

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

In re:	§	
	§	Chapter 15 Case
	§	
FLO-BACK EQUIPMENT INC.,	§	
	§	Case No. 24-90059 (MI)
Debtor in a Foreign Proceeding.	§	
	§	

**FOREIGN REPRESENTATIVE’S EMERGENCY MOTION
FOR ORDER (I) SCHEDULING RECOGNITION HEARING AND
(II) SPECIFYING FORM AND MANNER OF SERVICE OF NOTICE**

Emergency relief has been requested. Relief is requested not later than Friday, February 23, 2024.

If you object to the relief requested or you believe that emergency consideration is not warranted, you must appear at the hearing if one is set, or file a written response prior to the date that relief is requested in the preceding paragraph. Otherwise, the Court may treat the pleading as unopposed and grant the relief requested.

FTI Consulting Canada Inc. (“FTI”), solely in its capacity as court appointed receiver and manager (“Receiver” or “Foreign Representative”) of Flo-Back Equipment Inc. (“FBE” or the “Debtor”), pursuant to the *Consent Receivership Order* dated December 8, 2023 (the “Receivership Order”) entered by the Court of King’s Bench of Alberta in Judicial Centre of Calgary, Alberta, Canada, Court File No. 2301-16371 (the “Canadian Court” and the “Canadian Proceeding”), pending under Canada’s *Bankruptcy and Insolvency Act* (“BIA”), and as authorized foreign representative of the Debtor, respectfully submits this emergency motion (“Motion”) for an order, substantially in the form attached hereto as **Exhibit A** (“Proposed Order”): (i) scheduling a hearing on the Verified Petition (as defined below); (ii) setting a deadline by when any responses or objections to the Verified Petition must be received; (iii) approving the form of notice of the Recognition Hearing (as defined below); and (iv) approving the manner of service of the notice of

the Recognition Hearing. In further support hereof, the Foreign Representative respectfully represents as follows:

BACKGROUND

1. On the date hereof, the Foreign Representative filed a voluntary petition for relief under chapter 15 of title 11 of the United States Code (the “Bankruptcy Code”) for the Debtor in this Court. A description of the Debtor’s business and the events leading up to the commencement of the Canadian Proceeding and this chapter 15 case is included in the *Declaration of Dustin Olver in Support of Verified Petition for (I) Recognition of a Foreign Main Proceeding, (II) Recognition of the Foreign Representative, and (III) Related Relief under Chapter 15 of the Bankruptcy Code*, filed contemporaneously herewith and incorporated herein by reference for all purposes.

JURISDICTION AND VENUE

2. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(P). The Debtor confirms its consent, pursuant to Rule 7008 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), to the entry of a final order by the Court in connection with this Motion to the extent that it is later determined that this Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution.

3. This chapter 15 case has been commenced pursuant to Bankruptcy Code sections 1504 and 1509 by the filing of a petition for recognition of the Canadian Proceeding under Bankruptcy Code section 1515.

4. Venue is proper pursuant to 28 U.S.C. § 1410. The Debtor has property and other interests in the United States.

5. The statutory and rule predicates for the relief requested herein are Bankruptcy

Code sections 1504, 1515, and 1517, Bankruptcy Rules 1012(b), 2002, and 9007, and Rule 9013-1(i) of the Local Bankruptcy Rules for the Southern District of Texas (the “Local Rules”).

RELIEF REQUESTED

6. The Foreign Representative respectfully requests entry of the Proposed Order: (a) setting March 18, 2024, or as soon thereafter as the Court’s calendar permits, as the date (the “Recognition Hearing Date”) for the hearing (the “Recognition Hearing”) on the relief sought in the *Verified Petition for (I) Recognition of a Foreign Proceeding, (II) Recognition of the Foreign Representative, and (III) Related Relief under Chapter 15 of the Bankruptcy Code* (the “Verified Petition”) filed contemporaneously herewith; (b) setting the seventh day before the date of the Recognition Hearing as the deadline by when any responses or objections to the Verified Petition must be received (the “Objection Deadline”); (c) approving the form of notice of the Recognition Hearing (the “Notice”), substantially in the form attached hereto as Exhibit 1 to Exhibit A; and (d) approving the manner of service of the Notice as described herein.

