

1 UNITED STATES BANKRUPTCY COURT
2 CENTRAL DISTRICT OF CALIFORNIA
3 SANTA ANA DIVISION

4 In re

5 MORGAN DREXEN, INC., a Nevada
6 Corporation,

7 Debtor.

Case No. 8:15-bk-12278-CB

Chapter 7

**NOTICE OF CHAPTER 7 TRUSTEE'S
APPLICATION TO MODIFY TERMS OF
EMPLOYMENT OF THE LAW OFFICE
OF THOMAS H. CASEY, INC., GENERAL
INSOLVENCY COUNSEL TO CHAPTER
7 TRUSTEE**

(No Hearing Required)

11 **PLEASE TAKE NOTICE** that Jeffrey I. Golden, Chapter 7 Trustee ("Trustee") for the
12 bankruptcy estate of Morgan Drexen, Inc. ("Debtor"), will file an Application to Modify Terms
13 of Employment of the Law Office of Thomas H. Casey, Inc., General Insolvency Counsel to
Chapter 7 Trustee ("Application"). In support thereof, Trustee respectfully represents:

14 **FACTS**

15 On April 30, 2015 ("Petition Date"), the Debtor filed a voluntary petition for relief under
Chapter 7 of the Bankruptcy Code and Jeffrey I. Golden was appointed Chapter 7 Trustee
16 ("Trustee").

17 On or about May 14, 2015, the instant case was converted to Chapter 11.

18 On June 19, 2015, the case was reconverted to Chapter 7 and the Trustee was
re-appointed.

19 **PRIOR COURT ORDER APPROVING EMPLOYMENT OF THE LAW OFFICES OF**
20 **THOMAS H. CASEY, INC.**

21 On or about June 16, 2015, the Trustee filed an application to employ the Law Offices of
Thomas H. Casey, Inc. (the "Firm") as his general bankruptcy counsel (Dkt. #103) ("Prior
22 Employment Application").

23 By Order entered July 8, 2015, the Court approved the employment of the Firm as
general bankruptcy counsel to the Chapter 7 Trustee (Dkt. #185) ("Prior Employment Order").

24 The Prior Employment Order provides for the compensation of the Firm on an hourly
basis for all services rendered by the Firm.

25 **REQUESTED MODIFICATION TO TERMS OF PRIOR EMPLOYMENT ORDER**

26 The remaining assets of the estate requiring administration by the Trustee appear to be
certain, potential causes of action, including but not limited to, potential causes of action against
27 the officers and directors of the Debtor ("D&O Potential Causes of Action"), potential
professional negligence causes of action ("Professional Negligence Potential Causes of Action");
and potential avoidance actions ("Avoidance Potential Causes of Action") (collectively
28 "Potential Causes of Action").

1 In order to ensure a cost effective result is achieved by the Trustee's prosecution of the
2 Potential Causes of Action, the Trustee intends to compensate all future counsel on a
contingency basis when incurring fees prosecuting the Potential Causes of Action.

3 The Trustee has requested the Firm pursue the Avoidance Potential Causes of Action on a
4 contingency basis. Therefore, the Trustee requests an order modifying the Firm's Prior
Employment Order to provide the Firm will be compensated on a contingency basis to pursue the
recovery of the Avoidance Potential Causes of Action.

5 **REQUESTED TERMS MODIFYING THE FIRM'S PRIOR EMPLOYMENT ORDER.**

6 The Trustee requests the Firm's Prior Employment Order be modified to provide the
Firm will be compensated on a contingency basis for pursuing the Avoidance Potential Causes of
Action as follows:

- 7 a. One-third (1/3) of the gross recovery if the recovery is obtained before the
8 filing of a lawsuit;
- 9 b. One-third (1/3) of the gross recovery if the recovery is obtained after the
10 filing of a lawsuit but before a mediation;
- 11 c. Forty percent (40%) of the gross recovery if the recovery is obtained at or
12 after a mediation;
- 13 d. Forty percent (40%) of the gross recovery if the recovery is obtained thirty
(30) days before trial and thereafter; and
- 14 e. If Defendant appeals, the Firm shall also be compensated at its hourly rate
defending the appeal.

15 The Firm shall also be entitled to reimbursement of all costs incurred pursuing the
Avoidance Potential Causes of Action.

