

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re

Rental Car Intermediate Holdings, LLC,¹

Reorganized Debtor.

Chapter 11

Case No. 20-11247 (MFW)

Re: Main D.I. 5898 & D.I. 190²

**REORGANIZED DEBTOR’S PRELIMINARY SUPPLEMENTAL OBJECTION TO
(I) CLAIMANTS’ MOTION TO DEEM CLAIMS TIMELY OR FOR EXTENSION OF
GENERAL BAR DATE UNDER RULES 3003(C) AND 9006 AND (II) GROUP 4 FALSE
POLICE REPORT CLAIMANTS’ MOTION FOR RELIEF FROM THE
CONFIRMATION ORDER TO PURSUE CLAIMS OUTSIDE OF BANKRUPTCY OR,
IN THE ALTERNATIVE, FOR EXTENSION OF GENERAL AND ADMINISTRATIVE
BAR DATES UNDER RULES 3003(C) AND 9006(B) AND RELATED RELIEF**

In accordance with the Court’s instruction at the January 4, 2022 status conference (“**January 4 Status Conference**”) that the parties submit supplemental briefs with “their preliminary arguments on [the] known/unknown” issue (Jan. 4, 2022 Hr’g Tr. at 28:16-17), the above-captioned debtor (the “**Reorganized Debtor**”) hereby files this preliminary³ supplemental objection (the “**Objection**”) to the *Claimants’ Motion to Deem Claims Timely or for Extension of General Bar Date Under Rules 3003(c) and 9006* [D.I. 190] (the “**Motion for Leave**”) and the

¹ The last four digits of the tax identification number of Reorganized Debtor Rental Car Intermediate Holdings, LLC (“**RCIH**”) are 2459. The location of RCIH’s service address is 8501 Williams Road, Estero, FL 33928. On September 28, 2021, the Court entered a final decree closing each of the chapter 11 cases for The Hertz Corporation and its reorganized debtor affiliates (the “**Reorganized Debtors**,” and prior to the Effective Date (as defined below), the “**Debtors**”) other than RCIH’s chapter 11 case. Commencing on September 28, 2021, all motions, notices, and other pleadings relating to any of the Reorganized Debtors shall be filed in RCIH’s chapter 11 case, Case No. 20-11247 (MFW).

² As used herein, “Main D.I.” references are to the docket in Case No. 20-11218, and “D.I.” references are to the docket in Case No. 20-11247.

³ As noted below, the Reorganized Debtor continues to review its books and records in connection with the 77 proofs of claim filed by the “Group 4b” Claimants, almost all of which were filed the week before the January 31 deadline, and will further supplement its objection based on the results of that review.

Group 4 False Police Report Claimants’ Motion for Relief from the Confirmation Order to Pursue Claims Outside of Bankruptcy or, in the Alternative, for Extension of General and Administrative Bar Dates Under Rules 3003(c) and 9006(b) and Related Relief [D.I. 193] (the “**Group 4 Lift Stay Motion**”). In support of this declaration, the Reorganized Debtor relies on and incorporates by reference the *Declaration of Samuel P. Hershey in Support of Reorganized Debtor’s Preliminary Supplemental Objection to (i) Claimants’ Motion to Deem Claims Timely or for Extension of General Bar Date Under Rules 3003(c) and 9006 and (ii) Group 4 False Police Report Claimants’ Motion for Relief from the Confirmation Order to Pursue Claims Outside of Bankruptcy or, in the Alternative, for Extension of General and Administrative Bar Dates Under Rules 3003(c) and 9006(b) and Related Relief* (the “**Hershey Declaration**”), and respectfully states as follows:

PRELIMINARY STATEMENT⁴

1. After a months-long media campaign by counsel, the number of persons claiming to be “False Police Report Claimants” with legitimate claims against the Debtors has settled at approximately 230. The 26 “Group 1” Claimants at the start of the Debtors’ bankruptcy are now joined by 81 “Group 2” Claimants (down from the initial 115), 20 “Group 3” Claimants (down from the initial 29), and an additional 103 “Group 4” claimants, 74 of whom filed proofs of claim the week before the January 31 cut-off.⁵ Approximately 125 of these Claimants filed proofs of

⁴ Capitalized terms used but not otherwise defined in this Preliminary Statement are defined later herein.

⁵ The Group 4 Claimants are further split into 26 “Group 4a” Claimants—the Claimants who filed a fourth lift stay motion on December 6, 2021—and the remaining 77 Claimants, known as “Group 4b”. This latter group—“Group 4b”—has filed the *Group 4b False Police Report Claimants’ Motion for Relief from the Confirmation Order to Pursue Claims Outside of Bankruptcy or, in the Alternative, for Extension of General and Administrative Bar Dates Under Rules 3003(c) and 9006(b) and Related Relief* [D.I. 332 (sealed); D.I. 341 (redacted)] (the “**Group 4b Lift Stay Motion**”). The objection deadline for the Group 4b Lift Stay Motion is February 21, 2022 at 4:00 p.m. (ET).

claim long after the applicable bar dates, and all that are the subject of this Objection are listed on Schedule A hereto.⁶ The question is whether these Schedule A Claimants were “known” creditors to the Debtors, such that the Debtors were required to provide direct notice to them of the deadlines for proofs of claim.

2. For context, the Schedule A Claimants assert claims spanning 18 years, from 2003 to 2021. During that period, the Debtors rented hundreds of millions of cars. Over that same time, millions of cars, representing billions of dollars of value, were kept past their contractual return date. Thousands of those cars were never recovered.

3. During the relevant period, when a car was not returned, the Debtors worked diligently to recover it. The Debtors did this not only because the car was their property, but also to minimize the possibility of the renter putting the public at risk through reckless or illegal activity, as is often the case with stolen cars. As part of its recovery efforts, the Debtors made repeated attempts to contact the customer by all available means of communication, including phone calls, voicemails, emails and texts. Through these efforts, the vast majority of people—millions of customers—returned their overdue cars. Only after substantial time had passed and all efforts had been exhausted without a vehicle being returned did the Debtors take steps to recover the vehicle. Like any responsible company that needed to recover stolen inventory, the Debtors did not resort to self-help. Rather, they first retained a repossession service to try to locate and recover the vehicle. If that failed, and all other options had been exhausted, the Debtors referred the theft—an obvious criminal matter—to the police.

⁶ For ease of reference, the Reorganized Debtor submits a chart, attached as Schedule A hereto, providing as to each Group 3 and 4a Claimant (i) the claim number, (ii) the date on which the claim was filed, (iii) whether the Reorganized Debtor is objecting to the Claimant as an “unknown” creditor, (iv) the primary basis for the objection (if applicable), and (v) the page number in this Objection where that Claimant is discussed.

4. As noted, the Schedule A Claimants now argue that the Debtors acted improperly in reporting their rental vehicles to the police as stolen. Yet in almost every case, years passed after Claimants' purported claims arose, without Claimants taking any steps to put the Debtors on notice of their purported claims, let alone assert those claims in any formal or informal legal proceeding. Instead, Claimants' theory seems to be that the Debtors, as part of its bankruptcy notice process, should have gone back as many as 17 years, tracked down every individual whose name the Debtors ever discussed with the police, and given them individually mailed notice of the Debtors' bankruptcy. Claimants also argue that, beyond the actual renters, the Debtors should have somehow tracked down passengers and unauthorized drivers with whom Hertz had no privity and given them notice as well. Claimants offer no authority to support any of these demands, and they are, as set forth below, not what the law requires, including where there is some proof (absent here) of a "systemic" problem. Indeed, the fact that counsel's exhaustive media campaign has resulted in a total of 230 Claimants, spread out over an 18-year period, during which Hertz rented hundreds of millions of vehicles, demonstrates that these Claimants are not the byproduct of any systemic issue.

5. But, to be clear, 230 is not the correct starting point for assessing these claims. The correct starting point is the number of claims that are not patently lacking merit.

6. By way of illustration, the total of 230 Claimants include among them:

- **Thomas and Michael Channell (Group 1).** Police and court records show that the Channells were involved in a drug trafficking ring operated through rental cars. *See* Hershey Decl., Ex. A at 32-33. Thomas Channell was observed loading bags of marijuana into a rental car, and each of the Channells was

arrested after authorities discovered them with 43 pounds of marijuana in their hotel room. *Id.*

- **Shontrell Higgs (Group 1).** Ms. Higgs already had a prior conviction for grand theft auto and was on probation when she was arrested for failing to return her Hertz rental car. *See* Hershey Decl., Ex. B at 24. Ms. Higgs pled guilty. *Id.*
- **Julius Burnside (Group 1).** On February 10, 2022, Mr. Malofiy appeared on MSNBC with Mr. Burnside, who claimed that Hertz had falsely accused him of theft, causing him to spend seven months in jail.⁷ What neither Mr. Burnside nor Mr. Malofiy stated—and is not reflected in the proof of claim filed with this Court—is that court records show that the crime for which Mr. Burnside served seven months in jail was “bail-jumping.” Hershey Decl., Ex. C at 17-21 (*State of Georgia v. Burnside*, Superior Court of Gwinnett County, Georgia, Case No. 19-B-01875-8 (September 30, 2019)). Indeed, as Mr. Burnside acknowledges in his declaration, after posting bond he left the state and missed his arraignment. *See id.* at 14-15. A bench warrant was issued for Mr. Burnside’s arrest, and he was ultimately extradited to stand trial for this separate and independent felony. *See id.* at 22-28 (*State of Georgia v. Burnside*, Superior Court of Gwinnett County, Georgia, Case No. 18-B-04031-8 (November 17, 2018)).
- **Jessica Malone (Group 3).** Records that the Reorganized Debtor produced in discovery show Ms. Malone admitting to Hertz’s vehicle control group that she

⁷ <https://www.msn.com/en-us/news/crime/hertz-customer-falsely-accused-of-theft-spent-7-months-in-jail-i-missed-a-whole-lot/vi-AATHQBi>

kept her rental car well past the contractual return date, but could not return it because she was in jail and her ex-boyfriend, an unauthorized driver, was “joy-riding” in it. *See* Hershey Decl., Ex. D at 18.

- **Siobhan Abrams (Group 3).** Hertz’s records show that Ms. Abrams has a long history of engaging in suspected fraudulent activity, including by having six separate, unpaid Hertz rentals in 2017, which she maintained by using different contact information for each rental. *See* Hershey Decl., Ex. E at 37. Ms. Abrams claims in her declaration that she purchased a vehicle from Hertz using \$46,000 of Bitcoin. However, as the warrant attached to her declaration states, Bank of America alerted Hertz that Ms. Abrams had used a fraudulent check. *See id.* at 22-25. Moreover, the warrant notes that the investigating officer independently confirmed that Ms. Abrams’s credit application was fraudulent, including by visiting the places Ms. Abrams had listed as her home address and place of employment and determining that the business where Ms. Abrams said she was employed did not exist, and the home address she had provided belonged to a family that did not know her. *See id.*
- **Zanders Pace (Group 3).** Mr. Pace failed to return his Hertz vehicle despite it being weeks overdue. *See* Hershey Decl., Ex. F at 32. Instead, he claimed that the vehicle had been damaged and, without Hertz’s permission, brought it to a purported “body shop” that performed unauthorized work on it. *See id.* at 36. When Hertz sent its agents to recover the vehicle, the body shop refused to release it until Hertz paid \$1,200 for the purported repairs. *See id.* at 37. Hertz was informed by local police that the body shop was located in an area of

suspected criminal activity and was “not a legitimate business.” *See id.* at 37-38.

- Multiple claimants (as outlined below) admit that they pled guilty to the crimes for which they now charge the Debtors with falsely accusing them. For example, Group 3 claimant Holly Harris admits in her declaration that she pled guilty in Florida to failure to return a rental vehicle, and Group 4 claimant Jeffrey Smith admits in his declaration that he pled guilty in Texas to unauthorized use of a rental vehicle. *See infra.*

7. The point of the foregoing is not to detract from harms that people face when dealing with police forces throughout the United States, but rather to note that just because a claimant is named a “False Police Report Claimant” does not make their claims true or the police report false. To that end, the Reorganized Debtor continues to investigate the merits of all claims, and reserves the right to address those merits, including in a substantive claims objection. Per the Court’s direction, however, this supplemental brief focuses on the Group 3 and Group 4a Claimants, and specifically whether those Claimants—almost all of whom filed proofs of claim after the applicable bar dates—were “unknown” to the Debtors. Based on the Reorganized Debtor’s review of (i) the proofs of claim and attached declarations for these Claimants, (ii) over a thousand pages of the Debtors’ books and records regarding these Claimants, which the Reorganized Debtor produced through discovery, and (iii) Claimants’ responses to the Reorganized Debtor’s interrogatories,⁸ as a matter of law the vast majority of the Schedule A

⁸ The vast majority of Claimants’ interrogatory responses either refuse to state an answer or simply refer the Reorganized Debtor to Claimants’ declarations submitted with their proofs of claim. Indeed, in response to the Reorganized Debtor’s interrogatories regarding the date and method by which Claimants provided notice to the Debtors of their claims—a crucial question for determining whether they were “known” creditors—almost all of the Claimants referred the Reorganized Debtor to their declarations.

Claimants fail to allege sufficient prepetition contact with the Debtors (or, in some cases, any contact at all with the Debtors) that would have made them “known” creditors. Additionally, the Reorganized Debtor has identified several other deficiencies discussed below that make these Claimants overwhelmingly “unknown” creditors.

