

<b>UNITED STATES BANKRUPTCY COURT DISTRICT OF NEW JERSEY</b>	
Caption in Compliance with D.N.J. LBR 9004-2(c) <b>WASSERMAN, JURISTA &amp; STOLZ, P.C.</b> 110 Allen Road, Suite 304 Basking Ridge, NJ 07920 Phone: (973) 467-2700 Fax: (973) 467-8126 <i>Counsel for SITO Mobile Solutions, Inc., SITO Mobile, Ltd., and SITO Mobile R&amp;D IP, LLC.</i> <b>DANIEL M. STOLZ</b> <b>DONALD W. CLARKE</b>	
In Re:  <b>SITO MOBILE SOLUTIONS, INC.,</b>  Debtor.	Case No.: 20-21436  Judge: Honorable Stacey L. Meisel  Chapter: 11
In Re:  <b>SITO MOBILE, LTD.,</b>  Debtor.	Case No.: 20-21435  Judge: Honorable Stacey L. Meisel  Chapter: 11
In Re:  <b>SITO MOBILE R&amp;D IP, LLC.,</b>  Debtor.	Case No.: 20-21437  Judge: Honorable Stacey L. Meisel  Chapter: 11

**DEBTORS' MOTION FOR ORDER (I) DIRECTING JOINT  
ADMINISTRATION OF THE CHAPTER 11 CASES PURSUANT TO  
BANKRUPTCY CODE SECTION 302 AND BANKRUPTCY RULE 1015(b)  
AND (II) WAIVING REQUIREMENTS OF BANKRUPTCY CODE  
SECTION 342(c)(1) AND BANKRUPTCY RULES 1005 AND 2002(n)**

**TO: HONORABLE STACEY L. MEISEL  
UNITED STATES BANKRUPTCY JUDGE**

SITO Mobile, Ltd. ("SITO Limited"), SITO Mobile Solutions, Inc., ("SITO Solutions"),  
and SITO Mobile R&D IP, LLC. ("SITO R&D") the debtors and debtors-in-possession

(collectively, the “Debtors”), in the above captioned chapter 11 cases (the “Cases”) hereby move before this Court (the “Motion”) for entry of an order, pursuant to sections 302 and 342(c)(1) of title 11 of the United States Code (the “Bankruptcy Code”) and Rule 1015(b) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), (i) directing the joint administration of the Debtors’ separate Chapter 11 cases for procedural purposes only, and (ii) seeking a waiver of the requirement that the captions in these Chapter 11 cases list the Debtors’ tax identification numbers and addresses. In support of the Motion the Debtors rely upon and incorporate by reference the *Certification of Thomas Candelaria filed in support of the Debtors’ Petition and First Day Motions* (the “Candelaria Certification”), filed contemporaneously therewith. In further support of the Motion, the Debtors, by and through their undersigned counsel, respectfully represent:

### **JURISDICTION**

1. This Court has jurisdiction to consider this Motion under 28 U.S.C. §§ 157 and 1334. This is a core proceeding under 28 U.S.C. § 157(b). Venue of these cases and this Motion in this district is proper under 28 U.S.C. §§ 1408 and 1409.

2. The statutory predicates for the relief requested herein are Bankruptcy Code sections 302 and 342(c)(1) and Bankruptcy Rules 1005, 1015 and 2002(n).

### **BACKGROUND**

3. On October 8, 2020, the Debtors each filed a voluntary chapter 11 petitions (the “Petition Date”) for relief under Chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the “Bankruptcy Code”).

4. A detailed description of the background of the Debtors, their operations, and the events leading up to the filing of these cases is provided in the Certification of Thomas

Candelaria filed in support of the Debtors' First Day Motions (the "Candelaria Certification"), which is incorporated by reference herein.<sup>1</sup>

5. The Debtors continue to manage and operate their businesses, and have each been certified, as Debtors-in-Possession under Bankruptcy Code sections 1107 and 1108.

### **RELIEF REQUESTED**

6. By this Motion, the Debtors seek entry of an order, pursuant to Bankruptcy Code sections 302 and 342(c)(1) and Bankruptcy Rules 1005, 1015 and 2002(n) jointly administering the Debtors' Chapter 11 cases for procedural purposes only and waiving the requirement that the Debtors' caption contain tax identification numbers and addresses.

7. Bankruptcy Rule 1015(b) provides that "[i]f . . . two or more petitions are pending in the same court by or against . . . a debtor and an affiliate, the court may order a joint administration of the estates." See Fed. R. Bankr. P. 1015(b).

8. The Debtors share ownership and management interests. As such, the Debtors are "affiliates" as that term is defined in section 101(2) of the Bankruptcy Code and as used in Bankruptcy Rule 1015(b). Thus, joint administration of the Debtors' cases is appropriate under Bankruptcy Rule 1015(b).

