

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

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In re:

FREEDOM PERFORMANCE LLC,

Case No.: 8:19-bk-05338-RCT

Debtor.

Chapter 7

**APPLICATION FOR ENTRY OF AN ORDER AUTHORIZING THE EMPLOYMENT
OF LISA M. CASTELLANO AND THE LAW FIRM OF GENOVESE JOBLOVE &
BATTISTA, P.A. AS COUNSEL TO CHAPTER 7 TRUSTEE**

STEPHEN L. MEININGER (the "Trustee"), as Chapter 7 Trustee of the bankruptcy estate of FREEDOM PERFORMANCE LLC (the "Debtor"), hereby files his *Application for Entry of an Order Authorizing the Employment of Lisa M. Castellano and the Law Firm of Genovese Joblove & Battista, P.A. as Counsel*, pursuant to Sections 327(a) and 330 of Title 11 of the United States Code (the "Bankruptcy Code"), and states in support thereof as follows:

Procedural Background

1. On June 4, 2019, (the "Petition Date"), the Debtor filed a voluntary petition for relief under Chapter 7 of the Bankruptcy Code with the Clerk of this Court.
2. On June 5, 2019, Stephen L. Meininger was appointed and continues to serve as the Chapter 7 Trustee of the Debtor's estate.
3. The Trustee requires the assistance of general counsel and has selected Lisa Castellano and the Law Firm of Genovese Joblove & Battista, P.A. (together, "GJB" to assist him in discharging his duties to the Debtor's estate.
4. Accordingly, the Trustee seeks this Court's approval of the employment of GJB as counsel.

Relief Requested

5. The Trustee seeks to employ GJB as his counsel.

6. The Trustee has selected GJB because the partners, counsel and associates of GJB have considerable experience in the fields of complex commercial bankruptcy proceedings, bankruptcy litigation, director and officer litigation, professional malpractice litigation, avoidance litigation, white collar criminal matters, insolvency, reorganizations, liquidations and debtors' and creditors' rights. Accordingly, the Trustee believes that GJB is well-qualified to represent his in connection with this case.

7. Ms. Castellano will be primarily responsible for GJB's representation of the Trustee in this case and will utilize the assistance of other attorneys at her firm as the circumstances of the representation may require.

8. The Trustee believes that GJB is qualified to represent him as counsel in this case in a most cost-effective, efficient and timely manner. Subject to the control and further order of this Court, the professional services that GJB will render to the Trustee shall include, but shall not be limited to, the following:

- a. to assist, advise and represent the Trustee in the investigation, formulation, filing, prosecution, negotiation and/or settlement of any and all litigation claims and causes of action available to the Debtor's estate, including, without limitation, avoidance actions under sections 542 through 550 of the Bankruptcy Code;
- b. to advise and assist the Trustee in the performance of his duties under the Bankruptcy Code, including to investigate the acts, conduct, assets, liabilities and financial condition of the pre-petition Debtor and to locate and repatriate assets of the estate;
- c. to attend meetings and negotiate with creditors and other parties-in-interest and advise and consult on the conduct of the case to the extent requested by the Trustee;
- d. to assist, advise and represent the Trustee in any other matter as directed by the Trustee; and

- e. to appear before this Court, any appellate courts, and the U.S. Trustee, and protect the interests of the Debtor's estate before such courts and the U.S. Trustee.

9. GJB intends to work closely with the Trustee and any other professionals he may employ in this case in order to ensure there is no unnecessary duplication of services performed on behalf of the Debtor's estate.

10. GJB has indicated a willingness to act on behalf of the Trustee and to render the necessary professional services as his counsel.

11. Subject to this Court's approval and further order of this Court, GJB will charge for its legal services on an hourly basis in accordance with its ordinary and customary hourly rates for services of this type and nature, and for this type of matter, in effect on the date such services are rendered, and for its actual, reasonable and necessary out-of-pocket disbursements incurred in connection therewith, as set forth more fully in the Declaration of Lisa M. Castellano (the "Castellano Declaration") attached hereto as *Exhibit 1*.

