

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE**

In re:	:	Chapter 11
	:	
GENERAL WIRELESS OPERATIONS INC. DBA RADIOSHACK <u>et al.</u> , ¹	:	Case No. 17-10506 (BLS)
	:	
Debtors.	:	(Jointly Administered)
	:	
	:	Hearing Date: June 28, 2017 at 10:30 a.m. (ET)
	:	Obj. Deadline: June 16, 2017 at 4:00 p.m. (ET)

**MOTION OF THE DEBTORS FOR ENTRY OF AN ORDER PURSUANT TO
FEDERAL RULES OF BANKRUPTCY PROCEDURE 9006(b) AND 9027 EXTENDING
THE TIME TO FILE NOTICES OF REMOVAL OF CIVIL ACTIONS**

The above-captioned debtors and debtors in possession (collectively, the "Debtors"), by and through their undersigned counsel, hereby file this motion (the "Motion"), seeking entry of an order pursuant to 28 U.S.C. § 1452 and Rules 9006(b) and 9027 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), extending the deadline by which the Debtors may file notices of removal of civil actions and proceedings (the "Removal Deadline") for 120 days from the current deadline of June 6, 2017, through and including October 4, 2017, without prejudice to the right of the Debtors to seek a further extension of the Removal Deadline. In support of this Motion, the Debtors state as follows:

JURISDICTION AND VENUE

1. This 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). 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 the consent of the

¹ The Debtors in these chapter 11 cases and the last four digits of each Debtor’s U.S. tax identification number are as follows: General Wireless Operations Inc. dba RadioShack (8040); General Wireless Holdings Inc. (4262); General Wireless Inc. (9245); General Wireless Customer Service Inc. (5813). The notice address for all of the Debtors is: 300 RadioShack Circle, Fort Worth, TX 76102-1964.

parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution. Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

2. The predicates for the relief requested herein are 28 U.S.C. § 1452, Bankruptcy Rules 9006(b) and 9027(a) and Local Rule of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the “Local Rules”).

GENERAL BACKGROUND

3. On March 8, 2017 (the “Petition Date”), each of the Debtors filed in this Court a voluntary petition for relief under chapter 11 of the Bankruptcy Code.² The Debtors are continuing in possession of their properties and are managing their businesses, as debtors in possession, pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

4. An overview of the Debtors’ history and businesses, a summary of the events leading to the commencement of these chapter 11 cases, and the facts supporting this Motion are set forth in the *Declaration of Dene Rogers in Support of Chapter 11 Petitions and First Day Motions* [Docket No. 4].

RELIEF REQUESTED

5. By this Motion, the Debtors respectfully request the entry of an order, pursuant to Bankruptcy Rules 9006(b) and 9027, extending the time period within which the Debtors are permitted to file notices of removal of civil actions and proceedings to which the Debtors are parties (collectively, the “Civil Actions”) for an additional 120 days from the current Removal Deadline of June 6, 2017 through and including October 4, 2017, without prejudice to

² This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue for this matter is proper in this district pursuant to 28 U.S.C. § 1409.

the right of the Debtors to seek a further extension of the Removal Deadline.³ Debtors request that the proposed October 4, 2017 deadline to file removal actions apply to all matters specified in Bankruptcy Rules 9027(a)(2) and (3).

THE CIVIL ACTIONS

6. On April 24, 2017, the Debtors filed their Schedules of Assets and Liabilities and Statements of Financial Affairs (the “Schedules”). As part of the filing of their Schedules, the Debtors identified the pending Civil Actions of which they are aware. The general bar date for proofs of claim in these cases is July 18, 2017, and it is possible that the Debtors will learn of additional Civil Actions through that claims process. After the commencement of these chapter 11 cases, the Debtors' limited resources were focused on numerous pressing matters associated with, (a) administering their bankruptcy estates, (b) conducting substantial store closing sales, and (c) resolving the Sprint settlement motion and other contested matters. Given the relatively early stage of these cases, the Debtors require additional time to make a fully-informed determination regarding removal of any Civil Actions.

