

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

In re	§	
	§	Chapter 11
	§	
EXPRESS ENERGY SERVICES	§	
OPERATING, LP, <i>et al.</i> ,	§	Case No. 09-38044
	§	
	§	
Reorganized Debtors.	§	Jointly Administered
	§	

REORGANIZED DEBTORS' EXPEDITED MOTION PURSUANT
TO BANKRUPTCY RULE 1009 TO AMEND
EXPRESS ENERGY SERVICES OPERATING, LP'S SCHEDULE F

A HEARING WILL BE CONDUCTED ON THIS MOTION ON MARCH 16, 2010 AT 9:00 A.M. (PREVAILING CENTRAL TIME) IN COURTROOM 600, UNITED STATES BANKRUPTCY COURT FOR THE SOUTHERN DISTRICT OF TEXAS, 515 RUSK STREET, HOUSTON, TEXAS 77002.

THIS MOTION SEEKS ENTRY OF AN ORDER THAT MAY ADVERSELY AFFECT YOU. IF YOU OPPOSE THIS MOTION, YOU SHOULD IMMEDIATELY CONTACT THE MOVING PARTY AND RESOLVE THE DISPUTE. IF YOU AND THE MOVING PARTY CANNOT AGREE, YOU MUST FILE A RESPONSE AND SEND A COPY TO THE MOVING PARTY BEFORE MARCH 12, 2010 AT 4:00 P.M. (PREVAILING CENTRAL TIME). YOUR RESPONSE MUST STATE WHY THE MOTION SHOULD NOT BE GRANTED. IF YOU DO NOT FILE A TIMELY RESPONSE, THE RELIEF MAY BE GRANTED WITHOUT FURTHER NOTICE TO YOU. IF YOU OPPOSE THE MOTION AND HAVE NOT REACHED AN AGREEMENT, YOU MUST ATTEND THE HEARING. UNLESS THE PARTIES AGREE OTHERWISE, THE COURT MAY CONSIDER EVIDENCE AT THE HEARING AND MAY DECIDE THE MOTION AT THE HEARING.

REPRESENTED PARTIES SHOULD ACT THROUGH THEIR ATTORNEYS.

TO THE HONORABLE JEFF BOHM,
UNITED STATES BANKRUPTCY JUDGE:

Express Energy Services Operating, LP ("EES") and its affiliated reorganized debtors in the above-captioned chapter 11 cases (collectively, the "Debtors" and/or the

“**Reorganized Debtors**”),¹ file this motion (the “**Motion**”) to amend EES’ Schedule F (as defined below) pursuant to Rule 1009 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”) and respectfully represent as follows:

I.

RELIEF REQUESTED

1. Bankruptcy Rule 1009 provides that a schedule “may be amended by the debtor as a matter of course at any time before the case is closed.” In accordance with Bankruptcy Rule 1009, the Reorganized Debtors seek (i) to amend EES’ Schedule F to include two prepetition claims (“**EEOC Claims**”) filed by former EES employees currently pending before the Equal Employment Opportunity Commission (the “**EEOC**”) and (ii) the entry of an order deeming EES’ Schedule F amended to include the EEOC Claims. A proposed order granting the relief requested herein is attached hereto as **Exhibit A**. Attached as **Exhibit 1** to the proposed order is an amended version of the last page of Schedule F that includes the EEOC Claims.

II.

BASIS FOR RELIEF REQUESTED

2. On November 23, 2009, EES filed its Schedules of Liabilities. Schedule F to the Schedules of Liabilities lists (i) the name of creditors holding unsecured nonpriority claims and their addresses; (ii) the date the claim was incurred; (iii) whether such claim was contingent, unliquidated, and/or disputed; and (iv) the amount of the claim. (Docket No. 150, and as supplemented by Docket No. 205, “**Schedule F**”).

¹ On October 27, 2009 (the “**Commencement Date**”), each of the Debtors filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the “**Bankruptcy Code**”). On December 7, 2009, this Court entered an order (the “**Confirmation Order**”) confirming the Debtors’ Joint Plan of Reorganization Under Chapter 11 of the Bankruptcy Code (the “**Plan**”). The Plan went effective pursuant to its own terms on December 31, 2009 (the “**Effective Date**”).

3. Since the filing of Schedule F, the Reorganized Debtors were served with notice of the EEOC Claims. The EEOC Claims relate to the termination of two former EES employees named Victor Russell and Ramiro Rodriguez.² Pursuant to Bankruptcy Rule 1009, the Reorganized Debtors seek to amend Schedule F to include the EEOC Claims as prepetition, unsecured, nonpriority, contingent, unliquidated, and disputed claims, each in an undetermined amount. Upon the entry of an order approving the Motion, the Reorganized Debtors will serve the affected claimants, within two business days after entry of an order granting this Motion, with a copy of the order approving this Motion and a proof of claim form.³

III.

RESERVATION OF RIGHTS

4. Nothing contained herein shall constitute a waiver of any rights and/or defenses under applicable law the Reorganized Debtors may have against the EEOC Claims. The Reorganized Debtors hereby expressly reserve all their rights and defenses to the EEOC Claims.

IV.

