

Thomas E Lauria
State Bar No. 11998025
Craig H. Averch
State Bar No. 01451020
WHITE & CASE LLP
Wachovia Financial Center
200 South Biscayne Blvd.
Miami, FL 33131
Telephone: (305) 371-2700
Facsimile: (305) 358-5744

Robin Phelan
State Bar No. 15903000
Judith Elkin
State Bar No. 06522200
HAYNES AND BOONE, LLP
901 Main Street
Suite 3100
Dallas, TX 75202
Telephone: (214) 651-5000
Facsimile: (214) 651-5940

ATTORNEYS FOR THE DEBTORS AND DEBTORS IN POSSESSION

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

In re)	Chapter 11 Case
)	
MIRANT CORPORATION, <u>et al.</u> ,)	Case No. 03-46590(DML)11
)	Jointly Administered
Debtors.)	

**DEBTORS' MOTION FOR ORDER CLARIFYING ORDER GRANTING
COMPLEX CHAPTER 11 BANKRUPTCY CASE TREATMENT**

TO THE HONORABLE D. MICHAEL LYNN,
UNITED STATES BANKRUPTCY JUDGE:

Mirant Corporation (“Mirant”) and its affiliated debtors (collectively, the “Debtors”), as debtors in possession, file this Motion (the “Motion”) for Order Clarifying Order Granting Complex Chapter 11 Bankruptcy Case Treatment, and in support of the Motion, the Debtors respectfully state as follows:

1. On July 14, 2003 and various dates thereafter (collectively, the “Petition Date”), the Debtors filed voluntary chapter 11 petitions. On July 15, 2003, the Debtors filed their Notice of Designation as Complex Chapter 11 Case, and the Court entered its Order Granting Complex

Chapter 11 Bankruptcy Case Treatment (the “Complex Case Order”) on July 15, 2003, a copy of which is attached hereto as Exhibit “A”.

2. Paragraph 1 of the Complex Case Order contemplates that “Unless otherwise required by the Bankruptcy Code or Rules, notices of motions and other matters will be limited to the parties on the service list¹”. Federal Rule of Bankruptcy Procedure 2002(a) provides in part as follows:

(a) **Twenty-day notices to parties in interest**

Except as provided in subdivisions (h), (i), and (l) of this rule, the clerk, or some other person as the court may direct, shall give the debtor, the trustee, all creditors and indenture trustees at least 20 days’ notice by mail of:

.....

(2) a proposed use, sale, or lease of property of the estate other than in the ordinary course of business, unless the court for cause shown shortens the time or directs another method of giving notice;

(3) the hearing on approval of a compromise or settlement of a controversy other than approval of an agreement pursuant to Rule 4001(d), unless the court for cause shown directs that notice not be sent.

.....

(6) a hearing on any entity’s request for compensation or reimbursement of expenses if the request exceeds \$1,000.

3. Pursuant to the provisions of Rules 2002(a)(2), (3) and (6), the Debtors would be required to serve all motions to compromise controversies, all motions for the proposed use, sale or lease of property outside the ordinary course of business, and all notices of fee applications on

¹ Referring to the Limited Service List as maintained by the Debtors.

over 28,000 creditors and parties-in-interest in these cases (not including the 180,000 equity holders).

4. The Debtors do not believe that the Court intended for all motions to compromise controversies, all motions for the proposed use, sale or lease of property outside the ordinary course of business, and all fee application hearing notices to be served on the entire creditor database. Nor do the Debtors believe that the Court intended for them to seek an order limiting notice on each compromise motion, sale motion and/or fee application as it is filed.

5. Therefore, the Debtors respectfully request that this Court enter an order clarifying the Complex Case Order so as to provide that the Debtors are required to serve any motions to compromise controversies, any motions for the proposed use, sale or lease of property outside the ordinary course of business, and notice of any fee applications only on those parties on the Limited Service List, as well as any additional parties who may have an interest in a specific motion. A copy of the proposed Order Clarifying Order Granting Complex Chapter 11 Bankruptcy Case Treatment is attached hereto as Exhibit "B".

WHEREFORE, based upon the foregoing, the Debtors request that the Court grant the relief requested herein, and any other relief that is necessary and proper.

RESPECTFULLY SUBMITTED, this 11th day of August, 2004.

