Docket #0054 Date Filed: 8/29/2024

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

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| In re<br><br>Nu Ride Inc., *et al.*,[1]<br><br>Reorganized Debtors. | Chapter 11<br><br>Case No. 23-10831 (MFW)<br><br>(Jointly Administered) |
| Nu Ride Inc. (f/k/a Lordstown Motors Corp.) and Lordstown EV Corporation,<br><br>Plaintiffs,<br><br>v.<br><br>Hon Hai Precision Industry Co., Ltd. (a/k/a Hon Hai Technology Group), Foxconn EV Technology, Inc., Foxconn Ventures Pte. Ltd., Foxconn (Far East) Limited, and Foxconn EV System LLC,<br><br>Defendants. | Adv. No. 23-50414 (MFW)<br><br>**Re: A.D.I. 1, 45, 47** |

**DEFENDANTS' MOTION TO EXTEND TIME TO FILE RESPONSIVE PLEADING**

Hon Hai Precision Industry Co., Ltd (a/k/a Hon Hai Technology Group), Foxconn EV Technology, Inc., Foxconn Ventures Pte. Ltd., Foxconn (Far East) Limited, and Foxconn EV System LLC (collectively, "Defendants"), Defendants in the above-captioned adversary proceeding, by and through their undersigned counsel, hereby move (the "Motion") for entry of an order, substantially in the form attached hereto as **Exhibit A** (the "Order"), pursuant to Rules 7012 and 9006(b)(1) of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") and Rules 7012-2 and 9006-2 of the Local Rules of Bankruptcy Practice and Procedure of the United

[1] The Reorganized Debtors and the last four digits of their respective taxpayer identification numbers are: Lordstown Motors Corp. (3239); Lordstown EV Corporation (2250); and Lordstown EV Sales LLC (9101). The Reorganized Debtors' service address is: c/o William Gallagher, CEO, M3 Partners, 1700 Broadway, 19th Floor, New York, NY 10019.


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States Bankruptcy Court for the District of Delaware (the "Local Rules"), extending their time to file a responsive pleading to the *Adversary Complaint* (A.D.I. 1) (the "Complaint") filed by Plaintiffs Lordstown Motors Corp. (n/k/a Nu Ride Inc.) and Lordstown EV Corporation (collectively, "Plaintiffs") until thirty (30) days after the later of (i) a final ruling on the Stay Motion (defined below) in this Court or any subsequent similar motion in the District Court and (ii) the expiration of the stay. In support of the Motion, Defendants respectfully state as follows:

**Background**

1. Defendants moved to dismiss the Complaint in favor of arbitration and for failure to state a claim on September 29, 2023 (A.D.I. 8) ("Motion to Dismiss").

2. On August 1, 2024, the Court entered its *Order* (A.D.I. 32), granting in part and denying in part Defendants' Motion to Dismiss, and issued its *Memorandum Opinion* (A.D.I. 31) in support of its Order.

3. By operation of Bankruptcy Rule 7012(a), August 15, 2024 was the deadline for the Defendants to file a responsive pleading to the Counts of the Complaint that were not dismissed. That deadline was extended to August 22, 2024, by the *Stipulation Extending Time to Answer Complaint* (A.D.I. 45) and was further extended to August 29, 2024, by the *Second Stipulation Extending Time to File a Responsive Pleading to the Complaint and a Response to the Motion for Reconsideration* (A.D.I. 47).

4. On August 12, 2024, Defendants filed a Notice of Appeal (A.D.I. 33) of the *Order* insofar as it denied the Motion to Dismiss in favor of arbitration.

5. Defendants requested that Plaintiffs acknowledge that this proceeding is automatically stayed pending appeal consistent with the Supreme Court's controlling decision in *Coinbase, Inc v. Bielski*, 599 U.S. 736 (2023). Plaintiffs refused. Therefore, contemporaneously herewith, Defendants filed *Defendants' Motion to Stay Pending Appeal on Arbitrability* (A.D.I.

52) (the "Stay Motion") and *Defendants' Opening Brief in Support of Their Motion to Stay Proceedings Pending Appeal on Arbitrability* (A.D.I. 53) (the "Stay Brief") seeking to stay this adversary proceeding pending a final ruling on Defendants' appeal of the Court's Order denying arbitration.

6. Defendants requested that Plaintiffs extend their deadline to respond to the Complaint while the Court considers the Stay Motion. Plaintiffs refused, necessitating this Motion.

**Basis for Relief**

7. Bankruptcy Rule 7012(a)(1) provides, in relevant part, that "unless a different time is fixed by order of the court: (1) if the court denies [a] motion [to dismiss] . . ., [then] the responsive pleading shall be served within 14 days after notice of the court's action[.]" Fed. R. Bankr. P. 7012(a)(1).

8. Bankruptcy Rule 9006(b)(1) permits the Court to extend this deadline "for cause shown" upon a request made before the period expires. Fed. R. Bankr. P. 9006(b)(1).

