

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

In re:	§	Case No. 23-90054
	§	
IEH AUTO PARTS HOLDING LLC, et al. ¹	§	Chapter 11
	§	
Debtors.	§	Jointly Administered

**MOTION BY EDWIN MCCRARY FOR RELIEF FROM AUTOMATIC STAY AND/OR
PLAN INJUNCTION TO PROSECUTE A PENDING LAWSUIT**

THIS IS A MOTION FOR RELIEF FROM THE AUTOMATIC STAY. IF IT IS GRANTED, THE MOVANT MAY ACT OUTSIDE OF THE BANKRUPTCY PROCESS. IF YOU DO NOT WANT THE STAY 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 THURSDAY, SEPTEMBER 21, 2023 AT 10:00 AM IN COURTROOM 401, 515 RUSK, HOUSTON, TX 77002.

TO THE HONORABLE BANKRUPTCY JUDGE CHRISTOPHER M. LOPEZ:

COMES NOW, Movant, Edwin McCrary (“**Mr. McCrary**”), files this *Motion for Relief of the Automatic Stay and/or Plan Injunction* to allow Mr. McCrary to proceed with his pending litigation against Peter Vasilas, an alleged employee of IEH Auto Parts, LLC (the “**Debtor**”) filed under Civil Action No. 22-C-00924-S2 in the State Court of Gwinnett County, Georgia (the

¹ 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 (2772); 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.



“**Civil Action**”), and states as follows:

JURISDICTION & VENUE

1. This Court has jurisdiction over this Motion under 28 U.S.C. §§ 1334 and 157. This Motion for relief from stay is a core proceeding under 28 U.S.C. § 157(b)(2)(G).

2. Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

3. This Motion is brought pursuant to 11 U.S.C. §§ 105 and 362(d)(2) & (j), Rules 4001 and 9014 of the Federal Rules of Bankruptcy Procedure, and Bankruptcy Local Rule 4001-1.

SUMMARY

4. On February 14, 2022, Mr. McCrary commenced an action in the State Court of Gwinnett County, Georgia, captioned *Edwin McCrary vs. Peter Vasilas* under Case No. Civil Action No. 22-C-00924-S2, alleging that Mr. Vasilas negligently rear-ended Mr. McCrary while driving causing Mr. McCrary damages. None of the Debtors were party defendants to the Civil Action. *See* Exhibit 1.

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**”). *See* Dkt No. 1. The deadline to file proofs of claim was May 1, 2023. *See* Dkt No. 222. Neither Mr. McCrary nor Mr. Vasilas filed a proof of claim against any of the Debtors’ estates.

6. On May 12, 2023, Mr. Vasilas filed a Suggestion of Bankruptcy in the Civil Action alleging that he was an employee of IEH Auto Parts, LLC and his defense was provided by the Debtor. *See* Exhibit 2.

7. On June 16, 2023, Mr. McCrary filed a Reservation of Rights to the Debtors' Second Amended Plan to move to modify the plan injunction and/or automatic stay in order to proceed in the Civil Action solely to collect against the Debtor's applicable insurance policy to the extent and insurance proceeds are available to satisfy Mr. McCrary's claim. *See* Dkt No. 730.

8. On June 16, 2023, the Bankruptcy Court entered an Order Confirming the Debtors' Third Amended Combined Disclosure Statement and Joint Plan of Liquidation (the "**Confirmation Order**"). *See* Dkt No. 749. Upon information and belief, Mr. Vasilas' defense is being provided under a Chubb Insurance Contract that the Debtors assumed in the Debtors' Plan. *Id.* at Article V, Section A. The Confirmation Order further states in Article V, Section C that "nothing, 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 Id.* at Article V.C.2(e).

9. The claims asserted by Mr. McCrary in the Civil Action are not against the Debtor, but against Mr. Vasilas. However, in the event the Civil Action contains a "Claim" that is covered by a Chubb Insurance Contract, Mr. McCrary seeks to modify the plan injunction and/or lift the automatic stay if and to the extent applicable in order to allow Mr. McCrary to continue prosecuting the Civil Action to conclusion.

