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**UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF NEW JERSEY**

In re:

CCA Construction, Inc.,<sup>1</sup>

Debtor.

Chapter 11

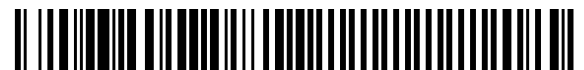
Case No. 24-22548 (CMG)

**DEBTOR'S MOTION FOR ENTRY OF AN ORDER GRANTING RELIEF  
FROM THE AUTOMATIC STAY TO SEEK FURTHER APPELLATE REVIEW**

TO THE HONORABLE JUDGE CHRISTINE M. GRAVELLE, UNITED STATES  
BANKRUPTCY JUDGE FOR THE DISTRICT OF NEW JERSEY:

The above-captioned debtor and debtor in possession ("CCA" or the "Debtor")  
respectfully states as follows in support of this motion:

<sup>1</sup> The last four digits of CCA's federal tax identification number are 4862. CCA's service address for the purposes of this chapter 11 case is 445 South Street, Suite 310, Morristown, NJ 07960.



### **Relief Requested**

1. CCA seeks entry of an order, substantially in the form attached hereto as **Exhibit A** (the “**Order**”), granting CCA limited relief from the automatic stay pursuant to 11 U.S.C. § 362(d)(1) solely to the extent necessary to permit CCA to file a petition for leave to appeal the decision and order entered on April 8, 2025, by the New York State Supreme Court, Appellate Division, First Department (the “**First Department**”) to the New York State Court of Appeals (the “**Court of Appeals**”), all as more fully described and defined below, and, if this petition (the “**Petition**”) is granted, to pursue the further appeal at the Court of Appeals (the “**Further Appeal**”), and to allow the Court of Appeals to render its decision. For the avoidance of doubt, the relief sought by CCA would not extend to permit any party to execute, or take any other action to enforce, on CCA’s property without further authorization of the Court.

### **Preliminary Statement**

2. As the Court is aware, CCA was compelled to commence this chapter 11 case because of an adverse litigation outcome in *BML Props. Ltd. v China Construction America, Inc., et al.*, No. 657550/2017 (Sup. Ct., NY County), in the New York Supreme Court, Commercial Division (the “**Baha Mar Litigation**”). Specifically, CCA, along with two non-debtor affiliates<sup>2</sup>, was found liable in a post-trial decision and order dated October 18, 2024 (the “**Trial Decision**”) in favor of BML Properties Ltd. (“**BMLP**”). The Defendants were found liable for damages in the amount of \$845 million, plus statutory interest accruing as of May 1, 2014, which resulted in entry of judgment in the amount of \$1,642,598,493.15 (the “**Baha Mar**

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<sup>2</sup> CCA’s affiliated codefendants are Bahamian entities CSCEC (Bahamas) Ltd. (“**CSCECB**”) and CCA Bahamas, Ltd. (“**CCAB**”), and together with CSCECB and CCA, the “**Defendants**”).

**Judgment**”). CCA strongly believes that the Trial Decision is clearly erroneous and contrary to basic principles of New York law.

3. To that end, with this Court’s permission, CCA joined the other two Defendants in appealing the Trial Decision to the First Department (the “**Prior Appeal**”). On April 8, 2025, the First Department issued a decision and order which upheld the Trial Decision (the “**First Department Decision**”). CCA believes that the First Department Decision, like the Trial Decision, is plainly contrary to controlling law.

4. Given CCA’s strong belief in the error of the First Department Decision and the importance of the final outcome of the Baha Mar Litigation to fix the value of claims against CCA’s estate and facilitate the resolution of this chapter 11 case, CCA seeks authorization to join the other two Defendants in the Petition and, if the Petition is granted, the Further Appeal. The Defendants’ appeal to the Court of Appeals is discretionary and not as of right.

