

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

In re:

FISKER, INC., *et al.*,<sup>1</sup>

Debtors.

Chapter 11

Case No. 24-11390 (TMH)

(Jointly Administered)

Hearing Date: May 29, 2025 at 10:00 a.m. (ET)

Objection Deadline: April 22, 2025 at 4:00 p.m. (ET)

**LIQUIDATING TRUSTEE’S MOTION FOR ENTRY OF AN ORDER FURTHER  
EXTENDING THE TIME PERIOD TO FILE NOTICES OF REMOVAL OF CLAIMS  
AND CAUSES OF ACTION RELATED TO THE CHAPTER 11 CASES**

Matthew Dundon, solely in his capacity as the Liquidating Trustee (the “**Liquidating Trustee**”) of the Fisker Liquidating Trust (the “**Liquidating Trust**”), hereby submits this motion (the “**Motion**”), pursuant to 28 U.S.C. § 1452, Rules 9027 and 9006(b) of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”) and Rule 9006-2 of the Local Rules of the United States Bankruptcy Court for the District of Delaware (the “**Local Rules**”), for entry of an Order (the “**Proposed Order**”), substantially in the form attached hereto as **Exhibit A**, further extending the time for the Liquidating Trustee to file notices of removal of all claims and causes of action related to these Chapter 11 Cases (as defined below) pending as of the Petition Date (as defined below) as specified in Bankruptcy Rule 9027(a)(2) (the “**Prepetition Actions**”), in addition to any and all matters initiated after the Petition Date but prior to entry of the Proposed Order as specified in Bankruptcy Rule 9027(a)(3) (the “**Postpetition Actions**,” and, together with the Prepetition Actions, collectively referred to herein as the “**Actions**”), for 120 days from April 15, 2025, through and including August 13, 2025 (the “**Removal Deadline**”), without prejudice to

<sup>1</sup> The Debtors in these Chapter 11 Cases, along with the last four digits of their respective employer identification numbers or Delaware file numbers, are as follows: Fisker Inc. (0340); Fisker Group Inc. (3342); Fisker TN LLC (6212); Blue Current Holding LLC (6668); Platinum IPR LLC (4839); and Terra Energy Inc. (0739). The address of the debtors’ corporate headquarters is 14 Centerpointe Drive, La Palma, CA 90623.



the Liquidating Trustee's (or his successor-in-interest's) right to seek further extensions of the Removal Deadline, and any position the Liquidating Trustee (or his successor-in-interest) may take regarding whether section 362 of title 11 of the United States Code (the "**Bankruptcy Code**") applies to stay any given Action. In support of the Motion, the Liquidating Trustee respectfully states as follows:

### **JURISDICTION AND VENUE**

1. The United States District Court for the District of Delaware has jurisdiction over this Motion pursuant to 28 U.S.C. § 1334, which was referred to the United States Bankruptcy Court for the District of Delaware (the "**Court**") under 28 U.S.C. § 157 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012.

2. Venue is proper in this District pursuant to 28 U.S.C. §§ 1408 and 1409. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2), and the Court may enter a final order consistent with Article III of the United States Constitution.<sup>2</sup>

3. The statutory bases for the relief requested herein are 28 U.S.C. § 1452, Bankruptcy Rules 9006 and 9027 and Local Rule 9006-2.

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<sup>2</sup> Pursuant to Local Rule 9013-1(f), the Liquidating Trustee hereby confirms his consent to entry of a final order by the Court in connection with this Motion if 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.

## **BACKGROUND**

### **A. The Chapter 11 Cases**

4. On June 17 and 19, 2024, as applicable (the “**Petition Date**”), the Debtors commenced the above-captioned cases (the “**Chapter 11 Cases**”) in the Court under chapter 11 of the Bankruptcy Code.

5. As of the Petition Date, the Debtors were parties to certain judicial and/or administrative proceedings in various courts and/or administrative agencies that are stayed under the Bankruptcy Code.

