

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

In re:

ALAMO DRAFTHOUSE CINEMAS
HOLDINGS, LLC, *et al.*,

Debtors.¹

Chapter 11

Case No. 21-10474 (MFW)

(Jointly Administered)

Hearing Date:

December 15, 2021 at 10:30 a.m. (ET)

Objection Deadline:

December 8, 2021 at 4:00 p.m. (ET)

**DEBTORS' MOTION FOR ENTRY OF AN ORDER FURTHER EXTENDING THE
EXCLUSIVITY PERIODS FOR THE FILING OF A CHAPTER 11 PLAN AND
THE SOLICITATION OF ACCEPTANCES THEREOF**

Alamo Drafthouse Cinemas Holdings, LLC and its above-captioned debtors and debtors in possession (collectively, the “**Debtors**”) hereby file this motion (this “**Motion**”), pursuant to section 1121(d) of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the “**Bankruptcy Code**”), Rule 9006 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), and Rule 9006-2 of the Local Rules of the United States Bankruptcy Court for the District of Delaware (the “**Local Rules**”), for entry of an order, substantially in the form

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: Alamo Drafthouse Cinemas Holdings, LLC (2205); Alamo Drafthouse Cinemas, LLC (5717); Alamo Vineland, LLC (1626); Alamo League Investments GP, LLC (1811); Alamo League Investments, Ltd. (7227); Alamo South Lamar GP, LLC (3632); Alamo South Lamar, LP (4563); Alamo Drafthouse Raleigh, LLC (5979); Alamo DH Anderson Lane, LLC (3642); Alamo Yonkers, LLC (4971); Alamo Mission, LLC (2284); Alamo Ritz, LLC (9465); Alamo Mueller, LLC (1221); Mondo Tees, LLC (6900); Alamo City Foundry, LLC (6092); Alamo Mainstreet, LLC (2052); Alamo City Point, LLC (3691); Alamo Liberty, LLC (5755); Alamo Satown, LLC (6197); Alamo Marketplace, LLC (7041); Alamo Stone Oak, LLC (8398); Alamo Westlakes, LLC (4931); Alamo Park North, LLC (1252); Alamo North SA, LLC (6623); Alamo Avenue B, LLC (8950); Alamo Slaughter Lane GP, LLC (6968); Alamo Slaughter Lane, Ltd. (5341); Alamo Cinema Group I GP, LLC (9537); Alamo Cinema Group I, LP (9656); Alamo Westminster, LLC (8906); Alamo Staten Island, LLC (7781); Alamo Aspen Grove, LLC (7786); Alamo Lakeline, LLC (5294); Alamo Sloans, LLC (9343). The location of the Debtors’ service address is: 3908 Avenue B, Austin, Texas 78751.

attached hereto as **Exhibit A** (the “**Proposed Order**”), extending the exclusivity periods for the filing of a chapter 11 plan and solicitation of acceptances thereof. In support of this Motion, the Debtors respectfully represent as follows:

JURISDICTION AND VENUE

1. The United States Bankruptcy Court for the District of Delaware (this “**Court**”) has jurisdiction over this matter pursuant to 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. The Debtors confirm their consent, pursuant to Local Rule 9013-1(f), to the 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 final orders or judgments in connection herewith consistent with Article III of the United States Constitution.

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

3. The statutory and legal predicates for the relief requested herein are section 1121(d) of the Bankruptcy Code, Bankruptcy Rule 9006, and Local Rule 9006-2.

BACKGROUND

4. On March 3, 2021 (the “**Petition Date**”), the Debtors commenced these bankruptcy cases by filing voluntary petitions for relief under chapter 11 of the Bankruptcy Code (the “**Chapter 11 Cases**”). On March 15, 2021, the Office of the United States Trustee for the District of Delaware (the “**U.S. Trustee**”) appointed an official committee of unsecured creditors (the “**Committee**”) in these Chapter 11 Cases.