A. Group 3 and Group 4a (46 Claimants)

i. **Time-Barred Claims.** Five claimants bring claims that accrued more than six years, and as many as 17 years, before the Petition Date. These Claimants likely have no viable claim against the Debtors, and many of them are no longer present in the Reorganized Debtors’ records. Claimants have cited no authority supporting the Debtors’ purported obligation to search their records and provide notice to potential creditors, without any limit as to time.

ii. **Admitted Guilt.** Four claimants pled guilty to the crimes for which they now charge the Debtors with falsely accusing them. Claimants cite no authority that the Debtors were required to provide proofs of claim to individuals who had confessed to committing crimes against the Debtors.

iii. **No Police Report.** Three claimants are not the subject of a police report in the Reorganized Debtor’s records. Claimants have offered no basis for the Debtors to have provided notice to these individuals.

iv. **Passengers and Unauthorized Drivers.** Three claimants were either passengers or unauthorized drivers, *i.e.*, parties with whom the Debtors had no privity. Claimants have offered no authority holding that the Debtors were required to provide bar date notices to individuals as to whom it had no contact information or contractual relationships.

v. **Victims of Identity Theft.** Two of the Claimants appear to have been victims of identity theft, *i.e.*, someone else rented a car from Hertz using those Claimants' stolen identities, and then never returned the vehicle.⁹

vi. **No Contact with the Debtors.** Eight claimants do not allege any contact with the Debtors following their arrest. Claimants have not explained how these individuals could have given the Debtors notice of their alleged claims if they did not contact the Debtors after those alleged claims accrued.

vii. **Minimal and Insufficient Contact with the Debtors.** An additional 10 claimants allege minimal and sporadic contact with the Debtors that could not have reasonably put the Debtors on notice that they were "known" creditors.

viii. **The Reorganized Debtor Does Not Contest Timeliness.** Finally, for 10 of the Claimants, the Reorganized Debtor withdraws its objection as to timeliness, though its investigation of the claims continues and it reserves the right to assert all other objections.¹⁰

B. Group 4b (77 Claimants)¹¹

8. As noted, the above numbers pertain to the 46 Claimants in Group 3 and Group 4a, as to whom the Reorganized Debtor received sufficient notice to review its books and records before filing this brief. The Reorganized Debtor has not been able to gather and produce its books

⁹ In recognition that these individuals' circumstances were the result of fraudulent activity by another party, Hertz does not contest the timeliness of their claims and hopes to work with these individuals to resolve their claims.

¹⁰ Additionally, the Reorganized Debtor withdraws from its current "timeliness" objection the two victims of identity theft discussed above (Andrew Seaser and Steven Robin Valdes), as well as two Group 3 Claimants whose claims arose postpetition (Israel Sundseth and Breanna Oneal). The Reorganized Debtor reserves the right to object to these claims on all other grounds.

¹¹ As noted above, the Group 4b Claimants have filed the Group 4b Lift Stay Motion, the objection deadline to which is February 21, 2022 at 4:00 p.m. (ET).

and records regarding the 77 Group 4b Claimants, as 74 of those Claimants filed proofs of claim within one week of the January 31 deadline (*i.e.*, fewer than three weeks ago). However, based on the Reorganized Debtor's preliminary review of the declarations attached to those proofs of claim, 21 of the Claimants appear to have debilitating statute of limitations issues; 22 of the Claimants appear to be passengers or unauthorized drivers under the rental contract; eight of the Claimants do not appear to allege they were ever arrested or detained by law enforcement; and 12 of the Claimants pleaded guilty to the crimes for which they now charge the Debtors with falsely accusing them. Moreover, 33 of the Claimants allege no contact with the Debtors after their arrest and 38 do not allege contacts with the Debtors that would give rise to the Debtors' knowledge of the Claimants as known creditors. The Reorganized Debtor reserves the right to supplement its timeliness objection to address the Group 4b Claimants after it has finished its review.

9. Based on the facts set forth herein, the Reorganized Debtor renews its request that the Court find that, except as otherwise noted, the Group 3 and Group 4a Claimants were "unknown" to the Debtors and their late claims should be disallowed as untimely.

BACKGROUND

A. General background

10. On May 22, 2020 (the "**Petition Date**"), each of the Debtors commenced with this Court a voluntary case under chapter 11 of the Bankruptcy Code (collectively, the "**Chapter 11 Cases**"), which were jointly administered for procedural purposes.

11. On August 26, 2020, the Debtors filed a motion [Main D.I. 1140] (the "**Bar Date Motion**") seeking entry of an order (i) establishing deadlines by which creditors must file proofs of claim in the Chapter 11 Cases and (ii) approving the form and manner of noticing such deadlines. The Debtors extended the Bar Date Motion's objection deadline for certain parties. Main D.I. 1230. Ultimately, the Debtors received, and resolved, one formal reservation of rights

[Main D.I. 1189] from the Ad Hoc Group of Litigation Creditors as well as informal comments from ten additional parties, including the Official Committee of Unsecured Creditors and other creditor constituencies. *See* Main D.I. 1230.

12. On September 9, 2020 the Court entered the *Order Establishing Bar Dates and Related Procedures for Filing Proofs of Claim, Including Claims Arising Under Section 503(b)(9) of the Bankruptcy Code, and Approving the Form and Manner of Notice Thereof* [Main D.I. 1240] (the “**Bar Date Order**”). That same day, the Debtors filed the *Notice of Deadlines for Filing Proofs of Claim, Including Claims Arising Under Section 503(b)(9) of the Bankruptcy Code Against Debtors* [Main D.I. 1243] (the “**Bar Date Notice**”).

13. The Bar Date Order and Bar Date Notice established, among other things, October 21, 2020 at 5:00 p.m. (prevailing Eastern Time) as the deadline to file proofs of claim in the Chapter 11 Cases for persons or entities (except governmental units (as that term is defined in section 101(27) of the Bankruptcy Code)) (the “**General Bar Date**”).

14. On June 10, 2021 (the “**Confirmation Date**”), the Court entered the *Order (i) Confirming Second Modified Third Amended Joint Chapter 11 Plan of Reorganization of The Hertz Corporation and its Debtor Affiliates and (ii) Granting Related Relief* [Main D.I. 5261] (such underlying chapter 11 plan, together with the Plan Supplements (as defined therein), all schedules, and exhibits thereto, the “**Plan**”). On June 30, 2021 (the “**Effective Date**”), the Plan became effective in accordance with its terms and the Debtors became the Reorganized Debtors. *See* Main D.I. 5477.

B. Claimants

15. Claimants consist of approximately 230 individuals¹² that are identified in various proofs of claim filed against the Debtors, including both the Group 3 Claimants and Group 4 Claimants.

16. On October 20 and 21, 2020, Claimants filed a total of 91 proofs of claim against the Debtors.¹³ Claimants filed those proofs of claim on behalf of three groups: (i) the original 26 Claimants; (ii) a group of 115 additional claimants called the “False Police Report Claimants No. 2”;¹⁴ and (iii) a purported “unknown class.”

17. On the Confirmation Date, Claimants filed 28 additional proofs of claim against the Debtors, all of which were styled as amendments to purported class proofs of claim. Among other things, some of the proofs of claim filed that day (the “**Late Claims**”)¹⁵ professed to change the purported class proofs of claim to be on behalf of a group of 29 individual claimants called the

¹² Claimants had previously filed pooled claims on behalf of three groups: a form asserting a claim on behalf of “False Police Report Claimants No. 1” (a group of 26 individuals); another asserting a claim on behalf of “False Police Report Claimants No. 2” (a group of 115 individuals); and a third asserting a claim on behalf of “False Police Report Claimants No. 3” (a group of 29 individuals). On December 6, 2021, Claimants filed a motion for relief from the Plan injunction on behalf of 26 additional claimants identified as the Group 4 False Police Report Claimants. *See* D.I. 193. Since then, in the False Police Report Claimants No. 1, all 26 individuals have filed proof of claims. In the False Police Report Claimants No. 2, only 81 of the 115 claimants have filed proof of claims. In the False Police Report Claimants No. 3, 20 of the 29 claimants have filed proof of claims. And, in the False Police Report Claimants No. 4, all 26 claimants have filed proof of claims, as well as 77 new individuals who had previously not been identified in the motion for relief.

¹³ On April 29, 2021 the Court entered an order approving a stipulation between the Debtors and the False Police Report Claimants to withdraw certain of the False Police Report Claimants’ claims against the Debtors. *See* Main D.I. 4322.

¹⁴ The addenda to the proofs of claim filed on behalf of “False Police Report Claimants No. 2” in June 2021, which were filed as amendments to some but not all of the earlier proofs of claim, identify only 110 individuals.

¹⁵ Specifically, Claim Nos. 15282, 15257, 15245, 15261, 15277, 15268, 15256, 15278 & 15276.

“False Police Report Claimants No. 3.” These 29 claimants were not identified anywhere in the purported class proofs of claim or any other proof of claim filed by the General Bar Date.

C. The Debtors’ Preliminary Objections and the Motion for Leave

18. On August 4, 2021, the False Police Report Claimants No. 3 filed the *Motion of False Police Report Claimants No. 3 for Relief from Any Stay and Plan Injunction* [Main D.I. 5656] (the “**Group 3 Lift Stay Motion**”), in which other Claimants joined [Main D.I. 5687], seeking relief from any stay or injunction under the Plan so as to: (a) pursue and liquidate their asserted claims in the forum of their choice outside of this Court; (b) recover against applicable insurance policies; (c) pursue alleged non-Debtor co-defendants; and (d) seek other equitable relief. Plan Injunction Motion, ¶ 38. The Reorganized Debtors objected [Main D.I. 5703], and the Court denied the Plan Injunction Motion. *See* Main D.I. 5875 (the “**Initial Scheduling Order**”). Among other things, the Initial Scheduling Order also established deadlines related to the Reorganized Debtors’ preliminary objections to Claimants’ proofs of claim. *Id.* ¶ 2.

19. On September 20, 2021, in accordance with the Initial Scheduling Order, the Reorganized Debtors filed two preliminary omnibus objections to the proofs of claim filed by the False Police Report Claimants: (i) the *Reorganized Debtors’ Twenty-First Omnibus (Non-Substantive) Objection to False Police Report Claimants’ (I) Amended and Superseded Claims, (II) Duplicative Claims, and (III) Late Claims* [Main D.I. 5898] (the “**Non-Substantive Objection**”) and (ii) the *Reorganized Debtors’ Twenty-Second Omnibus (Substantive) Objection to False Police Report Claimants’ Non-Compliant, Unsubstantiated, and Class Claims, and Request for a Limited Waiver of Local Rule 3007-1(f)(iii), to the Extent Such Rule May Apply* [Main D.I. 5899] (the “**Substantive Objection**” and together, the “**Claim Objections**”). The Claim Objections set forth objections to certain of the False Police Report Claimants’ proofs of

claim on various grounds, including, among others, that the Late Claims filed on behalf of False Police Report Claimants No. 3 were filed after the General Bar Date and do not relate to earlier filed claims.

20. On November 4, 2021, the Court held a hearing (the “**November 4 Hearing**”) to consider, among other things, the Claim Objections. At the hearing, the Court ordered further proceedings and deadlines regarding the claims filed, or to be filed, by Claimants, including directing that the False Police Report Claimants (i) file by December 6, 2021 a motion pursuant to Bankruptcy Rule 9006 seeking authorization to file claims after the General Bar Date on behalf of False Police Report Claimants No. 3 and (ii) amend the proofs of claim to include separate declarations by each claimant regarding the facts underlying their claim. *See* Nov. 4, 2021 Tr. at 61:24-62:2, 63:6-9. The parties conferred and agreed on a scheduling order for the further deadlines and proceedings. *See* D.I. 187.

21. On December 6, 2021, Movants filed the Motion for Leave, seeking a determination by the Court that the proofs of claim filed on behalf of the False Police Report Claimants No. 3 were timely because, Movants argue, (a) the General Bar Date did not apply to some of the claims because those claims arose after the Petition Date, (b) Movants were known creditors and the Debtors failed to provide them actual notice of the General Bar Date, (c) to the extent Movants were unknown creditors, the Debtors’ constructive notice by publication was not constitutionally adequate, and (d) to the extent any claim was untimely, the delay was due to excusable neglect. *See* Motion for Leave ¶¶ 43, 80. The Motion for Leave also seeks to have the Court overrule the Non-Substantive Objection as to these claims. *See id.* ¶ 43.

22. Also on December 6, 2021, Claimants filed the Group 4 Lift Stay Motion. *See* D.I. 193. The Group 4 Lift Stay Motion was brought on behalf of 26 Group 4 Claimants, but none of the new claimants filed proofs of claim at that time.

23. After the Court required Movants to file individualized proofs of claim, nine of the 29 Group 3 Claimants—or nearly one-third—abandoned their claims. Specifically, certain claimants (Edward Guy, Lamont Liner, Kate McCarthy and John [Doe]) have decided not to pursue their claims and will withdraw them. *Id.* ¶ 18 n.7. Moreover, Movants’ counsel determined that certain other claimants (Asiah Draine and Lilliam Lesueur) “do not have claims related to false police reporting” and “has been unable to obtain signed declarations or evaluate the claims of Vincent Byrd or Kimberly Killen.” *Id.* Additionally, one claimant (Wanda Nelson) did not file a signed declaration supporting her claims as the Court ordered, even given the extension sought until January 31, 2022.¹⁶ *See* D.I. 284.

