

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

In re:	:	Chapter 11
	:	
WELDED CONSTRUCTION, L.P., <i>et al.</i> ,	:	Case No. 18-12378 (CSS)
	:	
Debtors. <sup>1</sup>	:	(Jointly Administered)
	:	
	:	Hearing Date: 10/16/2020 at 3:00 p.m. (ET)
	:	Objection Deadline: 9/25/2020 at 4:00 (ET)

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**POST-EFFECTIVE DATE DEBTORS' SIXTH MOTION FOR AN ORDER, PURSUANT  
TO BANKRUPTCY RULES 9006 AND 9027, EXTENDING THE PERIOD WITHIN  
WHICH TO REMOVE ACTIONS PURSUANT TO 28 U.S.C. § 1452**

The above-captioned debtors and debtors in possession (together, the “Debtors” and, following the Effective Date, the “Post-Effective Date Debtors”), through Cullen D. Speckhart, solely in her capacity as Plan Administrator, hereby submit this motion (this “Motion”) for the entry of an order, substantially in the form attached hereto as Exhibit A (the “Proposed Order”), pursuant to Rules 9006 and 9027 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), further extending the period within which the Post-Effective Date Debtors and their estates may remove actions pursuant to 28 U.S.C. § 1452 from the current deadline of September 15, 2020, through and including January 27, 2021. In support of this Motion, the Post-Effective Date Debtors respectfully state as follows:

**JURISDICTION AND VENUE**

1. The 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. This matter is a core proceeding within the

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<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: Welded Construction, L.P. (5008) and Welded Construction Michigan, LLC (9830). The mailing address for each of the Debtors is c/o P.O. Box 470, Perrysburg, OH 43552-0470.



meaning of 28 U.S.C. § 157(b)(2). Pursuant to Rule 9013-1(f) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the “Local Rules”), the Post-Effective Date Debtors consent to the entry of a final order by the Court in connection with this Motion to the extent it is later determined 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. Venue is proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409. The predicates for the relief requested in this Motion are 28 U.S.C. § 1452 and Bankruptcy Rules 9006 and 9027.

### **BACKGROUND**

2. On October 22, 2018 (the “Petition Date”), each of the Debtors filed with this Court a voluntary petition for relief under chapter 11 of the Bankruptcy Code.

3. On June 25, 2020, the Court entered an order confirming the *Amended Chapter 11 Plan of Welded Construction, L.P. and Welded Construction Michigan, LLC* (the “Plan”).

4. On July 31, 2020 (the “Effective Date”), the Plan became effective. On that same date, the Plan Administrator was appointed and empowered to, among other things, implement the terms of the Plan; resolve claims against the estates; liquidate the estates’ assets; prosecute, compromise, resolve, or withdraw causes of action; and otherwise wind down the estates.

5. Prior to the Effective Date, the Debtors filed five motions<sup>2</sup> seeking to extend the deadline within which to file notices of removal of claims and causes of action pursuant to 28 U.S.C. § 1452 (the “Removal Deadline”). The most recent such motion was filed on May 15, 2020 [D.I. 1384]. On June 2, 2020, the Court entered an order [D.I. 1413] granting the motion

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<sup>2</sup> See D.I. 427, 739, 987, 1185, and 1384 (collectively, the “Prior Extension Motions”).

and extending the Removal Deadline to September 15, 2020, without prejudice to the rights of the Debtors and their estates to seek further extensions of the Removal Deadline.

**RELIEF REQUESTED**

6. By this Motion, the Post-Effective Date Debtors request that the Court enter the Proposed Order further extending the Removal Deadline, by 134 days, through and including January 27, 2021,<sup>3</sup> without prejudice to the rights of the Post-Effective Date Debtors and their estates to seek further extensions of the time within which to remove actions and related proceedings.<sup>4</sup>

**BASIS FOR RELIEF REQUESTED**

7. Bankruptcy Rule 9027 and 28 U.S.C. § 1452 govern the removal of pending civil actions. Section 1452(a) provides that:

(a) 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).

8. Bankruptcy Rule 9027(a)(2) provides in relevant part that:

[i]f 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 in the bankruptcy court 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

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<sup>3</sup> January 27, 2021 is the current deadline under the Plan to object to claims. The Post-Effective Date Debtors seek to have such deadlines be concurrent going forward.

<sup>4</sup> Pursuant to Local Rule 9006-2, the filing of this Motion prior to the expiration of the current Removal Deadline automatically extends the Removal Deadline until the Court acts on this Motion without the necessity for entry of a bridge order.

chapter 11 reorganization case but not later than 180 days after the order for relief.

Fed. R. Bankr. P. 9027(a)(2).

9. Bankruptcy Rule 9006 permits the Court to extend the period to remove civil claims or actions under Bankruptcy Rule 9027 and provides in relevant part:

[W]hen an act is required or allowed to be done at or within a specified period by [the Bankruptcy 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).

