

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

In re:	§	Chapter 11
	§	
CBL & ASSOCIATES	§	
PROPERTIES, INC., <i>et al.</i> ,	§	Case No. 20-35226 (DRJ)
	§	
Debtors. ¹	§	(Jointly Administered)

**DEBTORS' MOTION FOR AN ORDER FURTHER
(I) EXTENDING THE DEADLINE BY WHICH THE DEBTORS MAY
REMOVE CIVIL ACTIONS AND (II) GRANTING RELATED RELIEF**

IF YOU OBJECT TO THE RELIEF REQUESTED YOU MUST RESPOND IN WRITING, SPECIFICALLY ANSWERING EACH PARAGRAPH OF THIS PLEADING. UNLESS OTHERWISE DIRECTED BY THE COURT, YOU MUST FILE YOUR RESPONSE WITH THE CLERK OF THE BANKRUPTCY COURT WITHIN TWENTY-ONE DAYS FROM THE DATE YOU WERE SERVED WITH THIS PLEADING. YOU MUST SERVE A COPY OF YOUR RESPONSE ON THE PERSON WHO SENT YOU THE NOTICE; OTHERWISE, THE COURT MAY TREAT THE PLEADING AS UNOPPOSED AND GRANT THE RELIEF REQUESTED.

CBL & Associates Properties, Inc. and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the “**Debtors**” or the “**Company**”), respectfully represent as follows in support of this motion (the “**Motion**”):²

Background

1. Beginning on November 1, 2020 (the “**Petition Date**”), the Debtors each commenced with this Court a voluntary case under chapter 11 of title 11 of the United States Code

¹ A complete list of the Debtors in these chapter 11 cases may be obtained on the website of the Debtors’ proposed claims and noticing agent at <https://dm.epiq11.com/CBLProperties>. The Debtors’ service address for the purposes of these chapter 11 cases is 2030 Hamilton Place Blvd., Suite 500, Chattanooga, Tennessee 37421.

² Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Plan (as defined below), as applicable.

(the “**Bankruptcy Code**”) . The Debtors continue to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. The Debtors’ chapter 11 cases are being jointly administered for procedural purposes only pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”) and Rule 1015-1 of the Bankruptcy Local Rules for the United States Bankruptcy Court for the Southern District of Texas (the “**Local Rules**”). On November 13, 2020, the United States Trustee for Region 7 appointed an official committee of unsecured creditors in these chapter 11 cases pursuant to section 1102 of the Bankruptcy Code. No trustee or examiner has been appointed in these chapter 11 cases.

Prior Extension of the Deadline to Remove Civil Actions

2. By order dated June 25, 2021, the Court extended the deadline to remove civil actions from June 1, 2021 to August 30, 2021 (the “**Second Extension Order**”) (Docket No. 1277).

Jurisdiction

3. The Court has jurisdiction to consider this matter pursuant to 28 U.S.C. § 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409.

Relief Requested

4. Pursuant to 28 U.S.C. § 1452 and Bankruptcy Rules 9006(b) and 9027, and Bankruptcy Local Rule 9013-1, the Debtors request entry of an order (i) extending by 63 days the deadline by which the Debtors may file notices of removal under Bankruptcy Rule 9027(a) (the “**Removal Deadline**”) from the current deadline of August 30, 2021, to and including November 1, 2021, and (ii) granting related relief.

5. A proposed form of order granting the relief requested herein is annexed hereto as **Exhibit A** (the “**Proposed Order**”).

Basis for Relief Requested

6. Bankruptcy Rule 9027 and 28 U.S.C. § 1452 govern the removal of pending civil actions. 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).

Bankruptcy Rule 9027(a)(2) further provides, in pertinent part:

If 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 only within the longest of (A) 90 days after the order for relief in the case under the [Bankruptcy] 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 [Bankruptcy] 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).

With respect to post-petition actions, Bankruptcy Rule 9027(a)(3) provides that a notice of removal may be filed:

[O]nly within the shorter of (A) 30 days after receipt, through service or otherwise, of a copy of the initial pleading setting forth the claim or cause of action sought to be removed, or (B) 30 days after receipt of the summons if the initial pleading has been filed with the court but not served with the summons.

Fed. R. Bankr. P. 9027(a)(3).

7. Bankruptcy Rule 9006(b) provides that the Court may extend the period within which the Debtors may remove actions provided by Bankruptcy Rule 9027, without notice, upon a showing for cause:

[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).

