

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
BEAUMONT DIVISION

IN RE:

LEWIS SPECIALTIES TRUCKING  
SERVICE, LLC  
5010 Cobblestone  
Groves, TX 77619  
xx-xxx0347

§  
§  
§  
§  
§  
§

CASE NO.17-10270  
CHAPTER 11

DEBTOR(S)

DEBTOR'S MOTION TO EXTEND DEADLINE FOR  
FILING CHAPTER 11 PLAN AND DISCLOSURE STATEMENT NUNC PRO TUNC, AND  
EXTEND DEADLINE FOR CONFIRMATION OR IN THE ALTERNATIVE TO ALLOW  
PARTY IN INTEREST TO FILE A CHAPTER 11 PLAN AND DISCLOSURE STATEMENT  
PURSUANT TO 11 U.S.C. § 105

**Your rights may be affected by the relief sought in this pleading. You should read this pleading carefully and discuss it with your attorney, if you have one in this bankruptcy case. If you oppose the relief sought by this pleading, you must file a written objection, explaining the factual and/or legal basis for opposing the relief.**

**No hearing will be conducted on this Motion/Objection/Application unless a written objection is filed with the Clerk of the United States Bankruptcy Court and served upon the party filing this pleading WITHIN TWENTY-ONE (21) DAYS FROM THE DATE OF SERVICE shown in the certificate of service unless the Court shortens or extends the time for filing such objection. If no objection is timely served and filed, this pleading shall be deemed to be unopposed, and the Court may enter an order granting the relief sought. If an objection is filed and served in a timely manner, the Court will thereafter set a hearing with appropriate notice. If you fail to appear at the hearing, your objection may be stricken. The Court reserves the right to set a hearing on any matter.**

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

COME NOW, LEWIS SPECIALTIES TRUCKING SERVICE, LLC, through counsel, and files this Debtor's Motion to Extend Deadline for Filing Chapter 11 Plan, Disclosure

Statement Nunc Pro Tunc and to Extend the Deadline for Confirmation or in the alternative, to allow the a party in interest to file a Chapter 11 Plan and Disclosure Statement Pursuant to 11 U.S.C. § 105 and would respectfully show the Court as follows:

**JURISDICTION AND RELIEF REQUESTED**

1. This Court has jurisdiction over the Motion pursuant to 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding within the meaning of 28 US.C. § 157(b)(2)(A), (M), and (O). Venue of this Motion is proper in this District pursuant to 28 U.S.C. §§ 1408 and 1409.

2. Debtor is seeking Court approval to extend the deadline nunc pro tunc for the debtor or its shareholder to file a Chapter 11 plan and disclosure statement and to extend the confirmation deadline imposed upon the debtor pursuant to 11 U.S.C. §105. The debtor or its shareholder is requesting until April 22, 2018 to file a Chapter 11 plan and disclosure statement.

**PROCEDURAL HISTORY AND BACKGROUND FACTS**

3. On May 5, 2017, the Debtor filed its voluntary petition for relief under Chapter 11 of the Bankruptcy Code. The Debtor continues to operate its business and manage its properties as a debtor in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee, examiner, or creditors' committee has been appointed in this case.

4. The debtor provides transportation services which include hauling aggregates, cement, or building products for businesses. The debtor arranges for independent contract drivers to use the debtor's equipment to provide the transportation services that are needed to its client.

5. The debtor commenced this case because it was paying high interest on a merchant loan, its insurance premiums tripled at the beginning of the year, and its work flow was slower than usual for the first quarter of 2017.

6. The debtor's 341 meeting was held and concluded on June 16, 2017.

7. Since filing, the debtor has made many agreements with its creditors and improved its cash flow. The debtor has agreements with all its secured creditors. It also believes a plan with a

significant return to unsecured creditors is likely. It also believes a feasible plan is possible. It anticipates filing one as soon as this Court extends the deadline to do so. The delay in filing a Chapter 11 plan and disclosure statement was the debtor's previous operating reports indicated the debtor had negative cash flow because the debtor was impacted by Hurricane Harvey and there was a delay in its receivables.

8. Pursuant to 11 U.S.C. § 1121(e)(2), the 300 day deadline for the debtor to file a Chapter 11 plan and disclosure statement imposed by the Bankruptcy Code was March 1, 2018.

