

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:)	Chapter 11
)	
PUMPKIN PATCH LLC, ¹)	Case No. 09-12200 (BLS)
)	Objection Deadline: September 7, 2010 at 4:00 p.m. (ET)
Debtor.)	
)	

**SUMMARY OF TWELFTH MONTHLY APPLICATION OF
NIXON PEABODY LLP, COUNSEL FOR THE DEBTOR, FOR ALLOWANCE OF
COMPENSATION FOR SERVICES RENDERED AND REIMBURSEMENT OF
EXPENSES INCURRED FROM
JUNE 1, 2010 THROUGH JUNE 30, 2010**

Name of Applicant:	<u>Nixon Peabody LLP</u>
Authorized to Provide Professional Services to:	<u>Debtor</u>
Date of Retention Order:	July 22, 2009 (<i>nunc pro tunc</i> to June 29, 2009)
Period for Which Compensation and Reimbursement is Sought:	<u>June 1, 2010 through</u> <u>June 30, 2010</u>
Amount of Compensation Sought as Actual, Reasonable and Necessary:	<u>\$11,163.00</u>
Amount of Expense Reimbursement Sought as Actual, Reasonable and Necessary:	<u>\$595.79</u>

This is a(n) x Monthly ___ Interim ___ First Fee Application.

This is Nixon Peabody LLP's twelfth monthly application.

The total time expended in connection with the preparation of this fee application is not included as such time was expended after the Compensation Period.

¹ The last four digits of Pumpkin Patch LLC's federal tax identification number are 4007. The mailing address for Pumpkin Patch LLC is 1112 Montana Ave., #455, Santa Monica, CA 90403.

Prior monthly applications filed:

Date Filed	Period Covered	Requested		Approved	
		Fees	Expenses	Fees	Expenses
September 2, 2009	June 29, 2009 through July 31, 2009	\$85,722.00	\$1,830.49	\$85,722.00	\$1,830.49
October 5, 2009	August 1, 2009 through August 31, 2009	\$33,549.50	\$756.11	\$33,549.50	\$756.11
November 2, 2009	September 1, 2009 through September 30, 2009	\$13,752.50	\$61.34	\$13,752.50	\$61.34
November 24, 2009	October 1, 2009 through October 31, 2009	\$11,276.50	\$0.00	\$9,021.20	\$0.00
December 11, 2009	November 1, 2009 through November 30, 2009	\$18,800.00	\$1.60	\$15,040.00	\$1.60
January 11, 2010	December 1, 2009 through December 31, 2009	\$15,901.50	\$32.72	\$12,721.20	\$32.72
March 19, 2010	January 1, 2010 through January 31, 2010	\$38,619.50	\$59.13	\$30,895.60	\$59.13
March 30, 2010	February 1, 2010 through February 28, 2010	\$14,284.00	\$17.14	\$11,427.20	\$17.14
April 20, 2010	March 1, 2010 through March 31, 2010	\$46,208.00	\$354.05	\$36,966.40	\$354.05
May 19, 2010	April 1, 2010 through April 30, 2010	\$28,013.50	\$75.60	\$22,410.80	\$75.60
August 10, 2010	May 1, 2010 through May 31, 2010	\$20,329.50	\$289.50	Pending	Pending

**TIME SUMMARY TO TWELFTH MONTHLY APPLICATION OF NIXON PEABODY
LLP FOR ALLOWANCE OF COMPENSATION FOR SERVICES RENDERED AND
REIMBURSEMENT OF EXPENSES**

<u>Name</u>	<u>Year of Admission</u>	<u>Hourly Rate</u>	<u>Total Hours</u>	<u>Total Fees</u>
Partner				
Dennis J. Drebsky	1970	\$865.00	5.0	\$4,325.00
Associate				
Lee Harrington	1999	\$520.00	0.2	\$104.00
David Lee	2007	\$455.00	14.8	\$6,734.00
TOTAL				
			20.0	\$11,163.00

