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

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 Debtors

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

Chapter 7

**NOTICE OF MOTION AND MOTION FOR
ORDER RECLASSIFYING CLAIM 36-1
FILED BY KENNETH D. CHRISTMAN;
MEMORANDUM OF POINTS AND
AUTHORITIES; DECLARATIONS OF
NICHOLAS R. TROSAK AND LINDA F.
CANTOR IN SUPPORT THEREOF**

15 Date: January 19, 2016
16 Time: 10:30 a.m.
17 Place: Courtroom 5A
411 West Fourth Street
Santa Ana, CA 92701
18 Judge: Hon. Erithe A. Smith

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24 **PLEASE TAKE NOTICE** that, pursuant to section 502 of title 11 of the United States Code
25 (the “Bankruptcy Code”), Rule 3007 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy
26 Rules”) and Rule 3007-1 of the Local Bankruptcy Rules of the United States Bankruptcy Court for
27 the Central District of California (the “Local Bankruptcy Rules”), R. Todd Neilson, in his capacity
28 as the duly appointed, authorized and acting Chapter 7 Trustee (the “Trustee”) of The Tulving

1 Company, Inc. (the “Debtor”) hereby moves (the “Motion”) the Court for an order reclassifying
2 Claim No. 36-1 (“Claim 36-1”) filed by Kenneth D. Christman (“Claimant”) to a general unsecured
3 claim in the amount of \$21,230.00 on the grounds that the Claimant has provided no grounds or
4 basis upon which Claim No. 36-1 is entitled to priority status and no such support is shown in
5 Debtor’s books and records.

6 **PLEASE TAKE FURTHER NOTICE** that the Motion has been served upon the Claimant
7 and all parties entitled thereto and is based upon the supporting Memorandum of Points and
8 Authorities, the Declaration of Nicholas S. Troszak, the Declaration of Linda F. Cantor, the
9 statements, arguments and representations of counsel who appear at the hearing on the Motion, the
10 files and records in the above-captioned case, any evidence properly before the court prior to or at
11 the hearing regarding the Motion and all matters of which the court may properly take judicial
12 notice.

13 **PLEASE TAKE FURTHER NOTICE** that pursuant to Local Bankruptcy Rule 9013-1(f),
14 responses to the Motion must be filed with the Court and served upon the Trustee’s counsel at the
15 address set forth in the upper left-hand corner of this Motion no later than fourteen (14) days prior to
16 the hearing date. Responses must contain a written statement of all reasons the Motion is opposed
17 and must include declarations and copies of all documentary evidence on which the responding party
18 intends to rely. Responses must be filed either electronically or at the following location:

19 United States Bankruptcy Court
20 411 West Fourth Street
Santa Ana, CA 92701

21 **PLEASE TAKE FURTHER NOTICE** that if a response is not timely filed and served, the
22 Trustee will request that the court grant the relief requested in the Motion without further notice or
23 hearing.

24 **PLEASE TAKE FURTHER NOTICE** that if a response is timely filed and served upon the
25 Trustee’s counsel, the Court, in its discretion, may treat the initial hearing as a status conference if it
26 determines that the Motion involves disputed factual issues or will require presentation of substantial
27 evidence or argument.
28

1 **WHEREFORE**, the Trustee respectfully requests that the Court enter an order (a) granting
2 the Motion; (b) reclassifying Claim 36-1 as a general unsecured claim; and (c) granting the Trustee
3 such other and further relief as may be appropriate under the circumstances.

4 Dated: December 17, 2015

PACHULSKI STANG ZIEHL & JONES LLP

6 By /s/ Linda F. Cantor

Linda F. Cantor

Jason S. Pomerantz

8 Counsel for R. Todd Neilson, Chapter 7
9 Trustee for the Tulving Company, Inc.

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2
3 **I.**
4 **BACKGROUND**

5 **A. The Bankruptcy Case, Jurisdiction and Venue**

6 The Debtor was in the business of selling and purchasing gold, silver, coins, bullion, and
7 other precious metals through its internet website or by phone. Prior to the filing of this bankruptcy
8 case, customer complaints concerning delayed or undelivered orders were increasingly made to the
9 Better Business Bureau against the Debtor. In early March 2014, a class action lawsuit was filed
10 against the Debtor and its principal in the United States District Court for the Northern District of
11 California. The Debtor ceased operations on or about March 3, 2014. Shortly before the
12 commencement of its bankruptcy proceedings, Special Agents of the United States Secret Service
13 executed a Search Warrant on the Debtor's offices on probable cause that the Debtor and its
14 principal, Hannes Tulving, Jr., were engaged in fraud. The Search Warrant resulted in the seizure of
15 the Debtor's property including computers, documents and valuable coins as part of an ongoing
16 criminal investigation.

