

throughout its challenging chapter 11 case, including by providing hundreds of millions of dollars in debtor-in-possession and exit financing, as well as by converting their debtor-in-possession financing and prepetition senior secured notes into rollover notes and equity of the reorganized Exide.

2. The Exide Stakeholders made substantial investments during Exide's chapter 11 case and emergence with a fundamental understanding that Exide would obtain the customary benefits of the chapter 11 reorganization process, i.e.: conducting a typical claims resolution process; having a binding bar date to permit creditors to understand the landscape of claims asserted against Exide; and obtaining a customary confirmation order with an enforceable discharge injunction. The District seeks to subvert these basic chapter 11 protections by pursuing tens of millions of dollars in newly asserted and time-barred claims – not even for borrowed money or for trade claims, but for fines and penalties. The District should be stopped from undermining Exide's fresh start. Its brazen disregard for the bankruptcy process, if tolerated, would impose grave inequities on all creditors who fought to restructure Exide as a viable business in reliance on the certainties that chapter 11 promises.

A. The District's Late Claims Are Expunged And Disallowed

3. Article 10.4 of Reorganized Exide's confirmed Plan disallows and expunges all proofs of claim filed after the applicable bar date for such claims.⁵ Similarly, paragraphs 44 and 55 of the Confirmation Order [Docket No. 3423] comprehensively discharge claims against Exide and provide related injunctive relief.⁶ As a result, tens of millions of dollars

⁵ (Plan Art. 10.4 (“ . . . ANY AND ALL PROOFS OF CLAIM FILED AFTER THE APPLICABLE DEADLINE FOR FILING SUCH PROOFS OF CLAIM SHALL BE DEEMED DISALLOWED AND EXPUNGED . . . AND HOLDERS OF SUCH CLAIMS MAY NOT RECEIVE ANY DISTRIBUTIONS ON ACCOUNT OF SUCH CLAIMS, UNLESS SUCH LATE PROOF OF CLAIM IS DEEMED TIMELY FILED BY A FINAL ORDER OF THE BANKRUPTCY COURT.”).)

⁶ (Conf. Ord ¶¶ 44 (incorporating discharge in Plan Art. 12.2) & 55 (incorporating injunction in 12.11 of the Plan); Plan Art. 12.2 (discharging “all Claims and Causes of Action, whether known or unknown, . . . against the Debtor . . . that arose before the Effective Date . . . whether or not a proof of claim . . . based upon such

in new claims asserted by the District after the Bar Date have been disallowed and expunged. They are a nullity – the District is enjoined from prosecuting them and no legal basis exists for permitting their continued litigation in this Court or elsewhere.

4. As a brief review of the case history shows, nothing in the March 2014 Stipulation or the Confirmation Order provides to the contrary. This Court entered an order almost two years ago [Docket No. 696] establishing December 9, 2013 at 5:00 p.m. (Eastern) as the applicable deadline (the “Bar Date”) by which the District had to file any proofs of claim against the Debtor. (Bar Date Ord. ¶¶ 2 & 5.) On December 9, 2013 the District filed a proof of claim (the “Original Claim”) asserting approximately \$39 million in fines and penalties for five prepetition notices of violation (each an “NOV” and collectively, the “NOVs”). Many months later, well after the Bar Date and without obtaining leave from this Court, the District filed an amended proof of claim asserting Late Claims in unliquidated amounts.

5. Also after the Bar Date, and without obtaining relief from this Court, the District initiated the California State Action against Exide by filing a complaint on January 16, 2014 (the “Original Complaint”). The District’s allegations in the Original Complaint mirrored those in its Original Claim, including the five prepetition NOVs, and also added new violations arising from alleged post-petition misconduct.

6. Not surprisingly, Exide accused the District of commencing the California State Action in violation of the automatic stay, which the District disputed. To avoid litigating the applicability of the stay to the District’s conduct, the parties entered into the March 2014 Stipulation [Docket No. 1510]. Towards that end, the March 2014 Stipulation provides that the District would be permitted to prosecute its Original Complaint notwithstanding

Claim . . . is filed or deemed filed under section 501 of the Bankruptcy Code”) & 12.11 (providing that discharge “shall act as an injunction against any Entity commencing or continuing any action” on account of a discharged claim).)

section 362 of the Bankruptcy Code. (Stip. at 1 and § 1.) The Confirmation Order honors this agreement, providing that, “subject to, and in accordance with the terms of” the March 2014 Stipulation, the District would be permitted to prosecute the California State Action notwithstanding the Plan injunctions and the Confirmation Order. (Conf. Ord. ¶ 31.)

