

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

In re:

NPC INTERNATIONAL, INC.¹

Debtor.

Chapter 11

Case No. 20–33353 (DRJ)

**MOTION OF THE NPC INTERNATIONAL GUC TRUST
FOR AN ORDER (I) FURTHER EXTENDING THE DEADLINE
BY WHICH THE NPC INTERNATIONAL GUC TRUST MAY
REMOVE CIVIL ACTIONS; AND (II) GRANTING RELATED RELIEF**

IF YOU OBJECT TO THE RELIEF REQUESTED, YOU MUST RESPOND IN WRITING. UNLESS OTHERWISE DIRECTED BY THE COURT, YOU MUST FILE YOUR RESPONSE ELECTRONICALLY AT [HTTPS://ECF.TXSB.USCOURTS.GOV/](https://ecf.txsb.uscourts.gov/) WITHIN TWENTY-ONE DAYS FROM THE DATE THIS MOTION WAS FILED. IF YOU DO NOT HAVE ELECTRONIC FILING PRIVILEGES, YOU MUST FILE A WRITTEN OBJECTION THAT IS ACTUALLY RECEIVED BY THE CLERK WITHIN TWENTY-ONE DAYS FROM THE DATE THIS MOTION WAS FILED. OTHERWISE, THE COURT MAY TREAT THE PLEADING AS UNOPPOSED AND GRANT THE RELIEF REQUESTED.

U.S. Bank National Association, solely in its capacity as trustee (the “GUC Trustee”) of the NPC International GUC Trust (the “GUC Trust”) by and through its undersigned counsel, hereby moves this Court (the “Motion”), pursuant to 28 U.S.C. § 1452 and Rules 9006 and 9027 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and Rule 9013-1 of the Local Bankruptcy Rules for the United States Bankruptcy Court for the Southern District of Texas (the “Local Rules”) for entry of an order substantially in the form attached hereto as **Exhibit A** (the “Proposed Order”) further extending the period within which

¹ The Debtors in these chapter 11 cases, are NPC International, Inc. (“NPCI”); NPC Restaurant Holdings I LLC; NPC Restaurant Holdings II LLC; NPC Holdings, Inc.; NPC International Holdings, LLC; NPC Restaurant Holdings, LLC; NPC Operating Company B, Inc.; and NPC Quality Burgers, Inc. On June 25, 2021, the Court entered a final decree closing each of the chapter 11 cases other than NPCI’s chapter 11 case [Docket No. 1785]. Commencing on June 25, 2021, all motions, notices and other pleadings relating to any of the Debtors shall be filed in NPCI’s chapter 11 case.

the GUC Trust may seek to remove actions to federal district court from May 18, 2023 through and including September 15, 2023. In support of this Motion the GUC Trust respectfully states as follows:

BACKGROUND

1. On July 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 (the “Bankruptcy Code”). From and after the Petition Date, the Debtors continued to operate as debtors in possession pursuant to sections 1107 and 1108 of the Bankruptcy Code.

2. As of the Petition Date, the Debtors were party to a number of civil actions pending in various forums (collectively, the “Prepetition Actions”).

3. On September 28, 2020, the Debtors filed the *Motion of Debtors for an Order (I) Extending the Deadline by Which the Debtors May Remove Civil Actions, and (II) Granting Related Relief*, seeking to extend the deadline by which they may file notices of removal under Bankruptcy Rule 9027(a), by 120 days from September 29, 2020, to January 27, 2021, which was approved by order dated October 26, 2020.²

4. On January 21, 2021, the Debtors filed the *Motion of Debtors for an Order (I) Further Extending the Deadline by Which the Debtors May Remove Civil Actions, and (II) Granting Related Relief*, seeking to further extend the deadline by which they may file notices of removal under Bankruptcy Rule 9027(a), by 120 days from January 27, 2021 to May 27, 2021, which was approved by order dated February 25, 2021.³

² Docket Nos. 725, 898.

³ Docket Nos. 1460, 1570.

