

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

NETSPHERE, INC., et al

Plaintiffs,

vs.

JEFFREY BARON, et al and

Defendants.

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Civil Action No. 3-09-CV-0988-F

**MOTION FOR LEAVE FOR ONDOVA LIMITED COMPANY’S PROPOSED
BANKRUPTCY COUNSEL TO APPEAR AT STATUS CONFERENCE**

TO THE HONORABLE W. ROYAL FURGESON, JR., SENIOR U.S. DISTRICT JUDGE:

NOW COMES, proposed counsel for Ondova Limited Company and files this Motion for Leave for Ondova Company’s Proposed Bankruptcy Counsel to Appear at Status Conference (“*Motion*”) and would respectfully show the Court the following:

1. On July 27, 2009, Ondova Limited Company (“*Debtor*”) filed its Voluntary Petition under Chapter 11 of the United States Bankruptcy Code in the United States Bankruptcy Court for the Northern District of Texas, Dallas Division, Case No. 09-34784-sgj-11 (the “*Voluntary Petition*”).

2. On July 29, 2009, the Debtor filed the Application to Employ Wright Ginsberg Brusilow P.C. (“*Proposed Debtor’s Counsel*”), as Counsel for the Debtor (the “*Application*”), which Application¹ is set for hearing in the Bankruptcy Court on August 24, 2009 at 1:30 p.m.

3. On August 4, 2009, the Debtor filed its Application for an Order of Reference to the Bankruptcy Court (Docket No. 50 herein).

¹ Pursuant to FRBP Rule 6003, an application to employ professionals under FRBP Rule 2014 (See 11 U.S.C. § 327(a)), unless such failure would cause immediate and irreparable harm to the Debtor employment applications are not heard until 20-days after the Petition Date.

4. After verifying proper procedures before this Court, hearing availability of all counsel in this specific matter regarding the referral was secured and communicated to this Court's personnel on Thursday, August 13, 2009. Proposed Debtor's counsel awaited formal confirmation regarding the only matter which Proposed Debtor's Counsel had pending before this Court.²

5. Proposed Debtor's Counsel received word, via email, from counsel for Netsphere, et al, that a status conference would be held on August 18, 2009 at 1:30 p.m. Proposed Debtor's Counsel's understanding of this and subsequent emails is that the status conference would address issues regarding the Debtor's Chapter 11 proceeding, including Netsphere's anticipated motion to withdraw the reference of the whole bankruptcy case to this Court.³

6. Proposed Debtor's Counsel has not received any confirmation of this "bankruptcy" status conference from the Court, or its Special Master; however, Netsphere's counsel's communications are given full credence with regard to what this Court wishes to hear on Tuesday, August 18, 2009 at 1:30 p.m.

7. On August 13, 2009, this Court entered its Order Granting Intervention, Denying Discovery Without Prejudice, and Setting a Status Conference Regarding Limited Discovery for August 18, 2009 at 1:30 p.m., the same time as the status conference referenced above⁴ for the Debtor.

² As expressed in the Referral, this procedure appears to be the proper adjunct to removal under 28 U.S.C. § 1452 and Rule 9027 as noted in Northern District Bankruptcy Judge Hale's opinion of *Indus. Clearinghouse v. Mims (In re Coastal Plains, Inc.)*, 326 B.R. 102, 108 (Bankr. N.D. Tex. 2005). No general appearance as counsel in this matter was intended, only the functional equivalent of removal is sought.

³ Per FRBP 5011 as modified by LBRP 5011.1, this exercise begins in the Bankruptcy Court and is sent to the District Court in the form of a report and recommendation.

⁴ Received via this Court's CM/ECF System.

8. Out of an abundance of caution, as well as with the intention of showing all due deference to this Court, as well as acknowledging the difficulties which Proposed Debtor's Counsel herein has read about that this Court has had with the Debtor pre-petition, requested leave to appear at this status conference, solely in the capacity of Proposed Debtor's counsel to address any matters that may arise or have arisen concerning the Debtor's pending Chapter 11 proceeding or the stay, as modified, by the Bankruptcy Court.

WHEREFORE, PREMISES CONSIDERED, Debtor prays that this Court permit Edwin P. Keiffer of Wright Ginsberg Brusilow P.C., proposed Bankruptcy Counsel for Debtor, to appear at the status conference scheduled herein for August 18, 2009 at 1:30 p.m. for the purpose of acting as Debtor's bankruptcy counsel and for such other and further relief as to which it may be justly entitled.

Dated this 14th day of August, 2009.

Respectfully submitted,

WRIGHT GINSBERG BRUSILOW P.C.

By: /s/ E.P. Keiffer
E. P. Keiffer (SBN 11181700)

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**PROPOSED ATTORNEY FOR ONDOVA
LIMITED COMPANY, DEBTOR**

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Motion was served via the U.S. District Court's electronic noticing system and via first class U.S. Mail, postage pre-paid, on August 14, 2009, on the parties listed below:

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/s/ E.P. Keiffer

E.P. Keiffer

UNITED STATES DISTRICT COURT
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Civil Action No. 3-09-CV-0988-F

**ORDER GRANTING MOTION FOR LEAVE
FOR ONDOVA LIMITED COMPANY'S PROPOSED
BANKRUPTCY COUNSEL TO APPEAR AT STATUS CONFERENCE**

BEFORE THE COURT IS, Ondova Limited Company's Motion for Leave for Ondova Limited Company's Proposed Bankruptcy Counsel to Appear at Status Conference ("**Motion**") filed herein on August 14, 2009. The Court, after considering the relief requested in the Motion is of the opinion that the Motion is well taken and should be granted. It is therefore

ORDERED that Edwin Paul Keiffer of Wright Ginsberg Brusilow P.C., proposed bankruptcy counsel for Debtor, is permitted to appear at the status conference scheduled herein for August 18, 2009, at 1:30 p.m. as Debtor's proposed bankruptcy counsel.

It is so Ordered.

Dated this ____ day of August, 2009.

W. ROYAL FURGESON, JR.
SENIOR U.S. DISTRICT JUDGE