

Miscellaneous:[20-21436-SLM SITO Mobile Solutions, Inc.](#)

Type: bk

Chapter: 11 v

Office: 2 (Newark)

Assets: y

Judge: SLM

Case Flag: ADVERSARY
JNTADMN LEAD**U.S. Bankruptcy Court****District of New Jersey**

Notice of Electronic Filing

The following transaction was received from Daniel Stolz entered on 9/9/2021 at 4:24 PM EDT and filed on 9/9/2021

Case Name: SITO Mobile Solutions, Inc.**Case Number:** [20-21436-SLM](#)**Document Number:** [299](#)**Docket Text:**

Document re: Certification of Counsel in Support of Confirmation of Plan (related document:[228] Chapter 11 Plan filed by Debtor SITO Mobile Solutions, Inc., [263] Chapter 11 Plan filed by Debtor SITO Mobile Solutions, Inc.) filed by Daniel Stolz on behalf of SITO Mobile Solutions, Inc.. (Stolz, Daniel)

The following document(s) are associated with this transaction:

Document description:Main Document**Original filename:**Cert of Cousnel in Support of Confirmation of Plan 9-9-2021.pdf**Electronic document Stamp:**

[STAMP bkecfStamp_ID=1002741850 [Date=9/9/2021] [FileNumber=58638465-0]
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37c70175a3b584946fe9b3b819bb456ae4e5f80508d0a59a7b362d9d76cff]

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**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY**

Caption in Compliance with D.N.J. LBR 9004-2(c)

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*Counsel for SITO Mobile Solutions, Inc., SITO
Mobile, Ltd., and SITO Mobile R&D IP, LLC.*

DANIEL M. STOLZ

DONALD W. CLARKE

In Re:

SITO MOBILE SOLUTIONS, INC.¹,

Debtor.

Case No.: 20-21436

Judge: Honorable Stacey L. Meisel

Chapter: 11

In Re:

SITO MOBILE, LTD.²,

Debtor.

Case No.: 20-21435

Judge: Honorable Stacey L. Meisel

Chapter: 11

In Re:

SITO MOBILE R&D IP, LLC³,

Debtor.

Case No.: 20-21437

Judge: Honorable Stacey L. Meisel

Chapter: 11

**CERTIFICATION OF COUNSEL
IN SUPPORT OF CONFIRMATION OF PLAN**

Daniel M. Stolz, being of full age and having been duly sworn in according to law, hereby deposes and says:

¹ The last four digits of the Debtors' Federal Tax Identification Numbers are 3380. The Debtors' corporate headquarters is located at 123 Town Square Place, #419, Jersey City, NJ 07310.

² The last four digits of the Debtors' Federal Tax Identification Numbers are 2844. The Debtors' corporate headquarters is located at 123 Town Square Place, #419, Jersey City, NJ 07310.

³ The last four digits of the Debtors' Federal Tax Identification Numbers are 3182. The Debtors' corporate headquarters is located at 123 Town Square Place, #419, Jersey City, NJ 07310.

1. I am a partner with the firm of Genova Burns, LLC and chair of its bankruptcy and reorganization group. I was previously managing partner of Wasserman, Jurista & Stolz, P.C.

2. By Order dated November 5, 2020, Wasserman, Jurista & Stolz, P.C. was retained as counsel to the Debtors in the within Chapter 11 proceedings. By Order dated January 21, 2021, Genova Burns, LLC was substituted for Wasserman, Jurista & Stolz, P.C. as counsel for the Debtors herein.

3. On October 8, 2020 (the “Petition Date”), SITO Mobile Solutions, Inc., SITO Mobile, Ltd. and SITO Mobile R&D IP, LLC, filed separate Chapter 11 petitions with this Court.

4. Pursuant to Order dated November 13, 2020, the Debtors’ Chapter 11 cases were administratively consolidated, with SITO Mobile Solutions, Inc. serving as the lead case.

5. Pursuant to the Joint Plan of Reorganization filed by the Debtors on June 10, 2021 [docket #228] (the “Plan”), upon the effective date of the Plan, the Debtors’ Bankruptcy Estates will be substantively consolidated.

