

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION

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In Re:	)	<b>Case No. 10-43400-dml-11</b>
	)	Chapter 11
TEXAS RANGERS BASEBALL	)	
PARTNERS,	)	Fort Worth, Texas
	)	Tuesday, July 13, 2010
Debtor.	)	1:30 p.m. Docket
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RANGERS BASEBALL EXPRESS,	)	<b>Adversary No. 10-4121-dml</b>
LLC,	)	
	)	
Plaintiff,	)	
	)	EMERGENCY MOTION FOR
v.	)	PRELIMINARY INJUNCTION AND
	)	TEMPORARY RESTRAINING ORDER
TEXAS RANGERS BASEBALL	)	
PARTNERS,	)	
	)	
Defendant.	)	

TRANSCRIPT OF PROCEEDINGS  
BEFORE THE HONORABLE D. MICHAEL LYNN,  
UNITED STATES BANKRUPTCY JUDGE.

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1                   FORT WORTH, TEXAS - JULY 13, 2010 - 1:40 P.M.

2                   THE COURT: All right. Well, then on the Texas  
3 Rangers case, I will call the roll. Mr. Seider and Mr. Fabiani  
4 for JPMorgan Chase?

5                   MR. SEIDER: Good afternoon, Your Honor.

6                   THE COURT: Mr. Spaniol for GSP Financial? (No  
7 response.) Mr. Spaniol, are you there? (No response.) All  
8 right. How about Mr. Sullivan?

9                   MR. SULLIVAN: Yes, Your Honor. And also with me are  
10 my colleagues Jason Young and Jennifer DeMarco.

11                  THE COURT: Very well. All right. Could I have  
12 appearances in the courtroom, then, please?

13                  MR. SOSLAND: Good afternoon, Your Honor. Martin  
14 Sosland of Weil Gotshal & Manges on behalf of Texas Rangers  
15 Baseball Partners.

16                  MR. STRUBECK: Good afternoon, Your Honor. Louis  
17 Strubeck, and also my litigation partner Mike Steindorf is with  
18 me, on behalf of the -- or, we're proposed counsel, I guess,  
19 still at this point on behalf of the Ranger Equity Holding  
20 entities.

21                  MR. PROSTOK: Good afternoon, Your Honor. Jeff  
22 Prostok; Forshey & Prostok; conflict counsel for the Debtor.

23                  THE COURT: Okay. Go ahead.

24                  MR. ESSERMAN: Good afternoon, Your Honor. Sandy  
25 Esserman of Stutzman Bromberg Esserman & Plifka, along with

1 Peter D'Apice, representing Major League Baseball, the Office  
2 of the Commissioner.

3 MR. FINE: Good afternoon, Your Honor. Jeffrey Fine;  
4 K&L Gates; on behalf of the Official Committee of Unsecured  
5 Creditors.

6 MR. STEWART: Dan Stewart of Vinson & Elkins, along  
7 with Andy Leblanc of Milbank Tweed, on behalf of the Ad Hoc  
8 Group of First Lien Lenders.

9 MR. ROCHELLE: Good afternoon, Your Honor. Michael  
10 Rochelle and Shawn McCaffity for the agent bank, JPMorgan  
11 Chase.

12 MS. O'NEIL: Good afternoon, Your Honor. Holly O'Neil  
13 with Gardere Wynne Sewell on behalf of GSP Finance, the agent  
14 for the Second Lien Lenders. Thank you.

15 MS. LAMBERT: Lisa Lambert for William Neary, the U.S.  
16 Trustee.

17 THE COURT: All right.

18 MR. LAURIA: Good afternoon, Your Honor. Tom Lauria  
19 with White & Case for Rangers Baseball Express.

20 THE COURT: All right. All right. To begin with, we  
21 had a number of motions. This is an adversary proceeding and  
22 request for a temporary restraining order, and we had a number  
23 of motions for intervention. Just as the Court is free to  
24 treat a motion as an adversary under proper circumstances, so  
25 too the Court, at least according to the Bankruptcy Court in

1 the District of District of Columbia, logically can treat an  
2 adversary as a motion. So I am going to treat your motion for  
3 a restraining order as a motion filed in the general case,  
4 because it appears to me what the motion is designed to do is  
5 to establish sale procedures, which ordinarily would be handled  
6 by a motion. So we don't need to address the intervention  
7 motions because any party in interest with standing under  
8 Section 1109 will have standing to participate in this hearing.  
9 Okay?

10 MR. LAURIA: All right, Your Honor. I was going to  
11 offer that, as far as intervention in the adversary, that I  
12 would stipulate to the right of the parties to participate in  
13 today's hearing, --

14 THE COURT: Well, that gets us --

15 MR. LAURIA: -- reserving my rights to respond to the  
16 motions to intervene at a later point in time.

17 THE COURT: Well, at this point in time, I'm going to  
18 treat this, at least the temporary restraining order motion and  
19 the associated sale procedures, as being motion practice and  
20 therefore available for consideration under Fifth Circuit law.  
21 If we were in the Third Circuit, of course, it wouldn't matter.  
22 They could all intervene anyway. But in this circuit, you have  
23 to be allowed to intervene in an adversary.

24 MR. LAURIA: Right.

25 THE COURT: But I think this is truly a motion.

1 MR. LAURIA: Right.

2 THE COURT: All right?

3 MR. LAURIA: Your Honor, to that point, maybe this can  
4 help advance things a bit. While we think there are issues  
5 that are raised by the requests for TRO that actually are  
6 properly contained in an adversary proceeding -- I guess, to  
7 take a step back, my client's intention is not to prevent there  
8 from being an orderly process for getting to an ultimate  
9 approval of the Debtor's plan here, which includes consummation  
10 of the agreement that my client is party to.

11 We are concerned that right now there is no process, and we  
12 kind of have gone back and forth and struggled internally and  
13 with the Debtor in trying to figure out the right way to  
14 proceed. We think that the threshold issue, and perhaps the  
15 thing that the Court is most concerned about, based on comments  
16 made in chambers last week, is that we have a clear path to a  
17 resolution. And so, to that extent, you know, we would be  
18 prepared to kind of hold the TRO issues to a later point in  
19 time today, and instead deal directly with the bidding  
20 procedures issue and see where that gets us. If there is some  
21 resolution, maybe we don't have to press the TRO. And if, on  
22 the other hand, it may be that we don't get to a resolution,  
23 and then we'd need to turn to the TRO request for compliance.

24 THE COURT: All right. Let me perhaps help you here.  
25 I've reviewed your sale procedures with some care, and I've



1 made some revisions to them that in my judgment would make them  
2 acceptable to the Court. And it may be that it would be useful  
3 for you to have a look at what I did before we proceed. It's  
4 up to you, if you want to go -- and I'm pretty confident, going  
5 through them, that all of you will dislike them. So that's  
6 probably a pretty good indication that I did something right.

7 Before we start, though, Mr. Strubeck and Mr. Lauria, would  
8 you come over here, please?

9 (Sidebar conference.)

10 THE COURT: All right. What I'm going to do, then, is  
11 we're going to take about a 20-minute recess and I'm going to  
12 -- my law clerks will provide to you copies of a redline  
13 version of the sale procedures that are added to your TRO. And  
14 you can all get a look at them and see what they have to say.  
15 I will be happy to explain my changes to you, if you wish them  
16 explained, to the extent that I have the facts necessary. And  
17 if you have problems with any of them, and I'm confident you  
18 will, but I probably won't listen to you anyway. All right?

19 So we're going to get this process on the road. I agree  
20 with Mr. Lauria that we need to bring order from chaos here.  
21 And so, to that -- (pause.) Okay. We also -- we're still  
22 working on these. I started on these at 6:00 this morning.

23 As a side note, I am supposed to be going to a Federal  
24 Judicial Center program in San Francisco the week after next.  
25 Unlike my vacation, much-maligned vacation, I didn't pay for

1 this and therefore I don't feel quite so bad about canceling  
2 it, and I therefore intend to cancel that trip so that I will  
3 be available should the Texas Rangers require me. All right?  
4 Any questions?

5 And Mr. Sosland, I know that you were fervently hoping to  
6 get that week off -- that's my understanding from Judge Nelms  
7 -- and I hope you can still do so. But I have very little  
8 control over that, as you know.

9 All right. We'll be in recess, and I will have -- we're  
10 still going over this. I started on these at 6:00 o'clock this  
11 morning. So we're still going over to make sure that we got  
12 everything right when we did it. And I know your draft was a  
13 little bit hurried because there were some mistakes in it as  
14 well. And I'm not sure we caught all your mistakes, let alone  
15 my mistakes. All right?

16 Yes, Mr. Stewart?

17 MR. STEWART: Your Honor, if I might, a group of  
18 lenders has itself been working on bid procedures as well. We  
19 have got that ready to go. We would really like the Court to  
20 consider those bid procedures as well.

21 THE COURT: Well, you take a look at mine. And if you  
22 can live with mine, we're going to get this done a lot faster.  
23 And remember what I said to you a week ago, or last Friday. I  
24 said, we're going forward on July 22. And if we dither for  
25 another week over the bid procedures, then you're going to have

1 a due diligence period that will last hours instead of days.

2 MR. STEWART: Well, we think the days themselves --  
3 itself set forth of six days of bid procedures and due  
4 diligence under it, when --

5 THE COURT: Well, you --

6 MR. STEWART: -- the Debtor, with its plan already on  
7 file, is in control of the due diligence process, --

8 THE COURT: Well, you take --

9 MR. STEWART: -- simply is not going to work.

10 THE COURT: You take a look at what I had to say, Mr.  
11 Stewart, and --

12 MR. STEWART: We shall. Thank you, Your Honor.

13 THE COURT: -- see if it contents you. All right?  
14 All right. We'll be in recess. And either Mr. Lynch or Mr.  
15 Vasek will bring you those. And I'm going to give you about  
16 15-20 minutes.

17 THE CLERK: All rise.

18 (A recess ensued from 1:50 p.m. until 2:29 p.m.)

19 THE COURT: Please be seated. All right. Other than  
20 the fact that I'm confident you all are unhappy, is this  
21 something that you can, gritting your teeth and holding your  
22 nose, live with?

23 MR. STRUBECK: I guess I can go first, Judge, if you  
24 want me to.

25 THE COURT: Well, you're closer to the lectern than

1 Mr. Lauria.

2 MR. STRUBECK: All right. I'm also --

3 THE COURT: And I don't want you to fight over it.

4 MR. STRUBECK: I'm also quicker than he is, at least  
5 right now.

6 Judge, we can't live with it.

7 THE COURT: Okay.

8 MR. STRUBECK: And when I say "we," I speak on behalf,  
9 as you know, of the Ranger Equity Holding entities. And I'll  
10 tell you why. It's not because I don't think the Court has  
11 done everything it can to make this a better process. We  
12 didn't see these bid procedures as early as you did. We saw  
13 them about maybe 10:00 o'clock this morning.

14 THE COURT: Uh-huh.

15 MR. STRUBECK: And I'm handicapped because of a couple  
16 reasons. First is Mr. Snyder is in the air and he's on his way  
17 to have to deal with a personal matter that involves appearing  
18 in a different court, and so he and I haven't really had the  
19 chance to go through this. But I wanted to just tell you that  
20 we tried this before. I mean, we came into this case, Judge,  
21 basically with a full count.

22 THE COURT: Just tell me what you don't like about it.

23 MR. STRUBECK: Well, what I don't like about it is I  
24 don't think that there is a chance at this late juncture for  
25 there to be a fair process. I think expecting potential

1 bidders to bid within an eight-day time frame based upon an  
2 asset purchase agreement that these guys have been working on  
3 for months -- Mr. Snyder, if he were here, would tell the Court  
4 he wants to have a fair process.

5 THE COURT: Okay. We're not -- let me make something  
6 -- I think I made this clear last Friday. I take seriously the  
7 August 12th date. Now, I'm willing, if Express will agree to  
8 it, to extend the confirmation date, and I would like to see  
9 that to the following week. I know that's a problem for Mr.  
10 Sosland, because otherwise we would have already done it. And  
11 my understanding from Judge Nelms is that that's a problem for  
12 you, Mr. Sosland. But if it must be, it must be. But we are  
13 going to take the August 12th date seriously, and I can give  
14 you, therefore, about a week or a week and a half, and that's  
15 all the time you're going to have. And if you don't like it,  
16 well, I guess you'll have to go up to the Fifth Circuit to get  
17 it fixed.

18 So, if I can get -- if I can ask Mr. Lauria's indulgence  
19 for that added week, that would be a nice thing to do and would  
20 make me feel better about the whole process as well. But  
21 that's all you're going to get.

22 MR. STRUBECK: May I say one more thing, Your Honor?  
23 Again, I appreciate that. And in terms of whether someone goes  
24 up to the Fifth Circuit, here, that's probably not my client.  
25 Because one of the challenges that we face here is there's a

1 very narrow scope that involves Mr. Snyder's retention as the  
2 Chief Restructuring Officer. And we were kind of stuck between  
3 a rock and a hard place in terms of that scope, because the  
4 only way we could really get Mr. Snyder retained, the only way  
5 he could be retained to serve as the Chief Restructuring  
6 Officer at the equity level, was effectively for Mr. Hicks to  
7 sign the engagement letter. And so we always envisioned, Your  
8 Honor, that there was a broader scope that you had in mind.

9 THE COURT: My order, I think, overcomes or supersedes  
10 Mr. Hicks' engagement letter. And as far as I'm concerned, my  
11 order gives Mr. Snyder a say in any action that must be taken  
12 by either of the general partners outside the ordinary course  
13 of business. And I think I made that fairly clear. And one of  
14 the significant changes in those bidding procedures is -- with  
15 all due respect to Mr. Fine, whose clients are going to be paid  
16 in full regardless and is just anxious to have a deal --  
17 substituting the consent of the general partners to any  
18 transaction with the Debtor rather than the Creditors'  
19 Committee. And I don't mean any disrespect, Mr. Fine. You  
20 understand that.