5. On May 3, 2021, the Court entered an order authorizing and approving the sale of substantially all of the Debtors’ assets [Docket No. 436] (the “**Sale**”) to ALMO Holdings, LLC (the “**Purchaser**”), pursuant to that certain Asset Purchase Agreement, dated March 5, 2021,

between the Debtors and the Purchaser (as amended, the “**APA**”). On May 28, 2021, the Sale closed.

6. Additional information about the Debtors’ business and the events leading to the commencement of these Chapter 11 Cases can be found in the *Declaration of Matthew Vonderahe in Support of Chapter 11 Petitions and First Day Motions* [Docket No. 11].

RELIEF REQUESTED

7. The Debtors submit this Motion pursuant to section 1121(d) of the Bankruptcy Code, requesting entry of the Proposed Order extending the Exclusivity Periods (as defined below) by ninety (90) days each. Unless extended, the Plan Period and Solicitation Period (each defined below) will expire on November 29, 2021 and January 28, 2022, respectively.² The Debtors seek to extend the Plan Period and the Solicitation Period through and including February 28, 2022 and April 28, 2022,³ respectively, without prejudice to the Debtors’ right to seek further extensions. This Motion is the Debtors’ third request for an extension of the Exclusivity Periods (as defined below).

BASIS FOR RELIEF

8. Section 1121(b) of the Bankruptcy Code provides for an initial period of one hundred twenty (120) days after commencement of a chapter 11 case during which a debtor has the exclusive right to propose and file a chapter 11 plan (the “**Plan Period**”). 11 U.S.C. § 1121(b). If a debtor files a plan during the Plan Period, section 1121(c)(3) of the Bankruptcy Code provides a debtor with an additional sixty (60) days following the expiration of such Plan Period (or 180

² Pursuant to Local Rule 9006-2, the filing of this Motion prior to the expiration of the current Exclusivity Periods automatically extends the Exclusivity Periods until the Court acts on this Motion, without need for a bridge order.

³ Ninety (90) days from the expiration of the Plan Period is Sunday, February 27, 2022. Pursuant to Bankruptcy Rule 9006, the next business day for the purposes of establishing the Plan Period is Monday, February 28, 2022.

days following the commencement of the case) to solicit acceptances of the plan without completing plan filings (the “**Solicitation Period**,” and together with the Plan Period, the “**Exclusivity Periods**”). 11 U.S.C. § 1121(c)(3). Section 1121(d) permits the Court to extend the Exclusivity Periods for “cause.” For the reasons set forth herein, “cause” exists to extend the Exclusivity Periods.

I. Section 1121(d) of the Bankruptcy Code Permits the Court to Extend the Exclusivity Periods “For Cause”

9. The decision to extend a debtor’s exclusivity periods is committed to the sound discretion of the Court, and should be based upon the facts and circumstances of a particular case. *See First Am. Bank of New York v. Southwest Gloves and Safety Equip., Inc.*, 64 B.R. 963, 965 (D. Del. 1986); *203 N. LaSalle Street P’ship v. Bank of Am., N.A.*, 1999 U.S. Dist. LEXIS 19425, at *12 (N.D. Ill. 1999); *In re Mid-State Raceway, Inc.*, 323 B.R. 63, 68 (Bankr. N.D.N.Y. 2005); *In re Reetz*, 61 B.R. 412, 414 (Bankr. W.D. Wis. 1986). Although the Bankruptcy Code does not define “cause” for purposes of an extension request under section 1121(d), courts have looked to the legislative history of section 1121(d) for guidance. *See In re Gibson & Cushman Dredging Corp.*, 101 B.R. 405, 409 (E.D.N.Y. 1989); *In re Amko Plastics, Inc.*, 197 B.R. 74, 77 (Bankr. S.D. Ohio 1996). Such legislative history indicates that Congress did not intend the 120- and 180-day exclusivity periods to be a hard and fast limit. *See Amko Plastics, Inc.*, 197 B.R. at 77 (noting that Congress intended courts to have flexibility in dealing with extensions of exclusivity); *Gaines v. Perkins (In re Perkins)*, 71 B.R. 294, 297 (W.D. Tenn. 1987) (“The hallmark of [section 1121(d)] is flexibility.”). Rather, Congress intended that the debtor’s exclusivity periods be of an adequate length, given the circumstances, for a debtor to formulate, negotiate and draft a viable plan without the disruptions that would occur with the filing of competing plans of reorganization. *See Geriatrics Nursing Home v. First Fidelity Bank, N.A.*, 187 B.R. 128, 133 (D.N.J. 1995) (“The

