

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE**

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	:		
In re	:		Chapter 11
	:		
24 HOUR FITNESS	:		Case No. 20–11558 (KBO)
WORLDWIDE, INC., et al.,	:		
	:		
Debtors.¹	:		(Jointly Administered)
	:		
	X		

**MOTION OF DEBTORS FOR ENTRY OF ORDER (I) EXTENDING TIME
FOR PERFORMANCE OF OBLIGATIONS ARISING UNDER UNEXPIRED NON-
RESIDENTIAL REAL PROPERTY LEASES, AND (II) GRANTING RELATED RELIEF**

24 Hour Fitness Worldwide, Inc. and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the “**Debtors**”), respectfully represent as follows in support of this motion (the “**Motion**”):²

Relief Requested

1. By this Motion, the Debtors request, pursuant to sections 365(d)(3) and 105(a) of title 11 of the United States Code (the “**Bankruptcy Code**”), entry of an order (i) extending the time for the Debtors to perform obligations arising within 60 days after the Petition Date (as defined herein) under unexpired Leases (as defined herein) of nonresidential real property through the Extension Period (as defined herein); and (ii) granting related relief.

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, as applicable, are 24 Hour Holdings II LLC (N/A); 24 Hour Fitness Worldwide, Inc. (5690); 24 Hour Fitness United States, Inc. (8376); 24 Hour Fitness USA, Inc. (9899); 24 Hour Fitness Holdings LLC (8902); 24 San Francisco LLC (3542); 24 New York LLC (7033); 24 Denver LLC (6644); RS FIT Holdings LLC (3064); RS FIT CA LLC (7007); and RS FIT NW LLC (9372). The Debtors’ corporate headquarters and service address is 12647 Alcosta Blvd., Suite 500, San Ramon, CA 94583.

² The facts and circumstances supporting the relief requested herein are set forth in the *Declaration of Daniel Hugo in Support of Debtors’ Chapter 11 Petitions and First Day Relief* [Docket No. 4] (the “**First Day Declaration**”). Capitalized terms used but not defined herein shall have the respective meanings ascribed to such terms in the First Day Declaration.

2. The Debtors further request that all motions, applications, actions, or pleadings filed in these cases seeking to (a) lift the automatic stay as a result of the Debtors' failure to perform any obligations under any unexpired nonresidential real property lease, (b) compel the Debtors' performance of any obligation (including payment of rent), or (c) compel rejection, assumption, or assignment of any unexpired nonresidential real property leases with the Debtors, in each case, be automatically stayed during the Extension Period unless otherwise agreed by the Debtors.

3. A proposed form of order granting the relief requested herein is annexed hereto as **Exhibit A** (the "**Proposed Order**").

Preliminary Statement

4. COVID-19 is a national emergency that has materially altered the economic landscape and normalcy of everyday life for millions of people and businesses worldwide, including the Debtors and their membership. Businesses are only beginning to reopen after being forced to close for months while communities sheltered in place in a global and coordinated effort to minimize the devastating effects of the pandemic.

5. The impact of the COVID-19 pandemic on the Debtors' business cannot be overstated. The Debtors were required to close all of their fitness club locations nationwide on March 16, 2020, in accordance with governmental regulations and recommendations, and the Debtors are only just beginning the process of re-opening amidst this unprecedented business challenge. The pandemic upended the Debtors' operating model, leaving the Debtors without a source of revenue to fund their operations for the last two months, a situation the Debtors forecast will likely continue for the next several weeks as they slowly reopen a small subset of their clubs in accordance with government regulations and recommendations. Without any source of revenue, during this time, the Debtors have sought to defer or reduce expenses and

husband liquidity and continue to do so as restrictions are slowly lifted and the Debtors phase in club reopening.

