

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In Re: :
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Application for Exemption from the Electronic : General Order M-601
Public Access Fees by Jared Ellias, :
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This matter is before the Court upon the application and request by Jared Ellias (the "Applicant") for exemption from the fees imposed by the Electronic Public Access Fee Schedule adopted by the Judicial Conference of the United States Courts.

The Court finds, based upon the attached letter received on October 27, 2022, that the Applicant has demonstrated that an exemption is necessary in order to avoid unreasonable burdens and to promote public access to information.

Accordingly, the Applicant shall be exempt from the payment of fees for access via PACER to the electronic case files maintained in this Court to the extent such use is incurred in connection with the project described in the attached letter and application. The Applicant shall not be exempt from the payment of fees incurred in connection with other uses of the PACER system in this Court.

Additionally, the following limitations apply:

- 1. This fee exemption applies only to the Applicant, and is valid only for the purposes stated above.
- 2. This fee exemption applies only to the electronic case files of this Court that are available through the PACER system;
- 3. By accepting this exemption, the Applicant agrees not to sell for profit any data obtained as a result of receiving this exemption.
- 4. This exemption is valid from October 1, 2022 through December 31, 2023.

This exemption may be revoked at the discretion of the Court at any time. A copy of this Order shall be sent to the PACER Service Center.

Dated: November 22, 2022
New York, NY

/s/ Martin Glenn
MARTIN GLENN
Chief United States Bankruptcy Judge



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October 27, 2022

Hon. Martin Glenn
Chief Bankruptcy Judge
United States Bankruptcy Court for
The Southern District of New York
Courtroom: 523
One Bowling Green
New York, NY 10004-1408

Dear Honorable Judge Glenn:

I am writing to request a waiver of the electronic public access fees charged by your Court's PACER database.

By way of introduction, I am a Professor of Law at Harvard Law School conducting empirical research on corporate bankruptcy. My co-author Ken Ayotte, the Robert L. Bridges Professor of Law at the University of California, Berkeley School of Law, and I are working on a series of projects that rely on the text of bankruptcy court documents. We are using new methods of analyzing text to understand the ways that non-creditor stakeholders, like employees, affect bankruptcy decision-making. *In particular, we want to study the ways that debtors and creditor groups strategically make job protection arguments as a way of advancing their position in the case.* We are also interested in the circumstances surrounding discussion of the firm as a "melting ice cube" and how often motions to expedite and ignore deadlines from the Bankruptcy Rules are made, and under what conditions they are granted. We are excited to use new innovations in computerized text analysis to learn more about how bankruptcy court proceedings actually work. Many legal researchers and economists have been using similar methods to analyze securities filings, and their results have produced important new insight for the administration of securities law. We are hopeful our project will produce similar insights for bankruptcy lawyers and judges.

Our ongoing research efforts require that we collect a substantial amount of our data from bankruptcy filings. In 2016 and 2017, we received PACER waivers that allowed us



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to request information on large bankruptcy cases between 2004 and 2012. We now seek to bring our collection of documents “up to date” through the large bankruptcy cases of the COVID-19 pandemic so our research can be timelier and of greater use to the bar and judiciary in considering policy changes.

To give examples of our work-to-date, in our first project, *Bankruptcy Process for Sale*, published in the *Yale Journal on Regulation* in 2022, we used the data we gathered to learn more about the negotiations surrounding debtor-in-possession lending and financing motions. Our paper tested a hypothesis that there are certain situations in which we should worry that bankruptcy lenders do not have incentives to maximize firm value. Using the text we gathered we found that creditor’s committees were more likely to complain about excessive senior lender control over the debtor in the situations in which we worried that they would.

In another example, I used Rule 2019 statements filed by creditor groups in the sample to examine how they changed over the course of a bankruptcy case for a 2018 article, *Bankruptcy Claims Trading*, which was published in the *Journal of Empirical Legal Studies*. I showed that contrary to the fears of many scholars and commentators, creditor groups do not tend to change very much over the Chapter 11 process.

As academics, we do not have large amounts of resources to devote to paying *PACER* fees. Therefore, we are requesting a waiver of these fees for the calendar years 2022 and 2023. An exemption from the Judicial Conference’s Electronic Public Access Fee is necessary in order to avoid unreasonable burdens and to promote public access to information. We understand that this fee exemption will apply only to us, will be valid only for the research purposes stated above, and will apply only to the electronic case files of this court that are available through the *PACER* service. Further, we agree that any data received through this exemption will not be sold for profit, will not be transferred, will not be used for commercial purposes, and will not be redistributed via the Internet.

I believe our research will not only be of keen interest to legal and finance scholars, but also to the larger community of bankruptcy professionals, including judges, attorneys,



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and bankruptcy trustees. For your reference, my PACER account number is jelliashls.
Thank you for your consideration.

Sincerely,

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Phone: (248) 505 2564

cc: Ken Ayotte, Robert L. Bridges Professor of Law at University of California, Berkeley
School of Law
Alina Kilcoyne, Harvard Law School Faculty Support