

**Hearing Date and Time: September 20, 2021 at 1:00 p.m. (prevailing Eastern Time)**  
**Objection Date and Time: September 17, 2021 at 12:00 p.m. (prevailing Eastern Time)**

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**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

**In re:**

**GRUPO AEROMÉXICO, S.A.B. de C.V., et  
al.,  
  
Debtors.<sup>1</sup>**

**Chapter 11**

**Case No. 20-11563 (SCC)**

**(Jointly Administered)**

**NOTICE OF HEARING ON DEBTORS' THIRD MOTION TO EXTEND THE TIME  
TO FILE NOTICES OF REMOVAL OF CIVIL ACTIONS**

**PLEASE TAKE NOTICE** that on September 3, 2021, the above-captioned debtors and debtors in possession (collectively, the “**Debtors**”) filed the *Debtors’ Third Motion to Extend the Time to File Notices of Removal of Civil Actions* (the “**Motion**”). A hearing on the Motion will be held on **September 20, 2021 at 1:00 p.m.** (prevailing Eastern Time) (the “**Hearing**”) before the Honorable Judge Shelley C. Chapman, United States Bankruptcy Judge, United States

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<sup>1</sup> The Debtors in these cases, along with each Debtor’s registration number in the applicable jurisdiction, are as follows: Grupo Aeroméxico, S.A.B. de C.V. 286676; Aerovías de México, S.A. de C.V. 108984; Aerolitoral, S.A. de C.V. 217315; Aerovías Empresa de Cargo, S.A. de C.V. 437094-1. The Debtors’ corporate headquarters is located at Paseo de la Reforma No. 243, piso 25 Colonia Cuauhtémoc, Mexico City, C.P. 06500.

Bankruptcy Court for the Southern District of New York (the “**Bankruptcy Court**”), or at such other time as the Bankruptcy Court may determine.

**PLEASE TAKE FURTHER NOTICE** that, in accordance with General Order M-543, dated March 20, 2020 (Morris, C.J.) (“**General Order M-543**”),<sup>2</sup> the Hearing will be conducted telephonically. Any parties wishing to participate must do so telephonically by making arrangements through CourtSolutions, LLC ([www.court-solutions.com](http://www.court-solutions.com)). Instructions to register for CourtSolutions, LLC are attached to General Order M-543.

**PLEASE TAKE FURTHER NOTICE** that copies of the Motion may be obtained free of charge by visiting the website of Epiq Corporate Restructuring, LLC at <https://dm.epiq11.com/aeromexico>. You may also obtain copies of any pleadings by visiting the Bankruptcy Court’s website at <http://www.nysb.uscourts.gov> in accordance with the procedures and fees set forth therein.

**PLEASE TAKE FURTHER NOTICE** that the Hearing may be continued or adjourned thereafter from time to time without further notice other than an announcement of the adjourned date or dates at the Hearing or a later hearing. The Debtors will file an agenda before the Hearing, which may modify or supplement the motions to be heard at the Hearing.

**PLEASE TAKE FURTHER NOTICE** that any responses or objections to the Motion shall be in writing, shall comply with the Federal Rules of Bankruptcy Procedure and the Local Bankruptcy Rules for the Southern District of New York, shall be filed with the Bankruptcy Court (a) by attorneys practicing in the Bankruptcy Court, including attorneys admitted *pro hac vice*, electronically in accordance with General Order M-399 (which can be found at [www.nysb.uscourts.gov](http://www.nysb.uscourts.gov)), and (b) by all other parties in interest, in accordance with the

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<sup>2</sup> A copy of the General Order M-543 can be obtained by visiting <http://www.nysb.uscourts.gov/news/general-order-m-543-court-operations-under-exigent-circumstances-created-covid-19>.

customary practices of the Bankruptcy Court and General Order M-399, to the extent applicable, and shall be served in accordance with General Order M-399 and the *Order Establishing Certain Notice, Case Management, and Administrative Procedures*, entered on July 8, 2020 [ECF No. 79], so as to be filed and received no later than **September 17, 2021 at 12:00 p.m. (Prevailing Eastern Time)** (the “**Objection Deadline**”).

**PLEASE TAKE FURTHER NOTICE** that any objecting parties are required to telephonically attend the Hearing, and failure to appear may result in relief being granted upon default.

**PLEASE TAKE FURTHER NOTICE** that if no objections are timely filed and served with respect to the Motion, the Debtors may, on or after the Objection Deadline, submit to the Bankruptcy Court an order substantially in the form of the proposed order annexed to the Motion, which order may be entered without further notice or opportunity to be heard.

