

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

In re:

STAGE STORES, INC., *et al.*,¹

Debtors.

Chapter 11

Case No. 20-32564 (DRJ)
(Jointly Administered)

STEVEN BALASIANO, AS PLAN
ADMINISTRATOR OF STAGE STORES,
INC., *et al.*,

Plaintiff,

v.

CERTAIN UNDERWRITERS AT LLOYD'S
LONDON – BRIT SYNDICATE 2987 AND
BRIT SYNDICATE 2988, EVEREST
INDEMNITY INSURANCE COMPANY,
and QBE SPECIALTY INSURANCE
COMPANY,

Defendants.

Adv. Pro. No. 22-03142 (DRJ)

**EXPEDITED JOINT MOTION FOR MEDIATION ORDER
AND TO STAY ACTION PENDING MEDIATION**

THIS JOINT MOTION SEEKS AN ORDER THAT MAY ADVERSELY AFFECT YOU. IF YOU OPPOSE THE JOINT MOTION, YOU SHOULD IMMEDIATELY CONTACT THE MOVING PARTIES TO RESOLVE THE DISPUTE. IF YOU AND THE MOVING PARTIES CANNOT AGREE, YOU MUST FILE A RESPONSE AND SEND A COPY TO THE MOVING PARTIES. YOU MUST FILE AND SERVE YOUR RESPONSE WITHIN 21 DAYS OF THE DATE THIS WAS SERVED ON YOU. YOUR RESPONSE MUST STATE WHY THE JOINT MOTION SHOULD NOT BE GRANTED. IF YOU DO NOT FILE A TIMELY RESPONSE, THE RELIEF MAY BE GRANTED WITHOUT FURTHER NOTICE TO YOU. IF YOU OPPOSE THE JOINT MOTION AND HAVE NOT REACHED AN

¹ The Debtors, along with the last four digits of each Debtor's federal tax identification number, are: Stage Stores, Inc. (6900) and Specialty Retailers, Inc. (1900).



AGREEMENT, YOU MUST ATTEND THE HEARING. UNLESS THE PARTIES AGREE OTHERWISE, THE COURT MAY CONSIDER EVIDENCE AT THE HEARING AND MAY DECIDE THE JOINT MOTION AT THE HEARING.

EXPEDITED RELIEF HAS BEEN REQUESTED. IF THE COURT CONSIDERS THE JOINT MOTION ON AN EXPEDITED BASIS, THEN YOU WILL HAVE LESS THAN 21 DAYS TO ANSWER. IF YOU OBJECT TO THE REQUESTED RELIEF OR IF YOU BELIEVE THAT THE EXPEDITED CONSIDERATION IS NOT WARRANTED, YOU SHOULD FILE AN IMMEDIATE RESPONSE.

REPRESENTED PARTIES SHOULD ACT THROUGH THEIR ATTORNEY.

REQUESTED DATE OF EXPEDITED RELIEF: AUGUST 23, 2022

Steven Balasiano (the “Plaintiff”), in his capacity as the Plan Administrator of Stage Stores, Inc. (“Stage Stores”) and Specialty Retailers, Inc. (together with Stage Stores, the “Debtors”), together with Defendants and Counter-Claimants (i) Those Certain Underwriters at Lloyd’s, London subscribing to Policy Number PD-10921-00 – Brit Syndicate 2987 and Brit Syndicate 2988, (ii) Everest Indemnity Insurance Company, and (ii) QBE Specialty Insurance Company (collectively, the “Defendants” and together with Plaintiff, the “Parties”), hereby submit this expedited joint motion for entry of an order, substantially in the form attached hereto (the “Proposed Order”) as **Exhibit A**, (i) referring the Parties to non-binding mediation before John DeGroote of DeGroote Partners, LLC on September 6, 2022 at 9:00 a.m. (Central Time), and (ii) staying all deadlines related to this Adversary Proceeding (as defined below) pending the mediation (the “Joint Motion”) and respectfully state as follows:

BACKGROUND

1. On May 10, 2020, the Debtors filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code with this Court.

2. On August 14, 2020, the Court entered the order confirming the *Joint Second Amended Chapter 11 Plan of Stage Stores, Inc. and Specialty Retailers, Inc.* [Docket No. 694] (the “Plan”). The effective date of the Plan occurred on October 30, 2020 [Docket No. 898] (the “Effective Date”). On the Effective Date, the Plan Administrator was appointed the sole representative of the Debtors’ post-confirmation bankruptcy estates for the purpose of, *inter alia*, monetizing any remaining assets, making distributions to the Debtors’ creditors as contemplated under the Plan, and winding-down and closing the bankruptcy cases.