7. Accordingly, Debtors seek an extension of the current removal deadline under Bankruptcy Rule 9027(a) to preserve the ability of the Debtors to remove Civil Actions. The extension sought will afford the Debtors additional time to determine whether to remove any Civil Actions, and will ensure that valuable rights under 28 U.S.C. § 1452 are not forfeited.

BASIS FOR RELIEF

8. Section 1452 of title 28 of the United States Code provides for the removal of civil claims or actions related to bankruptcy cases. Specifically, section 1452(a) provides, in pertinent part:

³ Pursuant to Rule 9006-2 of the Local Bankruptcy Rules for the District of Delaware, the filing of this Motion prior to the current removal deadline shall serve to automatically extend the deadline without the necessity for the entry of a bridge order, until the Court rules on this Motion.

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 a 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).

9. Bankruptcy Rule 9027 sets forth the time periods for filing notices removing claims or causes of action. Specifically, Bankruptcy Rule 9027 provides, in relevant part:

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.

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

10. Bankruptcy Rule 9006 permits the Court to extend the period provided by Bankruptcy Rule 9027 to remove civil claims or actions. In this connection, Bankruptcy Rule 9006 provides, in pertinent part, as follows:

Except as provided in paragraphs (2) and (3) of this subdivision, when an act is required by 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 (1) with or without motion or notice order the period enlarged if the request therefore is made before the expiration of the period originally prescribed or as extended by a previous order.

Fed. R. Bankr. P. 9006(b)(1).

11. It is well-settled that this Court possesses the authority to extend the removal period provided under 28 U.S.C. § 1452 and Bankruptcy Rule 9027. *See Pacor, Inc. v.*

Higgins, 743 F.2d 984, 996 (3d Cir. 1984), *overruled on other grounds by Things Remembered, Inc. v. Petrarca*, 516 U.S. 124, 134-35 (1995) (holding the bankruptcy court’s power to grant an extension of the removal period pursuant to Bankruptcy Rule 9006(b) is “clear”); *see also Caperton v. A.T. Massey Coal Co., Inc.*, 251 B.R. 322, 325 (S.D. W. Va. 2000) (Bankruptcy Rule 9006 provides authority to enlarge time periods for removing actions under Bankruptcy Rule 9027); *In re Jandous Elec. Constr. Corp.*, 106 B.R. 48 (Bankr. S.D.N.Y. 1989) (period in which to file motion to remove may be expanded pursuant to Bankruptcy Rule 9006); *In re World Fin. Servs. Ctr., Inc.*, 81 B.R. 33, 39 (Bankr. S.D. Cal. 1987) (United States Supreme Court intended to give bankruptcy judges the power to enlarge the removal periods under Bankruptcy Rule 9027(a) pursuant to Bankruptcy Rule 9006(b)); *Raff v. Gordon*, 58 B.R. 988, 990 (E.D. Pa. 1986) (an expansion of time to file notices of removal is authorized under the Bankruptcy Rules).

12. Further, the Debtors submit that the rights of any party to the Civil Actions will not be prejudiced by such an extension. If the Debtors ultimately seek to remove any action pursuant to Bankruptcy Rule 9027, any party to the litigation can seek to have such action remanded pursuant to 28 U.S.C. § 1452(b), which provides that “[t]he court to which such claim or cause of action is removed may remand such claim or cause of action on any equitable ground.” 28 U.S.C. § 1452(b). Moreover, to the extent that section 362(a) of the Bankruptcy Code stays actions against the Debtors, most Civil Actions will not be proceeding at this time in their respective courts with respect to the Debtors even absent the relief requested herein.⁴ Thus, the relief requested herein does not unduly prejudice any party’s rights under 28 U.S.C. § 1452(b).

⁴ The Debtors reserve the right to assert in these cases or in any other appropriate forum that the Civil Actions are stayed by virtue of the provisions of section 362 of the Bankruptcy Code.