STATUTORY BASIS FOR RELIEF

I. Form and Manner of Service of the Notice.

7. Bankruptcy Rule 2002(q)(1) provides that:

. . . . the debtor, all persons or bodies authorized to administer foreign proceedings of the debtor, all entities against whom provisional relief is being sought under § 1519 of the [Bankruptcy] Code, all parties to litigation pending in the United States in which the debtor is a party at the time of the filing of the petition, and such other entities as the court may direct, [shall be given] at least 21 days’ notice by mail of the hearing [on the petition for recognition of a foreign proceeding].

Fed. R. Bankr. P. 2002(q).

Bankruptcy Rule 2002(q), however, does not provide any additional details regarding the form and manner in which such notice must be given. Pursuant to Bankruptcy Rules 2002(m) and 9007,

when notice is to be given under the Bankruptcy Rules, the presiding court may designate the form and manner in which such notice shall be given. Fed. R. Bankr. P. 2002(m), 9007.

8. The Foreign Representative respectfully submits that service of the Notice and subsequent pleadings and notices by email and/or first class mail on the following parties satisfies Bankruptcy Rule 2002(q): (a) the Office of the United States Trustee; (b) the United States Attorney for the Southern District of Texas; (c) all persons or bodies authorized to administer the Canadian Proceeding; (d) all parties to litigation pending in the United States in which the Debtor is a party as of the date hereof (if any); (e) all known equity holders of the Debtor; (f) all known vendors of the Debtor; (g) all parties against whom the Debtor, on the Petition Date, is seeking relief pursuant to Bankruptcy Code section 1519; (h) such other parties in interest that have requested notice pursuant to Bankruptcy Rule 2002; and (i) such other entities as this Court may direct (collectively, the “Notice Parties”). In addition, the Foreign Representative will post the Verified Petition and Notice on its website for access free of charge at <http://cfcanada.fticonsulting.com/wolverine/default.htm>.

9. The Foreign Representative submits that the form and manner of service of the Notice requested herein for the Notice Parties constitutes adequate and sufficient notice of this chapter 15 case and the relief sought in the Verified Petition. Accordingly, the Foreign Representative respectfully requests that this Court approve the form and manner of service of the Notice for the Notice Parties.

II. Subsequent Notice and Foreign Creditors.

10. If any party files a notice of appearance in this chapter 15 case, the Foreign Representative shall serve upon such party (a) within two business days of the filing of such notice of appearance or as soon thereafter as practicable, the Notice (if the Notice has not already been

served on that party or its counsel), and (b) any subsequent pleadings filed by the Foreign Representative in this chapter 15 case.

11. Out of an abundance of caution, the Foreign Representative also seeks to clarify that certain notice requirements are not applicable in this chapter 15 case. Specifically, Bankruptcy Code section 1514(c) provides that when notification of the commencement of a case is to be given to foreign creditors, such notification shall, among other things, indicate the time period for filing proofs of claim, specify the place for filing such proofs of claim and indicate whether secured creditors need to file proofs of claim. 11 U.S.C. § 1514(c). Section 1514, though, applies only in plenary cases and does not apply in the context of an ancillary chapter 15 case like this. *See Collier on Bankruptcy* ¶ 1514.01 (Richard Levin & Henry J. Sommer eds. 16th ed. 2018) (explaining that Bankruptcy Code section 1514 is “[t]he last in the series of sections dealing with the international aspects of cases under chapters other than chapter 15 that began with section 1511.”); *see also In re Selecta Finance UK Limited*, Case No. 20-34947 [Docket No. 35] (Bankr. S.D. Tex. Oct. 9, 2020); *In re All Saints USA Ltd.*, Case No. 20-33072 [Docket No. 23] (Bankr. S.D. Tex. June 17, 2020).

