of their respective taxpayer identification numbers are as follows: Cocoa Services, L.L.C. (3769); Morgan Drive Associates, L.L.C. (2335). The Debtors’ principal office is located at 400 Eagle Court, Swedesboro, New Jersey 08085.

For your convenience, enclosed with this Notice is a Proof of Claim form.

1. WHO MUST FILE A PROOF OF CLAIM

You **MUST** file a **Proof of Claim** to vote on a chapter 11 plan filed by the Debtors or to share in distributions from the Debtors' bankruptcy estates if you have a claim that arose prior to the Filing Date, and it is not one of the other types of claims described in Section 4 below. Claims based on acts or omissions of the Debtors that occurred before the Filing Date, must be filed by the applicable Bar Date, even if such claims are not now fixed, liquidated or certain or did not mature or become fixed, liquidated or certain before the Filing Date.

Under Section 101(5) of the Bankruptcy Code and as used in this Notice, the word "claim" means: (a) a right to payment, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured; or (b) a right to an equitable remedy for breach of performance if such breach gives rise to a right to payment, whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent, matured, unmatured, disputed, undisputed, secured, or unsecured.

2. WHAT TO FILE

Your filed proof of claim must conform substantially to Official Bankruptcy Form No. 410 (the "Proof of Claim Form").² You may utilize the proof of claim form(s) provided by the Debtors to file your claim. Additional proof of claim forms may be obtained at (i) the website established by the Debtors' Court-appointed claims and noticing agent, Prime Clerk LLC ("Prime Clerk") located at <https://cases.primeclerk.com/cocoaservices> or (ii) the Bankruptcy Court's website located at www.uscourts.gov/forms/bankruptcy-forms. If the Debtors believe that you hold claims against more than one Debtor, you will receive multiple proof of claim forms.

All Proof of Claim Forms must be **signed** by the claimant or, if the claimant is not an individual, by an authorized agent of the claimant. It must be written in English and be denominated in United States currency (using the exchange rate, if applicable, as of the Filing Date). You must set forth with specificity the legal and factual bases for your claim. You should attach to your completed Proof of Claim any documents on which the claim is based (if voluminous, attach a summary) or an explanation as to why the documents are not available.

Any holder of a claim against the Debtors must file a Proof of Claim and all holders of claims must identify on their Proof of Claim the applicable Debtor's name and case number. Any holder of a claim against more than one Debtor must file a separate proof of claim with respect to each such Debtor, identify the applicable Debtor on its Proof of Claim and include the case number of that Debtor's bankruptcy case. A list of the Debtors and their respective case numbers is set forth above on the first page of this Notice.

² Official Bankruptcy Form 410 can be found at www.uscourts.gov/forms/bankruptcy-forms, the Official Website for the United States Bankruptcy Courts. A modified Proof of Claim Form which allows creditors to assert claims arising under section 503(b)(9) of the Bankruptcy Code will be mailed to known creditors and made available on the website established in the Bankruptcy Cases: <https://cases.primeclerk.com/cocoaservices>.

Your Proof of Claim Form must not contain complete social security numbers or taxpayer identification numbers (only the last four digits), a complete birth date (only the year), the name of a minor (only the minor's initials) or a financial account number (only the last four (4) digits of such financial account).

3. WHEN AND WHERE TO FILE

Except as provided herein, all Proofs of Claim must be filed so as to be **actually received** no later than 5:00 p.m. (prevailing Eastern Time) on the applicable Bar Date as follows:

IF ELECTRONICALLY:

The website established by Prime Clerk, using the interface available on such website located at <https://cases.primeclerk.com/cocoaservices> under the linked entitled "Submit a Claim" (the "Electronic Filing System").

IF BY FIRST CLASS MAIL OR OVERNIGHT DELIVERY:

Cocoa Services L.L.C.
Claims Processing Center
c/o Prime Clerk LLC
830 Third Avenue, 3rd Floor
New York, NY 10022

IF DELIVERED BY HAND:

Cocoa Services L.L.C.
Claims Processing Center
c/o Prime Clerk LLC
830 Third Avenue, 3rd Floor
New York, NY 10022

or

United States Bankruptcy Court
Southern District of New York
One Bowling Green, Room 534
New York, NY 10004-1408

Proofs of Claim will be deemed timely filed only if **actually received** at the addresses listed above or via the Electronic Filing System on or before the applicable Bar Date. Proofs of Claim may **not** be delivered by facsimile, telecopy, or electronic mail transmission.