HAYNES AND BOONE, LLP
901 Main Street
Suite 3100
Dallas, TX 75202
(214) 651-5000

By: /s/ Robin E. Phelan
Robin E. Phelan
State Bar No. 15903000
Judith Elkin
State Bar No. 06522200
Ian T. Peck
State Bar No. 24013306

-and-

Thomas E Lauria
State Bar No. 11998025
WHITE & CASE LLP
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Miami, Florida 33131
(305) 371-2700

ATTORNEYS FOR THE DEBTORS AND
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that he has authorized BSI as service agent to cause to serve a true and correct copy of the foregoing document upon all parties on the Limited Service List via United States first class mail, postage prepaid, on the 11th day of August, 2004 in accordance with the Federal Rules of Bankruptcy Procedure:

/s/ Robin E. Phelan

EXHIBIT “A”

U.S. BANKRUPTCY COURT,
NORTHERN DISTRICT OF TEXAS
ENTERED
TAWANA C. MARSHALL, CLERK
THE DATE OF ENTRY IS
ON THE COURT'S DOCKET

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FOR THE NORTHERN DISTRICT OF TEXAS
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In re)	Chapter 11 Case
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MIRANT CORPORATION, <u>et al.</u> ,)	Case No. 03-46590(DML)11
)	Jointly Administered
Debtors.)	
_____)	

ORDER GRANTING COMPLEX CHAPTER 11 BANKRUPTCY CASE TREATMENT

On July 14, 2003, Mirant Corporation and its affiliated debtors (the "Debtors") filed for relief under Chapter 11 of the Bankruptcy Code. A Notice of Designation as Complex Chapter 11 Case (see General Order No. 00-6) was filed. After review of the initial pleadings filed in this case, the Court concludes that this case appears to be a complex Chapter 11 case. Accordingly, unless the Court orders otherwise,

IT IS ORDERED:

1. The Debtors shall maintain a service list identifying the parties that must be served whenever a motion or other pleading requires notice. Unless otherwise required by the

Bankruptcy Code or Rules, notices of motions and other matters will be limited to the parties on the service list.

- a. The service list shall include all parties on the Service List attached hereto as Exhibit "A" and any party that requests notice;
- b. Any party in interest that wishes to receive notice, other than as listed on the Service List, shall be added to the Service List by filing and serving the Debtors and Debtors' counsel with a notice of appearance and request for service;
- c. Parties on the Service List are required to give a fax number and are encouraged to provide an e-mail address for service of process and parties are encouraged to authorize service by e-mail; consent to fax or e-mail service may be included in the party's notice of appearance and request for service; notwithstanding consent to e-mail service, a "hard copy" shall be served by fax or by regular mail;
- d. The initial Service List shall be filed within 3 days after entry of this order. A revised list shall be filed 7 days after the initial service list is filed. The Debtors shall update the Service List, and shall file a copy of the updated service list, (i) at least every 7 days during the first 30 days of the case; (ii) at least every 15 days during the next 60 days of the case; and (iii) at least every 30 days thereafter throughout the case.

2. The Court sets Wednesday of each week at 10:30 a.m. as the pre-set hearing day and time for hearing all motions and other matters in these cases. (There may be exceptions; those exceptions will be noted on the Court's internet schedule, available at www.txnb.uscourts.gov).

- a. All motions and other matters requiring hearing, but not requiring expedited or emergency hearing, shall be noticed for hearing, after approval by the courtroom deputy, on the next hearing day that is at least 23 days after the notice is mailed. As a preface to each pleading, just below the case caption, in lieu of the language required by Local Bankruptcy Rule 9007.1, the pleading shall state:

A HEARING WILL BE CONDUCTED ON THIS MATTER ON _____ AT ____M. IN COURTROOM _____, _____, TEXAS. IF YOU OBJECT TO THE RELIEF REQUESTED, YOU MUST RESPOND IN WRITING, SPECIFICALLY ANSWERING EACH PARAGRAPH OF THIS PLEADING. UNLESS OTHERWISE DIRECTED BY THE COURT,

YOU MUST FILE YOUR RESPONSE WITH THE CLERK OF THE BANKRUPTCY COURT WITHIN TWENTY DAYS FROM THE DATE YOU WERE SERVED WITH THIS PLEADING. YOU MUST SERVE A COPY OF YOUR RESPONSE ON THE PERSON WHO SENT YOU THE NOTICE; OTHERWISE, THE COURT MAY TREAT THE PLEADING AS UNOPPOSED AND GRANT THE RELIEF REQUESTED.