12. GJB has agreed to be compensated in accordance with the provisions set forth in Bankruptcy Code Section 330 and will apply to the Court for allowance of compensation and reimbursement of expenses in accordance with the applicable provisions of the Bankruptcy Code, Bankruptcy Rules, Local Bankruptcy Rules and orders of this Court. Compensation will be payable to GJB subject to order of this Court, on an hourly basis, plus reimbursement of actual, necessary expenses incurred by GJB.

13. To the best of the Trustee's knowledge, except as otherwise disclosed in the Castellano Declaration and in this Application, GJB and its respective attorneys have no connections with the Debtor, creditors, any other party in interest, their respective attorneys and accountants, the United States trustee, or any person employed in the office of the United States trustee.

14. To the best of the Trustee's knowledge, except as otherwise disclosed in the Castellano Declaration and this Application (i) GJB and its attorneys are "disinterested persons" as that phrase is defined in Bankruptcy Code Section 101(14), and (ii) GJB neither represents nor holds an interest adverse to the interest of the estate with respect to any matter on which GJB is to be employed.

15. The Trustee believes that the employment of GJB is in the best interests of the Debtor's estate and its creditors.

16. Except as set forth above, no prior application has been made for the relief requested herein to this or any other Court.

WHEREFORE, the Trustee respectfully requests the Court to enter an Order (i) approving the employment of GJB as counsel to the Trustee under the terms set forth herein and (ii) granting such further relief as the Court may deem just and proper.

DATED this 7th day of June 2019.

/s/ Stephen L. Meininger

Stephen L. Meininger, Chapter 7 Trustee
Stephen L. Meininger, P.A.
707 N. Franklin Street, Suite 850
Tampa, Florida 33602
Telephone: (813) 301.1025

GENOVESE JOBLOVE & BATTISTA, P.A.
Proposed General Counsel to the Chapter 7 Trustee
100 N. Tampa Street, Suite 2600
Tampa, Florida 33602
Telephone: (813)439.3100
Telecopier: (813)439.3159

By: /s/ Lisa M. Castellano

Lisa M. Castellano, Esq.
Florida Bar No. 748477
Email: lcastellano@gjb-law.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on June 7, 2019, I electronically filed the foregoing *Application for Entry of an Order Authorizing the Employment of Lisa M. Castellano and the Law Firm of Genovese Joblove & Battista, P.A. as General Counsel to the Chapter 7 Trustee*, with the Clerk of the Court using the CM/ECF System. The electronic case filing system sent a "Notice of Electronic Filing" to the attorneys of record who have consented in writing to accept this notice as service of this document by electronic means and a copy was also forwarded via first-class mail to all parties identified on the attached mailing matrix who are not registered users of the Court's CM/ECF System.

By: /s/ Lisa M. Castellano
Lisa M. Castellano, Esq.

SERVICE LIST

Served Via CM/ECF

James D. Jackman on behalf of Debtor Freedom Performance LLC
jackmanesq@aol.com, jackmanecfnotices@gmail.com; lorraine.jamesdjackmanesq@gmail.com;
tammey.jackmanlaw@gmail.com; ecf.jackmanlaw@gmail.com; r45207@notify.bestcase.com

Stephen L Meininger
SLMeininger@earthlink.net, smeininger@ecf.epiqsystems.com; FL38@ecfcbis.com

United States Trustee - TPA7/13
USTPRegion21.TP.ECF@USDOJ.GOV

Served Via U.S. First Class Mail to all Parties on the attached Mailing Matrix

EXHIBIT 1

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

In re:

FREEDOM PERFORMANCE LLC,

Case No.: 8:19-bk-05338-RCT

Debtor.

Chapter 7

**DECLARATION OF LISA M. CASTELLANO IN SUPPORT OF
APPLICATION FOR ENTRY OF AN ORDER
AUTHORIZING THE EMPLOYMENT OF GENERAL COUNSEL**

Lisa M. Castellano, pursuant to 28 U.S.C. § 1746, hereby deposes and states:

1. I am an attorney duly licensed and authorized to practice law in the State of Florida. I am also admitted to practice in the United States District Courts for the Northern, Southern, and Middle Districts of Florida.