17 The Debtor commenced this case by the filing of a voluntary petition for relief under chapter
18 11 of the Bankruptcy Code, 11 U.S.C. § 101 et seq. (the "Bankruptcy Code") on March 10, 2014. In
19 light of the pending criminal investigation and other ongoing litigation, on March 18, 2014, the
20 United States Trustee (the "UST") filed a Stipulation Appointing Chapter 11 Trustee [Docket No.
21 15] ("Stipulation"), which both the Debtor and its attorney signed. The Court approved the
22 Stipulation on March 18, 2014 [Docket No. 16]. On March 21, 2014, the Court entered an Order
23 approving the UST's Application for the Appointment of a Chapter 11 Trustee, appointing R. Todd
24 Neilson as Trustee of the Debtor's estate [Docket No. 22]. Thereafter, upon notice and hearing, the
25 case was converted to a case under chapter 7 of the Bankruptcy Code. Mr. Neilson continues to
26 serve as the Trustee [Docket No. 108].

27 The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a
28 core proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue of this matter is appropriate pursuant to
28 U.S.C. §§ 1408 and 1409.

1 **B. The Bar Date and Proofs of Interest**

2 The deadline to file a proof of claim in the Case was September 30, 2014. To date, 385
3 proofs of claim have been filed in the Case as reflected in the official registers of claims.

4 **C. The Claim**

5 The Trustee and his professionals have been engaged in the process of reconciling the claims
6 filed against the Debtor in this Case. Claim 36-1 is filed in the amount of \$21,230.00 as having
7 priority status for purchases never delivered. A copy of Claim 36-1 is attached hereto as **Exhibit 1**.
8 The Trustee has diligently reviewed Claim 36-1 and Debtor's books and records related to Claim 36-
9 1. Claimant has not provided any support for its assertion that Claim 36-1 is entitled to priority
10 status, nor do the Debtor's books and records reflect any support that Claimant is entitled to a
11 priority claim as asserted.

12 **II.**
13 **ARGUMENT**

14 **A. Procedural Requirements for Objections to Claims**

15 Bankruptcy Rule 3007 governs the procedure for objections to claims. It provides as
16 follows: "An objection to an allowance of a claim shall be in writing and filed. A copy of the
17 objection with notice of the hearing thereon shall be mailed or otherwise delivered to the claimant
18 . . . at least thirty days prior to the hearing." Fed. R. Bankr. P. 3007.

19 Pursuant to Bankruptcy Rule 3007, a copy of the Motion was mailed to Claimant at the
20 addresses provided by Claimant in the Claim, and, if appropriate, on the Claimant's attorney, at least
21 thirty days prior to the hearing date for consideration of the Motion. Accordingly, the Trustee has
22 complied with Bankruptcy Rule 3007.

23 **B. The Court Must Determine the Allowance of a Claim Subject to Objection**

24 With certain exceptions, section 502(b) of the Bankruptcy Code requires, in relevant part,
25 that if a party in interest objects to a claim, "the Court, after notice and a hearing, shall determine the
26 amount of such claim in lawful currency of the United States as of the date of the filing of the
27 petition, and shall allow such claim in such amount, except to the extent that -- (1) such claim is
28 unenforceable against the debtor and property of the debtor, under any agreement or applicable law

1 for a reason other than because such claim is contingent or unmatured”

2 **C. Burden of Proof**

3 All allegations set forth in a properly filed proof of claim are taken as true and, if the
4 allegations set forth all facts necessary to establish a claim and are not self-contradictory, the proof
5 constitutes *prima facie* evidence of the validity and amount of the claim. 11 U.S.C. § 502(a); Fed. R.
6 Bankr. P. 3001(f). However, a claimant must attach copies of writings upon which claims are based
7 in order to carry its burden of establishing a *prima facie* case against the debtor. *Hardin v. Gianni*
8 (*In re King Investments Inc.*), 219 B.R. 848, 858 (B.A.P. 9th Cir. 1998). Further, a claim should not
9 be allowed if that claim is unenforceable against the debtor and property of the debtor, under any
10 agreement or applicable law. 11 U.S.C. § 502(b)(1).