5. Importantly, CCA intends to continue making significant progress in advancing this chapter 11 case while the Petition, and if granted, the Further Appeal, is pending. Among other things, CCA intends to file a chapter 11 plan that will incorporate a flexible, parallel-path structure designed to address alternative outcomes of the appeal of the Baha Mar Litigation, thereby permitting this chapter 11 case to move forward toward a conclusion at the same time that the state court appeal is pending. In connection with pursuing its chapter 11 plan, CCA expects to engage constructively with its stakeholders, including BMLP, in an effort to reach as much consensus as possible about the alternate paths forward depending on the outcome of the Petition and Further Appeal. For these reasons, CCA submits that neither the progress of this chapter 11 case nor the interests of CCA’s stakeholders will be adversely affected by the relief requested here.

6. As was the case with the Prior Appeal, whether or not CCA participates, the other two Defendants, CCAB and CSCEB, will be moving forward with seeking a next level of appeal. Thus, the other litigants and the Court of Appeals will be required to commit the resources and time to consider the Petition and Further Appeal and whether the Baha Mar Judgment and the First Department Decision should be reversed or modified. There will be no loss of judicial economy or efficiency if CCA is part of the appeal along with the other parties.

7. Consistent with prepetition practices and with the Prior Appeal, the fees and costs incurred in connection with the Petition and Further Appeal are expected to be borne by the non-Debtor Defendants, and not by CCA. Therefore, CCA's estate will not be reduced on account of the requested relief, and CCA can only benefit from the possible outcome.

8. Accordingly, CCA seeks relief from the automatic stay to authorize CCA to join the other Defendants in seeking further appellate review by filing the Petition on or before May 8, 2025, and, if the Petition is accepted, filing any required or supplemental briefs in furtherance of the proceedings by any applicable deadline set by the Court of Appeals and participating in any oral argument scheduled by the Court of Appeals. Allowing the Defendants to jointly pursue the Petition and any Further Appeal before the Court of Appeals is an efficient and practical approach to obtain full and fair resolution regarding CCA's liability, if any, to BMLP.

9. The requested relief is consistent with precedent allowing a debtor to appeal a judgment on a claim brought against the debtor, applicable provisions of the Bankruptcy Code, and applicable provisions of the Bankruptcy Rules, all as described in more detail below. Accordingly, the Court should grant relief from the automatic stay to allow CCA to join the other two Defendants in the Petition and, if the Petition is granted, the Further Appeal.

### **Jurisdiction and Venue**

10. The United States Bankruptcy Court for the District of New Jersey (the “**Court**”) has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Standing Order of Reference to the Bankruptcy Court Under Title 11*, entered July 23, 1984, and amended on September 18, 2012 (Simandle, C.J.). CCA consents to the entry of a final order by the Court in connection with this motion to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution.

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

12. The bases for the relief requested herein are section 362(d) of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the “**Bankruptcy Code**”), rule 4001(a) of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), and rules 4001-1, 9013-1 and 9013-5 of the Local Rules of the United States Bankruptcy Court for the District of New Jersey (the “**Local Rules**”).

### **Background**

13. CCA is headquartered in New Jersey and provides construction management, program management, and general contracting services for public and private clients through its non-debtor operating subsidiaries (the “**Non-Debtor Subsidiaries**,” and together with CCA, the “**CCA Group**”). In particular, CCA supports its Non-Debtor Subsidiaries by providing them with key shared services to enable them to deliver large-scale projects in the civil, commercial, residential, and public infrastructure sectors.

14. On December 22, 2024 (the “**Petition Date**”), CCA filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code. CCA is operating its business and managing its

property as a debtor in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No statutory committees have been appointed or designated. On April 10, 2025, as directed by a prior order of the Court, CCA filed a *Notice of Decision by the Supreme Court of the State of New York, Appellate Division – First Department* [Docket No. 247] in the appeal of *BML Props. Ltd. v China Constr. Am., Inc.*, Index No. 657550/2017 (Sup Ct, NY County, Commercial Division), which, among other things, noted that an examiner shall be appointed by the Office of the United States Trustee on April 29, 2025, twenty-one days after the entry of the First Department’s decision in the Baha Mar Litigation.

