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**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

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:  
**In re:** :  
: **Chapter 11 Case No.**  
:  
**STAR TRIBUNE HOLDINGS** : **09-10244 (\_\_\_)**  
**CORPORATION, et al.,** :  
: **(Jointly Administered)**  
:  
**Debtors.**<sup>1</sup> :  
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**DEBTORS' MOTION FOR AUTHORIZATION TO (i) PAY  
PRE-PETITION WAGES, SALARIES, EMPLOYEE BENEFITS  
AND OTHER COMPENSATION, (ii) MAINTAIN EMPLOYEE BENEFITS  
PROGRAMS AND PAY RELATED ADMINISTRATIVE OBLIGATIONS, (iii)  
ALLOW EMPLOYEES TO PROCEED WITH OUTSTANDING WORKERS'  
COMPENSATION CLAIMS AND (iv) AUTHORIZE APPLICABLE BANKS AND  
OTHER FINANCIAL INSTITUTIONS TO RECEIVE, PROCESS, HONOR AND  
PAY ALL CHECKS PRESENTED FOR PAYMENT AND TO HONOR ALL  
FUND TRANSFER REQUESTS**

Star Tribune Holdings Corporation (“**Star Tribune Holdings**”) and The Star  
Tribune Company (“**Star Tribune**” and, together with Star Tribune Holdings, the  
“**Debtors**”) respectfully represent:

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<sup>1</sup> The Debtors are Star Tribune Holdings Corporation and The Star Tribune Company. The employer tax identification numbers and addresses for each of the Debtors are set forth in the Debtors’ chapter 11 petitions.

### **Background and Jurisdiction**

1. On the date hereof (the “**Petition Date**”), each Debtor commenced with this Court a voluntary case under chapter 11 of title 11 of the United States Code (the “**Bankruptcy Code**”). The Debtors are authorized to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. The Debtors have filed a motion seeking joint administration of these chapter 11 cases pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure.

2. Additional information about the Debtors’ businesses and the events leading up to the Petition Date can be found in the Declaration of David Montgomery, Chief Financial Officer of Star Tribune, which is incorporated herein by reference.

3. The Court has subject matter jurisdiction to consider this matter pursuant to 28 U.S.C. § 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b) and may be determined by the Bankruptcy Court. Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

### **Relief Requested**

4. By this motion (the “**Motion**”), and pursuant to sections 105(a), 362(d) and 363(b) of the Bankruptcy Code, the Debtors seek entry of an order in the form attached hereto as Exhibit A: (a) authorizing, but not requiring, them to pay, in their sole discretion, all amounts owing (and associated costs) under or related to Wages, Withholding Obligations, Reimbursement Obligations, Health and Welfare Plan Obligations, the Retiree Medical Plan, Vacation Obligations, Sick Leave Obligations, Retirement Contribution Obligations, Severance Obligations, Workers’ Compensation Obligations, Contingent Workers Obligations and the Other Employee Programs (each as

individually defined below and, collectively, the “**Pre-Petition Employee Obligations**”), (b) authorizing, but not requiring, them to continue, in their sole discretion, their plans, practices, programs and policies for their Employees (as defined below), as those plans, practices, programs and policies were in effect as of the Petition Date and as may be modified, terminated, amended or supplemented from time to time, in their sole discretion, and to make payments pursuant to such plans, practices, programs and policies in the ordinary course of business, as well as to pay related administrative obligations, (c) permitting employees holding claims under the Workers’ Compensation Programs to proceed with such claims in the appropriate judicial or administrative fora and to permit insurers to continue to access collateral and security provided by the Debtors pursuant to the Workers’ Compensation Programs and (d) authorizing applicable banks and other financial institutions to receive, process and pay any and all checks drawn on the Debtors’ payroll and general disbursement accounts and automatic payroll and other transfers to the extent that those checks or transfers relate to any of the foregoing. By seeking the authorization requested herein, it should not be presumed that the Debtors have determined, as of this time, which of the Pre-Petition Employee Obligations they will pay or honor, nor should any party rely on this Motion as to any specific claim or benefit.

### **Pre-Petition Employee Obligations**

#### ***Wages, Salaries and Other Compensation***

5. The Debtors include The Star Tribune Company, a newspaper and media company that serves the Minneapolis-St. Paul area and readers and advertisers across the state of Minnesota. As such, the Debtors are engaged in all aspects of newspaper and internet publication production and marketing, including, but not limited to, news

gathering, advertising, marketing, production, printing and circulation. Together, the Debtors currently employ approximately 1,597 people (the “**Employees**”).

6. Approximately two-thirds of the Debtors’ Employees are represented by unions. Those unions are (a) Graphic Communication Conference / International Brotherhood of Teamsters (GCC/IBT) Local 1-M (the “**Platemakers Union**”),<sup>2</sup> (b) Miscellaneous Drivers & Helpers Union Local #638, (c) Service Employees International Union, Local #26, (d) Minnesota Newspaper Guild / Typographical Union, CWA Local 37002 (the “**Guild**”),<sup>3</sup> (e) Teamsters Local #120, (f) International Brotherhood of Electrical Workers Local 292, (g) International Union of Operating Engineers Local No. 70, AFL-CIO and (h) District Lodge No. 77 of the International Association of Machinists and Aerospace Workers.