III. Form and Manner of Responses and Objections to the Verified Petition.

12. The Foreign Representative respectfully requests that any response or objection to the Verified Petition be made pursuant to the Bankruptcy Code, the Bankruptcy Rules and the Local Rules, including, without limitation, Bankruptcy Rule 1012, in writing and setting forth the basis therefor. Such response or objection should be filed with the United States Bankruptcy Court for the Southern District of Texas, Office of the Clerk of the Court, 515 Rusk Street, Houston, Texas 77002, and served upon counsel for the Foreign Representative so as to be actually received by the Objection Deadline. Notices to counsel for the Foreign Representative should be addressed

to Munsch Hardt Kopf & Harr, P.C., Attention: Mr. John Cornwell, 700 Milam St., Suite 800, Houston, Texas 77002.

13. Bankruptcy Rule 1012(b) provides that, among other things, a party objecting to a petition to recognize a foreign proceeding under chapter 15 has until no later than seven days before the hearing date to respond. *See* Fed. R. Bankr. P. 1012(b). In light of this requirement, it is appropriate to set (a) March 14, 2024, or as soon thereafter as the Court's calendar permits, as the Recognition Hearing Date, and (b) the seventh day before the date of the Recognition Hearing as the Objection Deadline.

BASIS FOR EMERGENCY RELIEF

14. Pursuant to Local Rule 9013-1, the Foreign Representative respectfully requests emergency consideration of this Motion. Bankruptcy Code sections 1517(a) and (c) contemplate that a "petition for recognition of a foreign proceeding shall be decided upon at the earliest possible time" following a 21-day notice period, as set forth in Bankruptcy Rule 2002(q). Accordingly, the relief requested in this Motion should be entered on an emergency basis to facilitate timely consideration of the Foreign Representative's application for recognition.

NOTICE

15. The Foreign Representative has provided notice of this Motion via email or first class mail to: (a) the Office of the United States Trustee; (b) the United States Attorney for the Southern District of Texas; (c) all persons or bodies authorized to administer the Canadian Proceeding; (d) all parties to litigation pending in the United States in which the Debtor is a party as of the date hereof (if any); (e) all known equity holders of the Debtor; (f) all parties against whom the Debtor, on the Petition Date, is seeking relief pursuant to Bankruptcy Code section 1519; and (g) such other parties in interest that have requested notice pursuant to Bankruptcy Rule

2002. In light of the relief requested, the Foreign Representative submits that no further notice is necessary.

WHEREFORE, the Foreign Representative respectfully requests that the Court enter the Proposed Order (i) scheduling a hearing on the relief sought in the Verified Petition and (ii) specifying the form and manner of service of notice thereof.

Dated: February 20, 2024.

Respectfully submitted,

MUNSCH HARDT KOPF & HARR, P.C.

By: /s/ John D. Cornwell

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***Counsel for FTI Consulting Canada
Inc., solely in its capacity as court-
appointed receiver and manager of
Flo-Back Equipment Inc.***

CERTIFICATE OF ACCURACY

Pursuant to Local Rule 9013-1(i), the undersigned hereby certifies the accuracy of the reasons for expedited consideration set forth in the foregoing motion.

/s/ John D. Cornwell
John D. Cornwell

EXHIBIT A

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

In re: FLO-BACK EQUIPMENT INC., Debtor in a Foreign Proceeding.	§ § § § § § §	Chapter 15 Case Case No. 24-90059 (MI)
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**ORDER (I) SCHEDULING RECOGNITION HEARING AND
(II) SPECIFYING FORM AND MANNER OF SERVICE OF NOTICE**