2. I am an attorney with the law firm of Genovese Joblove & Battista, P.A. ("GJB" or the "Firm"). The Firm maintains offices at PNC Center, 200 East Broward Boulevard, Suite 1110, Fort Lauderdale, Florida 33301; Miami Tower, 100 S.E. 2nd Street, Suite 4400, Miami, Florida 33131; 1533 Hendry Street, Suite 301, Fort Myers, Florida 33901; and 100 North Tampa (Regions Building), 100 North Tampa Street, Suite 2600, Tampa, Florida 33602.

3. I am familiar with the matters set forth herein and make this Declaration in support of Stephen L. Meininger's (the "Trustee") *Application for Entry of an Order Authorizing the Employment of Lisa M. Castellano, and the Law Firm of Genovese Joblove & Battista, P.A. as General Counsel to Chapter 7 Trustee* (the "Employment Application").

4. In support of the Employment Application, I disclose the following:

a. Unless otherwise stated, this Declaration is based upon facts of which I have personal knowledge.

b. GJB maintains a computerized conflicts check system. GJB's client and adverse party conflicts check system is comprised of records regularly maintained in the course of business by GJB, and it is the regular practice of GJB to make and maintain these records. The system reflects entries that are noted at the time the information becomes known by persons whose regular duties include recording and maintaining this information. I regularly use and rely upon the information contained in the system in the performance of my duties with GJB and in my practice of law.

c. In preparing this Declaration, I have reviewed the list of all creditors in the above-captioned bankruptcy case via the Court's Case Management/Electronic Case Filing System. GJB has compared the information obtained in the list of creditors with the information contained in its client and adverse party conflict check system. The facts stated in this Declaration as to the relationship between GJB and Freedom Performance LLC. (the "Debtor"), the United States Trustee, other persons employed by the Office of the United States Trustee, and those persons and entities who are defined as disinterested persons in Section 101(14) of Title 11 of the United States Code (the "Bankruptcy Code"), are based on the results of my review of GJB's conflict check system. Based upon these methods, GJB does not represent any entity in any matter involving or adverse to the Debtor's estate or which would constitute a conflict of interest or impair the disinterestedness of GJB in respect of the matters upon which the Trustee proposes to employ GJB.

d. GJB neither holds nor represents any interest adverse to the Debtor and is a "disinterested person" within the scope and meaning of Bankruptcy Code Section 101(14) in respect of the matters upon which the Trustee proposes to retain GJB.

5. Neither I nor GJB has or will represent any other entity in connection with this case,

and neither I nor GJB will accept any fee from any other party or parties in this case, except the Trustee, unless otherwise authorized by the Court.

6. The professional fees and costs to be incurred by GJB in the course of its representation of the Trustee in this case shall be subject in all respects to the application and notice requirement of Bankruptcy Code Sections 330 and 331 and Bankruptcy Rules 2014 and 2016.

7. The hourly rates for the attorneys at GJB range from \$260.00 to \$695.00 per hour. My hourly rate for this representation is \$450.00 per hour. The hourly rates for paraprofessionals at GJB range from \$150.00 to \$195.00 per hour. GJB reserves the right to increase its hourly rates in accordance with its normal and customary business practices.

8. GJB would also seek reimbursement of its out-of-pocket expenses, whether incurred in connection with services provided in the main bankruptcy case or adversary proceedings.

9. There is no agreement of any nature as to the sharing of any compensation to be paid to GJB, except between the attorneys of GJB. No promises have been received by GJB, nor any member or associate thereof, as to compensation in connection with this case other than in accordance with the provisions of the Bankruptcy Code.

10. No attorney at GJB has any interest, direct or indirect, that may be affected by the proposed representation.

11. Except as set forth herein, no attorney at GJB has had or presently has any connection with the Debtor or the estate on any matters in which GJB is to be engaged.

12. GJB and its attorneys: (i) may have appeared in the past and may appear in the future in other cases in which one or more of the creditors or parties in interest in this case may be involved; and (ii) may represent or may have represented certain of the Debtor's creditors in

matters unrelated to this case.

13. This concludes my Declaration.

28 U.S.C. § 1746 Declaration

I declare under penalty of perjury that the foregoing is true and correct.

Dated: June 7, 2019.

By: /s/ Lisa M. Castellano
Lisa M. Castellano, Esq.