Docket #0620 Date Filed: 08/07/2026

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

In re:	)	Chapter 11
ASCEND ELEMENTS, INC. *et al.*,[1]	)	Case No. 26-90440 (CML)
Debtors.	)	(Jointly Administered)

DEBTORS' MOTION TO EXTEND THE DEADLINE TO ASSUME OR REJECT UNEXPIRED LEASES OF NONRESIDENTIAL REAL PROPERTY PURSUANT TO SECTION 365(D)(4) OF THE BANKRUPTCY CODE

This motion seeks an order that may adversely affect you. If you oppose the motion, you should immediately contact the moving party to resolve the dispute. If you and the moving party cannot agree, you must file a response and send a copy to the moving party. You must file and serve your response within 21 days of the date this was served on you. Your response must state why the motion should not be granted. If you do not file a timely response, the relief may be granted without further notice to you. If you oppose the motion and have not reached an agreement, you must attend the hearing. Unless the parties agree otherwise, the court may consider evidence at the hearing and may decide the motion at the hearing.

Represented parties should act through their attorney.

Ascend Elements, Inc. and its affiliated debtors and debtors-in-possession (collectively, the "Debtors") in the above-captioned chapter 11 cases (the "Chapter 11 Cases") respectfully state as follows in support of this motion (this "Motion"):

Relief Requested

1. By this Motion, the Debtors seek entry of an order, substantially in the form attached hereto (the "Order"), extending by 90 days the deadline for the Debtors to assume or reject certain unexpired leases of nonresidential real property (the "Unexpired Real Property Leases") through November 5, 2026, without prejudice to the Debtors' rights to seek further

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: Ascend Elements, Inc. (2893) and Ascend Elements US, LLC (8309). The location of the Debtors' service address is: 133 Flanders Road, Westborough, MA 01581.

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extensions of such period. The Debtors' initial deadline to assume or reject the Unexpired Real Property Leases occurs on August 7, 2026.[2]

Jurisdiction and Venue

2. The United States Bankruptcy Court for the Southern District of Texas (this "Court") has jurisdiction over this matter pursuant to 28 U.S.C. § 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b) and the Court may enter a final order consistent with Article III of the United States Constitution.

3. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

4. The statutory bases for the relief requested herein are pursuant to section 365(d)(4) of title 11 of the United States Code (the "Bankruptcy Code"), rule 9006 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), rule 9013-1 of the Bankruptcy Local Rules for the Southern District of Texas (the "Local Bankruptcy Rules"), and the Procedures for Complex Cases in the Southern District of Texas.

Background

5. On April 9, 2026 (the "Petition Date"), the Debtors filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code.

6. On April 26, 2026, the United States Trustee for the Southern District of Texas (the "US Trustee") appointed the Official Committee of Unsecured Creditors (the "Committee") pursuant to section 1102 of the Bankruptcy Code [Docket No. 139]. No party has requested the appointment of a trustee or examiner in these Chapter 11 Cases.

7. A detailed description of the Debtors and their businesses, including the facts and circumstances giving rise to the Debtors' Chapter 11 Cases, is set forth in the *Declaration*

[2] Rule K.30 of the Procedures for Complex Cases in the Southern District of Texas provides that "if a motion is filed that complies with these procedures to extend the time to take any action before the expiration of the period prescribed by the Bankruptcy Code, the Bankruptcy Rules, or the Bankruptcy Local Rules . . . the time for taking the action is automatically extended until the Court rules on the motion." By filing this Motion prior to the expiration of the period to assume or reject the Unexpired Real Property Leases, such deadlines are automatically extended until the Court resolves the Motion.

of Linh Austin in Support of the Debtors' Chapter 11 Petitions and First Day Motions [Docket No. 11] (the "First Day Declaration"), which is incorporated herein by reference.

8. On July 8, 2026, the Debtors filed their proposed *Combined Disclosure Statement and Joint Plan of Liquidation for Ascend Elements, Inc., et al*. [Docket No. 551] (the "Combined Disclosure Statement and Plan"). The Debtors filed an amended Combined Disclosure Statement and Plan on July 14, 2026 [Docket No. 570]. After notice and hearing, the Court entered an order conditionally approving the adequacy of the disclosure statement, approving the solicitation and notice procedures, approving the form of ballot and notices, approving a timeline for solicitation and confirmation of a plan, and setting a combined hearing for combined final approval of the disclosure statement and confirmation of the plan for August 17, 2026. [Docket No. 575].