21 MR. FINE: Your Honor, I actually think that that  
22 change was not only appropriate but welcomed by the Committee.

23 THE COURT: All right.

24 MR. STRUBECK: And so, Judge, I guess, again, I  
25 appreciate -- I've looked at this and I appreciate the changes

1 the Court has made, and I think the Court has made these  
2 changes in an effort to make it a more level playing field.  
3 But if Mr. Snyder were here, what Mr. Snyder would say that  
4 he's discovered in the approximately three weeks that he's been  
5 involved is there can't really be a level playing field within  
6 this period of time. And he reaches that conclusion based upon  
7 a number of discussions he's had with third parties who have  
8 said they really want to bid but they just can't bid within  
9 this construct.

10 And that's why, Your Honor, you saw earlier on the Mr.  
11 Snyder at one point in time was supportive of a bid procedure  
12 process that actually involved Mr. Lauria's client as a  
13 stalking horse. That happened on Monday, actually, the holiday  
14 for July 4th: Monday, the 5th. The very next day, when we had  
15 the mediation, it became apparent to Mr. Snyder that there just  
16 wasn't a way for these other parties -- who were very, very  
17 interested in bidding, who we think will bid more money -- to  
18 play within this construct because they have too much catching  
19 up to do and there's just not enough time.

20 So I need to make that statement for the record. And  
21 again, --

22 THE COURT: I understand. And you understand, I'm  
23 willing to extend the time, but not to the point where Express  
24 loses its financing on August 12th.

25 MR. STRUBECK: I appreciate that, Your Honor.

1 THE COURT: So we're going to have this case done by  
2 then, regardless of anyone's wishes, and that includes the  
3 Lenders, too. It's going to be done one way or another.

4 Now, it seems to me, from what I understand, the current  
5 bidders or potential bidders include Mr. Crane, who as I  
6 understand it has completed largely his due diligence. There  
7 is sufficient flexibility for him to change the form of his  
8 asset purchase agreement in those procedures if he's unhappy  
9 with it. And he's represented by a very large New York law  
10 firm that is used to having its lawyers work 22 to 23 hours a  
11 day. So that gives you a lot of hours.

12 And I don't know about Mr. Beck. I know nothing about him  
13 at this point.

14 MR. STRUBECK: Well, you know, I can tell you, Judge,  
15 that Mr. Beck is one of the other parties that you've heard  
16 rumors about in terms of someone who's very interested in  
17 trying to do something here.

18 And again, I'm going to sit down in just a second, because  
19 I know what Your Honor is saying here, but I needed to say what  
20 Mr. Snyder has asked me to say because he can't be here today.

21 THE COURT: All right.

22 MR. STRUBECK: And if you were to ask Mr. Snyder  
23 today, would you rather support these bid procedures, even with  
24 the changes Your Honor has made, or just say there should be no  
25 competitive bidding procedure and just go forward with the plan



1 that has Mr. Lauria's client as the only, the exclusive  
2 purchaser, I think at this point he'd say he would prefer to  
3 just go forward with the plan, we a confirmation hearing on the  
4 22nd, and he'll either vote no ordeal that yes. Because he  
5 doesn't think this process, even with the changes that Your  
6 Honor has made to make it a fairer process, --

7 THE COURT: Well, how much time does he want? Does he  
8 want to wait until January 1st, or maybe 2012, or what?

9 MR. STRUBECK: No. I think what he would like to do  
10 --

11 THE COURT: How long does he want?

12 MR. STRUBECK: I think he would like to have until  
13 about August the 6th, Your Honor, for an auction, which is one  
14 week longer than what Your Honor has been talking about.

15 THE COURT: All right. Let me hear from -- go ahead.  
16 Mr. Lauria, you're next.

17 MR. LAURIA: Thank you, Your Honor. As I think the  
18 Court understands, there are a number of aspects of the bidding  
19 procedures that are not -- as modified -- as proposed to be  
20 modified by the Court that we're not thrilled with. But I  
21 think that, first and foremost, we do desire to see order be  
22 brought to chaos. We think a process is called for, and we are  
23 mightily concerned that our opportunity to buy this team not  
24 being defeated by the passage of time. At this point, --

25 THE COURT: Okay. How do you feel -- look at it this

1 way, Mr. Lauria. And here's where we're coming at this. And  
2 I'm hesitant to do this, because it's likely to be  
3 misinterpreted. But as we discussed a week ago -- or last  
4 Friday, actually, in chambers -- the plan is going to be  
5 confirmed or not confirmed under Section 1129 of the Code, and  
6 that means either Snyder has to vote for the plan, which I  
7 don't think is going to happen as it stands, or you're going to  
8 have to show that there isn't any other potential bidders who  
9 will pay more. And my suspicion is that at this point pretty  
10 good evidence could be put on to the contrary. I mean, these  
11 guys are pretty competent lawyers, and I suspect they could do  
12 that.

13 So my question to you is: How do you feel about going to  
14 -- and I can't go to August 6th because -- and I know I'm not  
15 supposed to allow things like my niece's wedding to interfere  
16 with my duties here, but I cannot be here from August 5th on.  
17 So I could give you -- August 5th is a Friday, I believe. So I  
18 could give you August 4th if Mr. Lauria can go along with that.  
19 And the advantage of this, Mr. Lauria, is that you lose your  
20 risk of the plan not been confirmed and you probably avoid the  
21 problem of an appeal standing in your way. So my question to  
22 you is, could your client go along with August 4th as a  
23 confirmation date, as opposed to July 22nd? I think that would  
24 be a wise move, but I understand that wisdom is not always the  
25 guiding star for attorneys, let alone their clients.

1 MR. LAURIA: Well, Your Honor, the -- one of the  
2 things that we would need to understand to tighten confirmation  
3 up that close to the expiry of our financing is how Baseball  
4 works through its process, because we're now conceivably  
5 reducing their approval process to seven or eight days. One of  
6 the reasons that we thought the 22nd was important is that we  
7 give --

8 THE COURT: I understand.

9 MR. LAURIA: -- those 30 owners, who it's -- you know,  
10 you can't really kind of make them, you know, meet.

11 THE COURT: Okay. Let's ask Mr. Esserman, then. Can  
12 you make that happen, Mr. Esserman? Or Mr. Shimshak? If --

13 MR. ESSERMAN: Sandy Esserman.

14 Unfortunately, I'm not as familiar if it can be done, but I  
15 can assure this Court that every effort will be made --

16 THE COURT: All right. And I want to add, --

17 MR. ESSERMAN: -- to make sure that it will be done.

18 THE COURT: -- I have been very appreciative, for  
19 example, of the very quick qualification of Mr. Beck as a  
20 potential bidder. I am very appreciative of what Major League  
21 Baseball is doing. Could you step out and make a phone call  
22 and find out if we can live with that?

23 MR. ESSERMAN: Yes, Your Honor.

24 THE COURT: All right. Why don't you do that, and  
25 we'll get back to that in a minute. All right?

1 MR. ESSERMAN: Well, --

2 THE COURT: If we can -- go ahead. Go ahead, Mr.  
3 Esserman. I didn't mean to interrupt.

4 MR. ESSERMAN: That's all right. I can come back. I  
5 had one comment on bidding procedures, but I can --

6 THE COURT: Go ahead. What have you got?

7 MR. ESSERMAN: I --

8 THE COURT: By the way, we've got about four or five  
9 typos that we've fixed. I am reluctant to have people looking  
10 at this when it isn't a public document yet, --

11 MR. ESSERMAN: Sure.

12 THE COURT: -- but I wanted you guys to have it for  
13 sure. Go ahead.

14 MR. ESSERMAN: Sure. On Page 4, Your Honor, the  
15 paragraph above the "Bidding Process," the last sentence reads  
16 as follows. "For purposes of this auction, the purchaser and  
17 potential bidders invited to attend the mediation of July 6,  
18 2010 are deemed to have received MLB sales clearance."

19 THE COURT: Yes?

20 MR. ESSERMAN: I would alter that sentence to say,  
21 "For purposes of this auction, the purchaser, Jim Crane and  
22 Jeff Beck have received MLB sales clearance." And I say that  
23 for a couple quick reasons. One, --

24 THE COURT: Okay. Well, I'm happy that you're picking  
25 on this because that was Lauria's language. I didn't put that

1 in there.

2 MR. ESSERMAN: I understand.

3 THE COURT: All right.

4 MR. ESSERMAN: I would have had the same comment to  
5 Mr. Lauria.

6 THE COURT: Yes.

7 MR. ESSERMAN: The reason is obvious. We don't know  
8 who attended the mediation.

9 THE COURT: That would be fine, then. And I presume  
10 you're thereby approving their group, as opposed to just those  
11 individuals, so that we don't have to run the other members of  
12 the group through?

13 MR. ESSERMAN: I don't know if MLB knows who their  
14 group -- Mr. Crane was qualified the first go-round.

15 THE COURT: Yes. Yes. I understand that.

16 MR. ESSERMAN: And Mr. Beck was virtually  
17 prequalified. He was lacking some forms --

18 THE COURT: Okay.

19 MR. ESSERMAN: -- that Mr. Beck said that he'd get in,  
20 and we gave virtually instant turnaround to Mr. Beck.

21 THE COURT: Okay. I think, actually, the only one who  
22 attended the mediation -- am I correct, Mr. Sosland -- was Mr.  
23 Crane?

24 MR. SOSLAND: Mr. Beck was on the participation list.  
25 I didn't --

1 THE COURT: But he did not attend, according to Judge  
2 Nelms.

3 MR. ESSERMAN: I --

4 THE COURT: Again, Judge Nelms advised me.

5 MR. SOSLAND: And Judge Nelms would know better than

6 --

7 MR. ESSERMAN: I met him.

8 THE COURT: Is that true, Mr. Leblanc?

9 MR. LEBLANC: No, Your Honor. Mr. Beck did in fact  
10 attend, --

11 MR. ESSERMAN: Yeah.

12 THE COURT: Oh, okay.

13 MR. LEBLANC: -- together with an attorney for --

14 THE COURT: All right.

15 MR. LEBLANC: -- another party in his group.

16 THE COURT: All right.

17 MR. LEBLANC: There were news reports that Mr. Gilbert  
18 did not attend.

19 THE COURT: Ah, okay. All right.

20 MR. ESSERMAN: Yeah. And I met --

21 THE COURT: I apologize, then.

22 MR. ESSERMAN: Yeah. I met Mr. Beck at the mediation,

23 --

24 THE COURT: Okay.

25 MR. ESSERMAN: -- so I know he attended.

1 THE COURT: Well, who knows who would be pretending to  
2 be Beck?

3 MR. ESSERMAN: Yes.

4 (Laughter.)

5 MR. ESSERMAN: Think you, Your Honor.

6 THE COURT: All right. Well, I don't have a problem  
7 with that change. Does that bother you, Mr. Lauria? I would  
8 assume not. And I would assume, from the perspective of the  
9 Lenders, this does not preclude someone else. It just  
10 automatically qualifies someone.

11 MR. LEBLANC: Well, Your Honor, it does concern us a  
12 little bit because Major League Baseball is aware of the people  
13 involved in the Beck group. It doesn't consist of just Mr.  
14 Beck. There are other parties involved. And to the extent  
15 that there's any issue of their qualifications, that's a real  
16 issue.

17 THE COURT: All right.

18 MR. LEBLANC: And this is not our only issue. I'm  
19 happy to talk about it later. But --

20 THE COURT: I'm glad to hear. You'll probably be as  
21 successful as Mr. Strubeck and Mr. Lauria, but that's okay.  
22 Yes, you go ahead and make the call and make sure that they  
23 will be happy with that. Because if it says Crane and Beck  
24 here, then I'm looking at their groups as having been qualified  
25 as much as the Express group. Okay?

1 MR. ESSERMAN: Okay. I'm not so sure we know who is  
2 in their group, but --

3 THE COURT: Well, you certainly do --

4 MR. ESSERMAN: -- we know who

5 THE COURT: You certainly do Crane, because he's been  
6 fully approved.

7 MR. ESSERMAN: Assuming that the same people are in  
8 their group as before, that --

9 THE COURT: Right. All right.

10 MR. ESSERMAN: -- I think they were approved.

11 THE COURT: All right.

12 MR. ESSERMAN: So, thank you.

13 THE COURT: Well, I don't have a problem with  
14 modifying that as necessary. If you'd make that call, I'd be  
15 most grateful, Mr. Esserman.

16 MR. ESSERMAN: I will. Thank you.

17 THE COURT: All right.

18 MR. ESSERMAN: May I be excused --

19 THE COURT: Yes. Well, for the moment, yes.

20 MR. ESSERMAN: -- to make the call?

21 THE COURT: Do come back.

22 MR. ESSERMAN: I'll be back.

23 THE COURT: Okay. Mr. Lauria?

24 MR. LAURIA: Your Honor, a couple of things. To the  
25 extent that we're talking about pushing the date out from the



1 schedule proposed by the bidding procedures to early August,  
2 presumably, that's in an effort to have an understanding that  
3 the process is fair, subject, of course, to people reserving  
4 their rights to argue that the process was not conducted as  
5 directed by the Court, which I think is extremely unlikely.  
6 But it seems to me that one of the consequences of changing the  
7 timeline and squeezing it up like this is for the Court's  
8 approval to basically include a determination that this  
9 process, if executed as directed, is a fair process, and not to  
10 have to then have another argument about that when we get to  
11 confirmation.

12 THE COURT: All right.

13 MR. LAURIA: If we're going to reserve that argument,  
14 let's have the argument on the 22nd or the 23rd, I guess.

15 THE COURT: I understand. All right. How about the  
16 Debtor, before we --

17 MR. LAURIA: Your Honor, if I may, the one other  
18 comment --

19 THE COURT: Oh, I'm sorry. I'm sorry.

20 MR. LAURIA: -- on this topic I wanted to add was  
21 that, in addition, as the Court had mentioned in chambers, I  
22 think it may be important that the -- obviously, that the stay  
23 is going to have to be shortened, the stay of the confirmation  
24 order, to --

25 THE COURT: My view would be, if we have the

1 confirmation hearing on the 4th, that the time to appeal would  
2 expire the following Monday, which I think is, what, the 8th?

