

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE**

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In re:	:	
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SHILOH INDUSTRIES, INC., ¹	:	Chapter 11
<i>et al.</i> ,	:	
	:	Case No. 20-____ (____)
Debtors.	:	(Joint Administration Requested)
	:	
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**MOTION OF THE DEBTORS FOR INTERIM AND FINAL ORDERS
(I) AUTHORIZING THE DEBTORS TO PAY PREPETITION CLAIMS
OF CERTAIN LIEN CLAIMANTS AND (II) GRANTING RELATED RELIEF**

The above-captioned debtors (collectively, the "Debtors"), pursuant to sections 105(a) and 363(b) of title 11 of the United States Code (the "Bankruptcy Code") and Rules 6003 and 6004 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), hereby move (the "Motion") for entry of interim and final orders in substantially the form attached hereto as Exhibit A (the "Proposed Order") (i) authorizing, but not directing, the Debtors, in their sole discretion, to pay, in the ordinary course of business, certain prepetition claims of certain parties holding a lien or potential lien on, a security interest in, or holding other possessory rights to, property of the Debtors' estates and (ii) granting related relief. In support of this Motion, the Debtors incorporate the statements included in the *Declaration of Jeffrey Ficks in Support of*

¹ The Debtors are the following nineteen entities (the last four digits of their respective taxpayer identification numbers, if any, follow in parentheses): Shiloh Industries, Inc. (7683), Greenfield Die & Manufacturing Corp. (8114), Jefferson Blanking Inc. (7850), Shiloh Automotive, Inc. (1339), Shiloh Corporation (5101), Shiloh Industries, Inc. Dickson Manufacturing Division (5835), Shiloh Holdings International, Inc. (1446), C & H Design Company (9432), Liverpool Coil Processing, Incorporated (0571), Medina Blanking, Inc. (0707), The Sectional Die Company (3562), VCS Properties, LLC (1094), Shiloh Die Cast LLC (5814), Shiloh Manufacturing Holdings LLC (0853), FMS Magnum Holdings LLC (6471), Sectional Stamping, Inc. (8967), Albany-Chicago Company LLC (4687), Shiloh Die Cast Midwest LLC (4114), and Shiloh Manufacturing LLC (1628). The noticing address of each of the Debtors in these chapter 11 cases is 880 Steel Drive, Valley City, Ohio 44280.

First-Day Pleadings (the "First Day Declaration") filed contemporaneously herewith and further respectfully state as follows:

Background

I. The Debtors and the Commencement of These Cases

1. On the date hereof (the "Petition Date"), each of the Debtors commenced a case under chapter 11 of the Bankruptcy Code.² The Debtors are authorized to continue to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. By a motion filed on the Petition Date, the Debtors have requested that their chapter 11 cases be consolidated for procedural purposes only and administered jointly.

2. The Debtors are a global innovative solutions provider focusing on lightweighting technologies that provide environmental and safety benefits to the mobility market. The Debtors have a global network of manufacturing operations and technical centers in Asia, Europe and North America. The Debtors' multi-material solutions consist of a variety of alloys in aluminum, magnesium and steel grades, along with proprietary lines of noise and vibration reducing acoustic laminate products. The Debtors deliver these solutions in body structure, chassis and propulsion systems to original equipment manufacturers ("OEMs") and "Tier 1" suppliers in the automotive and commercial vehicle markets. For the twelve months ending October 31, 2019, the Debtors generated approximately \$1.045 billion in revenue.

3. Additional detail regarding the Debtors, their businesses and the commencement of these cases is set forth in the First Day Declaration.

² This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue for this matter is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409.

II. The Debtors' Lienholder Claimants

4. In the operation of their businesses, certain parties with commercial or trade relationships with the Debtors have the ability to, and do, obtain liens on, and interests in, the Debtors' property. In most instances, these parties obtain liens through the physical possession of the Debtors' property (collectively, the "Lienholder Claimants"). The Lienholder Claimants include, but are not limited to, the following: (a) shippers and warehousemen; (b) scrap processors; (c) providers of goods and services related to custom tooling; and (d) other service providers who may hold artisan or other similar liens.³ The Debtors believe that the failure to pay certain of the Lienholder Claimants' claims (the "Lienholder Claims") could have a significant adverse impact on their ability to meet the rigorous delivery schedules that the Debtors' customers require.

5. Any inability to meet the expectations of the Debtors' customers and the harm that will result from such failure is counterproductive to the Debtors' goals of consummating a going concern sale of substantially all of their assets. As such, the relief requested herein (and the other first day motions filed contemporaneously herewith) is designed to ensure the Debtors' customers are as minimally impacted as possible by the filing of these cases.