ARGUMENT AND AUTHORITIES

10. Section 362(j) allows a party in interest to seek an order from the Court confirming that the automatic stay has been terminated. 11 U.S.C. § 362(j). The automatic stay terminates when such property is no longer property of the estate or at the time a discharge is granted. 11 U.S.C. § 362(c). Here, the Order confirming the Debtors’ plan terminates the automatic stay upon the Effective Date. *See* Dkt No. 749. Mr. McCrary has not filed a claim against the Debtor and neither did Mr. Vasilas. To the extent the automatic stay has terminated as to the Civil Action, Mr. McCrary seeks a comfort order from this Court, so he may file it in the Civil Action.

11. Section 362 also provides that “[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). As recently emphasized by the Fifth Circuit, “[c]ourts often grant creditors relief from the automatic stay so they can adjudicate their unliquidated claims against a debtor outside of bankruptcy court, particularly when the claims are already the subject of pending litigation. *Kipp Flores Architects LLC v. Mid-Continent Cas. Co.*, 852 F.3d 405, 414 (5th Cir. 2017) (citing *In re Xenon Anesthesia of Texas*, 510 B.R. 106, 112 (Bankr. S.D. Tex. 2014)).

12. Where a debtor has insurance in place covering the claim, “continuation of the [civil] litigation should be permitted since hardship to the debtor is likely to be outweighed by 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)); *see also 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.”); *In re Turner*, 55 B.R. 498, 501–02 (Bankr. N.D. Ohio 1985) (holding that relief from the automatic stay was appropriate where creditor was not seeking enforcement of judgment against debtor).

13. In considering whether cause exists for relief from the automatic stay with respect to the continuation of prepetition litigation, this Court employs the following twelve-factor analysis:

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 expedition 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.

Xenon Anesthesia, 510 B.R. at 112 (citing *In re Curtis*, 40 B.R. 795 (Bankr. D. Utah 1984)). The burden of proof is a shifting one: the creditor must make an initial showing of “cause,” whereafter the burden on all other issues, including retaining the automatic stay in place, is on the debtor. *See, e.g., In re Mosher*, 578 B.R. 765, 772 (Bankr. S.D. Tex. 2017).

14. Here, Mr. McCrary submits that an application of these factors weighs heavily in favor of granting relief from the stay to liquidate Mr. McCrary’s claims. A brief discussion of the relevant factors follows:

- a. Lifting the stay will not interfere with the bankruptcy case and the Civil Action is not connected with the bankruptcy case. Upon information and belief, the applicable Debtor's insurance policy was assumed in the Debtor's confirmed Plan. The Debtor's insurance carrier is providing Mr. Vasilas' defense, meaning that the Debtor should not incur any material costs in defending against Mr. McCrary's claims.
- b. However, even if the Debtor has or will incur costs defending the claims, costs alone are not sufficient to deny relief from the automatic stay. *Fowler* at 861 ("Cost 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.") This weighs in favor of lifting the stay.
- c. Mr. McCrary is not seeking to recover on his claims against the Debtor nor the Estate. On the contrary, Mr. McCrary seeks to recover from a non-Debtor and non-estate property. Therefore, the Debtor and other creditors may benefit from having Mr. McCrary's substantial claims satisfied in whole or in part from collateral sources of recovery. This weighs in favor of lifting the stay.
- d. Because the Civil Action involves a non-debtor defendant, Mr. Vasilas has been able to argue against continued litigation on the grounds that Debtor is a necessary and indispensable party, thus leading to additional, severe, and actual prejudice to Mr. McCrary. This weighs in favor of lifting the stay.
- e. The interests of judicial economy and the expedition and economical resolution of litigation strongly support granting relief from the automatic

stay, as the Civil Action is already pending in the most efficient and economical manner possible. This weighs in favor of lifting the stay.