3 MR. LAURIA: Sounds right.

4 THE COURT: So we would shorten the time to that.  
5 That should give anyone ample time. My expectation, however,  
6 is that -- well, we'll hear what other parties have to say.  
7 All right?

8 MR. LAURIA: All right. Thank you.

9 THE COURT: Okay. Thank you. Mr. Sosland?

10 MR. SOSLAND: First, Your Honor, the Debtors are fine  
11 with the proposed procedures.

12 With regard to the question regarding the dates, our only  
13 concern is that we not lose the bid that we have on the table.

14 THE COURT: Yes.

15 MR. SOSLAND: I appreciate the Court's concern over my  
16 schedule, and obviously personally would like it to be  
17 accommodated, but whatever we have to do we will do to proceed.

18 THE COURT: I was once at Weil Gotshal. I understand  
19 that rule.

20 MR. SOSLAND: So, --

21 THE COURT: Yes. So, --

22 MR. SOSLAND: So, we had --

23 THE COURT: And I do apologize.

24 MR. SOSLAND: We had noticed one typ...

25 THE COURT: But I would say that if this goes forward,

1 my expectation is that there would be less controversy and  
2 perhaps -- well, and of course, if we have the confirmation on  
3 August 4th, it doesn't interfere with your plans.

4 MR. SOSLAND: That's also correct, Your Honor.

5 THE COURT: Okay.

6 MR. SOSLAND: So if that ends up working out, then we  
7 accomplished two goals.

8 THE COURT: All right.

9 MR. SOSLAND: We had noticed, and you may have already  
10 caught this, that at one point there was an inconsistency on  
11 the time of the hearing.

12 THE COURT: Yes. We've caught that.

13 MR. SOSLAND: Right.

14 THE COURT: And if you want, let me give you the --  
15 just these are markings that we made. And again, I do  
16 apologize, but I was in trial all morning, and we've had  
17 limited time to go over this as well.

18 On Page 4, in the third paragraph, before the "Bidding  
19 Process," the term before read, "A preliminary assessment of  
20 the purchaser's financial wherewithal." It's been changed to  
21 "potential purchaser."

22 In Footnote 4 on Page 5, it had read, "To the extended  
23 agreed to by the Debtor," and we've changed that to "to the  
24 extent."

25 On Page 6, we had the term that the "conditions to closing

1 of the mark-up asset purchase agreement," and that's been  
2 changed to "marked-up." And I think that was one of yours, Mr.  
3 Lauria, not mine. So, just giving credit where credit is due.

4 MR. LAURIA: Thank you.

5 THE COURT: Similarly, on Page 7, though we didn't get  
6 it changed correctly, there was -- we went from Romanette ix,  
7 and we've now got it Romanette vii and it should be Romanette  
8 viii.

9 Under "The Auction" on Page 8, the second line, it says,  
10 "The auction will be conducted in this courtroom."

11 And on Page 9 -- these are all very minor, I think, but  
12 nonetheless I do like it to be correct, if possible. In the  
13 second-to-last line in the text, we've added, to "which bid is  
14 successful bid," we've changed it to "which bid is the  
15 successful bid."

16 And at the top of Page 10, third line down, I neglected to  
17 change a verb form from third person singular to plural, so it  
18 goes from "deems" to "deem."

19 And then the one you mentioned in the confirmation hearing  
20 statement at the end, it should be July 22nd at noon, though  
21 that may change shortly, I hope.

22 All right? Anything else from the Debtor?

23 MR. SOSLAND: No, Your Honor.

24 THE COURT: All right. Then, okay, Mr. Fine. You're  
25 going to be the longest, Mr. Leblanc. You might as well sit

1 down for a minute.

2 MR. LEBLANC: Fair enough, Your Honor.

3 THE COURT: And we'll have a grand finale in the form  
4 of you.

5 MR. LEBLANC: I suspect my lender colleagues may have  
6 some --

7 THE COURT: Well, go ahead.

8 MR. FINE: Your Honor, a few comments by the  
9 Committee.

10 First of all, the Committee endorses this process. The  
11 first time we saw these procedures was this morning, but we did  
12 not have an opportunity to comment to any of the other parties  
13 on them at that time. As I said just a few minutes ago, I  
14 think it's very appropriate to include -- essentially include  
15 the general partners in the bid procedures as you've set out.

16 There is one comment that I do have, Your Honor, that we'd  
17 like to see added, and that is on Page 6, on Qualified Bids.  
18 And the Romanette v, it's "provide evidence satisfactory to the  
19 Debtor." What we'd like that to say is "provide evidence  
20 satisfactory to the Debtor, its general partners, and the  
21 Official Unsecured Creditors' Committee of the bidder's  
22 financial wherewithal and operational ability to consummate."

23 The reason for that, Your Honor, is that of all the  
24 stakeholders in the courtroom, my constituency is the only one  
25 that has to be concerned about what happens after the

1 successful bidder takes over the team, because much of the  
2 obligations of my constituency may have to be paid in the  
3 future. And so they're concerned about the financial  
4 wherewithal and operational capability of whoever might be a  
5 qualified bidder. And so we'd at least like to see evidence of  
6 that. We've been provided evidence, by the way, by Baseball  
7 Express, and we'd like to see that from the other qualified  
8 bidders as well.

9 THE COURT: Okay. The only problem I have with that  
10 is, and it doesn't bother me, but it seems to me if it's going  
11 to be provided to you, it needs to be provided to the Lenders  
12 as well. And I recognize what you're saying, which is that you  
13 want to know that they'll be able to keep this going in the  
14 future. I think what this was directed to was the ability to  
15 close the transaction in the Bankruptcy Court, as opposed to  
16 whether they'd still have money when it's time to pay A-Rod.  
17 But I understand that A-Rod is most concerned about them having  
18 the money when it's time to pay A-Rod. So, --

19 MR. FINE: Besides Mr. Rodriguez, there are other  
20 players --

21 THE COURT: I know. I didn't mean to pick on Mr.  
22 Rodriguez, but he is on your Committee, so --

23 MR. FINE: But there are also other claimants whose  
24 claims either are disputed and may be allowed --

25 THE COURT: Uh-huh.

1 MR. FINE: -- sometime in the future, or because of  
2 their contractual arrangements may not be paid for quite some  
3 time, until after --

4 THE COURT: Well, unless they're deferred contracts, I  
5 would expect them to be reserved against if they're subject to  
6 dispute. So I would assume that that would occur with the  
7 funds before they were upstreamed to Equity.

8 But, I mean, it makes no difference to me. The only one  
9 that I wanted in there was the general partners, who I see as  
10 being the voting constituency under the plan. So if you -- I  
11 mean, if the other parties want to receive that information  
12 subject to confidentiality being maintained, I don't have a  
13 problem with including it.

14 MR. FINE: And of course, Your Honor, we would, and we  
15 have told all parties in the case, we will abide by any  
16 reasonable confidentiality provisions, --

17 THE COURT: All right.

18 MR. FINE: -- and we've done so.

19 THE COURT: Well, except that you probably need to  
20 execute something since Section -- since the changes to Section  
21 1102 that Congress in its infinite wisdom made in 2005.

22 MR. FINE: Correct, Your Honor.

23 THE COURT: Since you can't keep anything confidential  
24 under that unless -- I don't think you even can if I order it,  
25 but certainly it gives you some coverage if I order it. Okay?

1           MR. FINE: But in any event, Your Honor, that's really  
2 our only comment to it. And other than that, there is one  
3 other and very important comment that we do have for this  
4 entire procedure, in that we very much endorse the Court's  
5 position that we not go beyond August 12th or whatever date  
6 it's established that the financing commitment for the existing  
7 offer expires. That is of grave concern to the Committee,  
8 because they do perceive it as a bird in hand, and endorse your  
9 -- the Court's position regarding that matter. And whatever  
10 the timing is that is acceptable to the parties is acceptable  
11 to the Committee, so long as we not put at risk the ability  
12 perhaps to close that transaction.

13           THE COURT: All right. All right. Thank you, Mr.  
14 Fine.

15           MR. FINE: Thank you, Your Honor.

16           THE COURT: All right. Mr. Sosland?

17           MR. SOSLAND: Your Honor, I apologize for standing up  
18 again, but I neglected to make one point when I was at the  
19 lectern previously. You may not have seen it, Your Honor,  
20 because this hearing was set based on Mr. Lauria's TRO  
21 application filed yesterday, --

22           THE COURT: Yes. I've seen -- we have seen -- I have  
23 not looked at them, but we compared your proposed procedures to  
24 Mr. Lauria's proposed procedures in connection with this. I  
25 will tell you, my law clerk did it, and I have confidence in



1 him.

2 MR. SOSLAND: Oh, they should have been the same, Your  
3 Honor, but the point I --

4 THE COURT: Except with two footnotes.

5 MR. SOSLAND: That's possible, Your Honor.

6 THE COURT: Yes.

7 MR. SOSLAND: The point I wanted to make was the,  
8 well, the first footnote talks about the second question, which  
9 was in fact the motion that we filed this morning. The motion  
10 that we filed this morning seeking approval of what we're now  
11 talking about at this hearing is -- also attaches to it an  
12 amendment to the asset purchase agreement between the Greenberg  
13 -- Rangers Baseball Express and TRBP that would become the --  
14 that makes favorable changes to the estate. They're explained  
15 in the motion, but in case the people who are in the courtroom  
16 haven't seen it, I thought I'd put on the record what they are,  
17 because that --

18 THE COURT: Please do.

19 MR. SOSLAND: -- that becomes the stalking horse bid.

20 The cash, the nominal cash purchase price in the asset  
21 purchase agreement was raised by \$2.7 million, from \$304  
22 million to \$306.7 million. There are changes in the escrow  
23 provision and the amount of the escrow, which -- and the  
24 amendment is attached to the motion. But basically the escrow,  
25 which had been \$30 million, is now between \$10 and \$12 million,

1 depending upon the date the closing occurs and some other  
2 provisions that are detailed in there. And finally -- and  
3 those were changes that -- based on agreements that TRBP  
4 reached with Rangers Baseball Express, the purchaser.

5 There's another provision based on a change agreed to by  
6 HSG, the ultimate parent, and that's the shared charter  
7 services agreement, or referred -- the airplane lease that has  
8 been the topic of some discussion at various hearings before  
9 Your Honor is now terminable without penalty at the expiration  
10 of the current season. So that no purchaser, if it elects, has  
11 to be -- is required to go forward with that lease. And the  
12 TRBP, if for some reason no plan were confirmed, also has the  
13 right to terminate the lease. So, it's a right to TRBP or to  
14 whomever TRBP's successor would be, Your Honor.

15 And so, with those changes, that becomes what would be the  
16 stalking horse bid under this proposal.

17 THE COURT: All right. All right. That's fine. All  
18 right. Mr. Leblanc, you're on.

19 MR. LEBLANC: Thank you, Your Honor. Andrew Leblanc  
20 of Milbank Tweed Hadley & McCloy on behalf of the Ad Hoc Group  
21 of First Lien Lenders.

22 To begin with, Your Honor, I think we echo the concerns Mr.  
23 Strubeck has raised. There isn't a fair process in this. If  
24 this is our choice, even an auction that goes to August 6th,  
25 with all due respect to Mr. Strubeck, if that's the choice,

1 we'd rather go forward next week and consider their plan, give  
2 it the up or down vote that they claim that they want, and  
3 let's go forward and have that. And the reason for that, Your  
4 Honor, really depends upon a large set of developments and the  
5 facts that the Court isn't privy to, obviously.

6 The reality is this. The Debtors -- and we've discovered  
7 this in discovery -- they filed this bankruptcy because it  
8 eliminated the risk of higher and better offers. Those are  
9 their words. And we'll show that to the Court at the  
10 appropriate time. It eliminated the risk of higher and better  
11 offers. And what they're trying to do now is to cleanse that  
12 process with what is fundamentally a flawed auction. And let  
13 me explain why the procedures that are here -- which are  
14 fundamentally the same as those that were proposed by Mr.  
15 Lauria and the Debtors; they're not meaningfully different from  
16 those -- why these processes don't result in a fair process to  
17 market these assets.

18 The first, Your Honor, is something we've talked about at  
19 great length, is the process is fundamentally flawed because  
20 it's all intertwined with the series of transactions and  
21 transfers that happened on the eve of bankruptcy. When bidders  
22 have talked to us, they've said, "We're going to take -- it's  
23 going to take time for us to understand these transactions, to  
24 unwind them."

25 The Debtors have today filed an amendment to the APA that

1 unwinds only one of those transactions. That's the aircraft  
2 lease. Now, just to give the Court a little bit of context,  
3 that aircraft lease, by our understanding, is something like  
4 \$3-\$4 million above market for what other baseball teams pay.  
5 And in consideration for rejecting that aircraft lease or for  
6 not assuming it beyond this season, our understanding is that  
7 Rangers Baseball Express has added \$2.7 million to the purchase  
8 price. Well, that's nice, but frankly it doesn't come close to  
9 what that value savings is.

10 And prior to May 23rd -- actually, let me take that back.  
11 Prior to May 22nd. It was not an eve-of-filing. It was the  
12 Saturday before filing. When they signed the shared chartered  
13 services agreement, prior to that date, the Rangers, TRBP, was  
14 not saddled with that obligation, but they signed that two days  
15 before.

16 Now, that's the tip of the iceberg, and it may not even be  
17 the tip of the iceberg. There are many other series of  
18 transactions, not the least of which are all of the  
19 indemnities, all of the releases that are part of the new APA,  
20 the May 23rd version of the APA, that this process is now going  
21 to be saddled with because it has -- I apologize, Your Honor.