4. WHO NEED NOT FILE A PROOF OF CLAIM

You do **not** need to file a Proof of Claim on or prior to the applicable Bar Date if you are:

- (a) Any person or entity that has already filed a proof of claim against the Debtors with the Bankruptcy Court in a form substantially similar to the Official Bankruptcy Form 410;
- (b) Any person or entity whose claim is listed on the Schedules filed by the Debtors, provided that (a) the claim is not scheduled as "disputed," "contingent" or "unliquidated;" (b) the claimant does not disagree with the

amount, nature and priority of the claim as set forth in the Schedules; and
(c) the claimant does not dispute that the claim is an obligation of the specific Debtor against which the claim is listed on the Schedules;

- (c) Any holder of a claim that heretofore has been allowed by order of the Court entered on or before the applicable Bar Date;
- (d) Any person or entity whose claim has been paid in full by any of the Debtors;
- (e) Any holder of a claim for which specific deadlines have previously been fixed by this Court;
- (f) Any Debtor having a claim against another Debtor;
- (g) Any holder of a claim allowable under section 503(b) and section 507(a)(2) of the Bankruptcy Code as an expense of administration of any of the Debtors' estates, except any holder of a 503(b)(9) Claim which claim must be asserted by filing a Proof of Claim on or prior to the General Bar Date; and
- (h) Bank of the West to the extent such claims arise under or are related to the Final Order Pursuant to 11 U.S.C. §§ 361, 362 and 363 and Rules 4001(b), 4001(d) and 9014 of the Federal Rules of Bankruptcy Procedure (I) Authorizing Use of Cash Collateral by Cocoa Services, L.L.C. and (II) Providing Adequate Protection Thereof [Docket No. 76] (the "Cash Collateral Order") or the Prepetition Loan Documents (as defined in the Cash Collateral Order).

If you are a holder of an equity interest in the Debtors, you need not file a proof of interest with respect to the ownership of such equity interest at this time. However, if you assert a claim against the Debtors, including a claim relating to such interest or the purchase or sale of such interest, a proof of such claim must be filed on or prior to the General Bar Date pursuant to procedures set forth in this Notice.

This Notice is being sent to many persons and entities that have had some relationship with or have done business with the Debtors but may not have an unpaid claim against the Debtors. THE FACT THAT YOU HAVE RECEIVED THIS NOTICE DOES NOT MEAN THAT YOU HAVE A CLAIM OR THAT THE DEBTORS OR THE COURT BELIEVES THAT YOU HAVE A CLAIM AGAINST THE DEBTORS.

5. EXECUTORY CONTRACTS AND UNEXPIRED LEASES

If you have a claim that arises from the rejection of an executory contract or unexpired lease, you must file a Proof of Claim by the later of (i) the General Bar Date, (ii) 30 days after the effective date of the rejection of such executory contract or unexpired lease or (iii) the date set by the Court in the order authorizing the rejection of such executory contract or unexpired lease.

6. CONSEQUENCES OF FAILURE TO FILE A PROOF OF CLAIM BY THE APPLICABLE BAR DATE

ANY HOLDER OF A CLAIM THAT IS NOT EXEMPTED FROM THE REQUIREMENTS OF THE BAR DATE ORDER, AS SET FORTH IN SECTION 4 ABOVE, AND THAT FAILS TO TIMELY FILE A PROOF OF CLAIM IN THE APPROPRIATE FORM SHALL NOT BE TREATED AS A CREDITOR WITH RESPECT TO SUCH CLAIM FOR THE PURPOSES OF VOTING ON ANY PLAN OF REORGANIZATION FILED IN THESE CASES AND PARTICIPATING IN ANY DISTRIBUTION IN THE DEBTORS' CASES ON ACCOUNT OF SUCH CLAIM.

