

Hearing Date: September 28, 2017 at 10 a.m. EST

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

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In re	:	Chapter 11
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Gawker Media LLC, <i>et al.</i> ,	:	Case No. 16-11700 (SMB)
	:	
Debtors.	:	(Jointly Administered)
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**APPLICATION OF SOCIETY OF PROFESSIONAL JOURNALISTS, REPORTERS
COMMITTEE FOR FREEDOM OF THE PRESS AND 19 OTHER MEDIA
ORGANIZATIONS TO SHORTEN NOTICE PERIOD WITH RESPECT TO THEIR
MOTION FOR LEAVE TO FILE MEMORANDUM OF LAW AS AMICI CURIAE**

TO: THE HONORABLE STUART M. BERNSTEIN
UNITED STATES BANKRUPTCY JUDGE

The Society of Professional Journalists, The Reporters Committee for Freedom of the Press, and 19 other media organization (collectively, proposed “*Amici*”), by and through undersigned counsel, files this application (the “Application to Shorten”) for an order pursuant to Rule 9006(c) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and Local Bankruptcy Rules 9006-1(b) and 9077-1(a) of the United States Bankruptcy Court for the Southern District of New York (the “Local Rules”), shortening the notice period with respect to *Amici’s* Motion for Leave to File Memorandum of Law as Amicus Curiae (the “Motion”). In support, *Amici* respectfully state:

JURISDICTION, VENUE, & STATUTORY PREDICATES

1. This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334. This Application is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409. The statutory predicates for the relief

requested herein are Bankruptcy Rule 9006(c) and Local Bankruptcy Rules 9006-1(b) and 9077-1(a).

BACKGROUND

1. On December 22, 2016, this Court entered its Findings of Fact, Conclusions of Law, and Order Confirming Amended Joint Chapter 11 Plan of Liquidation for Gawker Media Group, Inc., Gawker Media LLC, and Gawker Hungary Kft. [Docket No. 638] (the “Confirmation Order”).

2. Prior to the Court’s entry of the Confirmation Order, and notwithstanding that and other previous orders of this Court, Pregame LLC and Randall James Busack (the “Plaintiffs”) asserted a claim against Debtor Gawker Media regarding an article authored by Ryan Goldberg and published on Gawker’s Deadspin.com website prior to the closing of the asset sale and confirmation of the Plan. Ultimately, on June 22, 2017, Plaintiffs commenced a civil suit against GMG and Goldberg in New York state court alleging defamation, intentional interference with prospective economic advantage, and tortious interference with contractual relations.

3. In response to the state court action, GMG and Goldberg have moved this Court on August 21, 2017 to enforce the Amended Joint Chapter 11 Plan of Liquidation and to enjoin Plaintiffs’ continued violations of this Court’s orders. The Court scheduled a hearing on those motions on September 28, 2017, at 10:00 a.m., New York Time before the Honorable Stuart M. Bernstein, United States Bankruptcy Judge, in the United States Bankruptcy Court for the Southern District of New York.

4. *Amici* filed their Motion on September 22, 2017 seeking leave to file their amicus memorandum of law which addresses Plan. Accordingly, the issue of whether the memorandum

of law may be filed will need to be decided expeditiously in order for the memorandum of law to be considered at the September 28 hearing.

RELIEF REQUESTED

5. *Amici* seek to shorten the period for notice of the hearing on the Motion so that this Court may consider the relief requested in the Motion on an expedited basis at the same hearing scheduled for September 28, 2017. *Amici* propose that responses to the Motion, if any, be filed by September 26, 2017.

BASIS FOR RELIEF REQUESTED

6. Bankruptcy Rule 9006(c)(1) authorizes the Court to shorten the time on a motion, for cause shown. It provides, in pertinent part, that –

Except as provided in paragraph (2) of this subdivision, when an act is required or allowed to be done at or within a specified time by these rules or by a notice given thereunder or by order of court, the court for cause shown may in its discretion with or without motion or notice order the period shortened.

Bankruptcy Rule 9006(c)(1) (Emphasis supplied). Bankruptcy Rule 9006(c)(2) sets forth instances in which reduction of a time period is not permitted, however, motions under Section 362(d) of the Bankruptcy Code are not among them.

7. Local Bankruptcy Rule 9006-1(b) states: “Except as otherwise ordered by the Court, or required by the Bankruptcy Rules, all [non-discovery related] motion papers shall be served at least fourteen (14) days before the return date. Where service is made at least fourteen (14) days before the return date, any answering papers shall be served so as to ensure actual receipt not later than seven (7) days before the return date, unless the Court orders otherwise.”

L.B.R. 9006-1(b). (Emphasis supplied).