10. It is well settled that the Court is authorized to extend, for cause, the removal period provided under 28 U.S.C. § 1452 and Bankruptcy Rule 9027. *See, e.g., Pacor, Inc. v. Higgins*, 743 F.2d 984, 996 n.17 (3d Cir. 1984), *overruled on other grounds by Things Remembered, Inc. v. Petrarca*, 516 U.S. 124, 134-35 (1995) (stating the bankruptcy court’s power to grant an extension of the removal period pursuant to Bankruptcy Rule 9006(b) is “clear”); *Raff v. Gordon*, 58 B.R. 988, 991 (Bankr. E.D. Pa. 1986) (stating the period in which to file a motion to remove may be expanded pursuant to Bankruptcy Rule 9006); *see also, e.g., 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); *In re World Fin. Servs. Ctr., Inc.*, 81 B.R. 33, 39 (Bankr. S.D. Cal. 1987) (noting the U.S. Supreme Court intended to give Bankruptcy Courts the power to enlarge the removal period under Bankruptcy Rule 9027(a) pursuant to Bankruptcy Rule 9006(b)).

11. The Post-Effective Date Debtors are parties to actions currently pending in the courts of certain states and federal districts (collectively, the “Actions”). They believe it is

prudent to seek an extension of the time established by Bankruptcy Rule 9027 to protect their right and the right of their estates to seek to remove such Actions to this Court.

12. The Post-Effective Date Debtors submit extending the current Removal Deadline is essential and is in the best interests of their estates and creditors. As discussed below and as further discussed in the Prior Extension Motions, the Post-Effective Date Debtors and the Debtors before them have worked diligently to, among other things, ensure the smooth transition of the Debtors' operations into chapter 11, preserve and maximize the value of the Debtors' estates for the benefit of all stakeholders, and negotiate with their major constituencies in a concerted effort to ensure a consensual process. Such efforts resulted in a consensual chapter 11 Plan that was overwhelmingly supported by creditors, confirmed by this Court, and became effective on July 31, 2020. Since the Effective Date, the Plan Administrator and the Post-Effective Date Debtors' professionals have worked diligently to, among other things, establish reserves, attend to emergent matters, and set a roadmap to efficiently and expeditiously wind up these estates in a manner that maximizes the value of the estates' assets, including claims and causes of action.

13. In addition to the activities detailed in the Prior Extension Motions, which are incorporated herein by reference and further support the relief requested herein, since the Court's entry of the prior extension order, the Post-Effective Date Debtors and the Debtors before them have, among other things:

- (i) continued to reconcile proofs of claim filed in these chapter 11 cases, including where appropriate entering into agreements to consensually resolve certain claims;
- (ii) negotiated settlement agreements with certain creditors and other parties;
- (iii) continued to prosecute or defend, as applicable, all pending adversary proceedings;

- (iv) investigated a targeted list of chapter 5 actions; and
- (v) handled various other tasks related to the administration of the estates and these chapter 11 cases, including responded to various inquiries from creditors and interested parties.

14. As a result of the foregoing and other efforts, the Post-Effective Date Debtors have not had sufficient time to determine whether the Actions should be removed pursuant to Bankruptcy Rule 9027(a). The extension sought will afford the Post-Effective Date Debtors an opportunity to make more fully informed decisions concerning the removal of any Actions, and will ensure the Debtors and their estates do not forfeit the valuable rights afforded to them under 28 U.S.C. § 1452.

15. At the same time, extending the Removal Deadline as requested herein will not prejudice the rights of any other parties to the Actions because, in many (if not all) circumstances, such parties may not prosecute the Actions absent relief from the automatic stay. In addition, nothing contained in this Motion is intended to prejudice the rights of any party to an Action, which the Post-Effective Date Debtors ultimately may seek to remove, because such parties retain the right to seek remand of any such Action as provided under 28 U.S.C. § 1452(b) at the appropriate time.

16. For the reasons set forth above, the Post-Effective Date Debtors respectfully submit extending the current Removal Deadline through and including January 27, 2021 is necessary, prudent, and in the best interests of the estates and creditors.

### **NOTICE**

17. Notice of this Motion has been provided to the following parties or their counsel of record, if known: (i) the Office of the United States Trustee for the District of Delaware; (ii) all known parties to the Actions; and (iii) all parties that have requested to receive in these

cases notices pursuant to Bankruptcy Rule 2002. In light of the nature of the relief requested herein, the Post-Effective Date Debtors submit no other or further notice is necessary.

**PRIOR REQUESTS**

18. The Court has granted five prior extensions of the Removal Deadline. *See* Orders at D.I. 470, 772, 1009, 1204, 1413.

**CONCLUSION**

WHEREFORE the Post-Effective Date Debtors respectfully request that the Court enter the Proposed Order, grant the relief requested in this Motion extending the Removal Deadline to January 27, 2021, and grant the Post-Effective Date Debtors such further relief as may be just and proper under the circumstances.

