

# IBC-IBTNNC

**Interstate Brands Corporation – International Brotherhood of Teamsters  
National Negotiating Committee**

25 Louisiana Avenue, NW, Washington, DC 20001



**TO: ALL IBT LOCAL UNIONS WITH MEMBERS FORMERLY EMPLOYED BY  
HOSTESS BRANDS**

**FROM: IBC-IBT NATIONAL NEGOTIATING COMMITTEE**

**DATE: February 14, 2013**

**RE: *IN RE HOSTESS BRANDS, et al.*; MARCH 28, 2013 BAR DATE FOR FILING  
REQUESTS FOR PAYMENT OF ADMINISTRATIVE EXPENSE CLAIMS**

The Bankruptcy Court has set a bar date of Thursday, March 28, 2013 at 5:00 p.m. Eastern for the filing of "Requests for Payment of Administrative Expense Claims" - claims that arose or are deemed to have arisen on or after the January 11, 2012 bankruptcy filing through January 31, 2013. These Requests for Payment of Administrative Expense Claims (with the attachment explained below) **must be received** at the addresses provided in the claim form notice. **THIS DEADLINE IS EXTREMELY IMPORTANT SO FILL OUT, EXECUTE AND MAIL IN TIME - WE URGE YOU TO USE OVERNIGHT DELIVERY, WITH PROOF OF RECEIPT, TO THE FOLLOWING:**

Hostess Brands Claim Processing Center  
c/o Kurtzman Carson Consultants LLC  
2335 Alaska Avenue  
El Segundo CA 90245

*Service by electronic mail or fax IS NOT VALID. You must mail, overnight mail, or hand deliver your claim form **so it is received** at the California address for receipt by 5:00 p.m. (Eastern) on Thursday, March 28, 2013*

We also urge you to: (1) send a copy of the form and all attachments in a stamped, self-addressed envelope so you can receive a time-stamped copy showing when it was filed, and (2) send a copies to: (a) the **IBC-IBT National Negotiating Committee's bankruptcy counsel (Cohen, Weiss and Simon LLP c/o Peter Ellis, paralegal) and (b) Teamsters Bakery and Laundry Conference counsel (George Faulkner) at the addresses shown on the last page of these guidelines.**

You should also review the “Notice of Deadlines for Filing of Postpetition Administrative Claim Request Forms” and these materials with your Local Union’s attorney.

A Notice and claim form related to this Order have been or should be sent to all unions.

The IBC-IBT National Negotiating Committee has partially completed some of the claim form distributed by the Company and converted it to Microsoft Word format so that your Local Union and/or its legal counsel can easily download the form and fill in the required information necessary to perfect your administrative claim. We have also prepared an attachment to the claim form that will need to be completed. (the pages following the claim form itself are general instructions distributed by the Company - the instructions that are enclosed have been prepared specifically for IBT affiliates)

**IF THERE ARE ANY INDIVIDUALS WHO ARE RECEIVING WORKER’S COMPENSATION OR HAVE A PENDING WORKERS COMPENSATION CLAIM (OR WHO HAVE ANY OTHER CLAIM THAT DOES NOT ARISE UNDER THE COLLECTIVE BARGAINING AGREEMENT, LIKE AN OSHA OR DISCRIMINATION CLAIM) IT IS IMPORTANT THAT YOU NOTIFY THEM AND ADVISE THEM TO CONSULT WITH THEIR INDIVIDUAL ATTORNEY ABOUT FILING A CLAIM FORM FOR RECEIPT BY THE THURSDAY, MARCH 28, 2013 BAR DATE, EVEN IF THEY FILED A CLAIM FORM BY THE PRIOR BAR DATE. PLEASE REMEMBER THAT ALL CLAIM FORMS MUST BE MAILED, OVERNIGHT MAILED, OR HAND DELIVERED AND RECEIVED AT THE CALIFORNIA ADDRESS SO THEY ARE RECEIVED BY MARCH 28<sup>TH</sup>. ELECTRONIC CLAIMS (I.E., EMAIL OR FAXED CLAIMS) ARE NOT VALID.**