6. As of the Petition Date, the Debtors have reopened approximately twenty (20) of their more than 300 fitness clubs in accordance with the phased approach that certain state and local governments have implemented with respect to reopening businesses in the wake of the COVID-19 pandemic. The Debtors intend to continue with a phased reopening process, with expectations to re-open the majority of their clubs by the end of June. Without question, this process must be carefully managed as the Debtors bring clubs back into operation in accordance with governmental regulations and recommendations, retain their existing membership base, and win new members. In addition, during this phased reopening process, the Debtors will continue to evaluate which clubs will remain closed, some of which may remain closed permanently, and which clubs will slowly and cautiously reopen in accordance with state and local guidelines.

7. As described in the First Day Declaration, the Debtors commenced their Chapter 11 Cases with limited cash on hand, and the Debtors do not anticipate generating any material cash flow during the near term period. And, while the Debtors have sought authority to borrow \$50 million on an interim basis pursuant to the relief requested by their DIP Motion (*see* [Docket No. 17]), this funding presents only a baseline level of liquidity for the Debtors to administer their chapter 11 estates. The Debtors believe it is appropriate to continue to take a prudent and measured approach to their liquidity as they transition into chapter 11 and continue forward in response to the unprecedented business challenges arising from COVID-19. A key component of that process is the continued prudent management and perseverance of liquidity

while many of the Debtors' clubs remain closed and their business continues to operate at less than full capacity.

8. The Debtors project their ongoing monthly gross rent expense to total approximately \$32 million per month at the outset of these chapter 11 cases with respect to their current portfolio of nonresidential real property leases (collectively, the "**Leases**"). At the same time, and as set forth in the DIP Budget attached as **Exhibit B** to the First Day Declaration, the Debtors do not expect to generate any material operating income on a weekly basis until the week ended August 14, 2020, at the earliest. As a result, the Debtors believe that deferring rental expense for at least the 60-day period provided by section 365(d)(3) is a prudent exercise of business judgment.

9. The Debtors are therefore requesting that rental obligations arising within 60 days after the date hereof (the "**Petition Date**") under unexpired Leases (the "**Lease Obligations**") be extended through and including August 14, 2020 (the "**Extension Period**"), without prejudice to the Debtors' rights to seek further extensions, although the Debtors are not presently seeking an extension beyond the 60-day period expressly permitted by section 365(d)(3) of the Bankruptcy Code.³

10. Cause exists to grant the relief requested herein.

- First, exigent circumstances plainly exist affecting not only the Debtors, but all stakeholders. As a result of the unprecedented pandemic and nationwide governmental directives mandating business shutdowns – through no fault or cause of the Debtors – the Debtors and their estates have been substantially and materially precluded from realizing a benefit from use of the real property across all of their fitness clubs as they advance reopening initiatives.

³ The Debtors reserve the right to seek similar relief pursuant to other statutory bases of the Bankruptcy Code and other applicable law.

- Second, the Extension Period will materially benefit the Debtors' estates. In particular, the Extension Period will give the Debtors significant liquidity relief in the form of approximately \$61 million of gross rent deferrals during a time when there is considerable uncertainty about the timing for reopening clubs and which clubs will be permanently closed. To that end, the Extension Period will also give the Debtors a meaningful opportunity to negotiate with Landlords (as defined herein) and make an informed decision on whether to assume or reject unexpired Leases.
- Third, the balance of equities weigh in favor of granting the Extension Period. The Debtors are facing an unprecedented challenge in terms of reopening fitness clubs in the face of a global pandemic. All stakeholders will benefit if the Debtors succeed, but, to this end, the Debtors require the ability to exercise their rights under the Bankruptcy Code to maximize value for the benefit of all stakeholders, including their lessors, amidst this challenge.

11. In sum, the relief requested herein falls squarely within the purview of section 365(d)(3) of the Bankruptcy Code and for the reasons set forth herein should be approved.

Jurisdiction

12. The Court has jurisdiction to consider 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. This is a core proceeding pursuant to 28 U.S.C. § 157(b). 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 Debtors consent to the entry of a final order by the Court in connection with this Motion to the extent it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments consistent with Article III of the United States Constitution. Venue is proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409.