22 THE COURT: No. I'm not talking to you.

23 MR. LEBLANC: Okay.

24 THE COURT: Mr. Sosland was getting up, and he'll have  
25 his chance to respond when the time comes. But go ahead.

1           MR. LEBLANC: But to the extent that we're requiring  
2 bidders to come in here and propose these -- propose bids on  
3 the basis of the new APA, and they can make changes if they  
4 want to, but we're -- and I'll get to this in a second -- we  
5 don't appear to be valuing, for example, dropping releases out  
6 of the APA. To the extent that that's the starting point for  
7 an auction, it's fundamentally flawed. And it --

8           THE COURT: Well, except that one of the things that  
9 you're doing here is you're getting your neutral in to evaluate  
10 the offers. And that means that, to some extent, if the  
11 neutral feels that there is an enhancement of the offer by  
12 virtue of a rejection or the elimination of a release, the  
13 neutral will calculate that into the numbers as he's working  
14 with the Debtor.

15           And I will expect, Mr. Sosland, the Debtor not -- and this  
16 means you, because I'm not necessarily looking to Mr. Hicks to  
17 serve the best interests of the creditors of this estate. I'm  
18 looking to you to do your job properly. You understand me?

19           MR. SOSLAND: Yes, Your Honor. But I would just ask  
20 the opportunity --

21           THE COURT: I'll give you a chance to respond.

22           MR. SOSLAND: -- to respond to the misstatements that  
23 have been made.

24           THE COURT: No, I understand. Go ahead, Mr. Leblanc.

25           MR. LEBLANC: Could I have one moment, Your Honor?

1 THE COURT: You out of water there?

2 MR. LEBLANC: No, we're good. I think it's just  
3 somebody gave us ice.

4 THE COURT: My morning trial, they drank a lot of  
5 water.

6 MR. LEBLANC: And actually, Your Honor, it may be a  
7 useful segue to what I think is the second critical point.  
8 This debtor is not a melting ice cube, by any stretch of the  
9 imagination. We were told when this case was filed that the  
10 critical date was July 31st because of the trade deadline.  
11 Well, Your Honor, no sooner had we walked out of chambers on  
12 Friday than the Rangers traded for the best pitcher in  
13 baseball. And they traded for the best pitcher in baseball  
14 notwithstanding that the other suitor was the New York Yankees.  
15 So --

16 THE COURT: Yes, I know. I got an e-mail from a  
17 disgruntled fan who said I should move to New York since I was  
18 obviously helping the Yankees make that trade.

19 MR. LEBLANC: Well, I think what we've learned,  
20 between that and the Bengie Molina trade, that there aren't  
21 meaningful constraints, despite what the Court had been told  
22 about the constraints of July 31st as the trade deadline.

23 So that leaves us with the next timing element. And Your  
24 Honor, with all due respect, the only basis we have is that it  
25 has been asserted that August 12th is somehow a magical date.

1           THE COURT: Well, here's the thing. See, Mr. Lauria  
2 is an officer of this court, just as you are. And if I catch  
3 Mr. Lauria lying about that, his career is over. That villa in  
4 Tuscany will have to go back to the bank. So that's why I have  
5 faith in Mr. Lauria, just as I do in you.

6           MR. LEBLANC: Your Honor, and I wasn't suggesting for  
7 a second that there's not a document that couldn't be produced  
8 which hasn't been produced, but that there is not a document  
9 that could produced that says that August 12th is a real date.  
10 But whether August 12th is in fact a real date is something  
11 that we think -- that to the extent that that's what's going to  
12 drive this Court's decision-making and force us into what we  
13 believe will violate due process and is a fundamentally flawed  
14 process, then we should be entitled to take discovery with  
15 respect to that.

16           Now, I'll tell the Court what Mr. Lauria, once he got  
17 involved in the case, told us with respect to discovery good  
18 and that was, "You can't have anything from us. You're not  
19 getting anything from us because we are no longer plan  
20 proponents; we're simply a bidder in an auction process." So  
21 we've received no documents from Rangers Baseball Express. We  
22 haven't seen the documents that have been referenced that  
23 suggest August 12th is a real date. We haven't been able to  
24 inquire with anybody as to whether it's in fact a real date.  
25 And whether -- and quite simply, whether, if the Court said,

1 "We're going to hold an auction at some other time," whether  
2 that couldn't miraculously be moved by the people who have been  
3 trying to buy this team for so many months now.

4 And so I think, Your Honor, for us to be driven -- we were  
5 driven earlier by the July 31st trade deadline, and that turned  
6 out to be a false deadline. We are being driven by something,  
7 and I have no doubt that there's a document or two that says  
8 it, but we -- I think we -- that theory or that deadline has to  
9 be tested. And we've told everyone involved, we -- and we are  
10 the ones who stand to lose the most if there is no bidder for  
11 this team -- we're prepared to take that risk. That's a risk  
12 we, the economic interest holders, are prepared to take.

13 And so I think that's the second issue that, on a global  
14 basis, we have with this plan. Or, I should say, with Your  
15 Honor's bid procedures and those that were proposed previously  
16 by Mr. Lauria and Mr. Sosland.

17 Third, Your Honor, and equally if not more important, is we  
18 understand that bidders simply aren't in a position to get  
19 financing in the time frame that we're talking about. And that  
20 creates two different issues, and I think it's actually driven  
21 by several different issues. The first one, and we've talked  
22 about this a little bit, Your Honor, in the past, but the day  
23 the mediation started, the Commissioner of Baseball was quoted  
24 as saying, and I'll just read a couple of the snippets, "The  
25 Greenberg-Ryan Group, I think, has lived up to everything they



1 said they would, but we have to deal with the law and the  
2 bankruptcy laws. Hopefully, we can get this resolved as soon  
3 as possible. I would have liked to have had the Greenberg-Ryan  
4 Group approved a while ago, but as we move forward, hopefully  
5 we can solve this problem."

6 He then goes on to say, "Let me make it clear. Baseball  
7 has always had the right to select its ownership. There's a  
8 long history of that that predates even my entry into Baseball  
9 in 1970. There's no doubt in my mind that we have the right to  
10 select ownership, and we will do that."

11 THE COURT: Mr. Selig, as a bankruptcy lawyer, makes a  
12 pretty good baseball commissioner. And my sense is that by now  
13 his counsel have explained to him how this process works and  
14 that he will be more amenable to seeing the process go forward  
15 properly. I think we've disposed of that issue, and we've had  
16 other parties who have spoken to the media out of turn. We've  
17 had -- and as I told you last Friday, I don't read the articles  
18 in the media unless they're forced upon me, which sometimes my  
19 law clerks do. And there's a good reason for that, because --  
20 well, never mind. I'll keep my reasons to myself.

21 Anyway, I do not believe that Major League Baseball has the  
22 intent of frustrating this process any longer. If they want  
23 Greenberg-Ryan to get the team, that's dandy, but it will go to  
24 the highest bidder.

25 Go ahead.

1 MR. LEBLANC: Your Honor, the issue, though, is that  
2 the day we started the mediation, where other bidders were  
3 invited to the process, Mr. Selig, literally that day, made a  
4 comment saying, "We want Greenberg-Ryan."

5 THE COURT: Yes.

6 MR. LEBLANC: And used the words that were there.

7 THE COURT: And we -- I thought we had addressed this  
8 last Friday, and I think we all understand that that's not the  
9 case. And the last I heard, up until the filing of this  
10 adversary proceeding that we are sitting on today, the parties  
11 were working on a joint press release of some sort that would  
12 make clear that we had a relatively level playing field here.  
13 Whenever you have a stalking horse, you do not have a perfectly  
14 level playing field. We all know that.

15 MR. LEBLANC: Well, Your Honor, and that's fine. My  
16 understanding from meeting with Baseball yesterday was that,  
17 until there's a process opened, they're not issuing a  
18 statement. And I think what that causes, what the Selig  
19 comments from a week ago cause is really not an opportunity for  
20 people to prepare themselves the way they have to to comply  
21 with the bid procedures, even as of October 6th. And I'll give  
22 you one example, Your Honor, a concrete example from the bid  
23 procedures.

24 THE COURT: We're already out to October 6th?

25 MR. LEBLANC: I said -- oh, if I said October, I meant

1 August 6th.

2 MR. LAURIA: By the way, just to be clear, I thought  
3 we were talking about a confirmation hearing on August 4th.

4 THE COURT: That's correct.

5 MR. LEBLANC: Someone -- I'm sorry. Someone had said  
6 August 6th.

7 THE COURT: That's what Mr. Strubeck suggested, and I  
8 indicated that -- and no doubt, it's inappropriate of me to go  
9 to my niece's wedding instead of staying here for a  
10 confirmation hearing on the 6th, which by the way I think is a  
11 Saturday, too. I'm not sure.

12 MR. LEBLANC: I believe the 6th is a Friday.

13 THE COURT: Is it? I thought it was a Saturday.

14 MR. LEBLANC: Your Honor, and I will tell you, I'm --

15 THE COURT: And the reason why that's interesting to  
16 me is actually that would make for a very short confirmation  
17 hearing, because Friday evening they turn off the air-  
18 conditioning here. And August 6th, on a Saturday, if it is --  
19 let me see. (Pause.) August. No, you're correct. August 6th  
20 is a Friday. So I beg your pardon.

21 MR. LEBLANC: That's fine, Your --

22 THE COURT: Unfortunately, it would be air-  
23 conditioned. That's sad.

24 (Laughter.)

25 MR. LEBLANC: Your Honor, I'll just give you my own

1 scheduling issues. I'm on vacation those weeks, but that's  
2 fine. That doesn't bother me. But I am arguing in the Second  
3 Circuit on August 5th, and so that's an issue that we'll have  
4 to address if we intend to begin on August 4th.

5 But focusing on the bid procedures, Your Honor, so the  
6 dilemma we have is that, at least as late as a week ago today,  
7 there were statements being made that clearly didn't encourage  
8 parties to get involved in it, including financing sources.  
9 And the bid procedures that the Debtors proposed -- and when we  
10 prepared our own bid procedures, we made clear that this was  
11 not the case -- required that the initial overbid come in the  
12 form of cash consideration.

13 Now, Your Honor, I understand cash is king, but under these  
14 circumstances, requiring an overbid to come in the form of cash  
15 is wholly inappropriate. We have endeavored to negotiate with  
16 parties to provide consideration in the form of, for example,  
17 cash and notes that would continue on as the team's long-term  
18 financing or short-term financing.

19 THE COURT: All right. Let me make something clear.  
20 Except to the extent necessary to pay Mr. Fine's constituency,  
21 I don't care if it comes in cash or carrots, as long as the  
22 parties who assess it, which would be, under the procedures  
23 I've proposed, the Debtor and Mr. Strubeck's client, if they  
24 approve, then if they want carrots instead of cash, it's okay  
25 by me.

1 MR. LEBLANC: And then that's -- Your Honor, that's an  
2 important qualification. That comes in the qualifying bids  
3 requiring cash consideration. Because it actually gets to the  
4 point Your Honor raised earlier, which is if they want to take  
5 the releases out, Mr. Sosland and Mr. Strubeck, or Mr. Snyder  
6 and Mr. Sosland will consider which is the higher bid. I will  
7 tell you, Your Honor, that we would view the dropping of  
8 releases, if they could even be confirmed in a plan, which we  
9 don't think they ever could, but if they could even be  
10 confirmed in a plan, would be worth far much more than a \$15  
11 million overbid. So a bid exactly like this without the  
12 releases, we would view as significantly more valuable. Well  
13 beyond, in our view, the \$15 million.

14 So, Your Honor, we think -- those are some of the  
15 fundamental issues. And I want to talk about the exact  
16 procedures in a moment. But there are serious, serious  
17 problems. And actually, before I leave the financing question,  
18 just to give the Court an example of what the bidders who would  
19 try to come into this process would face relative to the  
20 structure that was made available to Mr. Greenberg: When they  
21 signed the APA on January 23rd, Mr. Greenberg's -- the APA  
22 called for him to have over a month to raise his equity  
23 financing and called for him to have almost 2 months, to March  
24 22nd, to provide a firm commitment letter. And I don't want to  
25 get it wrong. Let me make sure that I get it right. But to

1 provide written -- I'm sorry. That's Baseball approval.  
2 (Pause.) And I'm looking -- I think there's actually a  
3 different date in here, Your Honor, but the date that I'm  
4 looking at here gave them until February 12th for their first  
5 equity commitment letter, then another month beyond that,  
6 February 26th, to raise their additional equity. Or another  
7 two weeks beyond that. And then through February 15th to get a  
8 financing engagement letter. And I think there's a later  
9 provision that requires them to have a credit agreement about a  
10 month after that.

11 And so parties who would want to come in to bid in this  
12 process, given that they've been shut out of it for so long and  
13 the process seems to have been closed down by everybody  
14 involved on the Debtor's side and Baseball's side, are going to  
15 have to scramble, not even -- it's unlikely that they'd be able  
16 to find financing. Mr. Greenberg's financing is a syndicated  
17 financing, which takes at least a six-week period of time. And  
18 so they're in a distinct disadvantage as compared to Mr.  
19 Greenberg. And we just don't think that it's a meaningful  
20 exercise to cleanse what has been a flawed process.

21 Those are the big-ticket items, Your Honor. And let me  
22 turn to some of the specific issues that are real problems.  
23 The MLB sales process, which begins on Page 3, or rather the  
24 sales clearance, the sales clearance process is fine. And in  
25 particular, if we can get confirmation that the people who

1 Major League Baseball knows are involved in the bids are all  
2 approved and so we don't have a delay associated with that, we  
3 think that procedure is fine, because it actually reserves for  
4 the Court the right to consider -- and this is in Footnote 3  
5 that was added by the Court -- "Any dispute respecting a  
6 refusal to provide a potential bidder with MLB sales clearance  
7 shall be subject to expedited resolution by the Bankruptcy  
8 Court."