7. No language exists anywhere in the March 2014 Stipulation or the Confirmation Order stating that the Bar Date does not apply to the District’s claims, or that by prosecuting the California State Action the District somehow has *carte blanche* to assert time-barred claims against Exide. On its face, the March 2014 Stipulation embodies a single, simple agreement: the automatic stay would not prevent the District from prosecuting the Original Complaint. The Confirmation Order honors this agreement. Nothing more.

8. As a result, the District remains and always has been subject to the Bar Date, which applies to “all entities . . . holding or wishing to assert a claim that arose or is deemed to have arisen prior to the Petition Date against the Debtor.” (Bar Date Ord. ¶ 2.) Because the District asserted the Late Claims after the Bar Date, they have been expunged and disallowed. If the District disagrees with this result, it can dispute the consequences of its own actions by obtaining leave from this Court. (*Id.*) The Plan provides that late-filed claims are automatically disallowed, subject to a claimant’s right to seek leave of the Court on a showing of excusable neglect. (Plan Art. 10.4.)

B. Whether Any of the District’s Claims Are Nondischargeable is Premature and Procedurally Improper

9. The District raises nondischargeability as a smokescreen to obscure the fact that its pursuit of the Late Claims in the California State Action violates the Plan, Confirmation Order and discharge injunction. (Obj. ¶ 23.) The District – which is and has been intimately involved with Exide’s Vernon facility, and which played a key role in Exide’s restructuring by effectively forcing the shutdown of that facility – does not now cite (and never

has cited) a single case in support of its nondischargeability theory, nor has it ever properly raised the issue for this Court to decide.

10. As the District concedes, dischargeability is not before the Court at this time. Beyond a clear statement of applicable law, this is a convenient admission by the District to justify its desire to have any decision on dischargeability delayed until the conclusion of the California State Action. (Obj. ¶ 25 (arguing “it is premature and procedurally improper for Exide to ask the Court to address claim allowance, timeliness, dischargeability, and the like”). To permit the District to continue with the California State Action as proposed would subject Exide to unbounded, wasteful litigation before a California state court, utterly divorced from clear bankruptcy procedure and the reality that discharged unsecured claims will receive only a modest recovery. Permitting the District to go forward as it asserts would ignore the current legal posture of the Late Claims: until this Court orders otherwise, the Late Claims have been expunged and disallowed because of the Bar Date, Plan and Confirmation Order. The burden is upon the District to properly address dischargeability to undo the effect of the Bar Date, Plan and Confirmation Order and, unsurprisingly, the District has failed to comply with the process mandated by the Federal Rules of Bankruptcy Procedure for obtaining a determination that its claims are nondischargeable. *See Fed. R. Bankr. P. 7001(6)* (requiring an adversary proceeding to determine the nondischargeability of a debt). The District’s half-hearted reliance on section 1141(d)(6) of the Bankruptcy Code as justification for its unlawful conduct prosecuting the Late Claims in the California State Action must fail.

11. To be clear, the *only* issue this Court must decide now is whether, by virtue of the Bar Date and confirmed Plan, the Late Claims have been disallowed and expunged. If yes, then the District must stop prosecuting them, either before this Court, in the California State Action, or anywhere else.

12. Alternatively, if this Court determines that the Late Claims have not been disallowed or expunged, then principles of judicial economy necessitate an immediate stay of the California State Action until such time as dischargeability is determined. To do otherwise would be extremely prejudicial to reorganized Exide and the Exide Stakeholders by forcing a multi-year, multi-million dollar litigation to proceed unnecessarily. If the Claims are dischargeable and subject to treatment under the Plan as unsecured claims, Exide would bear the burden of a lengthy and costly litigation in California for claims that will recover not even pennies on the dollar. A far less prejudicial – and more economical – solution would be for this Court to order the parties to mediate the Claims.

13. In sum, this Court should enforce the Bar Date, Plan and Confirmation Order against the District and end the District's unlawful and inequitable pursuit of the Late Claims. The District has had every opportunity to participate in Exide's restructuring. To allow it to proceed in the California State Action with the Late Claims, as if this Court did not confirm Exide's Plan and as if the District were immune from the Bar Date, imposes an unjustified expense on Exide, at great cost to all of Exide's stakeholders, and should not be countenanced.

WHEREFORE, for the reasons set forth above and in the Motion, the Exide Stakeholders respectfully request that the Court overrule the Objection and grant the Motion.

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