9. Given the commercial relationships among the Debtors, joint administration of these Chapter 11 cases will provide significant administrative convenience without harming the substantive rights of any party in interest. Many of the motions, hearings, and orders that will arise in these Chapter 11 cases will affect all Debtors. Thus, the entry of an order directing joint administration of these cases will reduce fees and costs by, for example, avoiding duplicative filings and objections.

---

<sup>1</sup> Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Candelaria Certification.

10. Moreover, the joint administration of the Debtors' Chapter 11 cases will permit the Clerk of the Court to use a single general docket for each of the Debtors' cases and to combine notices to creditors and other parties in interest of the Debtors' respective estates.

11. Joint administration will also save time and money and avoid duplicative and potentially confusing filings by permitting counsel for all parties in interest to (a) use a single caption on the numerous pleadings that will be served and filed herein and (b) file the pleadings in one case rather than in multiple cases.

12. Joint administration will further protect parties in interest by ensuring that parties in each of the Debtors' respective Chapter 11 cases will be apprised of the various matters before the Court in these cases.

13. Finally, joint administration will ease the burden on the office of the United States Trustee in supervising these bankruptcy cases.

14. The rights of the respective creditors of each of the Debtors will not be adversely affected by joint administration of these cases since the relief sought is purely procedural and is in no way intended to affect substantive rights. Each creditor and other parties in interest will maintain whatever rights they have against any particular estate in which they allegedly have a claim or right.

15. In furtherance of the foregoing, the Debtors request that the official caption of the Chapter 11 cases to be used by all parties in all pleadings in the jointly administered cases be as follows:

[space intentionally left blank]

<b>UNITED STATES BANKRUPTCY COURT DISTRICT OF NEW JERSEY</b>	
Caption in Compliance with D.N.J. LBR 9004-2(c)	
<b>WASSERMAN, JURISTA &amp; STOLZ, P.C.</b> 110 Allen Road, Suite 304 Basking Ridge, NJ 07920 Phone: (973) 467-2700 Fax: (973) 467-8126 <i>Counsel for SITO Mobile Solutions, Inc., SITO Mobile, Ltd., and SITO Mobile R&amp;D IP, LLC</i>	
<b>DANIEL M. STOLZ DONALD W. CLARKE</b>	
In Re:	Case No.: 20-21436 (Jointly Administered)
<b>SITO MOBILE SOLUTIONS, INC., et al.</b>	Judge: Honorable Stacey L. Meisel
Debtor.	Chapter: 11

16. Additionally, the caption will include a footnote indicating the following: “SITO Mobile Solutions, Inc.’s case is jointly administered with the cases of SITO Mobile, Ltd. (20-21435), and SITO Mobile R&D IP, LLC. (20-21437).”

17. The Debtors submit that use of this simplified caption, without reference to their respective states of incorporation and tax identification numbers, will eliminate cumbersome and confusing procedures and ensure a uniformity of pleading identification.

18. In addition, the Debtors request that the Court make a separate docket entry on the docket in the SITO Mobile, Ltd. (20-21435), and SITO Mobile R&D IP, LLC. (20-21437) Chapter 11 cases, which states:

“An order has been entered in this case consolidating this case with the case of SITO Mobile Solutions, Inc, Case No. 20-21436, for procedural purposes only and providing for its joint administration in accordance with the terms thereof. The docket in Case No. 20-21436 should be consulted for all matters affecting the above listed case.”

19. Finally, the Debtors seek authority to file the monthly operating reports required by the Operating Guidelines and Financial Reporting Requirements promulgated by the U.S. Trustee on a consolidated basis if the Debtors determine, after consultation with the U.S. Trustee, that consolidated reports would further administrative economy and efficiency without prejudice to any party in interest and that the reports would accurately reflect the Debtors' consolidated business operations and financial affairs.

20. Courts have routinely granted the same or substantially similar relief to that requested in this Motion. See, e.g., In re Kara Homes, Inc., et al, Case No. 06-19626 (MBK) (Bankr. D.N.J. March 12, 2007); In re Tronox Inc., et al., Case No. 09-10156 (ALG) (Bankr. S.D.N.Y. Jan., 2009); In re Dana Corp., et al., Case No. 06-10354 (BRL) (Bankr. S.D.N.Y. Mar. 3, 2006); In re Musicland Holding Corp., et al., Case No. 06-10064 (SMB) (Bankr. S.D.N.Y. Jan. 13, 2006); In re Refco Inc., et al., Case No. 05-60006 (RDD) (Bankr. S.D.N.Y. June 9, 2006); In re Delphi Corp., et al., Case No. 05-44481 (RDD) (Bankr. S.D.N.Y. Oct. 8, 2005); In re Winn-Dixie Stores, Inc., et al., Case No. 05-11063 (RDD) (Bankr. S.D.N.Y. Feb. 22, 2005); In re Movie Gallery, Inc., et al., Case No. 07-33849 (DOT) (Bankr. E.D. Va. Oct. 18, 2007); In re Tweeter Home Entm't. Grp, Inc., et al., Case No. 07-10787 (PJW) (Bankr. D. Del. June 13, 2007); and In re Fortunoff Fine Jewelry And Silverware, LLC, et al., Case No. 08-10353 (JMP) (Bankr. S.D.N.Y. Feb. 5, 2008).