15. Additional information regarding CCA, the events leading up to the Petition Date, and the facts and circumstances supporting the relief requested in this motion is set forth in the *Declaration of Yan Wei, Chairman and Chief Executive Officer of the Debtor, in Support of Chapter 11 Petition* [Docket No. 11] (the “**Wei Declaration**”).

16. As this Court is well aware, this chapter 11 case was precipitated by the crippling Baha Mar Judgment entered by the New York Supreme Court on October 31, 2024.

17. A complete judicial resolution of the claims asserted by BMLP in the Baha Mar Litigation is a gating issue to reach a fair outcome for this chapter 11 case, and is thus in the best interest of all stakeholders. For this reason, CCA sought, and this Court granted, relief from the automatic stay to join the Prior Appeal, which CCA hoped would lead to a full resolution of BMLP’s claims. *See Order Granting Debtor Relief from the Automatic Stay to Prosecute an Appeal* [Docket No. 53]. Oral argument in the Prior Appeal was held on March 18, 2025.

18. On April 8, 2025, the First Department issued the First Department Decision, affirming the Baha Mar Judgment. The First Department Decision, like the Trial Decision, makes fundamental errors of law and fact as to dispositive issues of whether CCA has *any*

*liability at all* to BMLP. CCA also notes that despite a voluminous evidentiary record entered at trial, a 74-page Trial Decision, and almost 200 pages of appellate briefing on multiple issues of law, the First Department Decision was just four pages. Just one paragraph – a mere three sentences – in that decision considers CCA’s liability via BMLP’s veil-piercing theory, and it does so in clear contravention of black-letter law.

19. In light of the disappointing First Department Decision, which did not substantively engage with the multiple rationales CCA had advanced in favor of reversing the Baha Mar Judgment, CCA has determined it is appropriate to seek further appellate review. CCA therefore seeks a modification of the automatic stay to the extent necessary to pursue an appeal to the Court of Appeals, as previously described.

#### **Basis for Relief**

20. Section 362 of the Bankruptcy Code provides that the filing of a bankruptcy petition operates as an automatic stay of:

The commencement or continuation, including the issuance or employment of process, of a judicial, administrative, or other action or proceeding against the debtor that was or could have been commenced before the commencement of the case under this title, or to recover a claim against the debtor that arose before the commencement of the case under this title.

11 U.S.C. § 362(a).

21. The “automatic stay provision of the Bankruptcy Code, § 362(a), has been described as ‘one of the fundamental debtor protections provided by the bankruptcy laws.’” *In re Midlantic Nat. Bank v. New Jersey Dept. of Env’t Protection*, 474 U.S. 494, 503 (1986); *see also In re Nortel Networks, Inc.*, 669 F. 3d 128, 137 (3d Cir. 2011); *In re Rodriguez*, No. 07–24687 (MBK), 2012 WL 589553, at \*3 (Bankr. D.N.J. Feb. 22, 2012); and *In re Garcia*, No. 10–

23707 (MBK), 2011 WL 2551184, at \*2 (Bankr. D.N.J. June 24, 2011) (both cases quoting *In re Cruz*, 2006 Bankr. LEXIS 4125, at \*4 (Bankr. D.N.J. July 26, 2006)) (“[w]ithout question, the automatic stay is one of the fundamental debtor protections provided by the bankruptcy laws.”). “It gives the debtor a breathing spell from his [or her] creditors. It stops all collection efforts, all harassment, and all foreclosure actions.” *Rodriguez*, 2012 WL 589553, at \*3.