3. On May 9, 2022, the Plaintiff, in his capacity as the Plan Administrator of the Debtors’ estates, commenced this action as adversary proceeding number 22-03142 (the “Adversary Proceeding”) by filing a complaint against the Defendants seeking damages and declaratory judgment related to their alleged wrongful denial and refusal to pay a portion of an insurance claim submitted by Stage Stores prior to its bankruptcy [Adv. Pro. Docket No. 1] (the “Complaint”).

4. On June 17, 2022, Defendants filed their *Answer with Affirmative Defenses and Counterclaim* denying Plaintiff’s allegations and claims [Adv. Pro. Docket No. 6] (the “Answer”).

5. As set forth in Defendants’ Answer, Defendants do not consent to entry of final order or judgment by this Bankruptcy Court pursuant to FED. R. BANKR. P. 7012(b). Defendants’ Answer further contends that this matter is non-core and that the District Court’s reference should be withdrawn pursuant to FED. R. BANKR. P. 5011 so that this Adversary Proceeding may be in all things heard and tried by the District Court.

6. Plaintiff contends that this matter is a core proceeding, and that the District Court’s reference should not be withdrawn.

7. Since Defendants filed their Answer, the Parties have conferred on a wide range of issues and now mutually agree that non-binding mediation presents the best opportunity to resolve this dispute in an expeditious and cost-effective fashion.

8. The Parties have agreed to appoint John DeGroote of DeGroote Partners, LLC and have tentatively scheduled mediation for September 6, 2022 at 9:00 a.m. (Central Time), and now seek to stay the Adversary Proceeding pending the outcome of mediation.

JOINT REQUEST FOR MEDIATION ORDER AND STAY PENDING MEDIATION

9. This Court has jurisdiction to issue a mediation order. Under 28 U.S.C. § 652 *et seq.* each district court shall provide access to mediation by local rule. Mediation is available in this district by Southern District of Texas Local Rule (“District Local Rule”) 16.4 and available before a neutral under 28 U.S.C. § 653.7.

10. The Court may issue a mediation order at any time and without notice. Southern District of Texas Bankruptcy Local Rule 1001-1 incorporates the District Local Rules, including District Local Rule 16.4C, which states:

ADR Referral. A judge may refer any civil case to ADR on motion of any party, on the agreement of the parties, or on its own motion. If the parties agree upon an ADR method or provider, the judge will respect the parties’ agreement unless the judge believes another ADR method or provider is better suited to the case and parties. The authority to refer a case to ADR does not preclude the judge from suggesting or requiring other settlement initiatives.

11. Scope of Proposed Mediation. All the provisions of District Local Rule 16.4 will apply to this mediation – specifically including (a) that representatives with full authority to settle must attend; (b) the parties must mediate in good faith; and (c) confidentiality. The scope of the mediation will include all disputes concerning the Complaint.

12. Fees. Pursuant to District Local Rule 16.4.G and Southern District of Texas Procedures for Complex Cases (“Complex Case Procedures”) paragraph 50, the Parties have

agreed to share the fees and costs of the mediation equally and each party shall bear its own costs with respect to mediation. Mr. DeGroote's fees will be approximately \$3,800 per party, per day, for a total of \$7,600 per day.

13. Timing of Mediation. The Parties have agreed to mediate before engaging in any significant discovery. The mediation is tentatively scheduled to begin at 9:00 a.m. (Central Time), and the Parties jointly request that John DeGroote be designated to serve as the mediator. The Parties have already confirmed Mr. DeGroote's availability on September 6, 2022, by virtual attendance and/or in person attendance in Dallas, Texas

14. The Parties further request that the Court enter a stay of Adversary Proceeding for ninety (90) days to facilitate the resolution process and the agreed-upon non-binding mediation.

15. The Parties also seek to extend the Plaintiff's deadline to respond to the counterclaims asserted in Defendants' Answer, previously scheduled for July 8, 2022, to October 6, 2022 (thirty (30) days after the mediation is scheduled).

16. The Parties agree that determination, after the expiration of this stay, the issue of whether this Adversary Proceeding is core or non-core and whether the District Court's reference should be withdrawn, will not prejudice Plaintiff and Plaintiff will not object to any motion to determine this matter to be non-core or to withdraw the reference as being untimely, but that Plaintiff reserves the right to contest any such motion(s) on any other grounds. The Parties further agree that Defendants, by seeking the relief requested herein, do not waive their right to seek to have this matter determined to be non-core and to request that the reference be withdrawn pursuant to FED. R. BANKR. P. 5011.