opportunity to negotiate its plan unimpaired by competition, the court held, is meant to allow the debtor time to satisfy all creditors and win support for its restructuring scheme and thus ensure its survival as a business.”).

10. To determine whether “cause” exists to grant an extension of the Exclusivity Periods, courts analyze the following factors:

- (a) The size of the debtor and difficulty in formulating a plan;
- (b) The necessity of sufficient time to negotiate a plan and prepare adequate information to allow a creditor to determine whether to accept the plan;
- (c) The existence of good faith progress towards reorganization;
- (d) Whether the debtor is paying its debts as they come due;
- (e) Whether the debtor has demonstrated reasonable prospects for filing a viable plan;
- (f) Whether the debtor has made progress in negotiating with creditors;
- (g) The length of time the case has been pending;
- (h) Whether the debtor is seeking an extension to pressure creditors to submit to its demands; and
- (i) Whether or not unresolved contingencies exist.

In re Dow Corning Corp., 208 B.R. 661, 664–65 (Bankr. E.D. Mich. 1997); *In re Adelphia Commc’ns Corp.*, 352 B.R. 578, 587 (Bankr. S.D.N.Y. 2006); *In re Cent. Jersey Airport Servs., LLC*, 282 B.R. 176, 184 (Bankr. D.N.J. 2002).

11. As set forth below, the facts and circumstances of these Chapter 11 Cases justify extension of the Exclusivity Periods.

II. Good Cause Exists to Extend the Exclusivity Periods

A. The Size, Complexity, and Duration of the Chapter 11 Cases

12. These Chapter 11 Cases are sufficiently large and complex to warrant the requested extension of the Exclusivity Periods. These Chapter 11 Cases involve thirty-four (34) Debtors with movie theaters across the United States. Despite the attendant complexity, the Debtors have addressed critical case-management issues while simultaneously engaging in negotiations with key constituents to implement a comprehensive marketing and sale and process. To that end, the Debtors were able to consummate the Sale, and on August 31, 2021, consummate the sale of the Debtors' real estate in San Antonio Texas (the "La Cantera Sale"). As a result of the consummation of the Sale and the La Cantera Sale, the Debtors are in the process of analyzing claims and winding down the Debtors' affairs, including working to transition the various liquor licenses as provided in the respective transition services agreements.

13. Given the complexity associated with simultaneously administering the Chapter 11 Cases, marketing their assets, continuing to operate the Debtors' business in the ordinary course and consummating the Sale and the La Cantera Sale, the Debtors have had insufficient time, thus far, to negotiate, prepare and pursue confirmation of a chapter 11 plan. Throughout the Chapter 11 Cases, the Debtors have cooperated and communicated with their lenders, the Committee, and other key constituencies. The complexity of these issues addressed and the time, effort, and planning required to obtain the progress made thus far cannot be overstated. The Debtors submit that the complexity and relatively short duration of these Chapter 11 Cases warrants the further extension of the Exclusivity Periods.