7. THE DEBTORS' SCHEDULES AND ACCESS THERETO

You may be listed as the holder of a claim against one or more of the Debtors in the Debtors' Schedules of Assets and Liabilities and/or Schedules of Executory Contracts and Unexpired Leases (collectively, the "Schedules").

If you rely on the Debtors' Schedules, it is your responsibility to determine that the claim is accurately listed in the Schedules.

As set forth above, if you agree with the nature, amount and status of your claim as listed in the Debtors' Schedules, and if your claim is not described as "disputed," "contingent," or "unliquidated," you need not file a Proof of Claim. Otherwise, or if you decide to file a Proof of Claim, you must do so before the General Bar Date or Governmental Bar Date, as applicable, in accordance with the procedures set forth in this Notice.

Copies of the Schedules may be viewed on the internet free of charge on Prime Clerk's website for the Bankruptcy Cases (<https://cases.primeclerk.com/cocoaservices/>) or for a fee at the Court's website (<http://www.nysb.uscourts.gov>). A login and password to the Court's Public Access to Electronic Court Records ("PACER") are required to access this information and can be obtained through the PACER Service Center at www.pacer.gov. Copies of the Schedules may also be examined between the hours of 9:00 a.m. and 4:30 p.m. Monday through Friday at the Office of the Clerk of the Bankruptcy Court, One Bowling Green, Room 534, New York, NY 10004-1408.

Questions concerning the contents of this Notice and requests for additional Proof of Claim forms should be directed to Prime Clerk at (844) 721-3896. **A holder of a possible claim against the Debtors should consult an attorney regarding any matters not covered in this Notice, such as whether the holder should file a proof of claim.**

DATED: New York, NY

BY ORDER OF THE COURT

KLESTADT WINTERS JURELLER
SOUTHARD & STEVENS, LLP
200 West 41st Street, 17th Floor
New York, New York 10036
Telephone: (212) 972-3000

RIKER DANZIG SCHERER
HYLAND & PERRETTI LLP
Headquarters Plaza
One Speedwell Avenue
Morristown, New Jersey 07962
Telephone: (973) 451-8562

ATTORNEYS FOR DEBTORS
AND DEBTORS-IN-POSSESSION

ANNEX II

PROOF OF CLAIM FORM

Fill in this information to identify the case (Select only one Debtor per claim form):

Cocoa Services, L.L.C. (Case No. 17-11936)

Morgan Drive Associates, L.L.C. (Case No. 17-11938)

Modified Form 410
Proof of Claim

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense, other than a claim entitled to administrative priority pursuant to 11 U.S.C. § 503(b)(9). Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. **Do not send original documents;** they may be destroyed after scanning. If the documents are not available, explain in an attachment.

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.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.

Part 1: Identify the Claim

<p>1. Who is the current creditor?</p>	<p>_____</p> <p>Name of the current creditor (the person or entity to be paid for this claim)</p> <p>Other names the creditor used with the debtor _____</p>	
<p>2. Has this claim been acquired from someone else?</p>	<p><input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes. From whom? _____</p>	
<p>3. Where should notices and payments to the creditor be sent?</p> <p>Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)</p>	<p>Where should notices to the creditor be sent?</p>	<p>Where should payments to the creditor be sent? (if different)</p>
	<p>Contact phone _____</p> <p>Contact email _____</p>	<p>Contact phone _____</p> <p>Contact email _____</p>
<p>4. Does this claim amend one already filed?</p>	<p><input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes. Claim number on court claims registry (if known) _____</p>	
		<p>Filed on _____</p> <p style="text-align: center;">MM / DD / YYYY</p>
<p>5. Do you know if anyone else has filed a proof of claim for this claim?</p>	<p><input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes. Who made the earlier filing? _____</p>	

Part 2: Give Information About the Claim as of the Date the Case Was Filed

6. Do you have any number you use to identify the debtor? No
 Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: _____

7. How much is the claim? \$ _____ . Does this amount include interest or other charges?
 No
 Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).

8. What is the basis of the claim? Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card.
Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c).
Limit disclosing information that is entitled to privacy, such as health care information.