24. At the January 4 Status Conference, the Court ordered supplemental briefing as to whether the Group 3 Claimants and Group 4 Claimants were “known” creditors. *See* January 4, 2022 Hr’g Tr. at 39:10-20 (“Well, you all respond with respect to the claims that we all acknowledge, the proofs of claim are now on file with the appropriate declarations, and you’ll start rolling those out . . . And the parties will be filing, on February 14th, brief supplemental briefing

¹⁶ On December 6, 2021, the *Certain Group 3 False Police Report Claimants’ Motion for an Order Extending the Deadline to File Declarations in Support of Proofs of Claim Under 11 U.S.C. § 105(a) and Bankruptcy Rule 9006* [D.I. 191] (the “**Scheduling Order Extension Motion**”) was filed in which claimants Janette Brown, Tyresha Caudle, and Wanda Nelson request an extension through January 19, 2022, without prejudice to seek further extensions, of the Court’s December 6, 2021 deadline to submit declarations in support of their amended proofs of claim. These claimants filed amended proofs of claim on December 6, 2021 but did not include executed declarations with such filings. Janette Brown and Tyresha Caudle have since submitted amended proof of claims with declarations. On February 7, 2022, the Court entered an order [D.I. 331] further extending to January 31, 2022 Ms. Nelson’s time to file a proof of claim with an executed declaration. She did not file a declaration.

on how that information impacts on the issue of known creditor with respect to those claimants.”). The Court also directed the Group 4 Claimants to file individualized proofs of claim with accompanying declarations by the Proofs of Claim Deadline on January 31, 2022. *See id.* at 27:22-25; *id.* at 28:1-3.

25. Subsequently, the Group 4 Claimants submitted proofs of claim for all 26 claimants initially disclosed as Group 4 Claimants in December 2021.

26. Between January 14 and the deadline on January 31, 77 additional proofs of claim were filed as part of the False Police Report Claimants No. 4, bringing the total number of Group 4 Claimants to 103.

ARGUMENT

27. Based on a review of the proofs of claim, the Debtors’ books and records, and the interrogatory responses, all of the Claimants as to whom the Debtors maintain their objection were unknown to the Debtors before the applicable bar dates. Many of them allege no contact with the Debtors, or such minimal or vague contact that the Debtors could not have reasonably been on notice of their purported claims. Additionally, certain of the proofs of claim reflect facts—such as statute of limitations issues, passengers and unauthorized drivers as to whom Hertz had no knowledge, individuals who were not the subject of a police report, and individuals who pled guilty to the charges in the police reports—that made them “unknown” creditors to the Debtors. The Reorganized Debtor describes these claims individually below.

A. Time-Barred Claims

28. For the five claimants below, their purported claims accrued more than six years before the Petition Date—in some cases, as many as 17 years before—but they never commenced litigation against the Debtors. Nowhere in the papers do Claimants explain why the Debtors were

required to comb through records going back more than a decade to identify and notice creditors who are no longer creditors.¹⁷

i. **Della Davis (Group 4a).** According to the declaration submitted with her proof of claim (which seeks over \$6.5 million), Ms. Davis rented a vehicle from Hertz in September 2003, and was allegedly arrested in 2005. *See* Hershey Decl., Ex. G at 13. Thus, Ms. Davis's claims are plainly time-barred. Additionally, Ms. Davis's declaration alleges no contact with Hertz regarding her claim. Rather, she asserts in conclusory fashion that "Hertz knows the police report it filed was false" because her lawyers allegedly communicated with Hertz during the trial in 2006, although neither the content nor the recipient of those purported communications is specified. *Id.* at 18-21. She also claims that the charges against her were dropped, though she offers no evidence to support that claim or Hertz's awareness of it. *Id.* at 20-21. The Reorganized Debtors have located no documents relating to Ms. Davis.¹⁸

ii. **Lateshia Jenkins (Group 3).** According to the declaration submitted with her proof of claim (which seeks over \$30 million), Ms. Jenkins rented a vehicle from Hertz on an unknown date in 2005, and was allegedly informed in 2006 that a warrant was issued for her arrest. *See* Hershey Decl., Ex. H at 12. Additionally, although Ms. Jenkins alleges that she called Hertz at unspecified times in 2008 and 2012, she provides no facts supporting those allegations, and

¹⁷ The False Police Report Claimants purport to bring the following causes of actions: "(1) malicious prosecution; (2) abuse of process; (3) false arrest; (4) false imprisonment; (5) negligence; (6) gross negligence; (7) intentional infliction of emotional distress; (8) negligent infliction of emotional distress; (9) defamation; (10) civil conspiracy; and (11) unfair and/or deceptive trade practices." *See* D.I. 190, ¶ 54. Not all of these causes of actions are applicable to each claimant. But, for the following claimants, the age of their claim is so old that it does not matter which causes of action apply because the statute of limitations has likely run on all causes of action. Indeed, the Reorganized Debtor is not aware of a statute of limitations of more than six years for any of these claims, and Claimants have not identified any.

¹⁸ To the extent necessary, the Debtors will produce a books and records witness to testify regarding the search that the Debtors conducted to locate documents concerning the Group 3 and Group 4a Claimants.

states only that she asked questions, such as “why [Hertz] had filed a false police report,” which (as discussed below) would not put Hertz on notice of her intention to file a claim. *Id.* at 13. The Reorganized Debtor has located no documents relating to Ms. Jenkins.

iii. **John Prawat (Group 4a).** According to the declaration submitted with his proof of claim (which seeks more than \$2.5 million), Mr. Prawat rented a vehicle from Hertz in January 2014, and learned Hertz had allegedly reported his vehicle stolen to law enforcement in April 2014. *See* Hershey Decl., Ex. I at 19. Aside from statute of limitations issues, Mr. Prawat’s rental was 33 days overdue by the time Hertz closed his rental contract and reported the vehicle as stolen. *See id.* at 95. Moreover, Mr. Prawat refused to return the vehicle despite numerous attempts by Hertz to contact him via phone, email, and letter. *See id.* at 96-97. Indeed, Mr. Prawat admits in his declaration that he still possessed the vehicle when a repo vendor retrieved it on April 9, 2014—64 days after the vehicle was due back. *See id.* at 19.¹⁹

iv. **Cynthia Vaughn (Group 4a).** According to the declaration submitted with her proof of claim (which seeks almost \$19 million), Ms. Vaughn rented a vehicle from Hertz in August 2007 and was informed about a warrant for her arrest that same year. *See* Hershey Decl., Ex. J at 13. Additionally, Ms. Vaughn’s declaration alleges she called Hertz on unspecified dates

¹⁹ Mr. Prawat’s suggestion in his “supplemental” declaration that he did not file suit against Hertz in 2015 because “he had no idea what had actually happened or how he had come to be jailed or prosecuted” (Hershey Decl., Ex. I at 15) contradicts the remainder of his declaration and the attachments to the declaration. For example, Mr. Prawat acknowledges in his declaration that a repossession vendor told him the vehicle was reported stolen in 2014 (*id.* at 19), and also states that during his criminal case, his lawyer and he reviewed Hertz’s theft report and raised alleged issues with the report to the court in a request to dismiss the charges (*id.* at 21-22). Mr. Prawat’s criminal records attached to the declaration also state that the charges were filed in connection with his Hertz rental. *See id.* at 41-49 (citing charges for “[t]he offense of THEFT BY CONVERSION on January 30, 2014 through April 1, 2014”).

in or around December 2007 (*id.* at 14), but she does not allege any contact with Hertz in the years since. Moreover, the Reorganized Debtor has located no documents relating to Ms. Vaughn.

v. **Moneck Wallace (Group 3).** According to her declaration, Ms. Wallace was made aware of her potential claim as early as March 2011, when she allegedly received communications from Hertz that she had failed to return the vehicle, and in “2014 or 2015,” when she allegedly received written notice that a warrant was issued for her arrest. *See* Hershey Decl., Ex. K at 12-13. Additionally, Ms. Wallace’s declaration alleges contact with “Hertz corporate” on unspecified dates, but states only that she asked questions, such as “why [Hertz] had filed a false police report.” *Id.* at 14. Ms. Wallace states that she “believes that Hertz has records and knowledge regarding what happened to her,” *id.*, but the Reorganized Debtor has not located any documents relating to Ms. Wallace.

B. No Police Report by Hertz

29. Despite claiming to be part of the “False Police Report Claimants,” based upon a reasonable search of the Reorganized Debtor’s records, the following three Claimants are not the subjects of police reports in connection with a Hertz rental. Notably, none of the claimants alleges that he or she was arrested, and some admit that they do not know for certain whether a police report has issued. Because a police report against these Claimants did not issue, Hertz had no basis for treating them as “known” creditors.

i. **Kimberli Costabile (Group 3).** According to her declaration, Ms. Costabile allegedly received communications in February 2020 accusing her of vehicle theft, and later in March 2020 additional communications from Hertz that the vehicle would be reported stolen to law enforcement. *See* Hershey Decl., Ex. L at 12-13. The Reorganized Debtor’s records reflect communications with Ms. Costabile in March 2020 advising her that her rental was 12 days overdue, her credit card was declining (*i.e.*, no longer accepting authorization holds), and she

needed to return the vehicle or obtain an extension of the rental with payment. *See id.* at 34. While Ms. Costabile claims she received “unabated” threats from Hertz “several times a day,” *id.* at 13, she attaches only two emails to her declaration, from March 10 and 11 2020. *See id.* at 20-27. By March 12, 2020, Ms. Costabile had extended the rental contract with Hertz through April 4, 2020, resolving the issue. *See id.* at 35. Ms. Costabile alleges no contact with Hertz to provide notice of her claim, only that “[b]ased on her contacts with Hertz, and the location’s contacts with corporate, Hertz knows that she did not steal the car[.]” *Id.* at 14. Given that Hertz did not report the car as stolen, Ms. Costabile has no basis for her claim and was not a “known” creditor.

ii. **Britne McClinton (Group 3).** According to her declaration, Ms. McClinton allegedly received calls and emails from Hertz in September and October 2018 because it appeared she had failed to return her rental vehicle and was allegedly accused of vehicle theft. *See* Hershey Decl., Ex. M at 12-13. Ms. McClinton further alleges she “fears that Hertz falsely reported her for theft” based on these communications and the alleged fact that Hertz placed holds on her account. *Id.* at 14. Ms. McClinton does not allege, however, that Hertz in fact reported her to law enforcement, or that she was ever arrested or even contacted by law enforcement. Indeed, the Reorganized Debtor has not located any records reflecting that it reported to law enforcement that Ms. McClinton had stolen her rental vehicle. Moreover, the only notice of her claim that Ms. McClinton alleges to have provided to Hertz is that she “told the [Hertz employee] calling her that she was going to sue Hertz if the company did not immediately stop claiming she stole the car.” *Id.* at 13. A statement like this would not put Hertz on notice that Ms. McClinton intended to file a claim, and, in any event, Ms. McClinton acknowledges that “Hertz never followed up with her,” as she requested. *Id.* at 14.

iii. **Israel Sundseth (Group 3).** The Reorganized Debtor has investigated Mr. Sundseth's claim and has not identified any theft report. Indeed, according to Mr. Sundseth's declaration, he has not been arrested, but rather "is scared there may be a warrant out for his arrest." Hershey Decl., Ex. N at 17. It is therefore not clear what claim Mr. Sundseth might have against Hertz, except maybe a billing dispute regarding daily charges of \$31 that he allegedly received for approximately two weeks. *Id.*²⁰

C. Guilty Pleas

30. Four Claimants admit that they pled guilty to the crimes of which they now charge Hertz with falsely accusing them. Claimants have not shown why Hertz was required to provide notice to individuals who swore under oath that they had committed theft of Hertz's property.

i. **Tyresha Caudle (Group 3).** At the time of the General Bar Date, Ms. Caudle remained under prosecution. *See* Hershey Decl., Ex. O at 14. She ultimately pled guilty on October 7, 2021. *Id.* Ms. Caudle alleges no contact with Hertz regarding her purported claim. Rather, she states only that she "believes that Hertz was contacted by the prosecution during her case and knew that she was trying to fight their accusations," though she in fact pled guilty to those accusations. *Id.* at 15²¹

ii. **Holly Harris (Group 3).** Ms. Harris admits that she pled guilty to charges in connection with her theft of a Hertz rental vehicle on August 21, 2019. *See* Hershey Decl., Ex.

²⁰ Because Mr. Sundseth's claim arose postpetition and he filed a proof of claim before the Administrative Claims Bar Date, the Reorganized Debtor does not object to the timeliness of his claim, but reserves the right to assert all other objections.