5. On January 26, 2021, the Debtors filed the *Second Amended Joint Chapter 11 Plan of NPC International, Inc. and Its Affiliated Debtors* (the “Plan”).⁴ On January 29, 2021, the Bankruptcy Court entered the *Findings of Fact, Conclusions of Law, and Order Confirming Second Amended Joint Chapter 11 Plan of NPC International, Inc. and Its Affiliated Debtors* (the “Confirmation Order”).⁵

6. Among other things, the Confirmation Order approved the creation of the GUC Trust. On March 31, 2021, all conditions to effectiveness of the Plan occurred and the Plan became effective (the “Effective Date”). In accordance with the Plan, the GUC Trust’s responsibilities include, among other things, the reconciliation of certain general unsecured claims asserted against the Debtors in the chapter 11 cases.

7. On May 26, 2021, the GUC Trust filed the *Motion of NPC International GUC Trust for an Order (I) Extending the Deadline by Which the NPC International GUC Trust May Remove Civil Actions, and (II) Granting Related Relief*, seeking to further extend the deadline by which notices of removal may be filed under Bankruptcy Rule 9027(a) by 120 days from May 27, 2021 to September 24, 2021, which was approved by order dated July 19, 2021.⁶

8. On September 20, 2021, the GUC Trust filed the *Motion of NPC International GUC Trust for an Order (I) Further Extending the Deadline by which the NPC International GUC Trust May Remove Civil Actions, and (II) Granting Related Relief*, seeking to further extend the deadline by which notices of removal may be filed under Bankruptcy Rule

⁴ Docket No. 1477. Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Plan.

⁵ Docket No. 1528

⁶ Docket No. 1718, 1845.

9027(a) by 120 days from September 24, 2021 to January 22, 2022, which was approved by order dated October 20, 2021.⁷

9. On January 21, 2022, the GUC Trust filed the *Motion of NPC International GUC Trust for an Order (I) Further Extending the Deadline by which the NPC International GUC Trust May Remove Civil Actions, and (II) Granting Related Relief*, seeking to further extend the deadline by which notices of removal may be filed under Bankruptcy Rule 9027(a) by 121 days from January 22, 2022 to May 23, 2022, which was approved by order dated February 16, 2022.⁸

10. On April 14, 2022, the Court entered the *Second Order Extending Deadline to Object to Claims*, extending the GUC Trust's deadline to object to General Unsecured Claims to September 22, 2022.⁹

11. On May 20, 2022, the GUC Trust filed the *Motion of NPC International GUC Trust for an Order (I) Further Extending the Deadline by which the NPC International GUC Trust May Remove Civil Actions, and (II) Granting Related Relief*, seeking to further extend the deadline by which notices of removal may be filed under Bankruptcy Rule 9027(a) by 120 days from May 23, 2022 to September, 2022, which was approved by order dated May 24, 2022.¹⁰

12. On September 21, 2022, the Court entered the *Third Order Extending Deadline to Object to Claims*, extending the GUC Trust's deadline to object to General Unsecured Claims to March 21, 2023.¹¹

13. On September 19, 2022, the GUC Trust filed the *Motion of NPC International GUC Trust for an Order (I) Further Extending the Deadline by which the NPC*

⁷ Docket Nos. 1924, 1978.

⁸ Docket Nos. 2049, 2075.

⁹ Docket No. 2113.

¹⁰ Docket Nos. 2152, 2156.

¹¹ Docket No. 2234.

International GUC Trust May Remove Civil Actions, and (II) Granting Related Relief, seeking to further extend the deadline by which notices of removal may be filed under Bankruptcy Rule 9027(a) by 120 days from September 20, 2022 to January 18, 2023, which was approved by order dated September 21, 2022.¹²

14. On January 18, 2023, the GUC Trust filed the *Motion of NPC International GUC Trust for an Order (I) Further Extending the Deadline by which the NPC International GUC Trust May Remove Civil Actions, and (II) Granting Related Relief*, seeking to further extend the deadline by which notices of removal may be filed under Bankruptcy Rule 9027(a) by 120 days from January 18, 2023 to May 18, 2023 to, which was approved by order dated May 4, 2023.¹³

