

1 Thomas A. Willoughby, State Bar No. 137597
2 FELDERSTEIN FITZGERALD
3 WILLOUGHBY PASCUZZI & RIOS LLP
4 500 Capitol Mall, Suite 2250
5 Sacramento, CA 95814
6 Telephone: (916) 329-7400
7 Facsimile: (916) 329-7435
8 E-mail: twilloughby@ffwplaw.com

9 Attorneys for the Post-Confirmation Liquidating Debtor
10 Heller Ehrman LLP

11 UNITED STATES BANKRUPTCY COURT
12 NORTHERN DISTRICT OF CALIFORNIA
13 SAN FRANCISCO DIVISION

14 In re:

Case No.: 08-32514

15 HELLER EHRMAN LLP,

Chapter 11

16 Debtor.

**FOURTH MOTION TO VOID CLAIMS AND
SCHEDULED AMOUNTS OF CERTAIN
CREDITORS (NON-NEGOTIATED AND
RETURNED CHECKS; RELINQUISHED
CLAIMS; CREDITOR OUT OF BUSINESS;
CREDITOR DECEASED; UNABLE TO
LOCATE CREDITOR OR CREDITOR
NONRESPONSIVE)**

**[No hearing will be held unless affected party
responds to this Motion – Bankruptcy Local
Rule 9014-1]**

17 Pursuant to 11 U.S.C. § 105(a) and the Joint Plan of Liquidation of Heller Ehrman LLP, the
18 Plan Administrator seeks a court order voiding the claims of certain creditors listed on *Exhibits 1*
19 *through 5* attached to the Burkart Declaration and for related relief. The Debtor is currently
20 preparing to make a final distribution to all general unsecured creditors. Following the last
21 distribution, the Debtor identified claims that should be voided because the distribution checks for
22 such claims were not negotiated or were returned, the creditors have relinquished their claims, the
23 creditors are out of business, the Debtor is unable to locate such creditors, such creditors are
24 deceased, and/or such creditors are non-responsive. By this Motion, the Debtor seeks to void each
25 of these claims, and to make the funds from the voided claims available for re-distribution to other
26 holders of allowed claims in the 2021 GUC Distribution.
27
28

1 **I. REQUESTED RELIEF**

2 By way of this Motion, the Debtor requests the entry of an Order authorizing the Debtor to:

3 a. Void the claims of Creditors listed on *Exhibits 1 through 5*;

4 b. Exclude such Creditors from the 2025/2026 GUC Distribution and from all future
5 distributions in this Bankruptcy Case;

6 c. Authorizing the distribution of the funds (that had been reserved for the payment of
7 such Creditors' claims) to other general unsecured creditors with allowed claims in the proposed
8 final distribution to General Unsecured Creditors (motion to be filed); and

9 d. For such other and further relief as the Court may deem proper.

10 **II. FACTUAL BACKGROUND¹**

11 **A. Bankruptcy Case and Plan.**

12 Below is a short history of the present case and a description of the prior distribution motions
13 approved in this case. Parties that seek additional information on the history of the case should
14 refer to the confirmed Plan [ECF No. 1431] and approved Disclosure Statement [ECF No. 1153]
15 on file in the case.

16 On December 28, 2008, the Debtor filed a voluntary petition for relief under chapter 11 of
17 the Bankruptcy Code. The Debtor, a 118-year-old international law firm, began the process of
18 winding down its business and affairs following the adoption of a Plan of Dissolution by the
19 shareholders of the Debtor's limited partners in September 2008. Burkart Decl. at ¶ 3. On January
20 5, 2009, the Office of the United States Trustee appointed the Official Committee of Unsecured
21 Creditors. Burkart Decl. at ¶ 4. On August 13, 2010, the Court entered an order confirming the
22 Plan, which order became effective on September 1, 2010 (the "Effective Date"). Burkart Decl. at
23 ¶ 5. Michael F. Burkart is the duly appointed administrator under the Plan (the "Plan
24 Administrator") and has been managing the Debtor since the Effective Date. Burkart Decl. at ¶ 6.

25 ///

26 ///

27 _____
28 ¹ The facts herein are drawn from the Declaration of Michael F. Burkart filed herewith, any
exhibit(s) thereto, as well as the pleadings, schedules and other records filed in this case.

Under the Plan, the Debtor retained the responsibility for claims review, dispute resolution and distribution. See Plan sections 5.20-5.22 & 5.27. The Plan has specific provisions for the treatment of unclaimed property. See Plan section 5.28.

The Debtor scheduled certain unsecured creditors on its Schedule F (or Amended Schedule F) and/or certain creditors filed proofs of claim in the Bankruptcy Case, as listed on *Exhibits 1 through 5* (collectively, the “Creditors”). Burkart Decl. at ¶ 7.