15. When taken collectively, the factors weigh in favor of lifting the stay and modifying the plan injunction. Denying Mr. McCrary's Motion and depriving him of his day in court will subject Mr. McCrary to continuing, needless delay while benefiting the interests of the Debtors' insurance carrier and non-debtor defendant, none of whom are entitled to protection by the automatic stay or plan injunction.

CONCLUSION

16. Mr. McCrary seeks modification of the automatic stay and/or plan injunction to the extent applicable to enable Mr. McCrary to prosecute to conclusion (including any appeals therefrom) the claims asserted against Mr. Vasilas in the complaint filed in the Civil Action (collectively, the "**Claims**") and seek satisfaction of any judgment, award, settlement, claim, distribution, or any other resolution or right to payment obtained against Mr. Vasilas in the Civil Action on account of the Claims solely from any proceeds available under the Debtor's insurance policy (the "**Insurance Proceeds**").

17. Accordingly, Mr. McCrary hereby respectfully requests that the Court modify the Confirmation Order's Plan injunction and automatic stay under Section 362(a) of the Bankruptcy Code solely to the limited extent necessary to allow Mr. McCrary to prosecute the Civil Action in order to pursue any recovery from available insurance proceeds as set forth above.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Edwin McCrary hereby prays that the Court: (i) grant this Motion; (ii) enter an order modifying the Plan injunction and lifting the

automatic stay under 11 U.S.C. § 362(a) to the limited extent to allow Mr. McCrary to prosecute the Civil Action to finality and seek satisfaction of any judgment, award, settlement, claim, distribution, or any other resolution or right to payment obtained against Mr. Vasilas in the Civil Action solely from any insurance proceeds available under the Debtor's insurance policy; and for such further relief to which Edwin McCrary may justly be entitled.

Respectfully submitted this 17th day of August, 2023.

Respectfully submitted,

By: /s/ Kim Lewinski

Michael J. Durrschmidt
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State Bar No. 24097994
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ATTORNEYS FOR EDWIN MCCRARY

CERTIFICATE OF CONFERENCE

The undersigned hereby certifies that on August 14, 2023, counsel for Movant emailed John Kane as counsel to the Committee and GUC Trustee and Debtor's counsel, Victoria Argeroplos, Genevieve Graham, and Emily Flynn Meraia of Jackson Walker, and on August 15, 2023, John Kane responded that he believes the parties can reach a resolution in short order. We will continue to work on reaching a resolution.

/s/ Kim Lewinski
Kim Lewinski

CERTIFICATE OF SERVICE

I, the undersigned attorney, do hereby certify that a true and correct copy of the foregoing Motion to Lift Stay was served in accordance with Fed. R. Bankr. P. 4001(a)(1) and Local Rule 4001-1(a)(4) on August 17, 2023 via the Clerk of the Court through the CM/ECF system and via first class mail, postage prepaid or email to the following parties:

IEH Auto Parts Holding LLC Debtors – Via first-class U.S. mail
112 Townpark Dr. NW, Suite 300
Kennesaw, GA 30144

Wendy M. Simkulak – wmsimkulak@duanemorris.com
Catherine Beideman Heitzenrater – cheitzenrater@duanemorris.com
Elisa M. Hyder – ehyder@duanemorris.com
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30 S. 17th St.
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Andrew H. Tyner – atyner@hallboothsmith.com
Hall Booth Smith, P.C.
191 Peachtree St., NE, Suite 2900
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Federal -Mogul Corporation Anco
Attn: Michael Duffy, Director of AR – michael.duffy@driv.com
5050 Kingsley
Retail Lockbox 1MOC1N
Cincinnati, OH 45227

Mann + Hummel Purolator Filters LLC
Attn: Ajay Tikare – Ajay.tikare@mann-hummel.com
Senior Associate Accounts Receivable
Plot No. 231/1 Stage 3rd Phase
Peenya Industrial Area
Bengaluru, India 860 058

Gates Corporation
Attn: Natalie Maxwell, Accounts Manager – Natalie.maxwell@gates.com
1144 Fifteenth St., Suite 1400
Denver, CO 80202

Warren Distribution

Attn: Brett Bartling, Credit Manager – Brett.bartling@highlinewarren.com
950 S. 10th St., Suite 300
Omaha, NE 68108

Standard Motor Products Inc.