6. The Debtors' management has carefully reviewed the facts and circumstances related to the Lienholder Claims and have identified a narrow list of Lienholder Claimants that could cause material business disruptions of the kinds described above if the Debtors do not obtain the relief sought herein. The Debtors therefore seek authority, in their

³ Although this Motion is intended to be comprehensive, the Debtors have not exhaustively set forth every possible vendor or supplier who could possibly assert a lien against the Debtors' property. The Debtors request relief with respect to all Lienholder Claimants, regardless of whether such Lienholder Claimant falls squarely within one or more of the categories identified herein.

discretion, to pay the prepetition claims of the Lienholder Claimants, but only to the extent necessary and on such terms and conditions described below, to avoid potential disruption to their businesses and irreparable loss of value to the detriment of the Debtors' estates and stakeholders. Specifically, the Debtors seek authority, in their discretion, to pay the prepetition claims of Lienholder Claimants up to the maximum aggregate amount of \$7,900,000 on an interim basis, and \$10,750,000 on a final basis. Given the size of their businesses, the costs of any disruption in their operations and the demonstrated benefits to be obtained in exchange for any payments to the Lienholder Claimants, the Debtors submit that this is a reasonable and appropriate cap on the expenditure of estate funds.

A. Shippers and Warehousemen Claimants

7. An integral component of the Debtors' business operations is the efficient flow of products to and from their customers. As a result, the Debtors often transact with, and rely heavily on, commercial common carriers (including truckers, air shippers and seaborne shippers), warehousemen, customs brokers and expeditors (including operators of terminals in possession of the Debtors' goods), and certain other third-party vendors and service providers (collectively, the "Shippers and Warehousemen Claimants") to ship, transport, store, move through customs and deliver products through established distribution networks.⁴

8. At any given time, the Shippers and Warehousemen Claimants have possession of large quantities of the Debtors' products that are in transit. As of the Petition Date, many of the Shippers and Warehousemen Claimants had claims for storage, transportation and

⁴ A number of the Shippers and Warehousemen Claimants, specifically those who provide freight services, are paid by U.S. Bancorp, N.A. acting as third party administrator (the "Freight TPA"). The Freight TPA reviews, audits and remits payment to the Shippers and Warehousemen, and then charges the Debtors' for such costs plus a small administrative fee of approximately \$0.20 per invoice. By this Motion, the Debtors' request authority to pay any applicable Shippers and Warehousemen Claims via the Freight TPA, subject to the Conditions on Payment of Lienholder Claims, discussed below.

related services previously provided to the Debtors (collectively, with any related customs duties, taxes, tariffs and fees, the "Shippers and Warehousemen Claims").

9. If the Debtors fail to pay the Shippers and Warehousemen Claims, the Debtors believe that many of the Shippers and Warehousemen Claimants may stop providing their essential services to the Debtors. The Debtors believe that any such interruption in obtaining the services and cooperation of the Shippers and Warehousemen would (a) delay product shipments which could allow the Debtors' customers to impose contractual penalties or worse, re-source their business; and (b) force the Debtors to incur the costs of premium replacement shipping and warehousing services to avoid negative impacts on their customers. Even if suitable alternative providers are available, the time necessary to identify these replacement providers and integrate them into the Debtors' operations likely would cause a significant disruption to the Debtors' operations. During any such transition period, the Debtors would lose access to valuable goods held by the Shippers and Warehouseman Claimants.

10. The Shippers and Warehousemen Claimants also may be able to assert state law possessory liens against the Debtors' property that the Shippers and Warehousemen Claimants hold or control.⁵ Because the perfection and maintenance of the liens held by Shipper

⁵ See U.C.C. § 7-307(a) ("A carrier has a lien on the goods covered by a bill of lading or on the proceeds thereof in its possession for charges after the date of the carrier's receipt of the goods for storage or transportation, including demurrage and terminal charges, and for expenses necessary for preservation of the goods incident to their transportation or reasonably incurred in their sale pursuant to law."); U.C.C. § 7-209(a) ("A warehouse has a lien against the bailor on the goods covered by a warehouse receipt or storage agreement or on the proceeds thereof in its possession for charges for storage or transportation, including demurrage and terminal charges, insurance, labor, or other charges, present or future, in relation to the goods, and for expenses necessary for preservation of the goods or reasonably incurred in their sale pursuant to law."); see also Mich. Comp. Laws §§ 440.7209, 440.7307; Ohio Rev. Code §§ 1307.209; 1307.307; Wis. Stat. §§ 407.209; 407.307. Moreover, in addition to any available liens, a substantial portion, if not all, of the customs duties sought to be paid (or reimbursed to the Debtors' customs brokers) hereunder would be entitled to priority pursuant to section 507(a)(8)(F) of the Bankruptcy Code. As priority claims, these customs duties would need to be paid in full before the Debtors could make any distributions to holders of general unsecured claims in connection with a chapter 11 plan.

and Warehousemen Claimants is typically dependent upon possession, the Debtors anticipate that certain Shippers and Warehousemen Claimants will refuse to deliver or release such goods before their claims have been satisfied and their liens extinguished. Such a material disruption in the operation of the Debtors' distribution network would ultimately delay the shipment of products to the Debtors' customers.