B. Distributions Under the Plan.

To date, the Debtor made eight interim distributions up to and including 2021 to the priority and general unsecured creditors as set forth in the following table:

Distribution Number	Distribution Percent	Distribution % GUC Total	Distribution Description	Payment Date
1	100 (Admin/Priority Only)	0	Priority payments to employees, plus some administrative claim payments	13-Sep-10
2	30	30	GUC payments to claimants (30%)	26-Sep-11
3	8.5	38.5	GUC payments to claimants (8.5%)	30-Dec-11
4	5.5	44	GUC payments to claimants (5.5%) w/o Grew	30-Dec-12
5	9	53	GUC payments to claimants (9%)	18-Jul-13
6	7	60	GUC payments to claimants (7%)	20-Dec-15
7	4	64	2020 GUC 64% payments to PBGC, former employees	15-Sep-20
8	4	64	2021 GUC 64% unemp	23-Nov-21
Proposed 9	Estimated 3	67	Final GUC Dist (Anticipated)	2025

Burkart Decl. at ¶ 8.

///

///

1 **C. First Motion to Void.**

2 Following the second and third distributions described in the above table (priority claims
3 were paid in the first distribution), the Debtor filed its First Motion to Void Claims and Scheduled
4 Amounts of Certain Creditors (Non-Negotiated Checks; Unable to Locate Creditor; Non-
5 Responsive) (the “First Void Motion”). The Court granted the First Void Motion by Order dated
6 December 14, 2012 [ECF No. 3162], and the claims identified therein were voided. Burkart Decl.
7 at ¶ 10.

8 **D. Second Motion to Void.**

9 Following the fourth and fifth distributions to the GUC, the Debtor filed its Second Motion
10 to Void Claims and Scheduled Amounts of Certain Creditors (Non-Negotiated and Returned
11 Checks; claims Relinquished; Unable to Locate Creditor or Creditor Nonresponsive) and Notice of
12 Opportunity for Hearing (the “Second Void Motion”). The Court granted the Second Void Motion
13 by Order dated October 9, 2014 [ECF No. 3633] and the claims identified therein were voided.
14 Burkart Decl. at ¶ 11.

15 **E. Third Motion to Void.**

16 Following the sixth and seventh distributions to the GUC, the Debtor filed its Third Motion
17 to Void Claims and Scheduled Amounts of Certain Creditors (Non-Negotiated and Returned
18 Checks; claims Relinquished; Unable to Locate Creditor or Creditor Nonresponsive) and Notice of
19 Opportunity for Hearing (the “Third Void Motion”). The Court granted the Third Void Motion by
20 Order dated October 16, 2021 [ECF No. 4414] and the claims identified therein were voided.
21 Burkart Decl. at ¶ 12.

22 **F. The Present (Fourth) Motion to Void.**

23 The Debtor is currently preparing to make a final distribution to (not all as many will be de
24 minimis) general unsecured claims (employee and non-employee). Following the last distribution
25 to the Non-Employee General Unsecured Creditors, the Debtor identified additional claims that
26 should be voided because the distribution checks for such claims were not negotiated or were
27 returned, the creditors have relinquished their claims, the creditors are out of business, the Debtor

28 ///

1 is unable to locate such creditors, such creditors are deceased, and/or such creditors are non-
2 responsive. Burkart Decl. at ¶ 14.

3 **G. Pre-Distribution Letters to Creditors.**

4 In anticipation of this Ninth and final distribution (to GUC), in June and July of 2025, 712
5 emails, 644 letters to U.S. addresses and 36 letters were mailed overseas to creditors who would
6 receive a check in the forthcoming distribution. The purpose was to request that creditors update
7 changed address with the Court. Of the 1,392 emails and letters, approximately 101 letters were
8 returned to the Debtor by the USPS, indicating such problems as “Attempted- Not Known,” “Return
9 to Sender,” “Not Deliverable as Addressed,” “Moved,” or “Unable to Forward,” etc. And,
10 approximately 82 emails bounced. Many other letters and emails produced no response. Burkart
11 Decl. at ¶ 15.

12 **H. Claims to Be Voided.**

13 **1. With Respect to the Creditors on Exhibit 1- “Two Strikes” (Two Non-**
14 **Negotiated or Returned Checks):**

15 None of the distribution checks sent to these Creditors were negotiated following the 6th and
16 either the 7th or 8th distributions to GUC. Many of the checks were returned to the Debtor indicating
17 such problems as “Attempted- Not Known,” “Return to Sender,” “Not Deliverable as Addressed,”
18 “Moved,” or “Unable to Forward,” etc. Burkart Decl. at ¶ 16 and *Exhibit 1* attached thereto.

19 **2. With Respect to the Creditors on Exhibit 2- “One Strike Plus” (One Non-**
20 **Negotiated or Returned Check Plus No Response to 2020 Letters or**
Letters Returned):

21 None of the distribution checks sent to these Creditors were negotiated following either the
22 7th (if they were employee or PBGC GUC claims) or the 8th (if they were general GUCs)
23 distributions and there was no response to the letters mailed to such creditors at various times
24 between June 2020 and July 2025, or such letters were returned. Many of the checks and/or letters
25 were returned to the Debtor indicating such problems as “Attempted- Not Known,” “Return to
26 Sender,” “Not Deliverable as Addressed,” “Moved,” or “Unable to Forward,” etc. Burkart Decl. at
27 ¶ 17 and *Exhibit 2* attached thereto.