9 But when we go forward, Your Honor, to the question of  
10 Major League Baseball's final consent, the Court -- Your Honor  
11 has adopted a formulation that we fundamentally object to,  
12 because we don't think that bidders would meaningfully come in  
13 to participate in a process that had this type of process,  
14 which is Major League Baseball gets the right to consider  
15 whether to approve them, and then if they're not approved we  
16 simply default to the second high bidder, rather than --

17 THE COURT: Yes, but by then, if it's August 13th when  
18 we default and Rangers Baseball Express comes back, they'll  
19 come back without Mr. Lauria's law license, unless they show  
20 why they got an extension. So you're not necessarily looking  
21 at -- assuming that Express is the back-up bidder instead of  
22 the prevailing bidder, or in neither slot at all, I'm not  
23 terribly troubled by that.

24 I would assume, for example, that if Mr. Crane -- and I  
25 pick on him because I remember his name and I keep forgetting

1 -- well, Mr. Beck.

2 MR. LEBLANC: Beck. Yes.

3 THE COURT: If Mr. Crane or Mr. Beck is the prevailing  
4 bidder, my assumption is that the closing will occur sometime  
5 after August 12th. That would be my assumption. And I don't  
6 have a problem with that, necessarily. I mean, as long as it  
7 isn't 2012 or something like that.

8 MR. LEBLANC: Well, Your Honor, I just think that if  
9 the structure is -- I think that it's going to chill bidding.  
10 If somebody believes that, instead of us considering the  
11 question of whether Major League Baseball's consent was  
12 properly withheld, a question that Major League Baseball has  
13 not wanted the Court to consider the legality of, that that --

14 THE COURT: Yes, but look. And Mr. Leblanc, I'm not  
15 trying to quarrel with you. One of the things that occurred to  
16 me was to go ahead and litigate that issue and send it up to  
17 Fifth Circuit on an expedited basis. And I went so far as to  
18 call the only Fifth Circuit judge that I felt free to call at  
19 9:00 p.m. on a Friday night, to ask her about it. And she  
20 affirmed that, yes, we could do that in a hurry. But I don't  
21 see -- I mean, it seems to me that there is a reasonably good  
22 chance that -- I'm not saying that I think that they would  
23 prevail on that, but there's a reasonably good chance that they  
24 will, whether or not there's a bankruptcy involved. I'm not at  
25 all sure that a franchise arrangement between a major league --



1 or, a professional league and one of its franchisees is not the  
2 sort of thing that could not be assumed and assigned under  
3 applicable law, and therefore it would fall within one of the  
4 exceptions to 365(e) and 365(c).

5 So my feeling is that I would -- and my suspicion, I may be  
6 wrong, but based on what I perceive to be a change of tune on  
7 the part of Major League Baseball in that they appear to now  
8 have a better understanding of the process and the need to work  
9 with it than they perhaps did at the commencement of this case,  
10 my sense is that the bidders you're talking about -- and let's  
11 face it. We're talking probably about Crane and Gilbert. And  
12 I don't see that you're going to have a problem with either of  
13 those. I understand what you're saying. But by then, if you  
14 do have a problem, Mr. Laurie's client's financing ostensibly  
15 will have disappeared, so they can't even be the back-up  
16 bidder.

17 MR. LEBLANC: Your Honor, I don't have a problem with  
18 having a back-up bidder as you would typically have in an  
19 auction.

20 THE COURT: Yes.

21 MR. LEBLANC: Where I think we have a problem is there  
22 isn't a process built into this, like there is in the sales  
23 clearance, to have an expedited hearing as to whether the  
24 decision made by Major League Baseball is -- should or should  
25 not be given effect. And that's a real problem, Your Honor,

1 because we don't think that that's going to invite bidders into  
2 the process if they believe that -- if Major League Baseball  
3 owners are given a multiple choice question, then that's a very  
4 different consideration, particularly if one of the people on  
5 the test is the Greenberg Group that they've been advocating  
6 for for so long.

7 And that's what this sets up, and that's really -- in our  
8 view, we don't think that people are going to view that as a  
9 fair process.

10 THE COURT: Well, let me tell you that that would be,  
11 in my judgment, if they used their approval process to distort  
12 things by turning down someone they would otherwise except, it  
13 appears to me -- and I did add language, perhaps you missed it,  
14 about them having to act in good faith. And it seems to me  
15 that that would be acting in bad faith, if they tricked us, so  
16 to speak. I don't like being tricked.

17 MR. LEBLANC: I understand that, Your Honor. And I  
18 think that the concern we have is, when you're dealing with \$2  
19 million increments, we think the bidders should and deserve the  
20 comfort that their case will be fought for, rather than simply  
21 defaulting to the number two bidder. Because I think it's very  
22 hard to believe that people will bid with the aggressive nature  
23 that they should if, again, in this process -- it's difficult  
24 in any event -- but even if they could, if they believe that  
25 Major League Baseball simply can say no to you and go to the

1 second one, and who's really going to fight that over a bid  
2 increment of \$2 million? And that's really the reality.

3 We think the process should be set up that we fight that  
4 and we have that issue addressed. And we have language, Your  
5 Honor, in our bid procedures that we think would fit. And  
6 actually, I think just applying the Footnote 3 that you have  
7 earlier with respect to the MLB sales clearance process to  
8 that, to the MLB approval process, would be appropriate.

9 THE COURT: Go ahead.

10 MR. LEBLANC: We talked, Your Honor -- I talked a  
11 moment ago about the form of the procedure and the midnight  
12 transfers. It infuses this process to an extent that it makes  
13 it near impossible, we think, for anyone meaningfully to come  
14 in and bid on this. To the extent that they did their  
15 diligence ahead of time, the team now has additional  
16 liabilities, it has additional obligations, it's now subject to  
17 new leases that were signed on the eve of bankruptcy, and with  
18 all due respect are not ones that are generally favorable to a  
19 fair and open process. And so we think restricting it to the  
20 form of this bid and using this even as a stalking horse is a  
21 real problem.

22 We think, Your Honor -- and I'll talk about the stalking  
23 horse protections that the Court has put in place -- but  
24 obviously we don't think the stalking horse protections are  
25 appropriate, and that affects the bid increment and whether

1 that's appropriate.

2       Qualified bids needing to close by August 12th, Your Honor,  
3 we don't -- I know Mr. Greenberg last week announced that he  
4 had his equity financing in hand and his debt financing in  
5 hand, but I don't know that that's conducive to a fair process,  
6 requiring everybody else to be able to close in that time  
7 frame, given that Mr. Greenberg first signed his APA in  
8 January. And you know, it was anticipated then, I think, at  
9 that time, that he'd close by opening day, which is on or about  
10 April 1st. And so to expect somebody to come in with a  
11 meaningful offer, a high offer, a fair offer, that values the  
12 team's assets fairly, when they have to be prepared to close on  
13 that time frame, I don't think is a fair process.

14       Turning to the stalking horse protections, we don't think  
15 there's any basis in the contract that exists right now between  
16 the Debtor and Rangers Baseball Express to provide anything  
17 approaching the level of stalking horse protection provided  
18 there. We were prepared -- actually, we were prepared to  
19 consent to the TRO because we wanted to just go forward with  
20 the confirmation hearing, and if we weren't going to talk to  
21 anybody else, as Mr. Strubeck suggested that he wasn't going to  
22 talk to anybody else, we were just going to go forward. But we  
23 were also prepared, before we made that decision, we were  
24 prepared to argue about whether or not he has an enforceable  
25 contract and, if so, what the terms of the contract are.

1 THE COURT: As you may have gathered, I have some  
2 questions about its enforceability as well.

3 MR. LEBLANC: I do gather that, Your Honor, and I  
4 think that -- you added the footnote that called into question  
5 the enforceability of it, but I think you gave an option. If I  
6 understand it correctly, and we haven't had a lot of time to  
7 review it -- a little bit more than we did to review the  
8 Debtor's, but not a lot of time -- if I understand it, he has  
9 the option of taking the \$10 million payment or, alternatively,  
10 125 percent of the proven -- actual proven damages, costs and  
11 expenses, including professional fees of the proposed buyer.

12 There are two pretty substantial problems with that. And I  
13 can walk the Court through, and I have copies of the May APA,  
14 and I'm happy to walk the Court through why there isn't,  
15 despite what the Debtor said, a \$10 million break-up fee in  
16 that APA. There simply is not. And so this would be a new  
17 protection provided to Mr. Greenberg. And Mr. Greenberg, I  
18 don't think, needs any advantages beyond what are already  
19 contained -- the fact that he's already, you know, had all of  
20 the advantages of being inside with the team for so long. We  
21 don't think that -- and again, if the Court would like me to, I  
22 would be happy to do it, but we don't think there's any basis  
23 to pay him \$10 million. We think the contract is very clear  
24 that to the extent that the contract was breached by the  
25 Debtors or, alternatively, we think more likely was simply

1 rejected by the Debtors, that -- or by the Debtor, I should say  
2 -- that the result would be a payment of \$1.5 million.

3 And Your Honor -- and if it's useful for the Court, I'm  
4 happy to walk you Court through that, because the contract --  
5 the provision of the APA that provides for \$10 million actually  
6 requires -- in the APA, the one that requires that actually  
7 says that only after approval by the Court of the plan of  
8 reorganization. So that isn't triggered at all.

9 Now, I expect that Mr. Lauria will say, "Well, there's a  
10 side letter that gives us \$10 million even if we don't -- it  
11 isn't approved." Well, that actually doesn't take effect in  
12 two different circumstances -- for two different reasons, Your  
13 Honor. The first is the APA has an integration clause. That  
14 is a document separate and apart from it that's not contained  
15 within the four corners of that agreement. So the \$10 million  
16 side letter, the side letter that provides that they get paid  
17 even if it isn't approved by the Bankruptcy Court, simply  
18 doesn't apply.

19 Secondly, and probably more importantly, the Debtors -- the  
20 payment of \$10 million even under the side letter is only  
21 applicable if Mr. Greenberg terminates under the contract,  
22 under the APA. And there are certain requirements or certain  
23 reasons he can terminate the contract under Section 4.2, none  
24 of which exist today. So the Debtor could, within 30 days of  
25 getting notice of a default, the Debtor could simply reject the

1 contract and Mr. Greenberg would never have terminated it under  
2 the side letter. So even if the side letter was given effect,  
3 there isn't an -- there is no application of \$10 million  
4 payment contained therein.

5 So this, Your Honor, we viewed -- the \$15 million, we  
6 simply didn't know how one could get there from the APA when it  
7 was originally proposed. The \$10 million, we don't think you  
8 can get there on a fair reading of the APA. And I'm not even  
9 sure what -- I don't understand exactly, Your Honor, what Your  
10 Honor is suggesting in the 125 percent of actual proven  
11 damages, costs and expenses, because if Mr. Lauria has already  
12 explained, as he did in chambers, that his view is that damages  
13 here are whatever great price they were able to negotiate  
14 compared to the --

15 THE COURT: No, you're misunderstanding. That's why  
16 it refers to an exclusion of exemplary, punitive or other -- or  
17 consequential damages. And I want to be very clear on that,  
18 that the damages we are talking about here are actual loss of  
19 deposits and things of that nature. Expenses paid to  
20 professionals for services rendered that were necessary to the  
21 transaction. So let me be very clear about that. If you can  
22 think of a better way to phrase that, that's fine with me, but  
23 that's what the 125 percent is of.

24 And my view is, and I adhere to it, is that in all  
25 probability Rangers Baseball Express is looking at a

1 multimillion dollar professional bill at this point, and I  
2 believe that it is not unreasonable for them to receive that  
3 plus a small bonus for being the stalking horse, however little  
4 you may like them as stalking horse.

5 MR. LEBLANC: Well, Your Honor, I think that the  
6 problem is, if -- we think just -- and I think it's well-  
7 settled that having a stalking horse does in fact chill  
8 bidding. And the real question is, is that when you have  
9 stalking horse protections like this, you have an overbid  
10 requirement, and the question is, is it too much of a chilling  
11 overbid requirement? And we think this is, particularly with  
12 \$2 million increments, to have a \$15 million overbid.

13 And Your Honor, we, at the appropriate time, if such -- if  
14 a claim is made, if there isn't a stalking horse and there's a  
15 claim made for rejection damages, we will gladly defend on the  
16 basis of the contract that they signed that their only  
17 entitlement is to the liquidated damages provision to which  
18 they agreed, which is a payment of \$1.5 million. And so giving  
19 them \$10 million, or even more than that -- we don't know what  
20 the 125 percent would be -- we just don't think has any merit  
21 and is completely inappropriate.

22 Some minor things, Your Honor. We apparently are not even  
23 invited to the auction.

24 THE COURT: No. And frankly, I did that because I put  
25 down both of the agents, and I was in a hurry to get it done.



1 I don't have a problem with your being at the auction. It's  
2 going to be in the courtroom. The courtroom is an open place.  
3 I anticipate that some of our friends from the media may decide  
4 to get up early enough to attend as well. So I certainly don't  
5 have a problem with your being there. And I was just using the  
6 two agents as shorthand, but I don't have a problem with that.

7 MR. LEBLANC: Understood, Your Honor.

8 Your Honor, and we have -- there are some other instances  
9 where the Debtors -- the words "the Debtor" instead of "the  
10 Debtor and the general partner" appear. We think those  
11 obviously should be changed.

12 We don't think -- I mean, our proposed bid procedures would  
13 have required consultation with us as well, because we're  
14 fundamentally the economic interest holders here. We think  
15 that would be appropriate. But those are the particular  
16 changes to these procedures that we think are -- they don't  
17 cleanse the problem. This is, in our view, were the Court to  
18 order an auction under these terms, we think that's a far worse  
19 outcome than simply going forward with the plan that the Debtor  
20 filed.

21 It's the Debtor's plan. They filed it. They chose to go  
22 ahead with it. We're happy to test it. Your Honor, we think  
23 -- we had hoped that we could get to a fair process, but what  
24 we've realized is that, with this bid on the table and with the  
25 statements that Major League Baseball has made throughout the

1 process, the hill is just too high. We can't climb that hill  
2 in the period of time that we have. And we're willing to take  
3 the risks associated with that as really, in all candor, Your  
4 Honor, the only parties that would stand to lose if there  
5 wasn't another bid.