9. Additionally, Local Rule 7012-2 provides that "[t]he deadline to plead or move in response to a complaint or other pleading in an adversary proceeding may be extended . . . by order of the Court."[2]

10. Cause exists to extend Defendants' time to file a responsive pleading. The Supreme Court's *Coinbase* decision requires this Court to stay this adversary proceeding, including all deadlines herein, while Defendants' appeal on the arbitration issues is pending. But Plaintiffs have

[2] Local Rule 9006-2 provides that "if a motion to extend the time to take any action is filed before the expiration of the period prescribed by the Code, the Fed. R. Bankr. P., these Local Rules or Court order, [then] the time shall automatically be extended until the Court acts on the motion, without the necessity for the entry of a bridge order." Del. Bankr. L.R. 9006-2. Accordingly, Defendants' deadline to file a responsive pleading is extended by operation of Local Rule 9006-2 until the Court acts on the Motion.

refused to acknowledge that the stay is in place and have refused to extend the responsive pleading deadline pending Defendants' Stay Motion. As the Supreme Court recognized in *Coinbase*, "[a]bsent an automatic stay of [lower] court proceedings, Congress's decision in § 16(a) to afford a right to an interlocutory appeal would be largely nullified. If the [lower] court could move forward with pre-trial and trial proceedings while the appeal on arbitrability was ongoing, then many of the asserted benefits of arbitration . . . would be irretrievably lost—even if the court of appeals later concluded that the case actually had belonged in arbitration all along." *Coinbase*, 599 U.S. at 743.

11. For similar reasons, forcing Defendants to respond to the Complaint while the Stay Motion is pending would be inefficient and would nullify, in part, the benefits of arbitration rights that Defendants seek to vindicate on appeal. If Defendants are successful on the Stay Motion, then all deadlines in this action are stayed and tolled pending appeal. And if Defendants prevail on appeal, then the action will be dismissed in favor of arbitration, rendering a responsive pleading an unnecessary and wasteful nullity. Thus, extending Defendants' deadline to file a responsive pleading until after the Stay Motion is adjudicated is necessary to protect Defendants from potential wasteful and unnecessary pleading.

WHEREFORE, Defendants respectfully request that the Court extend Defendants' time to respond to the Complaint in this action until thirty (30) days after the later of (i) a final ruling on the Stay Motion in this Court or any subsequent similar motion in the District Court and (ii) the expiration of the stay, and grant such other and further relief as is just and proper under the circumstances.

Dated: August 29, 2024
Wilmington, Delaware

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**Exhibit A**

**Proposed Order**

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

| | |
|---|---|
| In re<br><br>Nu Ride Inc., *et al.*,[1]<br><br>Reorganized Debtors. | Chapter 11<br><br>Case No. 23-10831 (MFW)<br><br>(Jointly Administered) |
| Nu Ride Inc. (f/k/a Lordstown Motors Corp.) and Lordstown EV Corporation,<br><br>Plaintiffs,<br><br>v.<br><br>Hon Hai Precision Industry Co., Ltd. (a/k/a Hon Hai Technology Group), Foxconn EV Technology, Inc., Foxconn Ventures Pte. Ltd., Foxconn (Far East) Limited, and Foxconn EV System LLC,<br><br>Defendants. | Adv. No. 23-50414 (MFW) |

**ORDER EXTENDING TIME TO FILE RESPONSIVE PLEADING**

Upon the motion (the "Motion")[2] of Defendants for entry of an Order, pursuant to Bankruptcy Rules 7012 and 9006(b)(1) and Local Rules 7012-2 and 9006-2, extending the Response Date until thirty (30) days after the later of (i) a final ruling on the Stay Motion in this Court or any subsequent similar motion in the District Court, and (ii) the expiration of the stay; the Court having reviewed the Motion and any responses thereto; and the Court having determined

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[2] Capitalized terms not defined herein are defined in the Motion.

that the legal and factual bases set forth in the Motion entitle Defendants to the relief granted herein; and after due deliberation and sufficient cause appearing therefor, it is hereby ORDERED that:

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED as set forth herein.

2. The period within which Defendants may file a responsive pleading is enlarged and extended through the date that is thirty (30) days after the later of (i) pending a final ruling on the Stay Motion in this Court or any subsequent similar motion in the District Court and (ii) the expiration of the stay.

3. This Order is without prejudice to Defendants' right to seek further extensions of the Response Date.

4. The terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

**CERTIFICATE OF SERVICE**

I, Echo Yi Qian, certify that I am not less than 18 years of age, and that service of the foregoing was caused to be made on August 29, 2024, via CM/ECF upon those parties registered to receive such electronic notifications and served additionally as indicated below.

Date: August 29, 2024 */s/ Echo Yi Qian*
Echo Yi Qian (No. 7330)

*VIA ELECTRONIC MAIL*

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