IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

In re:	Chapter 11
CAESARS ENTERTAINMENT OPERATING COMPANY, INC., et al.,[1]	Case No. 15-01145 (ABG) (Jointly Administered)
Debtors.	Hon. A. Benjamin Goldgar
	Hearing Date: March 16, 2016 **Hearing Time: 1:30 p.m. (CT)**

PRELIMINARY OBJECTION OF THE 10.75% NOTES TRUSTEE TO THE DEBTORS' DISCLOSURE STATEMENT SCHEDULING MOTION

Wilmington Trust, National Association, as Successor Indenture Trustee (the "10.75% Notes Trustee") for the 10.75% Senior Unsecured Notes (the "10.75% Notes") issued by Caesars Entertainment Operating Company, Inc. ("CEOC," and, together with the other chapter 11 debtors, the "Debtors"), and guaranteed by 137 wholly-owned domestic subsidiaries of CEOC (the "Subsidiary Guarantors") under that certain indenture dated February 1, 2008, by and through its undersigned counsel, files this preliminary objection (the "Preliminary Objection") to the Motion[2] and respectfully represents as follows:

PRELIMINARY OBJECTION

1. As it has since the start of the Subsidiary Guarantors' chapter 11 cases, the 10.75% Notes Trustee has attempted to find common ground with its guarantors regarding recovery on its noteholders' guarantee claims. Those Debtors, for their part, however, have pursued an as-yet explained strategy of holding their unsecured creditors at bay while channeling

[1] A complete list of the Debtors and the last four digits of their federal tax identification numbers may be obtained at https://cases.primeclerk.com/CEOC.

[2] *Debtors' Motion for Entry of a Scheduling Order to (A) Schedule a Hearing to Consider Approval of the Debtors' Disclosure Statement, (B) Establish the Deadline for Filing Objections to the Disclosure Statement and Replies Thereto, (C) Set Certain Initial Plan Confirmation Discovery Dates, and (D) Grant Related Relief* [Dkt. No. 3335] (the "Motion").

substantially all value of the enterprise—encumbered or not—to their prepetition non-recourse first lien creditors. In the face of a plan that had the Subsidiary Guarantors electing to incur more than $11 billion in unnecessary deficiency claims of CEOC's secured creditors while providing no meaningful recovery to their actual prepetition unsecured creditors, the 10.75% Notes Trustee litigated to protect its right to recover from the unencumbered assets of the Subsidiary Guarantors. The critical, case-dispositive issue with respect to that recovery—the allowance of secured creditor deficiency claims against any of the Subsidiary Guarantors—has now been fully briefed and is under submission with the Court.

2. At the same time, CEOC's case is also at a critical juncture. It is pressing to move forward with approval of a proposed plan and disclosure statement over the objection of its unsecured or under-secured creditors, whose recoveries will depend on litigation outcomes. All parties in that case await the imminent release of the examiner's report and will soon commence mediation armed with full knowledge of the litigation to be resolved under the Debtors' proposed plan. The confluence of these issues raises the possibility for compromise among parties that, to date, have been incentivized to continue fighting each other over prepetition transactions.

3. Given this tipping point, the 10.75% Notes Trustee believes that the relief sought by the Debtors in the Motion could, in fact, hinder the prospects for peace at the outset. The Motion seeks to require all parties to participate in a highly-compressed timetable for litigation concerning approval of the Debtors' proposed disclosure statement and plan. To have the greatest chance of success, mediation will require the full attention and resources of all participating parties. Requiring all parties to prepare for, and engage in, litigation about plan issues while attempting to reach consensus on that plan will discourage the constructive engagement that mediation requires.

4. For these reasons, the 10.75% Notes Trustee respectfully submits that this Court should adjourn the Motion until after the publication of the examiner's report and the mediator makes an initial report on the progress of mediation. Given the expected breadth of the report, it will take meaningful time and effort for parties to process it and recalibrate negotiations based on the new information to be received. Simply, the appropriate sequence would seem to be the filing of the examiner's report, then mediation, then the filing of a plan, then prosecution of the plan pursuant to a firm schedule, and then, only if all else fails, plan litigation.

5. In EFH, one of only two cases cited by the Debtors to support the Motion, the Court was faced with a substantially identical scheduling request in the shadow of the expiration of exclusivity. There, Judge Sontchi chose to not set an initial discovery deadline or enter a scheduling order regarding confirmation of a plan in order to allow mediation a full opportunity to succeed. In re Energy Future Holdings Corp., No. 14-10979 (Bankr. D. Del. May 4, 2015), Dkt. No. 4477 at 103:17-22 ("SONTCHI, J: We have an opportunity here with mediation . . . to I think appropriately focus on those issues more directly and delay, at least for some period of time, this parallel tracking of litigation and discovery, at least as it applies to confirmation"). Ultimately, that process ultimately led to a nearly fully consensual plan.

6. The Debtors' purported need to double-track settlement negotiations with litigation so as to preserve exclusivity does not legally justify the relief requested in the Motion. Mot. ¶ 13. According to the Debtors, section 1121 provides them with a substantive right to be heard on their plan without the threat of competing plans. That right cannot be found in the statute's text, and is contrary to its stated policy. As the Third Circuit stated in Century Glove:

> [Section 1121] provides only that the debtor temporarily has the exclusive right to file a plan (and thus have it voted on). It does not state that the debtor has a right to have its plan considered exclusively. A right of exclusive consideration is not warranted in the policy of [section 1121].

Century Glove, Inc. v. First Am. Bank. of N.Y., 860 F.2d 94, 102 (3d Cir. 1988).

7. Indeed, the legislative history of section 1121 confirms that the purpose behind the Bankruptcy Code's exclusivity provisions is not to ensure a debtor's right to exclusive plan consideration, but rather to protect creditors from undue delay and balance the negotiating strength between debtors and creditors. See H.R. Rep. No. 95-595, 95th Cong., 1st Sess., at 231-232 (1978) (section 1121 "recognizes the legitimate interests of creditors, whose money is in the enterprise as much as the debtor's, to have a say in the future of the company"). This is not to say that competing plans are the goal here, but rather that the Court has other means at its disposal to avoid the cost and duplication of a multiple plan scenario that are far more effective than creating an arbitrarily accelerated plan process. See In re Energy Future Holdings Corp., Dkt. No. 4477 at 104:25-105:10 (SONTCHI, J.: "While I certainly understand and appreciate the debtors' desire to schedule confirmation to conclude before or simultaneously with the termination of the statutory exclusivity period . . . I don't think chaos ensues the day after exclusivity expires. Even were there to [be] numerous plans filed, filing of a plan in and of itself doesn't really accomplish anything. . . .").

8. To the extent the Court is inclined to grant the Motion, however, the 10.75% Notes Trustee requests that the Court should condition its approval on a more flexible schedule. Specifically, the Court should temporarily refrain from setting a detailed confirmation schedule until after the Debtors have released their amended proposed plan. A lengthier discovery period and confirmation hearing may be necessary to the extent the plan continues to seek, for example, non-consensual third party releases of CEC or requires valuation of Subsidiary Guarantors' collateral, whereas a shorter window would otherwise suffice. For these reasons, any relief granted by the Court should allow for reassessment of dates after the filing of an actual plan and disclosure statement that the Debtors intend to prosecute.

CONCLUSION

WHEREFORE, the 10.75% Notes Trustee respectfully requests that the Court deny the Motion at this time.

Dated: March 9, 2016
Chicago, Illinois

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