

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

In re:)	
	)	Chapter 11
T&S FOOD SERVICES II, LLC, ¹	)	Case No. 25-11178 (TMH)
)	
Debtor.	)	Obj. Deadline: Sept. 24, 2025 at 4:00 p.m. (ET)
	)	Hearing Date: Oct. 1, 2025 at 2:00 p.m. (ET)

**DEBTOR’S MOTION FOR AN ORDER, PURSUANT TO SECTION 365(d)(4) OF
THE BANKRUPTCY CODE, EXTENDING THE DEADLINE FOR THE DEBTOR
TO ASSUME OR REJECT UNEXPIRED LEASES OF NON-RESIDENTIAL
REAL PROPERTY UNDER WHICH THE DEBTOR IS A LESSEE**

T&S Food Services II, LLC, the debtor and debtor in possession in the above-captioned case (the “**Debtor**”) hereby submits this motion (this “**Motion**”) for entry of an order, substantially in the form attached hereto as **Exhibit A** (the “**Proposed Order**”) pursuant to section 365(d)(4) of title 11 of the United States Code, 11 U.S.C. §§ 101 et seq. (the “**Bankruptcy Code**”), granting the Debtor a ninety (90) day extension, through and including January 15, 2026, of the statutory deadline for the Debtor to assume or reject any leases, subleases and other agreements under which the Debtor is a lessee and that may be considered unexpired leases of non-residential real property under applicable law (collectively, the “**Real Property Leases**”). In support of the Motion, the Debtor respectfully states as follows:

JURISDICTION

1. The Court has jurisdiction to consider this Motion 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 matter is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper in the Court pursuant to 28 U.S.C. §§ 1408 and 1409.

¹ The last four digits of the Debtor’s federal tax identification number are 4244 and the Debtor’s mailing address is 201 B West Butler Road, Suite 1101, Mauldin, South Carolina 29662.

Pursuant to rule 9013-1(f) of the Local Rules of the United States Bankruptcy Court for the District of Delaware (the “**Local Rules**”), the Debtor consents to the entry of a final order or judgment 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.

2. The statutory predicate for the relief requested herein is section 365(d)(4) of the Bankruptcy Code.

BACKGROUND FACTS

3. On June 19, 2025 (the “**Petition Date**”), the Debtor filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code (the “**Chapter 11 Case**”) in the United States Bankruptcy Court for the District of Delaware (the “**Court**”). The Debtor is operating its business and managing its property as a debtor in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee or examiner has been requested and no committee has been appointed in this Chapter 11 Case.

4. The Debtor owns and operates eight (8) Denny’s restaurants under franchise agreements with Denny’s affiliate, DFO, LLC. The Debtor’s presence spans multiple states, including Louisiana, Illinois and Missouri. A detailed description of the Debtor and its business, organizational structure, capital structure, and the circumstances that led to the commencement of this Chapter 11 Case is set forth in the *Omnibus Declaration of Rolando Allen in Support of First Day Motions and Chapter 11 Case* filed on June 19, 2025 [D.I. 3].

RELIEF REQUESTED

5. Pursuant to section 365(d)(4) of the Bankruptcy Code, a debtor has an initial 120-day period following the filing of a bankruptcy petition in which to elect to assume or reject unexpired leases of non-residential real property under which the debtor is a lessee. *See* 11 U.S.C.

§ 365(d)(4). Section 365(d)(4)(B) of the Bankruptcy Code provides, however, that, upon a motion by the debtor, the Court may extend the initial 120-day deadline by ninety (90) days “for cause.” 11 U.S.C. § 365(d)(4)(B). Any subsequent extensions of the deadline to assume or reject unexpired leases of non-residential real property under which the debtor is a lessee may only be granted with the prior written consent of the affected lessors. 11 U.S.C. § 365(d)(4)(B)(ii). Under section 365(d)(4) of the Bankruptcy Code, if the debtor fails to assume or reject an unexpired lease of non-residential real property under which the debtor is a lessee prior to the applicable deadline, such lease will automatically be deemed rejected. 11 U.S.C. § 365(d)(4)(A).

6. Pursuant to section 365(d)(4) of the Bankruptcy Code, the Debtor initially has until October 17, 2025, to assume or reject any Real Property Leases (the “**Assumption/Rejection Period**”).

7. By this Motion, the Debtor requests the Court enter the Proposed Order, substantially in the form attached hereto as **Exhibit A**, extending the Assumption/Rejection Period by ninety (90) days, through and including January 15, 2026, pursuant to section 365(d)(4) of the Bankruptcy Code. Pursuant to section 365(d)(4)(B)(ii) of the Bankruptcy Code, such an extension would be without prejudice to the Debtor’s right to request a further extension of the Assumption/Rejection Period with the consent of the affected lessors.

