

RICHARD H. GOLUBOW – State Bar No. 160434 rgolubow@wghlawyers.com PETER W. LIANIDES – State Bar No. 160517 plianides@wghlawyers.com WINTHROP GOLUBOW HOLLANDER, LLP 1301 Dove Street, Suite 500 Newport Beach, CA 92660 Telephone: (949) 720-4100 Facsimile: (949) 720-4111 <input type="checkbox"/> Individual appearing without attorney <input checked="" type="checkbox"/> Attorney for: [Proposed] General Insolvency Counsel for Lorna Jane USA, Inc.	FOR COURT USE ONLY <div style="border: 1px solid black; padding: 5px; text-align: center;"> <p>FILED & ENTERED</p> <p>SEP 17 2021</p> <p>CLERK U.S. BANKRUPTCY COURT Central District of California BY sumlin DEPUTY CLERK</p> </div>
UNITED STATES BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA -LOS ANGELES DIVISION	
In re: LORNA JANE USA, INC., a California corporation, Debtor-in-Possession.	CASE NO.: 2:21-bk-17267-NB CHAPTER: 11 ORDER: <input checked="" type="checkbox"/> GRANTING APPLICATION AND SETTING HEARING ON SHORTENED NOTICE <input type="checkbox"/> DENYING APPLICATION FOR ORDER SETTING HEARING ON SHORTENED NOTICE [LBR 9075-1(b)]
Movant (name): Lorna Jane USA, Inc.	

1. Movant filed the following motion(s) together with supporting declarations and (if any) supporting documents:
- a. *Title of motion:*
1. Debtor's motion for entry of order pursuant to 11 U.S.C. §§ 105(a), 363(b), 365, AND 507(a) Authorizing Debtor To (i) Maintain Certain Customer Programs; (ii) Honor or Pay Related Prepetition Obligations in Respect Thereof; (iii) Direct Debtor's Payment Processors to Honor Merchant Agreement Pending Assumption or Rejection; And (iv) Granting Related Relief ("Customer Program Motion") [Docket No. 6].
 2. Debtor's Motion for Entry of Order Pursuant To 11 U.S.C. §§ 105(a), 363(b), and 507(a) Authorizing Debtor (i) To Pay or Honor Certain Pre- Petition Date Employee Wages, Benefits, Expenses, And Other Obligations; And (ii) To Continue Employee Benefit Programs [Docket No. 7] (the "Employee Obligations Motion").
 3. Debtor's Motion for Entry of Order Authorizing the Debtor to Pay Certain Taxes and Fees in The Ordinary Course of Business ("Tax Motion") [Docket No. 8].
 4. Debtor's motion for entry of order authorizing the continued use of existing cash management system, main operating bank account, and business forms [Docket No. 9] (the "Cash Management Motion").
 5. Debtor's Motion for Entry of Order Authorizing: (i) Rejection of Certain Unexpired Leases of Nonresidential Real Property Pursuant To 11 U.S.C. § 365 And Fed. R. Bankr. P. 6006, Effective as Of the Petition Date; (ii) Abandonment of Personal Property, Effective as Of the Petition Date; and (iii) Granting Related Relief [Docket No.10] (the "Lease Rejection Motion").
 6. Declaration Of Richard Munro in Support of Debtor's First Day Motions ("Munro Dec.") [Docket No. 11]. The motions listed in sub-paragraphs "1" through "5" above a referred to herein, collectively, as the "First Day Motions."
- b. *Date of filing of motion(s):* September 16, 2021

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2. Pursuant to LBR 9075-1(b), movant also filed an Application for Order Setting Hearing on Shortened Notice (Application) together with supporting declaration(s):

- See, Docket No. 12
- See, Munro Dec., Docket No. 11

Date of filing of Application: September 16, 2021

3. Based upon the court’s review of the application, it is ordered that:

a. The Application is denied. The motion may be brought on regular notice pursuant to LBRs.

b. The Application is granted, and it is further ordered that:

(1) A hearing on the motion will take place as follows:

Hearing date: <u>9/22/21</u>	Place:
Time: <u>9:00 a.m.</u>	<input checked="" type="checkbox"/> 255 East Temple Street, Los Angeles, CA 90012
Courtroom: 1545 (or via Zoom)	<input type="checkbox"/> 21041 Burbank Boulevard, Woodland Hills, CA 91367
	<input type="checkbox"/> 3420 Twelfth Street, Riverside, CA 92501
	<input type="checkbox"/> 411 West Fourth Street, Santa Ana, CA 92701
	<input type="checkbox"/> 1415 State Street, Santa Barbara, CA 93101

(2) No later than the deadlines given, **telephonic notice** of the hearing must be provided to all persons/entities listed: N/A