Cause Exists to Extend the Removal Deadline

8. It is well settled that the Court is authorized to extend, for cause, the removal period provided under 28 U.S.C. § 1452 and Bankruptcy Rule 9027. *See, e.g., In re Fieldwood Energy LLC*, No. 20-33948 (MI) (Bankr. S.D. Tex. Dec. 2, 2020) (Docket No. 6310) (granting 120-day initial extension of the removal period without prejudice to debtors' ability to seek additional extensions); *In re CEC Entertainment, Inc.*, No. 20-33163 (MI) (Bankr. S.D. Tex. Nov. 11, 2020) (same); *In re NPC Int'l, Inc.*, No. 20-33353 (DRJ) (Bankr. S.D. Tex. Oct. 26, 2020) (same); *In re EP Energy Corp.*, No. 19-35654 (MI) (Bankr. S.D. Tex. Feb. 10, 2020) (Docket No. 801) (same); *In re Vanguard Nat. Res., Inc.*, No. 19-31786 (DRJ) (Bankr. S.D. Tex. July 2, 2019) (Docket No. 529) (same); *In re Westmoreland Coal Co.*, No. 18-35672 (DRJ) (Bankr. S.D. Tex. Dec. 18, 2018) (Docket No. 818) (same); *In re Jandous Elec. Constr. Corp.*, 106 B.R. 48 (Bankr. S.D.N.Y. 1989) (concluding that the period in which to file a motion to remove may be expanded pursuant to Bankruptcy Rule 9006); *In re World Fin. Servs. Ctr., Inc.*, 81 B.R. 33, 39 (Bankr. S.D. Cal. 1987) (providing that the United States Supreme Court intended to give bankruptcy judges the power to enlarge the filing periods under Bankruptcy Rule 9027(a) pursuant to Bankruptcy Rule 9006(b)).

9. Cause exists to extend the Removal Deadline in these chapter 11 cases from the current deadline of August 30, 2021 to and including November 1, 2021. Since the Court entered the Second Extension Order, the Debtors have focused a significant part of their efforts on the Plan confirmation process. On August 9, 2021, the Debtors filed the *Third Amended Joint Chapter 11 Plan of CBL & Associates Properties, Inc. and Its Affiliated Debtors (With Technical Modifications)* (Docket No. 1369) (as may be subsequently amended, the “**Plan**”). Following a hearing on August 11, 2021, the Court entered the *Proposed Findings of Fact, Conclusions of Law, and Order (I) Confirming Third Amended Joint Chapter 11 Plan of CBL & Associates Properties, Inc. and Its Affiliated Debtors and (II) Granting Related Relief* (Docket No. 1397) confirming the Plan. The Debtors anticipate that the Effective Date of the Plan will occur on or before November 1, 2021 and are focusing their efforts on achieving the Effective Date.

10. The Debtors are party to a number of civil actions in various jurisdictions (collectively, the “**Civil Actions**”). The Debtors’ analysis regarding which, if any, of these Civil Actions they may seek to remove depends on a number of factors, including but not limited to: (i) the importance of the Civil Action to the resolution of these chapter 11 cases, (ii) the relationship between the Civil Action to the matters to be considered in these chapter 11 cases, (iii) the presence of federal subject matter jurisdiction, and (iv) the timing required to complete the Civil Action in its current venue. As the Debtors prepare for the Effective Date, they intend to determine which Civil Actions, if any, should be removed. An extension of the Removal Deadline will afford the Debtors an opportunity to make more fully informed decisions concerning the removal of any Civil Action in advance of the Effective Date, and will assure that the Debtors and their estates do not forfeit the valuable rights afforded to the Debtors under 28 U.S.C. § 1452. Therefore, the Debtors believe that it is prudent to seek an extension of the time prescribed under

Bankruptcy Rule 9027(a) for filing notices of removal from the current deadline of August 30, 2021 to and including November 1, 2021, the anticipated Effective Date. Furthermore, an extension would not prejudice the rights of the Debtors' adversaries in the Civil Actions because any party to an action that is removed may seek to have the action remanded to state court pursuant to 28 U.S.C. § 1452(b).

11. The Debtors further request that the order approving this Motion be without prejudice to (i) any position the Debtors may take regarding whether section 362 of the Bankruptcy Code applies to stay any given Civil Action pending against any of the Debtors and (ii) the right of the Debtors to seek further extensions of the Removal Deadline.

12. For the reasons stated above, the Debtors submit that cause exists to grant this Motion, and that the relief requested herein is appropriate and in the Debtors' and their estates' best interests.

Notice

13. Notice of this Motion will be provided to (i) any party entitled to notice pursuant to Bankruptcy Rule 2002, (ii) the non-Debtor parties to the various Civil Actions, and (iii) any other party entitled to notice pursuant to Bankruptcy Local Rule 9013-1(d).

WHEREFORE, the Debtors respectfully request entry of the Proposed Order granting the relief requested herein and such other and further relief as the Court may deem just and appropriate.

[Remainder of page intentionally left blank]

Dated: August 26, 2021
Houston, Texas

Respectfully submitted,

/s/ Alfredo R. Pérez

WEIL, GOTSHAL & MANGES LLP

Alfredo R. Pérez (15776275)

700 Louisiana Street, Suite 1700

Houston, Texas 77002

Telephone: (713) 546-5000

Facsimile: (713) 224-9511

Email: Alfredo.Perez@weil.com

-and-

WEIL, GOTSHAL & MANGES LLP

Ray C. Schrock, P.C. (admitted *pro hac vice*)

Theodore E. Tsekerides (admitted *pro hac vice*)

Garrett A. Fail (admitted *pro hac vice*)

767 Fifth Avenue

New York, New York 10153

Telephone: (212) 310-8000

Facsimile: (212) 310-8007

Email: Ray.Schrock@weil.com

Theodore.Tsekerides@weil.com

Garrett.Fail@weil.com

*Attorneys for Debtors and
Debtors in Possession*

Certificate of Service

I hereby certify that on August 26, 2021, 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.

/s/ Alfredo R. Pérez

Alfredo R. Pérez