²¹ Ms. Caudle was also an unknown creditor because her one-day rental was 33 days overdue when Hertz closed the rental contract and discussed the issue with the police on March 9, 2018. *See* Hershey Decl., Ex. O at 24. Moreover, Ms. Caudle ignored all of Hertz's attempts to contact her in their efforts to retrieve the vehicle before reporting the vehicle stolen. *See id.* at 25-26. Contrary to Ms. Caudle's declaration, there is no evidence that Ms. Caudle had a valid rental extension entitling her to keep the car beyond the one-day rental. *Id.*

P at 14. Ms. Harris alleges no contact with Hertz regarding her purported claim, just that a “prosecutor reached out to Hertz and told Hertz that [Ms. Harris] believed the report was false.” *Id.* at 15. Ms. Harris does not state with whom the prosecutor communicated, when the communication took place, or what was said. Moreover, despite what the prosecutor allegedly said, Ms. Harris pled guilty to the charges, so Hertz had no basis to regard her as a “known” creditor.²²

iii. **Jeffrey Smith (Group 4a).** In the declaration submitted with his proof of claim (which seeks almost \$9 million), Mr. Smith admits that he pleaded guilty to “felony unauthorized use of a vehicle” on July 2, 2019. *See* Hershey Decl., Ex. Q at 14. Mr. Smith alleges that, after he pled guilty, he called a “1800 number” for Hertz and “asked them why they had filed a false police report.” *Id.* That is the only contact with Hertz regarding his arrest that Mr. Smith alleges, and is insufficient to have made him a “known” creditor, especially given that he had pled guilty.²³

²² Moreover, Ms. Harris was also an unknown creditor based on the Reorganized Debtor’s records, which reflect Ms. Harris’ rental was due on December 17, 2018 after receiving four rental extensions, and that she received live calls, emails and text messages on December 28, 2018, and January 2 and 3, 2019, imploring her to return the vehicle. *See* Hershey Decl., Ex. P at 28. Ms. Harris did not respond to any of these communications by Hertz in their efforts to retrieve the vehicle. *Id.* Hertz closed Ms. Harris’ rental contract and discussed the issue with the police on January 18, 2019 when it was 32 days overdue, and at that time, Ms. Harris had possessed the vehicle for 94 days. *See id.* at 25. Moreover, aside from her own statement in her declaration, there is no evidence Ms. Harris returned the vehicle in December 2018.

²³ Mr. Smith was also an unknown creditor because there is no evidence that Mr. Smith ever extended his one-day rental, and the rental was 34 days overdue when Hertz closed the rental contract and discussed the issue with the police. *See* Hershey Decl., Ex. Q at 17. Moreover, Mr. Smith’s contacts with Hertz undermine his claim that “at no time prior to his arrest did Hertz contact him and demand he return the vehicle.” *Id.* at 14. On March 25, 2019, Hertz contacted Mr. Smith via phone, text message and email imploring him to return the vehicle, and the next day (March 26), Mr. Smith emailed Hertz that “[he] will return the vehicle late tomorrow evening at the same location.” *Id.* at 18. On the morning of March 27, Mr. Smith called Hertz and said he would return the car that day by noon. *Id.* When Mr. Smith did not return the vehicle as promised, Hertz called, texted, and emailed Mr. Smith again reminding him to return the vehicle. *Id.* The next day, March 28, Mr. Smith texted Hertz that “it will be returned [and he] will check on it.” *Id.* Hertz continued to call, text, and email Mr. Smith, but he never returned the vehicle as he had repeatedly promised. *See id.* at 18-19. Mr. Smith admits in his declaration he still possessed the

iv. **Edward Sturkie, Jr. (Group 4a).** According to the declaration submitted with his proof of claim (which seeks over \$9 million), Mr. Sturkie rented a vehicle from Hertz in June 2016. In addition to potential statute of limitations issues, Mr. Sturkie pled guilty in April 2017. *See* Hershey Decl., Ex. R at 14.²⁴ Mr. Sturkie claims that he “called Hertz during his court case” and spoke with an attorney, whom he told that “he did not steal the car and it was an insurance rental.” *Id.* Even if this call took place, it would not put Hertz on notice of a claim, especially given that Mr. Sturkie subsequently pled guilty.²⁵

D. Passengers and Non-Authorized Drivers

31. The following three claimants were either passengers in the vehicle of another claimant who was the named renter on the rental contract or were not authorized drivers of the vehicles under the rental contract. Accordingly, since these claimants did not enter into a rental contract with Hertz for the rental vehicle at issue—and were not disclosed as authorized drivers on the rental contract—their identities, contact information and claims could not have been known to the Debtors.

i. **Kwai Yee Chan (Group 3).** Ms. Chan does not submit her own declaration with her proof of claim, but rather the same declaration as is attached to the proof of claim that

overdue rental when he was allegedly arrested. *See id.* at 14. Moreover, Mr. Smith admits that he violated the probation that came with his plea, resulting in further fines and jail time that appear to form part of his damages claim against Hertz. *See id.*

²⁴ Mr. Sturkie claims that the case against him was dismissed in September 2021—almost one year after the General Bar Date. Hershey Decl., Ex. R at 14. Even if true, Hertz had no basis to provide Mr. Sturkie notice before the General Bar Date.

²⁵ Mr. Sturkie was also an unknown creditor because, although Mr. Sturkie purported to return his rental car, it was reported missing and the last documented movement was Mr. Sturkie’s purported return. *See* Hershey Decl., Ex. R at 35. Hertz believed Mr. Sturkie still possessed the vehicle, and tried contacting him numerous times to retrieve it prior to reporting the vehicle as missing. *See id.* at 40-42. Mr. Sturkie’s declaration proves he was, in fact, in possession of the missing vehicle when he states that it was recovered from him by a detective in October 2016. *See id.* at 13.

was filed by her husband, Charles Bort. *See* Hershey Decl., Ex. S at 12-16. Ms. Chan was a passenger in Mr. Bort’s rental vehicle when it was allegedly pulled over by law enforcement. The Reorganized Debtor’s records reflect that Mr. Bort was the named renter on the rental contract, and that Ms. Chan was not added as an authorized driver to the rental contract. *See id.* at 33-39. Moreover, Ms. Chan does not allege that she ever contacted Hertz regarding her purported claim. In fact, the only alleged contact described in her declaration is Mr. Bort’s attorney asking Hertz to withdraw its claims against Mr. Bort. *See id.* at 14-15. Ms. Chan does not allege that Hertz knew about her purported claim, but rather that “Hertz knows that Charles alleged that he was falsely accused of car theft.” *Id.* at 15. Ms. Chan was therefore not a “known” creditor to Hertz.²⁶

ii. **Jason Cook (Group 3).** The declaration submitted with Mr. Cook’s proof of claim (which seeks over \$3 million) is the same as the declaration submitted by his girlfriend, Jessica Malone. *See* Hershey Decl., Ex. T at 12-15. As discussed further below regarding Ms. Malone’s claim, Mr. Cook was a passenger in Ms. Malone’s rental car and not named on the rental contract. Hertz therefore had no basis for knowing who he was or how to contact him. Moreover, Mr. Cook does not allege that he ever contacted Hertz, but rather that Ms. Malone made “contact with Hertz notifying the company the report was false, and that Jason and she had been arrested.” *Id.* at 14. He does not provide any specific information regarding this communication, including when it was made, to whom it was directed and what was said.²⁷

²⁶ Also, as discussed below, Hertz’s records support the theft report regarding Mr. Bort.

²⁷ Moreover, Hertz’s records, which were produced in discovery, show that Ms. Malone texted Hertz, “I am so sorry I just got out of jail and found out somebody else”—later identified as her “ex-boyfriend”—“has been pretty much joy riding in the car while I was locked up.” Hershey Decl., Ex. T at 18. She further stated, “I understand your concern and will do everything I can to make it right.” *Id.* Hertz’s records also reflect that Hertz received a call from Mr. Cook, who identified himself as Ms. Malone’s fiancé, stating that he would return the car the following day. *Id.* Five days later, the vehicle still had not been returned, leading to Hertz reporting it as stolen. *Id.* at 19. Based on these facts, Hertz had no basis to treat Mr. Cook as a “known” creditor.

iii. **Darney Taper (Group 4a).** According to his declaration, Mr. Taper's girlfriend, Tonia Rich, rented a vehicle from Hertz. *See* Hershey Decl., Ex. U at 13. Mr. Taper took the rental car to go shopping, and allegedly was pulled over and arrested. *Id.* at 14. The Reorganized Debtor's records reflect that Ms. Rich was the named renter on the rental contract, and that Mr. Taper was not added as an authorized driver. *See id.* at 26-33. Mr. Taper does not allege that he ever contacted Hertz regarding his purported claim. Moreover, while he refers to communications between Hertz and Ms. Rich regarding his case, none of these communications provides notice of a claim. Indeed, the only specific communication Mr. Taper cites is an email from Ms. Rich to Hertz customer relations in which Ms. Rich states that "my boyfriend" (not otherwise identified) was improperly charged with grand theft, and asking for a call. *Id.* at 15. This communication does not suffice to make Mr. Taper a "known" creditor.

E. No Alleged Contact with the Debtors

32. The eight Claimants below do not allege in their declarations that they contacted the Debtors regarding their claim at all after they were arrested or detained by law enforcement. Accordingly, the Debtors could not have had notice of their claims. Moreover, the Reorganized Debtor's records show that the Debtors had no reason to regard these Claimants as "known" creditors because they had failed to return their vehicles despite multiple demands, in many cases promising to do so but failing to follow through.

i. **Carmen Bosko (Group 4a).** Based on the declaration submitted with her proof of claim (which seeks almost \$3.5 million), Ms. Bosko rented a car from Hertz in January 2021, which was reported stolen in April 2021, leading to Ms. Bosko being arrested in August 2021. *See* Hershey Decl., Ex. V at 13. Ms. Bosko does not allege any communications with Hertz regarding her alleged claim, nor any basis for Hertz to be aware of it. Rather, Hertz's records show

that Ms. Bosko was an unknown creditor, as Hertz communicated with Ms. Bosko 26 times asking her to return the rental vehicle, and she did not respond. *See id.* at 22-24.²⁸

ii. **Janette Brown (Group 3).** According to the declaration submitted with her proof of claim (which seeks nearly \$2 million), Ms. Brown was allegedly arrested on July 20, 2018 in a second Hertz rental vehicle after her first rental had allegedly been stolen from her two months prior. *See* Hershey Decl., Ex. W at 13. Ms. Brown’s declaration does not allege any contact with any of the Debtors regarding her claim. Moreover, her only basis for believing that she was a “known” creditor is that a Hertz security employee was purportedly “present at the dismissal of charges against [her].” *Id.* at 15. However, the fact that charges were dismissed does not constitute notice to Hertz that Ms. Brown intended to assert a litigation claim. Also, Hertz had no basis to believe Ms. Harris had a claim against it, as Hertz’s records reflect extensive attempts to contact Ms. Brown to get her to return the vehicle, to which she never responded. *See id.* at 57-60.²⁹

iii. **Reginald Brown (Group 4a).** According to the declaration submitted with his proof of claim (which seeks almost \$4 million), Mr. Brown alleges that he received a letter

²⁸ The Reorganized Debtor’s records reflect that Ms. Bosko’s rental was due back on January 25, 2021 and that she did not obtain any extensions. *See* Hershey Decl., Ex. V at 20-24. From January 28 to February 8, 2021, Ms. Bosko received 26 phone calls and a certified demand letter, and she did not respond to any of these contacts. *See id.* at 22-24. Thus, Ms. Bosko’s claim is without merit because the vehicle was 88 days overdue when Hertz closed the rental contract and discussed the issue with the police, and at that time, Ms. Bosko had possessed the vehicle for 93 days. *See id.* at 20. Moreover, contrary to Ms. Bosko’s declaration that she returned her rental, the Reorganized Debtor’s records reflect that Ms. Bosko’s rental vehicle was impounded and returned to Hertz with “light body damage” and “smell[ing] like smoke.” *See id.* at 42.