6. On October 15, 2024, the Debtors filed their fourth amended *Combined Disclosure Statement and Chapter 11 Plan of Liquidation of Fisker Inc. and its Debtor Affiliates* (as amended, the “**Plan**”) [D.I. 713].<sup>3</sup>

7. On October 16, 2024, the Court entered the *Findings of Fact, Conclusions of Law, and Order, Approving the Disclosure Statement on a Final Basis, Confirming the Debtors’ Joint Chapter 11 Plan of Liquidation, and Granting Related Relief* (the “**Confirmation Order**”) [D.I. 722].

8. Pursuant to the Confirmation Order, the appointment of the Liquidating Trustee was approved in all respects. *See* Confirmation Order ¶ 73.

9. On October 17, 2024 (the “**Effective Date**”), the Plan went effective as set forth in the *Notice of (I) Effective Date of Combined Disclosure Statement and Chapter 11 Plan of Liquidation of Fisker Inc. and its Debtor Affiliates and (II) Certain Claims Bar Dates* [D.I. 730].

10. The Liquidating Trust was established on the Effective Date, into which the Debtors transferred “all of the Debtors’ and Estates’ rights, title, and interest in and to all of the Liquidating

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<sup>3</sup> Any capitalized term used but not otherwise defined herein shall have the meaning ascribed to it in the Plan.

Trust Assets, and, in accordance with section 1141 of the Bankruptcy Code, the Liquidating Trust Assets, ... automatically vest[ed] in the Liquidating Trust free and clear of all Claims, Liens, encumbrances, or interests ....” See Confirmation Order ¶ 75.

**B. Prior Extensions of the Removal Deadline**

11. On October 2, 2024, prior to the Effective Date, the Court entered the *Order Extending the Debtors’ Time to File Notices of Removal of Claims and Causes of Action Related to the Debtors’ Chapter 11 Cases* [D.I. 619] (the “**First Removal Extension Order**”), extending the Removal Deadline to December 16, 2024.

12. On December 23, 2024, the Court entered the *Order Further Extending the Time Period Within Which the Liquidating Trustee May File Notices of Removal of Claims and Causes of Action Related to the Debtors’ Chapter 11 Cases* [D.I. 846] (the “**Second Removal Extension Order**”), extending the Removal Deadline through and including April 15, 2025.<sup>4</sup>

**RELIEF REQUESTED**

13. By this Motion, the Liquidating Trustee requests the entry of the Proposed Order further extending the Removal Deadline through and including August 13, 2025.

14. Further, the Liquidating Trustee requests that the relief requested herein be granted without prejudice to (a) the Liquidating Trustee’s (or his successor-in-interest’s) right to seek further extensions of the Removal Deadline, and (b) any position the Liquidating Trustee (or his successor-in-interest) may take regarding whether Bankruptcy Code section 362 applies to stay any given Action.

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<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 such deadline until such time as the Court rules on this Motion.

**BASIS FOR RELIEF**

15. Bankruptcy Rule 9027 and 28 U.S.C. § 1452 govern the removal of claims and causes of action. Specifically, 28 U.S.C. § 1452 provides, in part, that for claims related to bankruptcy cases:

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.

*See* 28 U.S.C. § 1452.

16. Bankruptcy Rule 9027(a)(2) sets forth the time for a debtor to file notices to remove claims or causes of action, and provides that:

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 the 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.

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

17. Bankruptcy Rule 9006(b)(1) further provides that the Court may extend unexpired time periods, such as the Removal Deadline, without notice:

when an act is required 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 therefor is made before the expiration of the period originally prescribed or as extended by a previous order or (2) on motion made after the expiration of the specified period permit the act to be done where the failure to act was the result of excusable neglect.

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

18. As evidenced by, among other things, the First Removal Extension Order and the Second Removal Extension Order, the Court has broad authority to grant the relief requested by this Motion and further extend the Removal Deadline. *See Pacor, Inc. v. Higgins*, 743 F.2d 984, 996 n.17 (3d Cir. 1984) (stating that under Bankruptcy Rule 9006(b), “it is clear that the court may grant such an extension [of time to remove]”), *overruled in part on other grounds by Things Remembered, Inc. v. Petrarca*, 516 U.S. 124, 134-35 (1995); *Raff v. Gordon*, 58 B.R. 988, 990 (E.D. Pa. 1986) (Bankruptcy Rule 9006 authorizes the court to grant extensions of time to file a notice of removal).