BASIS FOR RELIEF

8. The Debtor submits that ample cause exists to extend the Assumption/Rejection Period as requested herein. For the reasons set forth below, the Debtor requires additional time to determine whether any of the Real Property Leases should ultimately be assumed or rejected. The requested extension of the Assumption/Rejection Period is consistent with the goals of the Bankruptcy Code and will not unduly prejudice any lessors under any Real Property Leases (collectively, the “**Lessors**”).

9. Since the commencement of this Chapter 11 Case, the Debtor has worked diligently to ensure a smooth transition into chapter 11, stabilizing its operations to preserve and maximize the value of its estate for the benefit of all stakeholders. To that end, the Debtor has, among other things: (i) expended significant resources for the marketing and sale processes to sell substantially all of its assets (the “**Sale**”); (ii) prepared bidding procedures and filed a sale motion which proposes a sale hearing at the beginning of December with closing of the Sale by December 31, 2025; (iii) retained professionals to assist with the Sale; (iv) worked with the Office of the United States Trustee and other significant parties in interest to resolve a number of comments and objections with respect to various issues that have arisen in this Chapter 11 Case; (v) responded to numerous creditor inquiries and demands; and (vi) handled various other tasks related to the administration of the Debtor’s estate and this Chapter 11 Case.

10. As highlighted above, the Debtor has worked diligently to preserve and maximize the value of the Debtor’s estate for the benefit of all stakeholders. The Debtor continues to do so, and that includes analyzing the Debtor’s operational assets, including the Real Property Leases. The Debtor files this Motion out of an abundance of caution to preserve the rights of the Debtor to assume and assign, or reject, any Real Property Leases to maximize value for its stakeholders.

11. The Third Circuit Court of Appeals has recognized that “nothing prevents a bankruptcy court from granting an extension because a particular debtor needs additional time to determine whether the assumption or rejection of particular leases is called for by the plan of reorganization that it is attempting to develop.” *In re Channel Home Ctrs., Inc.*, 989 F.2d 682, 689 (3d Cir. 1993). As the bankruptcy court in one frequently cited decision observed, there are essentially three factors that are weighed by the courts in determining whether cause exists to extend the deadline to assume or reject unexpired leases of non-residential real property:

- (i) whether the leases are an important asset of the estate such that the decision to assume or reject would be central to any plan of reorganization that may be proposed by the debtor;
- (ii) whether the case is complex and involves large numbers of leases; and
- (iii) whether or not the debtor has had sufficient time to intelligently appraise the value of each lease for purposes of a plan of reorganization.

In re Wedtech Corp., 72 B.R. 464, 471-72 (Bankr. S.D.N.Y. 1987); accord *Channel Home Ctrs.*, 989 F.2d at 689 (noting that “it is permissible for a bankruptcy court to consider a particular debtor’s need for more time in order to analyze leases in light of the plan it is formulating”).

12. The Debtor submits that the *Wedtech* factors are readily satisfied in this Chapter 11 Case. First, until the Debtor, in its business judgment, determines otherwise, the Real Property Leases are a potentially important asset of the Debtor’s estate, and therefore the decision to assume or reject any Real Property Lease is necessarily of central importance to the Debtor’s efforts to preserve and maximize the value of its estate for the benefit of all stakeholders. As a result, the Debtor must be afforded sufficient time to determine which of any Real Property Leases should be assumed.

13. Moreover, as set forth above, the Debtor has devoted a significant amount of time, energy and resources to tasks other than evaluating any Real Property Leases, including pursuing the Sale, and therefore an extension of the Assumption/Rejection Period is necessary to allow the Debtor sufficient time to fully evaluate all of the Real Property Leases.

14. Given the inherent fluidity in this Chapter 11 Case, circumstances may arise that would cause the Debtor to re-evaluate the need to continue leasing a particular property. In the absence of an extension of the Assumption/Rejection Period, the Debtor would be prematurely forced to assume Real Property Leases that may later prove to be burdensome, which could give

rise to unnecessary administrative expense claims against the Debtor's estate and jeopardize the Debtor's ability to successfully prosecute this Chapter 11 Case. Alternatively, the Debtor could be prematurely forced to reject certain Real Property Leases that ultimately could have benefited the Debtor's estate. Among other things, the extension requested herein will decrease the risk of such negative outcomes for the Debtor's estate and will therefore benefit all stakeholders.

15. Furthermore, there should be no prejudice to the Lessors as a result of the requested extension of the Assumption/Rejection Period. Pending its election to assume or reject any Real Property Lease, the Debtor will continue to perform its undisputed obligations arising from and after the Petition Date in a timely fashion and as required by the Bankruptcy Code. As a result, the requested extension will afford the Debtor the opportunity to preserve and maximize estate value, without prejudicing the rights of the Lessors.

