

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

In re

Sticky's Holdings LLC, *et al.*,

Debtors.¹

Chapter 11

Case No. 24-10856 (JKS)

Jointly Administered

Obj. Deadline: Aug. 7, 2024 at 4:00 p.m. (ET)

Hearing Date: Sept. 19, 2024 at 11:00 a.m. (ET)

**DEBTORS' MOTION FOR AN ORDER EXTENDING THE TIME
TO FILE NOTICES OF REMOVAL OF CLAIMS AND CAUSES
OF ACTION RELATED TO THE DEBTORS' CHAPTER 11 CASES**

The above-captioned debtors and debtors in possession (the "Debtors"), by and through their undersigned counsel, move this Court (the "Motion") for entry of an order, substantially in the form attached hereto as **Exhibit A**, pursuant to section 1452 of title 28 of the United States Code, extending the Debtors' or other party's to Actions (as defined herein) time to file notices of removal of claims and causes of action relating to these chapter 11, subchapter V cases (the "Cases") pending as of April 25, 2024 (the "Petition Date") by 120 days, from July 24, 2024 (the "Removal Deadline"), through and including November 21, 2024. In support of the Motion, the Debtors respectfully state as follows:

JURISDICTION

1. This Court has jurisdiction to consider this Motion pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for

¹ The Debtors in these cases, along with the last four digits of each Debtor's federal tax identification number are as follows: Sticky's Holdings LLC (3586); Sticky Fingers LLC (3212); Sticky Fingers II LLC (7125); Sticky Fingers III LLC (3914); Sticky Fingers IV LLC (9412); Sticky Fingers V LLC (1465); Sticky Fingers VI LLC (0578); Sticky's BK I LLC (0423); Sticky's NJ I LLC (5162); Sticky Fingers VII LLC (1491); Sticky's NJ II LLC (6642); Sticky Fingers IX LLC (5036); Sticky's NJ III LLC (7036); Sticky Fingers VIII LLC (0080); Sticky NJ IV LLC (6341); Sticky's WC I LLC (0427); Sticky's Franchise LLC (5232); Sticky's PA GK I LLC (7496); Stickys Corporate LLC (5719); and Sticky's IP LLC (4569). The Debtors' mailing address is 21 Maiden Lane, New York, NY 10038.



the District of Delaware, dated as of February 29, 2012. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2). Venue of this proceeding and the Motion is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409.

2. The statutory predicates for the relief requested herein are 28 U.S.C. § 1452, Section 105(a) of the Bankruptcy Code (defined herein), rules 9006(b)(1) and 9027(a)(2) of the Federal Rules of Bankruptcy Procedures (the “Bankruptcy Rules”) and rule 9006-2 of the Local Rules of Bankruptcy Practice and Procedure the United States Bankruptcy Court for the District of Delaware (the “Local Rules”).

3. Pursuant to Local Rule 9013-1(f), the Debtors consent to the entry of a final order by the Court if it is 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.

BACKGROUND

4. On the Petition Date, the Debtors commenced voluntary cases under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”) as debtors defined in Bankruptcy Code section 1182(1) and the Debtors elected to proceed under Subchapter V of chapter 11 of the Bankruptcy Code pursuant to the Small Business Debtor Reorganization Act, as amended.

5. On April 26, 2024, the United States Trustee appointed Natasha Songonuga of Archer & Greiner, P.C. to serve as the Subchapter V trustee (the “Subchapter V Trustee”) in these cases pursuant to Bankruptcy Code section 1183(a). No official committee has been appointed in this case. The Debtors are operating their businesses as debtors in possession pursuant to sections 1107 and 1108 of the Bankruptcy Code.

6. Additional detail regarding the Debtors, their businesses, the events leading to

commencement of these cases, and the facts and circumstances supporting the relief requested herein are set forth in the Declaration of Jamie Greer in Support of First Day Relief, sworn to on April 25, 2024 [D.I. 13] (the “First Day Declaration”) and are incorporated herein by reference.