19. Moreover, such relief is routinely granted in this district. *See, e.g., In re FTX Trading LTD, et al.*, Case No. 22-11068 (JTD) [D.I. 29458] (Bankr. D. Del. Mar. 6, 2025) (extending the removal deadline for 120 days); *In re Supply Source Enters., Inc.*, Case No. 24-11054 (BLS) [D.I. 290] (Bankr. D. Del. Aug. 12, 2024) (enlarging the time to file removal notices by 180 days); *In re Tritex Int’l Inc.*, Case No. 23-10520 (TMH) [D.I. 691] (Bankr. D. Del. Aug. 5, 2024) (same); *In re Near Intelligence, Inc.*, Case No. 23-11962 (TMH) [D.I. 358] (Bankr. D. Del. Mar. 22, 2024) (enlarging the time to file removal notices by 90 days); *In re Vesta Holdings, LLC*, Case No. 22-11019 (LSS) [D.I. 297] (Bankr. D. Del. Feb. 17, 2023) (enlarging the time to file removal notices by 180 days); *In re Cred Inc., et al.*, Case No. 20-12836 (JTD) [D.I. 528] (Bankr. D. Del. Feb. 19, 2021) (extending the debtors’ removal deadline by 90 days); *In re Mallinckrodt PLC, et al.*, Case No. 20-12522 (JTD) [D.I. 1214] (Bankr. D. Del. Jan. 26, 2021) (extending the debtors’ removal deadline by 120 days); *In re Boy Scouts of America and Delaware BSA, LLC*, Case No. 20-10343 (LSS) [D.I. 769] (Bankr. D. Del. June 3, 2020) (same).

20. The Liquidating Trustee submits that ample cause exists to further extend the Removal Deadline. During the most recent extension period, the Liquidating Trustee, along with his professionals, has been focused on numerous time-sensitive and urgent tasks, including, among other things:

- continuing review and analysis of all Administrative Claims asserted against the Debtors and/or the Liquidating Trust, each as part of an ongoing Administrative Claim reconciliation process, including discussions with claimants and/or their counsel;
- ongoing pending complex, and as-yet unresolved, litigation, discovery and motion practice with two claimants, Vistacal Luxury Imports, Inc. and Shamrock (La Palma) Properties II, respectively, including discussions with claimants' counsel;
- continuing review and analysis of all prepetition Claims and Interests asserted against the Debtors and/or the Liquidating Trust, preparation and filing of, to date, five (5) omnibus objections to prepetition Claims and Interests (with additional omnibus objections being prepared on a rolling basis), engaging in litigation and/or discussions with certain claimants and/or their counsel, and preparing for and attending Court hearings related to certain of the prior omnibus objections, each as part of an ongoing prepetition Claims and Interest reconciliation process;
- preparing and filing the *Liquidating Trustee's Motion for an Order Granting (I) Leave from Local Rule 3007-1(f) Related to the Filing of Substantive Omnibus Claim Objections and (II) Related Relief* [D.I. 874];
- preparing and filing the *Motion of the Liquidating Trustee for Entry of an Order Extending the Period to File and Serve Objections to Claims and Interests Through and Including July 14, 2025* [D.I. 851];
- monetizing certain estate assets and estate claims;
- continuing discussions with the Securities and Exchange Commission regarding responses to discovery requests, and related tasks;
- ongoing litigation, including motion practice, with Toccata Automotive Group, Inc. and Phil Harrison regarding a pending district court appeal of the Court's *Order Granting Debtors' Motion (I) to Enforce Enforcement Order; (II) to Sanction Toccata Automotive Group, Inc. and Phil Harrison for Contempt for Violating the Same; and (III) for Entry of an Order*

*Requiring Toccata to Pay All of the Costs and Expenses Incurred by the Debtors to Address This Matter* [D.I. 700]; and

- preparing and filing post-confirmation reports and related documents.