6. Under the Plan, I will serve as Plan Administrator and Distribution Agent.

7. The Plan provides for the reorganization of the Debtors and their exit from Chapter 11. The Debtors have arranged for \$5 million of exit financing (the “Exit Financing”), which will be utilized to pay all allowed administrative claims of these Bankruptcy Estates, payment in full of all allowed priority tax and wage claims, and twenty percent (20%) cash distribution to all allowed unsecured claims, a reserve fund for the fees and expenses of the Plan Administrator and Distribution Agent, and operating capital for the Debtors’ post confirmation operations.

8. Throughout these Chapter 11 cases, the Debtors have worked cooperatively and productively with the Official Committee of Unsecured Creditors, through their counsel Perkins Coie LLP.

9. Pursuant to Order of this Court dated July 20, 2021 [docket #262], the Court approved the Debtors' Disclosure Statement on an interim basis, scheduled a combined hearing on final approval of the Disclosure Statement and confirmation of the Plan for September 14, 2021 at 10:30 a.m., and approved certain deadlines and procedures with regard to solicitation of acceptances and rejections of the Plan (the "Plan Procedures Order").

10. Pursuant to the Plan Procedures Order, objections to final approval of the Disclosure Statement and confirmation of the Plan were to be filed and served upon my office no later than August 30, 2021 at 4:00 p.m., the ("Objection Deadline").

11. Pursuant to the Plan Procedures Order, the deadline for delivery of ballots voting to accept or reject the Plan was August 30, 2021 at 4:00 p.m., the ("Voting Deadline").

12. The Objection Deadline has passed, and no objections to final approval of the Disclosure Statement have been filed. The sole objection to confirmation filed was the limited objection of the Office of the United States Trustee.

13. The Voting Deadline has passed and, as set forth in the Certification of Ballots filed with this Court [docket #297], all classes of creditors entitled to vote have unanimously voted to accept the Plan.

14. Under the Plan, allowed administrative claims do not constitute a class of creditors. Pursuant to the Plan, all allowed administrative claims will be paid in full from the Exit Financing.

15. Pursuant to the Plan, allowed priority tax claims do not constitute a class of creditors. Pursuant to the Plan, all allowed priority tax claims will be paid in full from the Exit Financing.

16. Pursuant to the Plan, Class 1 consists of the allowed other priority claims, which are primarily, or exclusively, priority wage claims. Such allowed other priority wage claims will be paid in full on the effective date of the Plan from the Exit Financing. Therefore, Class 1 creditors are not impaired and are deemed to have accepted the Plan.

17. Under the Plan, Class 2 consists of the claims of certain noteholders. Under the Plan, a portion of the indebtedness owed to the noteholders will be converted to common stock of SITO Mobile, Ltd., on a pro rata basis, at a price of \$0.18 per share. The balance of the claims of the Class 2 noteholders will be paid in cash, from net litigation proceeds, as defined in the Plan. Class 2 creditors are impaired under the Plan, and pursuant to the Certification of Ballots, have voted unanimously in favor of confirmation of the Plan.

18. Class 3 creditors consist of all allowed general unsecured claims against the Debtors. Pursuant to the Plan, Class 3 creditors will receive a cash dividend on the effective date of the Plan equivalent to twenty percent (20%) of their allowed claims. The balance of the claims of Class 3 creditors will be paid from net litigation proceeds, as set forth in the Plan. Class 3 creditors are impaired under the Plan, and as set forth on the Certification of Ballots, have voted unanimously in favor of the Plan.

19. Class 4 consists of the allowed interests, made up of the stockholders of the Debtors. Under the Plan, holders of Class 4 interests shall retain the same stock

ownership that they owned as of the petition date. Therefore, Class 4 interests are unimpaired and deemed to have accepted the Plan.

Compliance with 11 U.S.C. §1129(a)

20. Section 1129(a)(1) requires that the Plan comply with all applicable provisions of the Bankruptcy Code. To the best of my knowledge, information and belief, the Debtors comply with all applicable provisions of the Bankruptcy Code.