21. Moreover, waiver of the requirements imposed by Bankruptcy Code Section 342(c)(1) and Bankruptcy Rules 1005 and 2002(n) that the Debtors' caption include the Debtors' tax identification numbers is appropriate in these cases. Inclusion of the Debtors' tax identification numbers and addresses on each caption is cumbersome, and may be confusing to parties in interest. More importantly, waiver of the tax identification number and address

requirement is purely procedural in nature and will not affect the rights of parties in interest, particularly as this information is available on all of the Debtors' Chapter 11 petitions.

22. For these reasons, the Debtors submit that the relief requested herein is in the best interest of the Debtors, their estates, creditors and other parties in interest and, therefore, should be granted.

### **NOTICE**

23. Notice of this Motion has been provided either by facsimile, electronic transmission, overnight delivery, or hand delivery to: (i) the United States Trustee for the District of New Jersey; (ii) the 20 largest creditors for each of the Debtors; (iii) the Attorney General for the State of New Jersey; (iv) the U.S. Securities and Exchange Commission; and (v) any party in any case required to be served under any applicable Bankruptcy Rule or Local Bankruptcy Rule. The Debtors submit that, under the circumstances, no other or further notice is necessary.

### **CONCLUSION**

**WHEREFORE**, the Debtors respectfully request this Court enter an order, substantially in the form submitted herewith granting the relief requested herein and such other and further relief as may be just and proper.

Respectfully submitted,

**WASSERMAN, JURISTA & STOLZ, P.C.**  
*Counsel for SITO Mobile Solutions, Inc., SITO  
Mobile, Ltd., and SITO Mobile R&D IP, LLC*



By: \_\_\_\_\_  
DONALD W. CLARKE

Date: November 6, 2020

<p><b>UNITED STATES BANKRUPTCY COURT DISTRICT OF NEW JERSEY</b></p> <p>Caption in Compliance with D.N.J. LBR 9004-2(c)  <b>WASSERMAN, JURISTA &amp; STOLZ, P.C.</b>                  110 Allen Road, Suite 304                  Basking Ridge, NJ 07920                  Phone: (973) 467-2700                  Fax: (973) 467-8126  <i>Counsel for SITO Mobile Solutions, Inc., SITO Mobile, Ltd., and SITO Mobile R&amp;D IP, LLC.</i>  <b>DANIEL M. STOLZ</b>  <b>DONALD W. CLARKE</b></p>	
<p>In Re:</p> <p><b>SITO MOBILE SOLUTIONS, INC.,</b></p> <p style="text-align: center;">Debtor.</p>	<p>Case No.: 20-21436</p> <p>Judge: Honorable Stacey L. Meisel</p> <p>Chapter: 11</p>
<p>In Re:</p> <p><b>SITO MOBILE, LTD.,</b></p> <p style="text-align: center;">Debtor.</p>	<p>Case No.: 20-21435</p> <p>Judge: Honorable Stacey L. Meisel</p> <p>Chapter: 11</p>
<p>In Re:</p> <p><b>SITO MOBILE R&amp;D IP, LLC.,</b></p> <p style="text-align: center;">Debtor.</p>	<p>Case No.: 20-21437</p> <p>Judge: Honorable Stacey L. Meisel</p> <p>Chapter: 11</p>

**ORDER (I) DIRECTING JOINT ADMINISTRATION OF THE CHAPTER 11 CASES  
PURSUANT TO BANKRUPTCY CODE SECTION 302 AND BANKRUPTCY RULE  
1015(b) AND (II) WAIVING REQUIREMENTS OF BANKRUPTCY  
CODE SECTION 342(c)(1) AND BANKRUPTCY RULES 1005 AND 2002(n)**

The relief set forth on the following pages, numbered two (2) through four (4) is hereby **ORDERED.**



**(Page 2)**

Debtors: SITO Mobile Solutions, Inc., SITO Mobile, Ltd., SITO Mobile R&D IP, LLC.