7. Approximately 52% of the Debtors’ Employees are paid on a bi-weekly basis, with the balance of Employees being paid on a weekly basis. The Debtors’ average weekly gross payroll is approximately \$1.8 million, and the Debtors estimate that as of the Petition Date they owe approximately \$2.5 million in pre-petition wages and salaries to Employees (the “**Wages**”). As a part of those Wages, excluding accrued vacation and sick time, which is addressed below, the Debtors believe that no Employee is owed in excess of the \$10,950 priority amount set forth in section 507(a)(4) of the Bankruptcy Code.

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<sup>2</sup> The Graphic Communication Conference / International Brotherhood of Teamsters (GCC/IBT) Local 1-M also represents the Debtors’ Pressmen and Paperhandlers (who are employed in the operation and maintenance of the press equipment in the pressroom, and the handling of newsprint in the pressrooms and attendant facilities).

<sup>3</sup> In addition to representing the Debtors’ Guild Employees (who are employed in the Debtors’ news, circulation and promotion businesses), the Minnesota Newspaper Guild / Typographical Union, CWA also represents the Debtors’ Typographical Employees (who are employed in the Debtors’ composing, printers and dispatch businesses).

### ***Withholding Obligations***

8. The Debtors routinely withhold from Employees' wages certain amounts that the Debtors are required to transmit to third parties for such purposes as Social Security, Medicare, federal and state income taxes, Health and Welfare Plan (as defined below) contributions, defined contribution retirement plan contributions and payroll deduction payment programs for various optional insurance programs, charitable deductions, loan payments, union dues and garnishment, child support and other similar orders (the "**Withholding Obligations**"). The Debtors believe that such withheld funds, to the extent that they were in the Debtors' possession as of the Petition Date and/or remain in the Debtors' possession, are not property of the Debtors' bankruptcy estates.

### ***Business Expense Reimbursement***

9. The Debtors customarily reimburse Employees who incur business expenses in the ordinary course of performing their business duties on behalf of the Debtors. These reimbursement obligations include lodging, transportation, meals, customer entertainment, professional seminars, professional equipment and other miscellaneous business expenses (the "**Reimbursement Obligations**"). With the exception of reimbursement to photographers for the purchase of professional equipment (which reimbursement occurs on a case-by-case basis), reimbursement is made weekly, directly to the Employee for business expenses paid by Employees. Reimbursement is made monthly to the issuer of a corporate credit card for payment of approved amounts charged by an Employee. It is difficult for the Debtors to determine the exact amount of Reimbursement Obligations outstanding at any particular time because of the generally unpredictable and irregular nature of the Reimbursement Obligations. Historically, Reimbursement Obligations are approximately \$365,000 per month.

### *Health and Welfare Benefits*

10. The Debtors offer several health and welfare benefit plans (the “**Health and Welfare Plans**”) for Employees and retired Employees, including coverage for medical and prescriptions, dental, vision, life, short-term and long-term disability, accidental death and dismemberment, health flexible spending accounts, health savings accounts and dependent care flexible spending accounts (the “**Health and Welfare Plan Obligations**”). Many of the Health and Welfare Plans are optional for Employees and many are funded either partially or fully through contributions made by the Debtors.

11. The Debtors offer a retiree medical plan (the “**Retiree Medical Plan**”) to certain eligible union and non-union retirees under age 65. The Retiree Medical Plan allows eligible retirees to continue to participate in the medical portion of the Health and Welfare Plans after retirement. Generally, to be eligible, a retiree must have 10 years or more of vested service, be at least 55 years old and have participated in a medical portion of the Health and Welfare Plans at the time of retirement.<sup>4</sup>

12. An eligible retiree between the ages of 55 and 59 pays 100% of the premium for the Retiree Medical Plan. For eligible retirees ages 60 to 64, the Retiree Medical Plan is funded partially through contributions made by the Debtors on the same basis as for active Employees participating in the Health and Welfare Plans. Coverage under the Retiree Medical Plan ceases upon the participant reaching age 65.

13. The Debtors have announced that, effective March 31, 2009, current active non-union and Guild Employees will no longer be eligible for participation in the Debtors’ Retiree Medical Plan. While no new participants will be allowed to enroll after

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<sup>4</sup> Certain of the Debtors’ collective bargaining agreements provide for slightly different terms of eligibility.

March 31, 2009, current retirees then participating in the Retiree Medical Plan will be able to continue their coverage (absent further changes to the plan).

14. Because of the manner in which expenses are incurred and claims are processed under the Health and Welfare Plans, it is difficult for the Debtors to determine the extent of their obligations under the Health and Welfare Plans outstanding at any particular time. Based on historical experience, the Debtors estimate that the cost of maintaining the Health and Welfare Plans is approximately \$1 million per month.

***Vacation Policy and Sick Time***

15. Eligible Employees generally earn vacation time based on their length of service or the terms of collective bargaining agreements. Pursuant to the Debtors' vacation policies, eligible Employees are paid their regularly scheduled full or part time wage, for each vacation day, up to the maximum number of days accrued. Additionally, at the beginning of each calendar year, the Debtors offer Employees two "floating" vacation days. Employees may use these vacation days at any time during such calendar year, but cannot carry floating vacation days over to the following year. For Employees terminating their employment with the Debtors, accrued vacation days, but not "floating" vacation days, are monetized and paid out. The Debtors have pre-petition accrued vacation and personal time obligations for Employees (the "**Vacation Obligations**"), to be honored in the ordinary course of business.