11 Once the objector raises “facts tending to defeat the claim by probative force equal to that of
12 the allegations of the proofs of claim themselves,” *Wright v. Holm (In re Holm)*, 931 F.2d 620, 623
13 (9th Cir. 1991), then “the burden reverts to the claimant to prove the validity of the claim by a
14 preponderance of the evidence.” *Ashford v. Consolidated Pioneer Mortgage (In re Consolidated*
15 *Pioneer Mortgage)*, 178 B.R. 222, 226 (B.A.P. 9th Cir. 1995), *aff’d*, 91 F.3d 151 (9th Cir. 1996).
16 “[T]he ultimate burden of persuasion is always on the claimant.” *Holm*, 931 F.2d at 623. In
17 considering an objection to a claim, a bankruptcy court may take judicial notice of the underlying
18 records in a bankruptcy case. *O’Rourke v. Seaboard Surety Co., (In re ER Fergert, Inc.)*, 887 F.2d
19 955, 957-958 (9th Cir. 1998).

20 **D. The Objection**

21 Claimant asserts that he is owed a priority amount of \$21,230.00. The Trustee does not
22 dispute the amount claimed, but rather seeks to have Claim 36-1 reclassified as a general
23 unsecured claim, as the Trustee has determined that Claimant has not provided any support for its
24 assertion that Claim 36-1 is entitled to priority status, nor do the Debtor’s books and records reflect
25 any support for Claimant’s assertion that it is entitled to a priority claim.

26 **III.**
27 **RESERVATION OF RIGHTS**

28 The Trustee has not attempted to raise in this Motion each defense, counterclaim, or setoff

1 that may apply to Claim 36-1. If a response to this Motion is received, the Trustee reserves the right
2 to amend, and supplement this Motion, or file additional objections to assert any defenses,
3 counterclaims, and/or setoffs against Claim 36-1. In all instances, the Trustee reserves the right to
4 file future objections or motions or to supplement this Motion as to the validity, amount, or status of
5 Claim 36-1 upon different grounds than set forth herein.

6
7 **IV.**
CONCLUSION

8 For the reasons set forth herein, the Trustee respectfully requests that the Court enter an
9 order: (a) granting the Motion; (b) reclassifying Claim 36-1 as a general unsecured claim; and (c)
10 granting the Trustee such other and further relief as may be appropriate under the circumstances.

11 DATED: December 17, 2015

PACHULSKI STANG ZIEHL & JONES LLP

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14 By: /s/ Linda F. Cantor
Linda F. Cantor
Jason S. Pomerantz

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16 Counsel for R. Todd Neilson, Chapter 7
Trustee for the Tulving Company, Inc.

DECLARATION OF NICHOLAS R. TROSZAK

I, Nicholas R. Troszak, declare as follows:

1. I am a Senior Managing Consultant at Berkeley Research Group, LLC (“BRG”), the duly employed accountants and financial advisor to the Trustee.

2. I make this Declaration in support of the *Motion for Order Reclassifying Claim 36-1 Filed by Kenneth D. Christman* (the “Motion”). Capitalized terms not defined in this Declaration shall have the same meaning ascribed to them as set forth in the Motion.

3. Except as otherwise stated, all facts contained within this Declaration are based upon personal knowledge (albeit my own or that gathered from others under my supervision), my review of the books and records of the Debtor, the proofs of claim filed in this case, or my opinion based on my experience as a consultant and financial advisor for trustees. If called upon to testify, I would testify to the facts set forth in this Declaration. I am authorized to submit this Declaration on behalf of the Trustee.

4. I have reviewed Claim 36-1 and conferred with the Trustee and counsel regarding Claim 36-1. Claimant has not provided any support for its assertion that Claim 36-1 is entitled to priority status. I have reviewed the Debtor’s books and records that relate to Claim 36-1 and have determined that the Debtor’s books and records do not reflect any basis to support Claimant’s assertion that he is entitled to a priority claim. Therefore, while the amount of Claim 36-1 remains undisputed at this time, the Trustee seeks to reclassify Claim 36-1 as a general unsecured claim.

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

Executed on this 18 day of December, 2015, at Rochester, Minnesota.



Nicholas R. Troszak, Declarant

DECLARATION OF LINDA F. CANTOR

I, Linda F. Cantor, declare as follows:

1. I am an attorney at law, duly licensed and entitled to practice before all courts in the State of California and before this Court. I am a partner with the law firm of Pachulski Stang Ziehl & Jones LLP, counsel to R. Todd Neilson, the Chapter 7 Trustee.

