

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION
www.flsb.uscourts.gov

In re:

BIRD GLOBAL, INC., *et al.*,¹

Debtors.

Chapter 11 Cases

Case No. 23-20514-CLC

(Jointly Administered)

**VERIFIED RESPONSE IN OPPOSITION TO TORT CLAIM TRUSTEE'S
OMNIBUS OBJECTION TO LATE FILED TORT CLAIM (ECF NO. 1636)**

Creditor, Staci Schultz ("Schultz"), by and through undersigned counsel and pursuant to Federal Rule of Bankruptcy Procedure 9006(b)(1), files its response in opposition to *Tort Claims Trustee's Omnibus Objection to Late Filed Tort Claims* (ECF No. 1636) (the "Trustee's Objection") and request that Claim Nos. 269 and 271 be deemed timely (the "Schultz Claims"). In support, Schultz states as follows:

JURISDICTION AND VENUE

1. The Court has jurisdiction pursuant to 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(B). Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

**RELEVANT
FACTS**

2. Pre-petition, Schultz was injured while riding a scooter on October 10, 2021.

3. Schultz retained counsel who commenced a lawsuit against Bird Rides, Inc. ("Bird") styled as *Staci Schultz vs Bird Rides, Inc.*, 3:23-cv-21301-MCR-HTC

pending in the Northern District of Florida (the “Schultz Lawsuit”). A copy of the First Amended Complaint is attached hereto. [**See Exhibit 1**].

4. Bird filed its answer and affirmative defenses to the Schultz Lawsuit. [**See Exhibit 2**].

5. On December 20, 2023, Bird Rides and related entities (the “Debtor”) filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code. [ECF 1].

6. Bird filed a Suggestion of Bankruptcy in the Schultz Lawsuit on January 3, 2025.

7. Incorporated within the voluntary petition, the debtor filed its Verification of Creditor Matrix (“the Matrix”) of the Debtor’s known creditors. [ECF 1-1].

8. Schultz was identified as a known creditor on the Initial Matrix; however, Schultz address is not listed nor is counsel for Schultz was not included on the Matrix. [ECF 1-1 at p. 229].

9. What followed were hundreds of documents and pleadings in a complex bankruptcy case.

10. On April 4, 2024, the Debtor filed the 540th document in the bankruptcy case, a motion to set a bar date for filing proof of claims arising from a tort (the “Motion to Set Tort POC Deadline”). [ECF 540].

11. The Court granted the Motion to Set Tort POC Deadline on April 19, 2024, and set a tort claims bar date for 27 days later, May 16, 2024. [ECF 603].

12. It does not appear that Schultz nor her counsel was provided with

notice of the Tort POC Deadline and neither does not have record of same.

13. On July 8 and July 9, 2024, Schultz filed the Schultz Claims.¹

14. On August 2, 2024, the Court entered its Order affirming the Debtor's plan after multiple confirmation days on June 10, 12, and July 29, 2024. Notably, Schultz claim was in the claims registry **before** the Court concluded its hearings on confirmation.

15. Upon receiving the Trustee's Objection, Schultz promptly hired bankruptcy counsel (undersigned) to file this motion and handle the complexities of the Chapter 11 proceeding.

RELIEF REQUESTED AND BASIS THEREFORE

16. Given the unique circumstances set forth above, Schultz's failure to file a proof of claim in this bankruptcy case before the Tort Claim Deadline constitutes excusable neglect, and pursuant to Federal Rule of Bankruptcy Procedure 9006(b)(1), Schultz requests the Court's entry of an order deeming Schultz's Claim as timely filed.

17. A court may grant a request for relief of a claims bar date on the basis of excusable neglect. Fed. R. Bankr. P. 9006.

18. In *Pioneer Investment Services Co. v. Brunswick Associates L.P.*, the Supreme Court interpreted the phrase 'excusable neglect' in the context of a late-filed bankruptcy claim, first stating that "Congress plainly contemplated that the courts would be permitted, where appropriate, to accept late filings caused by inadvertence,

¹ To the extent the Schultz Claims are duplicative, Schultz contends that one of the claims should be allowed.

mistake, or carelessness, as well as by intervening circumstances beyond the party's control." 507 U.S. 380, 388 (1993).

19. The Supreme Court further identified what is needed to establish excusable neglect by applying the following four factors:

- a. Prejudice to the debtor.
- b. Length of the delay.
- c. Reason of the delay
- d. Good faith.