Background

13. On June 15, 2020 (the “**Petition Date**”), the Debtors each commenced with this Court a voluntary case under chapter 11 of the Bankruptcy Code. The Debtors are authorized to continue to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee, examiner, or statutory committee of creditors has been appointed in these chapter 11 cases.

14. The Debtors’ cases are being jointly administered for procedural purposes only pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”).

15. Additional information regarding the Debtors’ businesses, capital structure, and the circumstances leading to the commencement of these chapter 11 cases is set forth in the First Day Declaration, filed contemporaneously herewith and incorporated herein by reference.

Impact of COVID-19 on the Debtors’ Operations

16. As stated herein and in the First Day Declaration, the effects of COVID-19 have had acute effects on the Debtors’ operations. For example, the Debtors’ revenue in May 2020 declined by approximately 99.9% compared to May 2019. For the months of March through May 2020, the Debtors’ receipts decreased approximately 86% as compared the same months in 2019. The precipitous decline has resulted in shared concessions by nearly all of the Debtors’ economic constituencies, including:

- closing over 300 clubs temporarily and closing permanently at least 133 previously operating clubs nationwide;⁴

⁴ See *Omnibus Motion of Debtors for Entry of Order (I) Authorizing Debtors to (A) Reject Certain Unexpired Leases of Nonresidential Real Property and (B) Abandon De Minimis Property in Connection Therewith and (II) Granting Related Relief* (the “**Omnibus Rejection Motion**”), pursuant to which the Debtors seek to reject a first wave of approximately 133 underperforming clubs along with an additional twenty-nine (29) leases for

- furloughing approximately 17,800 employees, and reducing its workforce by more than 8,300 individuals; and
- delaying payment to trade creditors and vendors of, in some cases, up to 90 days.

As illustrated above, the burdens of COVID-19 have not fallen on the Debtors' landlords alone, although these parties are clearly affected by the Debtors' unprecedented challenges.

17. Nevertheless, the Debtors must continue operating their business in a manner necessary to maximize the value of their estates for the benefit of all stakeholders, including landlords. To this end, the Debtors are continuing forward in their fitness club reopening initiatives in a measured fashion—mindful that the health, safety, and well-being of their employees and members is paramount. The Debtors are reopening club locations on a case-by-case basis subject to determining the economic viability of the location and consistent with health directives from federal and local governmental units. And, as noted above, the Debtors do not anticipate generating any material cash flow during the near term period and, instead, will rely almost entirely on incremental funding to be provided under their proposed DIP Facility.

Debtors' Obligations under Unexpired Real Property Leases

18. On the Petition Date, the Debtors filed the Omnibus Rejection Motion seeking to reject 133 Leases that were determined, upon comprehensive review and analysis of the Debtors' lease portfolio, to be costly or underperforming clubs, and an additional thirty-one (31) Previously Closed Clubs. Excluding the leases subject to the Omnibus Rejection Motion, the Debtors are party to 312 leases⁵ with approximately 300 Landlords (the "**Landlords**"). As of the Petition Date, the Debtors continue to analyze and review their lease portfolio and engage

fitness clubs that were permanently closed prior to COVID-19 pandemic and two (2) leases for clubs that were never opened (collectively, the "**Previously Closed Clubs**").

⁵ In addition, the Debtors are party to eleven (11) club leases for pipeline clubs.

with their Landlords. The Debtors believe that, subject to lease modification negotiations, they will be able to cure and assume with modifications many of their remaining leases. However, the Debtors require more time to evaluate the benefits of reopening certain clubs which may, upon further analysis, prove to be underperforming in the current environment and too costly to maintain. The Debtors intend to continue their engagement with Landlords to negotiate lease modifications if at all reasonably possible in order to enable the Debtors to reopen as many of their clubs as possible. The Debtors' obligations under the Leases, excluding those subject to the Omnibus Lease Rejection Motion, are approximately \$32 million of gross rent each month, and the Debtors estimate that approximately \$61 million of obligations will become due and payable during the Extension Period.