21. Section 1129(a)(2) requires the proponent to comply with all applicable provisions of the Bankruptcy Code. To the best of my knowledge, information and belief, the Debtors, being the Plan proponent, have complied with all applicable provisions of the Bankruptcy Code.

22. Section 1129(a)(3) requires that the Plan has been proposed in good faith and not by any means forbidden by law. To the best of my knowledge, information and belief, the Debtors' Plan has been proposed in good faith and not by any means forbidden by law.

23. Section 1129(a)(4) requires that a payment made or to be made under the Plan has been approved, or is subject to approval of the Court, as reasonable. To the best of my knowledge, information and belief, all payments to be made under the Plan have been disclosed.

24. Section 1129(a)(5) requires disclosure of the identity and affiliations of any individuals proposed to serve after confirmation. The Debtors' Plan discloses that I will be serve as Plan Administrator and Distribution Agent. Filed simultaneously herewith is the Certification of Thomas Candelaria, which discloses which employees and officers of the Debtor will continue to serve subsequent to the effective date of the

Plan. based upon the foregoing, the Debtors have complied with §1129(a)(5) of the Bankruptcy Code.

25. Section 1129(a)(6) deals with governmental regulatory commissions with jurisdiction over the rates of the Debtors. Based upon our information, knowledge and belief, there is no such governmental agency with jurisdiction over the Debtors' rates.

26. Section 1129(a)(7) deals with treatment of impaired classes. The only impaired classes under the Debtors' Plan are Classes 2 and 3, consisting of the allowed claims of noteholders, and allowed unsecured claims. As set forth in the Certification of Ballots filed herewith, Class 2 and 3 have voted to accept the Plan and will receive more under the Plan than they would under a Chapter 7 liquidation. Therefore, the Debtors have complied with §1129(a)(7).

27. Section 1129(a)(8) requires that with regard to all classes of claims, either such class is not impaired under the Plan, or has accepted the Plan. Classes 1 and 4 are not impaired under the Plan, and Classes 2 and 3 have accepted the Plan. Therefore, the Debtors have complied with §1129(a)(8).

28. Section 1129(a)(9) deals with priority claims. As set forth heretofore in this Certification, all allowed priority claims shall be paid in full from the Exit Financing, upon the effective date of the Plan. Therefore, the Debtors' Plan complies with §1129(a)(9).

29. Section 1129(a)(10) requires that at least one class of claims that is impaired under the Plan has accepted the Plan. The two impaired Classes under the Plan have voted to accept the Plan. Therefore, the Debtors have complied with §1129(a)(10).

30. Section 1129(a)(11) requires the Court find that confirmation of the Plan is not likely to be followed by the liquidation, or need for other financial reorganization by the Debtor. As set forth in the Certification of Thomas Candelaria filed herewith, the Debtors have obtained sufficient working capital from the Exit Financing to allow the Debtors to continue to operate, without any need for liquidation or further reorganization subsequent to the effective date of the Plan.

31. Section 1129(a)(12) requires payment of all fees and costs. The Plan provides for the payment of such fees and costs on the effective date of the Plan, from the Exit Financing.

32. Section 1129(a)(13) pertains to retiree benefits. There are no such retiree benefits of the Debtors, and therefore Section 1129(a)(13) is inapplicable to the Debtors' Plan.

33. Section 1129(a)(14) addresses matrimonial obligations, and is inapplicable to the Debtors' Plan.

34. Section 1129(a)(15) applies to individual debtors. As the Debtors are Limited Liability Companies or Corporations, §1129(a)(15) is inapplicable to the Debtors.

35. Section 1129(a)(16) involves transfers by a trust. The Debtors are not nor do they have involvement in any trust and therefore, §1129(a)(16) is inapplicable.

36. Based upon the foregoing, it is respectfully submitted that the Debtors' Plan has satisfied all conditions of §1129(a) of the Bankruptcy Code.

37. Based upon the foregoing, it is respectfully represented to this Court that the Debtors' Plan complies with all applicable provisions of Chapter 11 and should be confirmed by this Court.

38. I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

By: /s/ Daniel M. Stolz .
DANIEL M. STOLZ

Dated: September 9, 2021