PROJECT CATEGORY SUMMARY

<u>Project Category</u>	<u>Total Hours</u>	<u>Total Fees</u>
Claims Administration and Objections	20.0	\$11,163.00
TOTAL		
	20.0	\$11,163.00

EXPENSE SUMMARY

<u>Description</u>	<u>Amount</u>
Airfare	\$486.00
LEXIS	\$32.18
Copier	\$77.61
TOTAL	
	\$595.79

(b) reimbursement of expenses incurred in connection with the rendition of such services in the aggregate amount of \$595.79, for the period from June 1, 2010 through June 30, 2010 (the "Compensation Period").

2. During the Compensation Period, NP attorneys expended a total of 20.0 hours for which compensation is requested. To the extent that time or disbursement charges for services rendered or disbursements incurred relate to the Compensation Period, but are not processed until after the date hereof, NP reserves the right to request additional compensation for such services and reimbursement of such expenses in a future application.

3. NP maintains computerized records of the daily time sheets submitted by all NP attorneys. Preceding the time entries is a chart listing the names, billing rates and time spent by each of the attorneys rendering services on behalf of the Debtor. In support of this Application, copies of these computerized records, together with a computer generated detailed itemization of the expenses incurred by NP for which reimbursement is sought, have been furnished to the Debtor, the Court and the United States Trustee, and are attached hereto as Exhibit A.

4. NP seeks approval and payment of the fees and expenses incurred during the Compensation Period.

II. BACKGROUND

5. On June 29, 2009 (the "Petition Date"), the Debtor filed a voluntary petition in this Court for relief under chapter 11 of the Bankruptcy Code. The factual background regarding the Debtor, including its business operations, its capital and debt structure, and the events leading to the filing of this bankruptcy case, is set forth in detail in the declaration

filed in support of the Debtor's chapter 11 petition and various first day applications and motions.

6. The Debtor continues to manage and operate its business as debtor in possession under Bankruptcy Code sections 1107 and 1108.

7. The Court has jurisdiction over this Application pursuant to 28 U.S.C. §§ 157(b) and 1334. Venue of this Application in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409. This Application is a core proceeding pursuant to 28 U.S.C. §157(b)(2).

III. SERVICES RENDERED BY NP DURING THE COMPENSATION PERIOD

8. The following is a non-exhaustive summary description of the primary services rendered by NP during the Compensation Period, which highlights the benefits conferred upon the Debtor, its estate and creditors as a result of NP's efforts. All of the professional services rendered by NP on behalf of the Debtor and its estate are set forth in the computerized time records maintained by NP, and the Court respectfully is referred to those records for the details of all of the work performed by NP.

A. Claims Administration and Objections (Amount: \$11,163.00)

9. NP expended 20.0 hours on work relating to the administration of claims and objections thereto. NP attorneys reviewed and analyzed proofs of claim filed by various creditors in the case and began preparing omnibus claims objections. In addition, NP attorneys analyzed issues relating to administrative claims and coordinated with the claims agent in this case regarding distributions in respect of allowed claims.

B. Summary

10. The foregoing discussion only summarizes and highlights the more significant professional services rendered during the Compensation Period by NP on behalf of the Debtor in connection with this chapter 11 case.

11. The matters handled by NP have required thoughtful effort by the partners and associates of NP. NP submits that it has achieved the foregoing in an expeditious and efficient manner, always mindful of the costs to the Debtor's estate.

IV. THE COMPENSATION REQUESTED

12. § 330 provides that a court may award a professional employed under § 327 of the Bankruptcy Code "reasonable compensation for actual necessary services rendered . . . and reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1). § 330 also sets forth the criteria for the award of such compensation and reimbursement.

13. In the instant case, NP respectfully submits that the services for which it seeks compensation in this Application were necessary for and beneficial to the Debtor's estate. NP further submits that the compensation requested herein is reasonable in light of the nature, extent, and value of such services to the Debtor, its estate, and all parties in interest.