9. The Debtors have substantially completed the monetization of their operating assets and have transitioned from operating their businesses to a wind-down of their estates. Specifically, the Debtors (a) consummated the sale of their Polish operations and intellectual property to Bluegrass Infrastructure Partners Holdings, LLC, which the Court approved on May 22, 2026 and which closed on May 26, 2026; (b) consummated the sale of their Hopkinsville, Kentucky assets to Turner-Kokosing Joint Venture, which the Court approved on June 5, 2026 and which closed on June 11, 2026; and (c) obtained Court approval on June 30, 2026 for the Covington Sale to R3 Lithium, Inc. The Court also approved the De Minimis Asset Procedures on June 30, 2026, providing a streamlined process for disposing of the Debtors' remaining residual assets and, where appropriate, assuming and assigning related executory contracts and unexpired leases. The remaining wind-down activities include disposing of remaining assets, resolving claims, rejecting remaining executory contracts and unexpired leases as appropriate, reconciling administrative and priority claims, and implementing the proposed General Unsecured Claims Trust. Accordingly, the Debtors have

reached the stage of these chapter 11 cases where confirmation of the already-filed Combined Disclosure Statement and Plan represents the most efficient path to conclude the administration of their estates, distribute remaining value to creditors, and complete the wind-down process. The Debtors wish to avoid any risk of further litigation or delay in completing the wind-down of their estates, and therefore file the instant Motion.

Basis for Relief

10. Section 365 of the Bankruptcy Code governs a debtor's ability to assume, assume and assign, and reject executory contracts and unexpired leases. Section 365(d)(4)(A) of the Bankruptcy Code provides that:

> an unexpired lease of nonresidential real property under which the debtor is the lessee shall be deemed rejected, and the trustee shall immediately surrender that nonresidential real property to the lessor, if the trustee does not assume or reject the unexpired lease by the earlier of –
>
> (i) the date that is 120 days after the date of the order for relief; or
>
> (ii) the date of the entry of an order confirming a plan.

11 U.S.C. § 365(d)(4)(A).

11. Section 365(d)(4)(B)(i) further provides that the "court may extend the period determined under subparagraph (A), prior to the expiration of the 120-day period, for 90 days on the motion of the trustee or lessor for cause." 11 U.S.C. § 365(d)(4)(B).

12. The term "cause," as used in section 365(d)(4)(B), is not defined in the Bankruptcy Code, nor does the Bankruptcy Code establish formal criteria for evaluating a request for an extension of the initial 120-day period. Although the decision to extend a debtor's time to assume or reject unexpired leases of nonresidential real property is generally within the sound discretion of the court, in determining whether cause exists for an extension of the initial 120-day period, courts have relied on several factors, including (i) whether the debtor is paying or performing under the contract; (ii) whether the debtor's continued occupation of the leased premises could damage the lessor beyond the compensation available under the Bankruptcy Code; (iii) whether the lease is the debtor's primary asset; and (iv)

whether the debtor has had sufficient time to formulate a plan. *See S. St. Seaport Ltd. P'Ship v. Burger Boys, Inc. (In re Burger Boys, Inc.)*, 94 F.3d 755, 761 (2d Cir. 1996); *In re Panaco, Inc.*, Case No. 02-37811-H3-11, 2002 WL 31990368 at *5 (Bankr. S.D. Tex. Dec. 10, 2002).

13. Ultimately, whether to grant an extension of time rests within the sound discretion of this Court. *In re Burger Boys, Inc.*, 94 F.3d at 760-61; *Legacy, Ltd. v. Channel Home Ctrs., Inc. (In re Channel Home Ctrs., Inc.)*, 989 F.2d 682, 689 (3d Cir. 1993) ("Nothing prevents a bankruptcy court from granting an extension because a particular debtor needs additional time to determine whether the assumption or rejection of particular leases is called for by the plan of reorganization that it is attempting to develop.").

14. Given that the Debtors have already filed the Combined Disclosure Statement and Plan and are seeking final approval and confirmation thereof in ten days, the Debtors file this Motion out of an abundance of caution to prevent any delay to confirmation caused by litigation or other disputes. No lessor has been or will be harmed by the brief extension requested herein because the Combined Disclosure Statement and Plan contemplates the treatment of all executory contracts and unexpired leases on the Effective Date, thereby providing lessors with finality within a compressed timeframe. The extension will also permit the Debtors to avoid piecemeal litigation over individual lease decisions while the confirmation process is pending, thereby preserving estate resources for the benefit of all creditors. This is the first time the Debtors have sought an extension of the period to assume or reject the Unexpired Real Property Leases pursuant to § 365(d)(4)(B). The Debtors are not aware of any lessor counterparty who is seeking an immediate assumption or rejection, and therefore the Debtors do not anticipate that any party in interest would be materially affected by the relief requested by this Motion. Rather, the Debtors argue that "cause" exists to extend the assumption and rejection deadline in an effort to preserve the current status quo ahead of confirmation.