B. Scrap Claimants

11. In the process of making the Debtors' products, a significant amount of raw materials, including steel, aluminum, magnesium and other materials, becomes "scrap" that is not included in the final components of parts sold to customers. This scrap has considerable value and the Debtors sell such materials into the scrap market. The sophistication of the Debtors' and their customers' operations are such that it is possible to estimate the daily amount of scrap created with a reasonable degree of accuracy.

12. The Debtors utilize a number of service providers to collect, process and sell the scrap created by the Debtors' operations (the "Scrap Claimants"). At any given time, the Scrap Claimants are in possession of a large volume of scrap that is not only property of the Debtors' estates, but in certain circumstances, property of the Debtors' customers. As of the Petition Date, many of the Scrap Claimants had claims for the services they provide the Debtors (collectively, with any related customs duties, taxes, tariffs and fees, the "Scrap Claims").

13. Similar to the Shippers and Warehousemen Claimants, the Scrap Claimants may be able to assert state law possessory liens against the Debtors' property that the Scrap Claimants hold or control. Because the perfection and maintenance of the liens held by Scrap Claimants is typically dependent upon possession, it is anticipated that certain Scrap Claimants will refuse to deliver or release such goods before their claims have been satisfied and their liens extinguished.

14. Further, as described in the *Motion of the Debtors for Interim and Final Orders Authorizing Them to (I) Maintain Certain Customer Programs and (II) Honor or Pay Related Prepetition Obligations to Their Customers*, filed contemporaneously herewith, many of the Debtors' customers have legal or contractual interests in the proceeds of the scrap created in the Debtors' operations and sold into the scrap market. Any disturbance of the Debtors' ordinary course scrap processes could cause significant damage to the Debtors' relationships with its customers.

C. Tooling Claimants

15. The production of each component of an automobile requires a unique tool. With most automobiles containing thousands of components, there is a constant necessity to create, build and repair tooling. The Debtors' customers ultimately pay for and own most of the tools under a series of programs (the "Customer Tooling Programs"). Payment structures associated with the Customer Tooling Programs vary greatly. Certain of the Debtors' customers pay for tooling up front, while others only pay after the Debtors' have utilized the tool to produce a certain number of components. Other Customer Tooling Programs operate on a "pay as you go" basis, with customers paying for the tooling in cycles as the Debtors produce components.

16. In light of the dynamic nature of the automobile and truck markets, OEMs develop new vehicles on a continuous basis and have a number of new platform launches each year. This nearly constant updating of the vehicles being manufactured by the OEMs leads to a corresponding turnover in the parts being purchased by the OEMs and their suppliers. Thus, the Debtors must make tooling and equipment purchases, and repair existing tooling and equipment, on a regular basis to fulfill their ever-changing obligations to customers. These expenditures include machinery, jigs, dies, gauges, molds, patterns, equipment and other personal property dedicated and tailored to their customer's manufacturing needs (collectively,

"Tooling"), and the repair and replacement of Tooling, from certain suppliers (collectively, the "Tooling Claimants").

17. On the Petition Date, certain of the Tooling Claimants had outstanding claims against the Debtors related to the Tooling (collectively, the "Tooling Claims"). Under applicable state law, many of the Tooling Claimants have liens, or the ability to assert liens, on the Tooling if the Tooling Claims are not paid. In some instances, applicable state law grants the Tooling Claimants the right to assert a lien in the Tooling without the need for the Debtors to affirmatively grant a security interest.⁶ Thus, absent the relief requested in this Motion, it is likely that certain of the Tooling Claimants will assert liens against the Tooling, causing disruptions to the Debtors' customer relationships and potentially impairing the Debtors' ability to sell Tooling assets as part of the Debtors' sale process.

18. In addition, the Debtors' customers either already own the relevant Tooling, or will own the relevant Tooling at a future date. To the extent a customer owns its