16. The Debtors also provide sick leave ("**Sick Leave**") to non-union and Guild Employees, which these Employees can use only for time off due to personal illness or injury. Generally, the Debtors offer eligible Employees ten days of Sick Leave each calendar year. If an eligible Employee takes fewer than ten days of Sick Leave in a year, the Debtors hold such unused days in reserve for that Employee. In the event that

an Employee becomes eligible for short-term disability benefits, days of Sick Leave held in reserve for such Employee will be paid out as incremental short-term disability payments, up to a threshold amount based on salary. The Debtors currently hold in reserve days of Sick Leave for many eligible Employees, and the Debtors may also have other pre-petition obligations with respect to Sick Leave (collectively, the “**Sick Leave Obligations**”).

***Retirement and Pension Plans***

17. The Debtors maintain, for certain eligible Employees, qualified defined contribution plans that meet the requirements of section 401(a) and 401(k) of the Internal Revenue Code (the “**Savings Plans**”). Generally, under the terms of the Savings Plans, eligible Employees can contribute a percentage of their compensation, through payroll deductions, on a pre-tax basis, up to the limits imposed on those contributions under the Savings Plans and the Internal Revenue Code. In 2007, Employees contributed approximately \$7 million.

18. Additionally, under a special feature of one of the Savings Plans, certain Employees are eligible to receive an employer matching contribution on their employee contributions of up to 6% of eligible earnings. The Debtors estimate the monthly matching contributions, non-elective contributions and other contributions to the Savings Plans to be approximately \$73,000. As of the Petition Date, the Debtors estimate that their obligations on account of matching contributions and non-elective employer contributions total approximately \$15,000.

19. The Debtors participate in two multi-employer healthcare plans (the “**Multi-Employer Healthcare Plans**”).<sup>5</sup> The healthcare premium payments for the Multi-Employer Healthcare Plans (the “**Multi-Employer Healthcare Obligations**,” and, together with the Debtors’ obligations to make contributions to the Savings Plans, the “**Retirement Contribution Obligations**”) are determined by the respective collective bargaining agreements and plan trust agreements. Generally, a healthcare premium is set each year by the trust while the terms of the collective bargaining agreements determine what portion of that premium is to be funded by contributions made by the Debtors.

#### ***Downsizing and Severance Programs***

20. The Debtors have certain obligations under three severance programs (the “**Severance Programs**”). Pursuant to these programs, certain Employees, severed in accordance with the terms of such programs (including 18 Guild Employees and 21 non-

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<sup>5</sup> The Debtors also participate in seven multi-employer pension plans (the “**Multi-Employer Pension Plans**”). By this motion, the Debtors do not seek to take any current action with respect to such Multi-Employer Pension Plans. It should also be noted that neither ERISA nor section 1113 of the Bankruptcy Code mandate or permit the payment of pre-petition obligations in connection with the Multi-Employer Pension Plans. It is well-settled within this Circuit that “[a] debt is not entitled to priority simply because the right to payment arises after the debtor-in-possession has begun managing the estate.” *Trustees of Amalgamated Ins. Fund v. McFarlin’s, Inc.*, 789 F.2d 98, 101 (2d Cir. 1986); *LTV Corp. v. PBGC (In re Chateaugay Corp.)*, 130 B.R. 690, 697 (S.D.N.Y. 1991) (“PBGC’s claims are prepetition contingent claims because labor giving rise to the pension obligations was performed pre-petition.”); *see also* Transcript of March 18, 2005 Omnibus Hearing at 59–60, *In re UAL Corp.*, No. 02 B 48191 (Bankr. N.D. Ill.) [hereinafter “UAL Oral Decision Tr.”] (“[T]he mere fact that the obligation to make quarterly minimum funding payments came due post-petition does not establish it as an administrative priority. . . . None of the numerous cases cited by PBGC . . . granted administrative priority for pre-petition claims”); *In re Sunarhauserman*, 126 F.3d at 817 (same); *PBGC v. CF&I Fabricators of Utah, Inc.*, 150 F.3d 1293, 1298 (10th Cir. 1998) (same). Nor does section 1113 dictate a different result. *See Air Line Pilots Ass’n, Int’l v. Shugrue (In re Ionosphere Clubs, Inc.) (“Ionosphere II”)*, 22 F.3d 403, 405 (2d Cir. 1994); *see also* UAL Oral Decision Tr. at 64 (“A debtor-in-possession or trustee does not ‘modify’ an executory contract by failing to make payment during bankruptcy of amounts that are due under the contract on account of pre-petition services.”). Instead, the Second Circuit has held that “judicial ordering of benefit claims pursuant to § 507 is not equivalent to employer avoidance of obligations under a collective bargaining agreement” because such ordering “respect[s]” the collective bargaining agreement while according the “financial obligations issuing from it . . . priority consistent with the Bankruptcy Code.” 22 F.3d at 407 (emphasis added and internal quotation marks omitted). Thus, claims for collectively bargained benefits will be “accorded first-priority status as administrative expenses *only to the extent . . . attributable to postpetition work.*” *Id.* at 408.

union Employees who separated in January, 2009), have been granted pay and certain benefits for a specified period of time following separation (the “**Severance Obligations**”). Eligible Employees have been granted between four and fifty-two weeks of their base pay, based on the length of their service and the terms of the particular Severance Program under which their employment was terminated. Certain employees were also granted medical benefits for either three or six months, depending on the terms of their particular Severance Program. While many of these obligations have been fulfilled by the Debtors, certain obligations continue to be owed. The Debtors believe that maintenance of the Severance Programs, with the ability to convert in their discretion any lump sum payments to salary continuation payments over time, is essential to their business. The Debtors must maintain the Severance Programs in order to retain, and provide security to, remaining Employees. The monthly cost of such programs for the Debtors is negligible in the context of the Debtors’ aggregate compensation and benefit obligations. As of the Petition Date, the Debtors estimate that their pre-petition Severance Obligations (which aggregate amount will be paid out over many weeks) total approximately \$900,000. None of the separated Employees is an executive governed by section 503(c)(2) of the Bankruptcy Code.