²⁹ Ms. Brown’s rental was 41 days overdue when Hertz closed the rental contract and discussed the issue with the police on July 11, 2018. *See* Hershey Decl., Ex. W at 56; 61. Moreover, despite her claim that “Hertz made almost no attempt to reach out” to her (*id.* at 13), Ms. Brown received 29 phone calls from Hertz between June 14 and June 27, 2018 (*i.e.*, before Hertz discussed the issue with the police), as well as numerous text messages and emails asking her to return her overdue rental. *See id.* at 57-60. Ms. Brown never responded. *Id.*

requesting his appearance in court for a theft by conversion warrant relating to his Hertz rental, and that when he appeared in court in October 2019, he was arrested. *See* Hershey Decl., Ex. X at 31. But Mr. Brown’s declaration does not allege any direct or indirect contact with Hertz regarding his arrest. Rather, he alleges that (i) he had “contacts with Hertz” before his arrest “telling them he returned the car” and (ii) the fact that Hertz did not attend his September 2021 hearing—which he admits was “postponed” for almost two years due to the pandemic—shows that Hertz “was well aware that it filed a false report.” *Id.* at 16-17. Mr. Brown’s communications with Hertz before his alleged claim accrued, and the fact that Hertz allegedly did not attend a long-delayed hearing in late 2021, after the General Bar Date, do not make Mr. Brown a “known” creditor. Moreover, Hertz’s records show that he was an unknown creditor, as he failed to return the rental vehicle despite Hertz’s repeated requests. *See id.* at 20-21.³⁰

iv. **Larryelle Magee (Group 4a).** According to the declaration submitted with her proof of claim (which seeks over \$6 million), Ms. Magee alleges she was arrested in late 2017 in her Hertz rental vehicle and subsequently prosecuted for charges relating to the rental into 2020. *See* Hershey Decl., Ex. Y at 13. But Ms. Magee does not allege that she ever contacted Hertz regarding her arrest. Her sole basis for being a “known” creditor is that an unnamed “low level employee” of Hertz allegedly attended Ms. Magee’s trial where he saw Ms. Magee contest the

³⁰ Mr. Brown’s vehicle was 42 days overdue when Hertz closed the contract and discussed the issue with the police on September 5, 2019. *See* Hershey Decl., Ex. X at 18-19. Mr. Brown spoke with Hertz on three separate occasions while his rental was overdue, and each time Hertz told him the rental was overdue and needed to be returned. *See id.* at 20-21. During the third phone call on August 19, 2019, Mr. Brown told Hertz that he would be able to return the car to the College Park, Georgia location before it closed because he “gets off at 2:30 today so that will not be a problem.” *Id.* While Mr. Brown claimed to Hertz that he dropped off the vehicle and took a picture (as he repeats in his declaration), the location disputed the car was ever returned. *Id.* (“location is claiming unit is not there”). Put differently, Mr. Brown never returned the vehicle as promised, and Hertz ultimately recovered the vehicle in Murfreesboro, Tennessee—many miles from the College Park, Georgia location where Mr. Brown claims he returned the vehicle. *See id.* at 36.

theft charges. *Id.* at 16. Even if true, this fact would not have made Ms. Magee a “known” creditor. To the contrary, Hertz’s records reflect that Ms. Magee was an unknown creditor, as her contacts with Hertz consist of over 20 communications from Hertz imploring her to return the rental car, which she failed to do. *See id.* at 20-22.³¹

v. **Melinda Smith (Group 4a).** According to the declaration submitted with her proof of claim (which seeks over \$1.2 million), Ms. Smith rented a vehicle from Hertz in February 2021 and made numerous extensions on the rental before being arrested on June 15, 2021 while driving her Hertz rental. *See* Hershey Decl., Ex. Z at 13. Ms. Smith does not allege that she, or anyone else, ever provided notice to the Debtors of her alleged claim. Nor does she allege any basis for the Debtors to be aware of her as a “known” creditor. To the contrary, while Ms. Smith claims that “[a]t no time did Hertz ever make her aware of any concerns with her rental agreement,” *id.* at 14, the Reorganized Debtor’s records show that, between March 8 and April 1, 2021, Ms. Smith received 55 phone calls from Hertz, as well as numerous text messages and emails imploring her to return the overdue rental. *See id.* at 23-27.³²

³¹ Ms. Magee’s rental was 44 days overdue when Hertz closed the rental contract and discussed the issue with the police on January 3, 2018. *See* Hershey Decl., Ex. Y at 18. The Reorganized Debtor’s records indicate that State Farm terminated the rental on November 15, 2017, and, yet, Ms. Magee continued to possess the vehicle. *See id.* at 22. Hertz contacted Ms. Magee on December 4, 2017 informing her the vehicle was overdue, and told her to contact State Farm to secure an extension or otherwise return the vehicle to Hertz. *See id.* at 20. Ms. Magee failed to return the vehicle despite receiving over 20 phone calls, text messages and voicemails after the December 4, 2017 communication imploring her to return the vehicle or face legal action. *See id.* at 20-22.

³² The Reorganized Debtor’s records reflect that Ms. Smith’s vehicle was due back to Hertz on March 4, 2021 and that, after that date, Ms. Smith’s rental was overdue and she did not make any extensions. *See* Hershey Decl., Ex. Z at 21-27. Contrary to Ms. Smith’s declaration, where she alleges Hertz made no contact with her concerning issues with her rental agreement, the Reorganized Debtor’s records demonstrate that, between March 8 and April 1, 2021, Ms. Smith received 55 phone calls from Hertz, as well as numerous text messages and emails imploring her to return the overdue rental. *See id.* at 23-27. Ms. Smith ignored all these contacts. *Id.* Ms. Smith’s rental was 89 days overdue when Hertz closed the rental contract and discussed the issue with the police, at which time Ms. Smith had possessed the vehicle for 102 days. *See id.* at 21.

vi. **Edward Solis (Group 4a).** According to his declaration, Mr. Solis was allegedly arrested in July 2019 in his Hertz rental. *See* Hershey Decl., Ex. AA at 13. Yet, Mr. Solis’s declaration does not allege that he, or anyone else, ever contacted Hertz regarding his claim. Rather, he refers only to “extensive contacts with Hertz prior to his arrest,” *id.* at 15, but he does not identify the contents of these alleged contacts with any specificity, nor does not explain how contacts *before* his arrest could put Hertz on notice of purported claims arising *after* his arrest. Additionally, records produced in discovery show that Mr. Solis was an unknown creditor, as his contacts with Hertz consisted of Hertz attempting to get him to return the vehicle, to which he did not respond. *See id.* at 18-19.³³

vii. **Dr. Tederhi Usude (Group 4a).** According to the declaration submitted with his proof of claim (which seeks over \$2 million), Dr. Usude rented a vehicle from Hertz on June 11, 2020, thereafter “extended many times,” and was arrested on December 18, 2020. *See* Hershey Decl., Ex. BB at 13. Yet, Dr. Usude’s declaration does not allege that he, or anyone else, ever contacted Hertz regarding his claim. Instead, he argues that based on unspecified “communications” he has had with Hertz, “Hertz is well aware the theft report it filed was false.” *Id.* ¶ 21. To the contrary, Hertz’s records show that Dr. Usude was an unknown creditor, as he promised to “return the car as soon as possible,” but never did. *See id.* at 34.³⁴

³³ Mr. Solis’s rental was 35 days overdue when Hertz closed the rental contract and discussed the issue with the police on August 2, 2019. *See* Hershey Decl., Ex. AA at 16. In addition, Hertz repeatedly attempted to contact Mr. Solis as early as July 2, 2019 regarding his overdue rental, but Mr. Solis did not respond to these attempts until July 19, 2019, when he told Hertz he would return the vehicle that day. *See id.* at 18. Mr. Solis never returned the vehicle. Indeed, Mr. Solis admits in his declaration that he was still driving the vehicle when he was allegedly arrested. *See id.* at 14.

³⁴ While Dr. Usude did extend his rental several times, the last extension expired on August 10, 2020—four months before his arrest. *See* Hershey Decl., Ex. BB at 31. Indeed, by the time Hertz closed the rental contract and discussed the issue with the police on October 19, 2020, Dr. Usude’s rental was already 70 days overdue and Dr. Usude had possessed the rental for 130 days. *See id.* at 30. Moreover, Hertz made numerous attempts to contact Dr. Usude after his last extension expired on August 10, 2020, including 15

viii. **Marissa White (Group 3).** According to the declaration attached to her proof of claim (which seeks over \$5 million), Ms. White is a Lyft driver who was allegedly arrested on March 27, 2019 in a Hertz rental. *See* Hershey Decl., Ex. CC at 12-13. Ms. White does not allege that she ever contacted Hertz or any of the Debtors regarding her claim after her arrest. Rather, she claims that “based on the police telling Hertz [during her arrest] that she disputed the theft allegations, her complaints to Lyft, and the fact that Hertz has her claim in collections,” she was a “known” creditor. *Id.* at 15. None of the communications Ms. White identifies—particularly her correspondence with Lyft and Hertz’s correspondence with the collections agency—makes her a “known” creditor. Moreover, the records Hertz has produced demonstrate that Hertz has no basis to treat her as a “known” creditor, as Hertz contacted her repeatedly to demand return of the vehicle, and she never responded. *Id.* at 26-27.³⁵

F. Minimal and Insufficient Contacts with the Debtors

33. Ten Claimants allege they had some minimal or long-ago communications with the Debtors, but none alleges facts sufficient to show that they put the Debtors on notice of their claims. Moreover, the Reorganized Debtor’s records show that the Debtors had no reason to regard

phone calls to Dr. Usude between August 12 and 21, 2020. *See id.* at 33. Hertz made additional attempts to reach Dr. Usude by calls, texts, and emails on September 28 and October 1, 2020, informing him the vehicle was overdue and needed to be returned or Hertz would “possibly report [it] stolen.” *See id.* at 33-34. Notably, Dr. Usude contacted Hertz on October 1, 2020 (still before Hertz discussed the issue with the police on the October 19, 2020), acknowledging he still had the car, and was again reminded to return the vehicle within 24 hours. *See id.* at 34. Dr. Usude did not return the vehicle within 24 hours. Instead, he texted Hertz 18 days later and said he would “return your car as soon as possible.” *Id.* He admits in his declaration he was still driving the vehicle when he was allegedly arrested months later.

³⁵ Ms. White’s rental was 32 days overdue when Hertz closed the rental contract and discussed the issue with the police on March 19, 2019 and 40 days overdue (and still in Ms. White’s possession) when she was allegedly arrested on March 27, 2019. *See* Hershey Decl., Ex. CC at 24. Furthermore, Hertz contacted Ms. White on numerous occasions before the vehicle was reported to law enforcement, including on February 27, 2019 when Hertz told her via voicemail and text message that—contrary to Ms. White’s declaration—her “contract did not auto renew/extend,” and that she “must return vehicle by end of business today.” *See id.* at 26. Ms. White never responded. *Id.*

these Claimants as “known” creditors because they had failed to return their vehicles despite multiple demands, in many cases promising to do so but failing to follow through.

i. **Sioban Abrams (Group 3).** The declaration submitted with Ms. Abrams proof of claim (which seeks nearly \$3 million) states two purported bases for her alleged claims. First, she alleges that Hertz reported one or more of her rentals as thefts in July 2017. *See* Hershey Decl., Ex. E at 12-13. In response to this incident, Ms. Abrams allegedly emailed Hertz requesting an “arbitration hearing,” but did not state that she intended to file a litigation claim. *Id.* at 14-15. Indeed, in the same communication, she stated that she “do[es] not want to open a case against Hertz.” *Id.* Moreover, in the following years leading up to the Petition Date, Ms. Abrams never brought a litigation claim against Hertz. Second, Ms. Abrams alleges that she was arrested in July 2019 pursuant to a theft report concerning a Mercedes-Benz GLE SUV she had purchased from Hertz in October 2017 through a “rent-to-buy” program for \$46,026.30. *Id.* at 16, 18. Ms. Abrams claims she purchased this vehicle in “Bitcoin through a third-party lender TPG Lending Group, Inc.” *Id.* at 16. With regard to this claim, Ms. Abrams alleges only that she emailed Hertz “demand[ing] an explanation for being falsely arrested” and requested a meeting with a Hertz employee, which never occurred. *Id.* at 18. She does not allege that she ever noticed a claim or threatened litigation. Moreover, the Reorganized Debtor’s records demonstrate that Ms. Abrams was not a “known” creditor in connection with either incident, because the facts showed that she committed fraud in both cases.³⁶

³⁶ The Reorganized Debtors’ records reveal that on July 7, 2017, Ms. Abrams had “six unpaid rentals” and she was “finding ways to stall and not pay the debt,” including using varying forms of contact information. *See* Hershey Decl., Ex. E at 37. Ms. Abrams acknowledges that she had six Hertz rentals during this period in her declaration. *See id.* at 13. In July 2017, Hertz closed these rental contracts and discussed the issue with the police due to this fraudulent activity. *See id.* at 36. With regard to her subsequent vehicle purchase, police reports and declarations submitted by police officers, which are attached to Ms. Abrams’ proof of claim, reveal that Ms. Abrams had purchased the vehicle from Hertz with a fraudulent check, and Hertz reported the fraudulent theft to law enforcement. Specifically, in the “Declaration of Warrant/Summons”

ii. **Charles Bort (Group 3).** Based on the declaration attached to his proof of claim (which seeks almost \$2 million), Mr. Bort rented from Hertz “through Uber” in January 2020, and was arrested in April 2020. *See* Hershey Decl., Ex. DD at 12. The only post-arrest communication with Hertz that Mr. Bort alleges occurred after the General Bar Date, when his attorney “ask[ed] [a Hertz paralegal] to dismiss the case because the prosecutors were refusing to do so.” *Id.* at 14. But as Mr. Bort states, Hertz investigated the situation and determined the police report was accurate. *Id.* at 14-15. Accordingly, Mr. Bort was not a “known” creditor. Moreover, Hertz’s documented communications with Mr. Bort show that he was an unknown creditor. He was told in early March that the rental was overdue, and he promised to return it “tomorrow”—but he never did. *See id.* at 31.³⁷

iii. **Mary Lindsay Flannery (Group 4a).** Based on the declaration submitted with her proof of claim (which seeks over \$1.5 million), Ms. Flannery rented from Hertz in April 2020, was notified of the theft report in October 2020 by a police officer who pulled her over and impounded the car, and was arrested in December 2020. *See* Hershey Decl., Ex. EE at 13-14. The only contacts regarding her claim that Ms. Flannery alleges are (i) “call[ing] Hertz about every

made by the Las Vegas Police Department, an officer stated that Hertz was contacted by Bank of America stating that the “Pay to Order of” line (Hertz), the amount of the check (\$46,026.30), and the payee (TPG Lending Group, Inc.) had all been altered. *See id.* at 22-23. Furthermore, the officer stated that certain information in Ms. Abrams’ credit application was fraudulent and contained numerous intentional errors. *Id.* at 22-35.