16 All other terms of the Prior Employment Order remain the same and are not affected by
this Application, including but not limited to, the requirement that the allowance and payment of
the Firm's fees and costs are subject to further application to and approval by the Court.

17 **CONCLUSION**

18 Based on the foregoing, the Trustee requests that this Court enter an order:

- 19 a) Approving the Application;
- 20 b) Modifying the terms of the Firm's Prior Employment Order for the Firm to pursue
the Potential Avoidance Actions on the terms set forth in the Application; and
- 21 c) For such other and further relief as the Court may deem just and proper.

22 Requests for a copy of the Application should be in writing and directed to Thomas H.
Casey of the Law Office of Thomas H. Casey, Inc. at the address indicated below.

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24 ///

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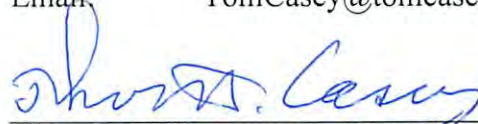
1 **PLEASE TAKE FURTHER NOTICE** that if you wish to contest the Trustee's
2 Application, Local Bankruptcy Rule 9013-1(o) requires that any response and request for hearing
3 shall be filed and served with the Clerk of the United States Bankruptcy Court, 411 West Fourth
4 Street, Santa Ana, California, 92701, and served on the Office of the United States Trustee, 411
5 West Fourth Street, Suite 7160, Santa Ana, California, 92701, and the Law Office of Thomas H.
6 Casey, 22342 Avenida Empresa, Suite 200, Rancho Santa Margarita, CA 92688, no later than
7 fourteen (14) days after the date of service of this notice. Any responses not timely filed and
8 served shall be deemed waived.

9 Respectfully submitted,

10 Thomas H. Casey - Bar No. 138264
11 Kathleen J. McCarthy - Bar No. 132637
12 THE LAW OFFICE OF THOMAS H. CASEY,
13 INC.,
14 A PROFESSIONAL CORPORATION
15 22342 Avenida Empresa, Suite 200
16 Rancho Santa Margarita, CA 92688
17 Telephone: 949/766-8787
18 Facsimile: 949/766-9896
19 Email: TomCasey@tomcaseylaw.com

20 Dated: April 25, 2016

21 By:

22 

23 Thomas H. Casey, Attorney for Jeffrey I. Golden,
24 Chapter 7 Trustee for the bankruptcy estate of
25 Morgan Drexen, Inc.

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:

22342 Avenida Empresa, Suite 200, Rancho Santa Margarita, CA 92688

A true and correct copy of the foregoing document entitled (*specify*): Notice of Chapter 7 Trustee's Application to Modify Terms of Employment of the Law Office of Thomas H. Casey, Inc., General Insolvency Counsel to Chapter 7 Trustee will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

1. **TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF):** Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (*date*) April 28, 2016, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

- Simon Aron saron@wrslawyers.com
- Reem J Bello rbello@wglp.com, kadele@wglp.com;lfisk@wglp.com;tziemmann@wglp.com
- Evan C Borges eborges@ggtriallaw.com, JMullins@ggtriallaw.com
- F Mark Bromley bromleyfm@doj.state.wi.us, gurholtks@doj.state.wi.us
- Frank Cadigan frank.cadigan@usdoj.gov
- Thomas H Casey imiller@tomcaseylaw.com, msilva@tomcaseylaw.com
- Beth Gaschen bgaschen@wglp.com, kadele@wglp.com;lfisk@wglp.com;tziemmann@wglp.com
- Jeffrey I Golden (TR) ljones@wglp.com, jig@trustesolutions.net;kadele@wglp.com;lfisk@wglp.com
- Alan A Greenberg AGreenberg@GGTrialLaw.com, LRodriguez@GGTrialLaw.com
- Michael J Hauser michael.hauser@usdoj.gov
- James Andrew Hinds jhinds@jhindsllaw.com, zbilowit@jhindsllaw.com

Service information continued on attached page

2. **SERVED BY UNITED STATES MAIL:**

On (*date*) April 28, 2016, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

Service information continued on attached page

3. **SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL** (*state method for each person or entity served*):

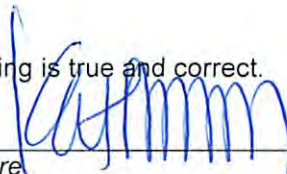
Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on April 28, 2016, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

Service information continued on attached page

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

April 28, 2016
Date

Kathy Driggers
Printed Name


Signature

This form is mandatory. It has been approved for use by the United States Bankruptcy Court for the Central District of California.

TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF)

- Elan S Levey elan.levy@usdoj.gov, louisa.lin@usdoj.gov
- Kathleen J McCarthy lmiller@tomcaseylaw.com, msilva@tomcaseylaw.com
- Michael P McMahon mmcmahon@ggtriallaw.com, lkibota@ggtriallaw.com
- R G Pagter gibson@ppilawyers.com, ecf@ppilawyers.com
- Paul R Shankman pshankman@jhindsllaw.com
- Jolene Tanner jolene.tanner@usdoj.gov
- United States Trustee (SA) ustpreregion16.sa.ecf@usdoj.gov
- Brian Barouir Yeretzian byeretzian@jhindsllaw.com, yeretzian@gmail.com

**SERVED BY UNITED STATES
MAIL:**

Debtor

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Costa Mesa, CA 92626

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Protection Bureau**

Lucy E. Morris, Esq.
Deputy Enforcement Director for
Litigation

Jan E. Singelmann, Esq.
R. Gabriel D. O'Malley, Esq.
Kristin L. Bateman
Consumer Financial Protection
Bureau
1700 G. Street NW
Washington, DC 20552

Kent Kawakami, Esq.
United States Attorney's Office
Central District of California, Civil
Division
300 North Los Angeles Street,
Room 7516
Los Angeles, CA 90012

**Attorneys for T\$\$, LLC d/b/a
ACHWorks, LLC**

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Dallas, TX 75202

**Financial Advisor and
Consultant to Chapter 7 Trustee**

GlassRatner Advisory & Capital
Group LLC
Brad Smith
19800 MacArthur Blvd., Ste. 820
Irvine, CA 92612

**General Bankruptcy Counsel to
Former Chapter 11 Trustee**

Greenberg Gross LLP
Alan Greenberg / Michael
McMahon
650 Town Center Drive, Ste. 1750
Costa Mesa, CA 92626

Former Chapter 11 Trustee

John C. Hueston
Hueston Hennigan LLP
620 Newport Center Dr., Ste. 1300
Newport Beach, CA 92660

Taxing Authorities

Internal Revenue Service
P.O. Box 7346
Philadelphia, PA 19101-7346

Employment Development
Department
Bankruptcy Group MIC 92E
P.O. Box 826880
Sacramento, CA 94280-0001

Franchise Tax Board
Bankruptcy Section, MS: A-340
P.O. Box 2952
Sacramento, CA 95812-2952

Orange County Tax Collector
11 Civic Center Plaza
Santa Ana, CA 92701-4063

20 Largest Unsecured Creditors

Awadhesh Gupta
675 Anton Blvd.
Costa Mesa, CA 92626

Awadhesh Gupta
675 Anton Blvd.
Costa Mesa, CA 92626

Baute Crochetiere & Wang LLP
777 S. Figueroa Street
Los Angeles, CA 90017

Foley & Lardner, LLP
777 E. Wisconsin Avenue
Milwaukee, WI 53202

Goodwin & Goodwin, LLP
300 Summers Street, Suite 1500
Charleston, WV 25301

Internal Revenue Service
Department of Treasury
Ogden, UT 84201

Internal Revenue Service
Department of Treasury
Ogden, UT 84201

Kay Casto & Chaney PLLC
1500 Chase Tower
P.O. Box 2031
Charleston, WV 25327

Kirkland & Ellis, LLP
655 Fifteenth Street, N.W.
Washington, DC 20005

~~Lauren E. Jones~~
~~72 South Main Street~~
~~Providence, RI 02903~~
Served via Email per Creditor's
request

Maslon Edelman Borman & Brand,
LLP
3300 Wells Fargo Center
Minneapolis, MN 55402

This form is mandatory. It has been approved for use by the United States Bankruptcy Court for the Central District of California.

Meissner, Tierney, Fisher &
Nichols
111 E. Kilbourne Ave., 19th Floor
Milwaukee, WI 53202

Scott Baugh & Associates
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Newport Beach, CA 92660

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Wisconsin Dept. of Financial Inst.
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Floor
Madison, WI 53703

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