

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

IN RE: §  
IEH AUTO PARTS HOLDING LLC, *et al.*<sup>1</sup> § Chapter 11  
DEBTORS. § CASE NO. 23-90054 (CML)  
§ (Jointly Administered)  
§

**AYESHA MCNAIR, INDIVIDUALLY AND AS NEXT FRIEND OF A.A., A  
MINOR CHILD, AND T.W., A MINOR CHILDS’ MOTION FOR RELIEF FROM  
THE PLAN INJUNCTION TO PROCEED WITH LITIGATION TO COLLECT  
AGAINST AN INSURER OF THE DEBTOR**

**THIS IS A MOTION FOR RELIEF FROM THE PLAN INJUNCTION.  
IF IT IS GRANTED, THE MOVANT MAY ACT OUTSIDE OF THE  
BANKRUPTCY PROCESS. IF YOU DO NOT WANT THE PLAN  
INJUNCTION LIFTED, IMMEDIATELY CONTACT THE MOVING  
PARTY TO SETTLE. IF YOU CANNOT SETTLE, YOU MUST FILE  
A RESPONSE AND SEND A COPY TO THE MOVING PARTY AT  
LEAST 7 DAYS BEFORE THE HEARING. IF YOU CANNOT  
SETTLE, YOU MUST ATTEND THE HEARING. EVIDENCE MAY  
BE OFFERED AT THE HEARING AND THE COURT MAY RULE.**

**REPRESENTED PARTIES SHOULD ACT THROUGH THEIR  
ATTORNEY.**

**THERE WILL BE A HEARING ON THIS MATTER ON OCTOBER  
19, 2023, AT 1:00 P.M. IN COURTROOM 401, 515 RUSK, HOUSTON,  
TX 77002.**

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<sup>1</sup> The Debtor entities in these chapter 11 cases, along with the last four digits of each Debtor entity’s federal tax identification number, are: IEH Auto Parts Holding LLC (6529); AP Acquisition Company Clark LLC (4531); AP Acquisition Company Gordon LLC (5666); AP Acquisition Company Massachusetts LLC (7581); AP Acquisition Company Missouri LLC (7840); AP Acquisition Company New York LLC (7361); AP Acquisition Company North Carolina LLC (N/A); AP Acquisition Company Washington LLC (2773); Auto Plus Auto Sales LLC (6921); IEH AIM LLC (2233); IEH Auto Parts LLC (2066); IEH Auto Parts Puerto Rico, Inc. (4539); and IEH BA LLC (1428). The Debtors’ service address is: 112 Townpark Drive NW, Suite 300, Kennesaw, GA 30144.



TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

COME NOW, AYESHA MCNAIR, INDIVIDUALLY AND AS NEXT FRIEND OF A.A., A MINOR CHILD, AND T.W. A MINOR CHILD (“Movants”), and file this Motion for Relief from the Plan injunction to allow the Movant to proceed with filing litigation in the Superior Court of the State of Delaware against IEH Auto Parts Holding LLC et al.<sup>2</sup> (“Debtor”) to collect solely against the Debtor’s insurer, referred to in the Confirmation Order as to the insurers of the Debtor, including but not limited to the Chubb Companies, and in support thereof would show the Court as follows:

**JURISDICTION**

1. This Court has jurisdiction pursuant to 28 U.S.C. §1334 and 28 U.S.C. §157 as amended.
2. Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

**BACKGROUND & FACTS**

3. On November 1, 2021, Kendra Nicole Watkins (“Watkins”), an employee and driver of the Debtor, crashed into Movants’ vehicle in New Castle County, Delaware (*see Ex. A*, Crash Report), and Movants were injured. Under the applicable limitations statute, Movants have until October 30, 2023 to bring suit in Delaware in an effort to proceed to recover solely against the Debtor’s insurer, believed to be the Chubb

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<sup>2</sup> The definitions and language of the Confirmation Order [Dkt. No. 749] are fully incorporated herein by reference. The Debtor entities in these chapter 11 cases, along with the last four digits of each Debtor entity’s federal tax identification number, are: IEH Auto Parts Holding LLC (6529); AP Acquisition Company Clark LLC (4531); AP Acquisition Company Gordon LLC (5666); AP Acquisition Company Massachusetts LLC (7581); AP Acquisition Company Missouri LLC (7840); AP Acquisition Company New York LLC (7361); AP Acquisition Company North Carolina LLC (N/A); AP Acquisition Company Washington LLC (2773); Auto Plus Auto Sales LLC (6921); IEH AIM LLC (2233); IEH Auto Parts LLC (2066); IEH Auto Parts Puerto Rico, Inc. (4539); and IEH BA LLC (1428). The Debtors’ service address is: 112 Townpark Drive NW, Suite 300, Kennesaw, GA 30144.

Companies.

4. Movants' counsel has worked diligently with the Debtor's counsel to try to resolve this matter in a way similar to a number of other similar matters already being resolved. Unfortunately, those efforts came to naught and have to be started over due to the change in counsel for the wind down Debtor. In the meantime, Movants need relief.

5. On January 31, 2023 (the "Petition Date"), IEH Auto Parts, LLC and certain affiliated debtors commenced the voluntary cases under Chapter 11 of Title 11 of the United States Code (the "Bankruptcy Code") in the United States Bankruptcy Court for the Southern District of Texas (the "Bankruptcy Court"). [Dkt No. 1]. The deadline to file proofs of claim was May 1, 2023. [Dkt No. 222]. Movants did not file a proof of claim against any of the Debtors' estates.