15. On March 20, 2023, the NPC International, Inc., Liquidating Trust and the GUC Trust jointly filed the *Fourth Joint Motion of NPC International, Inc., Liquidating Trust and NPC International GUC Trust for an Order Extending Deadline to Object to Claims*, seeking to further extend the GUC Trust's deadline to object to General Unsecured Claims from March 21, 2023 to September 17, 2023 which was approved by order dated April 19, 2023, subject to further extension upon motion by the GUC Trustee or the Plan Administrator.¹⁴

16. Since the Effective Date, the GUC Trust has been actively reviewing and reconciling the more than 2,000 proofs of claim filed in these chapter 11 cases, which assert, at least in part, General Unsecured Claims (not including Driver Claimant General Unsecured Claims).¹⁵ These efforts have included, and will continue to include, work to resolve claims that

¹² Docket Nos. 2231, 2235.

¹³ Docket Nos. 2253, 2268.

¹⁴ Docket Nos. 2261, 2265.

¹⁵ On September 2, 2021, the Court entered the *Order (A) Approving Omnibus Claims Objection Procedures, (B) Waiving the Requirement of Bankruptcy Rule 3007(E)(6), and (C) Granting Related Relief* [Docket No. 1878], establishing procedures for objections to claims on an omnibus basis on the grounds set forth in Bankruptcy Rule 3007(d) and on certain additional approved grounds.

remain subject to litigation pending in other jurisdictions, including the Prepetition Actions. To date, the GUC Trust has filed six omnibus claims objections seeking to expunge approximately 670 General Unsecured Claims.¹⁶ The GUC Trust has also filed a notice of scheduled claims superseded by filed proofs of claim, for which it has filed a certificate of counsel.

17. In connection with the reconciliation of a number of the Prepetition Actions, on May 25, 2021, the Court entered the *Order Establishing Alternative Dispute Resolution Procedures*, establishing procedures to resolve personal injury and wrongful death claims (the “ADR Procedures”).¹⁷ As of the date hereof, claims by more than 50 claimants asserting claims in excess of \$65 million (excluding unliquidated amounts) have been included in the ADR Procedures. To date, the GUC Trust has reached settlements with approximately over 90% of these claimants and is continuing negotiations with the remaining claimants subject to the ADR Procedures.¹⁸ The GUC Trust may also include additional personal injury claims in the ADR process. Given the GUC Trust’s role in this reconciliation process, the GUC Trust seeks to preserve the right of removal to the extent resolution cannot be achieved during the ADR process.

¹⁶ See *First Omnibus Objection of the NPC International GUC Trust to Certain Late-Filed Claims* [Docket No. 1993]; *Second Omnibus Objection of the NPC International GUC Trust to Certain (A) Duplicative Claims and (B) Amended and Superseded Claims* [Docket No. 1994]; *Third Omnibus Objection of the NPC International GUC Trust to Deferred Compensation Claims (No Liability Claims)* [Docket 2024]; *Fourth Omnibus Objection of the NPC International GUC Trust to Certain Satisfied Claims* [Docket 2034]; *Fifth Omnibus Objection Of The NPC International GUC Trust To Certain (A) Satisfied Claims; (B) Late-Filed Claims; (C) Amended And Superseded Claims; (D) Insufficient Documentation Claims; and (E) Reclassified Claims* [Docket 2134]; *Sixth Omnibus Objection Of The NPC International GUC Trust To Certain (I) No Liability Claims and (II) Overstated Claims* [Docket 2135].

¹⁷ Docket No. 1714.

¹⁸ In addition, a pending adversary proceeding relating to claims subject to the ADR Procedures involving two ADR claimants, the GUC Trust and the Plan Administrator, is currently scheduled for mediation and will not be resolved prior to the current Removal Deadline. Adv. Proc. No. 22-03042.

