

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF SOUTH CAROLINA**

In re:

CAFE HOLDINGS CORP., *et al.*,<sup>1</sup>

Debtors.

Chapter 11

Case No. 18-\_\_\_\_ (\_\_\_\_)

(Joint Administration Requested)

**DEBTORS' MOTION FOR ENTRY OF AN ORDER, PURSUANT TO  
SECTIONS 105(a) AND 521 OF THE BANKRUPTCY CODE AND  
BANKRUPTCY RULE 1007, FOR EXTENSION OF TIME TO FILE  
SCHEDULES AND STATEMENTS OF FINANCIAL AFFAIRS**

The above-captioned debtors and debtors in possession (collectively, the “**Debtors**”) hereby submit this motion for the entry of an order, substantially in the form attached hereto as **Exhibit A**, extending the time by which the Debtors must file their schedules of assets and liabilities and statements of financial affairs (collectively, the “**Schedules**”) by fourteen (14) days, through and including December 13, 2018. In support of this motion, the Debtors submit the *Declaration of Eric Easton in Support of Chapter 11 Petitions and First Day Relief* (the “**First Day Declaration**”). In further support of this motion, the Debtors respectfully state as follows:

**JURISDICTION AND VENUE**

1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1334 and Local Civil Rule 83.IX.01, D.S.C. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A). The Debtors confirm their consent, pursuant to Rule 7008 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), to the entry of a final order by the Court in connection with

<sup>1</sup> The Debtors in these cases, along with the last four digits of each Debtor’s federal tax identification number, are: Cafe Holdings Corp. (7910); Cafe Enterprises, Inc. (4946); CE Sportz LLC (2009); and CES Gastonia LLC (0863). The location of the Debtors’ corporate headquarters is 4324 Wade Hampton Blvd., Suite B, Taylors, South Carolina 29687.

this motion to the extent that it is later determined that 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.

2. Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

3. The bases for the relief requested herein are sections 105(a) and 521 of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the “**Bankruptcy Code**”), Rules 1007(c) and 9006(b) of the Bankruptcy Rules, and Rule 1007-I of the Local Rules for the United States Bankruptcy Court for the District South Carolina (the “**Local Rules**”).

### **BACKGROUND**

4. On the date hereof (the “**Petition Date**”), each of the Debtors commenced with this Court a voluntary case under chapter 11 of the Bankruptcy Code. Each Debtor is authorized to continue to operate its business and manage its properties as a debtor in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. As of the date hereof, no trustee, examiner, or statutory committee has been appointed in these chapter 11 cases.

5. Additional information regarding the Debtors, including their business operations, corporate and capital structure, and the events leading to the Petition Date, is more fully set forth in the First Day Declaration.<sup>2</sup>

### **RELIEF REQUESTED**

6. Section 521 of the Bankruptcy Code and Bankruptcy Rule 1007(c) require the Debtors to file their Schedules within fourteen (14) days after the Petition Date, unless the Court orders otherwise.

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<sup>2</sup> Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the First Day Declaration.

7. By this motion, the Debtors request the Court to enter an order, substantially in the form attached hereto as **Exhibit A**, extending the 14-day period within which the Debtors must file their Schedules by fourteen (14) days, through and including December 13, 2018, without prejudice to the Debtors' ability to request additional extensions.

**BASIS FOR RELIEF**

8. The Court has authority to grant the requested extension under Bankruptcy Rule 1007(c). Bankruptcy Rule 1007(c) provides that "any extension of time for the filing of the schedules, statements and other documents required under this rule may be granted only on motion for cause shown and on notice to the United States trustee and to any committee . . . trustee, examiner, or other party as the court may direct." Fed. R. Bankr. P. 1007(c).