6 The Rangers are in first place. They're ahead of budget.  
7 They're four and a half games up, even though they just lost a  
8 series to the Orioles. They traded for the best pitcher in  
9 baseball. They're in a good position. We don't want this,  
10 Your Honor, to linger a day more than it has to, but we are  
11 absolutely convinced that the period of time that's reflected  
12 in here is far too short than it has to. We wish it were  
13 different, but there are -- and, frankly, if the process were  
14 opened up before the eve-of-filing transactions, when those  
15 weren't an issue there, we think that it could have been done  
16 very quickly, but we're just not sure that it can happen  
17 anymore.

18 And I don't think -- and if Your Honor wants a time frame,  
19 I'm happy to suggest that we think something in September would  
20 be workable, because that would give people time to line up  
21 their financing, do the diligence, make appropriate bids. It  
22 also is before the end of the season. It allows some -- new  
23 ownership to be in place by next season. We think that's  
24 manageable, Your Honor. And we think it's, fundamentally, the  
25 bare minimum that due process requires, given the position that

1 we find ourselves in today.

2 THE COURT: Thank you, Mr. Leblanc.

3 MR. LEBLANC: Thank you, Your Honor.

4 THE COURT: All right. Does another lender wish to --  
5 we've got the Baseball Players Association, I see, and Mr.  
6 Rochelle. So who wants to go first?

7 MR. ROBERTS: Your Honor, a very minor point. Ian  
8 Roberts of Baker Botts on behalf of the Players Association.

9 We would also like to attend the mediation -- or, the  
10 auction as well.

11 THE COURT: Well, we'll see if I hear anything to the  
12 contrary. I don't have a problem. I mean, it's a public  
13 courtroom. I don't generally keep people out of my courtroom,  
14 even when I'd like to. And you, I don't want to keep out of my  
15 courtroom.

16 MR. ROBERTS: Thank you, Your Honor.

17 THE COURT: So I don't necessarily have a problem with  
18 that.

19 Who else? Mr. Rochelle?

20 MR. ROCHELLE: Just very briefly, Your Honor, to  
21 second and supplement a couple of the ideas that Mr. Leblanc  
22 advanced about the benefits to come from deliberateness.

23 First of all, and at the risk of sounding like I'm making a  
24 jury speech, what we have here is a self-inflicted wound.

25 Major League Baseball carried through this process, and the

1 Rangers did, interminably, and then they announced that  
2 everything was on a hurry-up basis. That should not be  
3 anybody's problem, none of the third-party creditors.

4 They have announced here today \$2.7 million of give-ups.  
5 It disregards the other \$70 million going to Mr. Hicks under  
6 this plan. Now, it is not clear to me just how one can get  
7 around the releases to be given to Mr. Hicks under this plan,  
8 which are, as Mr. Leblanc has said, very significant. Things  
9 that the banks would be very interested in pursuing. That is  
10 to say, we would be very interested in pursuing Mr. Hicks, were  
11 those releases not in place.

12 Further, I would just point out to the Court, perhaps it  
13 has not been done before, that the land which is notionally  
14 owned by Mr. Hicks is effectively under the control of the City  
15 of Arlington. The City of Arlington never intended for Mr.  
16 Hicks to sell that property at a 2007 valuation in 2010, after  
17 the market had tanked, using valuations that assumed they'd  
18 built out development. The City of Arlington wants that land  
19 back. We think that the APA, as it sits, is simply corrupted.  
20 And it is --

21 THE COURT: Well, let me be clear. This Court is not  
22 here to protect Tom Hicks, and we're not going to protect Tom  
23 Hicks, and if a bidder comes in and provides an enhanced bid by  
24 virtue of leaving rights against Mr. Hicks in place, I would  
25 consider that an improvement on the existing bid. Mr. Hicks,

1 if he wants relief from this Court, can file his own Chapter  
2 11. All right?

3 MR. ROCHELLE: Your Honor, I appreciate those --

4 THE COURT: We aren't at this stage of releasing him.  
5 That comes with confirmation of the plan. And I would be  
6 disinclined, absent a very strong showing, to provide relief  
7 from indebtedness to someone who is not a debtor in this Court.  
8 Indeed, as you're well aware, the case law weighs heavily  
9 against doing such a thing.

10 Now, that's not to say that the Debtor or Mr. Hicks cannot  
11 make a case for those releases, but I do not feel that I --  
12 you'll have your chance. You're turning red, Mr. Sosland. It  
13 ill becomes you. And I understand you have a response to make,  
14 but this is not necessarily something that will be fixed in  
15 stone by virtue of sales procedures.

16 Go ahead.

17 MR. ROCHELLE: Thank you, Your Honor. I think  
18 essentially that I have made the points I intended to, with the  
19 exception that, again, to second Mr. Leblanc's point that even  
20 August 4th, based on what I have seen in the last week in the  
21 negotiations with the other bidders, may well render other  
22 bidders incapable of making significant bids. I wish I didn't  
23 have to say that, but I think that is the truth. We are going  
24 to hamstring this bidding process.

25 Your Honor, that's all I have.

1 THE COURT: Thank you. All right. Ms. O'Neil?

2 MS. O'NEIL: Your Honor, very briefly, Holly O'Neil on  
3 behalf of the Second Lien Agents.

4 I simply wanted to join issue on behalf of the Second Lien  
5 Agents with Mr. Leblanc's statements and agree that a  
6 compressed process is more form over substance, and to  
7 legitimately provide an opportunity for other bidders in here  
8 to maximize value of these assets, a more sane process is  
9 required. And that requires primarily more time and more  
10 opportunity for some due diligence. And so, consequently,  
11 we're prepared to go forward with the confirmation next week  
12 and let the Court make the ruling as initially requested by the  
13 Debtor on the confirmation of the plan that they've put forth.  
14 Or, alternatively, if we can persuade the Court to understand  
15 that more time is required, to agree primarily with the agenda  
16 or proposed schedule that Mr. Leblanc has suggested to provide  
17 for an auction or a sales process concluding by September.

18 THE COURT: All right.

19 MS. O'NEIL: Thank you, Your Honor.

20 THE COURT: First of all, then -- okay. The City of  
21 Arlington will be heard from.

22 MR. OSBORNE: Good afternoon, Your Honor. Josh  
23 Osborne with Kelly Hart & Hallman on behalf of the City of  
24 Arlington.

25 I just wanted to say briefly that Mr. Rochelle does not

1 represent the City of Arlington and we can speak for ourselves  
2 at the appropriate time, whether we would like our land back.

3 THE COURT: All right. Thank you, Mr. Osborne.

4 MR. OSBORNE: Thank you.

5 THE COURT: Mr. Esserman? Can you report back to me  
6 on hopefully a successful phone call?

7 MR. ESSERMAN: I think so, Your Honor. Let me say a  
8 couple of things. First, --

9 THE COURT: Go ahead.

10 MR. ESSERMAN: -- Baseball is and will be respectful  
11 of this Court's processes. We want to make sure that everyone  
12 understands that, and any statement or comments made previously  
13 were certainly not either inconsistent or not intended to be  
14 anything but consistent with what I said.

15 Let's talk first about the prequalified bidders and the  
16 issues regarding the prequalified bidders. Greenberg-Ryan and  
17 all those people in his group, in the Greenberg-Ryan Group --  
18 it's not just Greenberg, it's not just Mr. Ryan, there's others  
19 in that, several others in that group -- have all been  
20 prequalified by MLB, have all submitted appropriate  
21 documentation as required by MLB to bid on a team.

22 Mr. Crane had submitted such forms previously and was  
23 approved by MLB. Mr. Beck had not completed his approval  
24 processes. We talked to Mr. Beck and jumped through hoops and  
25 got him approved --

1 THE COURT: And I'm grateful for that.

2 MR. ESSERMAN: -- at the request of counsels.

3 If there are others in their groups that we are unaware of  
4 who have not filled out applications, you know, we don't know  
5 -- you know, these groups sometimes change. People are in and  
6 out of the groups. They're not consistent. But if there's  
7 someone else in that group, they need to submit an application  
8 and we will jump through hoops to so submit and so clear them  
9 to bid, and we'll be happy to do that. But we need to receive  
10 their documentation, if we haven't already. I just wanted to  
11 make sure that that's clear.

12 Next, August 12th, Baseball should be in a position to  
13 approve, if so selected by this Court, the Greenberg-Ryan  
14 Group, or not. They'll be able to make that decision on that  
15 date. One of the reasons they'll be able to make that decision  
16 by that date is they signed a contract with the Texas Rangers  
17 Baseball Partners to buy the club on June 23rd, and we've been  
18 working on their approval process since that date.

19 The approval process, of course, for someone else might  
20 take more than just through August 12th, and usually it takes a  
21 several-month period, but we haven't heard the issue of August  
22 12th to anyone but the Greenberg-Ryan Group, and we can do  
23 that.

24 I think Your Honor has set forth a thoughtful process, and  
25 we're willing to stand by and observe it as Your Honor thinks



1 appropriate.

2 I do want to remind the Court of a statement Mr. Leblanc  
3 made, I believe on June 1st. He said there were buyers in the  
4 courtroom ready, willing and able to make a bid on the Rangers.  
5 You know, if they were ready, willing and able on June 1st, I  
6 suspect that they'll be ready, willing and able to make that  
7 bid on July 22 --

8 THE COURT: All right.

9 MR. ESSERMAN: -- or whenever Your Honor decides to  
10 have the auction.

11 THE COURT: I appreciate that, Mr. Esserman.

12 MR. ESSERMAN: Thank you.

13 THE COURT: Mr. Sosland? And please understand.  
14 We're not litigating these issues today, so you can --

15 MR. SOSLAND: Yes.

16 THE COURT: And I'm not picking on you. Mr. Leblanc  
17 had his chance, and I want you to have yours.

18 MR. SOSLAND: First of all, Your Honor, Texas Rangers  
19 Baseball Partners, the Debtor, would like the Court to approve  
20 the bidding procedures with whatever date the Court chooses, so  
21 long as it's not a date that we lose the one --

22 THE COURT: Yes.

23 MR. SOSLAND: -- firm offer that we have.

24 THE COURT: I understand.

25 MR. SOSLAND: And we do believe -- and we want to be

1 in a position that we can meet the tests under 1129(a)(7),  
2 whether it's because the Chief Restructuring Officer of the two  
3 partners casting his vote votes for it, or taking to heart the  
4 comments that the Court made in chambers on Friday, the best  
5 way to test the second prong of 1129(a)(7) is a process in the  
6 case, regardless of what happened prior to the filing of the  
7 Chapter 11 case.

8 So, to begin with, we urge the Court to enter an order  
9 approving bidding procedures, and to do it promptly so that we  
10 can proceed with this process.

11 THE COURT: All right.

12 MR. SOSLAND: Certainly, Your Honor, I'm disappointed  
13 because of the references made by other counsel, maybe even to  
14 elicit comments from the Court, to facts that not only aren't  
15 in evidence but are simply false in the first place. And so I  
16 don't know whether you -- and for reasons that I'll demonstrate  
17 relating to the agreements that are before the Court and  
18 filings that I can reference, that they're simply misstatements  
19 made -- I don't know that you can take to heart any comments  
20 that are hearsay at best about what some bidder might say,  
21 because apparently some bidder today isn't ready to go forward  
22 and some bidder on June 1st was ready, willing and able to  
23 perform.

24 And I reference particularly, Your Honor, the fact that  
25 people are objecting to releases under the APA and under the

1 plan. So the asset purchase agreement, which is in many  
2 filings before the Court, including the motion that we filed  
3 today, has one general release provision. It's in Section  
4 11.12, Your Honor. It's an exchange of releases between the  
5 seller -- the Debtor -- and its affiliates and an entity  
6 defined in there, in the document, as the Rangers subsidiary,  
7 but that's the trust, Your Honor, that we had a topic of  
8 discussion at one of the earlier hearings, that owns the  
9 property rights associated with Major League Baseball, has its  
10 own loan arrangements with -- on behalf of all the teams with  
11 Major League Baseball, etcetera.

12 That's the only release provision in the APA, and without  
13 that provision, which relates to a trust 90 percent owned by  
14 the Debtor but 10 percent by MLB and, derivatively, the other  
15 clubs, without that exchange of releases I'm not certain that  
16 MLB would approve any asset purchase agreement. There's --

17 THE COURT: Well, I understand, and I don't want what  
18 you to misunderstand. I'm not saying today that there is or is  
19 not a reason for any releases. I'm simply saying that what is  
20 built into the asset purchase agreement is in the asset  
21 purchase agreement but that doesn't mean it has to be in  
22 another bid.

23 MR. SOSLAND: I understand, Your Honor. There also --

24 THE COURT: Now, I understand what you're saying,  
25 which is some of it does need to be, and I would assume that,

1 particularly given what I'm going to tell you in a few minutes,  
2 that other bidders would want it in there if it makes sense as  
3 well.

4 MR. SOSLAND: The other point -- well, and Your Honor,  
5 the only indemnity -- well, the indemnities, there's seller and  
6 purchaser indemnities, as is typical in an asset purchase  
7 agreement. Your Honor, the only indemnities in the asset  
8 purchase agreement by which Mr. Hicks could even arguably  
9 benefit are -- there are five instances in the asset purchase  
10 agreement in which the purchaser agrees either, depending on  
11 the formulation of particular provisions -- TRBP and its  
12 affiliates, or TRBP only, or TRBP and its managers, partners  
13 and officers -- in each instance, for an action of either a  
14 misrepresentation of purchaser in connection with the agreement  
15 or an action by purchaser following the closing of the  
16 agreement. Those are the only indemnities in the asset  
17 purchase agreement by which Mr. Hicks or the general partners  
18 or anybody else who would be an affiliate of TRBP would benefit  
19 as well.

20 Your Honor, in the plan, there is no release, and there is  
21 a provision in the plan in which the solvent debtor, TRBP,  
22 continues in place existing indemnities. There are no new  
23 indemnities that don't already exist granted under the Chapter  
24 11 plan, Your Honor.