14. In awarding compensation pursuant to §§ 330 and 331 of the Bankruptcy Code to professional persons employed under §§ 327 or 1103 of the Bankruptcy Code, the Court must take into account, among other factors, the cost of comparable non-bankruptcy services. The legislative history of this section aptly explained the need to provide for compensation comparable to other non-bankruptcy legal services:

The effect of [section 330] is to overrule . . . cases that require fees to be determined based on notions of conservation of the estate and economy of administration. If [those] cases were allowed to stand, attorneys that could earn much higher incomes in other fields would leave the bankruptcy arena.

Bankruptcy specialists, who enable the system to operate smoothly, efficiently, and expeditiously, would be driven elsewhere, and the bankruptcy field would be occupied by those who could not find other work and those who practice bankruptcy law only occasionally almost as a public service. Bankruptcy fees that are lower than fees in other areas of the legal profession may operate properly when the attorneys appearing in bankruptcy cases do so intermittently, because a low fee in a small segment of a practice can be absorbed by other work. Bankruptcy specialists, however, if required to accept fees in all cases that are consistently lower than fees they could receive elsewhere, will not remain in the bankruptcy field.

H.R. Rep. No. 595, 95th Cong., 1st Sess. 329-30 (1977). See also 124 Cong. Rec. H11,091-92 (daily ed. Sept. 28, 1978); S17,408 (daily ed. Oct. 6, 1978).

15. The professional services rendered by NP required and will continue to require an expenditure of substantial time and effort. During the Compensation Period, in excess of 20.0 recorded hours have been expended by NP's professionals in the rendition of the required professional services and for which NP seeks compensation.

16. NP respectfully submits that application of the foregoing criteria justifies the compensation requested in this Application.

17. NP has encountered complex and difficult legal problems during the course of this bankruptcy proceeding, involving many areas of legal expertise in various areas. The professional services rendered in those matters have been performed by attorneys with broad expertise and high levels of skill in their practice areas or specialty. This highly professional and expert group of attorneys has ensured that the Debtor's case has progressed in an efficient manner.

18. During the Compensation Period, NP has been required to furnish extensive services that have often fully occupied the time of its attorneys, frequently to the preclusion of other firm matters and clients. If this was not a case under the Bankruptcy Code, NP would charge the Debtor and expect to receive on a current basis, an amount at least equal to

the amounts requested herein for the professional services rendered. Pursuant to the criteria normally examined in bankruptcy cases, and based upon the factors to be considered in accordance with §§ 330 and 331 of the Bankruptcy Code, the results that have been achieved throughout this case more than substantiate charges in that amount. The services that NP has rendered thus far have produced benefits that have inured to the Debtor, its estate and its creditors.

19. The prosecution of these matters to date justifies compensation at least in the amount requested. Thus, NP requests that such compensation be allowed. In view of the policy underlying §§ 330 and 331 of the Bankruptcy Code that attorneys in bankruptcy cases be compensated on a parity with attorneys practicing in other fields, it is respectfully submitted that compensation should be allowed as requested.

20. In view of the foregoing, NP respectfully requests that it be allowed compensation in the amount of \$11,163.00 for the Compensation Period.

V. DISBURSEMENTS

21. NP incurred \$595.79 in expenses in providing professional services during the Compensation Period.

22. With respect to photocopying expenses, NP charges all of its clients \$0.20 per page for copies made. With respect to facsimile expenses, NP excludes charges for incoming facsimile transmissions. NP includes charges for outgoing domestic facsimiles at \$1.00 per page and outgoing international facsimiles at \$2.00 per page. These charges are intended to cover NP's direct operating costs for photocopying and facsimile facilities, which costs are not incorporated into the NP hourly billing rates. Only clients who actually use photocopying, facsimile, and other office services of the types set forth in the expense summary are separately

charged for such services. The effect of including such expenses as part of the hourly billing rates would impose that cost upon clients who do not require extensive photocopying, facsimile, and document production facilities and services. The amount of the standard photocopying and facsimile charge is intended to allow NP to cover the related expenses of its photocopying and telecopying service.

