

1 Linda F. Cantor (CA Bar No. 153762)
Jason S. Pomerantz (CA Bar No. 157216)
2 Pachulski Stang Ziehl & Jones LLP
10100 Santa Monica Blvd., 13th Floor
3 Los Angeles, California 90067
Telephone: 310-277-6910
4 Facsimile: 310-201-0760
E-mail:lcantor@pszjlaw.com

5 Counsel for R. Todd Neilson, Chapter 7 Trustee for The
6 Tulving Company, Inc.

7
8 **UNITED STATES BANKRUPTCY COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**
10 **SANTA ANA DIVISION**

11 In re:
12 THE TULVING COMPANY, INC., a
13 California corporation,

14 Debtor.

Case No.: 8:14-bk-11492-ES

Chapter 7

**SUPPLEMENTAL DECLARATION OF R.
TODD NEILSON IN SUPPORT OF MOTION
OF CHAPTER 7 TRUSTEE FOR AN ORDER
LIMITING SCOPE OF NOTICE**

[No Hearing Requested per Local Bankruptcy
Rule 9013-1(o)(1)]

15
16
17 I, R. Todd Neilson, declare:

18 1. I am the duly appointed chapter 7 trustee (the "Trustee") in the above-captioned
19 bankruptcy case (the "Case"). I make this Supplemental Declaration on facts within my personal
20 knowledge (albeit my own or that gathered by professionals rendering services to me), or as a result
21 of having reviewed the court file in this Case. If called upon, I can and will competently testify to
22 the facts stated herein.

23 2. At the direction of the Court, I make this Supplemental Declaration in support of the
24 *Motion of Chapter 11 Trustee for Order Limiting Scope of Notice* (the "Motion")¹ filed on June 12,
25 2014 [Docket No. 129]. The Motion requested that the Court limit the scope of service of all
26 notices, motions, or applications, including, but not limited to, the following:
27
28

¹ Capitalized terms not otherwise defined herein have the meaning ascribed to them in the Motion.

- 1 • any proposed use, sale, or lease of property of the estate pursuant to section 363 of the
2 Bankruptcy Code and Bankruptcy Rules 2002(a)(2), 4001(b), and 6004);
- 3 • any proposed approval of a compromise or settlement of a controversy pursuant to
4 section Bankruptcy Rules 2002(a)(3) and 9019 and/or section 363 of the Bankruptcy
5 Code;
- 6 • any proposed abandonment or disposition of property of the estate pursuant to section
7 554 of the Bankruptcy Code and Bankruptcy Rules 6007(a) or (c);
- 8 • any proposed assumption, assumption and assignment or rejection of contracts or leases
9 under section 365 of the Bankruptcy Code and Bankruptcy Rule 6006(a) or (c);
- 10 • any proposal to prohibit or condition the use, sale or lease of property pursuant to § 363
11 of the Bankruptcy Code or Bankruptcy Rule 4001(a);
- 12 • any proposed objections to claims pursuant to section 502 of the Bankruptcy Code or
13 Bankruptcy Rules 3002, 3003 or 3007;
- 14 • any proposed application for employment of professionals pursuant to sections 327, 1103
15 or 1104 of the Bankruptcy Code or Bankruptcy Rule 2014;
- 16 • a hearing on any other contested matter in this case that requires notice to all creditors
17 or equity holders pursuant to the Bankruptcy Code, Bankruptcy Rule 9014, or the Local
18 Bankruptcy Rules; and
- 19 • all other pleadings, papers, and requests for relief or other order of the Court, except as
20 limited below.

21 3. The notices, motions and applications for which the Motion seeks to limit notice are
22 hereinafter referred to as the “Limited Notice Matters.” Specifically, I propose that notices
23 regarding the Limited Notice Matters that will be heard on regular notice be served by NEF notice
24 or, if not on the NEF service list, first class mail or via e-mail upon obtaining consent from such
25 party², upon only: (a) the Office of the United States Trustee, (b) parties that have filed and do file
26 with the Court requests for notice of all matters in accordance with Bankruptcy Rule 2002(i), (c) the
27 Debtor’s agent for service, (d) any party with a direct pecuniary interest in the subject matter of the
28 particular Limited Notice Matter or its counsel, and (e) any party requesting and consenting to e-mail
notice of the Limited Notice Matters (collectively, the “Limited Service List”). Notwithstanding the
foregoing, the relief requested in the Motion does not affect the rights of all creditors to receive
notice of the following matters or proceedings: (i) the date fixed for filing proofs of claim; and (ii) a
hearing on the dismissal or conversion of this Case.

4. There were no objections filed to the Motion, however, the Court has requested
further information which I address as follows:

² See Local Rule 9036-1(a)(1) (The NEF automatically generated upon the filing of a document constitutes notice and service by electronic means for all persons and entities that have consented to electronic service of any document.).