The Extension Period Should Be Approved

19. Section 365(d)(3) of the Bankruptcy Code authorizes the Court to extend the Debtors' obligations under their unexpired Leases during the first 60 days of these chapter 11 cases for cause. *See* 11 U.S.C. § 365(d)(3) ("The court may extend, for cause, the time for performance of any [of the Debtors'] obligation that arises within 60 days after the date of the order for relief"). Although the Bankruptcy Code does not define "cause," at least one court has considered whether there is a "specific cause" articulated by a debtor or "applicable legal precedent." *In re Pac-West Telecomm, Inc.*, 377 B.R. 119, 126 (Bankr. D. Del. 2007).

20. The legislative history of section 365(d)(3) states that the "60-day grace period is intended to give the [debtor] time to determine what lease obligations the debtor has and to locate the cash to make the required payments in exceptionally large or complicated cases." *See* 130 Cong. Rec. S8894–95 (daily ed. June 29, 1984); *see also Feld v. S & F Concession, INC. (In re S & F Concession, Inc.)*, 55 B.R. 689, 690 (Bankr. E.D. Pa. 1985).

21. As set forth more fully below, the Debtors believe that the specific, exigent circumstances resulting from COVID-19 and the benefit to the Debtors' estate in granting the relief requested constitute cause to approve the Extension Period. Furthermore, the balance of equities favors approving the Extension Period, and the Debtors' chapter 11 cases are large and complex, which itself justifies relief under section 365(d)(3). As stated in the First Day Declaration, the Debtors' nationwide operations involve approximately \$1.4 billion of funded indebtedness, and, prior to the closure of fitness clubs in connection with the COVID-19 pandemic, the Debtors operated approximately 445 clubs in fourteen (14) states and the District of Columbia, serving approximately 3.4 million members. The Debtors' cases have the additional complications of dealing with novel circumstances arising from an unprecedented national emergency.

A. Exigent Circumstances Resulting from COVID-19 Constitute Cause

22. The effects of COVID-19 have undeniably resulted in exigent circumstances that constitute cause for approving the Extension Period. The President of the United States has declared COVID-19 to be a national emergency. *See* Pres. Proc. No. 9994, 85 F.R. 15337, 2020 WL 1272563 (Mar. 13, 2020). When news of the COVID-19 crisis first hit, every state in which the Debtors operate declared a state of emergency and issued orders mandating non-essential business closures or otherwise restricting the movement of people in a manner that would functionally prevent the Debtors from operating their clubs.⁶ Now, as these restrictions are slowly being lifted, the Debtors are cautiously advancing a reopening initiative in

⁶ *See* Cal. Executive Order N-33-20 (Mar. 4, 2020); Colo. Executive Order D 2020 024 (Apr. 6, 2020); Del. Mayor's Order 2020-063 (Apr. 15, 2020); Fl. Executive Order 20-52 (Mar. 9, 2020); Haw. Third Supplementary Proclamation (Mar. 23, 2020); Haw. Sixth Supplementary Proclamation (Apr. 25, 2020); Ill. Executive Order 2020-32 (Apr. 30, 2020); Md. Executive Order No. 20-03-30-01 (Mar. 30, 2020); Nev. Directive 010 (Mar. 31, 2020); N.J. Executive Order No. 107 (Mar. 21, 2020); N.Y. Executive Order No. 202.18 (Apr. 16, 2020); Or. Executive Order No. 20-12 (Mar. 23, 2020); Tex. Executive Order No. GA-14 (Mar. 31, 2020); Va. Executive Order No. 55 (Mar. 30, 2020); Wash. Proclamation 20-25.1 (Apr. 2, 2020).

accordance with a phased approach that certain state and local governments have implemented. While the Debtors intend to continue this measured re-opening, the economic and practical effects of COVID-19 require the Debtors to continue prudently managing liquidity and undertaking a lease rationalization process to drive value.