6. The Bankruptcy Court entered an order on June 16, 2023 confirming the Debtors' joint liquidation plan ("Confirmation Order"). [Dkt No. 749]. The Movants believe their claim will be covered under the Chubb Companies' or other insurer's insurance policies assumed by the Debtors in the Confirmation Order and that the Chubb Companies or other insurers will cover the defense of Ms. Watkins as an employee of the Debtor. The Movants do not intend to assert to attempt any collection against the Debtor directly, only Ms. Watkins.

7. The Confirmation Order appears to expressly permit claims asserted in an effort to recover from the Debtors' assumed insurance policies:

[N]othing, including the automatic stay of section 362(a) of the Bankruptcy Code and/or the injunctions set forth in Article VIII of the Plan, stays or enjoins (i) any claims that are or may be asserted under any of the Chubb

Insurance Contracts to the extent any such claims are solely against any of the Non-Debtor Affiliates and/or (ii) the Chubb Companies' right to draw on or against, use or apply any or all of the collateral or security provided to the Chubb Companies in connection with the Chubb Insurance Contracts in accordance with the terms of the Chubb Insurance Contracts for or in connection with any claim against any Non-Debtor Affiliate.

*See* Confirmation Order at Article V.C.2(e).

8. Therefore, to the extent the claims asserted by Movants in their contemplated civil action contain a claim under the Chubb Companies' or other insurer's policies, the Movants ask this Court to either lift the automatic stay and/or modify the plan injunction to (1) allow Movants to file their lawsuit against the Debtor (in name only) and Ms. Watkins and (2) allow movants to proceed with the lawsuit against the Debtor (in name only) and Ms. Watkins to its conclusion in an effort to collect solely from the Debtors' assumed Chubb Companies' or other insurer's policies and Ms. Watkins, not the Debtor.

### **ARGUMENT & AUTHORITIES**

9. Movants reallege and incorporate herein by reference all of the allegations above.

10. Bankruptcy Courts have permitted accident victims to modify the injunction of Section 524 for the purpose of pursuing a lawsuit against a debtor as a defendant for the limited purpose of determining liability to collect insurance proceeds from the debtor's insurance coverage. *See In re White Motor Credit Corp.*, 37 B.R. 631 (N.D.Ohio 1984), *aff'd* 761 F.2d 270 (6th Cir. 1985); *Matter of McGraw*, 18 B.R. 140 (Bankr. W.D.Wis. 1982); *In re Honosky*, 6 B.R. 667 (Bankr. S.D.W.Va. 1980); *Rowe v. Ford Motor Co.*, 34 B.R. 680 (M.D.Ala. 1983); *Elliott v. Hardison*, 25 B.R. 305 (E.D.Va. 1982); *see also*

*Owaski v. Jet Florida Sys., Inc. (In re Jet Florida Sys., Inc.)*, 883 F.2d 970, 976 (11th Cir. 1989). Here, Movants respectfully request that the Court provide relief from the injunction because “[t]he injunction is required only when continuance of the civil suit will result in efforts to collect a judgment award *from the debtor or his property*”; Movants are not seeking to collect a judgment from the debtor or its property, but instead the Debtors’ assumed insurance. *See Matter of McGraw*, supra, at 143 (emphasis added).

11. The Debtor had Commercial Insurance through several policies collectively referred to in the Confirmation Order as “Chubb Insurance Contracts” as issued by the “Chubb Companies.” Definitions from the Confirmation Order are fully incorporated herein by reference. The Chubb Companies provided coverage to the Debtor at the time of the automobile accident involving Movants. The Chubb Companies were not discharged, and in fact the Chubb Companies’ policies are assumed by the Debtors in the Confirmation Order. Therefore, Movants should be allowed to pursue their claims because insurance coverage for the claims is available, and the Confirmation Order assumed these types of claims and recovery.

12. Section 524(e) of the Bankruptcy Code limits section 524(a) in that the “discharge of a debt of the debtor does not affect the liability of any other entity on, or the property of any other entity for, such debt.” 11 U.S.C. § 524(e). *See In re Coho Res., Inc.*, 345 F.3d 338, 343 (5th Cir. 2003) (noting that § 524(e) permits action nominally against a discharged debtor to prove liability to reach insurance proceeds); *Matter of Edgeworth*, 993 F.2d 51, 54 (5th Cir. 1993) (“[A]s long as the costs of defense are borne by the insurer and there is no execution on judgment against the debtor personally, section 524(a) will

not bar a suit against the discharged debtor as the nominal defendant.”). Courts are in “near unanimous agreement” that § 524(e) “permits a creditor to bring, and proceed in, an action nominally directed against a discharged debtor for the sole purpose of proving liability on its part as a prerequisite to recovering from its insurer.” *Chapman v. Bituminous Ins. Co. (In re Coho Resources, Inc.)*, 345 F.3d 338, 343 (5<sup>th</sup> Cir. 2003). The Chubb Companies’ and any other insurer’s policies are excluded from bankruptcy protections, “11 U.S.C. § 524(e) excludes the liability insurance carrier from the protection of bankruptcy discharge...” *Matter of Edgeworth*, 993 F.2d 51, 53 (5<sup>th</sup> Cir. 1993). “It makes no sense legally or equitably for an insurer to escape insurance coverage for injuries caused by its insured merely by the happenstance of the insured's bankruptcy discharge. Such a result would be fundamentally wrong.” *In re Lembke*, 93 B.R. 701, 703 (Bankr. D.N.D. 1988).