NOTICE

16. Notice of this Motion will be provided to the following parties: (i) the Office of the United States Trustee for the District of Delaware (Attn: Jonathan Lipshie (jon.lipshie@usdoj.gov)); (ii) the Debtor's twenty (20) largest unsecured creditors; (iii) Liberty Bank & Trust and its counsel of record; (iv) the United States Attorney for the District of Delaware; (v) the United States Attorneys for the districts in which the Debtor conducts business; (vi) the state attorney generals for all states in which the Debtor conducts business; (vii) the Internal Revenue Service; (viii) all Lessors and their counsel of record, if known; and (ix) any party that has requested notice pursuant to Bankruptcy Rule 2002. Due to the nature of the relief requested herein, the Debtor submits that no other or further notice need be provided.

WHEREFORE, the Debtor respectfully requests entry of the Proposed Order, substantially in the form attached hereto as **Exhibit A**, granting the relief requested herein, and granting such other relief as is just and proper.

Dated: September 10, 2025

CLARK HILL PLC

/s/ Karen M. Grivner

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Counsel for T&S Food Services II, LLC

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

In re:)	
	)	Chapter 11
T&S FOOD SERVICES II, LLC, ¹	)	Case No. 25-11178 (TMH)
)	
Debtor.	)	Obj. Deadline: Sept. 24, 2025 at 4:00 p.m. (ET)
	)	Hearing Date: October 1, 2025 at 2:00 p.m. (ET)

NOTICE OF MOTION AND HEARING

PLEASE TAKE NOTICE that, on September 10, 2025, the above-captioned debtor and debtor in possession T&S Food Services II, LLC (the “**Debtor**”) filed the *Debtor’s Motion for an Order, Pursuant to Section 365(d)(4) of the Bankruptcy Code, Extending the Deadline for the Debtor to Assume or Reject Unexpired Leases of Non Residential Real Property Under Which the Debtor is a Lessee* (the “**Motion**”) with the United States Bankruptcy Court for the District of Delaware (the “**Court**”).

PLEASE TAKE FURTHER NOTICE that, any responses or objections to the Motion must be in writing and filed with the Clerk of the Court, 824 North Market Street, 3rd Floor, Wilmington, Delaware 19801 on or before **September 24, 2025 at 4:00 p.m. (prevailing Eastern Time)** (the “**Objection Deadline**”). At the same time, you must serve a copy of the objection upon the undersigned counsel to the Debtor so as to be received on or before the Objection Deadline.

PLEASE TAKE FURTHER NOTICE that, if any objections to the Motion are received, the Motion and such objections may be considered at a hearing before the Honorable Thomas M. Horan, United States Bankruptcy Judge for the District of Delaware, at the Court, 824 North

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Market Street, 3rd Floor, Courtroom No. 7, Wilmington, Delaware 19801 on **October 1, 2025 at 2:00 p.m. (prevailing Eastern Time).**

PLEASE TAKE FURTHER NOTICE THAT, IF NO OBJECTIONS TO THE MOTION ARE TIMELY FILED, SERVED AND RECEIVED IN ACCORDANCE WITH THIS NOTICE, THE COURT MAY GRANT THE RELIEF REQUESTED IN THE MOTION WITHOUT FURTHER NOTICE OR HEARING.

Dated: September 10, 2025

CLARK HILL PLC

/s/ Karen M. Grivner

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Counsel for T&S Food Services II, LLC

EXHIBIT A

Proposed Order

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

In re:)	
	)	Chapter 11
T&S FOOD SERVICES II, LLC, ¹	)	Case No. 25-11178 (TMH)
Debtor.	)	Re Docket No. ____
)	

**ORDER, PURSUANT TO SECTION 365(d)(4) OF THE BANKRUPTCY
CODE, EXTENDING THE DEADLINE FOR THE DEBTOR TO ASSUME
OR REJECT UNEXPIRED LEASES OF NON-RESIDENTIAL REAL
PROPERTY UNDER WHICH THE DEBTOR IS A LESSEE**

Upon the motion (the “**Motion**”)² of the Debtor for entry of an order (this “**Order**”), pursuant to section 365(d)(4) of the Bankruptcy Code, granting the Debtor an extension of the statutory deadline for the Debtor to assume or reject the Real Property Leases through and including January 15, 2026; and this Court having 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 this Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and the Debtor having consented to the entry of a final order by this Court; and this Court having found that venue of this proceeding and the Motion in this District is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been given; and it appearing that no other or further notice of the Motion is required; and this Court having found that the relief requested by the Motion is in the best interests of the Debtor’s estate, its creditors, and other parties in interest; and after due deliberation thereon; and good and sufficient cause appearing therefor,

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² Capitalized terms not defined herein shall have the meaning ascribed to them in the Motion.

IT IS HEREBY ORDERED THAT:

1. The Motion is granted as set forth herein.
2. Pursuant to section 365(d)(4) of the Bankruptcy Code, the deadline under section 365(d)(4) of the Bankruptcy Code for the Debtor to assume or reject any Real Property Leases is hereby extended through and including January 15, 2026 (the “**Assumption/Rejection Period**”).
3. This Order shall be without prejudice to the Debtor’s right to seek a further extension of the Assumption/Rejection Period with the consent of the affected Lessors.
4. This Court retains jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.