9. Is all or part of the claim secured? No
 Yes. The claim is secured by a lien on property.

Nature of property:
 Real estate. If the claim is secured by the debtor's principal residence, file a *Mortgage Proof of Claim Attachment* (Official Form 410-A) with this *Proof of Claim*.
 Motor vehicle
 Other. Describe: _____

Basis for perfection: _____
Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)

Value of property: \$ _____

Amount of the claim that is secured: \$ _____

Amount of the claim that is unsecured: \$ _____ (The sum of the secured and unsecured amounts should match the amount in line 7.)

Amount necessary to cure any default as of the date of the petition: \$ _____

Annual Interest Rate (when case was filed) _____ %
 Fixed
 Variable

10. Is this claim based on a lease? No
 Yes. Amount necessary to cure any default as of the date of the petition. \$ _____

11. Is this claim subject to a right of setoff? No
 Yes. Identify the property: _____

12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?

A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.

No

Yes. Check one:

<input type="checkbox"/> Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).	Amount entitled to priority \$ _____
<input type="checkbox"/> Up to \$2,850* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).	\$ _____
<input type="checkbox"/> Wages, salaries, or commissions (up to \$12,850*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).	\$ _____
<input type="checkbox"/> Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).	\$ _____
<input type="checkbox"/> Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).	\$ _____
<input type="checkbox"/> Other. Specify subsection of 11 U.S.C. § 507(a)() that applies.	\$ _____

* Amounts are subject to adjustment on 4/01/19 and every 3 years after that for cases begun on or after the date of adjustment.

13. Is all or part of the claim entitled to administrative priority pursuant to 11 U.S.C. § 503(b)(9)?

No

Yes. Indicate the amount of your claim arising from the value of any goods received by the Debtor within 20 days before the date of commencement of the above case, in which the goods have been sold to the Debtor in the ordinary course of such Debtor's business. Attach documentation supporting such claim. \$ _____

Part 3: Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

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.

Check the appropriate box:

I am the creditor.

I am the creditor's attorney or authorized agent.

I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.

I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

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

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

Name of the person who is completing and signing this claim:

Name _____
 First name Middle name Last name

Title _____

Company _____
 Identify the corporate servicer as the company if the authorized agent is a servicer.

Address _____
 Number Street

City State ZIP Code

Contact phone _____ Email _____

Official Form 410

Instructions for Proof of Claim

United States Bankruptcy Court

12/15

These instructions and definitions generally explain the law. In certain circumstances, such as bankruptcy cases that debtors do not file voluntarily, exceptions to these general rules may apply. You should consider obtaining the advice of an attorney, especially if you are unfamiliar with the bankruptcy process and privacy regulations.

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.

How to fill out this form

- Fill in all of the information about the claim as of the date the case was filed.
- Fill in the caption at the top of the form.
- If the claim has been acquired from someone else, then state the identity of the last party who owned the claim or was the holder of the claim and who transferred it to you before the initial claim was filed.
- Attach any supporting documents to this form.
Attach redacted copies of any documents that show that the debt exists, a lien secures the debt, or both. (See the definition of *redaction* on the next page.)

Also attach redacted copies of any documents that show perfection of any security interest or any assignments or transfers of the debt. In addition to the documents, a summary may be added. Federal Rule of Bankruptcy Procedure (called “Bankruptcy Rule”) 3001(c) and (d).
- Do not attach original documents because attachments may be destroyed after scanning.
- If the claim is based on delivering health care goods or services, do not disclose confidential health care information. Leave out or redact confidential information both in the claim and in the attached documents.

- A *Proof of Claim* form and any attached documents must show only the last 4 digits of any social security number, individual’s tax identification number, or financial account number, and only the year of any person’s date of birth. See Bankruptcy Rule 9037.
- For a minor child, fill in only the child’s initials and the full name and address of the child’s parent or guardian. For example, write *A.B., a minor child (John Doe, parent, 123 Main St., City, State)*. See Bankruptcy Rule 9037.

