

DEBEVOISE & PLIMPTON LLP
M. Natasha Labovitz (*pro hac vice* pending)
Sidney P. Levinson (*pro hac vice* pending)
Elie J. Worenklein
Rory B. Heller (*pro hac vice* pending)
66 Hudson Boulevard
New York, NY 10001
Telephone: (212) 909-6000
Facsimile: (212) 909-6836
nlabovitz@debevoise.com
slevinson@debevoise.com
eworenklein@debevoise.com
rbheller@debevoise.com

COLE SCHOTZ P.C.
Michael D. Sirota
Warren A. Usatine
Felice R. Yudkin
Ryan T. Jareck
Court Plaza North, 25 Main Street
Hackensack, NJ 07601
Telephone: (201) 489-3000
Facsimile: (201) 489-1536
msirota@coleschotz.com
wusatine@coleschotz.com
fyudkin@coleschotz.com
rjareck@coleschotz.com

Proposed Co-Counsel to the Debtor and Debtor in Possession

Proposed Co-Counsel to the Debtor and Debtor in Possession

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

In re:

CCA Construction, Inc.,¹

Debtor.

Chapter 11

Case No. 24-_____ (___)

**DEBTOR’S MOTION FOR ENTRY OF AN ORDER GRANTING
RELIEF FROM THE AUTOMATIC STAY TO PROSECUTE AN APPEAL**

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

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

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

¹ 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.



U.S.C. § 362(d)(1) solely to the extent necessary to permit CCA to prosecute the appeal of the judgment entered against it in the Baha Mar Litigation, all as more fully described and defined below, solely to permit the appeal to be briefed and argued and to allow the appellate court 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 further described in the First Day Declaration, CCA has been 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 affiliates², 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 Judgment**").

3. CCA submits that the Trial Decision is clearly erroneous and contrary to basic principles of New York law, containing numerous legal and factual errors that render the decision vulnerable on appeal. On October 29, 2024, the Defendants filed a notice of appeal of the Trial Decision with the Appellate Division, First Department, of the Supreme Court of the State of New York (the "**First Department**"), and, on November 1, 2024, the Defendants filed a

² CCA's affiliated codefendants are Bahamian entities CSCEC (Bahamas) Ltd. ("**CSCECB**") and CCA Bahamas, Ltd. ("**CCAB**"), and together with CSCECB and CCA, the "**Defendants**").

notice of appeal of the Baha Mar Judgment in the First Department (collectively, the “**Appeal**”). CCA believes the Appeal has very strong merits. CCA hopes to pursue its appellate rights expeditiously to reverse the Baha Mar Judgment and clarify CCA’s liabilities in this chapter 11 case. CCA believes that granting relief from the automatic stay to prosecute the Appeal is appropriate and in the best interest of CCA and all stakeholders, including BMLP.

4. Among the other arguments that will be raised as part of the Appeal, CCA believes that it will be able to demonstrate that it has *no liability at all* in connection with the Baha Mar Litigation. CCA had no contractual relationship to BMLP and no role in the construction of Baha Mar, a resort in the Commonwealth of The Bahamas. Rather, the only basis for recovery against CCA was BMLP’s convoluted theory of veil-piercing liability, despite CCA not being the parent or even a direct affiliate of the other two Defendants. Thus, among other arguments, CCA intends to argue that the trial court’s veil-piercing decision—its only basis for holding CCA liable—applied the wrong jurisdiction’s law and reached the wrong conclusion, even under the law that it did apply.

5. Importantly, whether or not CCA participates in the Appeal, the Appeal will be going forward with plaintiff BMLP and the two non-debtor Defendants, CCAB and CSCECB. Thus, the other litigants and the First Department will be required to commit the resources and time to consider the Appeal and determine whether the Baha Mar Judgment should be reversed or modified. As a matter of judicial economy, the Appeal should go forward with respect to all parties at once. That is also the only appropriate path to ensure that CCA is not prejudiced under the doctrines of *res judicata* and collateral estoppel if the First Department makes findings and judgments against the other Defendants that may impact CCA.

6. Accordingly, CCA seeks relief from the automatic stay to authorize CCA to join the other Defendants in pursuing the Appeal, including filing an opening brief in support of the appeal on or before December 30, 2024, and seeking to proceed to oral argument during the First Department's March 2025 term. Allowing the Defendants to jointly pursue the Appeal before the First Department is the most efficient and practical approach to obtain much needed clarity regarding CCA's liability, if any, to BMLP.