21. Given these and other emergent tasks, the Liquidating Trustee has not had a reasonable opportunity to thoroughly review and analyze all of the Actions, to the extent applicable, and determine whether removal is appropriate.

22. Accordingly, the Liquidating Trustee believes it is in the best interests of the Liquidating Trust and the Debtors' estates to seek a further extension of the time prescribed under Bankruptcy Rule 9027(a), from April 15, 2025 through and including August 13, 2025, to protect his ability to remove the Actions if he deems removal to be appropriate.

23. To the extent any Action exists, the other parties to any such Actions pending as of the Petition Date will suffer no prejudice from the relief sought herein. Prepetition causes of action against the Debtors are stayed by operation of the automatic stay under section 362(a) of the Bankruptcy Code.

24. The Liquidating Trustee and his professionals may become aware of Actions in the course of their continuing review of Proofs of Claim filed in these Chapter 11 Cases, at which point the Liquidating Trustee and his professionals will analyze such potential Actions to determine whether to remove any of them, if applicable.

25. Consequently, the Liquidating Trustee is seeking a third extension of the Removal Deadline to provide him and his professionals with additional time to decide whether to remove any such Actions. If the Liquidating Trustee ultimately seeks to remove any of the Actions, the parties to any such Actions will retain their rights to have such Actions remanded pursuant to 28 U.S.C. § 1452(b).



26. The Liquidating Trustee submits that the relief requested herein is reasonable and in the best interests of the Liquidating Trust, the Debtors' estates, creditors, and all stakeholders. The extension sought will afford the Liquidating Trustee (or any of his successors-in-interest) additional time to make fully informed decisions with respect to the removal of any Actions and will ensure that the Liquidating Trustee does not forfeit valuable rights under 28 U.S.C. § 1452. Accordingly, preserving the Liquidating Trustee's ability to remove the Actions, if any, imposes no delay or unnecessary burden on the litigation counterparties.

### **NOTICE**

27. Notice of this Motion will be provided to: (a) the U.S. Trustee, (b) the counterparties to the Actions, and (c) any party who has requested notice pursuant to Bankruptcy Rule 2002. The Liquidating Trustee submits that no other or further notice is necessary.

28. In light of the nature of the relief requested herein, the Liquidating Trustee submits that no other or further notice need be given.

### **CONCLUSION**

For all of the reasons set forth herein, the Liquidating Trustee respectfully requests that the Bankruptcy Court enter the Proposed Order granting the relief requested herein and granting such other and further relief as is just and proper.

*[Remainder of Page Intentionally Left Blank]*

Dated: April 8, 2025  
Wilmington, Delaware

**COLE SCHOTZ P.C.**

/s/ Justin R. Alberto

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*Co-Counsel to the Liquidating Trustee*

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

In re:

FISKER, INC., *et al.*,<sup>1</sup>

Debtors.

Chapter 11

Case No. 24-11390 (TMH)

(Jointly Administered)

Hearing Date: May 29, 2025 at 10:00 a.m. (ET)

Objection Deadline: April 22, 2025 at 4:00 p.m. (ET)

**NOTICE OF LIQUIDATING TRUSTEE’S MOTION FOR ENTRY OF AN ORDER  
FURTHER EXTENDING THE TIME PERIOD TO FILE NOTICES OF REMOVAL OF  
CLAIMS AND CAUSES OF ACTION RELATED TO THE CHAPTER 11 CASES**

**PLEASE TAKE NOTICE**, that on April 8, 2025, Matthew Dundon, solely in his capacity as the Liquidating Trustee (the “**Liquidating Trustee**”) of the Fisker Liquidating Trust filed the *Liquidating Trustee’s Motion for Entry of an Order Further Extending the Time Period to File Notices of Removal of Claims and Causes of Action Related to the Debtors’ Chapter 11 Cases* (the “**Motion**”) with the United States Bankruptcy Court for the District of Delaware (the “**Bankruptcy Court**”). A copy of the Motion is enclosed herein.