2. I have personal knowledge of the facts set forth herein and could and would competently testify thereto if called upon as a witness.

3. I make this Declaration in support of the *Motion for Order Reclassifying Claim 36-1 Filed by Kenneth D. Christman* (the "Motion"). Capitalized terms not defined in this Declaration shall have the same meaning ascribed to them as set forth in the Motion.

4. Pursuant to Local Bankruptcy Rule 3007-1(a)(4)(B) attached hereto as **Exhibit "1"** is a true and correct copy of Claim 36-1 obtained from the Public Access to Court Electronic Records ("PACER").

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

Executed on this 17th day of December, 2015, at Los Angeles, California.

/s/ Linda F. Cantor
Linda F. Cantor

EXHIBIT 1

B10 (Official Form 10) (04/13)

UNITED STATES BANKRUPTCY COURT		PROOF OF CLAIM <div style="border: 2px solid black; padding: 5px; margin: 10px auto; width: 80%;"> <p style="text-align: center; font-weight: bold; font-size: 1.2em;">FILED</p> <p style="text-align: center; font-size: 1.5em;">APR - 7 2014</p> <p style="text-align: center; font-size: 0.8em;">CLERK U.S. BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA BY <i>[Signature]</i> Deputy Clerk</p> </div> <p style="text-align: center; font-weight: bold; margin-top: 10px;">COURT USE ONLY</p> <input type="checkbox"/> Check this box if this claim amends a previously filed claim. Court Claim Number: _____ (If known) Filed on: _____
Name of Debtor: The Tulving Company Hannes Tulving	Case Number: 8:14--bk--11492--ES	
NOTE: Do not use this form to make a claim for an administrative expense that arises after the bankruptcy filing. You may file a request for payment of an administrative expense according to 11 U.S.C. § 503.		
Name of Creditor (the person or other entity to whom the debtor owes money or property): Kenneth D. Christman		
Name and address where notices should be sent: 1965 Loma Linda Lane Dayton, Ohio 45459 Telephone number: 937-434-7407 email: KSCDchristman@aol.com		
Name and address where payment should be sent (if different from above): Same Telephone number: _____ email: _____		<input type="checkbox"/> Check this box if you are aware that anyone else has filed a proof of claim relating to this claim. Attach copy of statement giving particulars.
1. Amount of Claim as of Date Case Filed: \$ 21,230.00 plus interest		
If all or part of the claim is secured, complete item 4.		
If all or part of the claim is entitled to priority, complete item 5.		
<input type="checkbox"/> Check this box if the claim includes interest or other charges in addition to the principal amount of the claim. Attach a statement that itemizes interest or charges.		
2. Basis for Claim: Purchases never delivered (See instruction #2)		
3. Last four digits of any number by which creditor identifies debtor:	3a. Debtor may have scheduled account as: _____ (See instruction #3a)	3b. Uniform Claim Identifier (optional): _____ (See instruction #3b)
4. Secured Claim (See instruction #4) Check the appropriate box if the claim is secured by a lien on property or a right of setoff, attach required redacted documents, and provide the requested information.		Amount of arrearage and other charges, as of the time case was filed, included in secured claim, if any: \$ _____
Nature of property or right of setoff: <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other Describe:		Basis for perfection: _____
Value of Property: \$ _____		Amount of Secured Claim: \$ _____
Annual Interest Rate _____% <input type="checkbox"/> Fixed or <input type="checkbox"/> Variable (when case was filed)		Amount Unsecured: \$ _____
5. Amount of Claim Entitled to Priority under 11 U.S.C. § 507 (a). If any part of the claim falls into one of the following categories, check the box specifying the priority and state the amount.		
<input checked="" type="checkbox"/> Domestic support obligations under 11 U.S.C. § 507 (a)(1)(A) or (a)(1)(B).	<input type="checkbox"/> Wages, salaries, or commissions (up to \$12,475*) earned within 180 days before the case was filed or the debtor's business ceased, whichever is earlier – 11 U.S.C. § 507 (a)(4).	<input type="checkbox"/> Contributions to an employee benefit plan – 11 U.S.C. § 507 (a)(5).
<input type="checkbox"/> Up to \$2,775* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use – 11 U.S.C. § 507 (a)(7).	<input type="checkbox"/> Taxes or penalties owed to governmental units – 11 U.S.C. § 507 (a)(8).	<input checked="" type="checkbox"/> Other – Specify applicable paragraph of 11 U.S.C. § 507 (a)(____).
		Amount entitled to priority: \$ 21,230.00
*Amounts are subject to adjustment on 4/01/16 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.		
6. Credits. The amount of all payments on this claim has been credited for the purpose of making this proof of claim. (See instruction #6)		