Attn: Darcey Keene, Director, Corporate Credit – Darcey.keene@4s.com
37-18 Northern Blvd., 6th Fl.
Long Island, NY 11101

Monroe Auto Equipment Co.

Attn: Michael Duffy, Director of AR – michael.duffy@driv.com
5050 Kingsley
Retail Lockbox 1MOC1N
Cincinnati, OH 45227

Walker Manufacturing Company

Attn: Michael Duffy, Director of AR – michael.duffy@driv.com
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Cincinnati, OH 45227

Ford Motion Company

Attn: Sunil Kuman, Global Receivables – Ssunilk2@ford.com
Dept. CH 14147
Palatine, IL 60055-4147

Axalta Coatings Systems LLC

Attn: Ryann Drenzo, Credit Analyst – Ryann.drenzo@axalta.com
50 Applied Bank Blvd., Suite 300
Glen Mills, PA 19342

YBM Industries CO Limited

Attn: Alice – Sales20@ybmindustries.com
707-713 Nathan Rd.
Mongkok, LKN, China

Dorman Products, Inc.

Attn: Lauren Scott, AR Coordinator – rgarequests@doormanproducts.com
3400 E. Walnut St.
Colmar, PA 18915

Transworld Accurate Brake LTD

Attn: Jun Zou – junzou@accuratebrake.com
600 Territorial Dr., Unit D
Bolingbrook, IL 60440

Four Season Division of Standard Motor Products
Attn: Darcey Keene, Director, Corporate Credit – Darcey.keene@4s.com
37-18 Northern Blvd., 6th Fl.
Long Island, NY 11101

Continental Battery Systems
Attn: Brian Chesnut, Corporate Controller – bchesnut@gocbs.com
8585 N. Stemmons Fwy. South Tower, Suite 600
Dallas, TX 75247

IAP Dura International
Attn: Lisa Hurff, Credit Manager – lhurff@durangoparts.com
11 Distribution Blvd. Suite A
Edison, NJ 08817-6005

Highline-Warren LLC
Attn: Brett Bartling, Credit Manager – Brett.bartling@highlinewarren.com
950 S. 10th St., Suite 300
Omaha, NE 68108

Wilmar Corporation – Via first-class U.S. mail
20413 59th Pl South, Suite 160
Kent, WA 98032

3M – Via first-class U.S. mail
Attn: Jacque Derocker-Lenihan, US Operations Representative
3M Center 225-5S-14
St. Paul, MN 55144

Trico Products – Via first-class U.S. mail
Attn: Maks Chernyavsky, Director of Finance
127 Public Square, Suite 5300
Cleveland, OH 44114

Delphi Automotive Systems – Via first-class U.S. mail
22654 Network P
Chicago, IL 60673-1226

CRS Automotive Systems
Attn: Ashwini Angira, AR/AP – ashwiniz@aol.com

83 Carrington Lane
Uxbridge, MA 01569

Agility Auto Parts Inc.
Attn: Jeff Marquis, Director of Sales – jmarquis@apdius.com
3000 E. Pioneer Pkwy., Suite 160
Arlington, TX 76010

Curt Manufacturing Inc.
Attn: Ginger Olson, Accounts Receivable Supervisor – Ginger.olson@curtgroup.com
BIN 88006
Milwaukee, WI 53288-006

Denso Sales of California – Via first-class U.S. mail
Attn: Shekhar Chethikattil Manager Credit & Financial Services
3900 Via Oro Ave.
Long Beach, CA 90810

Sopus Products-Shell/Pennzoil
Attn: Zen-Mary Tatac – Zen-mary.tatac@shell.com
P.O. Box 7247-6236
Philadelphia, PA 19170-6236