23. Since the start of the pandemic, bankruptcy courts considering whether to grant extensions of time have rightfully identified COVID-19 as constituting “exceptional cause”⁷ for an “extraordinary situation,”⁸ and have accordingly approved extensions. *See, e.g., In re Chinos Holdings, Inc.*, Case No. 20-32181 (KLP) [Docket No. 323] (Bankr. E.D. Va. May 26, 2020) (extending time for performance of lease obligations under section 365(d)(3)); *In re Art Van Furniture, LLC*, Case No. 20-10553 (CSS) [Docket No. 373] (Bankr. D. Del. Apr. 27, 2020) (extending time for performance of lease obligations under section 365(d)(3)); *In re Pier 1 Imports, Inc.*, Case No. 20-30805 [Docket No. 493] (KRH) (Bankr. E.D. Va. Apr. 6, 2020) (approving the deferment payment of rent obligations until the debtors filed a notice of intent to reopen, after which the debtors should make “reasonable best efforts” to pay deferred rent); *In re Modell’s Sporting Goods, Inc.*, Case No. 20-14179 [Docket No. 166] (VFP) (Bankr. D. N.J. Mar. 27, 2020) (suspending a bankruptcy case and deferring payment of non-essential expenses, including rent obligations, due to COVID-19). As the Debtors continue advancing reopening initiatives, the COVID-19 pandemic is ongoing, exigent circumstances continue to exist, and similar relief should be granted here.⁹

⁷ Hr’g Tr. at 63:4, *In re Modell’s Sporting Goods, Inc.*, No. 20-14179 (VFP) (Bankr. D.N.J. Mar. 25, 2020).

⁸ *Id.* at 39:23

⁹ Further, particularly for those clubs that remain closed due to COVID-19, the Debtors contend that they would not be required to make rent payments under contract and/or applicable law, since those locations were forced to close by the landlord and the local government and will remain closed for a period of time postpetition. As such, the Debtors reserve, and nothing herein shall be construed as waiving, any rights, remedies, powers, and defenses the Debtors may have regarding non-payment of rent on grounds of lease terms, the takings doctrine,

B. The Benefit to the Debtors' Estates Is Cause

24. All stakeholders will benefit from a temporary deferral of the Lease Obligations during the Extension Period. Collectively, the gross Lease Obligations represent an approximate \$32 million cost per month to the Debtors' estate. As the Debtors continue to advance phased-in club reopening initiatives, and successfully reopen numerous club locations, they are evaluating how, when, and which fitness clubs to reopen on a phased-in basis. The Debtors require additional time to determine which clubs will pose any meaningful benefit from continuing capital expenditure, and which Landlords will be willing to negotiate rent agreements that will enable the Debtors to appropriately deploy their finite resources and maintain the maximum number of club locations nationwide. The Debtors can then utilize much-needed time and resources to safely and efficiently reopen their clubs nationwide, while continuing to engage Landlords to negotiate crucial lease modifications. Deferring the Lease Obligations will allow the Debtors to access vital expendable liquidity, maintain operational flexibility, and continue ongoing discussions with Landlords regarding Lease arrangements.

25. The Extension Period will give the Debtors the time and reprieve necessary to thoughtfully engage in negotiations with Landlords regarding Lease Obligations and to determine whether assumption or rejection of the applicable Leases are appropriate. *See In re DWE Screw Prods., Inc.*, 157 B.R. 326, 329 (Bankr. N.D. Ohio 1993) (holding that "attempts at negotiating settlement constitute 'cause' for extending the time for performance an additional sixty (60) days" under section 365(d)(3)). Such negotiations will ultimately benefit the Debtors' estates by permitting the Debtors to make long-term decisions based on a holistic review of their

the doctrine of intervening impossibility, force majeure, and frustration of purpose, among other defenses and remedies.

lease portfolio, rather than forcing short-term value calculations based on burdensome Lease Obligations for assets that are highly unlikely to generate future revenue.