22. Importantly, because the automatic stay is intended to protect a debtor and its property, “[s]ection 362 by its terms only stays proceedings against the debtor. The statute does not address actions brought by the debtor which would inure to the benefit of the bankruptcy estate.” *Association of St. Croix Condominium Owners v. St. Croix Hotel Corp.*, 682 F.2d 446, 448 (3d Cir. 1982). That said, the scope of the automatic stay under section 362(a) of the Bankruptcy Code is broad and covers all proceedings against a debtor. *Id.* This creates an anomaly in circumstances where a litigation case was initially commenced against the debtor, but where the debtor seeks to prosecute an appeal during its chapter 11 case. In such circumstances, the Third Circuit has held that the filing of bankruptcy automatically stays the appellate proceeding brought by the debtor. *Id.* at 448-49; *see also Farley v. Henson*, 2 F.3d 273, 275 (8th Cir. 1993) (section 362 is applicable to appeal by defendant/debtor); *Ingersoll-Rand Finan. Corp. v. Miller Mining Co.*, 817 F.2d 1424, 1426 (9th Cir. 1987) (same); *Ostano Commerzanstalt v. Telewide Sys., Inc.*, 790 F.2d 206, 207 (2d Cir. 1986) (same); *Marcus, Stowell & Beye Gov’t Sec., Inc. v. Jefferson Inv. Corp.*, 797 F.2d 227, 230 n.4 (5th Cir. 1986) (same); *Cathey v. Johns-Manville Sales Corp.*, 711 F.2d 60, 62 (6th Cir. 1983) (same), *cert. denied*, 478 U.S. 1021 (1986).

23. CCA respectfully submits that, in the situation where a debtor seeks to appeal a judgment on a claim brought against the debtor, cause exists to modify the automatic stay to



allow the Petition to proceed. Section 362(d) governs termination or modification of the automatic stay and provides in pertinent part:

On 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**, including the lack of adequate protection of an interest in property of such party in interest.

11 U.S.C. § 362(d)(1) (emphasis added).

24. Neither the Bankruptcy Code nor the legislative history of section 362(d)(1) defines the phrase “cause” and, therefore, a determination of “cause” must be made on a case-by-case basis.

25. “Cause” for purposes of relief from the automatic stay under section 362(d) is a broad and flexible concept, and the facts relating to each request will determine whether relief is appropriate under the circumstances. *See In re The Score Board, Inc.*, 238 B.R. 585, 593 (D.N.J. 1999); *see also In re Rexene Products Co.*, 141 B.R. 574, 576 (Bankr. D. Del. 1992) (bankruptcy court must decide what constitutes “cause” to lift the automatic stay on a case-by-case basis); *In re Wilson*, 85 B.R. 722, 728 (Bankr. E.D. Pa. 1988) (same). The determination of whether “cause” exists to lift the automatic stay is committed to the sound discretion of the bankruptcy court. *See In re Sonmax Indus., Inc.*, 907 F.2d 1280, 1286 (2d Cir. 1990) (citing *Holtkamp v. Littlefield (In re Holtkamp)*, 669 F.2d 505, 507 (7th Cir. 1982); *In re Milstein*, 304 B.R. 208, 211 (Bankr. E.D. Pa. 2004) (citations omitted); *In re Mid-Atlantic Handling Sys., LLC*, 304 B.R. 111, 130 (Bankr. D.N.J. 2003) (“A bankruptcy court is granted wide discretion to determine whether to lift an automatic stay for cause.”); *In re Rosen*, 208 B.R. 345, 355 (D.N.J. 1997) (“A

bankruptcy court is granted discretion to determine whether to lift an automatic stay; such discretion is reviewable on an abuse of discretion basis.”).

26. With respect to requests to lift the automatic stay to pursue non-bankruptcy litigation, “relief from the stay may be granted when it is ‘necessary to permit litigation to be concluded in another forum, particularly if the non-bankruptcy suit involves multiple parties or is ready for trial.’” *In re Mid-Atlantic Handling Sys., LLC*, 304 B.R. at 130 (quoting *In re Telegroup, Inc.*, 237 B.R. 87, 91 (Bankr. D.N.J. 1999)). The legislative history of section 362(d)(1) supports lifting the stay to allow litigation to be concluded elsewhere if the non-bankruptcy court would be in the best position to conclude the litigation:

[I]t will often be more appropriate to permit proceedings to continue in their place of origin, when no great prejudice to the bankruptcy estate would result, in order to leave the parties to their chosen forum and to relieve the bankruptcy court from many duties that may be handled elsewhere.

