

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:

SC HEALTHCARE HOLDING, LLC *et al.*,
Debtors.¹

Chapter 11

Case No. 24-10443 (TMH)

Jointly Administered

Hearing Date: September 24, 2024 at 11:00 a.m. (ET)

Objection Deadline: September 17, 2024 at 4:00 p.m. (ET)

**DEBTORS' SECOND MOTION FOR AN ORDER, PURSUANT TO BANKRUPTCY
RULES 9006 AND 9027, EXTENDING THE PERIOD WITHIN WHICH THE
DEBTORS MAY REMOVE ACTIONS PURSUANT TO 28 U.S.C. § 1452**

The above-captioned debtors and debtors in possession (each, a “Debtor” and, collectively, the “Debtors”) hereby submit this motion (this “Motion”) seeking entry of an order, substantially in the form attached hereto as **Exhibit A** (the “Proposed Order”), pursuant to Rules 9006 and 9027 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), further extending the period within which the Debtors may remove actions pursuant to 28 U.S.C. § 1452 by an additional ninety (90) days, through and including December 16, 2024.² In support of this Motion, the Debtors respectfully represent as follows:

JURISDICTION AND VENUE

1. The United States Bankruptcy Court for the District of Delaware (the “Court”) has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing*

¹ The last four digits of SC Healthcare Holding, LLC’s tax identification number are 2584. The mailing address for SC Healthcare Holding, LLC is c/o Petersen Health Care Management, LLC 830 West Trailcreek Dr., Peoria, IL 61614. Due to the large number of debtors in these Chapter 11 Cases, whose cases are being jointly administered, a complete list of the Debtors and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information is available on a website of the Debtors’ claims and noticing agent at www.kcellc.net/Petersen.

² The Debtors seek to extend the Current Removal Deadline (as defined below) by ninety (90) days, which falls on Sunday, December 15, 2024. Accordingly, the Debtors seek an extension of the Current Removal Deadline through and including December 16, 2024.



Order of Reference from the United States District Court for the District of Delaware, dated as of February 29, 2012 (the “Amended Standing Order”). The Debtors confirm their consent, pursuant to Rule 9013-1(f) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the “Local Rules”), to the entry of a final order by the Court with respect to this Motion to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution.

2. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue is proper in the Court pursuant to 28 U.S.C. §§ 1408 and 1409.

3. The statutory and legal predicates for the relief requested herein are section 1452 of title 28 of the United States Code and Bankruptcy Rules 9006 and 9027.

BACKGROUND

4. On March 20, 2024 (the “Petition Date”), the Debtors each commenced with the Court a voluntary case under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101–1532 (the “Bankruptcy Code”). The Debtors, with the exception of some inactive entities, are authorized to operate their businesses and manage their properties as debtors-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

5. On or about April 9, 2024, the Office of the United States Trustee for the District of Delaware (the “U.S. Trustee”) appointed an official committee of unsecured creditors [Docket No. 131] (the “Committee”). On April 16, 2024, the U.S. Trustee appointed a patient care ombudsman [Docket No. 160] (the “Patient Care Ombudsman”) in these chapter 11 cases. As of the date of this Motion, no trustee or examiner has been appointed in these chapter 11 cases.

6. On June 14, 2024, the Debtors filed the *Debtors' Motion for an Order, Pursuant to Bankruptcy Rules 9006 and 9027, Extending the Period Within Which the Debtors May Remove Actions Pursuant to 28 U.S.C. § 1452* [Docket No. 522]. On July 2, 2024, the Court entered the *Order, Pursuant to Bankruptcy Rules 9006 and 9027, Extending the Period Within Which the Debtors May Remove Actions Pursuant to 28 U.S.C. § 1452* [Docket No. 604] (the "First Removal Order"), extending the removal deadline through and including September 16, 2024 (the "Current Removal Deadline").

7. The factual background regarding the Debtors, including their business operations, capital and debt structure, and the events leading to the filing of these Chapter 11 Cases, is set forth in more detail in the *Declaration of David R. Campbell in Support of the Debtors' Chapter 11 Petitions and First Day Pleadings* [Docket No. 44]. (the "First Day Declaration").³

RELIEF REQUESTED

8. By this Motion, pursuant to Bankruptcy Rules 9006(b) and 9027, the Debtors request entry of the Proposed Order, substantially in the form attached hereto as **Exhibit A**, further extending the period within which the Debtors may file notices of removal pursuant to 28 U.S.C. § 1452 with respect to any civil actions pending as of the Petition Date absent entry of an order terminating a stay (if applicable), from the Current Removal Deadline to December 16, 2024 (approximately ninety (90) days later), without prejudice to the Debtors' right to seek further extensions of such deadline.⁴

BASIS FOR RELIEF REQUESTED

³ Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the First Day Declaration.

⁴ Pursuant to Local Rule 9006-2, the filing of this Motion prior to the expiration of the Current Removal Deadline shall automatically extend the Current Removal Deadline until the Court acts on this Motion without the necessity for entry of a bridge order.