1 5. The creditor body is cognizant of the administrative costs and burdens on the estate
2 and creditors have expressed such concern directly to me. Many of the creditors do not wish to
3 receive copies, particularly hard copies, of the pleadings in all the Limited Notice Matters and find
4 service of these documents wasteful of estate resources; they have requested that I and my counsel
5 minimize administrative costs to the estate. It was upon this basis that I caused the Motion to be
6 filed, seeking authority to limit the service of hard copy pleadings on all creditors. However, to the
7 extent creditors not represented by counsel wish to receive electronic notices, the Motion requests
8 authority to provide electronic notice directly to those creditors who request and consent to
9 electronic notice. (It is my understanding that creditors represented by counsel may choose to
10 receive NEF notices, but that such process is not currently available to unrepresented parties.)

11 6. I have endeavored to provide information to all creditors in this Case in a cost-
12 effective way. Towards this end, I have created a Case website which provides information
13 regarding pending matters and other case events at <http://tulvingbankruptcy.com>. The website is
14 updated monthly and creditors can submit questions to the Trustee via the site, all in an effort to
15 keep creditors abreast of proceedings but limit administrative costs of the estate. The Motion is
16 consistent with my efforts to limit administrative expenses – it would reduce the expenditure of
17 estate resources on copying and mailing costs, but allow an alternative notice process that would be
18 available to all creditors.

19 7. I believe that the proposed limited notice procedures in the Motion are necessary and
20 appropriate given that requiring notice to, and service upon, all creditors substantially augments the
21 cost and administrative burden on the estate. I believe that authorizing service to the parties
22 described in the Motion and in accordance with the procedures set forth therein will provide due and
23 sufficient notice of the Limited Notice Matters without diminishing assets ultimately available for
24 distributions to Debtor's creditors.

25 I declare under penalty of perjury that the foregoing is true and correct.

26 Executed this 25th day of July, 2014, at Los Angeles, California.

27
28

R. Todd Neilson

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

10100 Santa Monica Boulevard, 13th Floor, Los Angeles, California 90067

A true and correct copy of the foregoing document **SUPPLEMENTAL DECLARATION OF R. TODD NEILSON IN SUPPORT OF MOTION OF CHAPTER 7 TRUSTEE FOR AN ORDER LIMITING SCOPE OF NOTICE** 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 July 25, 2014, 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:

Service information continued on attached page

2. SERVED BY UNITED STATES MAIL:

On _____, 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 July 25, 2014, 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.

Via Federal Express

The Honorable Erithe A. Smith
United States Bankruptcy Court
Central District of California
Ronald Reagan Federal Building and Courthouse
411 West Fourth Street, Suite 5040 / Courtroom 5A
Santa Ana, CA 92701-4593

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.

July 25, 2014

Janice G. Washington

/s/ Janice G. Washington

Date

Printed Name

Signature

1 **1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF):**

2 **8:14-bk-11492-ES Notice will be electronically mailed to:**

3 Andrew S Bisom on behalf of Debtor The Tulving Company Inc
abisom@bisomlaw.com

4 Candice Bryner on behalf of Interested Party Candice Bryner
5 candice@brynerlaw.com

6 Philip Burkhardt on behalf of Other Professional Karen Duddleston
phil@burkhardtandlarson.com, stacey@burkhardtandlarson.com

7 Stephen L Burton on behalf of Attorney Stephen L. Burton
8 steveburtonlaw@aol.com

9 Linda F Cantor, ESQ on behalf of Other Professional Pachulski Stang Ziehl & Jones LLP
lcantor@pszjlaw.com, lcantor@pszjlaw.com

10 Linda F Cantor, ESQ on behalf of Trustee R. Todd Neilson (TR)
11 lcantor@pszjlaw.com, lcantor@pszjlaw.com

12 David L Gibbs on behalf of Creditor Kenneth W Stach
david.gibbs@gibbslaw.com, ecf@gibbslaw.com

13 Nancy S Goldenberg on behalf of U.S. Trustee United States Trustee (SA)
14 nancy.goldenberg@usdoj.gov

15 Lawrence J Hilton on behalf of Creditor Jeffrey Roth
lhilton@oneil-llp.com, ssimmons@oneil-llp.com;kdonahue@oneil-llp.com

16 John H Kim on behalf of Creditor Ford Motor Credit Company LLC
17 jkim@cookseylaw.com

18 Elizabeth A Lossing on behalf of U.S. Trustee United States Trustee (SA)
elizabeth.lossing@usdoj.gov

19 R. Todd Neilson (TR)
20 tneilson@brg-expert.com, sgreenan@brg-expert.com;tneilson@ecf.epiqsystems.com;ntroszak@brg-
expert.com

21 Jason S Pomerantz on behalf of Trustee R. Todd Neilson (TR)
22 jspomerantz@pszjlaw.com, jspomerantz@pszjlaw.com

23 Nanette D Sanders on behalf of Creditor Levon Gugasian
becky@ringstadlaw.com

24 United States Trustee (SA)
25 ustpreion16.sa.ecf@usdoj.gov

26

27

28