13. In an analogous matter, the Eleventh Circuit analyzed this issue and held that the permanent injunction of section 524 should be vacated to permit a creditor to seek a judgment of liability against the debtor for the creditor to proceed against the debtor's liability insurer. *See Jet Florida Systems, Inc., In re*, 883 F.2d 970, 973 (11<sup>th</sup> Cir. 1989). In *Owaski*, the creditor filed a motion with the bankruptcy court to vacate the permanent injunction established by 11 U.S.C. Section 524 to allow the creditor to pursue a defamation lawsuit filed against the bankrupt debtor to collect insurance; the creditor’s motion was wrongly denied by the bankruptcy court. *Id.* On appeal, the Eleventh Circuit concluded that “pursuant to section 524(e), a plaintiff may proceed against the debtor simply in order to establish liability as a prerequisite to recover from another, an insurer, who may be liable,” reversing the bankruptcy court’s order denying the creditor’s motion

for relief from the permanent injunction and specifically permitting such relief. *Id.* To reach that holding, the Court examined the statutory language of Section 524 of the Bankruptcy Code and considered whether the debtor would “be personally liable in a way that would interfere with the debtor's fresh start in economic life”. *Id.* at 975.

14. This is why the relief is permissible, because the insurance carrier is typically not protected while the debtor typically is, “Section 524(a) explicitly renders judgments void only for ‘the personal liability of the debtor’. 11 U.S.C. Sec. 524(a). Accordingly, the statutory language, on its face, does not preclude the determination of the debtor's liability upon which the damages would be owed by another party, such as the debtor's liability insurer”. *Id.* at 973. The Court continued that “[t]he mere fact that it would be the Appellee's insurer who is potentially liable for the defamation tort is of no consequence for determining the preclusive effect of section 524...” *Id.* at 975. “Moreover, section 524(e) permits a creditor to seek recovery from ‘any other entity’ who may be liable on behalf of the debtor.” *Id.* at 973 (citing 11 U.S.C. Sec. 524(e)). The key is who is protected, “**Section 524(e) was intended for the benefit of the debtor but was not meant to affect the liability of third parties or to prevent establishing such liability through whatever means required.**” *Id.* (citing 3 Collier on Bankruptcy p 524.01 at 524-16 (15th ed.1987)).

15. In its analysis, the Court singles out insurers,<sup>3</sup> noting that they are not the

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<sup>3</sup> Insurers are not the only third parties to which this applies. *See In re Walker*, 927 F.2d 1138, at 1145 (10th Cir. 1991) (the Tenth Circuit overturned a bankruptcy court’s denial of a creditor’s motion for relief from a bankruptcy injunction to pursue the creditor’s claim against the debtor that was to be recovered from a third-party (a state-sponsored real estate fraud recovery fund), expressly permitting the creditor to commence or continue litigation against the debtor for the purpose of recovering from a third party and noting that the relief would not cause sufficient prejudice to the debtor from Section 524’s post-discharge injunction).

intended beneficiaries of the protection, "...the purpose of section 524 of the Bankruptcy Code is to protect the debtor and not to shield third parties such as insurers who may be liable on behalf of the debtor." *Id.* at 975. The Court further reasoned that the cited cases on this issue "take into account that an insurer may be liable if the plaintiff prevails in the continuing tort action". *Id.* The Court concluded that attempting to secure a judgment to collect against an insurer is not protected, "the insurer is not considered to be 'prejudiced' under section 524 when the permanent injunction is modified to permit a pending action to continue for the purpose of seeking recovery from the debtor's insurer..." noting that the insurer should not be shielded by the debtor's hardships, "[t]he 'fresh-start' policy is not intended to provide a method by which an insurer can escape its obligations based simply on the financial misfortunes of the insured". *Id.*

16. The same Court held that the potential litigation costs in the state court suit are not a bar to the relief for Movants, rejecting the position that requiring the debtor to spend sums in defending the civil litigation would frustrate the fresh-start policy of the Bankruptcy Code. *Id.* at 976. The Court considered the costs of defense and the issue as to whether the debtor would incur defense costs did not prevent the plaintiff from being permitted to proceed against the debtor to recover from its insurer. *Id.* (citing *See Matter of Holtkamp*, 669 F.2d 505, 508-09 (7th Cir.1982)). In reaching its decision, the Court explained that it could not rule based on whether the debtor or insurer would cover defense costs, because it "would provide an incentive for the debtor to claim to assume that burden" and the insurer "would have an obvious interest in demonstrating that the debtor was liable for litigation costs." *Id.* at 976. In another similar matter, the court noted that the debtor

can either reduce defenses costs by stipulating to matters in the state court lawsuit, or the debtor can simply choose not to bring a defense in the state court lawsuit at all and permit a default judgment to be entered, avoiding all defenses costs. *See In re Harris*, 85 B.R. 858 (Bankr. D. Colo. 1988).

17. Here, because Movants do not seek to collect against the Debtor, its property, or the estate, the Debtor has no risk of a personal judgment being collected against it, and it can choose to either minimize costs or avoid costs altogether (if the Chubb Companies or other insurers do not pick up the defense costs). Movants, just as in *Owaski*, seek only to proceed against the Debtor to establish the Debtor's liability in order to recover from the Debtor's insurer, the Chubb Companies or others. Accordingly, just as the Court held in *Owaski*, this Court should permit Movants' requested relief, "pursuant to section 524(e), a plaintiff may proceed against the debtor simply in order to establish liability as a prerequisite to recover from another, an insurer, who may be liable." *Jet Florida Systems, Inc.*, 883 F.2d 970, 975 (11th Cir. 1989). Movants ask this Court to hold that Movants are not barred by the Confirmation Order from commencing an action on their claims against the Debtor in order to collect from the Debtors' assumed Chubb Companies' or other insurers' insurance coverage.<sup>4</sup> In addition or in the alternative, if this either requires or also requires a lifting of the automatic stay, the case law also supports that relief.