S.Rep. No. 95-989 at 50 (1978), reprinted in 1978 U.S.C.C.A.N. 5787, 5836.

27. In determining whether there is cause to lift the automatic stay to permit non-bankruptcy litigation to proceed, courts must consider “the interests of the debtor, the claimant and the estate.” *In re MacInnis*, 235 B.R. 255, 259 (Bankr. S.D.N.Y. 1998); *see also In re Peregrine Sys., Inc.*, 314 B.R. 31, 47 (Bankr. D. Del. 2004). Courts in the Third Circuit in particular generally consider the following three factors in deciding whether cause exists to permit non-bankruptcy litigation: (a) prejudice suffered by the debtor and the estate if the stay is lifted; (b) the balancing of hardships between the parties; and (c) whether the movant has some probability of success on the merits if the stay is lifted. *See In re Peregrine Sys., Inc.*, 314 B.R. at 47; *In re Continental Airlines, Inc.*, 152 B.R. 420, 424 (D. Del. 1993); *In re Rexene Prods. Co.*

(*Izzarelli v. Rexene Prods. Co.*), 141 B.R. 574, 578 (D. Del. 1992).<sup>3</sup> As the Court is aware, this Court has previously granted relief to pursue appellate rights when it granted CCA relief from the automatic stay to pursue the Prior Appeal. *Order Granting Debtor Relief from the Automatic Stay to Prosecute an Appeal* [Docket No. 53]. As explained below, each of the factors listed above support a similar finding of cause to grant relief from the automatic stay to allow CCA to pursue further appellate review.

#### **I. CCA and Its Estate Will Not Be Prejudiced**

28. There will be no prejudice suffered by CCA and its estate if the stay is lifted for the limited purpose of pursuing the Petition and, if the Petition is granted, the Further Appeal. *See In re Continental Airlines, Inc.*, 152 B.R. at 424. To the contrary, adjudication and resolution of the Further Appeal will facilitate a final resolution of the largest claim against CCA, which is crucial for the fair and efficient administration of this chapter 11 case. If successful, the Petition and Further Appeal will benefit CCA's estate by reversing or modifying the crippling \$1.6 billion-plus Baha Mar Judgment. Even if the Petition or Further Appeal is not successful, the final resolution of the Baha Mar Litigation in the New York courts will provide clarity to CCA and its stakeholders and allow CCA to proceed with implementing alternate strategies, including pursuing a chapter 11 plan that reflects a transactional alternative premised on the existence of the BMLP claim. *See In re Wilson*, 116 F.3d 87, 91 (3d Cir. 1997) (granting

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<sup>3</sup> In addition to the factors outlined above, a bankruptcy court may also consider the following general policies when deciding whether to grant a motion to lift the stay: (1) whether the court has jurisdiction to hear the underlying claims arising from the underlying action; (2) whether granting movant relief from stay would provide a complete resolution of the issues presented in the underlying action; (3) whether granting the movant relief from the automatic stay would interfere with the debtor's bankruptcy proceeding; (4) whether the interest of judicial economy and the expeditious and economical resolution of litigation weigh in favor of granting the movant relief from the automatic stay; (5) whether the parties are ready for trial in the underlying action; and (6) whether the impact the stay has on the movant justifies the relief requested in the motion. *See In re Mid-Atlantic Handling Sys., LLC*, 304 B.R. at 130. To the extent applicable, these factors also support a finding of cause to grant relief from the automatic stay to allow CCA to pursue further appellate review.

relief from the automatic stay to pursue an appeal by noting that “[s]uch relief will expedite the resolution of Baldino’s claim by eliminating it if [the debtor] prevails on appeal, or by rendering it final and nondischargeable if Baldino ultimately prevails.”). Additionally, consistent with prepetition practices and with the Prior Appeal, the fees and costs incurred in connection with the Petition and any Further Appeal, are expected to be borne by the non-Debtor Defendants, and not by CCA. Therefore, CCA’s estate will not be reduced on account of the requested relief, and CCA can only benefit from the possible outcome.