KENNETH D. CHRISTMAN, M.D. 608 PLASTIC AND RECONSTRUCTIVE SURGERY PH. (937) 434-8344 2717 MAMMISBURG CENTERVILLE RD. DAYTON, OH 45488		6813 11 11 2013
PAY TO THE ORDER OF	<i>The Taling Company</i>	\$ 21,230.00
<i>Twenty one thousand two hundred thirty and 00/100</i>		DOLLARS
FIRST First Financial Bank		<i>Kenneth D. Christman</i>
POST #006613# 4042200910: 5310354757#		

Check 6813, \$21,230.00 Date Paid 11/25/2013

B10 (Official Form 10) (04/13)

2

7. Documents: Attached are **redacted** copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, security agreements, or, in the case of a claim based on an open-end or revolving consumer credit agreement, a statement providing the information required by FRBP 3001(c)(3)(A). If the claim is secured, box 4 has been completed, and **redacted** copies of documents providing evidence of perfection of a security interest are attached. If the claim is secured by the debtor's principal residence, the Mortgage Proof of Claim Attachment is being filed with this claim. (See instruction #7, and the definition of "redacted".)

DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING.

If the documents are not available, please explain:

8. Signature: (See instruction #8)

Check the appropriate box.

I am the creditor. I am the creditor's authorized agent. I am the trustee, or the debtor, or their authorized agent. I am a guarantor, surety, indorser, or other codebtor. (See Bankruptcy Rule 3005.)
(See Bankruptcy Rule 3004.)

I declare under penalty of perjury that the information provided in this claim is true and correct to the best of my knowledge, information, and reasonable belief.

Print Name: Kenneth D. Christman
Title: _____
Company: _____
Address and telephone number (if different from notice address above):
SAME
Telephone number: _____ email: _____

Kenneth D. Christman March 2, 2014
(Signature) (Date)

Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571.

INSTRUCTIONS FOR PROOF OF CLAIM FORM

The instructions and definitions below are general explanations of the law. In certain circumstances, such as bankruptcy cases not filed voluntarily by the debtor, exceptions to these general rules may apply.

Items to be completed in Proof of Claim form

Court, Name of Debtor, and Case Number:

Fill in the federal judicial district in which the bankruptcy case was filed (for example, Central District of California), the debtor's full name, and the case number. If the creditor received a notice of the case from the bankruptcy court, all of this information is at the top of the notice.

Creditor's Name and Address:

Fill in the name of the person or entity asserting a claim and the name and address of the person who should receive notices issued during the bankruptcy case. A separate space is provided for the payment address if it differs from the notice address. The creditor has a continuing obligation to keep the court informed of its current address. See Federal Rule of Bankruptcy Procedure (FRBP) 2002(g).

1. Amount of Claim as of Date Case Filed:

State the total amount owed to the creditor on the date of the bankruptcy filing. Follow the instructions concerning whether to complete items 4 and 5. Check the box if interest or other charges are included in the claim.

2. Basis for Claim:

State the type of debt or how it was incurred. Examples include goods sold, money loaned, services performed, personal injury/wrongful death, car loan, mortgage note, and credit card. If the claim is based on delivering health care goods or services, limit the disclosure of the goods or services so as to avoid embarrassment or the disclosure of confidential health care information. You may be required to provide additional disclosure if an interested party objects to the claim.

3. Last Four Digits of Any Number by Which Creditor Identifies Debtor:

State only the last four digits of the debtor's account or other number used by the creditor to identify the debtor.

3a. Debtor May Have Scheduled Account As:

Report a change in the creditor's name, a transferred claim, or any other information that clarifies a difference between this proof of claim and the claim as scheduled by the debtor.

3b. Uniform Claim Identifier:

If you use a uniform claim identifier, you may report it here. A uniform claim identifier is an optional 24-character identifier that certain large creditors use to facilitate electronic payment in chapter 13 cases.