**UNDER THE BAR DATE ORDER UNIONS MUST FILE FOR ALL CLAIMS FOR PAYMENTS OWED UNDER CBAS, AND INDIVIDUALS MAY NOT, SO IT IS IMPORTANT THAT YOU INFORM MEMBERS WHO ARE FORMER HOSTESS EMPLOYEES TO PROVIDE YOU WITH ANY AND ALL INFORMATION ON CBA CLAIMS THAT THEY WANT INCLUDED ON A CLAIM FORM.**

Here is a step-by-step guide to the claim form and attachment (please note that this guide has been prepared for the benefit of all IBT Local Unions having contracts with the Company, or one of its affiliates. Accordingly, please make sure that you carefully review your Local Union’s particular collective bargaining agreement(s) to make sure that all available administrative claims are asserted and filed). This guide corresponds line by line with the required response items contained on the claim form:

**Court, Name of Debtor, and Case Number:**

A separate claim form and attachment must be filed **for each debtor** whose employees your Local Union represents. Since we believe most if not all IBT Locals represent employees of the Interstate Brands Corporation Debtor, Bankruptcy Case No. 12-22055, we have filled in the Company name and Case number on the sample form that is attached. However, if one of your labor contracts is with one of the following companies you must file a separate claim form with the name of the Company and the Case Number for the Company filled in. **YOU MUST FILE ONE CLAIM FORM FOR**

**EACH HOSTESS-AFFILIATED COMPANY WITH WHICH YOUR LOCAL UNION HAD A CONTRACT.**

Hostess Brands, Inc.	12-22052
IBC Sales Corporation	12-22051
IBC Services, LLC	12-22054
IBC Trucking, LLC	12-22053
Interstate Brands Corporation	12-22055
MCF Legacy, Inc.	12-22056

**Name of Creditor Creditor's Name and Address:** Fill in the full name of your Local Union

**Name and address where notices should be sent:** Fill in either the name of the individual at your Local Union who should receive any notices or the name of your Local Union's attorney() if you would like them to receive notices about the claim.

**Name and address where payment should be sent (if different from above):** This should be the name of the person at your Local Union (either the Principal Officer or other another designated person) who should receive a payment if any distribution is made through the bankruptcy process

**1. Amount of Claim as of Administrative Claim:**

This should be the total of all amounts you estimate on the attachment and **should be the same number listed below item 1.I. of the attachment (see below).**

**2. Basis for Administrative Claim:**

We have inserted "contractual and statutory, services performed, and wages, salaries, benefits"

**3. Last Four Digits of Any Number by Which Creditor Identifies Debtor:**

We have marked "N/A" assuming this is not applicable, but if you have such a number fill it in, or you may want to fill in the last four digits of your Local Union's Employer Identification Number (EIN) that has been assigned to your Local Union by IRS.]

**4. Date Claim Arose -**

We have filled in the entire filing period from the January 11, 2012 bankruptcy filing date to January 31, 2013.

**5. Credits:**

We have stated that this should not be applicable since everything listed on the claim form should be amounts still owed.

**6. Documents:**

We have added language to the attachment that the debtors have copies of the collective bargaining agreements upon which claims are based. If any part of your Local Union's claim is based on grievances, arbitration decisions, NLRB ULP charges, or lawsuits, you should attach copies of those documents to the claim form.

## **7. Date and Signature:**

We have marked the “I am the claimant” box because it should be an authorized representative of the Local Union who actually signs and executes the claim form.

Along the left hand side print your name, title, the name of the Local Union (where it says “Company”). List your Local Union’s address and phone number only if they are different than what is provided above at the top of this form under “Name and address where notices should be sent” (for example, if you listed your Local Union counsel’s name and address there).