***Workers’ Compensation Program***

21. Under the applicable law, the Debtors are required to maintain workers’ compensation insurance programs to provide their employees with workers’ compensation insurance coverage for claims arising from or related to their employment with the Debtors (the “**Workers’ Compensation Program**”), and to satisfy the Debtors’ obligations arising under or related to these programs (the “**Workers’ Compensation Obligations**”). The Workers’ Compensation Program is administered primarily through

workers' compensation insurance policies with American Zurich Insurance Company. Under these policies, third-party administrators pay workers' compensation claims and seek reimbursement for each claim from the Debtors up to the Debtors' retention limits. The Debtors' current per occurrence retention is \$1 million. As collateral for the Debtors' reimbursement of workers' compensation claims for current and prior years, the Debtors maintain four letters of credit in the approximate aggregate amount of \$3.4 million. The average monthly cost of Workers' Compensation Obligations paid by the Debtors is approximately \$130,000.

### ***Contingent Workers***

22. From time to time, the Debtors use the personal services of individuals employed by and provided through staffing agencies and of individuals providing personal services directly as independent contractors (the "**Contingent Workers**"). Such services are necessary to the operation of the Debtors' business. Contingent Workers include temporary office support, freelancers, creative workers, IT technical support, legal support and accountants. Payments to Contingent Workers vary according to the terms of the Contingent Workers' individual contracts with the Debtors or according to the terms of the Debtors' contract with the appropriate staffing agencies. Based on an average outstanding monthly balance, the Debtors believe that their total accrued and unpaid pre-petition obligations to the Contingent Workers do not exceed \$30,000 (the "**Contingent Workers Obligations**").

### ***Other Employee Programs***

23. In addition to the foregoing, the Debtors have in place miscellaneous practices, programs and policies that provide benefits and protections to various groups of Employees, including, but not limited to, educational assistance and other employee

assistance programs (collectively, “**Other Employee Programs**”). The Debtors believe that the Other Employee Programs are important to maintaining Employee morale and assisting in the retention of the Debtors’ workforce. The monthly cost of such programs for the Debtors is negligible in the context of the Debtors’ aggregate compensation and benefit obligations. While the Debtors are currently exploring options to reduce the cost of the Other Employee Programs, the Debtors believe that failing to honor expected benefits under such Other Employee Programs would have an adverse affect on the Employees.

**Cause Exists to Authorize the Payment of  
Pre-Petition Wages, Compensation and Employee Benefits**

24. Pursuant to sections 507(a)(4) and 507(a)(5) of the Bankruptcy Code, a debtor’s employees’ claims for “wages, salaries, or commissions, including vacation, severance, and sick leave pay” earned within 180 days before the Petition Date, and claims against the Debtors for contributions to employee benefit plans arising from services rendered within 180 days before the Petition Date, are each afforded unsecured priority status of \$10,950 per employee. Furthermore, section 363(b)(1) of the Bankruptcy Code provides that “[t]he trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate.” Section 105(a) of the Bankruptcy Code further provides, in relevant part, “[t]he court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.”

25. The Debtors believe that many of their Pre-Petition Employee Obligations constitute priority claims. The Debtors submit that payment of these Pre-Petition Employee Obligations, even where over \$10,950 for certain individuals, is necessary and

appropriate and is authorized under section 105(a) of the Bankruptcy Code pursuant to the “necessity of payment” doctrine, which “recognizes the existence of the judicial power to authorize a debtor in a reorganization case to pay pre-petition claims where such payment is essential to the continued operation of the debtor.” *In re Ionosphere Clubs, Inc.*, 98 B.R. 174, 176 (Bankr. S.D.N.Y. 1989).

26. Section 105(a) of the Bankruptcy Code empowers the Court to “issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.” A bankruptcy court’s use of its equitable powers to “authorize the payment of pre-petition debt when such payment is needed to facilitate the rehabilitation of the debtor is not a novel concept.” *In re Ionosphere Clubs, Inc.*, 98 B.R. at 175. “Under Section 105, the court can permit pre-plan payment of a pre-petition obligation when essential to the continued operation of the debtor.” *In re NVR L.P.*, 147 B.R. 126, 127 (Bankr. E.D. Va. 1992) (citing *Ionosphere Clubs*, 98 B.R. at 177). Furthermore, Bankruptcy Rule 6003 permits the payment of pre-petition obligations within the first twenty days of a case where doing so is “necessary to avoid immediate and irreparable harm.”