23. If time constraints imposed by the circumstances of this case require NP's attorneys and other employees to devote substantial amounts of time during the evenings and on weekends to the performance of legal services on behalf of the Debtor, consistent with firm policy, attorneys and other employees of NP who worked late into the evenings are reimbursed for their reasonable meal costs and their cost for transportation home. NP's regular practice is not to include components for those charges in overhead when establishing billing rates, and to charge its clients for these and all other out-of-pocket disbursements incurred during the regular course of the rendition of services.

24. In addition, same day and overnight delivery of documents and other materials may be required at times as a result of deadlines and/or emergencies necessitating the use of such express services. These disbursements are not included in NP's overhead for the purpose of setting billing rates.

25. NP has made every effort to minimize its disbursements in this case. The actual expenses incurred in providing professional services were absolutely necessary, reasonable and justified under the circumstances to serve the needs of the Debtor, its estate and creditors. None of the travel-related expenses of NP attorneys (to the extent such expenses are included herein) were for first-class airfare, luxury accommodations, or deluxe meals.

26. In view of the foregoing, NP respectfully requests that it be reimbursed in the amount of \$595.79 for expenses incurred during the Compensation Period.

VI. CONCLUSION

27. The legal services summarized by this Application and rendered by NP to the Debtor during the Compensation Period were substantial, professional, and beneficial to the Debtor. They were reasonable and necessary to the preservation and maximization of the Debtor's estate.

28. As noted above, the amounts sought by NP consist only of actual and reasonable billable time expended by attorneys of \$11,163.00 and actual and necessary disbursements made by NP of \$595.79 during the Compensation Period. As demonstrated throughout this Application, the other factors typically considered in determining compensation - including complexity, results achieved, special expertise, magnitude of the matter, and professional standing -- all militate toward the conclusion that the amount of compensation requested by NP is necessary, fair, and reasonable.

29. In light of (a) the complexity of these matters, (b) the results achieved, (c) the significant contributions made and time devoted, often under severe time constraints and to the preclusion of other matters, (d) awards of compensation in similar cases, and (e) other factors pertinent to the allowance of compensation, NP believes that the compensation sought herein is fair and reasonable and is authorized under the relevant provisions of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, the Guidelines and the Local Guidelines.

30. All services for which compensation is sought were performed for and on behalf of the Debtor and its estate, and not on behalf of any other creditor or party in interest. NP is charging its standard hourly rate for professionals performing services. No payments have

heretofore been made or promised to NP for services rendered, or to be rendered, in connection with these cases, except as described in this Application. NP has not entered into any agreement, express or implied, with any other party in interest for the purpose of fixing or sharing fees or other compensation to be paid for professional services rendered in this case.

VII. CERTIFICATE OF COMPLIANCE AND WAIVER

31. The undersigned representative of NP certifies that he has reviewed the requirements of Del. Bankr. LR 2016-2 and that this Application substantially complies to that Local Rule. To the extent that this Application does not comply in all respects with the requirements of Del. Bankr. LR 2016-2, NP believes that such deviations are not material and respectfully requests that any such requirement be waived.

WHEREFORE, NP respectfully requests that this Court enter an order (a) directing the payment of (i) \$11,163.00 as compensation for the Compensation Period; and (ii) reimbursement of actual and necessary expenses incurred and recorded by NP for the Compensation Period in the amount of \$595.79; and (b) granting such other and further relief as this Court deems just and proper.