25 THE COURT: All right.

1           MR. SOSLAND: And so I'm not sure what the references  
2 were there were being made up here, Your Honor, but I think  
3 they're references to provisions that don't exist at all. And  
4 at the appropriate time, which I hope would be a confirmation  
5 hearing to come before the Court, whether that's on July 22nd  
6 or some date soon after that, if people think there is such  
7 provisions in the plan and put evidence before the Court of  
8 what's in the plan, --

9           THE COURT: Well, I don't --

10          MR. SOSLAND: -- then we can discuss those, Your  
11 Honor.

12          THE COURT: I don't care what's in the APA. And as I  
13 said, if there's something in there that there is a way that  
14 the bid can be improved through preserving rights vis-à-vis  
15 anyone else, including Mr. Hicks, that's fine. I simply said I  
16 do not intend to discharge indebtedness of any person other  
17 than a person that is a debtor before this Court. And I don't  
18 think you have a problem with that, do you?

19          MR. SOSLAND: No, Your Honor.

20          THE COURT: Okay.

21          MR. SOSLAND: I'm simply representing to you that the  
22 plan does not do that.

23          THE COURT: All right. Good.

24          MR. SOSLAND: Moreover, as I think the Court is aware,  
25 we amended the plan so that the lenders in particular have all

1 of their rights to go after all of the obligors and affiliates,  
2 and even the Debtor following confirmation of the plan.

3 THE COURT: Okay. All right. All right. Now, Mr.  
4 Strubeck. Okay. I'm going to tell you after this, but Mr.  
5 Kinvig? Anybody else who hasn't talked, I will listen to.

6 MR. KINVIG: Thank you, Your Honor. Cameron Kinvig;  
7 Hunton & Williams; representing the agent bank that holds the  
8 lien on the BRE land which in common parlance is the parking  
9 lots around the stadium.

10 THE COURT: Yes.

11 MR. KINVIG: Really, really briefly, Your Honor,  
12 there's been some mentions in the last few minutes about Mr.  
13 Hicks receiving certain benefits through the plan and through a  
14 sale to either Rangers Baseball Express or to a potential  
15 higher bidder. I just wanted to make clear that, as to the  
16 sale to Rangers Baseball Express or to any other party of that  
17 BRE land of the parking lot surrounding the stadium, that's  
18 actually well-mentioned in the plan and the disclosure  
19 statement as a prerequisite to closing. And assumedly, as part  
20 of a 363 sale, would also be a prerequisite to closing for  
21 Rangers Baseball Express and likely any other bidder that came  
22 forward. That's a separate agreement that's not really part of  
23 this bankruptcy.

24 And so my client would just like to make clear that while  
25 that agreement might be a prerequisite to some party closing --

1 THE COURT: You don't care who you get your money  
2 from, do you?

3 MR. KINVIG: No, Your Honor, we don't.

4 THE COURT: You're not seeking to approve or  
5 disapprove Mr. Greenberg or Mr. Beck or Mr. -- I'm sorry. I  
6 forgot him again. But -- Mr. Crane, right?

7 MR. KINVIG: No, Your Honor, we just --

8 THE COURT: Anybody's money is good?

9 MR. KINVIG: You know, it just depends on -- the point  
10 I'm trying to make is whatever party wants to buy this property  
11 needs to come to us and needs to work out their own asset  
12 purchase agreement. We currently have one signed with the  
13 Greenberg-Ryan Group.

14 THE COURT: Uh-huh.

15 MR. KINVIG: And so, just as the City of Arlington  
16 said, you know, "We can speak for ourselves," I'd just like to  
17 make clear that whatever deal somebody wants to make for this  
18 land, it can't be done through the bankruptcy. It has to be  
19 under a separate APA.

20 THE COURT: All right. Thank you, Mr. Kinvig. Anyone  
21 else who hasn't spoken who wants to talk? Okay. Mr. Strubeck?

22 MR. STRUBECK: Yes, Your Honor.

23 THE COURT: Okay. Well, very -- we're not going to go  
24 through a whole other round, so just --

25 MR. STRUBECK: No, no. I -- Judge, I think I was

1 very, very brief with my comments initially.

2 THE COURT: Yes.

3 MR. STRUBECK: And I just had two brief comments I  
4 wanted to make, and then one clarification with respect to what  
5 you had marked up, which I avoided the first time around  
6 because I wanted to make it clear that Mr. Snyder thinks, if  
7 these current bid procedures that Your Honor has modified are  
8 the bid procedures that you say are in play here, he doesn't  
9 believe anybody is going to show up and bid. And he thinks  
10 what's going to happen is there will be one bidder and it will  
11 be Mr. Greenberg and that's going to be it. So what he prefers  
12 to do, and I think I said this earlier, is he thinks, faced  
13 with the prospect of having these procedures within this time  
14 frame, versus just going forward with a confirmation hearing,  
15 --

16 THE COURT: Well, now, you just told me a few minutes  
17 ago that August 6th made you happy. And I'm sorry. I guess I  
18 can cancel going to the wedding for you.

19 MR. STRUBECK: Well, no, no, no. August 6th makes me  
20 happier, Judge, but I need to clarify what I was trying to say  
21 before, and I sat down probably before I should have. But one  
22 of the things that Mr. Snyder has been trying to do here,  
23 Judge, well, the main thing he's been trying to do is to follow  
24 through with what he understood that your charge was here.  
25 He's been trying to figure out a way to ensure either a fair



1 process or a fair price with respect to what the Rangers are  
2 sold for at the end of the day. And Your Honor, toward that  
3 end, one of the things Mr. Snyder has been trying to do is to  
4 see if there was a process that could be run separately, in  
5 terms of a 363 sale outside of a plan of reorganization. And  
6 because of all the issues you've heard from Mr. Leblanc and  
7 you've heard from others that involve concerns, and I'll put it  
8 that way, and I'm choosing my words carefully, with respect to  
9 the midnight transfers and transactions that involve Mr. Hicks  
10 or affiliates of Mr. Hicks, one approach Mr. Snyder tried to  
11 take was to see if just the Rangers could be sold in a 363 sale  
12 and then set aside for a later day some of these plan issues,  
13 for fear that if everything was wrapped up in a plan, that  
14 somebody might forever be precluded from taking a look at  
15 trying to undo some of the midnight transactions and to try to  
16 -- basically be precluded forever from being able to attack  
17 some of these benefits that some have suggested that Mr. Hicks  
18 and his affiliates get.

19 And I think where we started to push up against Mr. Sosland  
20 is he understands -- and I do, too, frankly, Your Honor -- that  
21 there was a rather narrow charge that Mr. Snyder had pursuant  
22 to his engagement here. And it involved the plan, and it  
23 involved an analysis and investigation of the plan, and it  
24 involved being able to vote on the plan. That's a little bit  
25 different issue than a Section 363 sale outside of a plan.

1           And so when I said earlier that a sale by August 4th is  
2 something that earlier Mr. Snyder thought perhaps could take  
3 place, his mindset was that there would be a sale under Section  
4 363. That process could run its course. Mr. Lauria's client  
5 could get what he wants and there could still be a confirmation  
6 hearing that would trail which could still wrap up some of  
7 these issues. And it could be structured in such a way that  
8 Mr. Fine's interests are protected, which is to make sure that  
9 the \$200 million or whatever the unsecured creditors are owed  
10 here can be assured they're going to get payment, but yet still  
11 preserve some of these issues.

12           So, when I said that I thought that we needed more time for  
13 this process and that the date that Mr. Snyder had in mind was  
14 sometime around August the 6th, it's because the way he  
15 believes you maximize value here to the fullest possible  
16 extent, given the guidelines we have to play by, is for there  
17 to be a separate sale and then for the plan to trail the sale  
18 because of these issues I've just discussed.

19           But if he's given the choice between having to pursue a  
20 sale process that culminates in the confirmation of a plan, or  
21 at least a confirmation hearing, on the 22nd of July, he would  
22 rather say there should be no independent sale process and we  
23 should just show up on the 22nd and he gets to cast his vote  
24 either in favor of or against. I guess Your Honor can decide  
25 under Section 363 if he in fact gets to cast a vote, at the end

1 of the day. But he believes, if these sale procedures -- and I  
2 know Your Honor has tried hard to make them better -- but he's  
3 convinced no one is going to show up today. If these are the  
4 sale procedures, --

5 THE COURT: Well, why have they been showing up at  
6 mediation sessions and otherwise if they won't bid?

7 MR. STRUBECK: Oh, because I think they wanted to try  
8 to get as much information as they can, and they've tried to be  
9 as persuasive as they can to the mediator and to Mr. Snyder as  
10 to what they have to have in order for them to believe there's  
11 a level playing field.

12 THE COURT: All right. Thank you, Mr. Strubeck.

13 MR. STRUBECK: May I add one other thing, Your Honor,  
14 which is a clarification?

15 THE COURT: Yes.

16 MR. STRUBECK: This is just assuming that you're  
17 disregarding everything that I'm saying, and the one additional  
18 comment that I would have with respect to these procedures just  
19 involves Page 4. Throughout these sale procedures, Judge, you  
20 consistently refer to "the Debtor and its general partner."

21 THE COURT: Uh-huh.

22 MR. STRUBECK: In the last paragraph on Page 4, it  
23 says "the Debtor or its general partner."

24 THE COURT: Yes. That was on purpose.

25 MR. STRUBECK: I assume you mean "and" there?

1 THE COURT: No, I meant "or" there.

2 MR. STRUBECK: You meant "or" there?

3 THE COURT: Yes.

4 MR. STRUBECK: Okay.

5 THE COURT: In other words, the general partners may  
6 negotiate if the Debtor chooses not to.

7 MR. STRUBECK: All right. And just one other point of  
8 clarification, Judge. With respect to the references to  
9 general partners here, and I to correctly understand that that  
10 refers to Mr. Snyder, --

11 THE COURT: Effectively.

12 MR. STRUBECK: -- as CRO?

13 THE COURT: As I recall -- and I recognize the view  
14 that Mr. Hicks' signature on the engagement letter was a  
15 critical part, but I thought my order was the more critical  
16 part of Mr. Snyder's engagement. It may have been foolish of  
17 me to believe that. But as I recall, the authority that I  
18 granted to him was to take actions outside the ordinary course  
19 of business to the extent that they did not deal with the  
20 operations of the team as a baseball team. Am I mistaken in  
21 what I said?

22 MR. STRUBECK: No, Your Honor, you're not.

23 THE COURT: All right.

24 MR. STRUBECK: But I think that there's some  
25 misunderstanding in the room. I viewed there, as I said

1 earlier, to always have been a broader scope with respect to  
2 what Mr. Snyder can do. And I want to make it clear --

3 THE COURT: That is -- I think I've made it clear. My  
4 view is that Mr. Snyder, to the extent that the general  
5 partners must take any action with respect to Texas Rangers  
6 Baseball Partners, those general partners are typically, if  
7 they are not dealing with employee matters, going to be acting  
8 outside the ordinary course of baseball. Or business, rather.  
9 And the reason why I excepted the employee decisions, Mr.  
10 Sosland, was because I did not think that Mr. Snyder should be  
11 playing a role in the trade, and I assume in all probability a  
12 general partner must sign for the partnership in order to do a  
13 contract with a player. Perhaps not, but if it does, that was  
14 to take care of that.

15 But it is my view that if, for example, tomorrow someone  
16 decided that the Rangers Stadium should be sold and leased  
17 back, that would be a transaction that would have to be  
18 approved by the partners, and Mr. Snyder would be the one to  
19 choose whether or not to do that. That's it. Okay? I don't  
20 think -- and I don't want to argue about this, so --

21 MR. STRUBECK: Yes.

22 MR. SOSLAND: No.

23 THE COURT: Okay, Mr. Sosland.

24 MR. SOSLAND: I have two questions --

25 THE COURT: Get up, then.

1           MR. SOSLAND: -- prompted by the exchange. And one is  
2 so that we aren't speaking in code, and we might as well put it  
3 out on the table right now, the CRO wants us to withdraw the  
4 plan. We have said that we do not believe it's in the best  
5 interests of Texas Rangers Baseball Partners to withdraw the  
6 plan. I don't -- and in our interpretation of the Court's  
7 order appointing Mr. Snyder, is that's not an instruction that  
8 we have to do simply because we're so requested. If that's the  
9 Court's instruction, we can all leave, because there isn't  
10 going to be an auction on July 22nd. That's -- so we need your  
11 guidance on that.

12           THE COURT: All right. We're going to keep the plan  
13 on file at this point. But other than that, if you want to --  
14 if you have something that must be executed by one of the  
15 general partners or both of the general partners, the execution  
16 is going to be by Mr. Snyder. Okay?

17           MR. SOSLAND: That, we have always understood, Your  
18 Honor.

19           THE COURT: Okay. Well, and that's what -- that's the  
20 way we're going forward.

21           MR. SOSLAND: The --

22           THE COURT: The plan is on the table for now. It's  
23 going to stay on the table. I don't want to hear any more.  
24 Okay? Sit down.

25           MR. SOSLAND: May I ask one other question, please?

1 THE COURT: Go ahead.

2 MR. SOSLAND: Your Honor said --

3 THE COURT: We're going to wind up going through  
4 another round. We'll be here until 10:00 tonight.

5 MR. SOSLAND: Your Honor said that you deliberately  
6 put in TRB or the general partners so that if we refused to  
7 negotiate with someone, the general partners could in our  
8 place.

9 THE COURT: That's correct.

10 MR. SOSLAND: For the record, we want to negotiate --

11 THE COURT: I understand.

12 MR. SOSLAND: -- with every purchaser, and we don't  
13 want to be excluded.

14 THE COURT: No.

15 MR. SOSLAND: Did the use of the word "or" mean that  
16 the general partners have the right to exclude TRBP from the  
17 negotiations?

18 THE COURT: No. It means TRBP has a right to exclude  
19 TRBP from negotiations. All right?

20 MR. SOSLAND: Thank you, Your Honor.

21 THE COURT: All right. Now, here's what we are going  
22 to do. And this is a case where the best I can hope for is to  
23 make everybody very unhappy. We're going to make some changes  
24 to the bidding procedures. We're going to go forward on August  
25 4th. The sale may occur under Section 363 or pursuant to a

1 plan. That's an option that I think is always available, and I  
2 don't see that there's a problem with that.