**Do not forget to sign and date the claim form where it says ‘Signature’ and date on the right hand side under 7.**

Criminal penalties apply for knowingly making a false statement on a proof of claim form, so be as accurate as you can at this time. This statement says the form is “true and correct to the best of my knowledge, information, and belief,” and on the attachment we have added a statement that these good faith estimates to the best of your knowledge. Accordingly, the amounts and information provided should be as accurate as possible, but they are not required to be exact if only an estimate is available.

## **The Attachment**

As mentioned above, we have prepared an attachment specifically designed for Local Unions, to be completed and stapled to each claim form.

The attachment generally makes a claim for either estimated or unliquidated amounts due under various categories under the CBA, as well as reservation of various rights and priorities and a statement that the amounts are reasonable, good faith estimates. Again, feel free to review these forms with your Local Union’s attorney and make any changes you believe are necessary and appropriate. If you can estimate the amounts due under any categories on item 1 you should add that where provided.

## **Make sure that you to fill out in item 1 on the attachment:**

-Under **Section 1.a**, fill in any wage, shift differential, or premium pay amounts that you know are owed to your members, and list such amounts (with a description) in a separate attachment.

-Under **Section 1.b.**, fill in a list of any **grievances, arbitration awards, lawsuits, and NLRB ULP charges** that your Local Union has pending with the Company, along with identifying information and the estimated amount due on said claims on the left side of item 1a on page two. Next, add up the estimated amounts due and the total for this

category on the right side bottom opposite item 1.a. *If you don't have enough room add an extra paper with the additional cases.*

-Under **Section 1.c.**, fill in any **unpaid benefit fund contributions** (e.g. health and welfare and (if appropriate) pension contributions) based on work performed by your Local Union's members after the January 11, 2012 bankruptcy filing date through January 31, 2013.<sup>1</sup>

-**Section 1.d.** deals with accrued and unpaid **vacation pay**. The IBC - IBT National Negotiating Committee has forwarded to your Local Union the Company's calculations of post-petition vacation pay (vacation pay earned after the January 11, 2012 bankruptcy filing date through January 31, 2013) owed to employees represented by your Local Union, and we offer no opinion whatsoever whether such calculations are correct and/or complete.

If you agree with the Company's calculation of accrued and unpaid vacation pay, please fill in the "x" for the first box ("Claimant agrees") listed under vacation pay in **1.d.**

If you do not agree with at least some of the Company's vacation pay calculations, mark the second box under **1.d** *and attach a list of the employees, along with the amounts that differ from the Company's vacation pay calculations and include the total here.* Remember that this section should include all accrued vacation earned in 2011 and not received in 2012, AND all accrued vacation earned in 2012 (through the furlough date of November 21, 2012) and not received in 2013.

-**Section 1.e.** deals with **unpaid sick pay** earned after the January 11, 2012 bankruptcy filing date through January 31, 2013 and not paid. With regard to sick days, this applies only to the extent that employees are able to "cash out" those days for pay under your particular contract. Please include a total amount due, and on an attachment, a list of employees and the amount of money that each listed employee is owed under this category, and identify the reason(s) for which such payment is owed.

-**Section 1.f.** deals with **personal days, holidays, and other paid days** (including birthdays, if provided under the collective bargaining agreement) earned after the January 11, 2012 bankruptcy filing date through January 31, 2013 and not paid. With regard to these categories, this applies only to the extent that employees are able to "cash out" those days for pay under your particular contract. Please include a total amount due, and on an attachment, a list of employees and the amount of money that each listed employee is owed under this category, and identify the reason(s) for which such payment is owed.

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<sup>1</sup> The Teamsters Health and Welfare and (if appropriate) Pension Funds themselves should also be making claims for unpaid contributions. If they are doing so, your Local Union is not required to file for them but may do so as well.

**-Section 1.g.** deals with **severance pay**. The IBC - IBT National Negotiating Committee has forwarded you the Company's calculations of post-petition severance pay (severance pay earned after the January 11, 2012 bankruptcy filing through January 31, 2013) owed to employees represented by your Local Union, and we offer no opinion whatsoever whether such calculations are correct and/or complete.