4. Secured Claim:

Check whether the claim is fully or partially secured. Skip this section if the

claim is entirely unsecured. (See Definitions.) If the claim is secured, check the box for the nature and value of property that secures the claim, attach copies of lien documentation, and state, as of the date of the bankruptcy filing, the annual interest rate (and whether it is fixed or variable), and the amount past due on the claim.

5. Amount of Claim Entitled to Priority Under 11 U.S.C. § 507 (a).

If any portion of the claim falls into any category shown, check the appropriate box(es) and state the amount entitled to priority. (See Definitions.) A claim may be partly priority and partly non-priority. For example, in some of the categories, the law limits the amount entitled to priority.

6. Credits:

An authorized signature on this proof of claim serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

7. Documents:

Attach redacted copies of any documents that show the debt exists and a lien secures the debt. You must also attach copies of documents that evidence perfection of any security interest and documents required by FRBP 3001(c) for claims based on an open-end or revolving consumer credit agreement or secured by a security interest in the debtor's principal residence. You may also attach a summary in addition to the documents themselves. FRBP 3001(c) and (d). If the claim is based on delivering health care goods or services, limit disclosing confidential health care information. Do not send original documents, as attachments may be destroyed after scanning.

8. Date and Signature:

The individual completing this proof of claim must sign and date it. FRBP 9011. If the claim is filed electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what constitutes a signature. If you sign this form, you declare under penalty of perjury that the information provided is true and correct to the best of your knowledge, information, and reasonable belief. Your signature is also a certification that the claim meets the requirements of FRBP 9011(b). Whether the claim is filed electronically or in person, if your name is on the signature line, you are responsible for the declaration. Print the name and title, if any, of the creditor or other person authorized to file this claim. State the filer's address and telephone number if it differs from the address given on the top of the form for purposes of receiving notices. If the claim is filed by an authorized agent, provide both the name of the individual filing the claim and the name of the agent. If the authorized agent is a servicer, identify the corporate servicer as the company. Criminal penalties apply for making a false statement on a proof of claim.

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 entitled (*specify*): **NOTICE OF MOTION AND MOTION FOR ORDER RECLASSIFYING CLAIM 36-1 FILED BY KENNETH D. CHRISTMAN; MEMORANDUM OF POINTS AND AUTHORITIES; DECLARATIONS OF NICHOLAS R. TROSAK AND LINDA F. CANTOR IN SUPPORT THEREOF** 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 **December 18, 2015**, 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 (*date*) **December 18, 2015**, 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.

Kenneth D. Christman
1965 Loma Linda Lane
Dayton, Ohio 45459

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 (*date*) **December 18, 2015**, 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
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.

December 18, 2015
Date

MYRA KULICK
Printed Name

/s/ Myra Kulick
Signature

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

- Wesley H Avery wamiracle6@yahoo.com, wavery@rpmlaw.com
- Candice Bryner candice@brynerlaw.com
- Philip Burkhardt phil@burkhardtandlarson.com, stacey@burkhardtandlarson.com
- Stephen L Burton steveburtonlaw@aol.com
- Frank Cadigan frank.cadigan@usdoj.gov
- Linda F Cantor lcantor@pszjlaw.com, lcantor@pszjlaw.com
- David L Gibbs david.gibbs@gibbslaw.com, ecf@gibbslaw.com
- Nancy S Goldenberg nancy.goldenberg@usdoj.gov
- Lawrence J Hilton lhilton@oneil-llp.com, ssimmons@oneil-llp.com; kdonahue@oneil-llp.com
- John H Kim jkim@cookseylaw.com
- R. Todd Neilson (TR) tneilson@brg-expert.com, sgreenan@brg-expert.com; tneilson@ecf.epiqsystems.com; ntroszak@brg-expert.com
- Jason S Pomerantz jspomerantz@pszjlaw.com, jspomerantz@pszjlaw.com
- Nanette D Sanders becky@ringstadlaw.com
- Richard C Spencer rspencer@rspencerlaw.com
- United States Trustee (SA) ustpreion16.sa.ecf@usdoj.gov

2. SERVED BY UNITED STATES MAIL:

Debtor

The Tulving Company Inc
2049 Century Park East, Suite 2525
Los Angeles, CA 90067-3225

Counsel for Debtor

Andrew S Bisom
The Bisom Law Group
8001 Irvine Center Drive, Suite 1170
Irvine, CA 92618

Attorneys for Defendants Hannes

Tulving, Jr. and The Tulving Company
James F. Wyatt, III
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