Dated: September 3, 2021  
New York, New York

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**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

**In re:**

**GRUPO AEROMÉXICO, S.A.B. de C.V., et  
al.,**

**Debtors.<sup>1</sup>**

**Chapter 11**

**Case No. 20-11563 (SCC)**

**(Jointly Administered)**

**DEBTORS' THIRD MOTION TO EXTEND THE TIME  
TO FILE NOTICES OF REMOVAL OF CIVIL ACTIONS**

Grupo Aeroméxico, S.A.B. de C.V. (“**Grupo Aeroméxico**”) and its affiliates that are debtors and debtors in possession in these proceedings (collectively, the “**Debtors**”; the Debtors collectively with their direct and indirect non-Debtor subsidiaries, the “**Company**” or “**Aeroméxico**”) hereby file this *Debtors’ Third Motion to Extend the Time to File Notices of Removal of Civil Actions* (the “**Motion**”). In support of this Motion, the Debtors respectfully state as follows:

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<sup>1</sup> The Debtors in these cases, along with each Debtor’s registration number in the applicable jurisdiction, are as follows: Grupo Aeroméxico, S.A.B. de C.V. 286676; Aerovías de México, S.A. de C.V. 108984; Aerolitoral, S.A. de C.V. 217315; Aerovías Empresa de Cargo, S.A. de C.V. 437094-1. The Debtors’ corporate headquarters is located at Paseo de la Reforma No. 243, piso 25 Colonia Cuauhtémoc, Mexico City, C.P. 06500.

### **Jurisdiction and Venue**

1. The United States Bankruptcy Court for the Southern District of New York (the “**Court**”) has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the Amended Standing Order of Reference M-431, dated January 31, 2012 (Preska, C.J.). This is a core proceeding pursuant to 28 U.S.C. § 157(b) and, pursuant to Rule 7008 of the Federal Rules of Bankruptcy Procedures (the “**Bankruptcy Rules**”), the Debtors consent to entry of a final order by the Court in connection with this Motion to the extent that it is later determined that the Court, absent consent of the parties, cannot enter a final order or judgment consistent with Article III of the United States Constitution. Venue is proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409.

2. The legal predicates for the relief requested herein are 28 U.S.C. § 1452, section 105(a) of title 11 of the United States Code, 11 U.S.C. § 101, *et seq.* (as amended or modified, the “**Bankruptcy Code**”), Bankruptcy Rules 9006 and 9027, and Rule 9006-2 of the Local Bankruptcy Rules for the Southern District of New York (the “**Local Rules**”).

### **General Background**

3. On June 30, 2020 (the “**Petition Date**”), the Debtors each commenced with this Court a voluntary case under chapter 11 of the Bankruptcy Code (the “**Chapter 11 Cases**”). The Debtors 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. On July 13, 2020, the United States Trustee for the Southern District of New York (the “**U.S. Trustee**”) appointed the Official Committee of Unsecured Creditors pursuant to section 1102 of the Bankruptcy Code [ECF No. 92] (the “**Creditors’ Committee**”). No request has been made for the appointment of a trustee or examiner in these Chapter 11 Cases. The Chapter 11 Cases are being jointly

administered pursuant to Rule 1015(b) of the Bankruptcy Rules and the *Order Directing Joint Administration of Chapter 11 Cases* [ECF No. 30] entered by the Court in each of the Chapter 11 Cases.

4. Additional information about the Debtors' businesses and the events leading up to the Petition Date can be found in the *Declaration of Ricardo Javier Sánchez Baker in Support of the Debtors' Chapter 11 Petitions and First Day Pleadings* [ECF No. 20] (the "**Sánchez Declaration**").

5. On September 8, 2020, the Debtors filed the *Motion of Debtors to Extend the Time to File Notices of Removal of Civil Actions* [ECF No. 364] (the "**First Extension Motion**"). Under the First Extension Motion, the Debtor sought to extend the deadline to remove civil actions pursuant to 28 U.S.C. § 1452 and Rule 9027 of the Bankruptcy Rules through and including March 29, 2021. The Court entered the order approving the First Extension Motion on September 22, 2020 [ECF No. 446].

6. On March 23, 2021, the Debtors filed the *Second Motion of Debtors to Extend the Time to File Notices of Removal of Civil Actions* [ECF No. 1011] (the "**Second Extension Motion**"). Under the Second Extension Motion, the Debtor sought to extend the deadline to remove civil actions pursuant to 28 U.S.C. § 1452 and Rule 9027 of the Bankruptcy Rules through and including September 27, 2021. The Court entered the order approving the Second Extension Motion on April 20, 2021 [ECF No. 1084] (the "**Second Extension Order**").