29. Importantly, the Petition and Further Appeal will not cause unnecessary delay in the chapter 11 case, because CCA intends to pursue all of its pending chapter 11 workstreams, including an investigation of causes of action, cooperating with the examiner’s work, and developing and pursuing a chapter 11 plan of reorganization, in parallel path with the Petition and any Further Appeal.

## **II. The Balance of Hardships Favors Granting Relief from the Stay**

30. The balance of hardships supports lifting the stay to permit CCA to pursue the Petition and any Further Appeal. Absent relief from the automatic stay, CCA will effectively be deprived of its right to seek and obtain further appellate review of the Baha Mar Judgment.

31. In contrast, BMLP will not suffer any undue prejudice or hardship if the automatic stay is lifted to permit the Petition to proceed, beyond the burden that any claimant does, and should, face to prove its claim according to appropriate judicial process. In this instance, BMLP’s claim is being liquidated in New York State court as opposed to being resolved in this Court; requiring BMLP to participate in state court litigation to the stage of obtaining a final judgment supporting its claim is appropriate due process. Further, CCA’s participation in the Petition and any Further Appeal will not result in any additional cost or delay

for BMLP. Whether or not the requested stay relief is granted, BMLP will be required to defend against the Petition and Further Appeal as to the other two Defendants, and including CCA as a third appellant will not significantly expand BMLP's cost or the relevant scope of issues in the appeal. And, as previously noted, this chapter 11 case will be able to move forward appropriately while the Petition and Further Appeal are pending. Accordingly, BMLP cannot seriously contend it would be prejudiced by the requested relief.

### **III. There Is a Probability of Success on the Merits**

32. Finally, the *Continental Airlines* factors require that the Court consider whether the movant has some probability of success on the merits of the pending litigation. *In re Continental Airlines, Inc.*, 152 B.R. at 426. Even a “slight” probability of success on the merits can suffice to earn relief from the automatic stay. *In re SCO Group*, 395 B.R. 852, 859 (Bankr. D. Del. 2007) (“Even a slight probability of success on the merits may be sufficient to support lifting an automatic stay in an appropriate case.”); *see also In re Continental Airlines, Inc.*, 152 B.R. at 426 (same); *In re Rexene Prods. Co.*, 141 B.R. at 578 (“Finally, the third prong examines Movants' probability of success on the merits. The required showing is very slight.”); *In re Scarborough-St. James Corp.*, 535 B.R. 60, 69 (Bankr. D. Del. 2015) (“The Court finds that Landlord has made (at least) *the requisite slight showing of the probability of success* on the merits of the [state-court litigation]”) (emphasis added).

33. CCA firmly believes that it has well more than a “slight” probability of success on the merits of the appeal. The First Department committed numerous errors of law that are in direct conflict with well-established precedent in New York when it affirmed a billion-dollar judgment in less than four pages of substantive analysis. Among several other errors, the First Department: applied the incorrect standard of review; created an all-new rule for consideration of

foreign law that runs contrary to statutory text, precedent, and principles of due process; contravened the rule that harm flowing from the loss of an investment is derivative; improperly calculated both fraud and contract damages; and wrongly awarded consequential damages in the face of an undisputed contractual provision barring them. Taken together, the First Department created a precedent so absurd as to harm New York's reputation as a sophisticated forum for commercial disputes.