27. In a long line of well-established cases, federal courts have consistently permitted post-petition payment of certain pre-petition obligations where necessary to preserve or enhance the value of a debtor’s estate for the benefit of all creditors. *See, e.g., Miltenberger v. Logansport Ry.*, 106 U.S. 286, 312 (1882) (payment of pre-receivership claim prior to reorganization permitted to prevent “stoppage of [crucial] business relations”); *Mich. Bureau of Workers’ Disability Comp. v. Chateaugay Corp. (In re Chateaugay Corp.)*, 80 B.R. 279, 285-86 (S.D.N.Y. 1987), *appeal dismissed*, 838 F.2d 59

(2d Cir. 1988) (approving lower court order authorizing payment of pre-petition wages, salaries, expenses and benefits).

28. This “doctrine of necessity” functions in a chapter 11 reorganization as a mechanism by which the bankruptcy court can exercise its equitable power to allow payment of critical pre-petition claims not explicitly authorized by the Bankruptcy Code. *See In re Boston & Maine Corp.*, 634 F.2d 1359, 1382 (1st Cir. 1980) (recognizing the existence of a judicial power to authorize trustees to pay claims for goods and services that are indispensably necessary to the debtors’ continued operation). The doctrine is frequently invoked early in a reorganization, particularly in connection with those chapter 11 sections that relate to payment of pre-petition claims. The court in *In re Structurelite Plastics Corp.*, 86 B.R. 922, 931 (Bankr. S.D. Ohio 1988) indicated its accord with “the principle that a bankruptcy court may exercise its equity powers under section 105(a) to authorize payment of pre-petition claims where such payment is necessary to ‘permit the greatest likelihood of survival of the debtor and payment of creditors in full or at least proportionately.’” The court stated that “a per se rule proscribing the payment of pre-petition indebtedness may well be too inflexible to permit the effectuation of the rehabilitative purposes of the Code.” *Id.* at 932. Accordingly, pursuant to section 105(a) of the Bankruptcy Code, this Court is empowered to grant the relief requested herein.

29. Section 363(b)(1) of the Bankruptcy Code empowers the Court to allow the debtor to “use, sell, or lease, other than in the ordinary course of business, property of the estate.” The Debtors’ decisions to use, sell or lease assets outside the ordinary course of business must be based upon the sound business judgment of the debtor. *See In re Chateaugay Corp.*, 973 F.2d 141, 143 (2d Cir. 1992) (holding that a judge determining a section 363(b) application must find from the evidence presented before him a good

business reason to grant such application); *see also Comm. of Equity Sec. Holders v. Lionel Corp. (In re Lionel Corp.)*, 722 F.2d 1063, 1071 (2d Cir. 1983) (same); *In re Ionosphere Clubs, Inc.*, 100 B.R. 670, 674 (Bankr. S.D.N.Y. 1989) (noting that standard for determining a section 363(b) motion is “good business reason”).

30. The business judgment rule is satisfied “when the following elements are present: (1) a business decision, (2) disinterestedness, (3) due care, (4) good faith, and (5) according to some courts and commentators, no abuse of discretion or waste of corporate assets.” *Official Comm. of Subordinated Bondholders v. Integrated Res., Inc. (In re Integrated Res., Inc.)*, 147 B.R. 650, 656 (S.D.N.Y. 1992), *appeal dismissed*, 3 F.3d 49 (2d Cir. 1993) (internal quotations omitted).

31. The Debtors submit that the requested relief represents a sound exercise of the Debtors’ business judgment, is necessary to avoid immediate and irreparable harm, and is justified under section 363(b), as well as under section 105(a) of the Bankruptcy Code and Bankruptcy Rule 6003. This is because any delay in paying Pre-Petition Employee Obligations will adversely impact the Debtors’ relationship with their Employees and could irreparably impair the Employees’ morale, dedication, confidence and cooperation. The Debtors’ business hinges on its relationship with its customers and the Debtors’ ability to provide media products and services is vital. The Employees’ support for the Debtors’ reorganization efforts is critical to the success of those efforts. At this early stage, the Debtors simply cannot risk the substantial damage to their businesses that would inevitably attend any decline in their Employees’ morale attributable to the Debtors’ failure to pay wages, salaries, benefits and other similar items.

32. Absent an order granting the relief requested, many Employees will undoubtedly suffer hardship and, in many instances, serious financial difficulties, as the

amounts in question are needed to enable certain of the Employees to meet their own personal financial obligations. Without the requested relief, the stability of the Debtors will be undermined, perhaps irreparably, by the possibility that otherwise loyal Employees will seek other employment alternatives. Consequently, all of the Debtors' creditors will benefit if the requested relief is granted.

33. This Motion is intended only to permit the Debtors, in their discretion, to make payments consistent with their compensation, vacation and other benefit practices, programs, policies and plans to the extent that, without the benefit of an order approving this Motion, those payments would be inconsistent with the Bankruptcy Code, and to permit, but not require, the Debtors, in their discretion, to continue their practices, programs, policies and plans for their Employees as those practices, programs, policies and plans were in effect as of the Petition Date or may be modified, terminated, amended or supplemented from time to time hereafter.