7. As of the Petition Date, the Debtors were parties to certain judicial and/or administrative proceedings in various courts and/or administrative agencies that were stayed under the Bankruptcy Code as of or on the Petition Date (collectively, the “Actions”). Some of the Actions may be subject to removal pursuant to 28 U.S.C. § 1452. As such, the Debtors may find it appropriate and beneficial to their estates to remove certain of the Actions to this court.

RELIEF REQUESTED

8. By this Motion, the Debtors respectfully request entry of an order, substantially in the form attached hereto as **Exhibit A** (the “Proposed Order”), extending the time within which the Debtors or any other party to Actions may file notices of removal of claims and causes of action relating to the Cases pending as of the Petition Date by 120 days, from July 24, 2024, through and including November 21, 2024. The Debtors request that the Removal Deadline apply to all matters specified in Bankruptcy Rule 9027(a)(2). The Debtors further request that the relief requested herein be granted without prejudice to the Debtors’ or any other parties to the Actions’ rights to seek further extensions of the Removal Deadline.

BASIS FOR RELIEF

9. Section 1452 of title 28 of the United States Code and Bankruptcy Rule 9027 govern the removal of pending Actions related to chapter 11 cases. Specifically, section 1452(a) provides:

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).

10. Bankruptcy Rule 9027 sets forth the time periods for filing notices to remove claims or causes of action. Specifically, Bankruptcy Rule 9027(a)(2) provides, in pertinent part:

If the claim or cause of action in a civil action is pending when a case under the Code is commenced, a notice of removal may be filed 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).

11. Bankruptcy Rule 9006(b)(1) permits the Court to extend the Removal Deadline “for cause shown,” and provides, in relevant part, that:

[W]hen an act is required or allowed to be done at or within a specified period by these 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).

12. It is well established that this Court has the authority to extend the Removal Deadline. *See, e.g., Pacor, Inc. v. Higgins*, 743 F.2d 984, 996 n.17 (3d Cir. 1984) (finding that the deadline for removal of actions may be extended pursuant to Bankruptcy Rule 9006), *overruled on other grounds by Things Remembered, Inc. v. Petrarca*, 516 U.S. 124, 134–35 (1995); *Raff v. Gordon*, 58 B.R. 988, 990–91 (E.D. Pa. 1986) (same).

13. Indeed, requests to extend the time to file notices of removal are routinely granted in this district. *See, e.g., In re Center City Healthcare LLC d/b/a Hahnemann Univ. Hosp.*, No.

19-11466 (MFW) (Bankr. D. Del. Jan. 25, 2024) [D.I. 5106] (extending removal deadline an additional 120 days); *In re PWM Prop. Mgmt. LLC*, No. 21-11445 (MFW) (Bankr. D. Del. Mar. 30, 2023) [D.I. 1286] (granting fifth request to extend deadline to remove actions, for a total extension of 510 days); *In re THG Holdings LLC*, No. 19-11689 (JTD) (Bankr. D. Del. Nov. 14, 2019) [D.I. 468] (extending removal deadline an additional 120 days); *In re Achaogen, Inc.*, No. 19-10844 (BLS) (Bankr. D. Del. Aug. 2, 2019) [D.I. 406] (same); *In re Southcross Energy Partners, L.P.*, No. 19-10702 (MFW) (Bankr. D. Del. July 15, 2019) [D.I. 375] (same); *In re Consolidated Infrastructure Group, Inc.*, No. 19-10165 (BLS) (Bankr. D. Del. May 20, 2019) [D.I. 182] (same); *In re Fred's Inc.*, No. 19-11984 (CSS/CTG) (Bankr. D. Del. Dec. 27, 2019) [D.I. 647] (same).