34. As the caselaw above makes clear, CCA need not demonstrate a high probability of success on the merits of the Petition and Further Appeal, but rather CCA only must show that it has some probability of prevailing. Indeed, given that it is the debtor, CCA, seeking relief from the automatic stay, CCA submits that it would be appropriate for this Court to grant relief from the stay even if the probability of success was only "slight." But where, as here, it is clear that CCA has a meaningful likelihood of prevailing on further appeal, this factor weighs heavily in favor of granting relief from stay.

#### **IV. Relief Is Consistent with Precedent in Similar Cases**

35. To be clear, as with the prior request for similar relief, CCA is not seeking to relitigate the Baha Mar Judgment or the First Department Decision, but rather is simply seeking to pursue the same appeal that would be available in the absence of any chapter 11 filing. Courts have confirmed that seeking relief from the automatic stay to pursue an appeal is appropriate where the debtor is not seeking to relitigate disputes. *See e.g., In re Sletteland*, 260 B.R. 657, 668 (Bankr. S.D.N.Y. 2001) ("A debtor's desire to appeal an adverse judgment cannot be equated with intent to relitigate."); *In re Texaco, Inc.*, 76 B.R. 322, 324 (Bankr. S.D.N.Y. 1987) (noting that the "court entered an order on consent modifying the automatic stay imposed under 11 U.S.C. § 362 so as to allow the continuation of Texaco's appeal of the Pennzoil judgment in

the Texas courts.”). Courts have granted similar relief from the automatic stay to allow debtors to pursue state court appeals. *See e.g., In re Mariner Health Central, Inc, et al.*, Case No. 22-41079 (Bankr. N.D. Cal., Dec. 7, 2022) [Docket No. 289]; *In re Allonhill, LLC*, Case No. 12-10663 (Bankr. D. Del., April 15, 2014) [Docket No. 62]; *In re MIG, INC.*, Case No. 09-12118 (Bankr. D. Del., July 2, 2009) [Docket No. 46]. Indeed, as the automatic stay is intended as a shield for debtors against creditors, not to prevent debtors from pursuing claims or defenses against creditors, the relief requested herein is consistent with the purpose of section 362 of the Bankruptcy Code.

36. Based on each of the foregoing factors and the relief granted in similar cases, CCA submits that the automatic stay should be lifted to allow the parties to pursue the Petition.

#### **Waiver of Memorandum of Law**

37. CCA respectfully requests that the Court waive the requirement to file a separate memorandum of law pursuant to Local Rule 9013-1(a)(3) because the legal basis upon which CCA relies is set forth herein and the motion does not raise any novel issues of law.

#### **Notice**

38. CCA will provide notice of this motion to: (i) the U.S. Trustee; (ii) the entities listed on the *List of Creditors Holding the 20 Largest Unsecured Claims*; (iii) Gibbons P.C., as counsel to BMLP; (iv) Lowenstein Sandler LLP, as counsel to the DIP lender; (v) the Internal Revenue Service; (vi) the Office of the United States Attorney for the District of New Jersey; and (vii) any party that has requested notice pursuant to Bankruptcy Rule 2002. In light of the nature of the relief requested, CCA respectfully submits that no further notice is necessary.

**No Prior Request**

39. No prior request for the relief sought in this motion has been made to this Court or any other court.

*[Remainder of page intentionally left blank]*



WHEREFORE, CCA respectfully requests that the Court (a) enter the Order, substantially in the form attached hereto as **Exhibit A**, granting the relief requested herein, and (b) grant such other and further relief as is just and proper.

Dated: April 23, 2025

*/s/ Michael D. Sirota*

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*Co-Counsel for the Debtor and Debtor in Possession*

**EXHIBIT A**

**Proposed Order**

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW JERSEY**

**Caption in Compliance with D.N.J. LBR 9004-1(b)**

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*Co-Counsel to the Debtor and Debtor in Possession*

In re:

CCA Construction, Inc.,<sup>1</sup>

Debtor.

