

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MASSACHUSETTS
WESTERN DIVISION

In re	}	Chapter 11, No. 09-30623-HJB
ERVING INDUSTRIES, INC., et al	}	(Jointly Administered)
Debtor	}	

FIFTH INTERIM APPLICATION FOR ALLOWANCE OF FEES AND EXPENSES
BY BRANN & ISAACSON, SPECIAL COUNSEL FOR EMPLOYMENT AND LABOR LAW
TO THE CHAPTER 11 DEBTOR

Submitted by:
George S. Isaacson
Brann & Isaacson
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gisaacson@brannlaw.com

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UNITED STATES BANKRUPTCY COURT
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WESTERN DIVISION

In re)	Chapter 11, No. 09-30623-HJB
ERVING INDUSTRIES, INC., et al)	(Jointly Administered)
Debtor)	

**FIFTH INTERIM APPLICATION FOR ALLOWANCE OF FEES AND EXPENSES
BY BRANN & ISAACSON, SPECIAL COUNSEL FOR EMPLOYMENT AND LABOR LAW
TO THE DEBTOR**

To the HONORABLE HENRY J. BOROFF, Bankruptcy Judge:

NOW comes your Applicant Brann & Isaacson the special counsel for employment and labor law issues employed by the Debtors in the above-captioned, jointly administrated case and pursuant to sections 330 and 331 of the Bankruptcy Code, Rule 2016 of the Federal Rules of Bankruptcy Procedure, and Rule 2016-1 of the Local Bankruptcy Rules (MLBR), and a Case Management Order dated April 22, 2009 and request the award of fees and reimbursement of out-of-pocket expenses incurred in connection with services rendered to the Debtors. In support of its Application Brann & Isaacson represents as follows:

1. On April 20, 2009, the Debtors, Erving Industries, Inc. ("EII"), Erving Paper Mills, Inc. ("Paper") and ERSECO, Inc. ("ERSECO") filed Voluntary Petitions seeking relief under the provisions of Chapter 11 of the Bankruptcy Code. Since the commencement of the case, these Debtors have continued to operate their business and manage their affairs as Debtors-In-Possession. An Order providing for Joint Administration with Erving Industries, Inc. was entered two days after the initial filing.

2. Among the first day Orders entered on April 22, 2009, was an Order providing for the employment of your Applicant. A copy of the Order is annexed hereto as Exhibit "A".

3. Pursuant to MLBR 2016-1, your Applicant has attached a brief biography of those individuals who have contributed services to the Debtors. These documents are marked Exhibit "B".

4. During the time period of September 1, 2010 through December 31, 2010, Brann & Isaacson has contributed over 17 hours of professional services, billed at an average hourly rate of \$287.50.

5. This Applicant seeks an allowance of fees for professional services in the amount of \$4,591.25, together with \$4.00 as reimbursement of reasonable and necessary out-of-pocket expenses incurred.

6. Pursuant to a Case Management Order entered on April 22, 2009, your Applicant has submitted monthly invoices detailing the time devoted, the professional devoting services, the billing rate, and a brief description of the services provided. Absent objection, these invoices have been paid subject to a 10% holdback on fees all as more fully set forth by the Case Management Order.

7. Among the services performed by your Applicant during the time period covered by this Application are:

Union Issues: Advice to Debtor on employee grievance and other employee matters.

8. Exhibit "C" attached to this Application contains details of the services provided, the time expended, identification of the individual providing the services and their applicable billing rates.

9. The fees requested in this Application represent reasonable compensation for actual and necessary services rendered in connection with representing the Debtors' interest in

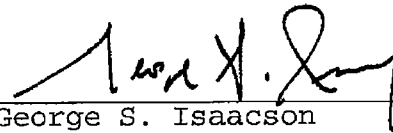
this Chapter 11 case, and will not be shared, pooled or divided with any other person or firm. As evidenced by Exhibit "C", the services rendered by your Applicant have been sufficiently well defined so as to avoid duplication of professional services.

WHEREFORE your Applicant respectfully requests the entry of an Order awarding fees in the amount of \$4,591.25, together with reimbursement of out-of-pocket expenses totaling \$4.00.