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<sup>4</sup> There is no requirement for Movants to file a proof of claim prior to the discharge, and courts have concluded that the language of Section 524 does not prevent a creditor from maintaining a civil action against a debtor to recover from the debtor's insurer, noting "that the goals of section 524(a) would not be advanced by preventing a plaintiff from maintaining an action against the debtor in order to establish the debtor's liability when that was a prerequisite to recovery from the insurer". *See Jet Florida Systems, Inc.*, 883 F.2d 970 (11th Cir. 1989) (citing *Wimmer v. Mann (In re Mann)*, 58 B.R. 953, 956 (Bankr.W.D.Va.1986); *see also Rowe v. Ford Motor Co.*, 34 B.R. 680 (M.D.Ala.1983); *Elliot v. Hardison*, 25 B.R. 305 (E.D.Va.1982); *Wilkinson v. Vigilant Insurance Co.*, 236 Ga. 456, 224 S.E.2d 167 (1976); *Johnson v. Bondurant*, 187 Kan. 637, 359 P.2d 861 (1961).

18. By analogy, Parties in interest may seek an order from the Court confirming that the automatic stay has been terminated. 11 U.S.C. § 362(j). When property is no longer property of the estate or at any time a discharge is granted, the automatic stay terminates. 11 U.S.C. § 362(c). The Confirmation Order in this proceeding terminates the automatic stay upon the Effective Date. [Dkt No. 749]. Movants never filed a claim against the Debtors, and neither did Ms. Watkins. The Confirmation Order appears to confirm the Movants' ability to file litigation against the Debtor (in name only) and Ms. Watkins and to seek to recover from the Chubb Companies' or other insurers' policies assumed by the Debtors under the Confirmation Order, so Movants seek an order to that effect so that Movants can move forward with civil litigation and the Superior Court of the State of Delaware and other related parties can be made aware.

19. By analogy, Section 362 provides for relief from the automatic stay for cause, “[o]n request of a party in interest and after notice and a hearing, the court shall grant relief from the stay provided under subsection (a) of this section, such as by terminating, annulling, modifying, or conditioning such stay— (1) for cause.” 11 U.S.C. § 362(d)(1). The term “cause” is undefined by the Code and must instead be “determined on a case by case basis.” *In re Xenon Anesthesia of Tex., PLLC*, 510 B.R. 106, 112 (Bankr. S.D. Tex. 2014). A court permitting a matter in another forum to proceed, such as the one Movants seek to bring, can be considered cause, and courts are given broad discretion by the Bankruptcy Code to provide relief from the automatic stay. *Id.* Lifting the stay to permit such a suit is typical and is approved by the Fifth Circuit. *Kipp Flores Architects LLC v. Mid-Continent Cas. Co.*, 852 F.3d 405, 414 (5th Cir. 2017) (“[c]ourts often grant creditors

relief from the automatic stay so they can adjudicate their unliquidated claims against a debtor outside of bankruptcy court.”); *In re Fowler*, 259 B.R. 856, 858 (Bankr. E.D. Tex. 2001) (“This Court, like all bankruptcy courts, routinely lifts the stay to allow tort suits to go forward in state court to determine the liability, if any, of the Debtor.”).

20. A claim covered by insurance where the party seeks to obtain a judgment related to the debtor in name only to recover insurance proceeds is another example of cause related to the relief Movants seek here. *IBM v. Fernstrom Storage & Van Co. (In re Fernstrom Storage & Van Co.)*, 938 F.2d 731 (7th Cir. 1991); see 3 Collier on Bankruptcy P 362.07. When the debtor has insurance in place that covers the claim, litigation should be permitted to avoid hardship to the plaintiff. *In re Honosky*, 6 B.R. 667, 669 (Bankr. S.D.W. Va. 1980) (quoting 2 Collier on Bankruptcy § 362.07[3] at 362-49 (15th ed. 1979)). The relief is even more appropriate when, as here, the Movants seek to bring suit to recover against insurance, not the debtor. *In re Turner*, 55 B.R. 498, 501–02 (Bankr. N.D. Ohio 1985) (holding relief from the automatic stay is appropriate where the plaintiff was not seeking enforcement of judgment against debtor).

21. Decisions to lift the stay can be upheld simply on judicial economy alone. *In re Xenon Anesthesia of Tex., PLLC*, 510 B.R. 106, 112 (Bankr. S.D. Tex. 2014). But to determine whether to permit other litigation in another forum related to the debtor to proceed, courts review the following non-exclusive factors:

In determining whether to lift the automatic stay to allow litigation against a debtor to proceed in another forum, bankruptcy courts have considered the following factors: 1) whether the relief will result in a partial or complete resolution of the issues; 2) lack of any connection with or interference with the bankruptcy case; 3) whether the other proceeding involves Debtor as a

fiduciary; 4) whether a specialized tribunal has been established to hear the particular cause of action; 5) whether the debtor's insurer has assumed full responsibility; 6) whether the action primarily involves third parties; 7) whether litigation in the other forum would prejudice the interests of other creditors; 8) whether the judgment claim arising from the other action is subject to equitable subordination; 9) whether movant's success would result in a judicial lien avoidable by the debtor; 10) interests of judicial economy and the expeditious and economical resolution of litigation; 11) whether the proceedings have progressed to the point that parties are ready for trial; and 12) impact of the stay on the parties and the balance of harm.

*Id.* (citing *In re Fowler*, 259 B.R. 856, 858 (Bankr. E.D. Tex. 2001)).