13. Courts in this jurisdiction and others have granted similar relief in other chapter 11 proceedings. *See, e.g., In re Draw Another Circle, LLC*, Case No. 16-11452 (KJC) (Bankr. D. Del. Sept. 6, 2016 (granting first extension of approximately 90 days without prejudice to debtors' ability to seek additional extensions); *In re Deb Stores Holding LLC*, Case No. 14-12676 (KG) (Bankr. D. Del. Aug. 18, 2016) (granting fifth extension of approximately 120 days without prejudice to debtors' ability to seek additional extensions); *In re RadioShack Corporation*, Case No. 15-10197 (BLS) (Bankr. D. Del. May 27, 2015) (granting 90 day extension). The proposed extension sought herein, which is well within the range of extensions granted by other courts, will provide sufficient time to allow the Debtors to properly consider removal of the Civil Actions.

14. The Debtors require additional time to consider removal of the Civil Actions. Absent the relief requested herein, the current Removal Deadline is June 6, 2017. Extending the deadline by which the Debtors must notice removal through and including October 4, 2017 will permit the Debtors to thoughtfully review all pending litigation and properly evaluate the same within the larger context of these chapter 11 cases. Therefore, sufficient cause exists in the instant circumstances to grant the relief requested herein.

NOTICE OF THE MOTION

15. Notice of this Motion has been given to (i) the U.S. Trustee, (ii) counsel for the Official Committee of Unsecured Creditors, (iii) counsel for the Debtors' secured lenders, (iv) all parties to any pending Civil Actions, and (v) all parties entitled to notice in these cases pursuant to Bankruptcy Rule 2002. In light of the nature of the relief requested herein, the Debtors submit that no other or further notice of this Motion is necessary or required.

WHEREFORE, the Debtors respectfully request the entry of an order,

substantially in the form attached hereto as **Exhibit A**, extending the time under Bankruptcy Rule 9027 to file notices of removal of Civil Actions for 120 days, through and including October 4, 2017, and granting such other and further relief in favor of the Debtors as the Court deems just and proper.

Dated: June 2, 2017
Wilmington, Delaware

PEPPER HAMILTON LLP

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Attorneys for Debtors and Debtors-in-Possession

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE**

In re:	:	Chapter 11
	:	
GENERAL WIRELESS OPERATIONS INC. DBA RADIOSHACK <u>et al.</u> , ¹	:	Case No. 17-10506 (BLS)
	:	
Debtors.	:	(Jointly Administered)
	:	
	:	Hearing Date: June 28, 2017 at 10:30 a.m. (ET)
	:	Objection Deadline: June 16, 2017 at 4:00 p.m. (ET)
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**NOTICE OF MOTION OF THE DEBTORS FOR ENTRY OF AN ORDER PURSUANT
TO FEDERAL RULES OF BANKRUPTCY PROCEDURE 9006(b) AND 9027
EXTENDING THE TIME TO FILE NOTICES OF REMOVAL OF CIVIL ACTIONS**

PLEASE TAKE NOTICE that, on June 2, 2017, the above-captioned debtors and debtors-in-possession (the “Debtors”) filed the **Motion of the Debtors for Entry of an Order Pursuant to Federal Rules of Bankruptcy Procedure 9006(b) and 9027 Extending the Time to File Notices of Removal of Civil Actions** (the “Motion”).

PLEASE TAKE FURTHER NOTICE that any objections or other responses (collectively, “Objections”) to entry of an order approving the Motion must be filed on or before **June 16, 2017 at 4:00 p.m. (Eastern Time)** (the “Objection Deadline”) with the Clerk of the United States Bankruptcy Court, 824 Market Street, 3rd Floor, Wilmington, Delaware 19801. At the same time, you must serve a copy of the Objection upon the following parties so as to be received on or before the Objection Deadline: (A) co-counsel to the Debtors: Jones Day, 77 West Wacker, Chicago, IL 60601, Facsimile: 312-782-8585 (Attn: Mark A. Cody); (B) co-counsel to the Debtors, Pepper Hamilton LLP, Hercules Plaza, Suite 5100, 1313 Market Street, P.O. Box 1709, Wilmington, DE 19899-1709, Facsimile: 302-421-8390 (Attn: David M. Fournier); (C) the Office of the United States Trustee for the District of Delaware, 884 King Street, Suite 2207, Lockbox 35, Wilmington, DE 19801, Facsimile: 302-573-6497 (Attn: Richard L. Schepacarter); (D) co-counsel to the Official Committee of Unsecured Creditors: Kelley Drye & Warren LLP, 101 Park Avenue, New York, NY 10017, Facsimile: 212-808-7897 (Attn: Eric Wilson and Jason R. Adams); and (E) co-counsel to the Official Committee of Unsecured Creditors: Klehr Harrison Harvey Branzburg LLP, 919 Market Street, Suite 1000, Wilmington, DE 19801-3062, Facsimile: 215-568-6603 (Attn: Richard M. Beck).