⁶ Specifically, many states have enacted so-called "Special Tool Builders Lien" statutes. A representative statute, enacted in Michigan, provides that "[a] special tool builder has a lien on any special tool" upon which the special tool builder has permanently recorded its name, street address, city and state. *See* Mich. Comp. Laws § 570.563(3). The amount of the special tool builders' lien is the amount that the customer owes the special tool builder for the fabrication of the special tool. *Id.* Section 570.563(4) of the Michigan Compiled Laws provides that "[t]he special tool builder's lien attaches when actual or constructive notice is received. The special tool builder retains the lien that attaches under this section *even if the special tool builder is not in physical possession of the special tool for which the lien is claimed.*" (emphasis added). Accordingly, Special Tool Builders Lien statutes similar to Michigan's apply to Tooling in the possession of the Debtors. Similar laws apply in other states where the Debtors conduct business. *See* Ohio Rev. Code § 1333.33(A)(1) ("A moldbuilder has a lien on all molds produced by it and on all proceeds from the assignment, sale, transfer, exchange, or other disposition of the molds produced by it until the moldbuilder is paid in full all amounts due the moldbuilder for the production of the mold or these proceeds. The lien described in this division attaches when the mold is delivered from the moldbuilder to the customer."); Wis. Stat. § 779.485(2)(a)(1) ("A special tool builder who does all of the following has a lien on a special tool in the amount that a customer or manufacturer owes the special tool builder for designing, developing, manufacturing, fabricating, assembling, repairing, or modifying the special tool:" (a) "Permanently records on the special tool the special tool builder's name, street address, city, and state, or other traceable identification"; (b) "Files a financing statement for the special tool under subch. V of ch. 409." The lien attaches once these requirements are met. The special tool builder retains the lien even without having physical possession of the special tool.).

Tooling, certain of the liens arising out of the manufacture of such Tooling would attach to property that is not part of the Debtors' estates. The existence of liens on customer-owned tooling is problematic because certain of the Debtors' contracts with their customers require that the Debtors transfer the Tooling to the customers free and clear of liens, claims and encumbrances. The inability to comply with these contracts could potentially complicate the Debtors' ability to assume and assign certain contracts in connection with a going concern transaction.

D. Outside Processor Claims

19. In the ordinary course of their businesses, the Debtors pay service providers to perform certain services on the Debtors' products and equipment (collectively, the "Outside Processor Claimants"), including cleaning and painting the parts manufactured by the Debtors and repairing equipment owned by the Debtors (collectively, the "Outside Process Services"). The need for repairs and finishing services is constant given the Debtors' numerous locations and their customers' demands for constant and on-time deliveries.

20. On the Petition Date, certain of the Outside Processor Claimants had outstanding claims against the Debtors for the Outside Process Services performed on the Debtors' goods (collectively, the "Outside Processor Claims"). In most states, an artisan's lien arises where a party voluntarily gives possession of personal property to an artisan for the purpose of its improvement or repair if the party does not pay the artisan for its services.⁷

⁷ See e.g. Mich. Comp. Laws § 570.185 ("Whenever any person shall deliver to any mechanic, artisan, or tradesman, any materials or articles for the purpose of constructing in whole or in part, or completing any furniture, jewelry, implement, utensil, clothing, or other article of value . . . such mechanic, artisan, tradesman, or other person shall have a lien thereon for the just value of the labor and skill applied thereto by him, and for any materials which he may have furnished in the construction or completion thereof . . . and may retain possession of the same until such charges are paid."). In some states, artisan's liens are not imposed by statute but by common law. See In re Mark S. Kaplan, Inc., 42 B.R. 288, 290 (Bankr. S.D. Ohio 1984) (explaining Ohio law in respect of artisan's liens and their viability despite lack of statutory basis); Shearer v. Bill Garlic Motors, Inc., 394 N.E. 2d 1014 (Ohio Ct. App. 1977) (discussing application

Accordingly, the Debtors believe that the Outside Processor Claimants may assert their lien rights and potentially refuse to return the Debtors' property to the Debtors upon completion of the repairs. As such, the Outside Processor Claimants ultimately would be entitled to payment of their claims up to the value of the collateral securing their claim.

21. In addition, absent payment of the Outside Processor Claims, the Outside Processor Claimants could also (a) refuse to honor pending orders or requests to perform necessary services that, in many instances, the Debtors have no internal capacity to perform, or (b) seek to halt shipments of completed goods back to the Debtors. Similar to the other categories of lienholders described herein, if the Outside Processor Claimants were to take such actions, it could deprive the Debtors of materials and equipment they need to meet production schedules and maintain amicable customer relationships.

III. Conditions on Payment of Lienholder Claims

22. In an effort to ensure that the payment of each Lienholder Claim provides the Debtors with a benefit to their estates, the Debtors may request that a recipient of payment upon any portion of a Lienholder Supplier Claim (a "Lienholder Payment") be required, to the extent applicable, to execute an agreement (a "Trade Agreement") whereby it agrees to provide the Debtors with (i) the continuance of the parties' existing business relationship; (ii) other business terms on a postpetition basis consistent with past practices, including the pricing of goods and services and the provision of equivalent levels of service, on terms at least as favorable as those extended in the normal course prior to the Petition Date, or on such other terms that are acceptable to the Debtors; and (iii) the release to the Debtors of goods or other

of artisan's liens); accord Nickell v. Lambrecht, 185 N.W. 2d 155 (Mich Ct. App. 1970) (recognizing viability of common law artisan's liens for repair claims and their co-existence with statutory liens).

assets of the Debtors in the Lienholder Claimant 's possession (collectively, the "Trade Terms"). The Trade Terms would be applicable throughout the pendency of the Debtors' chapter 11 cases.