9. Bankruptcy Rule 9027 and 28 U.S.C. § 1452 govern the removal of pending civil actions. Specifically, 28 U.S.C. § 1452(a) provides that:

[a] party may remove any claim or cause of action in a civil action other than a proceeding before the United States Tax Court or a civil action by a governmental unit to enforce such governmental unit's police or regulatory power, to the district court for the district where such civil action is pending, if such district court has jurisdiction of such claim or cause of action under section 1334 of this title.

28 U.S.C. § 1452(a). Bankruptcy Rule 9027(a)(2) further provides, in pertinent part, that:

[i]f the claim or cause of action in a civil action is pending when a case under the [Bankruptcy] Code is commenced, a notice of removal may be filed in the bankruptcy court only within the longest of (A) 90 days after the order for relief in the case under the Code, (B) 30 days after entry of an order terminating a stay, if the claim or cause of action in a civil action has been stayed under § 362 of the Code, or (C) 30 days after a trustee qualifies in a chapter 11 reorganization case but not later than 180 days after the order for relief.

Fed. R. Bankr. P. 9027(a)(2).

10. Bankruptcy Rule 9006(b) provides that the Court may extend unexpired time periods, such as the Debtors' removal period, without notice:

[W]hen an act is required or allowed to be done at or within a specified period by [the Bankruptcy Rules] or by a notice given thereunder or by order of court, the court for cause shown may at any time in its discretion ... with or without motion or notice order the period enlarged if the request therefor is made before the expiration of the period originally prescribed or as extended by a previous order.

Fed. R. Bankr. P. 9006(b)(1). Accordingly, the Court is authorized to grant the relief requested herein. *See Raff v. Gordon*, 58 B.R. 988, 991 (Bankr. E.D. Pa. 1986) (stating that the period in which to file a motion to remove may be expanded pursuant to Bankruptcy Rule 9006); *Jandous Elec. Constr. Corp. v. City of New York (In re Jandous Elec. Constr. Corp.)*, 106 B.R. 48, 50 (Bankr. S.D.N.Y. 1989) (same); *see also Doan v. Loomis (In re Fort Dodge Creamery Co.)*,

117 B.R. 438, 442–43 (Bankr. N.D. Iowa 1990) (implying that the time period in which a removal motion may be filed may be extended pursuant to Bankruptcy Rule 9006); *In re Boyer*, 108 B.R. 19, 26 (Bankr. N.D.N.Y. 1988) (same).

11. The Debtors are parties to various actions currently pending in other courts (collectively, the “Actions”),⁵ and believe that it is prudent to seek an extension of the time established by Bankruptcy Rule 9027 to protect the rights of the Debtors and their estates to remove any such Actions.

12. Since the commencement of these Chapter 11 Cases and the First Removal Order was entered, the Debtors have worked diligently to preserve and maximize the value of the Debtors’ estates for the benefit of all stakeholders. To that end, the Debtors have, among other things: (a) negotiated and obtained debtor in possession financing [Docket No. 313]; (b) prepared and filed their Schedules of Assets and Liabilities and Statements of Financial Affairs [Docket Nos. 380–393 & 395–505] and their Bankruptcy Rule 2015.3 report [Docket No. 371]; (c) sought and obtained approval of numerous sales of valuable estate assets for the benefit of the Debtors’ stakeholders [Docket Nos. 653, 655, 720 & 724]; (d) responded to ongoing information requests from the U.S. Trustee, the Debtors’ secured lenders, and various interested parties; (e) retained professionals; (f) established various bar dates and provided notice to all parties [Docket No. 339 & 344]; (g) negotiated various consensual stay relief orders; (h) commenced an adversary proceeding to recover title to real property for the benefit of the Debtors’ estates and in furtherance of the Debtors’ sales [Docket No. 803]; (i) implemented and obtained approval of a key employee retention plan [Docket No. 802]; and (j) handled other necessary tasks related to the administration of the Debtors’ estates and these chapter 11 cases. Moreover, since the Court approved the sale of

⁵ See e.g., Docket Nos. 527, 529, 536, 594, 728, 755 & 795.

substantially all of the Debtors' assets, the Debtors have expended significant time and resources pursuing applicable regulatory approval for such sales, while maintaining employee morale and patient safety, and are, at this time, continuing to work with applicable buyers, third parties and lenders in an effort to close such sales in the most efficient and value-maximizing manner possible.

13. As a result of the foregoing efforts and various others, the Debtors have not had sufficient time to determine if any Action should be removed pursuant to Bankruptcy Rule 9027(a). Accordingly, the Debtors submit that extending the Current Removal Deadline is in the best interests of the Debtors, their estates, and their creditors. The extension sought will afford the Debtors an opportunity to make more fully informed decisions concerning the removal of any Action and will assure that the Debtors and their estates do not forfeit the valuable rights afforded to them under 28 U.S.C. § 1452. Furthermore, the Debtors submit that granting the extension requested herein will not prejudice the rights of any other parties to the Actions because such parties may not prosecute them absent relief from the automatic stay. In addition, nothing herein will prejudice any party to an Action that the Debtors may ultimately attempt to remove from seeking the remand of such action under 28 U.S.C § 1452(b) at the appropriate time.