- b. All motions and other matters requiring expedited or emergency hearing shall comply with the usual Court requirements for explanation and verification of the emergency. Specifically, if a party in interest has an emergency or other situation that it believes requires consideration on less than 23-days' notice, the party should file and serve a separate, written motion for expedited hearing, in respect of the underlying motion, and may present the motion for an expedited hearing either (a) ex parte at a regular docket call of the presiding judge, or (b) at the next available pre-set hearing day. The Court will rule on the motion for expedited hearing within 24 hours of the time it is presented. If the Court grants the motion for expedited hearing, the underlying motion will be set by the courtroom deputy at the next available pre-set hearing day or at some other appropriate shortened date approved by the Court. The party requesting the hearing shall be responsible for providing proper notice in accordance with this order and the Bankruptcy Code and Rules. Parties should authorize fax or e-mail notice to facilitate notice of emergency and expedited hearings.

3. Emergency and expedited hearings (and other hearings in limited circumstances) in this case may be conducted by telephone conference. Parties must request permission to participate by telephone by calling the courtroom deputy, Sandy Chonody, at (817) 333-6016.

4. If a matter is properly noticed for hearing and the parties reach a settlement of the dispute prior to the final hearing, the parties may announce the settlement at the scheduled hearing. If the Court determines that the notice of the dispute and the hearing is adequate notice of the effects of the settlement, (i.e., that the terms of the settlement are not materially different from what parties in interest could have expected if the dispute were fully litigated), the Court may approve the settlement at the hearing without further notice of the terms of the settlement.

5. The Debtors shall give notice of this order to all parties in interest within 7 days. If any party in interest, at any time, objects to the provisions of this order, that party shall file a

motion articulating the objection and the relief requested. After hearing the objection and any responses the Court may reconsider any part of this order and may grant relief, if appropriate.

End of Order

7/15/03



PREPARED BY:

Robin Phelan
State Bar No. 15903000
Judith Elkin
State Bar No. 06522200
Ian Peck
State Bar No. 24013306
HAYNES AND BOONE, LLP
901 Main Street
Suite 3100
Dallas, TX 75202
(214) 651-5000

-and-

Thomas E Lauria
State Bar No. 11998025
Gerard Uzzi
Linda M. Leali
WHITE & CASE LLP
Wachovia Financial Center
200 South Biscayne Blvd.
Miami, Florida 33131
(305) 371-2700

**PROPOSED ATTORNEYS FOR THE DEBTORS
AND DEBTORS-IN-POSSESSION**

**IN THE UNITED STATES BANKRUPTCY COURT
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In re)	Chapter 11 Case
MIRANT CORPORATION, <u>et al.</u> ,)	Case No. 03-46590(DML)11
Debtors.)	Jointly Administered

**ORDER CLARIFYING ORDER GRANTING COMPLEX CHAPTER 11
BANKRUPTCY CASE TREATMENT**

Came on for consideration the motion (the “Motion”) dated August 11, 2004 of Mirant Corporation and its affiliated debtors, as debtors-in-possession in the above captioned cases (collectively, the “Debtors”), for Order Clarifying Order Granting Complex Chapter 11 Bankruptcy Case Treatment; and the Court having jurisdiction to consider and determine the Motion in accordance with 28 U.S.C. §§ 157 and 1334; and it appearing that due and proper notice of the Motion having been provided; and the Court finding that no hearing on the Motion is necessary; and after due deliberation and sufficient cause appearing therefor, it is hereby

ORDERED that the Motion is granted; and it is further

ORDERED that paragraph 1 of the Complex Case Order¹ is hereby amended to read as follows:

The Debtors shall maintain a service list identifying the parties that must be served whenever a motion or other pleading requires notice.

Notwithstanding the provisions of Bankruptcy Rule 2002(a)(2), (3) and (6),

¹ Capitalized terms used but not defined herein shall have the meaning ascribed to them in the Motion.

notices of all motions and other matters will be limited to the parties on the service list, as well as any additional parties who may have an interest in a specific motion, unless otherwise directed by this Court. This shall include all motions to compromise controversies, all motions for the proposed use, sale or lease of property outside the ordinary course of business, and all notices of fee applications.

and it is further

ORDERED that except as expressly set forth herein, the terms of the Complex Case Order shall remain in full force and effect.

Dated: Fort Worth, Texas
August _____, 2004.

HONORABLE D. MICHAEL LYNN
UNITED STATES BANKRUPTCY JUDGE

PREPARED BY:

Robin E. Phelan
State Bar No. 15903000
Judith Elkin
State Bar No. 06522200
Ian T. Peck
State Bar No. 24013306
HAYNES AND BOONE, LLP
901 Main Street
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