28 ///

1 Normally, under the Plan, these claims would only be voided if they do not cash a second
2 distribution check “One Strike Plan”. However, none of these creditors returned or responded to
3 the emails or letters sent to them in June and July 2025, requesting confirmation of their addresses.
4 Burkart Decl. at ¶ 18.

5 Because this is the last distribution in this case, the Debtor respectfully requests that the
6 failure to respond to the emails/letters be deemed a “Two Strike” under the Plan and allow these
7 claims to be voided as well.

8 **3. With Respect to the Creditors on Exhibit 3- Relinquished (No**
9 **Claim/Claims Relinquished):**

10 None of the distribution checks sent to these Creditors were negotiated following the 7th
11 and/or 8th distributions. All of these creditors have returned their distribution checks to the Debtor,
12 indicating that: (1) there is no amount is due; and/or (2) the creditor is relinquishing its claim. For
13 example, these Creditors have stated that there is “nothing due,” or they have asked to be “taken
14 off the distribution list,” or they have returned checks with the word “Refused” on the envelope.
15 Burkart Decl. at ¶ 19 and *Exhibit 3*, attached thereto.

16 **4. With Respect to the Creditors on Exhibit 4- Out of Business (Creditor Out**
17 **of Business):**

18 None of the distribution checks sent to these Creditors were negotiated following the 7th
19 and/or 8th distributions. The Debtor has since learned after doing internet searches that the Creditors
20 appear to be no longer in business. Burkart Decl. at ¶ 20 and *Exhibit 4* attached thereto.

21 **5. With Respect to the Creditors on Exhibit 5- Deceased (Creditor**
22 **Deceased):**

23 Creditors on Exhibit 5 are individuals that the Debtor is informed and believes are deceased.
24 The Plan Administrator has attempted to contact such creditors’ heirs, but such heirs either are
25 unknown or the Plan Administrator has not received a response from potential heirs. Burkart Decl.
26 at ¶ 21 and *Exhibit 5* attached thereto.

27 ///

28 ///

1 **6. Debtor's Efforts to Locate and Communicate with Creditors.**

2 The Debtor has sent the emails and letters discussed above. In addition, the Debtor has
3 made numerous attempts to locate a current address for notices and for reissue of the Creditors'
4 distribution checks, including Internet searches, Secretary of State searches, reviewing the Debtor's
5 financial records, and contacting former Heller clients and vendors, and even former Heller
6 attorneys and staff. When such research produced an alternate address, the Debtor re-mailed notices
7 and change of address forms to such creditors. The Debtor has also attempted to contact Creditors
8 by telephone and e-mail. Burkart Decl. at ¶ 22.

9 Nevertheless, the Debtor has been unable to properly locate the creditors listed on *Exhibits*
10 *1 through 5*, and/or their distribution amounts remain unclaimed. The 90-day period for unclaimed
11 property, as set forth in Section 5.28 of the Plan (discussed in the MPA), has long since expired
12 (based upon the date that the last distribution checks were mailed, January 2016). Burkart Decl. at
13 ¶ 23.

14 **I. Relevant Plan Provisions.**

15 As discussed more fully in the attached MPA, the Plan at Section 5.28 [Unclaimed Property]
16 provides, *inter alia*, that (1) creditors have the obligation to file change of address forms with the
17 Court and to serve such changes of address of the Plan Administrator; (2) if creditors fail for two
18 consecutive times to claim any cash within 90 days from the date of distribution, such creditors are
19 subject to having their claims excluded from future distributions; and that (3) upon such forfeiture,
20 such cash will be made available for redistribution to other creditors with allowed claims.

21 Because the Debtor has been unable to properly locate the creditors listed on *Exhibits 1*
22 *through 5*, and/or their distribution amounts remain unclaimed, the Creditors have relinquished
23 their claims, the Creditors are out of business, and the Creditors are deceased, it is appropriate and
24 in the unsecured creditors' best interest to void the claims of the Creditors listed on *Exhibits 1*
25 *through 5* and to include in the current distribution the funds that had been reserved for these
26 Creditors.

27 ///

28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

III. CONCLUSION

Wherefore, based on the Motion, the MPA, the Burkart Declaration, and the Exhibits attached to the Burkart Declaration, the Debtor requests that the Court enter an order granting the relief requested herein.

Dated: October 3, 2025
FELDERSTEIN FITZGERALD
WILLOUGHBY PASCUZZI & RIOS LLP

By: /s/ Thomas A. Willoughby
Thomas A. Willoughby
Attorneys for the Post-Confirmation
Liquidating Debtor Heller Ehrman LLP