If you agree with the Company's calculation please fill in the "x" for the first box listed under severance pay in **1.f.**

If you do not agree with at least some of Company's severance pay calculations, mark the second box under **1.f.** *and attach a list of the employees, along with the amounts that differ from the Company's severance pay calculations and include the total here.*

**-Section 1.h.** deals with any **unpaid medical or health plan expenses due and owing under the collective bargaining agreement**. Please include a total and attach a list of any individuals and amounts and types of expenses making up the totals. You do not need to list amounts for benefits covered by the Company's own health care plan because such benefits are exempted from the bar date order.

**-Section 1.i.** deals with **other expenses**. Please include a total and attach a list of any individuals and amounts making up the totals.

**Section 1.j.** deals with **contractual notice pay**. If your Local Union contract requires notice prior to furlough and/or termination and you believe that the Company violated this provision during the period January 11, 2012 through January 31, 2013, please list a claimed amount here, along with a backup calculation sheet if you can.

**Section 1.k.** deals with claims under the federal **WARN ACT** and any applicable **state WARN Act** statutes. Several law firms are pursuing a consolidated WARN Act lawsuit in the bankruptcy court. They seek to represent classes of all relevant employees of the Hostess debtors, union and non-union, although no class has been certified as of yet. The Company is expected to raise numerous defenses, including that any mass layoff or shut down was caused by a strike. This provision makes a claim on behalf of all employees represented by your Local Union under the federal and state WARN Acts.

**Section 1.l.** leaves a place for any **other contractual claims** that your Local Union may have. If you have other contractual claims, describe them in this space and include your calculations on the provided value line or on an attachment. Of course, you can add additional "other contractual claims" on a separate attachment if needed.

**Section 1.m** is a **general catch-all**.

**In the space underneath Section 1.l, the total of all amounts (lines "a" through "l" and any supplemental pages) that you have given an estimate for on this attachment. Note that this total should be the same total dollar amount listed in item I of the claim form itself.**

***In summary, please insert your name and Local Union's address at the top of the claim form, the total estimated amount of your Local Union's contract related claims in item 1, sign and date the claim form, then fill out the information on the attachment, staple the attachment and any supplemental pages to the claim form, and mail (or hand deliver) the entire package to the California address provided above so that it is received no later than 5:00 p.m., Eastern, on Thursday, March 28, 2013.***

***We also urge you to also enclose a copy of the claim form in a stamped, self-addressed envelope so you can receive a time-stamped copy of the claim form showing when it was filed, and also send a copies of your completed claim form and attachments to the IBC-IBT National Negotiating Committee's bankruptcy counsel (Cohen, Weiss and Simon LLP c/o Peter Ellis) and to Teamsters Bakery and Laundry Conference counsel (George Faulkner), as follows:***

**Cohen, Weiss and Simon LLP  
330 West 42nd Street,  
New York, N.Y. 10036  
Attention: Peter Ellis, Paralegal**

**George H. Faulkner, Esq.  
Faulkner, Hoffman & Phillips,LLC  
20445 Emerald Parkway, Suite 210  
Cleveland, OH 44135**

***If you have any questions regarding the claims process or regarding completion of these forms, please call or email the following. While both firms will work with you, contractual questions are best addressed to the Faulkner, Hoffman & Phillips, LLC firm and bankruptcy questions to the Cohen Weiss and Simon LLP firm:***

**Richard M. Seltzer, Esq.  
(212) 356-0219  
rseltzer@cwsny.com**

**George H. Faulkner, Esq.  
(216) 781-3600  
faulkner@fhplaw.com**

**Peter Ellis, Paralegal  
(212) 356-0257  
pellis@cwsny.com**

**Joseph D. Mando, Esq  
(216) 781-3600  
mando@fhplaw.com**