8. Local Bankruptcy Rule 9077-1(c) states: “No order to show cause shall be granted except upon a clear and specific showing by affidavit of good and sufficient reasons why proceeding other than by notice of motion is necessary. The affidavit also shall state whether a previous application for similar relief has been made.” L.B.R. 9077-1(c).

9. In this case, there are good and sufficient reasons to grant this Application to Shorten, including: i) *Amici* have a strong interest in ensuring that First Amendment interests and background principles of media law are considered and upheld in all judicial proceedings, including bankruptcy proceedings; ii) *Amici* seek to address the interests of journalists in proceedings that affect how the risk of legal liability is allocated between media companies, individual journalists, and unknown plaintiffs, as is the case here; iii) enforcement of the Plan’s third-party release and injunction provisions directly relate to this issue; iv) *Amici* also are uniquely situated to explain the important practical considerations involved in the preservation of journalists’ indemnification rights, as reflected in the Plan’s third-party release and injunction provisions; and v) *Amici* respectfully submit that the perspectives and arguments contained in their proposed memorandum will augment the existing arguments regarding the Plan and will aid the Court’s evaluation of the Plan’s third-party release and injunction provisions.

10. Exigent circumstances and cause exist to shorten the notice period with respect to the Motion because the relief sought will be rendered moot if it is not granted prior to, or at, the September 28, 2017 hearing.

NOTICE

11. Notice of this Application to Shorten has been provided in accordance with the Order Establishing Certain Notice, Case Management, and Administrative Procedures and

Omnibus Hearing Dates (ECF Doc. No. 93). *Amici* submits that such notice is sufficient and no other or further notice need be provided.

12. No previous request for the relief sought herein has been made by *Amici* to this or any other Court.

CONCLUSION

13. For each of the reasons set forth above, *Amici* respectfully request that the Court enter an order, substantially in the form of Exhibit A attached hereto, granting the Application to Shorten and fixing a hearing date, time, and objection deadline for consideration of the Motion.

September 22, 2017

Respectfully submitted,

BAKER & HOSTETLER LLP

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EXHIBIT 1

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

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In re	:
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Gawker Media LLC, <i>et al.</i> ,	:
	:
Debtors.	:
-----X	

Chapter 11

Case No. 16-11700 (SMB)

(Jointly Administered)

**[PROPOSED] ORDER GRANTING APPLICATION OF SOCIETY OF
PROFESSIONAL JOURNALISTS, REPORTERS COMMITTEE FOR FREEDOM OF
THE PRESS AND 19 OTHER MEDIA ORGANIZATIONS TO SHORTEN NOTICE
PERIOD WITH RESPECT TO THEIR MOTION FOR LEAVE TO FILE
MEMORANDUM OF LAW AS *AMICI CURIAE***

Upon the application (“Application to Shorten”) of The Society of Professional Journalists, The Reporters Committee for Freedom of the Press, and 19 other media organization to (collectively, “*Amici*”) for an order pursuant to Rule 9006(c) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and Local Bankruptcy Rules 9006-1(b) and 9077-1(a) of the United States Bankruptcy Court for the Southern District of New York (the “Local Rules”), shortening the notice period with respect to *Amici*’s Motion for Leave to File Memorandum of Law as Amicus Curiae; upon all documentation filed in connection with the Application to Shorten, including any objections thereto; and notice of the Application to Shorten having been properly and sufficiently provided; and it appearing that no other or further notice is required; and sufficient cause appearing therefor;

IT IS ORDERED as follows:

1. The Application to Shorten is GRANTED as set forth herein.
2. The Court will consider the Motion at a hearing scheduled for September 28, 2017 at 10:00 a.m. (Eastern) before the Honorable Stuart M. Bernstein, United States Bankruptcy Judge,

at Courtroom 723 of the United States Bankruptcy Court for the Southern District of New York, Alexander Hamilton Custom House, located at One Bowling Green, New York, NY 10004-1408.

3. A copy of this Order, together with the Motion (with exhibits) shall be served within one business day of entry in accordance with the Order Establishing Certain Notice, Case

Management, and Administrative Procedures and Omnibus Hearing Dates (ECF Doc. No. 93), and such service shall be deemed good and sufficient notice of the relief requested in the Motion.

4. Objections or responses to the Motion, if any, must be in writing, filed with the Court and served shall be served upon *Amici*' counsel, Baker & Hostetler LLP, Washington Square, Suite 1100, 1050 Connecticut Avenue, NW, Washington, D.C. 20036 attention: Mark I. Bailen, so as to be actually received on or before September 26, 2017 (the "Objection Deadline"). If no objections are timely filed and served, the relief requested in the Motion may be granted by the Court without further hearing or notice.

5. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation or interpretation of this Order.

Date: _____

Honorable Stuart M. Bernstein
United States Bankruptcy Judge