BRANN & ISAACSON

Dated: February 9, 2011

By:



George S. Isaacson
Partner

Brann & Isaacson
P.O. Box 3070, Lewiston ME 04243
207-786-3566
gisaacson@brannlaw.com

SUMMARY SHEET

(Per UST Guidelines)

In re)	
)	Chapter 11, No. 09-30623-HJB
ERVING INDUSTRIES, INC. et al)	(Jointly Administered)
)	
Debtors)	

Fees Previously Requested \$104,581.50
Fees Previously Awarded \$104,581.50

NAME OF APPLICANT:
Brann & Isaacson

Expenses Previously Requested \$ 3,154.02
Expenses Previously Requested \$ 3,154.02

ROLE IN CASE:
Special Counsel for
Employment & Labor

Retainer \$25000.00

CURRENT APPLICATION:
Fees Requested: \$4,591.25
Expenses Requested: \$4.00

FEE APPLICATION

<u>PARTNERS</u>	<u>Hours Billed</u>	<u>Rate</u>	<u>Total for Application</u>
George S. Isaacson	4.0	\$340	\$1,360.00
Daniel C. Stockford	13.75	235	3,231.25

TOTAL BLENDED HOURLY RATE: \$287.50

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MASSACHUSETTS
WESTERN DIVISION

In re)	Chapter 11, No. 09-30623-HJB
ERVING INDUSTRIES, INC., et al)	(Jointly Administered)
Debtor)	

ORDER ON FIFTH INTERIM APPLICATION FOR ALLOWANCE OF FEES AND EXPENSES
BY BRANN & ISAACSON SPECIAL COUNSEL FOR EMPLOYMENT AND LABOR TO THE
CHAPTER 11 DEBTORS

At Springfield, in said District, on this the _____ day of _____, 2011.

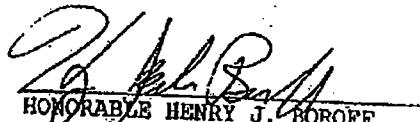
Upon consideration of the Application of Brann & Isaacson in the above matter, seeking the award of an interim allowance of fees and expenses, after notice and hearing and for cause shown, it is hereby

ORDERED that the firm of Brann & Isaacson be awarded fees in the amount of \$4,591.25 for professional services rendered together with reimbursement for out-of-pocket expenses in the amount of \$4.00 incurred during the period from September 1, 2010 through December 31, 2010.

By: _____
HONORABLE HENRY J. BOROFF
Bankruptcy Judge

Counsel is necessary and in the best interest of the Debtor and its estate. It is hereby

ORDERED that the Debtor is authorized to employ the law firm of Brann & Isaacson, LLP of Lewiston, Maine as Special Counsel for Employment and Labor Law issues on the terms and conditions set forth in the attached application.


HONORABLE HENRY J. BOROFF
Bankruptcy Judge

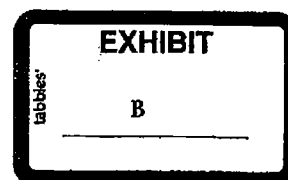
ATTORNEY BIOGRAPHIES

GEORGE S. ISAACSON, Partner

Mr. Isaacson is a graduate of Bowdoin College and the University of Pennsylvania Law School. He is an adjunct faculty member at Bowdoin College where he teaches courses on Constitutional Law, Comparative Constitutional Law, and Education and the Law. He has also previously taught at the University of Maine School of Law. He represents a diverse group of private-sector and public-sector employers on labor relations matters. His areas of legal counsel to employers include: (1) assistance in developing personnel policies and procedures; (2) advice for discharge and other disciplinary matters; (3) advice for FMLA, ADA and leave issues; (4) advice for workforce restructuring and reductions in force; (5) representation in employment discrimination cases before the Equal Employment Opportunity Commission and the state human rights commissions; (6) representation of employers in federal and state courts; (7) negotiation of employment agreements and separation and severance agreements; (8) negotiation of collective bargaining agreements; (9) representation in connection with Occupational Safety and Health Administration investigations and enforcement actions; (10) representation in unfair labor practice complaint proceedings before the National Labor Relations Board. He is also the past Chairman of the Maine Supreme Court Advisory Committee on the Rules on Evidence and served on the Federal First Circuit Court of Appeals Rules Committee. He is a frequent speaker on labor law issues and has written widely on the subject.