23. If a Lienholder Claimant that has executed a Trade Agreement accepts a Lienholder Payment and fails to provide the Debtors with the requisite Trade Terms specified therein, then the Debtors' rights to treat such Lienholder Payment as an unauthorized postpetition transfer and exercise any and all appropriate remedies are reserved.

Basis for Relief Requested

I. The Doctrine of Necessity Provides the Basis for Granting the Requested Relief

24. While the Lienholder Claims the Debtors seek authority to pay are prepetition claims, the payment of the Lienholder Claims is warranted under the doctrine of necessity. Section 363(b)(1) of the Bankruptcy Code provides as follows: "The trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate. . . ." 11 U.S.C. § 363(b)(1). A debtor's decision to use, sell, or lease assets outside the ordinary course of business must be based upon a sound business purpose. See In re Filene's Basement, LLC, No. 11-13511, 2014 WL 1713416, at *12 (Bankr. D. Del. Apr. 29, 2014) ("Transactions under § 363 must be based upon the sound business judgment of the debtor or trustee."); In re Decora Indus., Inc., No. 00-4459, 2002 WL 32332749, at *2 (D. Del. May 20, 2002) (a debtor satisfies the requirements of § 363(b)(1) through the "sound exercise of business judgment"); see also In re Chateaugay Corp., 973 F.2d 141, 143 (2d Cir. 1992) (holding that the use, sale, or lease of property of the estate is justified if it is supported by a good business reason).

25. Section 105(a) of the Bankruptcy Code provides:

The court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title. No provision of this title providing for the raising of an issue by a party in interest shall be construed to preclude the court from, sua sponte, taking any action or making any determination necessary or appropriate to enforce or implement court orders or rules, or to prevent an abuse of process.

11 U.S.C. § 105(a). Section 105(a) of the Bankruptcy Code grants bankruptcy courts broad authority and discretion to enforce the provisions of the Bankruptcy Code under equitable common law principles. The purpose of section 105 of the Bankruptcy Code is to ensure the bankruptcy court has the power "to take whatever action is appropriate or necessary in aid of the exercise of their jurisdiction." 2 Collier on Bankruptcy ¶ 105.01 (16th ed. 2020).

26. Under the "doctrine of necessity," courts allow the immediate payment of prepetition claims where such payment is essential to the debtor's continued operations. See In re Lehigh & New England Ry. Co., 657 F.2d 570, 581 (3d Cir. 1981) (recognizing that "if payment of a [prepetition] claim ... is essential to the continued operation of the [debtor,] ... payment may be authorized "); In re Motor Coach Indus. Int'l, No. 09-078 (SLR), 2009 U.S. Dist. LEXIS 10024, at *7 n.5 (D. Del. Feb. 10, 2009) ("The 'doctrine of necessity' or 'necessity of payment' doctrine is a general rubric for the proposition that a court can authorize the payment of prepetition claims if such payment is essential to the continued operation of the debtor."); In re Just for Feet, 242 B.R. 821, 825 (D. Del. 1999) ("The Supreme Court, the Third Circuit and the District of Delaware all recognize the court's power to authorize payment of prepetition claims when such payment is necessary for the debtor's survival during chapter 11."); accord In re Boston & Me. Corp., 634 F.2d 1359, 1382 (1st Cir. 1980) (recognizing the existence of a judicial power to authorize trustees to pay claims for goods and services that are indispensably necessary to the debtors' continued operation).

27. Recently, in dicta, the Supreme Court of the United States endorsed motions seeking to pay certain prepetition claims early in a chapter 11 case in order to "enable a successful reorganization and make even the disfavored creditors better off." See Czyzewski v. Jevic Holding Corp., 137 S. Ct. 973, 985 (2017) ("Courts, for example, have approved first-day wage orders that allow payment of employees' prepetition wages, *critical vendor orders that allow payment of essential suppliers' prepetition invoices* and roll-ups that allow lenders who continue financing the debtor to be paid first on their prepetition claims. In doing so, these courts have usually found that the distributions at issue would enable a successful reorganization and make even the disfavored creditors better off.") (internal citations and quotation marks omitted) (emphasis added).