B. The Necessity of Sufficient Time to Negotiate and Prepare Adequate Information

14. Since the Petition Date, the Debtors and their professionals have focused much of their time, energy, and resources on transitioning into chapter 11 and conducting a court-

supervised marketing and sale process, administering the Debtors' Chapter 11 Cases, and considering a plan of reorganization. The Debtors believe that, in light of the Debtors' progress in these Chapter 11 Cases to maximize value for the benefit of stakeholders, it is reasonable and appropriate that the Debtors are granted additional time to bring these Chapter 11 Cases to a conclusion. Accordingly, the Debtors also submit that this factor weighs in favor of allowing the Debtors to extend the Exclusivity Periods.

C. Good Faith Progress Made in These Chapter 11 Cases

15. The Debtors have made significant and material progress in these Chapter 11 Cases. Specifically, the Debtors marketed, obtained court-approval and have consummated sales of substantially all of their assets. The Debtors are now working to finalize the transition in accordance with the transition services agreements and to bring these Chapter 11 Cases to an orderly and efficient conclusion. Accordingly, the Debtors submit that they have made good-faith progress in these Chapter 11 Cases, which weighs in favor of further extending the Exclusivity Periods.

D. The Debtors Have Paid Their Debts as They Came Due

16. The requested extension of the Exclusivity Periods will not prejudice the legitimate interests of post-petition creditors because the Debtors have made and will continue to make timely payments on their undisputed post-petition obligations to the extent any come due. As such, this factor also weighs in favor of allowing the Debtors to extend the Exclusivity Periods.

E. The Debtors Are Not Seeking an Extension to Pressure Creditors

17. The Debtors have no ulterior motive in seeking a further extension of the Exclusivity Periods. The Debtors have worked diligently since the Petition Date to maximize the value of their assets for the benefit of all stakeholders of their estates, and require the extension

sought by this Motion to analyze a potential chapter 11 plan. The Debtors are not seeking an extension to pressure creditors or other parties-in-interest.

F. Termination of the Exclusivity Periods Would Adversely Impact the Estates

18. Termination of the Exclusivity Periods would adversely impact the Debtors and their estates. If the Court were to deny the Debtors' request for a further extension of the Exclusivity Periods, parties-in-interest would be free to propose chapter 11 plans for the Debtors. Such a result would be value-destructive to the Debtors' estates and would be counterproductive to the Debtors' efforts to efficiently wind down the Debtors' affairs in a value maximizing manner. As a result, the last factor also weighs in favor of allowing the Debtors to extend the Exclusivity Periods.

19. Based on the foregoing, the Debtors respectfully submit that cause exists to further extend the Debtors' Exclusivity Periods, pursuant to section 1121(d) of the Bankruptcy Code. Specifically, the Debtors request that the Plan Period and Solicitation Period be extended through and including February 28 2022, and April 28, 2022, respectively, without prejudice to the Debtors' right to seek further extensions of the Exclusivity Periods, as may be appropriate under the circumstances.

NOTICE

Notice of this Motion will be provided to: (a) the U.S. Trustee; (b) counsel to the Committee; (c) counsel to the Postpetition Lenders; and (d) all parties that have filed a notice of appearance and request for service of papers 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.

CONCLUSION

WHEREFORE, the Debtors respectfully request that the Court grant the relief requested herein and further relief the Court may deem just and proper.

Dated: November 24, 2021
Wilmington, Delaware

YOUNG CONAWAY STARGATT & TAYLOR, LLP

/s/ Betsy L. Feldman

M. Blake Cleary (No. 3614) (mbcleary@ycst.com)
Matthew B. Lunn (No. 4119) (mlunn@ycst.com)
Kenneth J. Enos (No. 4544) (kenos@ycst.com)
Betsy L. Feldman (No. 6410) (bfeldman@ycst.com)
Jared W. Kochenash (No. 6557) (jkochenash@ycst.com)
1000 N. King Street
Wilmington, Delaware 19801
Telephone: (302) 571-6600
Facsimile: (302) 571-1253

Counsel to the Debtors and Debtors in Possession