Dated: September 11, 2020  
Wilmington, Delaware

**BLANK ROME LLP**

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

In re:	:	Chapter 11
	:	
WELDED CONSTRUCTION, L.P., <i>et al.</i> ,	:	Case No. 18-12378 (CSS)
	:	
Debtors. <sup>7</sup>	:	(Jointly Administered)
	:	
	:	<b>Hearing Date: 10/16/2020 at 3:00 p.m. (ET)</b>
	:	<b>Objection Deadline: 9/25/2020 at 4:00 (ET)</b>

**NOTICE OF POST-EFFECTIVE DATE DEBTORS' SIXTH MOTION FOR AN ORDER,  
PURSUANT TO BANKRUPTCY RULES 9006 AND 9027, EXTENDING THE PERIOD  
WITHIN WHICH TO REMOVE ACTIONS PURSUANT TO 28 U.S.C. § 1452**

**PLEASE TAKE NOTICE** that on September 11, 2020, the above-captioned debtors and debtors in possession (together, the “Debtors” and, following the Effective Date, the “Post-Effective Date Debtors”), through Cullen D. Speckhart, solely in her capacity as Plan Administrator, filed the *Post-Effective Date Debtors’ Sixth Motion for an Order, Pursuant to Bankruptcy Rules 9006 and 9027, Extending the Period Within Which to Remove Actions Pursuant to 28 U.S.C. § 1452* (the “Motion”) with the United States Bankruptcy Court for the District of Delaware (the “Bankruptcy Court”). By the Motion, the Post-Effective Date Debtors seek the entry of an order pursuant to Rules 9006 and 9027 of the Federal Rules of Bankruptcy Procedure extending the period within which the Post-Effective Date Debtors and their estates may file notices of removal of claims and causes of action pursuant to 28 U.S.C. § 1452 from the current deadline of September 15, 2020, through and including January 27, 2021.

Any responses or objections to the Motion must be (i) filed in writing with the Clerk of the Bankruptcy Court, 824 N. Market Street, Third Floor, Wilmington, Delaware 19801, on or before **September 25, 2020 at 4:00 p.m. (prevailing Eastern Time)** (the “Objection Deadline”); and (ii) served on the undersigned counsel to the Post-Effective Date so as to be received on or before the Objection Deadline.

If a response or objection is timely filed, served and received and is not otherwise resolved, a hearing to consider the relief requested in the Motion and any response or objection thereto will be held before the Honorable Christopher S. Sontchi, Chief Judge of the United States Bankruptcy Court for the District of Delaware, Fifth Floor, Courtroom 6, 824 N. Market Street, Wilmington, Delaware 19801 on **October 16, 2020 at 3:00 p.m. (prevailing Eastern Time)**.

<sup>7</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: Welded Construction, L.P. (5008) and Welded Construction Michigan, LLC (9830). The mailing address for each of the Debtors is P.O. Box 470, Perrysburg, OH 43552-0470.



IF NO OBJECTIONS OR RESPONSES TO THE MOTION ARE TIMELY FILED, SERVED AND RECEIVED IN ACCORDANCE WITH THIS NOTICE, THE BANKRUPTCY COURT MAY GRANT THE RELIEF REQUESTED IN THE MOTION WITHOUT FURTHER NOTICE OR HEARING.

Dated: September 11, 2020  
Wilmington, Delaware

**BLANK ROME LLP**

/s/ Josef W. Mintz

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*Counsel to the Post-Effective Date Debtors*

**EXHIBIT A**

**Proposed Order**

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

In re:	:	Chapter 11
	:	
WELDED CONSTRUCTION, L.P., <i>et al.</i> ,	:	Case No. 18-12378 (CSS)
	:	
Debtors. <sup>1</sup>	:	(Jointly Administered)
	:	
	:	Re: D.I. ____
	:	

**ORDER, PURSUANT TO BANKRUPTCY RULES  
9006 AND 9027, EXTENDING THE PERIOD WITHIN WHICH TO  
REMOVE ACTIONS PURSUANT TO 28 U.S.C. § 1452**

Upon consideration of the motion (the “Motion”)<sup>2</sup> of the Post-Effective Date Debtors for entry of an order, pursuant to Bankruptcy Rules 9006 and 9027, further extending the period within which the Post-Effective Date Debtors and their estates may remove actions pursuant to 28 U.S.C. § 1452 through and including January 27, 2021; and upon consideration of all papers related thereto; and this Court having found it has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334(b), and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012, venue of the chapter 11 cases and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409, that this matter is a core proceeding pursuant to 28 U.S.C. § 157(b), that notice of the Motion is adequate and no other or further notice need be given; and this Court having determined that it may enter a final order consistent with Article III of the Constitution; and upon the record of the chapter 11 cases; and this Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein and such relief is in the best interests of the Post-Effective Date Debtors, their estates and creditors;

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<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: Welded Construction, L.P. (5008) and Welded Construction Michigan, LLC (9830). The mailing address for each of the Debtors is P.O. Box 470, Perrysburg, OH 43552-0470.

<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Motion.

and after due deliberation and sufficient cause appearing therefor, **IT IS HEREBY ORDERED THAT:**

1. The Motion is granted as set forth herein.
2. The time provided by Bankruptcy Rule 9027 within which the Post-Effective Date Debtors and their estates may file notices of removal of claims and causes of action hereby is enlarged and extended through and including January 27, 2021 (the “Removal Deadline”).
3. This Order shall be without prejudice to the rights of the Post-Effective Date Debtors and their estates to seek further extensions of the Removal Deadline.
4. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation of this Order.