³⁷ There is no evidence that Mr. Bort’s rental “renewed” monthly, and the rental was 38 days overdue when Hertz closed the rental contract and discussed the issue with the police on April 13, 2020. *See* Hershey Decl., Ex. DD at 29. Notably, Hertz spoke with Mr. Bort on March 5, 2020, and told Mr. Bort he needed to return the vehicle, to which Mr. Bort replied he would return the vehicle “tomorrow” (March 6). *See id.* at 31. Mr. Bort’s declaration does not reference this promise to return the vehicle. Indeed, Mr. Bort did not return the vehicle as he promised even though he knew it was severely overdue and needed to be returned. *Id.* Hertz again tried contacting him on March 9 and 11 via phone calls, email, and text. *Id.* Despite these efforts, Mr. Bort still did not return the vehicle prior to Hertz closing the contract and discussing the issue with the police, and he admits in his declaration that he still possessed the overdue rental when he was allegedly arrested. *See id.* at 13.

two weeks . . . trying to get an explanation,” but “never hear[ing] back,” (ii) “a 3-way conference call” between Ms. Flannery, her mother and “Hertz,” in which Ms. Flannery or her mother “told Hertz it was a false police report [and] they wanted the charges dropped,” and (iii) alleged unspecified contacts between the prosecutors and Hertz. *Id.* at 14-15. While Ms. Flannery claims to have requested an explanation and disputed the charges, she does not state that she asserted a claim or threatened litigation. Hertz’s records, however, reflect that she did not need an explanation, and Hertz had no reason to regard her as a “known” creditor, because Hertz had contacted her dozens of times in June and July 2020 asking her to return the car. *See id.* at 20-22. Her declaration acknowledges that she failed to heed these requests, since she was pulled over and the car was impounded months after these calls, in October 2020.³⁸

iv. **Dedrick Jackson (Group 4a).** Based on the declaration submitted with his proof of claim (which seeks almost \$3 million), Mr. Jackson rented a car in “early 2020,” a theft report regarding that car was issued in May 2020, and he was arrested at the U.S.-Mexico border on June 29, 2021. *See* Hershey Decl., Ex. FF at 13-14. The only contacts Mr. Jackson alleges regarding his purported claim are “contact[ing] Hertz at the 1-800 corporate number . . . demanding to know why a false theft report was filed,” and “the prosecution and defense attorneys contacting Hertz after his arrest.” *Id.* at 14. Mr. Jackson does not state that he or anyone else asserted a claim or threatened litigation regarding the theft report in these communications. To the contrary, Hertz’s records reflect that Hertz had no knowledge of his purported claim, as Hertz

³⁸ Ms. Flannery was also an unknown creditor because Hertz made repeated attempts to contact Ms. Flannery regarding her overdue rental, including 33 phone calls between June and July 2020, as well as text messages in August 2020 stating that if Ms. Flannery did not return the vehicle, Hertz would “possibly report [it] stolen.” Hershey Decl., Ex. EE at 23. Hertz also sent Ms. Flannery a certified demand letter. *See id.* at 33. Ms. Flannery did not respond to any of these contacts. *See id.* at 20-24. The vehicle was 85 days overdue when Hertz closed the rental contract and discussed the issue with the police, and at that time, Ms. Flannery had possessed the vehicle for 136 days. *See id.* at 18.

repeatedly urged Mr. Jackson to return the vehicle because his credit card was declining, and Mr. Jackson refused to return it. *See id.* at 21.³⁹

v. **Heather Kasdan (Group 3)**. According to the declaration submitted with her proof of claim (which seeks over \$3 million), Ms. Kasdan was involved in an accident in her one-day rental in July 2019, the vehicle was towed and she “never saw the car again.” Hershey Decl., Ex. GG at 12. Ms. Kasdan alleges she subsequently received communications accusing her of still possessing the car. *Id.* at 12-13. While Ms. Kasdan alleges that she was overcharged for the rental by \$3,932.03, *id.* at 15, she does not allege that she has been arrested, charged with any crime or prosecuted. The only contacts with Hertz that Ms. Kasdan alleges are a series of calls and emails seeking answers regarding the charges on her credit card and the basis for Hertz allegedly reporting her for theft. *Id.* at 13-17. Ms. Kasdan does not state that she asserted a claim or threatened litigation regarding the theft report in these communications, and her billing questions and assertions of innocence do not make her a “known” creditor to Hertz.

³⁹ Mr. Jackson claims that he rented a vehicle from Hertz in early 2020, and that after the tires blew out, Hertz picked up the car at his house. There is no evidence Hertz picked up the rental at his house (it needed to be recovered by the police), and his rental was 35 days overdue when Hertz closed the contract and discussed the issue with the police on December 24, 2019. *See* Hershey Decl., Ex. FF at 18. Prior to that date, Hertz spoke with Mr. Jackson on numerous occasions, asking him to return the vehicle, and despite Hertz’s simple request, Mr. Jackson repeatedly told Hertz he needed to keep the car while his credit card was declining. *See id.* at 20-22. For example, on November 25, 2019, while Mr. Jackson’s rental was overdue, he told Hertz he needed a new return date of November 27, but Hertz said he needed to have \$1,130 available for the authorization charge to do so. *See id.* at 20. On December 4, 2019, Mr. Jackson called Hertz again and said he needed to keep the vehicle longer and would “add funds” later. *See id.* at 21. Then, on December 6, 2020, Mr. Jackson asked Hertz about keeping the rental until December 22, to which Hertz said the vehicle must be extended with additional funds available. *Id.* Later, on December 9, 2020, Mr. Jackson was reminded his credit card was declining and that he had the rental “for 20 days without paying.” *Id.* Despite Hertz urging Mr. Jackson again to return the vehicle and being told he could not pay for a further extension, he refused to return it. *See id.* at 22. Even after Hertz closed the rental contract, on December 30, 2019, Mr. Jackson told Hertz’s third-party repossession vendor that he would not return the vehicle for a week. *Id.* Hertz proceeded with reporting the vehicle to law enforcement given Mr. Jackson’s refusal to return the vehicle, and the vehicle was eventually recovered by the police on January 9, 2020. *See id.* at 33.

vi. **Raelena Lewis (Group 3).** Based on her declaration, Ms. Lewis obtained a one-week rental in January 2020, extended the rental “every week for 1 week,” and was subsequently arrested “on a Sunday (believed to be March 2, 2020).” Hershey Decl., Ex. HH at 12. Ms. Lewis’s post-arrest communications with Hertz consist of her allegedly calling Hertz “approximately 50 times in March and April 2020 and [leaving] messages demanding an explanation,” with no returned phone calls. *Id.* at 13-14. Based on these alleged calls, Ms. Lewis “believes that Hertz has records of her extensive attempts to contact the company and notify them about the false accusation against her.” *Id.* at 14. Ms. Lewis does not identify the number she purportedly called when she left these messages. Nor does she state the substance of those messages and, while she claims she demanded “an explanation,” she does not state that she asserted a claim or threatened litigation regarding the theft report in these communications. Moreover, Hertz’s records show that Ms. Lewis was not a “known” creditor, as it was Hertz who contacted Ms. Lewis over 30 times to implore her to return the rental car, which she never did. *See id.* at 18-21.⁴⁰

vii. **Jessica Malone (Group 3).** Based on the declaration submitted with her proof of claim (which seeks over \$2.5 million), Ms. Malone rented from Hertz in February 2017, and was arrested on charges of stealing her rental car two months later. *See* Hershey Decl., Ex. D

⁴⁰ Hertz has not identified any evidence that Ms. Lewis extended the rental “every week.” Rather, Ms. Lewis’s rental was 47 days overdue when Hertz closed the rental contact and discussed the issue with the police on February 28, 2020. *See* Hershey Decl., Ex. HH at 16. Between January 14 and February 7, 2020, Ms. Lewis received 34 phone calls from Hertz imploring her to return the vehicle, including live-agent calls where she was warned Hertz could “possibly report [it] stolen.” *See id.* at 18-21. On January 24 and 27, 2020, Ms. Lewis requested an extension via call or email, but Hertz told her she needed additional funds and approval to charge her credit or debit card to keep the vehicle. *See id.* at 19. When Ms. Lewis told Hertz her credit or debit card was stolen, Hertz responded that she still needed to return the vehicle. *See id.* at 20. Ms. Lewis did not return her rental after any of these communications, and she admits in her declaration that she was still in possession of the overdue rental when she was arrested. *Id.* at 13.

at 12. The only communication with Hertz that she alleges is “call[ing] Hertz local and corporate repeatedly in April and May 2017”—*i.e.*, more than three years before the Petition Date—asking questions and stating that the theft report was false. *Id.* at 14. Ms. Malone does not identify any of the various Hertz employees with whom she purportedly spoke, and does not state that she asserted a claim or threatened litigation regarding the theft report in these communications. Moreover, Hertz’s books and records do not reflect any facts or information that would make Ms. Malone a “known” creditor. Rather, Hertz’s records show that Ms. Malone admitted that the car was overdue, texting Hertz, “I am so sorry I just got out of jail and found out somebody else has been pretty much joy riding in the car while I was locked up.” *Id.* at 18. She further told Hertz, “I understand your concern and will do everything I can to make it right.” *Id.*⁴¹

viii. **Zanders Pace (Group 3).** According to the declaration submitted with his proof of claim (which seeks over \$3 million), Mr. Pace rented a vehicle from Hertz in June, 2019 and was involved in an accident in July 2019, after which the vehicle was “taken to a shop.” Hershey Decl., Ex. F at 12. While Mr. Pace alleges that he “threatened to file a civil suit” in phone calls with roadside assistance and customer service (*id.* at 16-17), he did not affirmatively state that he would file a lawsuit or otherwise provide notice of his purported claim. Additionally, the facts and circumstances provided no basis for Hertz to reasonably believe that Mr. Pace was a creditor of Hertz.⁴²

⁴¹ Ms. Malone’s rental was severely overdue and was never returned to Hertz despite repeated statements from Ms. Malone on both February 21 and 28, 2017 that the vehicle would be returned. *See* Hershey Decl., Ex. D at 18-19.

⁴² Mr. Pace’s vehicle was due back to Hertz on July 4, 2019, and it was 21 days overdue when Mr. Pace informed Hertz via text message on July 25, 2019 that the car was “in the shop” because it was “in a wreck.” Hershey Decl., Ex. F at 31, 32. Hertz then spoke with “E’s Body Shop” in Houston who refused to release the vehicle back to Hertz without a \$1,200 payment for alleged repairs the shop had no authorization to undertake. *See id.* at 36-37. Hertz sent a corporate security manager to the body shop to locate the car who found that “the vehicle [was] not there,” and the so-called “body shop” was an “abandoned metal building

ix. **Jenelle Reece-Williams (Group 4a).** Based on the declaration submitted with her proof of claim (which seeks over \$1 million), Ms. Reece-Williams rented from Hertz in September 2018 and was arrested in November 2018. Hershey Decl., Ex. II at 13. The only post-arrest contact she alleges is that she “called Hertz likely over 100 times from November 2018 to mid-January 2019 demanding to know what happened,” and that she asked to be removed from the “do not rent” list in 2021, after the General Bar Date had passed. *Id.* at 15-16. Ms. Reece-Williams alleges that, on those calls, she “threatened litigation, told them what happened was wrong, and told them they had to fix this,” *id.* at 15, but she provides no details about the calls, including what number she called or with whom she spoke. Ms. Reece-Williams does not allege that she ever took any legal action, affirmatively stated that she would file a lawsuit, or otherwise communicated with Hertz after January 2019. Moreover, the Reorganized Debtor’s records reflect that she was not a “known” creditor.⁴³

x. **Tonia Rich (Group 4a).** According to her declaration, Ms. Rich rented a vehicle from Hertz in November 2020 as a “weekly rental,” and allegedly called Hertz every seven days to extend the rental. Hershey Decl., Ex. JJ at 13. Ms. Rich claims that on March 13, 2021, her boyfriend, Mr. Taper—an unauthorized driver—borrowed the Hertz rental car to go shopping,

with chain linked fence.” *See id.* at 37. The corporate security manager further relayed that his contact in the Houston Police Department informed him it was “not a legitimate business,” that the police have received “numerous calls ... about individuals looking for their cars,” and that he should leave the area due to criminal activity. *See id.* at 37-38. Based on these circumstances and the fact that Mr. Pace had brought the vehicle to an illegitimate “body shop” without authorization, Hertz continued to process Mr. Pace’s overdue rental, closed the contract and discussed the issue with the police on July 25, 2019. *See id.* at 38.