22. The relief sought by the Movants here, to initiate a lawsuit against Ms. Watkins and collect only from Ms. Watkins and the Chubb Companies' or other insurers' insurance, the insurance assumed by the Debtors in the Confirmation Order, fulfills the factors considered by the Court: (1) lifting the stay to allow Movants to proceed will not affect the bankruptcy case because the civil action that would be initiated is not related to the Debtor's assets; (2) the Chubb Companies' insurance policies are believed to be assumed by the Debtors in the Confirmation Order; (3) the Debtor should not incur any costs related to such civil litigation;<sup>5</sup> (4) Movants are not seeking to recover from the Debtor, but instead Ms. Watkins and the Debtors' assumed Chubb Companies' insurance, which is non-debtor, non-estate property; (5) Movants are prejudiced if they are not permitted to file suit before the statute of limitations runs; (6) Ms. Watkins, a non-debtor, would have otherwise had an argument that the civil litigation could not proceed without the Debtor present if this Court does not expressly permit this filing; and (7) judicial

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<sup>5</sup> Even if the Debtor were to incur costs, at least one Court held that is not to be considered without the context of the other factors, "[the c]ost of defending an action is but one factor for the court to consider which alone does not constitute grounds for denying a movant relief from the automatic stay." *In re Fowler*, 259 B.R. 856, 861 (Bankr. E.D. Tex. 2001).

economy alone supports granting this relief, as this proposed litigation is the efficient method to handle Movants' claims.

23. Judicial economy alone, absent any other factors, supports permitting Movants to initiate litigation. *In re Xenon Anesthesia of Tex., PLLC*, 510 B.R. 106, 112 (Bankr. S.D. Tex. 2014). But even if judicial economy is not considered, these other non-exclusive factors weigh in favor of lifting the stay or modifying the Confirmation Order to permit Movants to proceed with initiating litigation and seeking to recover from the Debtor's Chubb Companies' or other insurers' insurance policies. *Id.* Movants should be permitted to initiate litigation in Delaware so as not to be deprived of their day in court for their injuries, and the insurance carrier on the Debtor's assumed insurance policies should not be protected by the plan injunction or Confirmation Order to avoid such liability for a potentially covered claim.

### **CONCLUSION**

24. Movants seek to initiate litigation in the Superior Court of the State of Delaware against the Debtor (in name only) and Ms. Watkins related to an automobile accident on November 1, 2021; Movants only seek to recover from Debtor's insurance, not the Debtor. The Movants have until October 30, 2023 to initiate litigation. Therefore, Movants now move that after notice and an opportunity for a hearing, this Court enter an Order granting Movants relief from the Plan injunction, release and waiver provisions and the automatic stay of §362 of the Bankruptcy Code to permit Movants to proceed with initiating and prosecuting to collection the state court litigation prior to the running of the limitations period, or, in the alternative, a modification to the Plan and Confirmation Order

to permit such relief.

25. Movants are entitled to the above-requested relief because property of the estate will not be affected if the state court litigation is permitted to proceed, and the litigation will not affect the orderly administration of the Debtor's bankruptcy estate because the Movants do not intend to collect against the Debtor, only the Debtors' assume insurance.

26. The attorney for Movants has attempted to confer with attorneys for the Debtor via phone and email on several occasions and has not been able to reach a decision with such counsel.

**PRAYER**

WHEREFORE, PREMISES CONSIDERED, Movants pray that the above motion be in all respects granted and that this Court enter its Order:

- (1) Granting to Movants relief from any stay in the Plan Injunction or Confirmation Order and any residual stay of §362 of the Bankruptcy Code to permit Movants to proceed with initiating and prosecuting to collection state court litigation to the extent that there are insurance proceeds available to satisfy any Judgment; and
- (2) Granting to Movants such other and further relief at law and in equity to which they may show themselves to be justly entitled.

Dated: September 18, 2023

Respectfully submitted,

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**ATTORNEYS FOR  
MOVANTS**

**CERTIFICATE OF SERVICE**

I certify that on the 18th day of September 2023, a true and correct copy of the above and foregoing was served upon counsel below and all parties in interest via the Court's electronic case filing system (ECF).

**LAW OFFICE OF LIZ FREEMAN**

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/s/ Ross Spence  
Ross Spence

<b>EXHIBIT A</b>
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## STATE OF DELAWARE UNIFORM COLLISION REPORT

Report #: <b>32-21-084125 - 000</b>	Agency: <b>32</b>		
Date and Time of Collision: <b>11/01/2021 - 11/01/2021 at 16:00</b>	County: <b>New Castle</b>	Zip Code: <b>19808</b>	
Grid: <b>088354</b>	Sector: <b>22</b>	Latitude: <b>39.73211</b>	Longitude: <b>-75.62614</b>
Reporting Officer: <b>OFF REIF</b>	Badge #: <b>13091</b>		

Injuries Involved: <b>None Involved</b>
Location of First Unstable Situation: <b>On Roadway</b>
Location of First Harmful Event: <b>On Roadway</b>
First Harmful Event: <b>Stopped Motor Vehicle (Collision with person, vehicle, or object not fixed)</b>
Primary Contributing Circumstance: <b>Driver inattention, distraction, or fatigue</b>
Manner of Impact: <b>Front to rear</b>

### Crash Location

Officer Defined Location: <b>On OLD CAPITOL TRAIL 26.40 Feet North East From NEWPORT GAP PIKE SR62 1.03 Miles from Elsmere Municipality</b>
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### Collision Circumstances

Lighting Condition: <b>Daylight</b>	Road Condition: <b>Dry</b>
Weather Conditions: <b>Clear</b>	
Environment Contributing Circumstances: <b>None</b>	
Roadway Contributing Circumstances: <b>None</b>	
Road Junction: <b>Through Roadway</b>	