26. Ultimately, suspending Lease Obligations through the Extension Period will position the Debtors for a successful emergence from chapter 11, whereas forcing the Debtors to continue Lease Obligations in the short-term could compromise the Debtors' ability to successfully reopen a significant number of fitness clubs. Accordingly, the benefit to the estates is sufficient cause to warrant approval of the Extension Period under section 365(d)(3).

C. The Balance of Equities Favors Deferring Lease Obligations

27. In light of the benefit to the Debtors' estates and the limited, if any, prejudice to the Landlords during the Extension Period, the balance of equities favors approving the Extension Period. As stated, the Landlords are just one group among the Debtors' stakeholders affected as a result of COVID-19.

28. The Debtors' ad hoc group of secured term lenders and noteholders (the "**Ad Hoc Group**") has committed \$250 million in DIP Financing to support these chapter 11 cases and the Debtors' reorganization efforts during a time of significant capital market and financial uncertainty. Without the significant concessions and undertakings provided by the Ad Hoc Group, the Debtors would undoubtedly have less ability to maximize value for their estates.

29. Employees in particular have been significantly impacted by the Debtors' limited operations. As noted, the Debtors have been forced to furlough approximately 17,800 employees who rely on their employment with the Debtors to cover daily living costs. After a first wave of closures relating to their go-forward club footprint and implementing certain strategic initiatives, the Debtors reduced their workforce by approximately 8,300 individuals prior to commencing these chapter 11 cases. Unlike Landlords, who in many instances will be

able to assert an administrative claim under the Bankruptcy Code, these individuals have no a statutory basis for recovering benefits lost during this pandemic.

30. Approving the Extension Period is also consistent with public interest under the circumstances. Forcing the Debtors to immediately pay Lease Obligations only increases the pressure on the Debtors to permanently shut down a significant number of club locations that could have been reopened, resulting in a further reduction in the Debtors' workforce, an increase in nationwide unemployment, and numerous rejections of unexpired Leases. Further, for those locations that will certainly prove profitable to reopen, forcing immediate payment of rent will compel the Debtors to reopen as quickly as possible, thereby jeopardizing the safety of its staff and members, negating the efficacy of the Debtors' meticulous reopening initiatives. Such an outcome will likely cause more harm under the circumstances by actively disrupting attempts to slow the spread of COVID-19, increasing both the time of the current state of emergency and the potential for the virus to reemerge. As the Debtors move forward to resume normal operations, the Debtors recognize their duty to keep club locations safe as they institute reopening initiatives. Approving the Extension Period relieves a part of the burden on the Debtors for acting in a socially responsible manner.

31. In light of the benefits to the estates, the fact that many of the Debtors' stakeholders will be in the same or worse positions as the Landlords, and the public interest at hand, the Debtors believe that the balance of equities favors approving the Extension Period. Placing the long-term viability of the Debtors at risk for the short-term revenues of Landlords will likely result in significant harm to a larger group of stakeholders who themselves incurred significant hardship. Accordingly, the Court should find sufficient cause to grant to Extension Period under section 365(d)(3).

**Pleadings and Motions Related to Obligations under Leases
Should Be Stayed and Tolloed During the Extension Period**

32. Consistent with the purpose of the Extension Period and the Bankruptcy Code, the Debtors request that any pleadings or motions seeking to enforce obligations under the Leases be stayed and tolled through the Extension Period.

33. Section 105 of the Bankruptcy Code provides the Bankruptcy Court with “broad exercise of power in the administration of a bankruptcy case.” *See Davis v. Davis (In re Davis)*, 170 F.3d 475, 492 (5th Cir. 1999). Bankruptcy Courts often rely on section 105 for the authority to protect and effectively administer estate assets. *See* 2 Collier on Bankruptcy ¶ 105.02 (16th ed. 2020) (“[Section 105] has also been used as the basis for staying actions by third parties against avoiding powers actions prior to the time the estate decides to pursue or abandon them.”); *see also Air Line Pilots Ass’n, Int’l v. Am. Nat’l Bank and Trust Co. of Chicago (In re Ionosphere Clubs, Inc.)*, 156 B.R. 414, 436 (S.D.N.Y. 1993), (“In order to allow the Trustee to assert actions which are property of the debtor's estate for the benefit of the estate as a whole, other claimants may be prohibited by the Bankruptcy Court from pursuing such actions under 11 U.S.C. § 105(a).”), *aff’d*, 17 F.3d 600 (2d Cir. 1994).