JURISDICTION

5. 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 is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

² The EEOC Claim brought by Russell has been assigned Case Number 846-2009-63175 and the EEOC Claim brought by Rodriguez has been assigned Case Number 846-2010-04303. Based on information and belief, neither Russell or Rodriguez have retained counsel and the EEOC Charges appear to list their respective home addresses to receive notice. To protect their privacy, the Reorganized Debtors only list the city, state, and zip code of the addresses in the amended Schedule F.

³ Pursuant to this Court's Order, dated November 25, 2009 (Docket No. 158), in the event the Reorganized Debtors file an amendment to the Debtors' schedules and statements of financial affairs, any affected claimant has thirty (30) days from the date the Reorganized Debtors serve notice of that amendment to file a proof of claim.

V.

NOTICE

6. Notice of this Motion was sent to all parties that are entitled to notice pursuant to this Court's Order, dated October 29, 2009, implementing notice and case management procedures, including to the two prior employees bringing the Charges.

7. No previous request for the relief sought herein has been made by the Reorganized Debtors to this or any other court.

WHEREFORE the Reorganized Debtors respectfully request this Court enter the proposed order attached hereto as **Exhibit A**, and provide such other and further relief as is just.

Dated: Houston, Texas
March 3, 2010

Respectfully submitted,

By: /s/ Alfredo R. Pérez
Alfredo R. Pérez

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Attorneys for Reorganized Debtors

EXHIBIT A

Proposed Order

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

In re	§	
	§	Chapter 11
	§	
EXPRESS ENERGY SERVICES OPERATING, LP, et al.,	§	
	§	Case No. 09-38044
	§	
	§	
Reorganized Debtors.	§	Jointly Administered
	§	

**ORDER PURSUANT TO BANKRUPTCY RULE 1009 AMENDING
EXPRESS ENERGY SERVICES OPERATING, LP'S SCHEDULE F**

[Related to Docket No. ____]

Upon consideration of the expedited motion (the "**Motion**")¹ of Express Energy Services Operating, LP ("**EES**") and its affiliated reorganized debtors in the above-captioned bankruptcy cases seeking an order, pursuant to Bankruptcy Rule 1009, to amend EES' Schedule F; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334; and consideration of the Motion and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and good and sufficient notice of the Motion having been provided pursuant to the Court's order, dated October 29, 2009, establishing notice procedures in the Debtors' chapter 11 cases, and no other or further notice need be provided; and the relief requested in the Motion being in the best interests of all parties in interest; and the Court having reviewed the Motion; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and the Court having further determined that the Motion complies with the requirements of Bankruptcy Rule

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

1009; and upon all of the proceedings had before the Court; and after due deliberation and sufficient cause appearing therefor, it is ORDERED that:

1. The Motion is GRANTED to the extent provided herein.
2. The last page of EES' Schedule F is hereby amended to include the EEOC

Claims as reflected on Exhibit 1 attached hereto.

3. Within two business days of the entry of this Order, the Reorganized Debtors shall serve a copy of this Order and a proof of claim form to each of the individuals listed on Exhibit 1 relating to the EEOC Claims. These individuals shall have 30 days from the date of such service to file proofs of claim relating to their respective EEOC Claims.

Dated: Houston, Texas
_____, 2010

HONORABLE JEFF BOHM
UNITED STATES BANKRUPTCY JUDGE

EXHIBIT 1

B6F (Official Form 6F) (12/07) - Cont.

In re Express Energy Services Operating, LP
Debtor

Case No. 09-38044
(if known)

SCHEDULE F - CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS
(Continuation Sheet)
(Amended)

CREDITOR'S NAME, MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER <small>(See instructions above.)</small>	CODEBTOR	HUSBAND, WIFE, JOINT, OR COMMUNITY	DATE CLAIM WAS INCURRED AND CONSIDERATION FOR CLAIM. IF CLAIM IS SUBJECT TO SETOFF, SO STATE.	CONTINGENT	UNLIQUIDATED	DISPUTED	AMOUNT OF CLAIM
ACCOUNT NO. ZACHRY PUBLICATIONS, LP PO BOX 1739 ABILENE, TX 79604	<input type="checkbox"/>		Trade payable	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	\$1,350.00
ACCOUNT NO. ZOERKENDOERFER, ROLF PO BOX 553 DECTAR, TX 76234	<input type="checkbox"/>		Unclaimed property	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	\$4.63
ACCOUNT NO. RUSSELL, VICTOR HOUMA, LA 70360	<input type="checkbox"/>		Litigation - EEOC Charge Number 846-2009-63175	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Undetermined
ACCOUNT NO. RODRIGUEZ, RAMIRO ODESSA, TX 79763	<input type="checkbox"/>		Litigation - EEOC Charge Number 846-2010-04303	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Undetermined
ACCOUNT NO. 	<input type="checkbox"/>			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Sheet no <u>87</u> of <u>87</u> continuation sheets attached to Schedule of Creditors Holding Unsecured Nonpriority Claims							Subtotal ▶ \$1,354.63
							Total ▶ \$4,032,046.52
							undetermined amounts

(Use only on last page of the completed Schedule F.)
(Report also on Summary of Schedules and, if applicable on the Statistical
Summary of Certain Liabilities and Related Data.)