### **Relief Requested**

7. Pursuant to the Second Extension Order, the time period by which the Debtors may file notices of removal will expire on September 27, 2021 (the "**Removal Deadline**"). By this Motion, the Debtors seek entry of an order, substantially in the form attached hereto as

**Exhibit A** (the “**Order**”), extending the Removal Deadline for a period of one hundred and eighty (180) days through and including Monday, March 28, 2022.<sup>2</sup>

8. The Debtors request that the proposed March 28, 2022 deadline to file notices of removal apply to all matters pending as of the Petition Date as specified in Bankruptcy Rule 9027(a)(2)(A), (B), and (C) (the “**Prepetition Actions**”) in addition to any and all matters initiated after the Petition Date as specified in Bankruptcy Rule 9027(a)(3) (the “**Postpetition Actions**,” and together with the Prepetition Actions, the “**Actions**”).

9. The Debtors further request that the Order approving this Motion be without prejudice to (a) any position the Debtors might take regarding whether section 362 of the Bankruptcy Code applied to stay any given Action and (b) the right of the Debtors to seek further extensions of the Removal Deadline.

#### **Basis For Relief Requested**

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:

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:

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.

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<sup>2</sup> The 180th day after the Removal Deadline is Saturday, March 26, 2022. Bankruptcy Rule 9006 automatically extends the deadline to remove civil actions under Bankruptcy Rule 9027(a)(2)(A) to Monday, March 28, 2022.

Fed. R. Bankr. P. 9027(a)(2). With respect to actions commenced postpetition, Bankruptcy Rule 9027(a)(3) provides that a notice of removal must 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).

10. However, all deadlines under Bankruptcy Rule 9027(a) may be extended pursuant to Bankruptcy Rule 9006(b), which provides that a notice of removal may be filed:

[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).

11. It is well-settled that this Court has the authority to extend, for cause, the removal period provided under 28 U.S.C. § 1452 and Bankruptcy Rule 9027. *See, e.g., In re Fairfield Sentry Ltd. Litig.*, 458 B.R. 665, 691 (S.D.N.Y. 2011) (“Bankruptcy Rule 9006(b)(1)(1) allows the bankruptcy court to enlarge the time for removal before the time for removal expires *sua sponte*.”); *Anchev v. 335 W. 38th St. Coop. Corp. (In re Anchev)*, No. 99 B 45846 (PCB), 2009 Bankr. LEXIS 906, \*8 (Bankr. S.D.N.Y. Apr. 15, 2009) (finding removal untimely in part because the party seeking it “could have, but did not, seek to enlarge the 90 day period to remove the [relevant state court action] under [Bankruptcy Rule] 9006(b)”; *see also In re N. New England Tel. Operations LLC*, 504 B.R. 372, 380 (Bankr. S.D.N.Y. 2014) (time limit for removal of civil actions may be extended pursuant to Bankruptcy Rule 9006(b)); *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).



12. The Debtors submit that cause exists for the relief requested herein. Since the Debtors filed the Second Extension Motion, the Debtors have worked diligently on a number of critical matters but have not yet determined which Actions, if any, they may seek to remove. More specifically, the extension is appropriate because the Debtors have expended considerable time and effort by, among other things:

- (a) conducting a robust exit-financing marketing process as a prerequisite step to filing a Chapter 11 Plan, analyzing and reviewing resulting proposals for such exit financing and related terms, and preparing for, and conducting, extensive negotiations with numerous stakeholders and counterparties relating to same, including through the mediation pursuant to the *Order Appointing the Honorable Sean H. Lane as Mediator* [ECF No. 1527];
- (b) preparing a Chapter 11 Plan and disclosure statement, including extensive analysis in connection thereto;
- (c) negotiating, and obtaining approval for, numerous agreements with various aircraft counterparties, resulting in the significant upgrades to the Debtors' fleet, including the addition of new aircraft and the assumption of amended leases related to equipment already in the Debtors' possession;
- (d) continuing the Debtors' claims analysis, including expunging over 150 claims from the claims registers, reclassifying or otherwise modifying over 1,700 claims filed in the Chapter 11 Cases, and communications and extensive negotiations with stakeholders related thereto;
- (e) negotiating, and obtaining approval for, severance packages for terminated

employees, as required by Mexican law;

- (f) analyzing issues related to the Debtors' loyalty program, and extensive negotiations with various constituencies in connection therewith;
- (g) preparing and obtaining approval of numerous motions and applications; and
- (h) addressing, and continuing to address, extremely in-depth issues surrounding numerous diligence requests from various parties in interest while providing an ever-increasing volume of relevant information.

