

UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

In re: §  
§  
STAGE STORES, INC., *et al.*, § Chapter 11  
§  
Debtors.<sup>1</sup> § Case No. 20-32564 (DRJ)  
§  
§ (Joint Administration Requested)  
§

**ACTION PROPERTIES, LLC’S OBJECTION TO DEBTORS’ EMERGENCY  
MOTION FOR ENTRY OF AN ORDER (I) EXTENDING TIME FOR  
PERFORMANCE UNDER CERTAIN UNEXPIRED LEASES, (II) SETTING  
ADMINISTRATIVE PROCEDURES WITH RESPECT TO  
CERTAIN MOTIONS AND APPLICATIONS FOR PAYMENTS, AND (III)  
GRANTING RELATED RELIEF**

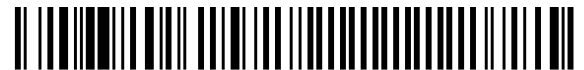
**[RELATES TO DOCKET NO. 22]**

Action Properties, LLC (“Action Properties”) objects to the *Debtors’ Emergency Motion for Entry of an Order (I) Extending Time for Performance Under Certain Unexpired Leases, (II) Setting Administrative Procedures With Respect to Certain Motions and Applications for Payments, and (III) Granting Related Relief [Docket No. 22] [Dkt. No. 22]* (the “Motion”) filed by the above-captioned debtors and debtors-in-possession (together, the “Debtors”). In support thereof, Actions Properties states as follows:

1. Action Properties is lessor under thirteen commercial real estate leases (together, the “Leases”) by and between Action Properties and Specialty Retailers, Inc. for locations in 7 states.

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<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: Stage Stores, Inc. (6900) and Specialty Retailers, Inc. (1900). The Debtors’ service address is: 2425 West Loop South, Houston, Texas 77027.



2. In the Motion, the Debtors seek entry of an order: (a) in locations where the Debtors are unable to reopen, extending the time to make timely payments with respect to certain of their unexpired leases of real property, including those of Action Properties, for a period of sixty (60) days; and (b) seeking procedures that in connection with motions lessors may choose to file to protect their interests.

3. As a threshold issue, the Motion is defective as a matter of due process. First, there is insufficient justification for the relief requested being granted on an emergency basis, particularly with less than 24-hours' notice on the first business day following filing of the Debtors' petitions and before an unsecured creditor committee has been formed. The Debtors' sole justification for such extraordinary relief is COVID-19. No one disputes that COVID-19 has had a massive international impact, the Debtors' operations had been on the decline long before COVID-19. Ironically, the same COVID-19 issues the Debtors raise to justify emergency relief may impede creditors from timely learning about (much less responding to) the emergency relief requested in the Motion due to the various shelter-at-home orders in effect in many states. Indeed, the Certificate of Service for the Motion indicates the only method of service was via the Court's electronic filing system, thereby providing no service notice except to creditors who by happy coincidence found about the Chapter 11 filings and have filed appearances. Second, the Debtors do not identify the approximately 567 locations they expect to open "on or before May 15" (Motion, ¶9) – information they clearly have readily available on May 11, 2020, the date of the emergency hearing. Accordingly, lessors such as Action Properties are unable to assess the scope of the relief requested in the Motion or the extent to which the relief requested, if granted, may affect their interests. Third, while purporting to preserve the rights of lessors to file motions for relief from the automatic stay and other kinds of motions, the Motion requests a procedure that

effectively stalls and thwarts any such motions lessors may file. In fact, the Debtors even concede that their goal is so effectively moot any such motions by rapid store closings. Motion, ¶14. The proposed procedure is effectively an injunction without appropriate procedural safeguards. Consequently, as a matter of due process the Motion should not be granted at all, certainly not on an emergency basis.

4. Even if the Court determines that a cause exists to consider the Motion on an emergency basis, the relief requested in the Motion should not be granted in its current form. While the Motion seeks a deferral (rather than a waiver) of post-petition rent payments for certain stores, it does not provide any assurance to lessors that funds will be available once the deferral period has expired.<sup>2</sup> While the *Debtors' Emergency Motion Seeking Entry of Interim and Final Orders (I) Authorizing Use of Cash Collateral and Affording Adequate Protection, (II) Modifying the Automatic Stay, (III) Scheduling a Final Hearing and (IV) Granting Related Relief* [**Docket No. 24**] contains budgeted line items for payment of rent, the Debtors concede that their predictions are subject to unpredictable circumstances. Motion, ¶9. This provides little comfort to lessors statutorily entitled to post-petition rent and who must face the risk of potential administratively insolvent estates.

5. Because Action Properties received less than 24 hours' notice of the Motion, Action Properties reserves the right to raise other and further objections in connection with the Motion.

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<sup>2</sup> While the Debtors' Emergency Motion Seeking Entry of Interim and Final Orders (I) Authorizing Use of Cash Collateral and Affording Adequate Protection, (II) Modifying the Automatic Stay, (III) Scheduling a Final Hearing and (IV) Granting Related Relief [Docket No. 24]

WHEREFORE, Action Properties objects to the Motion and reserve all rights. Alternatively, Action Properties requests such other and further relief as the Court deems just and appropriate.

*[Continued on Next Page]*

Dated May 11, 2020.

Respectfully submitted,

**JONES WALKER, LLP**

/s/ Mark A. Mintz

Mark A. Mintz (La. Bar No. 31878)  
(admitted pro hac vice)  
JONES WALKER LLP  
201 St. Charles Avenue, 49th Floor  
New Orleans, Louisiana 70170-5100  
Telephone: (504) 582-8368  
Fax: (504) 589-8368  
Email: [mmintz@joneswalker.com](mailto:mmintz@joneswalker.com)

-and-

Jeffrey R. Barber (*PHV Pending*)  
Mississippi Bar No. 1982  
Alabama Bar No. 7540B65J  
190 E. Capitol Street, Suite 800  
Jackson, Mississippi 39201  
Tel: 601 949-4900  
Fax: 601 949-4804  
Email: [jbarber@joneswalker.com](mailto:jbarber@joneswalker.com)

*Counsel for Action Properties, LLC*

**CERTIFICATE OF SERVICE**

I hereby certify that on May 11, 2020, I caused a copy of the foregoing document to be served by electronic transmission to all registered ECF users appearing on this case.

/s/ Mark A. Mintz

Mark A. Mintz