9. The missed deadline was just brought to counsel's attention today via an email from the U.S. Trustee's office. While the petition states the debtor is a small business debtor, and counsel should have know of the deadline, she was not aware. In the past Chapter 11 cases that Mrs. Barron has co-counseled with Mr. Barron a designation from the U.S. Trustee's office indicated that the case was a small business and on the docket included a deadline for the Chapter 11 plan and disclosure statement. Barron and Barron, LLP uses that designation to calendar the deadline to file a plan and disclosure statement. Since there was no designation on the docket, the deadline was not calendered.

10. Mr. Robert E. Barron is lead counsel on this Chapter 11 case. On February 27, 2018, Mr. Barron started medical leave from his office because of a heart transplant that occurred on February 27, 2018. He is still in Houston on medical leave.

11. The debtor seeks an extension of the deadline to file a Chapter 11 plan, disclosure statement, and confirmation deadline nunc pro tunc or in the alternative to allow the Debtor's shareholder, a party in interest, the ability to file a Chapter 11 plan and disclosure statement within thirty (30) days of entry of this Order. *In re: Riviera Drilling & Exploration Company*, 502 B.R. 863 (B.A.P. 10th Cir. 2013).

12. *In re Simbaki, Ltd.*, 522 B.R. 917 (Bankr. S.D. Tex. 2014), *the Court held that a non-debtor plan proponent may still propose and obtain confirmation of a plan after the statutory deadline.*

WHEREFORE, Debtor prays that the extension of the deadline to file a Chapter 11 plan, disclosure statement, and confirmation deadline nunc pro tunc or in the alternative to allow the Debtor's shareholder, a party in interest, the ability to file a Chapter 11 plan and disclosure statement within thirty (30) days of entry of this Order and that they have such other and further relief as may be just.

DATED: March 22, 2018

Respectfully submitted,  
BARRON & BARRON, L.L.P  
P. O. Box 1347  
NEDERLAND, TEXAS 77627  
(409) 727-0073

BY:/s/ Diane S. Barron  
Diane S. Barron  
TBA NO. 24043310

ATTORNEY FOR DEBTOR

CERTIFICATE OF SERVICE

I hereby certify that on March 22, 2018, a true and correct copy of the above and foregoing Debtor's Motion to Extend Deadline for Filing Chapter 11 Plan, Disclosure Statement Nunc Pro Tunc and to Extend the Deadline for Confirmation or in the alternative, to allow the a party in interest to file a Chapter 11 Plan and Disclosure Statement Pursuant to 11 U.S.C. § 105 shall be served via electronic means, if available, otherwise by regular, first class mail, to the following:

Ally Financial Inc.  
c/o Beasley, Hightower & Harris, P.C.  
1601 Elm Street  
Suite 4350  
Dallas, TX 75201

Patrick M. Lynch  
Quilling, Selander, Lownds, et al  
2001 Bryan Street  
Suite 1800  
Dallas, TX 75201

FactOne Capital  
c/o Christopher V. Arisco  
Padfield & Stout, LLP  
421 W. Third Street, Suite 910  
Fort Worth, TX 76102

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Financial Pacific Leasing, Inc.  
c/o Christopher V. Arisco  
Padfield & Stout, LLP  
421 W. Third Street, Suite 910  
Fort Worth, TX 76102

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1504 S. 21st  
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Lewis Specialties Trucking Service, LLC  
5010 Cobblestone  
Groves, TX 77619

Neches Federal Credit Union  
c/o James W. King  
6420 Wellington Place  
Beaumont, TX 77706

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350 Pine Street  
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Beaumont, TX 77701  
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Jill Swearingen Pierce  
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Office of the U.S. Trustee  
110 N. College Ave.  
Suite 300  
Tyler, TX 75702

/s/ Diane S. Barron  
Diane S. Barron

Label Matrix for local noticing

0540-1  
 Case 17-10270  
 Eastern District of Texas  
 Beaumont  
 Thu Mar 22 16:37:29 CDT 2018  
 Ally Financial Inc.  
 c/o Beasley, Hightower & Harris, P.C.  
 1601 Elm Street  
 Suite 4350  
 Dallas, TX 75201-7234

Ally  
 P.O. Box 380901  
 Bloomington, MN 55438-0901

Ally Bank  
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 DBA BFS Capital  
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 Beaumont, TX 77701-2254

The following recipients may be/have been bypassed for notice due to an undeliverable (u) or duplicate (d) address.

(u)Pawnee Leasing Corporation

(d)TEXAS WORKFORCE COMMISSION  
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 Mailable recipients 50  
 Bypassed recipients 2  
 Total 52