28. The bankruptcy court's exercise of its authority under the "doctrine of necessity" is appropriate to carry out certain statutory provisions of chapter 11—specifically sections 1107(a), 1108 and 363(b)(1) of the Bankruptcy Code—which collectively authorize a debtor in possession to maintain and operate the debtor's business and use estate property outside of the ordinary course of business. Indeed, a debtor in possession operating a business under section 1108 of the Bankruptcy Code has a duty to protect and preserve the value of its business, and prepetition claims may be paid if necessary to perform the debtor's duty. See In re CoServ, L.L.C., 273 B.R. 487, 497 (Bankr. N.D. Tex. 2002) ("There are occasions when this duty can only be fulfilled by the preplan satisfaction of a prepetition claim."). See also Just for Feet, 242 B.R. at 824-25 (authorizing, under the "necessity of payment doctrine," the "payment of prepetition claims" outside of plan because such claims were "essential to the continued operation of the debtor"). "[M]ost courts will allow [the payment of prepetition claims] under the 'doctrine of necessity,' if the debtor establishes that in its business judgment making such payments is critical

to the survival of the debtor's business." In re Friedman's Inc., No. 09-10161 (CSS), 2011 Bankr. LEXIS 4500, at *7 (Bankr. D. Del. Nov. 30, 2011). As set forth herein, the Debtors have ample justifications to pay the Lienholder Claims.

29. *First*, it is essential that the Debtors be permitted to immediately pay the Lienholder Claims to ensure that the flow of products to their customers remains constant, timely and efficient. As described above, potential interruption from the inability to ship and store products, manage their scrap programs or utilize custom tooling likely would lead to operational disruptions and an inability to deliver parts in a timely manner. Customers in the Debtors' highly competitive industry are unaccepting of a supplier's failure to meet expectations; it is thus essential that the filing of these cases has little or no impact on the Debtors' ability to meet customer expectations. Stated simply, the Debtors' ability to execute their planned sale process is dependent upon continuing their customer relationships in the normal course.

30. *Second*, many of the claims the Debtors seek to pay hereunder are secured and payment thereof will cause no depletion of the assets available to satisfy other claimholders. Under section 362(b)(3) of the Bankruptcy Code, the act of perfecting the liens securing the Lienholder Claims, to the extent consistent with section 546(b) of the Bankruptcy Code, is expressly excluded from the automatic stay otherwise imposed by section 362(a) of the Bankruptcy Code. Therefore, notwithstanding the automatic stay, certain of the Lienholder Claimants may (a) be entitled to assert and perfect liens against the Debtors' property, which would entitle them to payment; and (b) hold the property subject to the asserted liens pending payment, to the detriment of the Debtors and their estates.

31. Because the amount of any Lienholder Claims likely is less than the value of the property securing those claims, it appears that most of the Lienholder Claimants are

(or will allege that they are) fully secured creditors. In general, pursuant to section 506 of the Bankruptcy Code, fully secured creditors are entitled to receive (a) payment in full of their prepetition claims and (b) postpetition interest accruing on such claims up to the value of the collateral. Consequently, immediate payment of the Lienholder Claims will (a) in most cases give the Lienholder Claimants no more than they otherwise would be entitled to receive on account of their claims in the chapter 11 process and (b) save the Debtors the cost of interest that otherwise may accrue on the Lienholder Claims. Accordingly, the Debtors' general creditors are not prejudiced by the relief sought herein.

32. Courts in this District have routinely approved similar relief in other chapter 11 cases. See, e.g., In re FTD Cos., Inc., No. 19-11240 (LSS) (Bankr. D. Del. July 1, 2019) authorizing the debtors to pay prepetition claims of certain shippers, warehousemen and lienholders under procedures similar to the ones proposed herein); In re Things Remembered, Inc., No. 19-10234 (KG) (Bankr. D. Del. Feb. 26, 2019) (same); In re The Rockport Co., LLC, No. 18-11145 (LSS) (Bankr. D. Del. Jun. 13, 2018) (same); In re M & G USA Corp., No. 17-12307 (BLS) (Bankr. D. Del. Nov. 30, 2017) (same).⁸

II. Request for Authority for Banks to Honor and Pay Checks in Connection Herewith

33. In addition, by this Motion, the Debtors request that all applicable banks and other financial institutions be authorized, when requested by the Debtors, to receive, process, honor and pay any and all checks presented for payment of, and to honor all fund transfer requests made by, the Debtors related to the relief requested herein, whether such checks were presented, or fund transfer requests were submitted, prior to, on or after the Petition Date,

⁸ The unreported orders cited herein are not attached to this Motion. Copies of these orders are available upon request to proposed counsel to the Debtors.

provided that sufficient funds are available in the applicable accounts to make the payments. The Debtors represent that these checks are drawn on specific disbursement accounts and can be readily identified as relating directly to the authorized payment of amounts discussed herein. Accordingly, the Debtors believe that such checks should be honored.