20. The *Pioneer* Court stated:

Because Congress has provided no other guideposts for determining what sorts of neglect will be considered "excusable," we conclude that the determination is at bottom an equitable one, taking account of all relevant circumstances surrounding the party's omission.¹³ These include, as the Court of Appeals found, the danger of prejudice to the debtor, the length of the delay and its potential impact on judicial proceedings, the reason for the delay, including whether it was within the reasonable control of the movant, and whether the movant acted in good faith.

Pioneer Inv. Servs. Co. v. Brunswick Assocs. Ltd. P'ship, 507 U.S. 380, 395 (1993) (internal citation omitted).

Prejudice to the debtor

21. Schultz's delay in filing a proof of claim does not prejudice the Debtor because Schultz will still need to comply with the provisions of the confirmed Chapter 11 Plan to receive a distribution, if Plan confirmation is upheld on appeal. Plan at ECF No. 802 and Order at 1214. Further, the Tort Claim's Trustee is still engaged in the claims objection process and given the omnibus objection procedures, objecting to Schultz's claim (if the Trustee so chooses) does not create a substantial burden.

While there may be some prejudice to other creditors and the Court considered a pool of creditor's claims at confirmation, it is less than the prejudice to Schultz who expected Bird to communicate with her and her counsel which did not occur here.

22. In addition, allowing Schultz's Claims will not substantially delay or disrupt the judicial administration of this case as we are post-confirmation.

Length of the delay

23. Here the claims bar date expired on May 16, 2024.

24. The Schultz Claim was filed less than 2 months after the claims bar date and before the confirmation hearings concluded. The Southern District of Florida explained in the matter of *In re Pappalardo*, that even though seven months had passed since the claims bar date, the court granted the late filing of a tort claim because the late filing did not delay confirmation of a joint amended plan nor delay the proceedings. 210 B.R. 634, 646 (Bankr. S.D. Fla. 1997).

25. Here the length of delay is shorter than in other instances where Courts have allowed a proof of claim to be deemed timely.

Reason for delay

26. Regarding the reason for Schultz's delay, as outlined above, the Debtor failed to provide notice to Schultz. Specifically: (i) the Debtor knew Schultz had a claim based on the active Schultz Lawsuit, (ii) the Debtor's counsel communicated pre-petition; and (iii) the Debtor did not provide notice to Schultz of the tort claims bar date.

Good faith

27. Finally, Schultz Lawsuit has acted in good faith and made efforts to retain the undersigned to resolve this issue promptly to avoid the prospect of having the litigation claims completely barred.

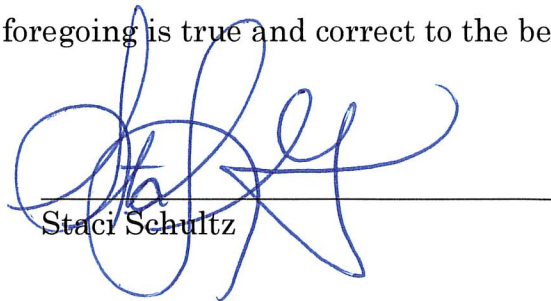
28. Accordingly, Schultz has established that the four *Pioneer* factors weigh in Schultz's favor. Moreover, the unique relevant circumstances present in this instance, and the fact that Schultz counsel and Schultz do not appear to on the matrix for service, weigh in favor of Schultz and the relief requested herein.

WHEREFORE, Staci Schultz respectfully requests the Court enter an Order:

(i) denying the Trustee's Objection; (ii) deeming Schultz Claim as timely filed and (iii) grant such other and further relief as the Court deems just.

VERIFICATION

Pursuant to 28 U.S.C. §1746, I declare the foregoing is true and correct to the best of my knowledge.



Staci Schultz

Dated this May 27, 2025.

Respectfully submitted,

**BEIGHLEY, MYRICK, UDELL,
LYNNE & ZEICHMAN, PA**
Counsel for Staci Schultz
2385 Executive Center Drive, Suite 250
Boca Raton, FL 33431
Phone: 561-549-9036
tzeichman@bmulaw.com
By: /s/ Thomas G. Zeichman
THOMAS G. ZEICHMAN
Florida Bar No.
99239

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this May 27, 2025, I electronically filed this document with the Clerk of Court using CM/ECF. I also certify that the document is being served this day on all counsel of record or pro se parties via transmission of Notices of Electronic Filing generated by CM/ECF including without limitation those listed below.

Respectfully submitted,

By: /s/ Thomas G. Zeichman

THOMAS G. ZEICHMAN

Florida Bar No. 99239