Northern Battery
Attn: Brian Chesnut, Corporate Controller – bchesnut@gocbs.com
8585 N. Stemmons Fwy. South Tower, Suite 600
Dallas, TX 75247

Old World Industries LLC
Attn: Jennifer Murray Credit Manager – jmurray@owi.com
3100 Sanders Rd., Suite 400
Northbrook, IL 60062

Warren Oil Company Inc.
Attn: Brett Bartling, Credit Manager – Brett.bartling@highlinewarren.com
950 S. 10th St., Suite 300
Omaha, NE 68108

Interstate Batteries

Attn: Duran Pfeiffer – Duran.pfeiffer@ibsa.com

12770 Merit Dr., Suite 1000

Dallas, TX 75251

NGK Spark Plugs (USA) Inc.

Attn: Rabia Alleik – raalleik@ngksparkplugs.com

AR Coordinator/Cash Application Specialist

46929 Magellan Dr.

Wixom, MI 48393

/s/ Kim Lewinski

Kim Lewinski

**IN THE STATE COURT OF GWINNETT COUNTY
STATE OF GEORGIA**

EDWIN MCCRARY
Plaintiff

v.

PETER VASILAS
Defendant.

CIVIL ACTION FILE NO.
22-C-00924-S2

JURY TRIAL DEMANDED

COMPLAINT

COMES NOW Plaintiff Edwin McCrary and files this Complaint for Damages and Demand for Jury Trial against Defendant Peter Vasilas showing the Court the following:

PARTIES, VENUE, JURISDICTION, AND SERVICE OF PROCESS

1. Plaintiff Edwin McCrary, (hereinafter "Plaintiff") is, and was at all relevant times to this Complaint, a citizen and resident of the State of Georgia, residing in Henry County, Georgia. By bringing this action, he avails himself to the venue and jurisdiction of this Court.
2. Upon information and belief, Defendant Peter Vasilas (hereinafter "Defendant") is a citizen and resident of the State of Georgia, residing at 4244 Dorsey Court SW, Lilburn, GA 30047 located in Gwinnett County.
3. Jurisdiction is proper over Defendant in this Court because she is a resident of Gwinnett County, Georgia who committed acts and omissions in this State as more fully set forth below.
4. Venue is proper as to Defendant under the Ga. Const., Art. VI, § II, ¶ VI and other applicable law because Defendant is a resident of Gwinnett County, Georgia.

OPERATIVE FACTS RELEVANT TO ALL COUNTS

5. On March 02, 2020, Plaintiff was operating a 2018 Chevrolet Silverado traveling southbound on Buford Hwy. inside the city of Chamblee located in DeKalb County.
6. At that same time, Defendant was operating a 2016 Ford Transit Van and was also southbound on Buford Hwy. inside the city of Chamblee located in DeKalb County directly behind Plaintiff's vehicle.

7. Defendant so carelessly, negligently, and recklessly failed to stop behind Plaintiff's vehicle and crashed into the rear of Plaintiff's vehicle causing bodily injury to Plaintiff.
8. As a result of the events stated in paragraphs 5 through 7 of Plaintiff's Complaint, Defendant received a citation from the City of Chamblee Police Department for violation of O.C.G.A. § 40-6-49 Following Too Closely.
9. There is no bona fide controversy as it regards the cause of the collision referenced in paragraphs 5 through 7 of Plaintiff's Complaint, which forms the basis of this action.

COUNT ONE: NEGLIGENCE OF PETER VASILAS

10. At all relevant times, Defendant owed certain duties to Plaintiff and, notwithstanding those duties, Defendant violated those duties. In particular, Defendant violated the following duties:
 - a. Failure to maintain a proper lookout;
 - b. Failure to keep his vehicle under control at all times, in violation of O.C.G.A. § 40-6-390;
 - c. Failure to drive at a speed that is reasonable and prudent under the conditions in violation of O.C.G.A. § 40-6-180;
 - d. Failure to exercise due care in operating a motor vehicle in violation of O.C.G.A. § 40-6-241;
 - e. Driving in reckless disregard for the safety of persons or property in violation of O.C.G.A. § 40-6-390;
 - f. Operating a vehicle while using a wireless telecommunications device in violation of § 40-6-241.2 and § 40-6-241;
 - g. Following Too Closely in violation of O.C.G.A. § 40-6-49;
11. The violation of O.C.G.A. § 40-6-49 constitutes negligence per se and was a proximate cause of the collision forming the basis of this action.
12. Defendant's breach of the certain duties owed to Plaintiff, as enumerated in paragraph 10, was the direct and proximate cause of Plaintiff's personal injuries.