III. Requests For Immediate Relief & Waiver Of Stay

34. Pursuant to Bankruptcy Rules 6003(b) and 6004(h), the Debtors seek (a) immediate entry of an order granting the relief sought herein and (b) a waiver of any stay of the effectiveness of such an order. Bankruptcy Rule 6003(b) provides, in relevant part, that "[e]xcept to the extent that relief is necessary to avoid immediate and irreparable harm, the court shall not, within 21 days after the filing of the petition, issue an order granting ... a motion to pay all or part of a claim that arose before the filing of the petition." Bankruptcy Rule 6004(h) provides that "[a]n order authorizing the use, sale, or lease of property other than cash collateral is stayed until the expiration of 14 days after entry of the order, unless the court orders otherwise." From this, courts have ruled that, where the failure to grant any such requested relief would result in immediate and irreparable harm to a debtor's estate, a court may allow a debtor to pay all or part of a claim that arose prepetition immediately.

35. As set forth above and in the First Day Declaration, the payment of the Lienholder Claims is necessary to prevent immediate and irreparable damage to the Debtors' operations and thus their chapter 11 estates. Accordingly, the Debtors submit that ample cause exists to justify (a) the immediate entry of an order granting the relief sought herein and (b) a waiver of the 14-day stay imposed by Bankruptcy Rule 6004(h) and any notice under 6004(a) to the extent they apply.

Reservation of Rights

36. Nothing contained herein is intended to be or should be construed as:

(a) an admission as to the validity of any claim or lien against the Debtors; (b) a waiver of the Debtors' rights to dispute any claim or lien, or the amount or priority thereof, on any grounds; (c) a promise to pay any claim; (d) an implication or admission that any particular claim would constitute a Lienholder Claim or that any creditor is a Lienholder Claimant; or (e) the assumption of any executory contract or unexpired lease.

Consent to Jurisdiction

37. Pursuant to Rule 9013-1(f) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "Local Rules"), the Debtors consent to the entry of a final judgment or order with respect to this Motion if it is determined that the Court would lack Article III jurisdiction to enter such final order or judgment absent consent of the parties.

Notice

38. Notice of this Motion shall be provided to: (i) the Office of the United States Trustee for the District of Delaware; (ii) the Debtors' fifty largest unsecured creditors on a consolidated basis, as identified in their chapter 11 petitions; and (iii) counsel to the Debtors' proposed postpetition secured lenders. As this Motion is seeking first-day relief, notice of this Motion and any order entered hereon will be served on all parties required by Local Rule 9013-1(m). Due to the urgency of the circumstances surrounding this Motion and the nature of the relief requested herein, the Debtors respectfully submit that no further notice of this Motion is required.

WHEREFORE, the Debtors respectfully request that the Court: (i) enter the Proposed Order, granting the relief requested herein on an interim basis; (ii) enter a final order, granting the relief requested herein; and (iii) grant such other and further relief to the Debtors as the Court may deem proper.

Dated: August 30, 2020
Wilmington, Delaware

Respectfully submitted,

/s/ Daniel J. DeFranceschi
Daniel J. DeFranceschi (No. 2732)
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PROPOSED ATTORNEYS FOR DEBTORS

EXHIBIT A

Proposed Order

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

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In re: :
SHILOH INDUSTRIES, INC.,¹ : Chapter 11
et al., :
Debtors. : Case No. 20-____ (____)
: (Joint Administration Requested)
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INTERIM ORDER GRANTING MOTION OF THE DEBTORS FOR INTERIM AND FINAL ORDERS (I) AUTHORIZING THE DEBTORS TO PAY PREPETITION CLAIMS OF CERTAIN LIEN CLAIMANTS AND (II) GRANTING RELATED RELIEF

This matter coming before the Court on the Motion of the Debtors for Interim and Final Orders (I) Authorizing the Debtors to Pay Prepetition Claims of Certain Lien Claimants and (II) Granting Related Relief (the "Motion"),² filed by the above-captioned debtors and debtors in possession (collectively, the "Debtors"); the Court having reviewed the Motion and the First Day Declaration and having considered the statements of counsel and the evidence adduced with respect to the Motion at a hearing before the Court (the "Hearing"); and the Court having found that (i) the Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the Amended Standing Order of Reference from the United States District Court for the

¹ The Debtors are the following nineteen entities (the last four digits of their respective taxpayer identification numbers, if any, follow in parentheses): Shiloh Industries, Inc. (7683), Greenfield Die & Manufacturing Corp. (8114), Jefferson Blanking Inc. (7850), Shiloh Automotive, Inc. (1339), Shiloh Corporation (5101), Shiloh Industries, Inc. Dickson Manufacturing Division (5835), Shiloh Holdings International, Inc. (1446), C & H Design Company (9432), Liverpool Coil Processing, Incorporated (0571), Medina Blanking, Inc. (0707), The Sectional Die Company (3562), VCS Properties, LLC (1094), Shiloh Die Cast LLC (5814), Shiloh Manufacturing Holdings LLC (0853), FMS Magnum Holdings LLC (6471), Sectional Stamping, Inc. (8967), Albany-Chicago Company LLC (4687), Shiloh Die Cast Midwest LLC (4114), and Shiloh Manufacturing LLC (1628). The noticing address of each of the Debtors in these chapter 11 cases is 880 Steel Drive, Valley City, Ohio 44280.