Dated: August 16, 2010

NIXON PEABODY LLP
Attorneys for Pumpkin Patch LLC
Debtor and Debtor in Possession

By: /s/ Dennis J. Drebsky
Dennis J. Drebsky
437 Madison Avenue
New York, New York 10022
(212) 940-3000

EXHIBIT A

NIXON PEABODY LLP

Counsel to Pumpkin Patch LLC
Debtor and Debtor in Possession

Itemized Invoice for the Period June 1, 2010 through June 30, 2010

[See attached]

Nixon Peabody LLP

Attorneys at Law
 100 Summer Street
 Boston, MA 02110-2131
 TEL: (617) 345-1000
 FAX: (617) 345-1300

July 14, 2010

Chris Cardwell
 General Manager Property
 Pumpkin Patch Retail LLC
 439 East Tamaki Road
 Auckland
 New Zealand

Invoice No. 9210408
 Account: 052621
 Mills, Craig D.
 Terms: Due Upon Receipt

FOR PROFESSIONAL SERVICES RENDERED through June 30, 2010, including:

MATTER NO. 000002 - WORKOUT/RESTRUCTURING OF U.S. BUSINESS

For Professional Fees:

Date	Timekeeper	Hours	Description of Services
<u>BK05 Claims Administration and Objections</u>			
06/01/10	D. Lee	0.30	Review claims reconciliation chart.
06/02/10	D. Drebsky	1.10	Prepare for and post confirmation follow up call regarding administrative claims analysis, etc.
06/02/10	D. Lee	0.20	Review claims reconciliation chart and underlying proof of claim preparation of call (0.4); call with client and D. Drebsky (0.3)
06/08/10	D. Drebsky	0.50	Emails regarding distribution agent.
06/18/10	D. Lee	1.10	Review claims resolution chart and draft omnibus objections to claims.
06/22/10	D. Drebsky	0.90	Conference call with Garden City to set parameters for disbursements.
06/23/10	D. Drebsky	1.30	Review administrative claims. Finalize disbursement agent agreement and form of letter to creditors accompanying check.
06/24/10	D. Lee	0.80	Draft Omnibus Claims Objection.
06/25/10	D. Lee	3.50	Analyze claims asserted in case (1.6), review local rules 3007 (0.8) and draft omnibus claim objections(1.1)
06/28/10	D. Lee	4.30	Draft Omnibus Claim Objection (3.3); conduct legal research regarding legal fees claims by landlord (1.0)

06/29/10	D. Lee	3.10	Draft omnibus claim objection and attached exhibits (2.5); research local rules governing omnibus objection (0.4); email exchange with D. Drebsky re: Revised Texas Claim (0.2)
06/30/10	D. Drebsky	1.20	Conference call regarding unliquidated claims and distribution issues. Work regarding administrative claims objection.
06/30/10	L. Harrington	0.20	Attention to claims resolution.
06/30/10	D. Lee	1.50	Draft Omnibus objections to claims (1.5)

Task Total: None	20.00	Task Fees: 11163.00
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Phase Total: Claims Administration and Objections	20.00	Phase Fees: 11163.00
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TOTAL HOURS:	20.00	
TOTAL FEES:		\$11,163.00

TIMEKEEPER SUMMARY

Timekeeper	Rate	Hours	Fees
<u>Partners</u>			
D. Drebsky	865.00	5.00	4,325.00
<u>Associates</u>			
L. Harrington	520.00	0.20	104.00
D. Lee	455.00	14.80	6,734.00
Associates Totals		15.00	6,838.00
Total All Timekeepers:		20.00	\$11,163.00

For Charges and Disbursements:

<u>Description</u>	<u>Amount</u>
Airfare -Firm AMEX	486.00
Cab Fares - Client Chg Cab Fares (NYC Only)	77.61
Lexis	32.18

TOTAL CHARGES AND DISBURSEMENTS:	\$ 595.79
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TOTAL FOR MATTER -- WORKOUT/RESTRUCTURING OF U.S. _____
BUSINESS: \$11,758.79

Total Fees.....	\$	11,163.00
Total Charges and Disbursements	\$	<u>595.79</u>
Total Time and Costs	\$	<u>11,758.79</u>
TOTAL FOR STATEMENT:		<u><u>\$11,758.79</u></u>

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

PUMPKIN PATCH LLC,¹

Debtor.