⁴³ The Reorganized Debtor’s records reflect that Ms. Reece-Williams did extend her two-week rental for one day until September 28, 2018, but did not extend her rental any further or “each week,” as alleged in her declaration. *See* Hershey Decl., Ex. II at 19-20. Thereafter, Ms. Reece-Williams received phone calls, text messages and emails from Hertz on four different days in October 2018 notifying her that her credit card was declining, the vehicle was overdue, and that she must return the vehicle. *Id.* Ms. Reece-Williams did not respond to any of these contacts by Hertz. *Id.* Ms. Reece-Williams’ rental was 20 days overdue when Hertz closed the rental contract and discussed the issue with the police. *See id.* at 17.

and allegedly was arrested while using the vehicle. *Id.* at 14. As an initial matter, it is not clear how Ms. Rich could have been a “known” creditor, given that she was never detained, arrested or prosecuted. Additionally, the only purported communications with Hertz regarding her claim that Ms. Rich alleges include (i) calling “corporate on the 1-800 number to complain” about an allegedly inaccurate police report in May and June 2021 (ii) speaking with Joshua Boles, who allegedly worked in Hertz Executive Customer Service in the Oklahoma City office, regarding the report (Mr. Boles allegedly said he would reach out to the Legal Department and get back to Ms. Rich, but she did not hear from him); and (iii) emailing customer-relations@hertz.com on July 1, 2021 regarding Mr. Taper’s arrest and asking someone to call her back. While Ms. Rich states that she complained and requested information, she does not state that she asserted a claim or threatened litigation regarding the theft report in these communications. Indeed, Hertz’s records of its communications with Ms. Rich reflect that she was not a “known” creditor, as Hertz contacted Ms. Rich dozens of times requesting return of the vehicle, and Ms. Rich promised to do so, but she never did. *See id.* at 21-25.⁴⁴

ARGUMENT

34. Movants assert multiple bases for being “known creditors” but, as instructed by the Court, this supplemental brief focuses on whether Movants’ communications with the Debtors made them known creditors, or whether the Debtors’ records of Movants made them known

⁴⁴ There is no evidence that Ms. Rich had any rental extensions, and the rental was 97 days overdue when Hertz closed the rental contract and discussed the issue with the police on February 10, 2021. *See* Hershey Decl., Ex. JJ at 19-25. Between November 9, 2020 and January 8, 2021, Ms. Rich received 47 phone calls from Hertz, as well as text messages imploring her to return the vehicle. *See id.* at 21-24. Importantly, Ms. Rich called Hertz on January 13, 2020 saying that she would finally return the vehicle to Hertz on January 14 by 7:00 a.m. *See id.* at 25. Ms. Rich and Mr. Taper’s shared declaration does not mention this promise to return the vehicle. Ms. Rich did not return the vehicle as promised, and as alleged by Ms. Rich and Mr. Taper in their declaration, Mr. Taper was in possession of the overdue rental when Mr. Taper was arrested.

creditors. For the reasons set forth below, the Movants were at all relevant times unknown creditors.

35. Due process requires notice that is “‘reasonably calculated to reach all interested parties, reasonably conveys all the required information, and permits a reasonable time for a response.’” *Chemetron Corp. v. Jones*, 72 F.3d 341, 346 (3d Cir. 1995) (“*Chemetron I*”) (quoting *In re Eagle Bus Mfg. Inc.*, 62 F.3d 730, 735 (5th Cir. 1995)). A debtor’s obligation to serve notice depends on whether the creditor is “known” or “unknown.” *Chemetron I*, 72 F.3d at 345–46. A debtor must serve known creditors with actual notice of the bankruptcy and bar date. *Id.* at 345, 346. For unknown creditors, a debtor satisfies due process through notice by publication. *Id.* at 345–46, 348.

36. For both the General Bar Date and Administrative Claims Bar Date, the crucial inquiry is whether the claimant was a “known” creditor. *See Khatib v. Sun-Times Media Grp., Inc. (In re Chicago Newspaper Liquidation Corp.)*, 490 B.R. 487, 494-95 (Bankr. D. Del. 2013) (“If the [] lawsuit was served on Defendant, and such service took place prior to the Prepetition Bar Date, then Plaintiff would have been a ‘known’ creditor and the publication notice he received would not have been sufficient. On the other hand, if the [] lawsuit was not served on Defendant, or if service was made, but not before the Prepetition Bar Date, then Plaintiff would have been an unknown creditor and the publication notice he received would have been adequate. The same analysis applies to the Administrative Claims Bar Date[.]”) (emphasis omitted).

A. Movants Were Not Known Creditors

37. Known creditors include only claimants actually known to the debtor and those that are “reasonably ascertainable.” *See Chemetron I*, 72 F.3d at 346; *see also In re W.R. Grace & Co.*, 316 F. App’x 134, 137 (3d Cir. 2009). For a creditor to be “reasonably ascertainable” means the

creditor “can be identified through ‘reasonably diligent efforts.’” *Chemetron I*, 72 F.3d at 346 (quoting *Menonite Bd. of Missions v. Adams*, 462 U.S. 791, 798 n.4 (1983)). “Reasonable diligence” does not require a debtor to “search out each conceivable or possible creditor and urge that person or entity to make a claim against it.” *Id.* (citing *Charter Crude Oil Co. v. Petroleos Mexicanos (In re Charter Co.)*, 125 B.R. 650, 654 (M.D. Fla. 1991)). It also does not require a “vast, open-ended investigation,” *id.* at 346, and does “not necessarily include notifying every possible creditor, no matter how speculative their claim might be against [the debtor.]” *In re Charter Co.*, 125 B.R. at 656.

38. Reasonable diligence instead “focuses on the debtor’s own books and records.” *Chemetron I*, 72 F.3d at 347. “Only those claimants who are identifiable through a diligent search are ‘reasonably ascertainable’ and hence ‘known’ creditors.” *Id.* “Efforts beyond a careful examination of [the debtor’s books and records] are generally not required.” *Id.*

39. Thus, the standard focuses on *reasonableness*. “A debtor need not be omnipotent or clairvoyant, but need only do what is reasonable under the circumstances to provide notice to ascertainable creditors.” *In re New Century TRS Holdings, Inc.*, 540 B.R. at 513. Importantly, the mere possibility of a claim being made is not enough. *In re Charter Co.*, 125 B.R. at 656 (“Even assuming that [the debtor] knew there was a possibility of a claim by Pemex, [the debtor] was not required to give actual notice to creditors with merely conceivable, conjectural or speculative claims.”); *Trump Taj Mahal, Inc. v. Alibraham (In re Trump Taj Mahal Assocs.)*, 156 B.R. 928, 940 (Bankr. D.N.J. 1993) (claimant’s threat to sue was not enough to make him “known creditor” because “although many people in [claimant’s] position threaten to file suit against the Taj, only a nominal number, if any, actually bring suit”); *Trump Taj Mahal, Inc. v. Alibraham (In re Trump Taj Mahal Assocs.)*, Civ. A. No. 93–3571 (JEI) Adv. No. 93–2056, 1993 WL 534494, at *4 (Dec.

13, 1993) (claimant’s filing of “incident report” two years before bankruptcy case not enough to render the claim “known”).

40. None of the Movants made themselves known creditors by filing prepetition litigation against the Debtors, even though several of them had purported claims dating back many years, or making a clear statement that they would be commencing a dispute. And while certain Movants might have appeared as customers in the Debtors’ books and records, that does not make them known creditors. *See, e.g., In re Crystal Oil Co.*, 158 F.3d 291, 297 (5th Cir. 1998) (discussing cases, including *Chemetron I*, and concluding that “in order for a claim to be reasonably ascertainable, the debtor must have in [its] possession, at the very least, some specific information that reasonably suggests both the claim for which the debtor may be liable and the entity to whom [it] would be liable.”); *In re New Century TRS Holdings, Inc.*, 450 B.R. 504, 512-13 (Bankr. D. Del. 2011) (“The availability of the [claimants’] names and address in the Debtors’ loan files may have reflected that the [claimants] were known *customers*, but without more, it did not make them ‘known *creditors*.’” (emphasis in original)).

41. Even where a potential claimant makes himself or herself known to a prepetition debtor, the circumstances of such contact or the passage of time may render that person an unknown creditor. *See In re Trump Taj Mahal Assocs.*, 1993 WL 534494 at *4 (D.N.J. Dec. 13, 1993) (finding no abuse of discretion in bankruptcy court’s determination that claimant who filed an incident report with the debtor prepetition, when slip-and-fall occurred, but then did not follow up or respond to debtor’s claims adjuster for two years—during which time the debtor entered chapter 11 and the bar date passed—was not a known creditor). This is particularly true for a large organization like the Debtors, which handled millions of customer interactions each year. *See In re Trump Taj Mahal Assocs.*, 156 B.R. 928, 940 (Bankr. D.N.J. 1993) (finding claimant who had

filed prepetition incident report was an unknown creditor based, in part, on evidence that the debtor hotel had received thousands of hotel complaint and casino incident reports in the past year, and “although many people in [the claimant’s] position threaten to file suit against the Taj, only a nominal number, if any, actually bring suit”); *see also In re US Airways, Inc.*, No. 04-13819-SSM, 2005 WL 3676186, at *5 (Bankr. E.D. Va. Nov. 21, 2005) (rejecting argument that parties were “known” creditors either on account of their filed-but-disallowed proof of claim from debtors’ previous bankruptcy or on account of party’s status as a furloughed employee, noting, “a debtor is not constitutionally required to broadly speculate as to the identity and theory of recovery of each conceivable or possible creditor”); *In re Enron Corp.*, No. 01-16034 (AJG), 2006 WL 898031, *5 (Bankr. S.D.N.Y. Mar. 29, 2006) (“Although the FERC investigation into the Debtors’ dealings in the western power markets indicated that Montana may hold a potential claim, it does not establish that the Debtors could readily ascertain the existence of the claim at the time they sent the bar date notice. Therefore, at the time of the bar date notice, Montana’s claim was still ‘conceivable, conjectural or speculative’ and Montana was an unknown creditor.”); *In re Charter Co.*, 125 B.R. 650, 655 (M.D. Fla. 1991) (“[A] debtor is not required to give actual notice of the bar date to a creditor where the debtor could reasonably have believed that the creditor had abandoned its claim against the debtor.”) (citing *Matter of Chicago, Rock Island & Pacific R.R. Co.*, 788 F.2d 1280, 1283 (7th Cir. 1986)); *In re Eagle-Picher Indus., Inc.*, 215 B.R. 983, 986 (Bankr. S.D. Ohio 1997).

42. Movants’ declarations, generally, contain allegations of minimal contact with the Debtors, indirect contact through third parties, or communications that are vague and dated. Details from certain Movants’ declarations are often unclear, referring to broad date ranges and sometimes not specifying the identity or methods of contact with the Debtors. And still other Movants’ declarations, while providing some documentation and specificity regarding their

communications with the Debtors, do not clearly establish that such Movants were asserting a legal claim or right to payment against the Debtors. *See In re Crystal Oil Co.*, 158 F.3d at 297 (“in order for a claim to be reasonably ascertainable, the debtor must have in [its] possession, at the very least, some specific information that reasonably suggests both the claim for which the debtor may be liable and the entity to whom [it] would be liable”); *In re Trump Taj Mahal Assocs.*, 1993 WL 534494 at *4 (“There was nothing in the appellants’ conduct that distinguished their case from the many thousands of claims received each year by the Taj that do not progress beyond the filing of an incident report.”).

43. Consistent with the legal standard that reasonable notice of a claim “focuses on the debtor’s own books and records,” *Chemetron I* at 347, the Debtors have searched their systems—including databases with records from Vehicle Control, Customer Service, Emergency Roadside Assistance—and produced over a thousand pages of documents regarding the 46 Group 3 and Group 4a Claimants.⁴⁵ Many of these documents contain records of communications with Claimants. However, like the allegations in Claimants’ declarations, these communications do not rise to the level necessary to have put the Debtors on notice that Claimants were “known” creditors. Indeed, in most cases, years passed without Claimants taking any steps to put the Debtors on notice of their claims.

B. The Record Is Sufficient for the Court to Rule

44. In total, Claimants have served the Reorganized Debtor with voluminous discovery, including 76 requests for production, 56 interrogatories, four requests for admission and 13 deposition topics. Despite the fact that much if not all of this discovery does not pertain to the “known creditor” issue—the only issue presently before the Court—Claimants have repeatedly

⁴⁵ The Reorganized Debtor also produced over 1,500 pages of documents regarding the Group 1 Claimants.

argued that the Reorganized Debtor's document productions are insufficient, and they must provide further categories of documents. The Reorganized Debtor has worked in good faith to address the Claimants' requests, including through multiple meet-and-confers and follow-up emails. Nonetheless, disputes remain, and the Reorganized Debtor anticipates that Claimants will argue that the Reorganized Debtor must undertake further discovery before the Court can rule. These arguments lack merit for at least three reasons:

45. **First**, Claimants' demand for further discovery has no basis in the law. As noted above, whether the Debtors had reasonable notice that a Claimant was a "known" creditor "focuses on the debtor's own books and records." *Chemetron I* at 347. The Reorganized Debtor has devoted substantial time and resources to searching their books and records as to each individual claimant, and has produced over a thousand pages of responsive, non-privileged documents. Nothing further is required. The time for more exhaustive searches based on Federal Rules of Bankruptcy Procedure 7026 and 7034 should come only after the claimant establishes a timely proof of claim.

46. **Second**, many of the categories of documents that Claimants seek have no bearing on the "known/unknown" creditor issue. For example, as recently as last week, Claimants continued to press the Reorganized Debtor to produce, among other things, banking records relating to Claimants, public records searches for Claimants, documents showing when the rental vehicle that was allegedly stolen was next rented, and records of Claimants' Hertz profiles and membership status. The Reorganized Debtor has asked Claimants repeatedly to explain how these categories relate to the "known creditor" issue, and have not received a satisfactory response—because they do not. As such, they are irrelevant to the Court's decision on this issue.

47. **Third**, Claimants demand that the Reorganized Debtor perform extensive and onerous email searches for additional communications with Claimants, if any. This demand is overly broad, unduly burdensome and not proportional to the needs of the case for several reasons.