Upon the motion (the “Motion”) of FTI Consulting Canada Inc. (“FTI”), solely in its capacity as court appointed receiver and manager (“Receiver” or “Foreign Representative”) of Flo-Back Equipment Inc. (“FBE” or the “Debtor”), seeking entry of an order (a) scheduling a hearing on the relief sought in the Verified Petition, (b) setting the deadline by when any responses or objections to the Verified Petition must be received and (c) specifying the form and manner of service of notice of the hearing on the relief sought in the Verified Petition; and this Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334; and the relief requested in the Motion being a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(P); and that this Court may enter a final order consistent with Article III of the United States Constitution; venue being proper before the Court pursuant to 28 U.S.C. § 1410; adequate and sufficient notice of the Motion having been given by the Foreign Representative; it appearing that the relief requested in the Motion is necessary and beneficial to the Foreign Debtor; and no objections or other responses having been filed that have not been overruled, withdrawn or otherwise resolved; and after due deliberation and sufficient cause appearing therefor, it is hereby ORDERED that:

1. A hearing on the relief requested in the Verified Petition is scheduled for _____, 2024, at ___ a.m./p.m. (prevailing Central Time), or as soon thereafter as counsel shall be heard, in the United States Bankruptcy Court for the Southern District of Texas, Courtroom 404, 4th floor, 515 Rusk Street, Houston, Texas 77002.

2. The form of notice of the Recognition Hearing (the “Notice”), in substantially the form attached hereto as **Exhibit 1**, is hereby approved.

3. The Foreign Representative shall serve copies of the Notice by email and/or first class mail on (a) the Office of the United States Trustee; (b) the United States Attorney for the Southern District of Texas; (c) all persons or bodies authorized to administer the Canadian Proceeding; (d) all parties to litigation pending in the United States in which the Foreign Debtor is a party as of the date hereof (if any); (e) all known vendors of the Debtor; (f) all known equity holders of the Debtor; (g) all parties against whom the Debtor, on the Petition Date, is seeking relief pursuant to Bankruptcy Code section 1519; (h) such other parties in interest that have requested notice pursuant to Bankruptcy Rule 2002; and (i) such other entities as this Court may direct (collectively, the “Notice Parties”).

4. The Foreign Representative shall serve the Notice and any subsequent pleadings filed by the Foreign Representative upon any party that files a notice of appearance in this chapter 15 case, within two (2) business days of the filing of such notice of appearance, or as soon thereafter as practicable, if such documents have not already been served on such party (or its counsel).

5. Service of the Notice in accordance with this Order is hereby approved as adequate and sufficient notice and service on all interested parties.

6. All notice requirements set forth in Bankruptcy Code section 1514(c) are inapplicable in the context of this chapter 15 case or are hereby waived.

7. Responses or objections to the Verified Petition and the relief requested therein must be made pursuant to the Bankruptcy Code, the Bankruptcy Rules and the Local Rules, including, without limitation, Bankruptcy Rule 1012, in writing and setting forth the basis therefor. Such responses must be filed with the United States Bankruptcy Court for the Southern District of Texas, Office of the Clerk of the Court, 515 Rusk Street, Houston, Texas 77002, and served upon counsel for the Foreign Representative so as to be actually received by them no later than _____, 2024, at ____ a.m./p.m. (prevailing Central Time). Notices to counsel for the Foreign Representative should be addressed to Munsch Hardt Kopf & Harr, P.C., Attention: John Cornwell, 700 Milam St., Suite 800, Houston, Texas 77002.

Dated: _____, 2024

UNITED STATES BANKRUPTCY JUDGE

EXHIBIT 1

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

In re:	§	
	§	Chapter 15 Case
	§	
FLO-BACK EQUIPMENT INC.,	§	
	§	Case No. 24-90059 (MI)
Debtor in a Foreign Proceeding.	§	
	§	

**NOTICE OF RECOGNITION HEARING
ON FOREIGN RECOGNITION PROCEEDING**

PLEASE TAKE NOTICE that FTI Consulting Canada Inc. (“FTI”), solely in its capacity as court appointed receiver and manager (“Receiver” or “Foreign Representative”) of Flo-Back Equipment Inc. (“FBE” or the “Debtor”), which is the subject of a proceeding (the “Canadian Proceeding”) pursuant to the *Consent Receivership Order* dated December 8, 2023 (the “Receivership Order”), entered by the Court of King’s Bench of Alberta in Judicial Centre of Calgary, Alberta, Canada, Court File No. 2301-16371 (the “Canadian Court” and the “Canadian Proceeding”) pending under Canada’s *Bankruptcy and Insolvency Act* (“BIA”), filed a *Verified Petition for (I) Recognition of Foreign Proceeding, (II) Recognition of the Foreign Representative, and (III) Related Relief under Chapter 15 of the Bankruptcy Code* (the “Verified Petition”) with the United States Bankruptcy Court for the Southern District of Texas (the “Court”) on February 20, 2024.