) Chapter 11
)
)

) Case No. 09-12200 (BLS)
)

) **Objection Deadline: September 7, 2010 at 4:00 p.m. (ET)**
)
)
)

**NOTICE OF TWELFTH MONTHLY APPLICATION OF NIXON PEABODY LLP, AS
COUNSEL FOR PUMPKIN PATCH LLC, FOR ALLOWANCE OF COMPENSATION
FOR SERVICES RENDERED AND FOR REIMBURSEMENT OF EXPENSES
INCURRED FOR THE PERIOD JUNE 1, 2010 THROUGH JUNE 30, 2010**

PLEASE TAKE NOTICE that on August 16, 2010, Nixon Peabody, LLP, filed the attached **Twelfth Monthly Application Of Nixon Peabody LLP, Counsel for the Debtor, For Allowance of Compensation For Services Rendered And Reimbursement Of Expenses As Attorneys For The Debtor For The Period June 1, 2010 Through June 30, 2010** (the "Application") with the United States Bankruptcy Court for the District of Delaware, 824 North Market Street, 6th Floor, Courtroom #3, Wilmington, Delaware 19801 (the "Court").

PLEASE TAKE FURTHER NOTICE that, pursuant to the Court's Administrative Order Establishing Procedures for Interim Compensation and Reimbursement of Professionals, dated July 22, 2009 (the "Interim Compensation Order"), objections, if any, to the Application must be filed with the Clerk of the United States Bankruptcy Court for the District of Delaware, 824 North Market Street, Wilmington, Delaware 19801, and be served upon (i) the Office of the United States Trustee, J. Caleb Boggs Federal Building, 2nd Floor, 844 King Street, Wilmington, Delaware 19801, Attn: David Buchbinder, Esq.; (ii) the Debtor, Pumpkin Patch LLC, c/o Distribution Resources, 233001 54th Avenue South, Kent, Washington 98032; and (iii) counsel to

the Debtor, Nixon Peabody LLP, 437 Madison Avenue, New York, New York 10056, Attn: Dennis J. Drebsky, Esq.; and Womble Carlyle Sandridge and Rice, PLLC, 222 Delaware Avenue, Suite 1501, Wilmington, Delaware 19801, Attn: Thomas M. Horan (collectively, the “Notice Parties”) so as to be *actually received* no later than **4:00 p.m. (ET) on September 7, 2010** (the “Objection Deadline”).

PLEASE TAKE FURTHER NOTICE that if any responses or objections to the Application are timely filed, served and received, and the parties are unable to reach a resolution of such objections, WCSR may either (i) file a motion seeking resolution of the Objection with the Court, together with a request for payment of the difference, if any, between the Maximum Monthly Payment and the Actual Monthly Payment made to the affected Professional (the “Incremental Amount”); or (ii) forego payment of the Incremental Amount until the next interim or final fee application hearing, at which time the Court will consider and dispose of the Objection if requested by the parties. Only those objections made in writing and timely filed and received in accordance with the Interim Compensation Order and the procedures described herein will be considered by the Court at such hearing.

PLEASE TAKE FURTHER NOTICE that, pursuant to the Interim Compensation Order, if no objection to the Application is timely filed, served, and received by the Objection Deadline, WCSR may file a certificate of no objection (a “CNO”) with the Court with respect to the fees and expenses requested in the Application. Upon filing of a CNO, the Debtor will be authorized and directed to pay WCSR an amount equal to the lesser of (i) 80% of the fees and 100% of expenses requested in the Application or (ii) 80% of the fees and 100% of the expenses in the Application not subject to an objection without need for further order of the Court.

¹ The last four digits of Pumpkin Patch LLC’s federal tax identification number are 4007. The mailing address for Pumpkin Patch LLC is 1112 Montana Ave., #455, Santa Monica, CA 90403.

Dated: August 16, 2010

**WOMBLE CARLYLE SANDRIDGE
& RICE, PLLC**

/s/ Thomas M. Horan

Mark L. Desgrosseilliers (DE Bar No. 4083)

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-and-

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