34. In a significant majority of large corporate filings, courts have approved payment of employee pre-petition claims for compensation, benefits and expense reimbursements similar to those described herein. *See, e.g., In re Frontier Airlines Holdings, Inc.*, Case No. 08-11298 (RDD) (Bankr. S.D.N.Y. Apr. 14, 2008); *In re PLVTZ, Inc.*, Case No. 07-13532 (Bankr. S.D.N.Y. Nov. 9, 2007); *In re Dana Corp.*, Case No. 06-10354 (Bankr. S.D.N.Y. Mar. 3, 2006); *In re Calpine Corp.*, Case No. 05-60200 (Bankr. S.D.N.Y. Dec. 21, 2005); *In re Delphi Corp.*, No. 05-44481 (Bankr. S.D.N.Y. Oct. 13, 2005); *In re Delta Air Lines, Inc.*, Case No. 05-17923 (Bankr. S.D.N.Y. Sept. 16, 2005); *In re Aerovias Nacionales de Colombia S.A. Avianca (In re Avianca, Inc.)*, Case Nos. 03-11678 and 03-11679 (Bankr. S.D.N.Y. March 21, 2003); *In re WorldCom, Inc.*, Case No. 02-13533 (Bankr. S.D.N.Y. July 23, 2002); *In re Adelphia Bus. Solutions, Inc.*,

Case No. 02-11389 (Bankr. S.D.N.Y. March 28, 2002); *In re Global Crossing Ltd.*, Case No. 02-40188 (Bankr. S.D.N.Y. January 28, 2002); *In re Enron Corp., Inc.*, Case No. 01-16034 (Bankr. S.D.N.Y. December 3, 2001) (modified on January 15, 2002).

**Debtors Seek to Modify the Automatic Stay  
as it Applies to Employees' Claims Under  
the Workers' Compensation Programs**

35. It is imperative that the Debtors be permitted to continue to pay and/or honor any and all Workers' Compensation Obligations, including all pre-petition premiums, claims (including claim settlements), losses and expenses in connection with their workers' compensation insurance and to pay all costs and expenses associated with the Workers' Compensation Programs, including such costs and expenses related to administration, servicing, processing, adjusting, paying and settling claims and losses under these programs. In connection with their Workers' Compensation Obligations, the Debtors also seek authority for the insurers to continue to use collateral and security, as provided under the Workers' Compensation Programs, without further order of the Court.

36. It is crucial for employee morale and the operations of the Debtors' businesses for the Debtors to continue to pay workers' compensation benefits and honor their obligations under the Workers' Compensation Programs described herein. The Debtors anticipate that they will have sufficient cash on hand to make these payments which are in the best interests of the Debtors, their estates and their creditors.

37. Section 362(a) of the Bankruptcy Code, commonly known as the automatic stay, operates to stay, among other things:

the commencement or continuation, including the issuance or employment of process, of a judicial, administrative, or other action or proceeding against the debtor that was or could have been commenced before the commencement of the case under this title, or to recover a claim against the

debtor that arose before the commencement of the case under this title.

Section 362, however, permits a debtor or other parties in interest to request a modification or termination of the automatic stay for “cause.” 11 U.S.C. § 362(d)(1).

38. To the extent any of the Debtors’ Employees hold claims pursuant to the Workers’ Compensation Programs, the Debtors seek authorization under section 362(d) of the Bankruptcy Code, in the Debtors’ sole discretion, to permit these employees to proceed with such claims in the appropriate judicial or administrative fora. The Debtors believe cause exists to grant them authority to modify the automatic stay, where the Debtors deem it appropriate to do so, because staying such claims could have a detrimental effect on the financial (and medical) well-being and morale of the Debtors’ Employees and lead to the departure of certain Employees. Such departures could cause a severe disruption in the Debtors’ business, to the detriment of all parties in interest. To this end, the Debtors seek an order granting (a) relief from the automatic stay as it relates to employee claims and the insurers’ continued use of collateral and security provided by the Debtors pursuant to the Workers’ Compensation Programs and (b) waiver of the corresponding notice requirements under Bankruptcy Rule 4001(d).

39. Pursuant to this Motion, the Debtors do not seek a waiver, termination, or modification of the automatic stay with respect to any other claims.

**Applicable Banks Should be Authorized to Honor and Pay Checks Issued and Make Other Transfers to Pay the Pre-Petition Employee Obligations**

40. The Debtors further request that the Court authorize all of the Debtors’ banks to receive, process, honor and pay all pre-petition and post-petition checks issued or to be issued, and fund transfers requested or to be requested, by the Debtors for the

Pre-Petition Employee Obligations. The Debtors also seek authority to issue new post-petition checks, or effect new fund transfers, for Pre-Petition Employee Obligations to replace any pre-petition checks or fund transfer requests that may be dishonored or rejected and to reimburse their Employees or the applicable payee, as the case may be, for any fees or costs incurred by them in connection with a dishonored or voided check or funds transfer.

41. As a result of the commencement of the Debtors' chapter 11 cases, and in the absence of an order of the Court providing otherwise, the Debtors' checks, wire transfers and direct deposit transfers for Pre-Petition Employee Obligations may be dishonored or rejected by the banks.

42. The Debtors represent that each of these checks or transfers is or will be drawn on the Debtors' payroll and general disbursement accounts and can be readily identified as relating directly to payment of the Pre-Petition Employee Obligations. Accordingly, the Debtors believe that pre-petition checks and transfers other than those for Pre-Petition Employee Obligations will not be honored inadvertently.