15. The Debtors therefore respectfully request that the Court enter the Order granting such extension of the deadline to assume or reject the Unexpired Real Property Leases through November 5, 2026.

Notice

16. Notice of this Motion will be given to the parties on the Debtors' Master Service List and all parties that have requested or that are required to receive notice pursuant to Bankruptcy Rule 2002. The Debtors submit that, under the circumstances, no other or further notice is required.

17. A copy of this Motion is available on (a) the Court's website, at www.txs.uscourts.gov, and (b) the website maintained by the Debtors' Claims and Noticing Agent, Stretto, Inc., at https://www.veritaglobal.net/ascend.

WHEREFORE, the Debtors respectfully request that the Court enter the Order, granting the relief requested in this Motion and such other and further relief as may be just and proper.

Dated: August 7, 2026

Respectfully submitted,

NORTON ROSE FULBRIGHT US LLP

By: */s/ Ryan Manns*
Ryan Manns (SBT 24041391)
Maria Mokrzycka (SBT 24119994)
1550 Lamar, Suite 2000
Houston, TX 77010
Tel: (713) 651-5151
Email: ryan.manns@nortonrosefulbright.com
Email: maria.mokrzycka@nortonrosefulbright.com

and

Jason I. Blanchard (SBT 24130197)
Michael Berthiaume (SBT 24066039)
2200 Ross Avenue, Suite 3600
Dallas, TX 75201
Tel: (214) 855-8210
Email: jason.blanchard@nortonrosefulbright.com
Email: michael.berthiaume@nortonrosefulbright.com

Counsel to the Debtors and Debtors in Possession

CERTIFICATE OF SERVICE

I certify that on August 7, 2026, a true and correct copy of the foregoing document was served by the Electronic Case Filing System for the United States Bankruptcy Court for the Southern District of Texas on those parties registered to receive electronic notices.

/s/Ryan Manns
Ryan Manns

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

In re:	)	Chapter 11
ASCEND ELEMENTS, INC. *et al.*,[1]	)	Case No. 26-90440 (CML)
Debtors.	)	(Jointly Administered)

ORDER EXTENDING THE DEADLINE TO ASSUME OR REJECT UNEXPIRED LEASES OF NONRESIDENTIAL REAL PROPERTY PURSUANT TO SECTION 365(D)(4) OF THE BANKRUPTCY CODE

[Relates to Docket No. ___]

Upon the motion (the "Motion")[2] of the above-captioned debtors and debtors in possession (the "Debtors") for entry of an order (this "Order") extending by 90 days the period during which the Debtors must assume or reject unexpired leases of nonresidential real property through and including November 5, 2026, without prejudice to the Debtors' rights to seek further extensions of such period; and the Court having reviewed the Motion; and the Court having determined that the relief requested in the Motion is in the best interests of the Debtors, their estates, their creditors, and other parties in interest; and the Court having jurisdiction to consider the Motion and the relief requested therein in accordance with 28 U.S.C. § 1334; and the Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b) and that the 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 the Court having found that the Debtors provided appropriate notice of the Motion and the opportunity for a hearing on the Motion under the

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[2] Capitalized terms used but not defined herein have the meanings given to them in the Motion.

circumstances and that no other or further notice is necessary; and all objections, if any, to the Motion having been withdrawn, resolved, or overruled; and the Court having determined that the legal and factual bases set forth in the Motion and the hearing, if any, with respect to the Motion establish just cause for the relief granted herein; and after due deliberation thereon; and good and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED as set forth herein.

2. The deadline for the Debtors to assume or reject unexpired leases for nonresidential real property pursuant to section 365(d)(4) of the Bankruptcy Code is extended to and through November 5, 2026.

3. The extension granted herein is without prejudice to the Debtors' right to seek further extensions pursuant to section 365(d)(4)(B)(ii) of the Bankruptcy Code.

4. All time periods set forth in the Motion or this Order shall be calculated in accordance with Rule 9006(a) of the Federal Rules of Bankruptcy Procedure.

5. Notice of the Motion as provided therein is good and sufficient notice of such Motion, and the requirements of the Bankruptcy Rules and the Local Bankruptcy Rules are satisfied by such notice.

6. The Debtors are authorized to take all reasonable actions necessary to effectuate the relief granted in this Order in accordance with the Motion.

7. The Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.