EXPEDITED CONSIDERATION

17. The Parties request expedited treatment of this Joint Motion in order to secure the services and availability of Mr. DeGroote to serve as the mediator on September 6, 2022.

WHEREFORE, based on the foregoing, the Parties request the court grant this Joint Motion on an expedited basis and enter an order the order substantially in the form attached hereto as **Exhibit A**.

Dated: August 9, 2022

/s/ James W. Walker

James W. Walker (TX Bar No. 20709600)

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Lloyd's, London subscribing to Policy Number
PD-10921-00 – Brit Syndicate 2987 and Brit
Syndicate 2988, Everest Indemnity Insurance
Company, and QBE Specialty Insurance
Company*

Certificate of Service

I hereby certify that on August 9, 2022, a true and correct copy of the foregoing document was served by the Electronic Case Filing System for the United States Bankruptcy Court for the Southern District of Texas.

/s/ James W. Walker

James W. Walker (TX Bar No. 20709600)

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Exhibit A

Proposed Order

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

In re: STAGE STORES, INC., <i>et al.</i> , ¹ Debtors.	Chapter 11 Case No. 20-32564 (DRJ) (Jointly Administered)
STEVEN BALASIANO, AS PLAN ADMINISTRATOR OF STAGE STORES, INC., <i>et al.</i> , Plaintiff, v. CERTAIN UNDERWRITERS AT LLOYD’S LONDON – BRIT SYNDICATE 2987 AND BRIT SYNDICATE 2988, EVEREST INDEMNITY INSURANCE COMPANY, and QBE SPECIALTY INSURANCE COMPANY, Defendants.	Adv. Pro. No. 22-03142 (DRJ)

**ORDER GRANTING JOINT MOTION FOR MEDIATION
AND TO STAY ACTION PENDING MEDIATION**

Upon the joint motion (the “Joint Motion”)² of Steven Balasiano, in his capacity as Plan Administrator for the chapter 11 estates of Stage Stores, Inc. and Specialty Retailers, Inc. (collectively, the “Debtors”), together with Defendants and Counter-Claimants (i) Those Certain Underwriters at Lloyd’s, London subscribing to Policy Number PD-10921-00 – Brit Syndicate 2987 and Brit Syndicate 2988, (ii) Everest Indemnity Insurance Company, and (ii) QBE Specialty

¹ The Debtors, along with the last four digits of each Debtor’s federal tax identification number, are: Stage Stores, Inc. (6900) and Specialty Retailers, Inc. (1900).

² Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Joint Motion.

Insurance Company (collectively, the “Defendants” and together with Plaintiff, the “Parties”), for entry of an order (this “Order”) (i) referring the Parties to enter non-binding mediation before John DeGroote of DeGroote Partners, LLC on September 6, 2022, and (ii) staying all deadlines related to this Adversary Proceeding for ninety (90) days, or as otherwise provided herein, or upon further order of the Court; and this Court having found that the relief requested in the Joint Motion is in the best interests of the parties; and this Court having reviewed the Joint Motion determined that the legal and factual bases set forth in the Joint Motion establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor, it is **HEREBY ORDERED THAT:**

1. At least one representative with settlement authority from each Party shall attend mediation, virtually or in-person, before John DeGroote of DeGroote Partners, LLC on September 6, 2022 at 9:00 a.m. (Central Time), to resolve their disputes related to the Complaint, pursuant to District Local Rule 16.4 and 28 U.S.C. § 652 *et seq.*

2. The Parties shall share the fees and costs of the mediation equally, and each party shall bear its own costs with respect to mediation.

3. This Adversary Proceeding shall be stayed for ninety (90) days through and including November 7, 2022, pending the Parties’ non-binding mediation, or by further order of the Court.

4. Plaintiff shall not object to any motion to determine this matter to be non-core or to withdraw the reference as being untimely; *provided, however*, that Plaintiff’s right to contest any such motion(s) on any other grounds is expressly preserved.

5. Plaintiff’s deadline to respond to the counterclaims asserted in Defendants’ Answer, previously scheduled for July 8, 2022, is hereby extended to October 6, 2022.

6. In accordance with District Local Rule 16.4.K, the Parties will file a joint memorandum with the Court within 14 days after the mediation concludes informing the Court of, among other things, the outcome of the mediation.

Houston, Texas

Dated: _____, 2022

THE HONORABLE DAVID R. JONES
UNITED STATES BANKRUPTCY JUDGE