43. Authorization to pay all amounts for Pre-Petition Employee Obligations shall not be deemed to constitute post-petition assumption or adoption of any contract, program, plan or policy pursuant to section 365 of the Bankruptcy Code. The Debtors are in the process of reviewing these matters and reserve all of their rights under the Bankruptcy Code with respect thereto. Moreover, authorization to pay Pre-Petition Employee Obligations shall not affect the Debtors' right to contest the amount or validity of any Pre-Petition Employee Obligations, including any payroll taxes that may be due to any taxing authority.

### **Necessity for Immediate Relief**

44. Bankruptcy Rule 6003 provides that “[e]xcept to the extent that relief is necessary to avoid immediate and irreparable harm, the court shall not, within 20 days after the filing of the petition, grant . . . (b) a motion to use, sell, lease, or otherwise incur an obligation regarding property of the estate, including a motion to pay all or part of a claim that arose before the filing of the petition . . . .” If the Debtors are not permitted to continue their ordinary business operations by continuing to pay and provide benefits to employees, and to assure their employees that authority has been granted to honor all such claims, immediate and irreparable harm will result. Accordingly, the relief requested herein is consistent with Bankruptcy Rule 6003.

45. The Debtors recognize that section 507(a)(4) of the Bankruptcy Code caps the amount of “wages, salaries, or commissions, including vacation, severance, and sick leave pay” entitled to a priority claim, and the Debtors do not seek authority to pay any such wages, salaries, or commissions in excess of such amount during the first twenty days after the Petition Date during which time Bankruptcy Rule 6003 limits disbursements to those “necessary to avoid immediate and irreparable harm.” The Debtors note that such a cap does not relate to payments for expense reimbursements, medical reimbursements and disability and workers compensation.<sup>6</sup> Further, for any other type of benefit, the Debtors propose that, if any amount has to be paid in the first twenty days that is above the priority claim amount, the Debtors will first raise the issue with the United States Trustee for the Southern District of New York and any creditors’ committee then appointed in these cases and seek such parties’ consent. If such consent

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<sup>6</sup> Consistent with the request of the United States Trustee for the Southern District of New York, the Debtors are also not seeking authority to pay expense reimbursements for any “luxury” items in the first twenty days after the Petition Date.

is not granted, the Debtors will then come before this Court to seek permission to make such payments.

**Request for Waiver of Stay**

46. In addition, by this Motion, the Debtors seek a waiver of any stay of the effectiveness of the order approving this Motion. Pursuant to Bankruptcy Rule 6004(h), “[a]n order authorizing the use, sale, or lease of property other than cash collateral is stayed until the expiration of 10 days after entry of the order, unless the court orders otherwise.” As set forth above, the Debtors require immediate relief to continue ordinary business operations for the benefit of all parties in interest. Accordingly, the Debtors submit that ample cause exists to justify a waiver of the ten-day stay imposed by Bankruptcy Rule 6004(h), to the extent that it applies.

**Notice**

47. No trustee, examiner, or creditors’ committee has been appointed in these chapter 11 cases. The Debtors have served notice of this Motion on (a) the Office of the United States Trustee for the Southern District of New York, (b) attorneys to the agent for the Debtors’ first lien pre-petition lenders, (c) attorneys to an ad hoc committee of the Debtors’ second-lien pre-petition lenders, (d) those creditors holding the five largest secured claims against the Debtors’ estates on a consolidated basis, (e) those creditors holding the 30 largest unsecured claims against the Debtors’ estates on a consolidated basis, (f) the Internal Revenue Service and (g) Avista Capital Partners.

**No Previous Request**

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

WHEREFORE, the Debtors respectfully request that the Court grant the relief requested herein and such other and further relief as is just and proper.

New York, New York  
Dated: January 15, 2009

By: /s/ Marshall S. Huebner  
Marshall S. Huebner  
Timothy E. Graulich  
Lynn I. Poss

DAVIS POLK & WARDWELL  
450 Lexington Avenue  
New York, New York 10017  
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Facsimile: (212) 701-6001

*Proposed Counsel to the Debtors  
and Debtors in Possession*

# **EXHIBIT A**

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

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:  
**In re:** :  
: **Chapter 11 Case No.**  
:  
**STAR TRIBUNE HOLDINGS** : **09-10244 (\_\_\_)**  
**CORPORATION, et al.,** :  
: **(Jointly Administered)**  
:  
**Debtors.**<sup>1</sup> :  
----- X

**ORDER AUTHORIZING THE DEBTORS TO (i) PAY PRE-PETITION WAGES,  
SALARIES, EMPLOYEE BENEFITS AND OTHER COMPENSATION,(ii)  
MAINTAIN THEIR EMPLOYEE BENEFITS PROGRAMS AND PAY RELATED  
ADMINISTRATIVE OBLIGATIONS, (iii) ALLOW EMPLOYEES TO PROCEED  
WITH OUTSTANDING WORKERS’ COMPENSATION CLAIMS AND (iv)  
AUTHORIZE APPLICABLE BANKS AND OTHER FINANCIAL  
INSTITUTIONS TO RECEIVE, PROCESS, HONOR, AND PAY  
ALL CHECKS PRESENTED FOR PAYMENT AND TO HONOR  
ALL FUND TRANSFER REQUESTS**