RELIEF REQUESTED

18. Pursuant to 28 U.S.C. § 1452, Bankruptcy Rules 9006(b) and 9027, and Local Rule 9013-1, the GUC Trust requests entry of an order extending the deadline by which the GUC Trust may file notices of removal under Bankruptcy Rule 9027(a) (the “Removal Deadline”) for 120 days from the current deadline of May 18, 2023 to September 15, 2023.¹⁹ A proposed form of order granting the relief requested herein is annexed hereto as **Exhibit A**.

JURISDICTION

19. 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. The statutory predicates for the relief requested in this Motion are 28 U.S.C. §1452 and Bankruptcy Rules 9006 and 9027.

BASIS FOR RELIEF REQUESTED

20. Bankruptcy Rule 9027 and 28 U.S.C. § 1452 govern the removal of pending civil actions. Specifically, section 1452(a) provides in pertinent part, that:

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’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.²⁰

21. Bankruptcy Rule 9027(a)(2) further provides in pertinent part that:

¹⁹ Rule K.30 of the Procedures for Complex Chapter 11 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, the Local Bankruptcy Rules, or a confirmed plan, the time for taking the action is automatically extended until the Court rules on the motion. An automatic extension under this rule does not require the issuance or entry of an order extending the time.” By filing this Motion prior to the expiration of the deadline to file notices of removal under Bankruptcy Rule 9027(a), such deadline is automatically extended until the Court resolves the Motion.

²⁰ 28 U.S.C. § 1452(a).

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.²¹

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

only 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.²²

23. Bankruptcy Rule 9006(b)(1) provides that the Court may extend unexpired time periods, such as the removal period, without notice:

[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 . . .²³

RELIEF REQUESTED SHOULD BE GRANTED

24. It is well-settled that this Court is authorized to extend, for cause, the removal period provided under 28 U.S.C. § 1452 and Bankruptcy Rule 9027.²⁴ The further

²¹ Fed. R. Bankr. P. 9027(a)(2).

²² Bankruptcy Rule 9027(a)(3).

²³ Fed. R. Bankr. P. 9006(b)(1).

²⁴ See, e.g., *In re EP Energy Corp.*, Case No. 19-35654 (MI) (Bankr. S.D. Tex. Feb. 10, 2020) (Docket No. 801) (granting 120-day initial extension of the removal period without prejudice to debtors' ability to seek additional extensions); *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 iHeartMedia, Inc.* No. 18-31274 (MI) (Bankr. S.D. Tex. May 30, 2018) (Docket No. 862) (same); *In re Cobalt Int'l Energy, Inc.*, No. 17-36709 (MI) (Bankr. S.D. Tex. Feb. 22, 2017) (Docket No. 470) (same); *In re Seadrill Ltd.*, No. 17-60079 (DRJ) (Bankr. S.D. Tex. Nov. 27, 2017) (Docket No. 717) (same).

extension of the Bankruptcy Rule 9027(a) deadline until September 15, 2023 will afford the GUC Trust additional time (i) to work through unresolved claims that relate to Prepetition Actions without unnecessary litigation, to the extent possible; and (ii) to investigate and make informed decisions regarding the Prepetition Actions including, but not limited to, whether removal is appropriate under the circumstances.

25. To date, given the ongoing process set forth in the ADR Procedures, the GUC Trust has not conclusively determined which, if any, of the few unresolved Prepetition Actions it may seek to remove. Moreover, the GUC Trust is still actively reviewing claims that are not subject to the ADR Procedures, and anticipates filing additional claim objections. Therefore, the GUC Trust believes that it is prudent to seek an extension of the time prescribed under Bankruptcy Rule 9027(a), extending the Removal Deadline from the current deadline of May 18, 2023 to September 15, 2023 to protect the right to remove the Prepetition Actions if the GUC Trust deems it appropriate.

26. The extension sought will afford the GUC Trust a reasonable additional amount of time to make informed decisions concerning whether to seek to remove any pending Prepetition Action and will assure that the GUC Trust does not forfeit valuable rights under 28 U.S.C. § 1452. Absent the requested extension, the GUC Trust will not be able to continue this review adequately and the result could, among other things, unnecessarily hinder the GUC Trust's duties and responsibilities, including ultimately making distributions to General Unsecured Creditors. Further, the rights of the adversaries in the Prepetition Actions will not be prejudiced by such an extension because any party to an action that is removed may seek to have the action remanded to the state court pursuant to 28 U.S.C. § 1452(b).

