

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

In re:	Chapter 7
MML TOURING, LLC,	Case No. 23-11741 (TMH)
Debtor.	
GEORGE L. MILLER, solely in his capacity as the Chapter 7 Trustee of MML TOURING, LLC,	Adv. Proc. No. 24-50126 (TMH)
Plaintiff,	
v.	
BLUE EYED THEATRICAL, LLC	
Defendant.	

**MEMORANDUM OPINION AND ORDER**

Before the Court is the motion of George L. Miller, solely in his capacity as Chapter 7 Trustee of MML Touring, LLC (the “Trustee”), for leave to amend the complaint to add ECM Productions, Inc. (“ECM”) and Free Association, LLC (“Free Association”) as defendants pursuant to Federal Rule of Civil Procedure 15, made applicable here by Federal Rule of Bankruptcy Procedure 7015.<sup>1</sup>

For the reasons that follow, the Court will grant the motion.

**I. BACKGROUND**

On September 3, 2024, the Trustee filed a complaint<sup>2</sup> against Blue Eyed Theatrical, LLC (“Blue Eyed”) seeking to avoid and recover preferential transfers

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<sup>1</sup> D.I. 19.

<sup>2</sup> D.I. 1.

under Bankruptcy Code sections 547 and 550. Blue Eyed answered on November 25, 2024,<sup>3</sup> and the Court entered a scheduling order on January 29, 2025.<sup>4</sup>

On June 30, 2025, during the deposition of Vincent Marini, Blue Eyed's managing member, the Trustee first learned that after the complaint was filed, Blue Eyed assigned its management agreements, employees, and operations to ECM, a new company formed by Marini. Shortly thereafter, in April 2025, ECM was acquired by Free Association in a "share swap" for no consideration, with key personnel and operations continuing under Free Association. The Trustee now seeks leave to amend the complaint to name ECM and Free Association as additional defendants, asserting they are successors or alter egos of Blue Eyed.

## II. LEGAL STANDARD

Rule 15(a)(2) provides that a party may amend its pleading "only with the opposing party's written consent or the court's leave," and that "[t]he court should freely give leave when justice so requires."<sup>5</sup> The Supreme Court has instructed that absent undue delay, bad faith, repeated failure to cure deficiencies, undue prejudice to the opposing party, or futility of the amendment, leave to amend should be freely granted.<sup>6</sup>

The Third Circuit has emphasized that "prejudice to the non-moving party is the touchstone for the denial of the amendment."<sup>7</sup>

## III. DISCUSSION

### a. Undue Delay or Bad Faith

The Trustee moved promptly after discovering the transfers at the June 30, 2025 deposition. The motion was filed on August 22, 2025. Courts in this Circuit have found no undue delay where a motion is filed soon after the discovery of new facts. There is likewise no evidence of bad faith; the Trustee seeks only to pursue recovery from parties that the Trustee plausibly has alleged may be liable.

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<sup>3</sup> D.I. 6.

<sup>4</sup> D.I. 10.

<sup>5</sup> Fed. R. Civ. P. 15(a)(2).

<sup>6</sup> Foman v. Davis, 371 U.S. 178, 182 (1962).

<sup>7</sup> Cornell & Co. v. OSHRC, 573 F.2d 820, 823 (3d Cir. 1978).

### **b. Repeated Failures to Cure Deficiencies**

This factor is inapplicable here. This is the Trustee's first attempt to amend the complaint.

### **c. Undue Prejudice**

Blue Eyed argues that ECM and Free Association would be prejudiced. The Court disagrees. ECM was created and controlled by Marini, the same individual who managed Blue Eyed, and took over its contracts and operations. Free Association subsequently acquired ECM for no consideration, retaining its personnel and continuing its business. This continuity of interest strongly suggests that ECM and Free Association knew or should have known that litigation over Blue Eyed's transfers could extend to them.<sup>8</sup>

Further, both ECM and Free Association will have the full opportunity to defend against the amended complaint. Any potential prejudice is outweighed by the risk of allowing a recipient of an avoidable transfer to escape liability because of post-complaint maneuvers that had the effect of stripping the original defendant of its assets.

Blue Eyed also argues that it would be prejudiced if leave to amend is granted, contending that it would be required "to expend significant additional resources to conduct discovery and prepare for trial or significantly delay the resolution of the dispute." Blue Eyed does not offer any explanation of how that may be so. In addition, it was Blue Eyed's own actions in divesting itself of its assets post-complaint that triggered the proposed amendment to the complaint.

### **d. Futility**

The proposed amendment is not futile. Section 550 of the Bankruptcy Code expressly permits recovery from subsequent transferees or entities for whose benefit a transfer was made. The Trustee's theory that ECM and Free Association are successors or alter egos of Blue Eyed is legally cognizable.

Blue Eyed primarily argues that amendment would be futile because it contends that the Debtor was solvent at the time of the transfers alleged in the complaint. However, these contentions about solvency are supported only by Blue Eyed's own responses to the Trustee's interrogatories. This is an inadequate basis

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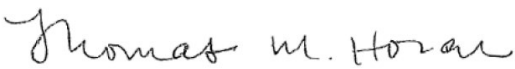
<sup>8</sup> See Singletary v. Pennsylvania Dep't of Corr., 266 F.3d 186, 197–200 (3d Cir. 2001) (relation back appropriate where parties are closely related such that notice can be imputed).

upon which this Court may conclude that amendment would be futile. The issue of insolvency is a disputed factual matter that may be addressed in due course.

#### **IV. CONCLUSION**

For these reasons, the Court concludes that leave to amend is warranted and orders that the Motion is granted. The Court further orders pending deadlines in this proceeding are stayed until such time as ECM and Free Association have been served with the amended complaint and summons and have answered or otherwise responded to the amended complaint.

Dated: October 3, 2025  
Wilmington, Delaware



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Thomas M. Horan  
United States Bankruptcy Judge