DANIEL C. STOCKFORD, Partner

Mr. Stockford graduated cum laude from the University of Massachusetts and magna cum laude from Boston College Law School. He serves as labor counsel for a wide range of public and private sector employers. He has defended clients in claims filed with the NLRB and EEOC, as well as with state labor relations board and human rights commissions. Mr. Stockford is an Editor of the Maine Employment Law Letter, published by M. Lee Smith Publishers and President of the Maine Council of School Board Attorneys. He is also a member of the National Council of School Board Attorneys, the Society for Human Resource Management, and the Labor and Employment Law Sections of the Maine State and American Bar Associations.



BRANN & ISAACSON

ATTORNEYS AND COUNSELORS AT LAW

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(207) 786-3566

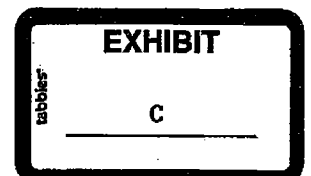
January 4, 2011

ERVING INDUSTRIES, INC.
Attn: Denis Emmett, CFO
97 East Main Street
Erving, MA 01344

RE: Union Issues
Matter No. M02900-01
Statement No. 378543

FOR PROFESSIONAL SERVICES RENDERED 9/01/10 THROUGH 9/30/10:

Legal Fee:	\$1,821.25	
Less 10%	182.13	
Disbursements:	\$ 4.00	
AMOUNT DUE:		\$1,643.12



9/02/10	DCS	Receipt and review draft agreement with USW	.4
	DCS	Edit agreement with USW	1.1
	DCS	Memorandum to Mary Amero re edited agreement with USW	.1
9/07/10	DCS	Receipt and review memorandum from Mary Amero re status of employee on leave	.3
	DCS	Review collective bargaining agreement	.2
	DCS	Memorandum to Mary Amero and Tom Newton re employee on leave and employment status	1.4
9/08/10	DCS	Receipt of doctor's note re employee's medical condition	.3
	DCS	Review collective bargaining agreement	.2
9/09/10	DCS	Receipt of memorandum from Mary Amero re employee on leave	.2
	DCS	Draft letter to employee	1.3
	DCS	Memorandum to Mary Amero re draft letter to employee	.2
	DCS	Memorandum to Mary Amero re COBRA	.3
9/10/10	DCS	Telephone conference with Mary Amero re letter to employee	.25
9/15/10	DCS	Receipt of memorandum from Mary Amero re employees on leave	.2
9/20/10	DCS	Telephone conference with Tom Newton re grievance on layoff and bumping related to shutdown	.3
9/21/10	DCS	Review file and collective bargaining agreement re layoff and shutdown	.7
	DCS	Telephone conference with Tom Newton re layoff and shutdown	.3

Legal Fee: \$1,821.25

TIMEKEEPER SUMMARY:

Timekeeper	Position	Hours	Rate	Amount
DAN STOCKFORD	Partner	7.75	\$235.00	\$1,821.25

Disbursements:

Date	Disbursement Description	Amount
9/30/10	Telephone Expense	4.00

Erving Industries, Inc.
January 4, 2011
Page 3

Total Disbursements: \$ 4.00

BRANN & ISAACSON
ATTORNEYS AND COUNSELORS AT LAW

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P.O. BOX 3070
LEWISTON, MAINE 04243-3070
(207) 786-3566

January 5, 2011

ERVING INDUSTRIES, INC.
Attn: Denis Emmett, CFO
97 East Main Street
Erving, MA 01344

RE: Union Issues
Matter No. M02900-01
Statement No. 378544

FOR PROFESSIONAL SERVICES RENDERED 10/01/10 THROUGH 10/31/10:

Legal Fee:	\$1,860.50	
Less 10%	186.05	
AMOUNT DUE:		\$1,674.45

10/05/10	GSI	Telephone conference with Tom Newton re grievances	.3
	GSI	Receipt and review email from Tom Newton re labor grievances	.4
	DCS	Receipt and review memorandum from Tom Newton re grievances	.4
10/07/10	GSI	Review draft responses to pending grievances and relevant contract provisions	.9
	GSI	Telephone conference with Tom Newton re review of background facts relating to four pending grievances and appropriate Company responses to same	.9
	DCS	Review files	.3
	DCS	Intraoffice conference re pending grievances	.4
	DCS	Telephone conference with Tom Newton re pending grievances	.9
10/25/10	DCS	Erseco: Review memorandum from Mary Amero re declaration and filling of vacancy and review collective bargaining agreement	1.3
	DCS	Erseco: Telephone conference with client re same	.3
10/28/10	DCS	Receipt of memorandum from client re vacancy	.2
	DCS	Review collective bargaining language and draft memorandum to client	.5

Legal Fee: \$1,860.50

TIMEKEEPER SUMMARY:

Timekeeper	Position	Hours	Rate	Amount
GEORGE ISAACSON	Partner	2.5	\$340.00	\$ 850.00
DAN STOCKFORD	Partner	4.3	\$235.00	\$1,010.50

BRANN & ISAACSON

ATTORNEYS AND COUNSELORS AT LAW

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January 6, 2011

ERVING INDUSTRIES, INC.
Attn: Denis Emmett, CFO
97 East Main Street
Erving, MA 01344

RE: Union Issues
Matter No. M02900-01
Statement No. 378545

FOR PROFESSIONAL SERVICES RENDERED 11/01/10 THROUGH 11/30/10:

Legal Fee: \$347.50

Less 10% 34.75

AMOUNT DUE: \$312.75

Erving Industries, Inc.

January 6, 2011

Page 2

11/22/10	DCS	Receipt and review memorandum from Tom Newton re dues deductions	.2
	DCS	Review collective bargaining agreement	.3
11/30/10	GSI	Review memorandum from Tom Newton re USW demand for new calculation of union dues	.3
	GSI	Email correspondence to client requesting additional information	.1
	DCS	Review labor contract	.2
	DCS	Intraoffice conference re dues deductions	.2

Legal Fee: \$347.50

TIMEKEEPER SUMMARY:

Timekeeper	Position	Hours	Rate	Amount
GEORGE ISAACSON	Partner	.4	\$340.00	\$ 136.00
DAN STOCKFORD	Partner	.9	\$235.00	\$ 211.50

BRANN & ISAACSON

ATTORNEYS AND COUNSELORS AT LAW

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P.O. BOX 3070
LEWISTON, MAINE 04243-3070
(207) 786-3566

January 7, 2011

ERVING INDUSTRIES, INC.
Attn: Denis Emmett, CFO
97 East Main Street
Erving, MA 01344

RE: Union Issues
Matter No. M02900-01
Statement No. 378546

FOR PROFESSIONAL SERVICES RENDERED 12/01/10 THROUGH 12/31/10:

Legal Fee: \$562.00

Less 10% 56.20

AMOUNT DUE: \$505.80

12/01/10	GSI	Analyze alternative strategies for responding to union demand for new formula calculation of dues	.4
	GSI	Telephone conference with Tom Newton and Mary Amero re assessment of legal position, cost of complying with union demand and possible response	.4
	DCS	Receipt and review documents re past practice of dues deductions	.2
	DCS	Intraoffice conference re dues deductions	.2
	DCS	Conference call with Tom Newton re dues deductions	.4
12/02/10	DCS	Review fee application and participate in hearing re attorneys' fees	n/c
12/28/10	GSI	Review labor agreement and correspondence to Tom Newton re 401K contributions	.3

Legal Fee: \$562.00

TIMEKEEPER SUMMARY:

Timekeeper	Position	Hours	Rate	Amount
GEORGE ISAACSON	Partner	1.1	\$340.00	\$ 374.00
DAN STOCKFORD	Partner	.8	\$235.00	\$ 188.00