13. Accordingly, the Debtors have not been able to analyze and make a determination regarding the removal of the Actions. Consequently, the Debtors seek an extension to allow the Debtors and their advisors the opportunity to carefully consider the possible removal of each Action.

14. The rights of any party to the Actions will not be unduly prejudiced by the Debtors' requested extension. Inasmuch as section 362(a) of the Bankruptcy Code automatically stays actions against the Debtors, most of the Actions will not proceed in their respective fora during these Chapter 11 Cases, even absent the relief requested herein. Moreover, the relief requested herein does not alter any party's rights under 28 U.S.C. § 1452(b) to seek a remand. If the Debtors ultimately were to seek to remove any action pursuant to 28 U.S.C. § 1452 and Bankruptcy Rule 9027, any party to such action would have the right to seek to have such action remanded pursuant to 28 U.S.C. § 1452(b), which provides that "[t]he court to which such claim or cause of action is removed may remand such claim or cause of action on any equitable ground." Accordingly, the Debtors submit that cause exists for the relief requested herein.

15. Courts in this jurisdiction have granted removal period extensions similar to the extension requested herein. *See, e.g., In re Frontier Communications Corporation*, No. 20-22476 (RDD) (Bankr. S.D.N.Y. Aug. 3, 2021) [ECF No. 1960] (granting debtors' third extension request extending the removal period 180 days from the previous deadline); *In re Cortlandt Liquidating LLC*, Case No. 20-12097 (SCC) (Bankr. S.D.N.Y. July 1, 2021) [ECF No. 1001] (granting debtors' third extension request, extending the removal period through the later of (a) 180 days from the previous deadline, and (b) the date that is 30 days after entry of an order terminating the automatic stay with respect to the particular action sought to be removed); *In re LATAM Airlines Group S.A.*, Case No. 20-11254 (JLG) (Bankr. S.D.N.Y. Nov. 22, 2020) [ECF No. 1409] (extending the debtors' removal deadline through and including the confirmation date); *In re Nine West Holdings, Inc.*, Case No. 18-10947 (SCC) (Bankr. S.D.N.Y. Dec. 17, 2018) [ECF No. 981] (granting debtors' third extension request, extending the removal period through the later of (a) 90 days from the previous deadline, and (b) the date that is 30 days after entry of an order terminating the automatic stay with respect to the particular action sought to be removed); *In re Cumulus Media Inc.*, Case No. 17-13381 (SCC) (Bankr. S.D.N.Y. Feb. 28, 2018) [ECF No. 493] (extending the debtors' removal deadline through and including the plan effective date); *In re Runway Liquidation Holdings, LLC*, No. 17-10466 (SCC) (Bankr. S.D.N.Y. Feb. 15, 2018) [ECF No. 825] (granting third, 90-day extension of the removal period post-emergence).

#### **Debtors' Reservation of Rights**

16. Nothing contained herein or any action taken pursuant to such relief is intended or shall be construed as (a) an admission as to the validity or priority of any claim against the Debtors; (b) a waiver of the Debtors' or any appropriate party in interest's rights to dispute the

amount of, basis for, or validity of any claim against the Debtors; (c) a waiver of any claims or causes of action which may exist against any creditor or interest holder or any other party; or (d) an approval, assumption, adoption or rejection of any agreement, contract, lease, program, or policy between the Debtors and any third party under section 365 of the Bankruptcy Code. Likewise, if the Court grants the relief sought herein, any payment made pursuant to the Court's order is not intended to be and should not be construed as an admission as to the validity or priority of any claim or a waiver of the Debtors' rights to subsequently dispute such claim.

### **Notice**

17. Notice of this Motion will be provided to (a) the entities on the Master Service List (as defined in the *Order Establishing Certain Notice, Case Management, and Administrative Procedures*, entered on July 8, 2020, (ECF No. 79) and available on the Debtors' case website at <https://dm.epiq11.com/aeromexico>) and (b) any person or entity with a particularized interest in the subject matter of this motion. The Debtors respectfully submit that no further notice is required.

### **No Prior Request**

18. The Debtors have not previously sought the relief requested herein from the Court or any other court.

WHEREFORE, the Debtors respectfully request that the Court enter the proposed form of order, substantially in the form attached hereto, granting the relief requested herein and such other relief as the Court deems appropriate under the circumstances.

Dated: September 3, 2021  
New York, New York

DAVIS POLK & WARDWELL LLP

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