### Driver of Vehicle - 001

Involvement: <b>Driver</b>			
Full Name: <b>KENDRA NICOLE WATKINS</b>			
License #:	License Class:		
Gender:	Race:	Ethnicity:	Birth Date:
Address:			
City:	State/Country:	Zip Code:	
Cell Phone:			
Seating Position: <b>Front Seat - Left Side (Driver's Side)</b>			
Driver Distraction: <b>Unknown</b>			
Condition at Time of Crash: <b>Apparently Normal</b>			
Driver Action: <b>Operating vehicle in inattentive, careless, negligent, erratic, reckless or aggressive manner</b>			
Occupant Protection: <b>Shoulder and Lap Belt Used</b>		Ejection: <b>Not Ejected</b>	
Airbag: <b>Not Deployed</b>			
Vehicle: <b>001</b>	Vehicle Style: <b>Passenger Car</b>	Total Occupants: <b>1</b>	

Approved On: **11/08/2021**  
Approved By: **Kevin P Mackie**

Report #: **32-21-084125 - 000**

Registration:	State/Country:	Expires:
VIN: 01000000000000000000000000000000		
Model Year: 2014	Make: Toyota	Model: Yaris or Yaris IM
Vehicle Color: Red		
First Event: Motor Vehicle In Transport (Collision with person, vehicle, or object not fixed)		
Most Harmful Event: Stopped Motor Vehicle (Collision with person, vehicle, or object not fixed)		
Posted/Statutory Speed Limit: 25 (mph)	Maneuver/Action Taken: Stopped in Traffic	
Traffic Control Device: Traffic Control Signal	Inoperative/Missing: No	
Trafficway: Two-Way, Divided, Unprotected Median	Direction Traveled: Northbound	
Gross Vehicle Weight Rating: 10,000 lbs or less		
Equipment Failure: None		
Extent of Damage/Removal: No Damage		
Insurance Status: Insured		
Insurance Company: ACE AMERICAN INSURANCE COMPANY		
Insurance Policy #: ---	Expires: 12/01/2021	
Owner Business Name: DL PETERSON TRUST		
Owner Address:		
City:	State/Country:	Zip Code:

**Driver of Vehicle - 002**

Involvement: Driver			
Full Name: AYESHA MARIE MOON MCNAIR			
License #:	License Class:		Birth Date:
Gender:	Race:	Ethnicity:	
Address:			
City:	State/Country:	Zip Code:	
Cell Phone: (---) -------			
Seating Position: Front Seat -- Left Side (Driver's Side)			
Driver Distraction: None			
Condition at Time of Crash: Apparently Normal			
Driver Action: No Contributing Action			
Injury Status: Suspected Minor Injury			
Occupant Protection: Shoulder and Lap Belt Used		Ejection: Not Ejected	
Airbag: Not Deployed			
Vehicle: 002	Vehicle Style: Passenger Car	Total Occupants: 3	
Registration:	State/Country:	Expires:	
VIN: 00000000000000000000000000000000			
Model Year: 2019	Make: Jeep	Model: Grand Cherokee, Grand Cherokee	
Vehicle Color: Black			
First Event: Motor Vehicle In Transport (Collision with person, vehicle, or object not fixed)			
Most Harmful Event: Motor Vehicle in Transport (Collision With Person, Motor Vehicle, or Non-Fixed Object)			
Posted/Statutory Speed Limit: 25 (mph)	Maneuver/Action Taken: Stopped in Traffic		

Approved On: 11/08/2021  
 Approved By: Kevin P Mackie

Traffic Control Device: <b>Traffic Control Signal</b>		Inoperative/Missing: <b>No</b>
Trafficway: <b>Two-Way, Divided, Unprotected Median</b>		Direction Traveled: <b>Northbound</b>
Gross Vehicle Weight Rating: <b>10,000 lbs or less</b>		
Equipment Failure: <b>None</b>		
Extent of Damage/Removal: <b>No Damage</b>		
Insurance Status: <b>Insured</b>		
Insurance Company: <b>GEICO SECURE INSURANCE COMPANY</b>		
Insurance Policy #:	Expires: <b>12/01/2021</b>	
Owner Name: <b>AZUANA Z BRADY</b>		
Owner Address:		
City:	State/Country:	Zip Code:

**Passenger of Vehicle - 002**

Involvement: <b>Passenger</b>			
Full Name: <b>A A</b>			
Gender:	Race:	Ethnicity:	Birth Date:
Address:			
City:	State/Country:	Zip Code:	
Seating Position: <b>Second Seat - Right Side</b>			
Injury Status: <b>Suspected Minor Injury</b>		Primary Area of Body Injury: <b>Thorax (chest)</b>	
Occupant Protection: <b>Shoulder and Lap Belt Used</b>		Ejection: <b>Not Ejected</b>	
Airbag: <b>Not Deployed</b>			

**Passenger of Vehicle - 002**

Involvement: <b>Passenger</b>			
Full Name: <b>T W</b>			
Gender:	Race:	Ethnicity:	Birth Date:
Address:			
City:	State/Country:	Zip Code:	
Seating Position: <b>Second Seat - Left Side</b>			
Injury Status: <b>Suspected Minor Injury</b>		Primary Area of Body Injury: <b>Thorax (chest)</b>	
Occupant Protection: <b>Shoulder and Lap Belt Used</b>		Ejection: <b>Not Ejected</b>	
Airbag: <b>Not Deployed</b>			

**Narrative - Report Sequence: 000**

On 11-01-2021 at approximately 1600 hours, I was dispatched to Christiana Medical Center (CMC) in reference to a motor vehicle collision with a person injured.