PLEASE TAKE FURTHER NOTICE that, among other things, the Foreign Representative seeks entry of an order recognizing the Canadian Proceeding as a foreign main proceeding pursuant to section 1517 of title 11 of the United States Code (the “Bankruptcy Code”) and granting certain additional relief.

PLEASE TAKE FURTHER NOTICE that the Court has scheduled a hearing with respect to the Verified Petition (the “Recognition Hearing”) for _____ a.m./p.m. (prevailing Central Time) on _____, 2024. The hearing will be conducted at the United States Bankruptcy Court, 515 Rusk Street, Houston, Texas 77002, Courtroom 404. Participation will be permitted in person or by audio and video. Audio will be by use of the Court’s dial-in facility. You may access the facility at 832-917-1510. You will be responsible for your own long-distance charges. Once connected, you will be asked to enter the conference room number. Judge Isgur’s conference room number is 954554. You may view video via GoToMeeting. To use GoToMeeting, the Court recommends that you download the free GoToMeeting application. To connect, you should enter the meeting code “JudgeIsgur” in the GoToMeeting app or click the link on Judge Isgur’s home page on the Southern District of Texas website. Once connected, click the settings icon in the upper right corner and enter your name under the personal information setting.

PLEASE TAKE FURTHER NOTICE that hearing appearances must be made electronically in advance of the hearing. To make your electronic appearance, go to the Southern District of Texas website and select “Bankruptcy Court” from the top menu. Select “Judge Isgur’s Procedures,” and “View Home Page” for Judge Isgur. Select the case name, complete the required fields and click “Submit” to complete your appearance.

PLEASE TAKE FURTHER NOTICE that any party in interest wishing to submit a response or objection to the Verified Petition must do so in accordance with the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure and the local rules of the Court, and such response or objection should be filed with the United States Bankruptcy Court for the Southern District of Texas, Office of the Clerk of the Court, 515 Rusk Street, Houston, Texas 77002, and served upon counsel for the Foreign Representative so as to be actually received no later than

_____, 2024, at _____ a.m./p.m. (prevailing Central Time). Notices to counsel for the Foreign Representative should be addressed to Munsch Hardt Kopf & Harr, P.C., Attention: Mr. John Cornwell, 700 Milam St., Suite 800, Houston, Texas 77002.

PLEASE TAKE FURTHER NOTICE that if you do not want the Court to grant the relief requested by the Foreign Representative, or if you want the Court to consider your views on any matter requested at the Recognition Hearing, then you or your attorney must attend such hearing. If you or your attorney do not take these steps, the Court may decide that you do not oppose the relief sought by the Foreign Representative and may enter an order granting the relief requested.

PLEASE TAKE FURTHER NOTICE that copies of all pleadings filed by the Foreign Representative may be obtained by visiting the Bankruptcy Court's website at <https://ecf.txsb.uscourts.gov/> (a PACER login and password are required to retrieve a document); <http://cfcanada.fticonsulting.com/wolverine>; (access free of charge); or upon written request to the Foreign Representative's United States counsel addressed to Munsch Hardt Kopf & Harr, P.C., Attention: John Cornwell, 700 Milam St., Suite 800, Houston, Texas 77002.

PLEASE TAKE FURTHER NOTICE that your rights may be affected. You should read the Verified Petition carefully and discuss it with your attorney, if you have one in connection with this chapter 15 case. If you do not have an attorney, then you may wish to consult one.

Dated: _____, 2024

MUNSCH HARDT KOPF & HARR, P.C.

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