7. Importantly, CCA does not intend to relitigate the Baha Mar Judgment before this Court as part of this chapter 11 case. Rather, CCA merely seeks to use chapter 11 to preserve the value of its businesses for the benefit of all constituents while it appeals the Baha Mar Judgment to the First Department in an expeditious manner, through traditional appellate procedures, together with the other Defendants. Because the Defendants and BMLP were in active litigation prior to the commencement of this chapter 11 case and the First Department has previously reversed certain rulings issued by the trial court, the First Department is best positioned to resolve the underlying issues of the Baha Mar Litigation.

8. 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, as described in more detail below. Accordingly, the Court should grant relief from the automatic stay to allow CCA to join the non-debtor Defendants in the Appeal.

Jurisdiction and Venue

9. 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.

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

11. 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

12. 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 civil, commercial, residential, and public infrastructure sectors.

13. On the date hereof (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 request for the appointment of a trustee or examiner has been made in this chapter 11 case and no statutory committees have been appointed or designated.

14. 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* (the “**First Day Declaration**”),³ which is filed contemporaneously herewith and incorporated herein by reference.

15. As described above, this chapter 11 case was precipitated by the crippling Baha Mar Judgment entered by the New York Supreme Court on October 31, 2024.

16. CCA, with the assistance of Pedersen & Sons Surety Bond Agency, an experienced surety bond agency, attempted to obtain supersedeas bonds from several different surety providers to secure the Baha Mar Judgment. Unfortunately, no surety bond provider was willing to provide a bond given the size of Defendants’ combined assets.

17. With no bond, CCA sought to obtain an emergency stay pending appeal from the First Department. Although the First Department granted an interim stay on November 4, 2024, CCA’s final request for a stay pending appeal was denied on December 19, 2024. With no stay pending appeal, and without the ability to post a bond, absent the commencement of this chapter 11 case, CCA would face immediate enforcement that would require CCA to turn over or hastily liquidate its operating subsidiaries, effectively forfeiting its right to an appeal and causing disastrous consequences for CCA. That outcome would also harm the Non-Debtor Subsidiaries and other affiliates who are dependent on CCA for shared services and funding, and the employees, creditors and various construction projects in-process for the entire CCA Group.

³ Capitalized terms not defined herein shall have the meanings ascribed to them in the First Day Declaration.

18. Faced with the unstayed Baha Mar Judgment, CCA was effectively forced to file this chapter 11 case to maximize and protect the value of its assets, including to prevent the collapse of its operating Non-Debtor Subsidiaries and the associated construction projects. A resolution of the claims asserted by BMLP in the Baha Mar Litigation is a gating issue to resolve this chapter 11 case and is thus in the best interest of all stakeholders. Accordingly, CCA has determined it is necessary to bring this motion so that CCA may pursue its rights and remedies with respect to the Appeal.

Basis for Relief

19. 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).

20. 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.

21. 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).

22. 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 Appeal 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).

23. 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. “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 vacate the automatic stay is committed to the sound discretion of the bankruptcy court. *See In re Sonnax 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).

24. “A bankruptcy court is granted wide discretion to determine whether to lift an automatic stay for cause.” *In re Mid-Atlantic Handling Sys., LLC*, 304 B.R. 111, 130 (Bankr. D.N.J. 2003); *see also 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.”). “Significantly, 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*, 304 B.R. at 130. The legislative history of section 362(d)(1) likewise 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.

25. In making this determination, 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 generally consider the following three factors in deciding whether cause exists: (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 there exists some probability of success on the merits if the stay is lifted. *See In re Peregrine Sys., Inc.*, 314 B.R. 31, 47 (Bankr. D. Del. 2004); *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).⁴ As explained below, each of these factors

⁴ 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. 111, 130 (Bankr. D.N.J. 2003). To the extent applicable, these factors also support a finding of cause to grant relief from the automatic stay to allow CCA to pursue the Appeal.

supports a finding of cause to grant relief from the automatic stay in order to allow CCA to pursue the Appeal.