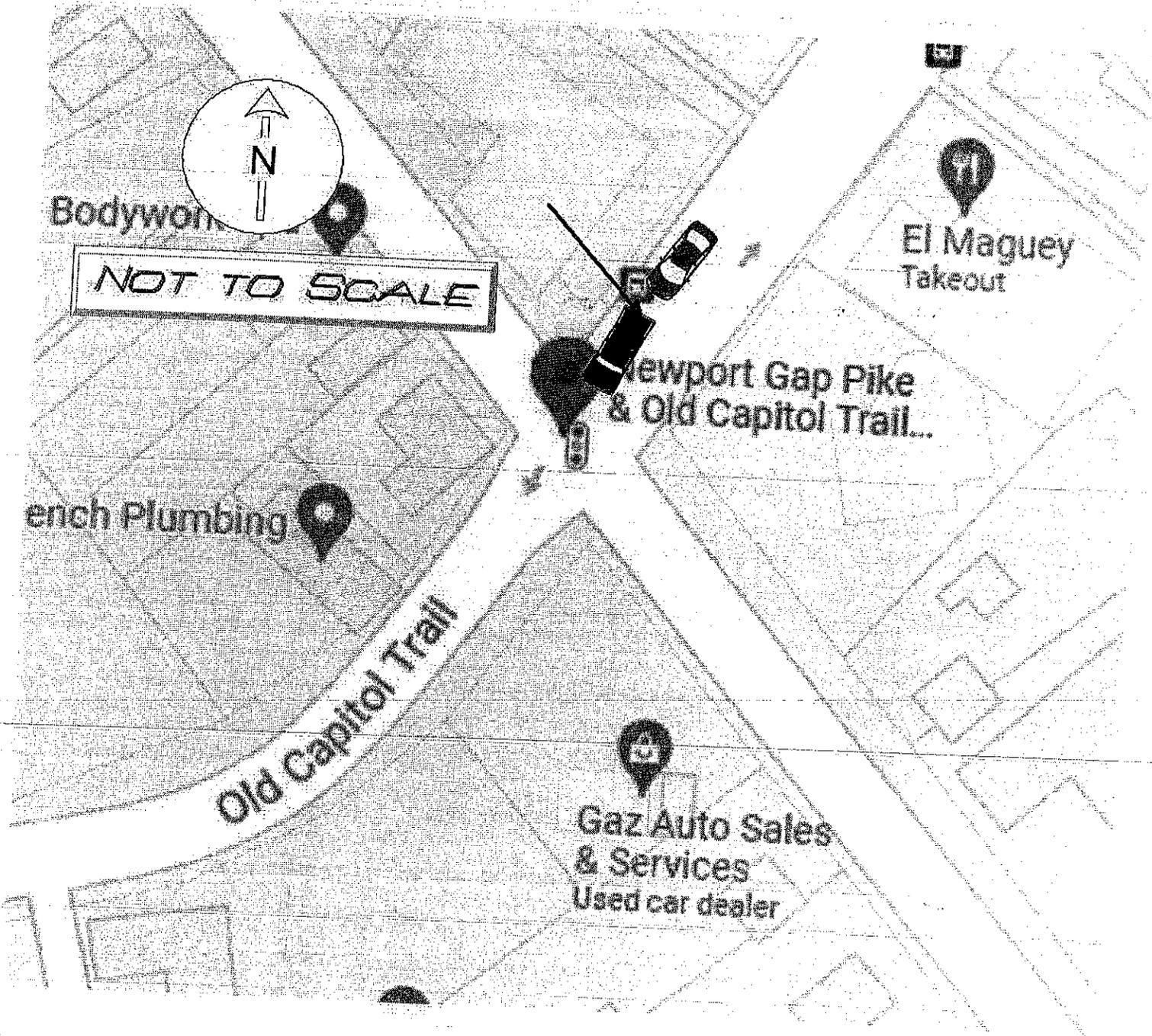
I made contact with the reporting person, Ayesha McNair (-----). Ayesha advised she was on Old Capital Trail, stopped at the red light in her 2019 Jeep (-----), turning left on to Newport Gap Pike. Ayesha advised while stopped, she felt a car drive into the back of her vehicle. Ayesha advised herself and the operator of the vehicle behind her exited their vehicles, made contact with each other, and decided to pull into a parking lot adjacent to the intersection to phone the police. Ayesha advised the other operator advised she was adjusting her seat when her foot slipped off the breaks, causing her to drive into the back of Ayesha's vehicle. Ayesha advised she called the police and a Trooper from Delaware State Police (DSP) responded to the scene. Ayesha advised the two drivers exchanged information and went about their way. Ayesha advised her back started to hurt, so she called back to 911 dispatch advising she would be responding the CMC and requested an officer meet her there. Ayesha advised her lower back was hurting. She also advised her son and nephew, who were in the vehicle, are also complaining of back and chest pain.

I then made contact with the operator of the striking vehicle, Kendra Watkins (-----). Kendra advised she was driving on Old Capital Trail, when she stopped behind a vehicle at a red traffic light. Kendra advised she was completely stopped, at which time she adjusted her seat, causing her foot to slip off the break and coast into the vehicle in front of her. Kendra advised she made contact with the other driver, a Trooper responded to the scene, they exchanged information and went about their day.