14. Moreover, this Court has granted similar relief to that requested herein in subchapter V cases. *See, e.g., In re Smallhold, Inc.*, No. 24-10267 (CTG) (Bankr. D. Del. May 30, 2024) [D.I. 176] (extending subchapter V debtor's removal deadline an additional 122 days); *In re CCX, Inc.*, No. 22-10252 (JTD) (Bankr. D. Del. July 12, 2022) [D.I. 155] (extending subchapter V debtor's removal deadline an additional 120 days); *In re Augustus Intelligence Inc.*, No. 21-10744 (JTD) (Bankr. D. Del. Aug. 6, 2021) [D.I. 119] (extending subchapter V debtor's removal deadline an additional 180 days).

15. The Debtors' and other parties to the Actions' respective decisions regarding whether they will seek removal of any particular claim or cause of action depends on a number of factors, including: (i) the importance of the claim or cause of action to the expeditious resolution of these Cases; (ii) the time required to complete the claim or cause of action in its current venue; (iii) the presence of federal subject matter jurisdiction in the proceeding that may allow for one or more aspects thereof to be heard by this Court; (iv) the relationship between the claim or cause of

action and matters to be considered in connection with the Cases and the claims allowance process; and (v) the progress made to date and the overall status of the claim or cause of action. To make the appropriate determination, the Debtors must analyze each of the Actions in light of such factors.

16. Based on the Petition Date, the Removal Deadline would expire on July 24, 2024, absent further order of this Court.

17. Due to the fact the Debtors have devoted significant attention, resources and efforts toward proposing a plan within the 90-day time period prescribed by subchapter V of the Bankruptcy Code and was focused on right-sizing operations and otherwise managing the businesses to maximize value, the Debtors are still assessing which Actions, if any, they will seek to remove. Further, as noted above, the Debtors are in the process of filing their Plan with the Court and will solicit votes and seek confirmation in the coming weeks.

18. In light of the foregoing, the Debtors have not yet conducted a thorough analysis of the claims or causes of action or made an informed decision as to whether removal would be appropriate. These Actions may be addressed later in this Case, and it is premature at this stage in the Cases to determine whether to remove such Actions. To the extent any claims or causes of action exist, the other parties to any such claims or causes of action pending as of the Petition Date will suffer no prejudice from the relief sought herein. Prepetition Actions against the Debtors are stayed by operation of the automatic stay under section 362(a) of the Bankruptcy Code. As such, preserving the Debtors' and any other party to Actions ability to remove Actions pending as of the Petition Date, pursuant to Bankruptcy Rule 9027(a)(2), imposes no delay or unnecessary burdens on the counterparties to the Actions, if any.

19. Therefore, the extension requested in this Motion will provide the Debtors and

any other party to Actions with additional time to make well-informed decisions concerning removal and will ensure that the Debtors' and any other party to Actions rights provided by 28 U.S.C. § 1452 are preserved and can be exercised in an appropriate manner. Alternatively, if such an extension is not granted, the Debtors believe they may not have sufficient time to properly evaluate removal of the Actions. To avoid this potential prejudice, the Court should grant the relief requested in this Motion.

20. Additionally, the Debtors are currently in negotiations with certain parties to the Actions. While such negotiations are ongoing, the Debtors request an extension of the time within which the Debtors or any other party to the Actions may file notices of removal of claims and causes of action relating to the Cases pending as of the Petition Date. This will avoid any unnecessary costs associated with removal if the Actions are ultimately resolved.

21. Accordingly, the Debtors believe it is in the best interest of their estates to seek an extension of the time prescribed under Bankruptcy Rule 9027(a), protecting the rights of the Debtors and other parties to the Actions so that they may remove the Actions if the Debtors or other parties to the Actions determine removal to be an appropriate course of action given the circumstances.

BRIDGE ORDER

22. Local Rule 9006-2 provides that "if a motion to extend the time to take any action is filed before the expiration of the period prescribed . . . the time shall automatically be extended until the Court acts on the motion, without the necessity for the entry of a bridge order." Del. Bankr. L.R. 9006-2.