I. CCA and its Estate Will Not Be Prejudiced

26. There will be no prejudice suffered by CCA and its estate if the stay is lifted for the limited purpose of pursuing the Appeal. *See In re Continental Airlines, Inc.*, 152 B.R. at 424. To the contrary, adjudication and resolution of the Appeal will resolve the largest claim against CCA, which is crucial for the efficient administration of this chapter 11 case. If successful, the Appeal will benefit CCA's estate by reversing or modifying the crippling \$1.6 billion-plus Baha Mar Judgment. Even if the Appeal is not successful, the resolution of the Baha Mar Litigation will provide clarity to CCA and its stakeholders and allow it to proceed with developing alternate strategies, including exploring an orderly sale or other transactional alternatives premised on the existence of the BMLP claim. *See In re Wilson*, 116 F.3d 87, 91 (3d Cir. 1997) (granting 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, the fees incurred in connection with the Appeal are expected to be paid by CCAB, and not CCA, and therefore there will be no detriment to CCA’s estate associated with pursuing the Appeal.

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

27. The balance of hardships also supports lifting the stay to permit CCA to pursue the Appeal. Absent relief from the automatic stay, CCA will effectively be deprived of its right to seek and obtain appellate review of the Baha Mar Judgment. And, as CSCECB and CCAB will proceed with the Appeal regardless of whether CCA joins, CCA may suffer prejudice under

the doctrines of res judicata and collateral estoppel if the First Department makes findings in the Appeal that impact CCA.

28. In contrast, BMLP will not suffer any undue prejudice or hardship if the automatic stay is lifted to permit the Appeal to proceed. Whether or not the requested stay relief is granted, BMLP will be required to defend against the Appeal as to the other two Defendants, and including CCA as a third appellant will not significantly expand the scope of issues on Appeal. Moreover, absent the filing of this chapter 11 case, BMLP would have been required to litigate the Appeal with all three Defendants. Accordingly, BMLP cannot seriously contend it would be prejudiced by CCA's prosecution of the Appeal along with the two non-debtor Defendants.

III. There is a Probability of Success on the Merits

29. 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. Even a "slight" probability of success on the merits may be sufficient to support lifting an automatic stay in an appropriate case. See *In re SCO Group*, 395 B.R. 852, 859 (Bankr. D. Del. 2007); *In re Continental Airlines, Inc.*, 152 B.R. at 426; *In re Rexene Prods. Co.*, 141 B.R. at 578.

30. CCA respectfully submits that it has a significant probability of success on the merits of the Appeal. The trial court committed reversible error as to every element of liability, including damages. As just a few examples: The trial court erred in finding CCA liable for fraud when CCA undisputedly did not make any of the purported misstatements at issue. It also erred in piercing CSCECB's corporate veil to hold CCA liable for CSCECB's purported breach of contract where the evidence did not establish any of the veil-piercing factors. The trial court further erred in awarding damages against all Defendants based on the purported value of

Plaintiff's lost equity in BML when the unrebutted evidence was that Plaintiff's equity was worthless even before Defendants' alleged wrongdoing and Plaintiff would have suffered the same loss regardless of Defendants' conduct. In particular, the evidence established that, well before any alleged breach or misrepresentation by CSCECB or CCAB, BMLP's equity value was zero because BMLP had caused BML to take on over \$2 billion in debt, which was far more than BML's asset value. In addition, independent third-party valuations commissioned by the receiver-managers showed that, even had the resort opened as planned and enjoyed a period of stable operations in 2015, BML's asset value would still have been far below the loan balance, and that was a result of BMLP's own operating and leverage decisions, not anything CSCECB or CCAB did. Thus, it was BMLP's mismanagement—coupled with BMLP's decision to put BML into chapter 11, the Delaware bankruptcy court's dismissal of that filing, and The Bahamian Supreme Court's liquidation of BML after selling its assets to a third party—that caused BMLP's loss, not anything Defendants did.

31. The trial court's decisions in this case have been reversed before. Previously, on interlocutory appeal of the trial court's summary judgment, the First Department reversed the trial court's decision in substantial part. CCA believes the First Department will do so again with the Appeal.

32. As the caselaw above makes clear, CCA need not demonstrate a probability of success on the merits of the Appeal, only 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 substantial likelihood of prevailing on appeal, this factor heavily weighs in favor of granting relief from stay.