² Capitalized terms not otherwise defined herein shall have the meanings given to them in the Motion.

District of Delaware, dated as of February 29, 2012, (ii) venue is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409, (iii) this is a core proceeding pursuant to 28 U.S.C. § 157(b), (iv) notice of the Motion and the Hearing was sufficient under the circumstances, (v) the relief requested in the Motion is necessary and appropriate to prevent immediate and irreparable harm to the Debtors' business operations and will serve to protect and preserve the Debtors' estates for the benefit of all stakeholders and, thus, cause exists to permit such payments to be made immediately notwithstanding Bankruptcy Rule 6003 and (vi) there is good cause to waive the 14-day stay imposed by Bankruptcy Rule 6004(h) to the extent it is applicable; and the Court having determined that the legal and factual bases set forth in the Motion, the First Day Declaration and at the Hearing establish just cause for the relief granted herein;

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED as set forth herein on an interim basis.
2. The Debtors are authorized, but not directed, in their sole discretion, to pay Lienholder Claims in an aggregate amount not to exceed \$7.9 million on an interim basis.
3. The Debtors may require and will exercise their reasonable best efforts to obtain the agreement of any Lienholder Claimant to provide the Debtors with: (i) the continuance of the parties' existing business relationship; (ii) other business terms on a postpetition basis consistent with past practices, including the pricing of goods and services and the provision of equivalent levels of service, on terms at least as favorable as those extended in the normal course prior to the Petition Date, or on such other terms that are acceptable to the Debtors; and (iii) the release to the Debtors of goods or other assets of the Debtors in the Lienholder Claimant's possession (collectively, the "Trade Terms"). The Trade Terms shall be applicable throughout the pendency of the Debtors' chapter 11 cases.

4. If a Lienholder Claimant that has executed a Trade Agreement accepts a Lienholder Payment and fails to provide the Debtors with the requisite Trade Terms specified therein, then the Debtors' rights to treat such Lienholder Payment as an unauthorized postpetition transfer and exercise any and all appropriate remedies are reserved. For the avoidance of doubt, nothing in this provision affects such Lienholder Claimant's rights to contest the Debtors' position and exercise of remedies.

5. The Debtors' banks and other financial institutions (collectively, the "Banks") are authorized, when requested by the Debtors in the Debtors' sole discretion, to receive, process, honor and pay all checks presented for payment of, and to honor all fund transfer requests made by, the Debtors related to the relief granted by this Interim Order, whether such checks were presented, or fund transfer requests were submitted, prior to, on or after the Petition Date, provided that sufficient funds are available in the Debtors' accounts to cover such checks and fund transfers. The Banks are authorized to rely on the Debtors' designation of any particular check or funds transfer as approved by this Interim Order without any duty of further inquiry and without liability for following the Debtors' instructions.

6. Nothing in the Motion or this Interim Order, nor the Debtors' payment of claims pursuant to this Interim Order, shall be deemed or construed as: (a) an admission as to the validity of any claim or lien against the Debtors; (b) a waiver of the Debtors' rights to dispute any claim or lien, or the amount or priority thereof, on any grounds; (c) a promise to pay any claim; (d) an implication or admission that any particular claim is of a type specified or defined hereunder or that any creditor is a Lienholder; or (e) the assumption of any executory contract or unexpired lease.

7. The requirements of Bankruptcy Rule 6003(b) have been satisfied with respect to the relief authorized by this Interim Order.

8. This Interim Order shall be immediately effective and enforceable upon its entry. To the extent that it may be applicable, the 14-day stay imposed by Bankruptcy Rule 6004(h) and any notice requirements of Bankruptcy Rule 6004(a) are hereby waived.

9. The Debtors are authorized and empowered to take all actions necessary to implement the relief granted in this Interim Order.

10. A final hearing to consider the relief requested in the Motion shall be held on _____, 2020 at _____ (prevailing Eastern Time) and any objections or responses to the Motion shall be filed and served on or prior to _____, 2020 at _____ (prevailing Eastern Time).

11. Notwithstanding anything to the contrary contained herein, (i) any payment made, or authorization contained, hereunder shall be subject to the requirements imposed on the Debtors under any order approving debtor-in-possession financing (a "DIP Order"), and (ii) any claim for which payment is authorized pursuant to this Order that is treated as an administrative expense of the Debtors' estates shall be and is subject and subordinate to any and all claims, liens, security interests and priorities granted to the DIP Agents (as defined in the DIP Order) in accordance with and subject to the terms of the applicable DIP Order, and payment on any such claim shall be subject to any and all restrictions on payments in the DIP Order and any other order of the Court authorizing the Debtors' use of cash collateral.

12. This Court shall retain jurisdiction over any and all matters arising from or related to the implementation or interpretation of this Interim Order.