14. For the reasons set forth above, the Debtors submit that extending the Current Removal Deadline, through and including December 16, 2024, is necessary, prudent, and in the best interests of the Debtors, their estates, and their creditors.

NOTICE

15. Notice of this Motion has been provided to the following parties or, in lieu thereof, to their counsel, if known: (a) the U.S. Trustee; (b) counsel to the Committee; (c) the office of the attorney general for each of the states in which the Debtors operate; (d) United States Attorney's Office for the District of Delaware; (e) Prepetition Lenders; (f) the DIP Lender; (g) counsel to the Patient Care Ombudsman; and (i) any party that has requested notice pursuant to Bankruptcy Rule

2002. The Debtors submit that, in light of the nature of the relief requested, no other or further notice need be given.

[signature page follows]

Dated: September 10, 2024
Wilmington, Delaware

Respectfully submitted,

**YOUNG CONAWAY STARGATT &
TAYLOR, LLP**

/s/ Carol E. Thompson

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IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re

SC HEALTHCARE HOLDING, LLC *et al.*,

Debtors.¹

Chapter 11

Case No. 24-10443 (TMH)

Jointly Administered

Objection Deadline: September 17, 2024 at 4:00 p.m. (ET)

Hearing Date: September 24, 2024 at 11:00 a.m. (ET)

NOTICE OF MOTION

PLEASE TAKE NOTICE that, on September 10, 2024, the above-captioned debtors and debtors in possession (collectively, the “Debtors”) filed the *Debtors’ Second Motion for an Order, Pursuant to Bankruptcy Rules 9006 and 9027, Extending the Period Within Which the Debtors May Remove Actions Pursuant to 28 U.S.C. § 1452* (the “Motion”) with the United States Bankruptcy Court for the District of Delaware (the “Court”).

PLEASE TAKE FURTHER NOTICE that any objections to the Motion must be filed on or before **September 17, 2024 at 4:00 p.m. (ET)** (the “Objection Deadline”) with the United States Bankruptcy Court for the District of Delaware, 824 North Market Street, 3rd Floor, Wilmington, Delaware 19801. At the same time, you must serve a copy of the objection upon the proposed undersigned counsel to the Debtors so as to be received on or before the Objection Deadline.

PLEASE TAKE FURTHER NOTICE THAT A HEARING TO CONSIDER THE MOTION WILL BE HELD ON SEPTEMBER 24, 2024 AT 11:00 A.M. (ET) BEFORE THE HONORABLE THOMAS M. HORAN, UNITED STATES BANKRUPTCY COURT JUDGE FOR THE DISTRICT OF DELAWARE, 824 N. MARKET STREET, 5TH FLOOR, COURTROOM NO. 5, WILMINGTON, DELAWARE 19801.

PLEASE TAKE FURTHER NOTICE THAT, IF YOU FAIL TO RESPOND IN ACCORDANCE WITH THIS NOTICE, THE COURT MAY GRANT THE RELIEF REQUESTED IN THE MOTION WITHOUT FURTHER NOTICE OR A HEARING.

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Dated: September 10, 2024
Wilmington, Delaware

Respectfully submitted,

**YOUNG CONAWAY STARGATT &
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/s/ Carol E. Thompson

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*Counsel for the Debtors and Debtors in
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EXHIBIT A

Proposed Order

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

In re

SC HEALTHCARE HOLDING, LLC *et al.*,

Debtors.¹

Chapter 11

Case No. 24-10443 (TMH)

Jointly Administered

Ref. Docket No. _____

**ORDER, PURSUANT TO BANKRUPTCY RULES 9006 AND 9027, EXTENDING
THE PERIOD WITHIN WHICH THE DEBTORS MAY REMOVE
ACTIONS PURSUANT TO 28 U.S.C. § 1452**

Upon the motion (the “Motion”)² of the Debtors for the entry of an order (this “Order”), pursuant to Bankruptcy Rules 9006 and 9027, extending the period within which the Debtors may remove actions pursuant to 28 U.S.C. § 1452 through and including December 16, 2024; and this Court having reviewed the Motion; and upon the record of these chapter 11 cases; and due and proper notice of the Motion having been given; and it appearing that no other or further notice of the Motion is required; and it appearing that this Court has jurisdiction to consider the Motion in accordance with 28 U.S.C. §§ 157 and 1334 and the Amended Standing Order; and it appearing that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and it appearing that venue of this proceeding and the Motion is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having determined that it may enter a final order consistent with Article III of the United States

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² Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Motion.

Constitution; and this Court having reviewed the Motion and having heard the statements in support of the relief requested in the Motion at a hearing before this Court, if any; and it appearing that the relief requested in the Motion and provided for herein is in the best interest of the Debtors, their estates, and their creditors; and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED as set forth herein.
2. The time period provided by Bankruptcy Rule 9027 within which the Debtors and their estates may file notices of removal of claims and causes of action is hereby enlarged and extended through and including December 16, 2024 (the "Removal Deadline").
3. This Order shall be without prejudice to the rights of the Debtors and their estates to seek further extensions of the Removal Deadline.
4. This Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Order.