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MASSACHUSETTS

_____))
In re) Chapter 11, No. 09-30623-HJB
) (Substantively Consolidated)
ERVING INDUSTRIES, INC.))
))
Debtor))
_____)

CERTIFICATE OF SERVICE

I, HENRY E. GEBERTH, JR., ESQ. of the law firm of HENDEL & COLLINS, P.C., 101 State Street, Springfield, Massachusetts do hereby certify that on the 14th day of February, 2011, I caused a copy of the Fifth Interim Applications for Allowance of Fees and Expenses by Brann & Isaacson, Special Counsel for Employment and Labor Law to be served upon all of the parties listed on the attached Exhibit "A", not noted as having received service electronically via ECF, by first class mail, postage prepaid.

/s/ Henry E. Geberth, Jr.
HENRY E. GEBERTH, JR., ESQ.
(BBO No. 187940)
For HENDEL & COLLINS, P.C.
101 State Street
Springfield, MA 01103
Tel. (413) 734-6411
hgeberth@hendelcollins.com

EXHIBIT "A"

ERVING INDUSTRIES, INC.
ERVING PAPER MILLS, INC.
ERSECO, INC.
97 Main Street
Erving, MA 01344

Northstar Pulp and Paper
c/o David Shrair, Esq.
COOLEY SHRAIR, P.C.
1380 Main Street
Springfield, MA 01103

Canusa Hershman Recycling
c/o Barry Feigenbaum, Esq.
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CityPlace I, 22nd Floor
185 Asylum Street
Hartford, CT 06103-3460

RECYCLE AMERICA
6255 Sheridan Drive
Suite 412
Williamsville, NY 14221-4836

HERCULES, INC.
Customer Service Dept.
Wilmington, DE 19894-0001

NALCO COMPANY
1 Park West Circle
Suite 102
Midlothian, VA 23114-5551

UNITED PAPER STOCK COMPANY
33 India Street
Pawtucket, RI 02860-5521

DK TRADING CORP., INC.
41 Marshwood
Clarks Summit, PA 18411-9174

ALBANY INTERNATIONAL
P.O. Box 1109
Albany, NY 12201-1109

CLINTON RECYCLING &
CONVERTING
2 Pullman Street
Worcester, MA 01606-3311

FIRST CAPITAL FIBERS
500 North State Street
York, PA 17403

ASHLAND DISTRIBUTION CO.
5200 Blazer Parkway
Dublin, OH 43017

MID-ATLANTIC FIBERS, INC.
901 Park Drive
Cherry Hill, NJ 43017

UNIVAR USA, INC.
P.O. Box 730
Salem, MA 01970

AMERICAN INDEPENDENT PAPER
MILL
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Craig T. Fessenden, Esq.
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CORP.
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Washington, D.C. 20005

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ENVIRONMENTAL PROTECTION
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Concord, MA 01742

U.S. ARMY CORP. OF ENGINEERS
c/o Wesley Miller (CERM-Z)
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Washington, D.C. 20314

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Worcester, MA 01608

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Foxboro, MA 02035-5309

WALKER WELLINGTON ASSOC.
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Eliot, ME 03903-2147

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c/o Mr. Roger Guathier
4801 Southwick Drive
Suite 200
Matteson, IL 60443-2277

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East Templeton, MA 01438

HYDRITE CHEMICAL
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Milwaukee, WI 53223-3338

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213 West Wayne Street
Fort Wayne, IN 46802-3605

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25 Chenell Drive
Concord, NH 03301-8539

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NEW ENGLAND BPC
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Alfred Gordon, Esq.
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Waltham, MA 02452-4644

Town of Erving
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Richard Lipson, Sales Mgr.
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Shrewsbury, MA 01545

Stephen Byrne, Director of
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Boston, MA 02109

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Framingham, MA 01701

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Waltham, MA 02451

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INC.
53 Southampton Road
Westfield, MA 01085-1582

Global Partner, LP
Global Montello Group Corp.
c/o Stephen F. Gordon, Esq.
Todd B. Gordon, Esq.
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