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14
 15 **UNITED STATES DISTRICT COURT**
 16 **NORTHERN DISTRICT OF CALIFORNIA**
 17 **SAN FRANCISCO DIVISION**

18
 19 In re
 20 PLANT INSULATION COMPANY, a
 California corporation,
 21 Debtor.
 22 ONEBEACON INSURANCE CO., *et al.*,
 23 Appellants,
 24 v.
 25 PLANT INSULATION CO., *et al.*,
 26 Appellees.

Case No. 3:14-cv-01200-RS
 Bk. Case No. 3:09-BK-31347 TEC
 Chapter 11
**STIPULATED JOINT MOTION AND
~~PROPOSED~~ ORDER FOR EXTENSION
 OF TIME FOR APPELLANTS TO
 APPEAL FROM ORDER AFFIRMING
 CONFIRMATION OF AMENDED AND
 RESTATED SECOND AMENDED PLAN
 OF REORGANIZATION OF PLANT
 INSULATION COMPANY,
 AS MODIFIED**
(Fed.R.App.P. 4(a)(5), Local Rules 6-2, 7-12)

1 **I. INTRODUCTION**

2 This stipulated motion¹ is brought jointly by the Plan Proponents² and the appellant
3 insurers pursuant to Fed.R.App.P. 4(a)(5) to extend the date for the filing of any appeal
4 from this Court's order affirming the Bankruptcy Court's Confirmation Order, which was
5 entered on August 18, 2014 (the "Affirmation Order"). Because the parties have settled
6 their disputes pending the expiration of a reconsideration period for any party to object to
7 the settlements, they expect that by extending the appeal period, there will be no need for
8 an appeal to be filed. Filing an appeal only to then seek its dismissal would cause
9 unnecessary work for the judicial system and expense for the parties that can be avoided
10 by an extension.

11 **II. FACTUAL STATEMENT³**

12 The Plan Proponents have now settled with the appellant insurers that had sought
13 review of the Bankruptcy Court's Confirmation Order in this Court. This Court denied the
14 appeal and entered the Affirmation Order on August 18, 2014. (*See* Docket No. 77). Any
15 appeal from that Order is due on or before September 17, 2014, pursuant to Fed.R.App.P.
16 4(a) (applicable pursuant to Fed.R.App.P. 6(b)).

17 Under the Plan of Reorganization that was the subject of the Affirmation Order, the
18 Bankruptcy Court had jurisdiction up until September 2, 2014 in which to designate
19 additional insurers as Settling Asbestos Insurers under the Plan. By two motions filed on
20

21 ¹ This request is brought as a motion based on the language of Fed.R.App.P. 4(a)(5) that
22 call for a motion for extension of time. It is in all other respects a stipulated request
23 pursuant to Local Rule 6-2. The insurers have authorized the Plan Proponents to file this
24 motion and to state that they join in it.

24 ² The Plan Proponents are Bayside Insulation & Construction, Inc., a California
25 corporation, the Official Committee of Unsecured Creditors of Plant Insulation Company,
26 and the Honorable Charles B. Renfrew (Ret.), appointed by the Bankruptcy Court under
27 Bankruptcy Code Section 524(g)(4)(B)(i) as the legal representative on behalf of persons
28 holding potential asbestos injury demands against Plant.

27 ³ The facts set forth herein are supported by the accompanying Declaration of Steven B.
28 Sacks.

1 August 25 and 27, the Plan Proponents sought approval of settlements with the remaining
2 objecting insurers, OneBeacon Insurance Company, OneBeacon America Insurance
3 Company, American Employers' Insurance Company, Transport Insurance Company as
4 successor in interest to Transport Indemnity Company, American Home Assurance
5 Corporation, Insurance Company of the State of Pennsylvania, Granite State Insurance
6 Company, and United States Fidelity & Guaranty Company, along with their affiliates.
7 The Bankruptcy Court entered orders shortening time for hearing the motions to August
8 29, 2014. No party objected to the relief sought in the motions and following the hearing,
9 the Bankruptcy Court entered Settlement Approval Orders approving the settlements. (*See*
10 Exhibits A and B to Sacks Declaration). Because the settlements were approved on
11 motions heard on shortened time, the Bankruptcy Court provided any potential objectors
12 with a 21-day period in which to seek reconsideration of the approval orders. That period
13 ends on September 19, 2014.

14 The settlements with these insurers provide for them to be able to preserve their
15 rights to appeal from the Affirmation Order until the later of the Settlement Effective Date,
16 which is on September 19 unless reconsiderations is sought, or the entry of an order of the
17 Bankruptcy Court denying reconsideration. (*See* Exhibits C and D to Sacks Declaration).
18 Any notice of appeal from the Affirmation Order is due on September 17, 2014. In order
19 to avoid the need for filing a notice of appeal before it is determined if any party is seeking
20 reconsideration, the parties have agreed to seek an extension of time in which to do so
21 from this Court.

22 III. DISCUSSION

23 Under Fed.R.App.P. 6(b), appeals from this Court acting in its appellate capacity
24 are governed by the normal rules governing time to appeal contained in Rule 4, with
25 certain exceptions not applicable here. The time for filing an appeal is normally 30 days,
26 but Fed.R.App.P. 4(a)(5)(A)(ii) allows this Court to extend that time either before or after
27 its expiration based on a showing of good cause. In this case, the extension can be for up
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ORDER

Good cause appearing, based on the foregoing it is hereby ordered that the date for ²⁰¹⁴
Appellants to file a notice of appeal from this Court's Order entered August 18, ~~2019~~ is
extended from September 17, 2014 to and including October 17, 2014.

Dated: September 11, 2014


UNITED STATES DISTRICT JUDGE