34. Additionally, the use of section 105 as the basis for “tolling” certain time periods is “consistent with the underlying philosophy of the Bankruptcy Code.” *See United States v. Richards (In re Richards)*, 994 F.2d 763, 765 (10th Cir. 1993). As one court has noted, in these unforeseen and undocumented times, courts have authority to fashion proper solutions. Hr’g Tr. at 61:20-22, *In re Pier 1 Imports, Inc.*, Case No. 20-30805 (KRH) (Bankr. E.D. Va. Apr. 2, 2020) (explaining that the court has the authority to “fashion[] whatever solutions we can possibly be coming up with in these just unforeseen, undocumented times.”).

35. Staying and tolling pleadings or motions seeking to enforce obligations under the Leases would be consistent with the Bankruptcy Code and the purpose of the Extension Period. Absent the stay, the Debtors could be faced with several motions to compel or similar pleadings, which would defeat the purpose of the relief provided by section 365(d)(3). Rather, the stay and tolling will permit the Debtors to focus on efficient administration of their chapter 11 cases and stabilizing their businesses during the initial transition periods of chapter 11. Accordingly, the Debtors believe that the relief requested herein is in the best interest of their estates and should be granted.

Reservation of Rights

36. Nothing contained herein is intended or shall be construed as (i) an admission as to the validity of any claim against the Debtors; (ii) a waiver of the Debtors' or any appropriate party in interest's rights to dispute the amount of, basis for, or validity of any claim against the Debtors; (iii) a waiver of any claims or causes of action that may exist against any creditor or interest holder; or (iv) an approval, assumption, adoption, or rejection of any agreement, contract, lease, program, or policy between the Debtors and any third party under section 365 of the Bankruptcy Code. Likewise, if the Court grants the relief sought herein, any payment made pursuant to the Court's order is not intended to be, and should not be construed as, an admission to the validity of any claim or a waiver of the Debtors' rights to dispute such claim subsequently.

Notice

37. Notice of this Motion will be provided to (i) the Office of the United States Trustee for the District of Delaware (Attn: Linda Casey, Esq.); (ii) the holders of the thirty (30) largest unsecured claims against the Debtors on a consolidated basis; (iii) O'Melveny & Myers LLP, 7 Times Square, New York, New York 10036 (Attn: Daniel S. Shamah, Esq.,

Diana M. Perez, Esq., and Adam P. Haberkorn, Esq.), as counsel to the Ad Hoc Group; (iv) Latham & Watkins LLP, 885 Third Avenue, New York, New York 10022 (Attn: Alfred Xue, Esq.), as counsel to the Prepetition Agent; (v) Covington & Burling LLP, 620 Eighth Avenue, New York, New York 10018 (Attn.: Ronald Hewitt), as counsel to the DIP Agent; (vi) Wells Fargo, National Association, 150 East 42nd Street, New York, New York 10017 (Attn: Corporate Trust Services—Administrator for 24 Hour Fitness), as Senior Notes Indenture Trustee; (vii) the Internal Revenue Service; (viii) the United States Attorney’s Office for the District of Delaware; (ix) the Securities and Exchange Commission; (x) any party that has requested notice pursuant to Bankruptcy Rule 2002; and (xi) the Landlords (collectively, the “**Notice Parties**”). The Debtors respectfully submit that no further notice is required. No previous request for the relief sought herein has been made by the Debtors to this or any other court.

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WHEREFORE the Debtors respectfully request entry of the Proposed Order granting the relief requested herein and such other and further relief as the Court may deem just and appropriate.

Dated: June 16, 2020
Wilmington, Delaware

PACHULSKI STANG ZIEHL & JONES LLP

/s/ Peter J. Keane

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