COUNT TWO: ATTORNEY'S FEES

13. Pursuant to O.C.G.A. §13-6-11, Plaintiff is entitled to recover his expenses of litigation, including attorney's fees and costs of litigation because Defendant has acted in bad faith, has been stubbornly litigious, and has caused Plaintiff unnecessary trouble and expense.

COUNT THREE: DAMAGES

14. Plaintiff realleges and incorporates herein the allegations contained in paragraphs 1 through 13 above as if fully restated.
15. As a direct and proximate cause of Defendant's acts and omissions, Plaintiff suffered bodily injury requiring medical attention and incurred medical bills in an amount to be proven at trial.
16. As a direct and proximate cause of Defendant's acts and omissions, Plaintiff requires future medical attention and will incur future medical bills in an amount to be proven at trial.
17. As a direct and proximate cause of Defendant's acts and omissions, Plaintiff incurred a loss of wages and loss of earning capacity in an amount to be proven at trial.
18. As a direct and proximate cause of Defendant's acts and omissions, Plaintiff sustained pain, suffering, and mental anguish to be proven at trial.
19. To date, Plaintiff has incurred medical expenses, expects to incur additional future medical expenses, in addition to lost wages and loss of earning capacity in an amount to be proven at trial which are all a direct and proximate result of Defendant's negligence.
20. By reason of the foregoing, Plaintiff is entitled to recover special and general damages from Defendants in an amount to be proven at trial.

NOTICE OF SERVICE OF DISCOVERY

21. Defendant is hereby notified that the following discovery requests are served upon him, attached to and along with this Summons and Complaint:
 - a. Plaintiff's First Interrogatories to Defendant;
 - b. Plaintiff's First Request for Production of Documents to Defendant;
 - c. Plaintiff's First Request for Admissions to Defendant.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for the following relief:

- a. That summons be issued requiring Defendant appear as provided by law to Answer this Complaint;
- b. That Plaintiff have a jury trial on all issues;
- c. That Plaintiff recover from Defendant the full value of past and future medical expenses and past and future lost wages endured by him since the time of Defendant's tortious acts and omissions in an amount to be proven at trial;
- d. That Plaintiff recover from Defendant damages for all components of the mental and physical pain

and suffering endured by him since the time of Defendant's tortious acts and omissions in an amount to be determined by the enlightened conscience of the jury;

- e. That all costs be cast against Defendant; and
- f. For such other and further relief as this Court shall deem just and appropriate.

This 14th day of February 2022.

CASTRO LAW, P.C.

/s/ Victor J. Ortiz
Fabian G. Rincon
Georgia Bar Number: 240956
Victor J. Ortiz
Georgia Bar Number: 628217
Yolanda McKenney
Georgia Bar Number: 214653
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IN THE STATE COURT OF GWINNETT COUNTY
STATE OF GEORGIA

EDWIN MCCRARY,

Plaintiff,

v.

PETER VASILAS,

Defendant.

CIVIL ACTION FILE

NO.: 22-C-00924-S2

JURY DEMANDED

SUGGESTION OF BANKRUPTCY

COMES NOW, Peter Vasilas (“Vasilas” or “Defendant”) and hereby files this Suggestion of Bankruptcy as a courtesy to the Court and as notice to all parties in interest, showing the following:

Defendant Peter Vasilas is an employee of IEH Auto Parts LLC, and his defense in this case is being provided by the same. A Voluntary Petition seeking relief under Chapter 11, United States Code, was filed on behalf of IEH Auto Parts, LLC, in the United States Bankruptcy Court for the Southern District of Texas on the 31st day of January 2023. The petition was assigned Case No. 23-90057. A true and correct copy of the petition is attached hereto as Exhibit A.