Case Nos.: 20-21436, 20-21435, 20-21437

Caption of Order: Order (I) Directing Joint Administration of the Chapter 11 Cases Pursuant to Bankruptcy code Section 302 and Bankruptcy Rule 1015(b) and (II) Waiving Requirements of Bankruptcy Code Section 342(c)(1) and Bankruptcy Rules 1005 and 2002(n)

---

Upon the motion (the “Motion”)<sup>1</sup> of the Debtors for entry of an Order, pursuant to Bankruptcy Code sections 302 and 342(c)(1) and Bankruptcy Rule 1015(b), (i) directing joint administration of these cases and administratively consolidating the respective Chapter 11 cases of each Debtor for procedural purposes only and (ii) waiving the requirement that the Debtors’ captions list their respective tax identification numbers and addresses; and upon the Weiss Declaration; and due and sufficient notice of the Motion having been given under the particular circumstances; and it appearing that no other or further notice need be provided; and it appearing that the relief requested by the Motion is in the best interests of the Debtors, their estates, their creditors, and other parties in interest; and after due deliberation thereon and sufficient cause appearing therefore, it is hereby,

**ORDERED, ADJUDGED AND DECREED that:**

1. The Motion is GRANTED as provided herein.
2. Each of the above-captioned Chapter 11 cases of the Debtors be, and hereby are, consolidated for procedural purposes only and shall be jointly administered by the Court.
3. Nothing contained in this Order shall be deemed or construed as directing or otherwise effecting the substantive consolidation of any of the above captioned Chapter 11 cases.

---

<sup>1</sup> Capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Motion.

(Page 3)

Debtors: SITO Mobile Solutions, Inc., SITO Mobile, Ltd., SITO Mobile R&D IP, LLC.

Case Nos.: 20-21436, 20-21435, 20-21437

Caption of Order: Order (I) Directing Joint Administration of the Chapter 11 Cases Pursuant to Bankruptcy code Section 302 and Bankruptcy Rule 1015(b) and (II) Waiving Requirements of Bankruptcy Code Section 342(c)(1) and Bankruptcy Rules 1005 and 2002(n)

4. The caption of the jointly administered cases shall read as follows:

<b>UNITED STATES BANKRUPTCY COURT DISTRICT OF NEW JERSEY</b>	
Caption in Compliance with D.N.J. LBR 9004-2(c)	
<b>WASSERMAN, JURISTA &amp; STOLZ, P.C.</b> 110 Allen Road, Suite 304 Basking Ridge, NJ 07920 Phone: (973) 467-2700 Fax: (973) 467-8126 <i>Counsel for SITO Mobile Solutions, Inc., SITO Mobile, Ltd., and SITO ito Mobile R&amp;D IP, LLC</i>	
<b>DANIEL M. STOLZ</b> <b>DONALD W. CLARKE</b>	
In Re:  <b>SITO MOBILE SOLUTIONS, INC., et al.</b>  <p style="text-align: center;">Debtor.</p>	Case No.: 20-21436 (Jointly Administered)  Judge:  Chapter: 11

5. The caption will include a footnote indicating the following: “SITO Mobile Solutions, Inc.’s case is jointly administered with the cases of SITO Mobile, Ltd. (20-21435), and SITO Mobile R&D IP, LLC. (20-21437).”

6. All pleadings shall be captioned as indicated herein and all original docket entries shall be made in the case of SITO Mobile Solutions, Inc., Case No. 19-20274.

7. A docket entry shall be made in each of the Debtors’ cases substantially similar to the following:

“An order has been entered in this case consolidating this case with the case of SITO Mobile Solutions, Inc, Case No. 20-21436, for procedural purposes only and providing for its joint administration in accordance with the terms thereof. The docket in Case No. 20-

**(Page 4)**

Debtors: SITO Mobile Solutions, Inc., SITO Mobile, Ltd., SITO Mobile R&D IP, LLC.

Case Nos.: 20-21436, 20-21435, 20-21437

Caption of Order: Order (I) Directing Joint Administration of the Chapter 11 Cases Pursuant to Bankruptcy code Section 302 and Bankruptcy Rule 1015(b) and (II) Waiving Requirements of Bankruptcy Code Section 342(c)(1) and Bankruptcy Rules 1005 and 2002(n)

---

21436 should be consulted for all matters affecting the above listed case.”

8. The Debtors are authorized to file monthly operating reports required by the Operating Guidelines and Financial Reporting Requirements promulgated by the U.S. Trustee on a consolidated basis if the Debtors determine, after consultation with the U.S. Trustee, that consolidated reports would further administrative economy and efficiency without prejudice to any party in interest and that the reports would accurately reflect the Debtors’ consolidated business operations and financial affairs; *provided, however*, that the Debtors shall list disbursements separately for each Debtor.

9. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation or interpretation of this Order.