(3) No later than the deadlines given, **written notice of the hearing** and a **copy of this order** must be served upon all persons/entities listed using: one of the methods checked all of the methods checked

(A) Personal Delivery Overnight Mail First class mail Facsimile* Email*

(B) <u>Deadlines for RECEIPT of Expedited Service – i.e., overnight mail, personal delivery, facsimile*, email*, or Notice of Electronic Filing (“NEF”):</u> Date: <u>September 20, 2021</u> Time: <u>10:00 a.m.</u>	(C) <u>Persons/entities to be served with written notice and a copy of this order:</u> Office of the United States Trustee; landlords or their representatives for the rejected leases; the twenty (20) largest unsecured creditors; US Bank National Association; the Subchapter V trustee, once appointed; Payment Processors, as defined in the Customer Program Motion; and Avalara as defined in the Tax Motion. <input type="checkbox"/> See attached page
	(D) <u>Service is also required upon:</u> -- United States trustee (<i>electronic service is not permitted</i>) -- Judge’s copy personally delivered to chambers (see Court Manual for address)

- (4) A copy of the motion, declarations, and supporting documents were already served concurrently with the filing of the Motion and Application.
- (5) Regarding **opposition to the motion**
- opposition to the motion may be made **orally** at the hearing
- (6) Regarding a **reply to an opposition**:
- a reply to opposition may be made **orally** at the hearing.
- (7) Other requirements: The tentative ruling is that email notice is insufficient, by itself, to constitute proper service under the applicable rules, absent a party's consent to such service. See Rules 7004, 9014(b) (Fed. R. Bankr. P.) and compare Rules 7005(b)(2)(E), 9036 (NEF). Notwithstanding that email or telephonic notice may be insufficient to constitute *legal* service, all rights are reserved for any party in interest to argue that, in addition to legal service, Debtor should have provided notice via email, telephone, or other methods in view of the shortened time before the hearing.
- Subject to proper service of this Order and the First Day Motions by the deadline set forth above, the tentative ruling is to grant the relief requested in each of the First Day Motions, subject to the following conditions or limitations, and further subject to any oral oppositions and replies at the hearing or any written papers filed prior to the hearing.
- With respect to the Lease Rejection Motion, this Court will hear any arguments regarding the proposed effective date of rejection as of the petition date, or as of any other date.
- With respect to the Employee Obligations Motion, this Court anticipates requiring an offer of proof that none of the employees at issue is an insider of Debtor or, if any employee is an insider, deferring compensation as to that employee pursuant to the usual procedures for creditors to object after a notice of proposed insider compensation.
- With respect to the Cash Management Motion, in addition to the "strict accounting records" that Debtor has committed to maintain (dkt. 9, p. 10:8), the tentative ruling is that Debtor will be directed to implement safeguards (e.g., arrangements with Debtor's bank) to assure that prepetition debts are not paid out of Debtor's pre-existing bank accounts, except as authorized by this Court (e.g., with respect to the Employee Obligations Motion).
- The foregoing tentative rulings are made pursuant to 11 U.S.C. §§ 102(1), 105(a), 363(b) and (c), 365, 507(a), 541(d), 544(a), and the authorities cited in the First Day Motions, as well as Rule 2002(a)(2) and (i), Rule 6003 ("Except 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 ... (b) a motion to use, sell, lease, or otherwise incur an obligation regarding property of the estate, including a motion to pay all or part of a claim that arose before the filing of the petition ..."), Rule 6004 (use, sale, or lease of property), Rule 6006 (assumption or rejection of executory contracts and unexpired leases), Rule 6007 (abandonment of property), Rule 9006(c) (shortened time), 9007 (notices), Rule 9029 (local rules, or procedures when no rule governs), LBR 9075-1 (shortened time), 2081-1 (expedited relief), 6004-1 (use, sale, or lease of property), 9021-1(b) (lodging proposed form of order).

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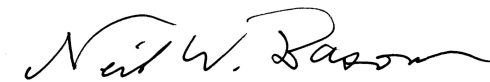
- (8) No later than the deadlines given, movant must file a **Declaration of Notice and Service** establishing that telephonic notice, written notice, and service of the motion and this order was completed as set forth above, ~~and a judge's copy of the Declaration of Notice and Service must be personally delivered to the judge's chambers:~~

<input type="checkbox"/> at least 2 days before the hearing.
<input checked="" type="checkbox"/> <u>no later than:</u> Date: <u>September 20, 2021</u> Time:

* Service by electronic means (facsimile or email) requires compliance with F.R.Civ.P. 5(b)(2)(E).

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Date: September 17, 2021



Neil W. Bason
United States Bankruptcy Judge