Upon the motion (the “**Motion**”)<sup>2</sup> of Star Tribune Holdings Corporation (“**Star Tribune Holdings**”) and The Star Tribune Company (together with Star Tribune Holdings, the “**Debtors**”), pursuant to sections 105(a), 362(d) and 363(b) of the Bankruptcy Code for authorization to (i) pay certain pre-petition wages, salaries, and other compensation owing to Employees, (ii) maintain certain Employee benefits programs and pay related administrative obligations, (iii) permit Employees with claims under the Workers’ Compensation Programs to proceed with such claims and insurers to continue using collateral and security under the Workers’ Compensation Programs and (iv) authorize applicable banks and other financial institutions to receive, process, honor

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<sup>1</sup> The Debtors are Star Tribune Holdings Corporation and The Star Tribune Company.  
<sup>2</sup> Unless otherwise defined herein, each capitalized term shall have the meaning ascribed to such term in the Motion.

and pay all checks presented for payment and to honor all fund transfer requests, as more fully described in the Motion; and upon consideration of the Declaration of David Montgomery in support of the Debtors' first-day pleadings; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. § 1334 and the Standing Order of Referral of Cases to Bankruptcy Court Judges of the District Court for the Southern District of New York dated July 10, 1984 (Ward, Acting C.J.); and consideration of the Motion and the requested relief being a core proceeding the Bankruptcy Court can determine 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 due and proper notice of the Motion having been provided to (a) the Office of the United States Trustee for the Southern District of New York, (b) attorneys to the agent for the Debtors' first lien pre-petition lenders, (c) attorneys to an ad hoc committee of the Debtors' second-lien pre-petition lenders, (d) those creditors holding the five largest secured claims against the Debtors' estates on a consolidated basis, (e) those creditors holding the 30 largest unsecured claims against the Debtors' estates on a consolidated basis, (f) the Internal Revenue Service and (g) Avista Capital Partners, and it appearing that no other or further notice need be provided; and the relief requested in the Motion being in the best interests of the Debtors and their estates and creditors; and the Court having reviewed the Motion and having held a hearing with appearances of parties in interest noted in the transcript thereof (the "**Hearing**"); and the Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; and the Court having determined that immediate relief is necessary to avoid irreparable harm; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor, it is

ORDERED that, pursuant to sections 105(a), 362(d) and 363(b) of the Bankruptcy Code, the relief requested in the Motion is hereby granted; and it is further

ORDERED that the Debtors shall be, and hereby are, authorized, but not required, to pay, in their sole discretion, all amounts required under or related to the Pre-Petition Employee Obligations; and it is further

ORDERED that the Debtors are authorized, but not required, to, in their sole discretion, continue to pay and honor their obligations arising under or related to their plans, practices, programs and policies for their employees, including, without limitation, those giving rise to the Pre-Petition Employee Obligations (collectively, the “**Employee Programs**”), as those Employee Programs were in effect as of the Petition Date and as such Employee Programs may be modified, terminated, amended or supplemented from time to time in the ordinary course of the Debtors’ business; and it is further

ORDERED that (a) the automatic stay is modified to allow Employees to proceed with claims under the Workers’ Compensation Programs in the appropriate judicial or administrative fora, and to permit insurers under the Workers’ Compensation Programs to continue to access collateral and security provided by the Debtors pursuant to the Workers’ Compensation Programs and (b) the notice requirements under Bankruptcy Rule 4001(d) with respect to (a) above are waived; and it is further

ORDERED that all applicable banks and other financial institutions (collectively, the “**Banks**”) shall be, and hereby are, authorized, when and as requested by the Debtors in the Debtors’ sole discretion, without any duty of inquiry or liability to any party for following such instructions, to receive, process, honor and pay checks drawn on the Debtors’ payroll or disbursement accounts and any other checks or transfers that are (as directed and advised by the Debtors in the Debtors’ sole discretion) related to Pre-

Petition Employee Obligations, Employee Programs and Workers' Compensation Programs and the costs and expenses incident thereof, whether those checks or other transfer instructions were presented before or after the date of the commencement of these chapter 11 cases; and it is further

ORDERED that, notwithstanding anything to the contrary in any other order of this Court, the Banks (a) are authorized to accept and honor all representations from the Debtors as to which checks, drafts, wires or automated clearing house transfers (“**ACH Transfers**”) should be honored or dishonored, consistent with any order of this Court and governing law, whether such checks, drafts, wires, or ACH Transfers are dated prior to, on, or subsequent to the Petition Date, and whether the Banks believe the payment is or is not authorized by an order of this Court and (b) have no duty to inquire as to whether such payments are authorized by an order of this Court; and it is further

ORDERED that the Banks shall not be liable to any party on account of (a) following the Debtors' instructions or representations as to any order of this Court, (b) the honoring of any pre-petition check or item in a good faith belief that the Court has authorized such pre-petition check or item to be honored or (c) an innocent mistake made despite implementation of reasonable item handling procedures; and it is further

ORDERED that nothing in the Motion or this Order shall be deemed a request by the Debtors for authority to assume, and nothing in this Order shall be deemed authorization to assume, any plan, practice, program, policy, executory contract or unexpired lease pursuant to section 365 of the Bankruptcy Code; and it is further

ORDERED that nothing in the Motion or this Order shall be construed as impairing the Debtors' right to contest the validity or amount of any Pre-Petition

Employee Obligation, including payroll taxes that may be due to any taxing authority;  
and it is further

ORDERED that notwithstanding Bankruptcy Rule 6003 and the possible applicability of Bankruptcy Rule 6004(h), the terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

New York, New York

Dated: \_\_\_\_\_, 2009

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UNITED STATES BANKRUPTCY JUDGE