3 Several other changes that we're going to do. And Mr.  
4 Strubeck, I'm going to assign you the duty of marking this up  
5 to fix these things. Do you understand?

6 MR. STRUBECK: Yes, Your Honor, I do.

7 THE COURT: Okay. Under "Qualified Bids," in the  
8 fourth line, where it says "(ii) include cash consideration  
9 that is \$15 million more than provided in Section 3.1(a) of the  
10 asset purchase agreement," we're going to change that to "cash  
11 or substantially equivalent consideration that is \$15 million  
12 more than provided" and so on.

13 The second thing that we're going to do is we're going to  
14 add, right above B on Page 10, where it says, "MLB shall act in  
15 respect of such approval in good faith," instead of ending with  
16 the a period, it will end with a semicolon and be followed by  
17 "in the event MLB declines approval of the successful bidder,  
18 the Bankruptcy Court may determine on motion whether MLB has  
19 acted in good faith."

20 Finally, and this is one that I can't give you -- and I'll  
21 give you my copy, Mr. Strubeck, so that you -- if you can read  
22 my handwriting, you can use it and it will save you from doing  
23 things. Finally, we will provide in here that a purchaser may  
24 bid and be the successful bidder based on -- without final  
25 financing based on a non-refundable deposit of \$10 million.



1 Actually, let's make that of the amount of ten million -- let's  
2 make it \$15 million. And that -- and the reason for that is I  
3 want something for the Rangers, and I want coverage for  
4 Express.

5 Now, why am I authorizing a substantial payment to Express?  
6 Partly to shut them up. No offense, Mr. Lauria. But I want  
7 them to have enough that they have an incentive not to litigate  
8 the issues that Mr. Lauria raised last Friday. For example,  
9 that the damages under this asset purchase agreement are so  
10 great that they would eat up whatever excess consideration  
11 might be brought in by another purchaser.

12 So, that's what we're going to do. I recognize that nobody  
13 is very happy with it. We still, if we get to August 4th and  
14 there's -- no other bidders have appeared and we hit a  
15 confirmation hearing at that point and Mr. Snyder votes no and  
16 evidence is put on that other bidders are out there and would  
17 really come up with the money if they had more time -- Mr.  
18 Stewart, wait until I'm done. Do you understand me? All  
19 right. Then we'll deal with it at that point in time. And if  
20 Mr. Snyder votes no on the plan, then, again, it's up to the  
21 Debtor to meet its burden of proof to meet its burden of proof  
22 that 1129(a)(7) is met through providing as much value to  
23 equity as would have existed if a Chapter 7 trustee were  
24 conducting a sale.

25 Now, I know this doesn't make any of you happy, but as I

1 said, if you all leave unhappy, then I have perhaps done  
2 something right in the case. Okay? Any questions? And this  
3 is -- I don't want to rehash -- Mr. Leblanc, I don't want to  
4 hear all the arguments again.

5 MR. LEBLANC: You're not going to.

6 THE COURT: I've reached my decision. You may --  
7 whichever of you wants to speak first.

8 MR. STRUBECK: Judge, I have just one comment, and  
9 that is that there are deadlines that Your Honor has already  
10 established in connection with the belief that July the 22nd  
11 was going to be the confirmation hearing. May those move out?

12 THE COURT: The Debtor is instructed to roll all  
13 deadlines and the confirmation date to 9:00 a.m. on August 4th.  
14 I don't know. Let me check and see if I have anything set on  
15 August 4th, because I'll probably have to cancel it. (Pause.)  
16 Okay. Well, it looks like -- on August 4th, it looks like  
17 Judge Nelms is going to have some work to do. So I will get  
18 him to cover for me on that day.

19 MR. SOSLAND: Did you mean to roll the dates forward  
20 with the same distance from confirmation that's in --

21 THE COURT: Yes.

22 MR. STRUBECK: Yes.

23 THE COURT: Yes.

24 MR. SOSLAND: Okay.

25 THE COURT: With the exception that the sale date will

1 be as suggested in these bidding procedures. In fact, we're  
2 going to make -- we'll make confirmation at 10:30, and then the  
3 sale or the auction will be at 9:00. All right? In this  
4 courtroom.

5 Yes, Mr. Esserman?

6 MR. ESSERMAN: Your Honor, just two sentences. Sandy  
7 Esserman.

8 Just wanted to make sure that -- I made an error when I  
9 said MLB had been vetting Greenberg-Ryan since they signed the  
10 contract on June 23rd. I think everyone realizes that it was  
11 January 23rd --

12 THE COURT: Okay.

13 MR. ESSERMAN: -- that they signed the contract.

14 THE COURT: That's fine.

15 MR. ESSERMAN: I just wanted to make sure --

16 THE COURT: Okay. Thank you for clarifying the  
17 record.

18 MR. ESSERMAN: -- that you knew that we had been  
19 vetting Greenberg-Ryan for six months.

20 THE COURT: All right.

21 MR. ESSERMAN: Thank you.

22 THE COURT: All right. Mr. Leblanc?

23 MR. LEBLANC: Two questions, Your Honor. The first  
24 is, the bid deadline, do you intend to move that, then, to  
25 August 3rd?

1 THE COURT: That would be to August -- I think the bid  
2 deadline is currently --

3 MR. LEBLANC: The night before the auction.

4 THE COURT: -- the night before. It would -- yes, it  
5 would be moved to August 3rd.

6 MR. LEBLANC: Okay. I just -- I wanted to make sure  
7 that was clear.

8 THE COURT: Right. Right.

9 MR. LEBLANC: And just one, I don't know if it's a  
10 typographical error, but on Footnote 7, Your Honor, you have  
11 "*sua sponte* by the Bankruptcy Court following notice and  
12 hearing." I assume you wanted the "following notice and  
13 hearing" to qualify our motion?

14 THE COURT: Yes. I think that's --

15 MR. LEBLANC: Unless the Court wanted to *sua sponte*  
16 notice --

17 THE COURT: Yes, I don't -- correct. Thank you, Mr.  
18 Leblanc.

19 MR. LEBLANC: Yes, Your Honor. And Your Honor, with  
20 the confirmation hearing set for the 4th, we can bring a motion  
21 with respect to document production and things like that, but  
22 do you want to deal with that separately, I assume?

23 THE COURT: I would like to deal with that separately.  
24 And Mr. Lauria knows and you should be aware that one of my  
25 favorite things to do in a discovery dispute is to assign the

1 lawyers lengthy handwritten essays, certified to be their own  
2 work in their own hands, to be done over a weekend, preferably  
3 a long weekend. Right, Mr. Lauria?

4 MR. LAURIA: I've met that burden.

5 THE COURT: Yes. You may have another opportunity to,  
6 if we have a discovery dispute. So that should incentivize all  
7 of you to work that out.

8 MR. LAURIA: Your Honor, the -- maybe you can help us  
9 with this. Our concern is, right now, we're being asked to  
10 produce our equity commitment and our debt documents, which we  
11 have made available, by the way, to the mediator, who made them  
12 available to Mr. Snyder's counsel on a confidential basis. We  
13 think it would be just very unfair for that to end up in the  
14 hands of the Lenders, who are obviously working with other  
15 bidders, while, you know, it would --

16 THE COURT: Well, all right. My suggestion to you --  
17 and I understand Mr. Lauria's point there. Either you can  
18 enter into an appropriate confidentiality agreement, or you can  
19 use a cut-out. If you trust Judge Nelms, and I certainly do,  
20 then it would seem to me if you posed questions to him  
21 concerning those documents, he can give you an answer without  
22 disclosing unnecessary information.

23 It's up to you. If I have to hear, I'll hear it.

24 MR. LEBLANC: We do have an attorneys-eyes-only  
25 designation in the confidentiality agreement. But my

1 understanding is Judge Nelms was shown those documents and they  
2 were taken back. So he doesn't have them, as far as I'm aware.

3 MR. STRUBECK: And that's correct, Your Honor.

4 THE COURT: All right.

5 MR. STRUBECK: We were shown them for about ten  
6 minutes, and then they were taken back. So we don't actually  
7 have -- don't have --

8 THE COURT: Well, that gives you a couple of options,  
9 Mr. Lauria, on how to deal with it. I've found the use of a  
10 cut-out to be useful where there is someone whom both sides  
11 trust, and my assumption is that both of you do trust Judge  
12 Nelms. If not, we're in real trouble here. Okay? Anything  
13 else?

14 (No response.)

15 THE COURT: All right. Well, thank you very -- yes,  
16 Mr. Lauria?

17 MR. LAURIA: Your Honor, I did have one question.

18 THE COURT: Speak into the microphone, Mr. Lauria.  
19 Make sure you can be heard.

20 MR. LAURIA: I'm sorry. I'll just come to the podium.

21 As it seems to be the case, we're apparently going to have  
22 a very contested confirmation hearing on the 4th. And I  
23 understand the Court becomes unavailable shortly after that. I  
24 just wonder if we shouldn't be having, you know, creating two  
25 days or something for confirmation.

1 THE COURT: Let me --

2 MR. LAURIA: Because I don't want to get, you know,  
3 timed out because somebody filibusters --

4 THE COURT: Okay. Let me make --

5 MR. LAURIA: -- all day on the 4th.

6 THE COURT: Let me make this suggestion to you. It  
7 seems to me there are several issues that we're going to deal  
8 with. I will be here now the week that I would have otherwise  
9 been at that FJC program. Perhaps some of these issues can be  
10 carved out and litigated in advance. We've done that before.  
11 In fact, the June 22nd opinion that I entered will be part of  
12 the confirmation record. And as you'll recall in the *Mirant*  
13 case, we dealt not too painfully with an impairment issue and  
14 very painfully with a valuation issue well in advance  
15 confirmation.

16 And I assume -- I was going to raise with you, by the way,  
17 ask you if you were familiar with the case called *Mirant*  
18 *Corporation v. Potomac Electric Power Company*, having to do  
19 with the rejection of executory contracts, but I didn't have  
20 that chance today.

21 MR. LAURIA: I was looking forward to discussing that  
22 with --

23 THE COURT: I'll bet you were. But in any event, I  
24 would suggest and I would ask, beg -- how's that for a word? --  
25 beg the parties to get together and identify issues that can be

1 dealt with in advance of the confirmation hearing, particularly  
2 those issues that will be uniform throughout the process.

3 Now, I'm going to tell you right now that my guess is, if  
4 we have other bidders, then it seems to me that puts an end to  
5 a lot of the disputes here. There comes a point where, if  
6 there are other bidders, the lenders have to at some point say,  
7 "Well, okay, we had our day. We've gotten as far as we can,  
8 and we have to give up at some point."

9 But if there are no other bidders, I assume you are correct  
10 that there will be a contest over 1129(a)(7). To the extent  
11 that there are other issues, including the good faith issue, to  
12 the extent it does not depend on 1129(a)(7), well, let's see if  
13 we can address those in advance.

14 I would suggest that we limit, if we can, August 4th to the  
15 1129(a)(7) issue, if we can dispose of the other issues in  
16 advance. But I leave that to you gentlemen to try to work out  
17 on your own.

18 MR. LAURIA: One thing that comes to mind, Your Honor,  
19 there have been a lot of allegations made about what happened  
20 prior to today. And, you know, we don't need to wait till  
21 August 4th to frame those issues to the extent that they are  
22 relevant to confirmation. And it seems like that's where the  
23 truckload of stuff seems to be in some people's minds. And  
24 again, I just want to be in a position where we can have a  
25 decision on August 4th that allows a closing to occur before my



1 client's money goes away.

2 THE COURT: All right. All right.

3 MR. LAURIA: And so I guess I'd ask, you know, maybe  
4 -- I don't know if the Court can give a little more guidance  
5 today, but I think we ought to be directed to try to frame up  
6 issues that --

7 THE COURT: All right.

8 MR. LAURIA: Factual issues in particular.

9 THE COURT: Here's what we're going to do, Mr. Lauria.  
10 Let's see. All right. At this point, we have July 22nd  
11 available, and I'm going to have to -- and you guys are all  
12 going to have to be really nice to Nelms for me, okay? Because  
13 I'm going to have to ask him now to take two of my dockets.  
14 And what we'll do on July 22nd, which we already have  
15 scheduled, is we will have a pretrial conference. And at that  
16 point, we'll do what we can to get the issues teed up.

17 Mr. Sosland, if humanly possible, I will preserve your  
18 vacation for you. All right? Okay. Does that work for  
19 everybody?

20 MR. LAURIA: What time would we start on the 22nd?

21 THE COURT: Let's make it 9:30 in the morning.

22 MR. LEBLANC: Your Honor, do you contemplate that's  
23 going to be an evidentiary hearing?

24 THE COURT: No, I contemplate that we're going to go  
25 over what the issues are and when we can address them and how

1 we can address them.

2 MR. LEBLANC: Fair enough.

3 THE COURT: And to the extent that I can, I'll give  
4 you decisions, just as we did on the impairment issue on June  
5 22nd. I know you all loved that opinion, and I'm --

6 MR. LEBLANC: Love to have orders rather than  
7 opinions, if possible, Your Honor.

8 THE COURT: Well, it's -- they're faster, but on the  
9 other hand I find it's a good idea to explain myself, in my own  
10 self-defense.

11 MR. LEBLANC: Understood, Your Honor.

12 THE COURT: Okay. Any questions?

13 (No response.)

14 THE COURT: All right. Very good. Then we will be  
15 adjourned. Thank you very much, ladies and gentlemen.

16 THE CLERK: All rise.

17 (Proceedings concluded at 4:18 p.m.)

18 --oOo--

19 CERTIFICATE

20 I certify that the foregoing is a correct transcript from  
21 the electronic sound recording of the proceedings in the above-  
22 entitled matter.

23 \_\_\_\_\_  
24 Kathy Rehling  
25 Certified Electronic Court Transcriber  
CET\*\*D-444

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Date

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