¹ The Debtors in these chapter 11 cases and the last four digits of each Debtor’s U.S. tax identification number are as follows: General Wireless Operations Inc. dba RadioShack (8040); General Wireless Holdings Inc. (4262); General Wireless Inc. (9245); General Wireless Customer Service Inc. (5813). The notice address for all of the Debtors is: 300 RadioShack Circle, Fort Worth, TX 76102-1964.

PLEASE TAKE FURTHER NOTICE that a hearing with respect to the Motion will be held on **June 28, 2017 at 10:30 a.m. (ET)** at the United States Bankruptcy Court for the District of Delaware before The Honorable Brendan L. Shannon, 824 North Market Street, 6th Floor, Courtroom #1, Wilmington, Delaware 19801.

IF YOU FAIL TO RESPOND TO THE MOTION IN ACCORDANCE WITH THIS NOTICE, THE COURT MAY GRANT THE RELIEF REQUESTED IN THE MOTION ON A FINAL BASIS WITHOUT FURTHER NOTICE OR OPPORTUNITY FOR A HEARING.

Dated: June 2, 2017
Wilmington, Delaware

Respectfully submitted,

/s/ Michael J. Custer
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Attorneys for Debtors and Debtors-in-Possession

Exhibit A

Proposed Order

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE**

In re:	: Chapter 11
	:
GENERAL WIRELESS OPERATIONS INC. DBA RADIOSHACK <u>et al.</u> , ¹	: Case No. 17-10506 (BLS)
	:
Debtors.	: (Jointly Administered)
	:
	: Related Docket No.: _____
	:

**ORDER GRANTING MOTION OF THE DEBTORS FOR ENTRY OF
AN ORDER PURSUANT TO FEDERAL RULES OF BANKRUPTCY
PROCEDURE 9006(b) AND 9027 EXTENDING THE TIME TO FILE
NOTICES OF REMOVAL OF CIVIL ACTIONS**

The Court having considered the *Motion of the Debtors for Entry of an Order Pursuant to Federal Rules of Bankruptcy Procedure 9006(b) and 9027 Extending the Time to File Notices of Removal of Civil Actions* (the “Motion”)²; and the Court having found that (i) 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 February 29, 2012, and that this Court may enter a final order consistent with Article III of the United States Constitution, (ii) venue is proper in this district pursuant to 28 U.S.C. sections 1408 and 1409, (iii) this is a core proceeding pursuant to 28 U.S.C. § 157(b), and (iv) notice of the Motion and opportunity for a hearing was sufficient under the circumstances; and after due deliberation, the Court has determined that the relief requested in the Motion is (i) in the best interests of the Debtors, their estates, and their creditors, and (ii) necessary to prevent immediate

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² Capitalized terms used herein but not otherwise defined shall retain the meaning given to them in the Motion.

and irreparable harm to the Debtors and their estates; and good and sufficient cause having been shown;

ACCORDINGLY, IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED as set forth herein.
2. The period within which the Debtors may seek removal of Civil Actions pursuant to 28 U.S.C. § 1452 and Bankruptcy Rule 9027 is enlarged through and including October 4, 2017, without prejudice to the Debtors' right to seek further extensions.
3. All time periods set forth in this Order shall be calculated in accordance with Bankruptcy Rule 9006(a).
4. The Debtors are authorized to take all actions necessary to effectuate the relief granted in this Order in accordance with the Motion.
5. This Court retains jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.

Dated: _____, 2017
Wilmington, Delaware

The Honorable Brendan L. Shannon
Chief United States Bankruptcy Judge