RESERVATION OF RIGHTS

23. The Debtors and other parties to the Actions reserve all rights and defenses with

respect to any Actions. The Debtors and other parties to the Actions further reserve the right to seek additional extensions of the deadlines to remove the Actions.

NOTICE

24. Notice of this Motion will be provided to: (i) the Office of the United States Trustee; (ii) the Subchapter V Trustee; (iii) the Debtors' twenty (20) largest unsecured creditors; (iv) any party to an Action; and (v) all parties requesting notice pursuant to Bankruptcy Rule 2002. In light of the nature of the relief requested herein, the Debtors submit that no other or further notice is necessary.

NO PRIOR REQUEST

25. No prior request for the relief sought herein has been made to this Court or any other court.

CONCLUSION

26. The extension of the Removal Deadline sought herein will not harm or prejudice the Debtors' creditors or other parties in interest in these Cases and will, in the Debtors' opinion, further the intent of the subchapter v provisions of the Bankruptcy Code, which promotes the Debtors' exclusive right to propose and confirm a consensual plan. Accordingly, the Debtors submit that the extension of the Removal Deadline requested herein is reasonable and appropriate under the circumstances and should be granted as being in the best interests of the Debtors' estates and creditors.

WHEREFORE, the Debtors respectfully request that the Court enter an order, substantially in the form attached hereto as **Exhibit A**: (i) extending the Removal Deadline by 120 days, from July 24, 2024, through and including November 21, 2024; and (ii) granting related relief.

Dated: July 24, 2024
Wilmington, Delaware

PASHMAN STEIN WALDER HAYDEN, P.C.

/s/ John W. Weiss

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Counsel to the Debtors and Debtors in Possession

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

In re

Sticky's Holdings LLC, *et al.*,

Debtors.¹

Chapter 11

Case No. 24-10856 (JKS)

Jointly Administered

Obj. Deadline: Aug. 7, 2024 at 4:00 p.m. (ET)

Hearing Date: Sept. 19, 2024 at 11:00 a.m. (ET)

**NOTICE OF DEBTORS' MOTION FOR AN ORDER EXTENDING
THE TIME TO FILE NOTICES OF REMOVAL OF CLAIMS AND
CAUSES OF ACTION RELATED TO THE DEBTORS' CHAPTER 11 CASE**

PLEASE TAKE NOTICE that today, the above-captioned debtors (the "Debtors") filed the *Debtors' Motion for Entry of an Order Extending the Time to File Notices of Removal of Claims and Causes of Action Related to the Debtors' Chapter 11 Cases* (the "Motion").

PLEASE TAKE FURTHER NOTICE that objections, if any, to the Motion must (a) be in writing, (b) be filed with the Clerk of the Bankruptcy Court, 824 Market Street, 3rd Floor, Wilmington, Delaware 19801, on or before **August 7, 2024 at 4:00 p.m. (ET)** (the "Objection Deadline"), and (c) served as to be received on or before the Objection Deadline upon (a) the Debtor, (b) proposed counsel to the Debtor, Pashman Stein Walder Hayden, P.C., 824 North Market Street, Suite 800, Wilmington, Delaware, 19801, Attn: John W. Weiss (jweiss@pashmanstein.com), Joseph C. Barsalona II (jbarsalona@pashmanstein.com), Richard C. Solow (rsolow@pashmanstein.com) and Katherine R. Beilin (kbeilin@pashmanstein.com), (c) the Office of the United States Trustee for the District of Delaware, J. Caleb Boggs Building, 844 King Street, Suite 2207, Lockbox 35, Wilmington, Delaware, 19801, Attn: Joseph Cudia (Joseph.Cudia@usdoj.gov) and Jonathan W. Lipshie (joh.lipshie@usdoj.gov), and (d) the Subchapter V Trustee, Archer & Greiner, P.C., 300 Delaware Avenue, Suite 1100, Wilmington, Delaware, 19801, Attn: Natasha Songonuga (nsongonuga@archerlaw.com).