- A. Initially, Claimants have not identified which of the Debtors' employees should serve as custodians or a time frame for the search. Rather, Claimants demand that the Reorganized Debtor search all records from all employees across multiple departments (customer service, vehicle control, emergency roadside assistance) going back almost two decades. Claimants have offered no authority that the Debtors were required to undertake such a broad and burdensome search to ascertain their "known" creditors. To the contrary, such a position is unsupported in the law. *See Chemetron I* at 347.
- B. Additionally, as the Reorganized Debtor has advised Claimants, responsive communications with individuals with overdue rentals are supposed to be logged in the Debtors' books and records, and were part of the Reorganized Debtor's production, as reflected in the many communications and summaries of communications that the Reorganized Debtor produced. Further searches for stray emails that may not have been logged would impose a substantial burden and provide minimal benefit, if any.
- C. Claimants' demand also ignores the requirement under Bankruptcy Rule 7026 that all discovery be "proportional to the needs of the case, considering," among other things, "the parties' relative access to relevant information." *See Fed. R. Civ. P. 26(b)(1)*. Every communication that Claimants have with the Debtors is, by definition, equally in Claimants' possession as the Debtors'. Not only that, but each

individual Claimant could more easily locate these records for himself or herself with a simple search of their emails and texts for “Hertz” or other details relating to their rental. Indeed, Claimants should have already completed this search in connection with drafting their declarations and answering the Reorganized Debtor’s interrogatories.

48. For these reasons, the Reorganized Debtor submits that the additional discovery sought by Claimants is unwarranted, and the Court has a sufficient record to rule on the claims discussed in this brief.

**CLAIMS AS TO WHICH THE REORGANIZED DEBTOR DOES NOT OBJECT ON
GROUNDS OF TIMELINESS**

49. For 12 of the Group 3 and Group 4a Claimants listed in Schedule A, the Reorganized Debtor is continuing its investigation and does not object on procedural grounds to the timeliness of these Claimants’ claims, but reserves all other rights and objections. These claims include Group 3 Claimants Sean Hurt and Paula Murray, and Group 4a Claimants ReJeana Meado, Sarabh Rathi, Nirbhay Agarwal, Christian Mangano, Steven Robin Valdes, Kellan McClellan, Krystal Carter, James Tolen, Jessica Andolino, and Andrew Seaser.⁴⁶

⁴⁶ As previously noted, the Reorganized Debtor also does not contest the timeliness of the claims filed by Group 3 Claimants Breanna Oneal and Israel Sundseth, as their claims arose postpetition and were filed in advance of the Administrative Claims Bar Date. However, the Reorganized Debtor notes that it has identified certain issues with these claims, and reserves the right to assert all other objections. In particular, as noted above, the Reorganized Debtor has no record of a theft report regarding Mr. Sundseth. Additionally, Ms. Oneal’s rental was 91 days overdue on March 22, 2021, when Hertz closed her rental contract and discussed the issue with the police. *See* Hershey Decl., Ex. KK at 62. Initially, Ms. Oneal stated in a filed declaration that she received only “a single confusing and unprofessional voicemail telling her to return a rental vehicle at some point in February,” *see id.* at 13. However, in her proof of claim, Ms. Oneal revised this narrative to acknowledge that she received multiple calls telling her to return the vehicle. *See id.* at 12-13. Indeed, the Reorganized Debtor’s records show that between December 23, 2020 and January 20, 2021, Ms. Oneal received 27 phone calls, as well as texts, emails and voicemails. *See id.* at 64-66. On December 31, 2020, Ms. Oneal told Hertz that she would return the rental vehicle “tomorrow” (January 1, 2021), but she failed to do so. *Id.* at 65. She then told Hertz on January 7, 2021 that she “will be returning the [vehicle] by end of day today,” but she again failed to follow through. *Id.* Contrary to Ms.

50. Moreover, while Hertz’s investigation continues, Hertz is aware of the following issues with seven of these claims:

i. **ReJeana Meado (Group 4a).** Ms. Meado admits she has never been arrested or prosecuted for allegedly being reported for theft of her rental. Instead, Ms. Meado claims she is “terrified that she is going to be jailed, arrested, and prosecuted.” D.I. 194-1, PDF p. 23, ¶ 35. Even though none of these events has transpired, she seeks \$630,000.

ii. **Saurabh Rathi and Nirbhay Agarwal (Group 4a).** According to their declarations, Messrs. Rathi and Agarwal contacted Hertz customer care to complain about their alleged false arrest, and no one from Hertz followed up with them. *See* D.I. 194, PDF p. 15, ¶ 19. This is untrue. Hertz’s customer service quickly resolved their complaints and provided them credit for their rental. Moreover, a prior customer—not Hertz—reported their rental vehicle as stolen to law enforcement.

iii. **Jessica Andolino (Group 4a).** According to her declaration, Ms. Andolino was stopped by police on March 23, 2021 regarding her Hertz rental. *See* D.I. 194-3, PDF p. 13, ¶ 5. Rather than comply with the police, she “dismissed” them and then “continued to walk” away, forcing the police to “grab her.” *Id.* ¶¶ 6-7. According to Claimants’ damages matrix, Ms. Andolino seeks \$1,025,000 in damages, \$875,000 of which is for her prosecution.

iv. **Krystal Carter (Group 4a).** Ms. Carter did not have a police report issued against her and was not arrested. Rather, she bases her claim on the arrest of her boyfriend, James Tolen, but she was not even present at his arrest. *See* Claim No. 15759, PDF p. 14, ¶¶ 4-6.

Oneal’s representations, the Reorganized Debtor’s records reflect no evidence of an extension on the rental. *See id.* at 64-67. Moreover, contrary to Ms. Oneal’s declaration that “[s]he never got anything from Hertz saying the car was going to be reported stolen,” on January 20, 2021, Ms. Oneal was instructed in a voicemail and text message to return the vehicle to avoid its being “possibly report stolen.” *Id.* at 66.

v. **Steven Robinson Valdes (Group 4a) and Andrew Seaser (Group 4a).**

Both of these individuals appear to be the victims of identity theft entirely unrelated to Hertz's actions. In other words, someone else used their stolen identities to defraud Hertz, and then stole Hertz's property. Although Hertz was also victimized by this fraud and it continues to investigate these claims, Hertz does not seek to contest these claims as untimely.

PRELIMINARY REVIEW OF "GROUP 4B" CLAIMANTS

51. Between January 14 and the Proof of Claim Deadline on January 31, 2022, a total of 77 new proofs of claim were filed as part of the Group 4 Claimants, with 74 of those proofs of claim being filed in the week before January 31. In their damages matrix and in discussions with the Reorganized Debtors, Claimants have referred to this group of 77 new claimants as "Group 4b."

52. Although the Reorganized Debtor has only preliminarily started reviewing the voluminous declarations and gathering its books and records, it is already apparent that these late claims have a variety of deficiencies similar to the Group 3 and Group 4a claims, reflecting that virtually all of these claimants could not have been known creditors. Specifically, 21 of the 77 may have potential statute of limitations issues; 22 of the 77 appear to be passengers or not authorized drivers under the rental contract; eight of the 77 claimants do not appear to allege they were ever arrested or detained by law enforcement; and 12 pleaded guilty to the crimes that they now accuse the Debtors of falsely accusing them of. Moreover, 33 of the 77 claimants allege no contact with Hertz whatsoever after their arrest, and 38 do not allege contacts with the Debtors that would give rise to the Debtors' knowledge of the claimants as "known" creditors.

53. The Reorganized Debtor reserves the right to continue its investigation of these claims and supplement this objection or file a substantive objection.

CONCLUSION

WHEREFORE the Reorganized Debtor respectfully requests that the Court deny the Motion for Leave and the Group 4 Lift Stay Motion, disallow the Group 3 and Group 4a claims as set forth herein, and grant such other and further relief as it deems just and proper.

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Dated: February 14, 2022

/s/ Robert J. Stearn, Jr.

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SCHEDULE A**Supplemental Briefing Chart – Groups 3 and 4a Claimants**

Name	Claim No. ¹	Date Filed	Timeliness Objection? (Y/N)	Basis for Objection ²	Where Discussed in Brief
1. Siobhan Abrams	15950	12/7/21 (amended 2/8/22)	Y	Minimal and insufficient contact with the Debtors	p. 31
2. Jessica Andolino	15755	1/10/22	N	N/A	p. 47
3. Nirbhay Agarwal	15763	1/15/22	N	N/A	p. 47
4. Charles Lee Bort	15948	12/7/21 (amended 12/8/21 and 2/8/22)	Y	Minimal and insufficient contact with the Debtors	p. 32
5. Carmen Bosko	15744	1/10/22	Y	No alleged contact with the Debtors	p. 25
6. Janette Brown	15705	12/7/21 (amended 12/30/21)	Y	No alleged contact with the Debtors	p. 26
7. Reginald Brown	15739	1/10/22	Y	No alleged contact with the Debtors	p. 26
8. Krystal Carter	15759	1/15/22	N	N/A	p. 47
9. Tyresha Caudle	15707	12/7/21 (amended 12/30/21)	Y	Guilty plea	p. 21
10. Kwai Yee Chan	15666	12/7/21 (amended 12/8/21)	Y	Passenger or unauthorized driver	p. 23
11. Jason Cook	15657	12/7/21	Y	Passenger or unauthorized driver	p. 24
12. Kimberli Costabile	15660	12/7/21	Y	No police report by Hertz	p. 19
13. Della Davis	15751	1/10/22	Y	Statute of Limitations	p. 17
14. Mary Lindsay Flannery	15736	1/10/22	Y	Minimal and insufficient contact with the Debtors	p. 32
15. Holly Harris	15665	12/7/21 (amended 12/8/21)	Y	Guilty plea	p. 21
16. Sean Hurt	15706	12/7/21 (amended 12/30/21)	N	N/A	p. 46
17. Dedrick Jackson	15750	1/10/22	Y	Minimal and insufficient contact with the Debtors	p. 33

¹ To the extent a claim was amended, the claim number on this chart is that of the most recent claim noted on the claims register.

² This summary is not meant to provide a comprehensive list of the Reorganized Debtor's objections to the claims, and is qualified in its entirety by the brief. The Reorganized Debtor reserves the right to raise additional objections to the claims, including in any substantive objection. In the event of any discrepancy between this chart and the brief, the brief controls.

Name	Claim No. ¹	Date Filed	Timeliness Objection? (Y/N)	Basis for Objection ²	Where Discussed in Brief
18. Lateshia Jenkins	15658	12/7/21	Y	Statute of limitations	p. 17
19. Heather Kasdan	15945	12/7/21 (amended 2/8/22)	Y	Minimal and insufficient contact with the Debtors	p. 34
20. Raelena Lewis	15663	12/7/21	Y	Minimal and insufficient contact with the Debtors	p. 35
21. Larryelle Magee	15737	1/10/22	Y	No alleged contact with the Debtors	p. 27
22. Jessica Malone	15649	12/7/21	Y	Minimal and insufficient contact with the Debtors	p. 35
23. Christian Mangano	15747	1/10/22	N	N/A	p. 46
24. Kellan McClellan	15735	1/10/22 (amended 1/31/22)	N	N/A	p. 46
25. Britne McClinton	15642	12/7/21	Y	No police report by Hertz	p. 20
26. ReJeana Meado	15754	1/10/22	N	N/A	p. 47
27. Paula Murray	15652	12/7/21	N	N/A	p. 46
28. Breanna Oneal	15655	12/7/21	N	N/A	p. 46
29. Zanders Pace	15662	12/7/21	Y	Minimal and insufficient contact with the Debtors	p. 36
30. John Prawat	15792	1/10/22 (amended 1/24/22)	Y	Statute of limitations	p. 18
31. Sarabh Rathi	15740	1/10/22	N	N/A	p. 47
32. Janelle Reece-Williams	15746	1/10/22	Y	Minimal and insufficient contact with the Debtors	p. 37
33. Tonia Rich	15742	1/10/22	Y	Minimal and insufficient contact with the Debtors	p. 37
34. Andrew Seaser	15953	1/10/22 (amended 2/11/22)	N	N/A	p. 48
35. Melinda Smith	15738	1/10/22	Y	No alleged contact with the Debtors	p. 28
36. Jeffrey Smith	15741	1/10/22	Y	Guilty plea	p. 22
37. Edward Solis	15753	1/10/22	Y	No alleged contact with the Debtors	p. 29
38. Edward Sturkie, Jr.	15946	1/10/22 (amended 2/8/22)	Y	Guilty plea	p. 23
39. Israel Sundseth	15646	12/7/21	N	N/A	p. 21
40. Damay Taper	15749	1/10/22	Y	Passenger or unauthorized driver	p. 25
41. James Tolen	15761	9/27/21 (amended 1/15/22)	N	N/A	p. 46

Name	Claim No. ¹	Date Filed	Timeliness Objection? (Y/N)	Basis for Objection ²	Where Discussed in Brief
42. Tederhi Usude	15752	1/10/22	Y	No alleged contact with the Debtors	p. 29
43. Steven Robinson Valdes	15760	1/15/22	N	N/A	p. 48
44. Cynthia Vaughn	15748	1/10/22	Y	Statute of limitations	p. 18
45. Moneck Wallace	15651	12/7/21	Y	Statute of limitations	p. 19
46. Marissa White	15650	12/7/21	Y	No alleged contact with the Debtors	p. 30