

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

In re:

PREMIER KINGS, INC., *et al.*,¹

Debtors.

(Chapter 11)

Case No. 23-02871-TOM

Jointly Administered

PREMIER KINGS, INC., *et al.*,

Plaintiffs,

v.

PREMIER HOLDINGS, LLC, *et al.*,

Defendants.

AP No. 23-00047-TOM

**DEBTORS' EMERGENCY MOTION TO SHORTEN NOTICE
PERIOD FOR DEBTORS' MOTION PURSUANT TO BANKRUPTCY
RULE 9019 FOR APPROVAL OF SETTLEMENT**

Premier Kings, Inc. and its debtor affiliates, as debtors and debtors-in-possession (collectively, the “Debtors” and “Plaintiffs”), by their undersigned proposed counsel and pursuant to Rules 2002(a)(2) and 9006(c) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), hereby move (the “Motion”) for entry of an Order shortening the notice period to 16 days with respect to the *Debtors' Motion Pursuant to Bankruptcy Rule 9019 for Approval of Settlement*

¹ The Debtors in these cases, along with the last four digits of each Debtor's federal tax identification numbers, are: Premier Kings, Inc. (3932); Premier Kings of Georgia, Inc. (9797); and Premier Kings of North Alabama, LLC (9282). The Debtors' address is 7078 Peachtree Industrial Blvd., Suite #800, Peachtree Corners, GA 30071.



(the “9019 Motion”),² filed contemporaneously herewith and setting the hearing for March 11, 2024. In support of this Motion, the Debtors respectfully state as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction over this Motion under 28 U.S.C. § 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b) (2)(A), (B), and (O). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

2. The statutory predicate for the relief requested herein is Rule 9019 of the Bankruptcy Rules.

BACKGROUND

3. On October 25, 2023, Debtors filed voluntary petitions for relief under chapter 11 of Title 11 of the United States Code (the “Bankruptcy Code”) in the United States Bankruptcy Court for the Northern District of Alabama (Southern Division) (the “Bankruptcy Court”), which commenced chapter 11 bankruptcy cases for the Debtors pending as jointly-administered Case No. 23-02871-TOM11 in the Bankruptcy Court (collectively, the “Bankruptcy Cases”).

4. Thereafter, Debtors filed that certain Complaint for Declaratory Relief to Determine Debtors’ Rights to Property of Their Bankruptcy Estate [A.P. Docket No. 1] (the “A.P. Complaint”) in the Bankruptcy Court, thereby initiating that certain Adversary Proceeding No. 23-00047-TOM (the “Adversary Proceeding”) against Holdings.

5. The Parties have reached a full and final settlement of all issues in the Adversary Proceeding, the terms of which are set forth in the 9019 Motion.

² Capitalized terms used but not defined herein shall have the respective meanings ascribed to such terms in the 9019 Motion.

6. By this Motion, the Debtors seek entry of the Proposed Order, shortening the notice period with respect to the 9019 Motion to 16 days from the filing of the Motion and setting the hearing to approve the 9019 Motion for March 11, 2024. The Debtors also propose an objection deadline of March 8, 2024 at 12:00 p.m. (Central Time).

BASIS FOR RELIEF REQUESTED

7. Bankruptcy Rule 9006(c)(1) provides that, subject to limited exceptions, “when an act is required or allowed to be done at or within a specified time by these rules or by a notice given thereunder or by order of court, the court for cause shown may in its discretion with or without motion or notice order the period reduced.” Fed. R. Bankr. P. 9006(c).

8. In exercising such discretion, the court should “consider the prejudice to the parties entitled to notice and weigh this against the reasons for hearing the motion on an expedited basis.” *In re Philadelphia Newspapers, LLC*, 690 F.3d 161, 172 (3d Cir. 2012) (noting that such motions are common in light of the “accelerated timeframe of bankruptcy proceedings”). Indeed, as stated in Bankruptcy Code § 102(1), “notice and a hearing” is an elastic phrase meant to take into account the “particular circumstances” of a motion. *See* 11 U.S.C. § 102(1) (stating that “‘after notice and a hearing’, or similar phrase . . . means after such notice as is appropriate in the particular circumstances . . .”). Finally, Bankruptcy Code section 105(a) provides that the “court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.” 11 U.S.C. § 105(a).