The filing of the Voluntary Petition operates as an automatic stay as provided in Section 362 of the Bankruptcy Code. *See A.H. Robins Co., Inc. v. Piccinin*, 788 F.2d 994 (4th Cir. 1986)(a bankruptcy court may stay proceedings against a non-bankruptcy defendant when there is such identity between the debtor and third-party defendant that any judgement against the third-party defendant may be said to be a judgment against the debtor.) Any relief from that stay must be sought in the Bankruptcy Court. Section 362 of the Bankruptcy Code sets forth in detail those

actions and entities to which the automatic stay applies. The parties to this proceeding are advised to govern themselves accordingly.

Respectfully submitted, this 12th day of May 2023.

HALL BOOTH SMITH, P.C.

/s/ Andrew H. Tyner

WALTER J. BIBBINS, JR.

Georgia Bar No. 056308

ANDREW H. TYNER

Georgia Bar No. 645397

Counsel for Defendant Peter Vasilas

191 Peachtree Street, N.E., Suite 2900
Atlanta, GA 30303-1755
Tel: (404) 954-5000 | Fax: (404) 954-5020
wbibbins@hallboothsmith.com
atyner@hallboothsmith.com

CERTIFICATE OF SERVICE

I hereby certify that on this day, I have served a copy of the foregoing *Suggestion of Bankruptcy* upon all parties to this matter by filing said documents with the Court's e-filing system and/or by depositing a true copy of the same in the U.S. Mail, with adequate postage affixed thereon, addressed as follows:

Daniel F. Castro
Yolanda McKenny
CASTRO LAW, P.C.
5 Concourse Parkway, Suite 2225
Atlanta, GA 30328
dan@castrolaw.com
yolanda@castrolaw.com

This 12th day of May 2023.

HALL BOOTH SMITH, P.C.

/s/ Andrew H. Tyner
WALTER J. BIBBINS, JR.
Georgia Bar No. 056308
ANDREW H. TYNER
Georgia Bar No. 645397

Counsel for Defendant Peter Vasilas

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

In re:	§	Case No. 23-90054
	§	
IEH AUTO PARTS HOLDING LLC, et al. ¹	§	Chapter 11
	§	
Debtors.	§	Jointly Administered

**ORDER GRANTING EDWIN MCCRARY’S MOTION FOR RELIEF FROM
AUTOMATIC STAY AND/OR PLAN INJUNCTION TO PROSECUTE A PENDING
LAWSUIT**

ON THIS DAY, came for consideration, the *Motion for Relief of the Automatic Stay and/or Plan Injunction* filed by Edwin McCrary (“**Mr. McCrary**”), and after considering the arguments of counsel and the record in this Bankruptcy Proceeding, and finding that all required parties have been served with adequate notice of this Motion and hearing thereon, this Court finds that the Motion should be approved as set forth herein.

IT IS THEREFORE

ORDERED that, any injunction provided for under the Plan and the automatic stay of 11 U.S.C. § 362 is, to the extent possible, hereby modified solely to permit Mr. McCrary to continue his litigation against Peter Vasilas under Civil Action No. 22-C-00924-S2 in the State Court of Gwinnett County, Georgia (the “**Civil Action**”) in order to pursue any available proceeds under the applicable insurance policy. It is further

¹ 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 (2772); 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.

ORDERED, that the *Motion for Relief of the Automatic Stay and/or Plan Injunction* filed by Edwin McCrary is hereby GRANTED.

SIGNED: _____, 2023.

CHRISTOPHER M. LOPEZ
UNITED STATES BANKRUPTCY JUDGE

APPROVED AND ENTRY REQUESTED:

HIRSCH & WESTHEIMER, P.C.

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