9. Local Rule 1007-I provides that the Court may grant an enlargement of the time to file schedules, statements, and other documents required "only on motion for cause shown and on notice to the United States Trustee, any committee elected under § 705 or appointed under § 1102 of the Code, trustee, examiner, or other party as the court may direct. Notice of an extension shall be given to the United States Trustee and to any committee, trustee, or other party as the court may direct." SC LBR 1007-I.

10. The Debtors and their professional advisors have spent, and continue to spend, a substantial amount of time, energy, and resources ensuring that the Debtors have a smooth transition into chapter 11, with minimal disruptions to their business operations. As a result, and due to the burdens occasioned by preparing for these chapter 11 cases, the Debtors anticipate that they will be unable to complete their Schedules within fourteen (14) days of the Petition Date.

11. To prepare their Schedules, the Debtors must compile information from various books, records, and documents relating to numerous claims, assets, and contracts.

12. In view of the amount of work entailed in completing the Schedules, and the competing demands upon the Debtors' professional advisors to assist in efforts to stabilize the Debtors' business operations during the initial post-petition period, the Debtors do not believe they will be able to properly and accurately complete the Schedules within the 14-day period following the Petition Date. At present, the Debtors anticipate that they will require a fourteen-day extension of the current deadline to file the Schedules. The Debtors, therefore, request that the Court extend the time to file the Schedules through and including December 13, 2018.

13. The Debtors submit that the amount of information that the Debtors must compile and the many hours required to complete the Schedules, together with the competing demands on the Debtors' limited resources, constitute good and sufficient cause for granting the extension of time requested herein. As a result, the Debtors request that the Court grant such an extension, without prejudice to the Debtors' right to seek any further extensions from the Court. The requested extension will enhance the accuracy of the Debtors' Schedules and avoid the necessity of substantial subsequent amendments.

14. In other chapter 11 cases, courts in this and other districts have approved extensions similar to the extension requested herein. *See, e.g., In re Gridway Energy Holdings*, Case No. 14-10833 (CSS) (Bankr. D. Del. May 27, 2014) (extending the deadline to file Schedules by approximately 30 days); *In re BI-LO, LLC*, C/A 09-2140-hb (Bankr. D.S.C. March 27, 2009); *In re Merit Group, Inc.*, C/A 11-03216-hb (Bankr. D.S.C. May 20, 2011) (extending the deadline to the later of 30 days after the Petition Date or at least two business days prior to the objection deadline to any bidding procedures motion contemplated to be filed in the chapter 11 cases).

15. Accordingly, the Debtors submit that the Court should grant the relief requested herein.

**NOTICE**

16. Notice of this motion has been provided to the following parties: (i) the Office of the United States Trustee for the District of South Carolina; (ii) the Office of the United States Attorney General for the District of South Carolina; (iii) the Internal Revenue Service; (iv) Atalaya Administrative LLC; (v) ACM Fatz VII LLC; (vi) Midtown Madison Management LLC; (vii) Shrayne Capital, LLC; (viii) Benefit Street Partners; (ix) Milestone Partners; (x) Old Mill Stream, LLC; (xi) Triangle Mezzanine Fund LLLP; (xii) Sysco; (xiii) the holders of the thirty (30) largest unsecured claims against the Debtors on a consolidated basis; (xiv) all parties who, as of the filing of this motion, have filed a notice of appearance and request for service of papers pursuant to Bankruptcy Rule 2002; and (xv) all applicable government agencies to the extent required by the Bankruptcy Rules and the Local Rules. The Debtors submit that, in light of the nature of the relief requested, no other or further notice need be given.

**NO PRIOR REQUEST**

17. The Debtors have not previously sought the relief requested herein from this or any other Court.

WHEREFORE, for the reasons set forth herein, the Debtors respectfully request that the Court (a) enter an order, substantially in the form attached hereto as **Exhibit A**, granting the relief requested herein, and (b) grant such other and further relief as is just and proper.

**McNAIR LAW FIRM, P.A.**

November 15, 2018

/s/ Michael H. Weaver

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**EXHIBIT A**

**Proposed Order**