27. The GUC Trust further requests that the order approving this Motion be without prejudice to the right of the GUC Trust to seek further extensions of the Removal Deadline.

28. For the reasons stated above, the GUC Trust submits that cause exists to grant this Motion, and that the relief requested herein is appropriate and in the best interests of the GUC Trust, its beneficiaries, and the Debtors' estates, their creditors and all parties in interest.

NOTICE

29. Notice of this Motion shall be provided to: (i) the Office of the United States Trustee; (ii) known parties to Prepetition Actions or their counsel; and (iii) all parties requesting notice under Bankruptcy Rule 2002. In light of the procedural nature of the post-confirmation relief requested herein, the GUC Trust submits that such notice is sufficient under the circumstances and that no other or further notice is required.

WHEREFORE the GUC Trust respectfully requests entry of the Proposed Order granting the relief requested herein and such other and further relief as the Court may deem just and appropriate.

Dated: May 17, 2023
New York, New York

/s/ Jason R. Adams
KELLEY DRYE & WARREN, LLP
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*Counsel to the NPC
International GUC Trust*

EXHIBIT A

Proposed Order

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

In re:

NPC INTERNATIONAL, INC.¹

Debtor.

Chapter 11

Case No. 20–33353 (DRJ)

**ORDER (I) FURTHER EXTENDING THE DEADLINE
BY WHICH THE NPC INTERNATIONAL GUC TRUST MAY
REMOVE CIVIL ACTIONS; AND (II) GRANTING RELATED RELIEF**

Upon the motion (the “Motion”) of the NPC International GUC Trust (the “GUC Trust”), for an order extending the Removal Deadline, ² pursuant to 28 U.S.C. § 1452 and Bankruptcy Rules 9006(b) and 9027, and Local Rule 9013-1, as more fully set forth in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. § 1334; and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and it appearing that venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided, and it appearing that no other or further notice need be provided; and this Court having reviewed the Motion; and upon the record herein and upon all of the proceedings had before the Court; 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

¹ The Debtors in these chapter 11 cases, are NPC International, Inc. (“NPCI”); NPC Restaurant Holdings I LLC; NPC Restaurant Holdings II LLC; NPC Holdings, Inc.; NPC International Holdings, LLC; NPC Restaurant Holdings, LLC; NPC Operating Company B, Inc.; and NPC Quality Burgers, Inc. On June 25, 2021, the Court entered a final decree closing each of the chapter 11 cases other than NPCI’s chapter 11 case [Docket No. 1785]. Commencing on June 25, 2021, all motions, notices and other pleadings relating to any of the Debtors shall be filed in NPCI’s chapter 11 case.

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

Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is in the best interests of the GUC Trust, its beneficiaries, and the Debtors and their respective estates, creditors, and all parties in interest; and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT:

1. The Motion is granted to the extent set forth herein.
2. The Removal Deadline is extended from the current deadline of May 18, 2023 through and including September 15, 2023.
3. This Order shall be without prejudice to the GUC Trust's right to seek a further extension of the Removal Deadline.
4. The GUC Trust is authorized to take all action necessary to effectuate the relief granted in this Order.
5. This Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, or enforcement of this Order.
6. Notwithstanding entry of this Order, nothing herein shall create, nor is intended to create, any rights in favor of, or enhance the status of any claim held by, any party.

Dated: _____, 2023
Houston, Texas

THE HONORABLE DAVID R. JONES
UNITED STATES BANKRUPTCY JUDGE

CERTIFICATE OF SERVICE

I certify that on May 17, 2023, I caused a true and correct copy of the foregoing document to be 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.

In addition, on May 17, 2023, service was made upon those listed on the attached schedule via U.S. First Class Mail or via email as indicated.

/s/ Sherlly Alceus

Sherlly Alceus

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