PLEASE TAKE FURTHER NOTICE that only objections made in writing and timely filed and received, in accordance with the procedures above, will be considered by the Bankruptcy Court at such hearing.

¹ The Debtors in these cases, along with the last four digits of each Debtor's federal tax identification number are as follows: Sticky's Holdings LLC (3586); Sticky Fingers LLC (3212); Sticky Fingers II LLC (7125); Sticky Fingers III LLC (3914); Sticky Fingers IV LLC (9412); Sticky Fingers V LLC (1465); Sticky Fingers VI LLC (0578); Sticky's BK I LLC (0423); Sticky's NJ I LLC (5162); Sticky Fingers VII LLC (1491); Sticky's NJ II LLC (6642); Sticky Fingers IX LLC (5036); Sticky's NJ III LLC (7036); Sticky Fingers VIII LLC (0080); Sticky NJ IV LLC (6341); Sticky's WC I LLC (0427); Sticky's Franchise LLC (5232); Sticky's PA GK I LLC (7496); Stickys Corporate LLC (5719); and Sticky's IP LLC (4569). The Debtors' mailing address is 21 Maiden Lane, New York, NY 10038.

PLEASE TAKE FURTHER NOTICE THAT A HEARING ON THE MOTION WILL BE HELD ON SEPTEMBER 19, 2024 AT 10:00 A.M. (ET) BEFORE THE HONORABLE J. KATE STICKLES, AT THE UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE, 824 MARKET STREET, WILMINGTON, DELAWARE 19801.

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

Dated: July 24, 2024
Wilmington, Delaware

PASHMAN STEIN WALDER HAYDEN, P.C.

/s/ John W. Weiss

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Counsel to the Debtors and Debtors in Possession

EXHIBIT A
PROPOSED ORDER

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

In re

Sticky's Holdings LLC, *et al.*,

Debtors.¹

Chapter 11

Case No. 24-10856 (JKS)

Jointly Administered

Re D.I.

**ORDER EXTENDING THE TIME TO FILE
NOTICES OF REMOVAL OF CLAIMS AND CAUSES
OF ACTION RELATED TO THE DEBTORS' CHAPTER 11 CASES**

Upon consideration of the motion (the "Motion")² of the above-captioned debtors and debtors in possession (the "Debtors") for entry an order, pursuant to section 1452 of title 28 of the Bankruptcy Code, extending the time within which the Debtors or any other party to the Actions may file notices of removal of claims and causes of action and granting related relief, all as more fully described in the Motion; and the Court having reviewed the Motion and having considered the statements of counsel with respect to the Motion at a hearing (if any) before the Court; and the Court having jurisdiction to consider the Motion and the relief requested therein in accordance with 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference from the United States District Court for the District of Delaware* dated as of February 29, 2012; and the Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2) and that this

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

Court may enter a final order consistent with Article III of the United States Constitution; and the Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and it appearing that proper and adequate notice of the Motion has been given and that no other or further notice is necessary; and upon the record of all proceedings before the Court; and after due deliberation thereon; and the Court having determined that there is good and sufficient cause for the relief granted in this Order:

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED as set forth herein.
2. The time period provided under Bankruptcy Rule 9027 within which the Debtors or any other party to the Actions may file notices of removal of any and all Actions is extended by 120 days, through and including November 21, 2024, to the extent that the time period for filing any such notices of removal expires on or before that date.
3. This Order shall be without prejudice to (a) any position the Debtors or their successors in interest may take regarding whether section 362 of the Bankruptcy Code applies to stay any pending Actions in which the Debtors are a party and (b) the rights of the Debtors or their successors in interest to seek from this Court further extensions of the period within which the Debtors may file notices of removal under Bankruptcy Rule 9027.
4. The Debtors are authorized to take all reasonable actions necessary or appropriate to implement the relief granted in this Order.

5. The Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, or enforcement of this Order.