IV. Relief is Consistent with Precedent in Similar Cases

33. To be clear, CCA is not seeking to relitigate the Baha Mar Judgment, 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) [ECF No. 289]; *In re Allonhill, LLC*, Case No. 12-10663 (Bankr. D. Del., April 15, 2014) [ECF No. 62]; *In re MIG, INC.*, Case No. 09-12118 (Bankr. D. Del., July 2, 2009) [ECF 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.

34. 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 Appeal.

Waiver of Memorandum of Law

35. 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

36. CCA will provide notice of this motion to: (a) the U.S. Trustee; (b) the entities listed on the *List of Creditors Holding the 20 Largest Unsecured Claims*; (c) Susman Godfrey LLP, as counsel to BMLP; (d) the Internal Revenue Service; (d) the Office of the United States Attorney for the District of New Jersey; and (e) 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

37. 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: December 22, 2024

/s/ Michael D. Sirota

COLE SCHOTZ P.C.

Michael D. Sirota
Warren A. Usatine
Ryan T. Jareck
Felice R. Yudkin
Court Plaza North, 25 Main Street
Hackensack, NJ 07601
Telephone: (201) 489-3000
Facsimile: (201) 489-1536
msirota@coleschotz.com
wusatine@coleschotz.com
fyudkin@coleschotz.com
rjareck@coleschotz.com

-and-

DEBEVOISE & PLIMPTON LLP

M. Natasha Labovitz (*pro hac vice* pending)
Sidney P. Levinson (*pro hac vice* pending)
Elie J. Worenklein
Rory B. Heller (*pro hac vice* pending)
66 Hudson Boulevard
New York, NY 10001
Telephone: (212) 909-6000
Facsimile: (212) 909-6836
nlabovitz@debevoise.com
slevinson@debevoise.com
eworenklein@debevoise.com
rbheller@debevoise.com

Proposed 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)

DEBEVOISE & PLIMPTON LLP

M. Natasha Labovitz (*pro hac vice* pending)
Sidney P. Levinson (*pro hac vice* pending)
Elie J. Worenklein
Rory B. Heller (*pro hac vice* pending)
66 Hudson Boulevard
New York, NY 10001
Telephone: (212) 909-6000
Facsimile: (212) 909-6836
nlabovitz@debevoise.com
slevinson@debevoise.com
eworenklein@debevoise.com
rbheller@debevoise.com

COLE SCHOTZ P.C.

Michael D. Sirota
Warren A. Usatine
Felice R. Yudkin
Ryan T. Jareck
Court Plaza North, 25 Main Street
Hackensack, NJ 07601
Telephone: (201) 489-3000
Facsimile: (201) 489-1536
msirota@coleschotz.com
wusatine@coleschotz.com
fyudkin@coleschotz.com
rjareck@coleschotz.com

Proposed Co -Counsel to the Debtor and Debtor in Possession

In re:

CCA Construction, Inc.,¹

Debtor.

Case No. 24-____ (____)

Chapter 11

Judge:

¹ 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.

(Page | 2)

Debtor: CCA Construction, Inc.

Case No.: 24-_____ (___)

Caption of Order: Order Granting Debtor Relief from the Automatic Stay to Prosecute an Appeal

**ORDER GRANTING DEBTOR RELIEF FROM
THE AUTOMATIC STAY TO PROSECUTE AN APPEAL**

The relief set forth on the following pages, numbered two (2) through four (4), is

ORDERED.

(Page | 3)

Debtor: CCA Construction, Inc.

Case No.: 24-_____ (___)

Caption of Order: Order Granting Debtor Relief from the Automatic Stay to Prosecute an Appeal

Upon CCA's motion filed on the Petition Date [Docket No. ___] (the "**Motion**")² pursuant to sections 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 prosecute the Appeal, all as more fully set forth in the Motion; and upon consideration of the First Day 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 heard the statements in support of the relief requested therein at a hearing before this Court (the "**Hearing**"); 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

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

(Page | 4)

Debtor: CCA Construction, Inc.

Case No.: 24-_____ (___)

Caption of Order: Order Granting Debtor Relief from the Automatic Stay to Prosecute an Appeal

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 prosecute the Appeal in 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 Supreme Court of the State of New York, Appellate Division - First Department, to proceed to resolution in such court, including any appeals therefrom or related proceedings.

3. With the exception of the Appeal, 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. 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.

5. 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.

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

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