Confirmation that the claim has been filed

To receive confirmation that the claim has been filed, enclose a stamped self-addressed envelope and a copy of this form. You may view a list of filed claims in this case by visiting the Claims and Noticing Agent’s website at <http://cases.primeclerk.com/cocoaservices>.

Understand the terms used in this form

Administrative expense: Generally, an expense that arises after a bankruptcy case is filed in connection with operating, liquidating, or distributing the bankruptcy estate.
11 U.S.C. § 503.

Claim: A creditor’s right to receive payment for a debt that the debtor owed on the date the debtor filed for bankruptcy.
11 U.S.C. § 101 (5). A claim may be secured or unsecured.

Claim Pursuant to 11 U.S.C. §503(b)(9): A claim arising from the value of any goods received by the Debtor within 20 days before the date of commencement of the above case, in which the goods have been sold to the Debtor in the ordinary course of the Debtor's business. Attach documentation supporting such claim.

Creditor: A person, corporation, or other entity to whom a debtor owes a debt that was incurred on or before the date the debtor filed for bankruptcy. 11 U.S.C. § 101 (10).

Debtor: A person, corporation, or other entity who is in bankruptcy. Use the debtor's name and case number as shown in the bankruptcy notice you received. 11 U.S.C. § 101 (13).

Evidence of perfection: Evidence of perfection of a security interest may include documents showing that a security interest has been filed or recorded, such as a mortgage, lien, certificate of title, or financing statement.

Information that is entitled to privacy: A *Proof of Claim* form and any attached documents must show only the last 4 digits of any social security number, an individual's tax identification number, or a financial account number, only the initials of a minor's name, and only the year of any person's date of birth. If a claim is based on delivering health care goods or services, limit the disclosure of the goods or services to avoid embarrassment or disclosure of confidential health care information. You may later be required to give more information if the trustee or someone else in interest objects to the claim.

Priority claim: A claim within a category of unsecured claims that is entitled to priority under 11 U.S.C. §507(a). These claims are paid from the available money or property in a bankruptcy case before other unsecured claims are paid. Common priority unsecured claims include alimony, child support, taxes, and certain unpaid wages.

Proof of claim: A form that shows the amount of debt the debtor owed to a creditor on the date of the bankruptcy filing. The form must be filed in the district where the case is pending.

Redaction of information: Masking, editing out, or deleting certain information to protect privacy. Filers must redact or leave out information entitled to **privacy** on the *Proof of Claim* form and any attached documents.

Secured claim under 11 U.S.C. §506(a): A claim backed by a lien on particular property of the debtor. A claim is secured to the extent that a creditor has the right to be paid from the property before other creditors are paid. The amount of a secured claim usually cannot be more than the value of the particular property on which the creditor has a lien. Any amount owed to a creditor that is more than the value of the property normally may be an unsecured claim. But exceptions exist; for example, see 11 U.S.C. § 1322(b) and the final sentence of 1325(a).

Examples of liens on property include a mortgage on real estate or a security interest in a car. A lien may be voluntarily granted by a debtor or may be obtained through a court proceeding. In some states, a court judgment may be a lien.

Setoff: Occurs when a creditor pays itself with money belonging to the debtor that it is holding, or by canceling a debt it owes to the debtor.

Unsecured claim: A claim that does not meet the requirements of a secured claim. A claim may be unsecured in part to the extent that the amount of the claim is more than the value of the property on which a creditor has a lien.

Offers to purchase a claim

Certain entities purchase claims for an amount that is less than the face value of the claims. These entities may contact creditors offering to purchase their claims. Some written communications from these entities may easily be confused with official court documentation or communications from the debtor. These entities do not represent the bankruptcy court, the bankruptcy trustee, or the debtor. A creditor has no obligation to sell its claim. However, if a creditor decides to sell its claim, any transfer of that claim is subject to Bankruptcy Rule 3001(e), any provisions of the Bankruptcy Code (11 U.S.C. § 101 et seq.) that apply, and any orders of the bankruptcy court that apply.

Please send completed Proof(s) of Claim to:

Cocoa Services, L.L.C. Claims Processing Center
c/o Prime Clerk LLC
830 3rd Avenue, 3rd Floor
New York, NY 10022

Do not file these instructions with your form