**PLEASE TAKE FURTHER NOTICE**, that objections or responses, if any, to the Motion must be filed with the Clerk of the United States Bankruptcy Court for the District of Delaware, 824 N. Market Street, 3rd Floor, Wilmington, Delaware 19801, on or before **April 22, 2025 at 4:00 p.m. (ET)** (the “**Objection Deadline**”). At the same time, you must serve a copy of the objection or response upon the undersigned counsel so as to be received on or before the Objection Deadline.

**PLEASE TAKE FURTHER NOTICE**, that, if an objection or response is timely filed and served, and such objection or response is not otherwise timely resolved, a hearing with respect to the Motion will be held before The Honorable Thomas M. Horan, United States Bankruptcy Judge, at the United States Bankruptcy Court for the District of Delaware, 824 N. Market Street, 5th Floor, Courtroom #5, Wilmington, Delaware 19801 on **May 29, 2025 at 10:00 a.m. (ET)** (the “**Hearing**”).

**PLEASE TAKE FURTHER NOTICE THAT IF NO OBJECTION OR RESPONSE IS RECEIVED IN ACCORDANCE WITH THIS NOTICE, THE COURT MAY ENTER THE RELIEF REQUESTED IN THE MOTION WITHOUT FURTHER NOTICE OR HEARING.**

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<sup>1</sup> The Debtors in these Chapter 11 Cases, along with the last four digits of their respective employer identification numbers or Delaware file numbers, are as follows: Fisker Inc. (0340); Fisker Group Inc. (3342); Fisker TN LLC (6212); Blue Current Holding LLC (6668); Platinum IPR LLC (4839); and Terra Energy Inc. (0739). The address of the Debtors’ corporate headquarters is 14 Centerpointe Drive, La Palma, CA 90623.

Dated: April 8, 2025  
Wilmington, Delaware

**COLE SCHOTZ P.C.**

/s/ Justin R. Alberto

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*Co-Counsel to the Liquidating Trustee*

**Exhibit A**  
**Proposed Order**

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

In re:

FISKER, INC., *et al.*,<sup>1</sup>

Debtors.

Chapter 11

Case No. 24-11390 (TMH)

(Jointly Administered)

**Re: D.I. \_\_\_\_**

**ORDER FURTHER EXTENDING  
THE TIME PERIOD TO FILE NOTICES OF REMOVAL OF CLAIMS  
AND CAUSES OF ACTION RELATED TO THE CHAPTER 11 CASES**

THIS MATTER having come before the Court upon the *Liquidating Trustee's Motion for Entry of an Order Further Extending the Time Period to File Notices of Removal of Claims and Causes of Action Related to the Debtors' Chapter 11 Cases* (the "**Motion**"), as more fully described in the Motion; and the Court having reviewed the Motion; and the Court finding 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; (ii) venue is appropriate pursuant to 28 U.S.C. §§ 1408 and 1409; (iii) this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2) and a final order may be entered on this matter under Article III of the U.S. Constitution; (iv) notice of the Motion was sufficient under the circumstances and no other or further notice is necessary; and (v) a sound business purpose exists for the relief granted herein; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor;

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<sup>1</sup> The Debtors in these Chapter 11 Cases, along with the last four digits of their respective employer identification numbers or Delaware file numbers, are as follows: Fisker Inc. (0340); Fisker Group Inc. (3342); Fisker TN LLC (6212); Blue Current Holding LLC (6668); Platinum IPR LLC (4839); and Terra Energy Inc. (0739). The address of the Debtors' corporate headquarters is 14 Centerpointe Drive, La Palma, CA 90623.

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED as set forth herein.
2. The Removal Deadline<sup>2</sup> is further extended through and including August 13, 2025.
3. The relief granted herein is without prejudice to (i) the Liquidating Trustee's (or any successors-in-interest's) right to seek further extensions of the Removal Deadline and (ii) any position the Liquidating Trustee (or his successors-in-interest) may take regarding whether Bankruptcy Code section 362 applies to stay any given Action.
4. The Liquidating Trustee and his authorized representatives are authorized and empowered to take any and all actions necessary to implement the terms of this Order.
5. The terms and conditions of this Order shall be immediately enforceable and effective upon its entry.
6. This Court retains jurisdiction over all matters arising from or related to the interpretation, implementation and enforcement of this Order.

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