9. Ordinarily, Bankruptcy Rule 2002(b) requires that the Debtors give “at least 21 days’ notice by mail of . . . a proposed use, sale, or lease of property of the estate other than in the ordinary course of business, unless the court for cause shown shortens the time or directs another method of giving notice[.]”

10. Here, cause exists to shorten notice in connection with 9019 Motion. Expedited consideration of the 9019 Motion is in the best interests of the Debtors, their creditors, and other stakeholders so that Holdings can distribute the funds to its lenders for their liens on the FF&E per agreed upon terms with those lenders. Expediting the hearing to allow for a quicker distribution of the Disputed Claims Reserve proceeds will, in turn, allow for a quicker distribution to the Holdings lenders for their liens on their collateral which was sold.

NOTICE

11. The Debtors will provide notice of this Motion to: (a) the Office of the Bankruptcy Administrator for the Northern District of Alabama; (b) the holders of the forty (40) largest unsecured claims against each of the Debtors; (c) counsel to BKCI; (d) counsel to Wells Fargo Bank, National Association, as Prepetition Agent for the Lender Group; (e) the United States Attorney's Office for the Northern District of Alabama; (f) the Internal Revenue Service; (g) the office of the Attorney General for the State of Alabama; (h) the Securities and Exchange Commission; and (i) any party that has requested notice pursuant to Bankruptcy Rule 2002. The Debtors submit that, in light of the nature of the relief requested, no other or further notice need be given.

WHEREFORE, the Debtors respectfully request that the Court enter the Proposed Order granting the relief requested herein, and such other and further relief as the Court deems just and proper.

Dated: February 23, 2024.

By: /s/ Jesse S. Vogtle, Jr.

Jesse S. Vogtle, Jr.
Eric T. Ray
HOLLAND & KNIGHT LLP
1901 Sixth Avenue North, Suite 1400
Birmingham, Alabama 35203
Telephone: (205) 226-5700
Facsimile: (205) 214-8787
jesse.vogtle@hklaw.com
etray@hklaw.com

-and-

COLE SCHOTZ P.C.

Gary H. Leibowitz*
Irving E. Walker*
H.C. Jones III*
J. Michael Pardoe*
1201 Wills Street, Suite 230
Baltimore, MD 21231
(410) 230-0660
(410) 230-0667
gleibowitz@coleschotz.com
iwalker@coleschotz.com
hjones@coleschotz.com
mpardoe@coleschotz.com

Attorneys for the Debtors and Debtors in Possession

**Admitted Pro Hac Vice*

EXHIBIT “A”

PROPOSED ORDER

**IN THE UNITED STATES BANKRUPTCY COURT
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**ORDER SHORTENING THE NOTICE PERIOD WITH
RESPECT TO THE DEBTORS' MOTION PURSUANT TO
BANKRUPTCY RULE 9019 FOR APPROVAL OF SETTLEMENT**

Upon consideration of the emergency motion of Debtors for entry of an Order shortening the notice period with respect to the Debtors' Motion Pursuant to Bankruptcy Rule 9019 for Approval of Settlement (the "9019 Motion")²; and the Court having jurisdiction to consider the Motion in accordance with 28 U.S.C. §§ 157 and 1334; and that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and venue of this proceeding and this Motion is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and it appearing that the relief requested in this Motion is reasonable

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² All capitalized terms used but not defined herein shall have the meanings ascribed to them in the Motion.

and in the best interest of the Debtors, their estates, and their creditors; and after due deliberation and good and sufficient cause appearing therefor;

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:

1. The Motion is GRANTED;
2. The 9019 Motion shall be heard on March 11, 2024 at 11:00 a.m. (Central Time).
3. The deadline for filing any response or objection to the 9019 Motion is hereby shortened to Friday March 8 at 12:00 p.m. (Central Time).

Dated: _____, 2024
Birmingham, Alabama

TAMARA O. MITCHELL
UNITED STATES BANKRUPTCY JUDGE