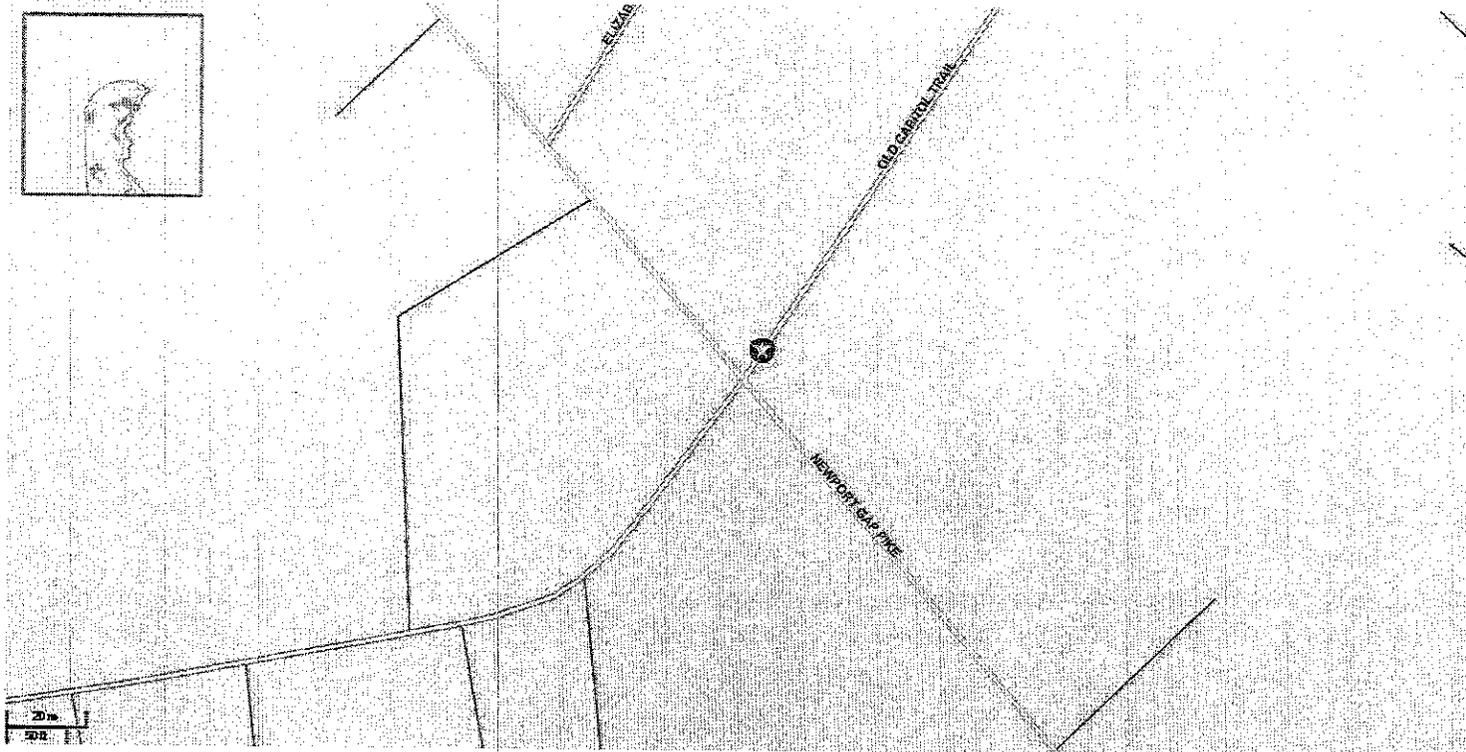
I observed there to be no damage to Ayesha's vehicle. It should be noted that when I made contact with Kendra, she was in Philadelphia, but Kendra advised her vehicle did not sustain any damage during the collision. Due to there being no damage to either vehicle, photographs were not taken.

I conducted a follow up on 11-02-2021 at approximately 1000 hours and made contact with Ayesha. Ayesha advised she and the other occupants suffered minor back and chest strains, and were discharged from CMC without incident.

Both parties were issued a case number reference this. Kendra was issued a verbal warning to remain attentive at all times while operating a motor vehicle.



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

<b>IN RE:</b>	§	
	§	<b>Chapter 11</b>
<b>IEH AUTO PARTS HOLDING LLC, et al.<sup>1</sup></b>	§	<b>CASE NO. 23-90054 (CML)</b>
	§	
<b>DEBTORS.</b>	§	<b>(Jointly Administered)</b>

**ORDER GRANTING AYESHA MCNAIR, INDIVIDUALLY AND AS NEXT FRIEND OF A. A., A MINOR CHILD AND T.W., A MINOR CHILDS’ MOTION FOR RELIEF FROM THE PLAN INJUNCTION TO PROCEED WITH LITIGATION TO COLLECT AGAINST AN INSURER OF THE DEBTOR**

This Court, having considered the movants, Ayesha McNair, Individually and as Next Friend of A. A., a minor child, and T.W., a minor childs’ (“Movants”) Motion for Relief from the Plan Injunction to Proceed with Litigation to Collect Against an Insurer of the Debtor (the “Motion”), any responses and replies thereto, and any argument of counsel, is of the opinion that Ayesha McNair, A.A. , and T. W.’s Motion should be and is hereby GRANTED.

It is therefore, ORDERED, ADJUDGED, and DECREED that:

1. Movants are granted relief from the Plan Injunction, the Confirmation Order, and any residual stay of §362 of the Bankruptcy Code to permit Movants to

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<sup>1</sup> The Debtor entities in these chapter 11 cases, along with the last four digits of each Debtor entity’s federal tax identification number, are: IEH Auto Parts Holding LLC (6529); AP Acquisition Company Clark LLC (4531); AP Acquisition Company Gordon LLC (5666); AP Acquisition Company Massachusetts LLC (7581); AP Acquisition Company Missouri LLC (7840); AP Acquisition Company New York LLC (7361); AP Acquisition Company North Carolina LLC (N/A); AP Acquisition Company Washington LLC (2773); Auto Plus Auto Sales LLC (6921); IEH AIM LLC (2233); IEH Auto Parts LLC (2066); IEH Auto Parts Puerto Rico, Inc. (4539); and IEH BA LLC (1428). The Debtors’ service address is: 112 Townpark Drive NW, Suite 300, Kennesaw, GA 30144.

proceed with initiating and prosecuting to collection state court litigation to the extent that there are insurance proceeds available to satisfy any Judgment.

**IT IS SO ORDERED:**

Dated: \_\_\_\_\_

\_\_\_\_\_  
Judge Christopher Lopez  
United States Bankruptcy Judge