

UNITED STATES BANKRUPTCY COURT

EASTERN DISTRICT OF LOUISIANA

IN RE:	*	CASE NO. 18-11102
	*	
ABE’S BOAT RENTALS, INC.	*	SECTION “A”
	*	
<i>Debtor</i>	*	CHAPTER 11
	*	

**MOTION TO EXTEND EXCLUSIVE PERIOD IN WHICH DEBTOR HAS TO
FILE A CHAPTER 11 PLAN AND TIME IN WHICH DEBTOR MUST GAIN
ACCEPTANCE OF ITS PLAN IN ORDER TO MAINTAIN EXCLUSIVE PERIOD**

NOW INTO COURT, through undersigned counsel, comes debtor and debtor-in-possession, Abe’s Boat Rentals, Inc. (“Debtor”), who respectfully files this *Motion to Extend Exclusive Period in Which Debtor Has to File a Chapter 11 Plan and Time in which Debtor Must Gain Acceptance of its Plan in Order to Maintain Exclusive Period* (the “Motion”) and, in support, represents as follows:

Jurisdiction, Venue and Statutory Authority

1. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1334 and 157 and this is a core proceeding pursuant to 28 U.S.C. §§ 157(b)(2).
2. Venue is proper in this District pursuant to 28 U.S.C. § 1408 and 1409.
3. The statutory authority for the relief requested is 11 U.S.C. §§ 105 and 1121 and procedurally this matter is governed by Federal Rules of Bankruptcy Procedure 9014.

Background

4. On April 27, 2018 (the “Petition Date”), the Debtor filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code. The Debtor is continuing to operate its business

and manage its property as a debtor in possession pursuant to §§ 1107(a) and 1108 of the Bankruptcy Code.

5. The Debtor, a domestic corporation authorized to do and doing business in the State of Louisiana, Parish of Plaquemines, operates sixteen boats, providing various supplies to offshore oil rigs.

6. Pursuant to 11 U.S.C. § 1121(b), the period in which the Debtor must file a Chapter 11 Plan in order to maintain its exclusive period (the 120 day period) will expire on August 27, 2018. Pursuant to Section 1121(b) of the Bankruptcy Code, Debtor must gain acceptance of its Plan by October 24, 2018, to maintain the exclusive period.

7. Pursuant to Memo to Record [ECF No. 141] entered by the Court on June 18, 2018, the Court directed that Debtor file a plan and disclosure statement by no later than August 31, 2018.

8. Debtor is in the process of preparing its plan and disclosure statement and anticipates filing both on or before the August 31, 2018 deadline established by the Court. However, arguably, the exclusive period has not been extended, and will expire August 27, prior to the August 31, 2018 plan filing deadline.

Basis for Relief Requested

9. Pursuant to § 1121(d) of Bankruptcy Code, the Court may for cause increase the 120 day and 180 day periods. The determination of cause under § 1121(d) is a fact-specific inquiry and the Court has broad discretion in extending or terminating exclusivity. *See In re Adelphia Communications Corp.*, 352 B.R. 578, 586 (Bankr. S.D.N.Y. 2006). Common factors a court should consider in deciding whether to grant an extension of exclusivity: (a) the size and complexity of the case, (b) the necessity for sufficient time to permit the debtor to negotiate a plan

of reorganization and prepare adequate information, (c) the existence of good faith progress toward reorganization, (d) the fact that the debtor is paying its bills as they become due; (e) whether the debtor has demonstrated reasonable prospects for filing a vehicle plan; (f) whether the debtor has made progress in negotiations with its creditors; (g) the amount of time which has elapsed in the case; (h); whether the debtor is seeking an extension of exclusivity in order to pressure creditors to submit to the debtor's reorganization demands; and (j) whether an unresolved contingency exists. *Adelphia*, 352 B.R. at 587.

10. The Debtor requests only a four (4) day extension of the exclusive period so that it coincides with the plan filing deadline established by the Court.

11. Since the Petition Date, Debtor has made considerable progress toward successfully reorganizing its affairs. Its billings and day rates have improved, and it has made changes to in-house accounting procedures and personnel, with the assistance of Patrick Gros, CPA, designed to ensure the proper controls are in place and to assist with financial planning.

12. The Debtor's case has several complications, including change of counsel, maritime law issues, delayed collections, involvement of the owner's ex-wife (alleged holder a 1/2 former community interest in the company's stock) and changes to the company's internal accounting and control procedures. Additional time to focus on collections and work on the company's accounting issues will enable Debtor to provide more accurate information regarding its finances and projections, and enable Debtor to diligently engage in good faith negotiations with creditors with an aim toward a consensual plan.

13. Further, the claims bar date for non-governmental claims did not expire until August 20, 2018, and Debtor has not had an opportunity to review and analyze claims since

expiration of the bar date. Additional time will enable Debtor to provide a more accurate analysis of claims as part of its disclosure statement.

14. For the foregoing reasons, Debtor submits that the estate will be best served by an extension of the plan filing and acceptance deadlines.

15. No other motion for an extension of the plan filing and acceptance deadlines has been made to this Court.

WHEREFORE, Debtor prays that this Court extend the 120 day exclusive period for Debtor to file a plan for an additional four (4) days, to August 31, 2018, and the 180 day period to gain acceptance of the plan be extended through December 31, 2018, and for such other and further relief as the Court deems just and equitable.

Respectfully submitted,

CONGENI LAW FIRM, LLC

BY: /s/Leo D. Congeni
LEO D. CONGENI (#25626)
424 Gravier Street
New Orleans, LA 70130
Telephone: 504-522-4848
Facsimile: 914-992-0378
Email: leo@congenilawfirm.com

Attorney for Abe's Boat Rentals, Inc.