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Honorable Christopher M. Alston
Chapter 11
Ex Parte

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7 UNITED STATES BANKRUPTCY COURT
8 WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

9 In re:
10 NORTHWEST TERRITORIAL MINT, LLC,
11 Debtor.

Case No. 16-11767-CMA

12 *EX PARTE* MOTION FOR ORDER
APPOINTING ARMAND J.
KORNFELD AS MEDIATOR
13 PURSUANT TO LBR 9044-1 AND
AUTHORIZING PAYMENT OF
MEDIATOR FEE

14 Mark Calvert, the Chapter 11 Trustee (the “Trustee”), moves the Court for an *Ex Parte* Order
15 authorizing the appointment of Armand J. (Jay) Kornfeld as mediator to pursuant to LBR 9044-1 and
16 authorizing payment of the mediator’s fees by the Trustee. The Trustee seeks the appointment of Mr.
17 Kornfeld as mediator with respect to the existing dispute regarding certain WARN Act claims
18 between the Trustee and Brittany Konkel, on behalf of herself and all others similarly situated. In
19 support of this Motion, the Trustee respectfully states as follows:

20 1. On April 1, 2016, Northwest Territorial Mint, LLC (the “Debtor” or “NWTM”) filed
21 a voluntary bankruptcy petition under Chapter 11 of Title 11 of the United States Code.

22 2. An order appointing Mark Thomas Calvert as Chapter 11 Trustee was entered on
23 April 11, 2016.

24 3. On January 31, 2018, Brittany Konkel, on behalf of herself and all others similarly
25 situated (“Konkel”), filed a class action adversary proceeding complaint (the “Complaint”) for the
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EX PARTE MOTION FOR ORDER APPOINTING ARMAND J.
KORNFELD AS MEDIATOR PURSUANT TO LBR 9044-1 AND
AUTHORIZING PAYMENT OF MEDIATOR FEE - 1
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1 recovery of damages arising from the Debtor's alleged violation of the Worker Adjustment and
2 Retraining Notification Act, 29 U.S.C. § 2101 et seq. (the "WARN Act"). Ms. Konkel alleges that
3 the Debtor failed, under the requirements of the WARN Act, to provide adequate notice to
4 employees of the closure of the Debtor's Dayton, Nevada, facility.

5 4. Konkel voluntarily dismissed the Complaint without prejudice, but has indicated that,
6 if the mediation is unsuccessful, she will file a motion for allowance of a WARN Act class
7 administrative priority claim, on behalf herself and others similarly situated.

8 5. Konkel is represented by the following counsel: Lawrence R. Cock and Jack M.
9 Lovejoy of CFL Law Group, LLP, 1001 4th Avenue, Suite 3900, Seattle, WA 98154; Vance
10 McCrary and Mary E. Olsen of The Gardner Firm, PC, PO Drawer 3103, Mobile, AL 36652 and
11 Stuart J. Miller of Lankenau & Miller, LLP, 132 Nassau Street, Suite 1100, New York, NY 10038 .

12 6. The parties conferred regarding the possibility of mediating this matter and agreed
13 that Mr. Kornfeld of Bush & Kornfeld LLP is mutually acceptable for appointment as a mediator in
14 this matter pursuant to Local Bankruptcy Rule 9044-1. Mr. Kornfeld's address is 5000 Two Union
15 Square, 601 Union Street, Seattle, WA 98101-2373.

16 7. Mr. Kornfeld has agreed to act as mediator under the Thomas T. Glover protocol and
17 the parties have scheduled mediation for the end of this month. The initial fee for the mediation is
18 \$1,000 shared equally by both parties. The initial fee covers a total of six hours of the mediator's
19 time, with a minimum of four hours of actual mediation time. To the extent that the mediation
20 extends beyond the six hour total covered by the initial fee, Mr. Kornfeld bills his time at \$425 per
21 hour (to be split evenly by the parties). Mr. Kornfeld's fee structure comports with Local Bankruptcy
22 Rule 9050-1.

23 8. Local Bankruptcy Rule 9044-1 provides that parties to a dispute may stipulate to the
24 submission of a matter to the Thomas T. Glover Mediation Program by stipulation. The parties have
25 so stipulated. The Trustee files this ex parte motion in order to obtain the appointment of
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1 Mr. Kornfeld and to obtain authority to pay the Trustee's share of Mr. Kornfeld's fees for the
2 mediation. Resolution of this dispute via mediation would have the effect of avoiding costs of
3 litigation.

4 9. The Trustee has provided a copy of this motion to counsel for Konkel prior to filing,
5 and has consented to the Trustee indicating the stipulation of the parties to mediation and the
6 appointment of Mr. Kornfeld as mediator and has consented to this motion being filed on an ex parte
7 basis. Based on the foregoing, the Trustee respectfully requests that the Court enter an order (i)
8 appointing Mr. Kornfeld as mediator for the above referenced dispute; and (ii) authorizing the
9 Trustee to pay his 1/2 share of Mr. Kornfeld's initial mediation fee and subsequently incurred fees for
10 mediation services.

11 DATED this 7th day of June, 2018.

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13 K&L GATES LLP

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16 By /s/ Michael J. Gearin
17 Michael J. Gearin, WSBA #20982
18 David C. Neu, WSBA #33143
19 Brian T. Peterson, WSBA #42088
20 Attorneys for Mark Calvert, Chapter 11 Trustee
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CERTIFICATE OF SERVICE

The undersigned declares as follows:

That she is a paralegal in the law firm of K&L Gates LLP, and on June 7, 2018, she caused the foregoing document to be filed electronically through the CM/ECF system which caused Registered Participants to be served by electronic means, as fully reflected on the Notice of Electronic Filing.

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

Executed on the 7th day of June, 2018 at Seattle, Washington.

/s/ Denise A. Lentz
Denise A. Lentz