Case No. 24-22548 (CMG)

Chapter 11

Judge: Christine M. Gravelle

<sup>1</sup> The last four digits of CCA's federal tax identification number are 4862. CCA's service address for the purposes of this chapter 11 case is 445 South Street, Suite 310, Morristown, NJ 07960.

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Debtor: CCA Construction, Inc.

Case No.: 24-22548 (CMG)

Caption of Order: Order Granting Debtor Relief from the Automatic Stay to File a Petition for Leave to Appeal

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**ORDER GRANTING DEBTOR RELIEF FROM  
THE AUTOMATIC STAY TO FILE A PETITION FOR LEAVE TO APPEAL**

The relief set forth on the following pages, numbered three (3) through five (5), is

**ORDERED.**

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Debtor: CCA Construction, Inc.

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Upon CCA's motion filed on April 23, 2025 [Docket No. \_\_\_\_] (the "**Motion**")<sup>2</sup> pursuant to section 362(d) of the Bankruptcy Code, for entry of an order granting CCA relief from the automatic stay pursuant to 11 U.S.C. § 362(d)(1) solely to the extent necessary to permit CCA to file the Petition and to pursue any appellate rights in the Court of Appeals pursuant thereto, all as more fully set forth in the Motion; and upon consideration of the Wei Declaration; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334 and the *Standing Order of Reference to the Bankruptcy Court Under Title 11* of the United States District Court for the District of New Jersey, entered July 23, 1984, and amended on September 18, 2012 (Simandle, C.J.); and this Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that CCA's notice of the Motion was appropriate under the circumstances and no other notice need be provided; and this Court having reviewed the Motion and having considered the arguments in support of the relief requested therein at a hearing before this Court; and this Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein, and that such relief is in the best interests of CCA, its estate, its creditors, and all parties in interest, and is necessary to avoid irreparable harm to CCA and its estate; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor IT IS HEREBY ORDERED THAT:

1. The Motion is granted as set forth herein.
2. The automatic stay provided in 11 U.S.C. § 362(a) is hereby modified pursuant to

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<sup>2</sup> Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Motion.

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Debtor: CCA Construction, Inc.

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11 U.S.C. § 362(d)(1), solely to the extent necessary to permit CCA and the other parties to the Baha Mar Litigation to file the Petition and, if granted, prosecute a further appeal of the case captioned *BML Props. Ltd. v China Construction America, Inc., et al.*, Nos. 2024-06623, 2024-06624 (N.Y. App. Div. 2024), in the New York State Court of Appeals, to proceed to resolution in such court, including any related proceedings, without prejudice to any party's right to seek further or additional relief from the Court.

3. With the exception of the Petition and any related appellate rights in the Court of Appeals, all of CCA's rights to the automatic stay under 11 U.S.C. § 362 are not impacted by this Order and are fully preserved. For the avoidance of doubt, no party shall be permitted to enforce any judgment or execute against CCA or any property of its estate absent further order of the Court.

4. Consistent with prepetition practices, the fees and costs incurred in connection with the Petition and any subsequent proceedings in the Court of Appeals are to be borne by the non-Debtor Defendants, and not by CCA.

5. For the avoidance of doubt, the automatic stay under 11 U.S.C. § 362 does not apply to the non-Debtor Defendants, and this Order is not required for the Petition and the Further Appeal to move forward with respect to the non-Debtor Defendants.

6. Under the circumstances of the chapter 11 case, notice of the Motion is adequate, and the notice requirements of Bankruptcy Rule 9014 and 4001 and the Local Rules are satisfied by such notice.

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7. The requirement set forth in Local Rule 9013-1(a)(3) that any motion be accompanied by a memorandum of law is hereby satisfied by the contents of the Motion or otherwise waived.

8. CCA is authorized and empowered to take all actions as may be necessary and appropriate to implement the terms of this Order.

9. This Court shall retain jurisdiction to hear and determine all matters arising from or relating to the interpretation, implementation, or enforcement of this Order.