

AGREED ORDER GRANTING MOTION FOR RELIEF FROM AUTOMATIC STAY TO DETERMINE LIABILITY, LIQUIDATE CLAIMS AND PROCEED AGAINST THIRD PARTIES AND PURSUE INSURANCE POLICIES AND PROCEEDS

This matter is before the Court on the *Motion for Relief from Automatic Stay to Determine Liability, Liquidate Claims and Proceed Against Third Parties and Pursue Insurance Policies and Proceeds* [Docket No. 319] (the “Motion”) filed by Kristina Ferrell, Individually and as Representative of the Estate of Johnathon Ferrell, and J.D. Ferrell (collectively, the “Movant”).

The Court has jurisdiction over these matters pursuant to 28 U.S.C. §§ 157 and 1334 and the *Second Amended and Restated General Order 26-2019, Procedures for Complex Chapter 11 Cases*, dated February 6, 2023 (the “Complex Case Procedures”). This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2), and venue of this proceeding and the Motion in this District is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

The Debtors and Movant (by and through their undersigned counsel) represent to the Court that the Debtors and Movant consent to the entry of the relief sought herein.

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED to the extent set forth herein.
2. The automatic stay under 11 U.S.C. § 362 is MODIFIED solely to permit the Movant to liquidate any and all claims asserted by the Movant against Debtors OTB Acquisition LLC and OTB Holding LLC in the case currently pending in the District Court of Dallas, Texas, 298th Judicial District, Case No. DC-24-05031 (*KRISTINA FERRELL, Individually and as Representative of the Estate of JOHNATHON FERRELL, and J.D. FERRELL v. OTB Acquisition, LLC d/b/a On the Border Mexican Grill, OTB Holding, LLC, Madison Learn, Hunter Henderson and Patrick Grady*) (the “Claim”), to pursue the Claim solely against Debtors OTB Acquisition

LLC's and OTB Holding LLC's insurer, to collect against non-estate assets including, but not limited to, insurance proceeds, provided however, the insurer may not take collection actions or assert any claim, whether arising prepetition or postpetition, as an administrative expense or unsecured claim, against the Debtors or their estates for (i) any amount within the \$150,000 self-insured retention, or (ii) any other amount arising from, relating to, or associated with the Claim, including without limitation any fees, expenses, or defense costs of any kind; and any such costs shall not reduce insurance proceeds available to satisfy other covered claims. This Order is not intended to limit action against third parties that are not subject to the automatic stay. Except as expressly set forth herein, this Order is not intended to deprive Movant of any claim it may have against the Debtors or their bankruptcy estates. Notwithstanding the foregoing, (a) nothing herein constitutes a finding or adjudication as to any liability, causation, damages, or coverage, nor as to the validity, priority, amount, characterization, or allowability of any Claim of the Movant against the Debtors or their estates and (b) any judgment, verdict, or ruling rendered in a forum other than this Court shall not control the allowance or disallowance of any Claim against the Debtors or their estates, the jurisdiction of which shall be exclusively retained by the Court. By entry of this Order, the Debtors do not admit liability or the existence of any Claim and expressly reserves all rights, claims, and defenses, including the right to object to any Proof of Claim filed by the Movant

3. Notwithstanding Fed. R. Bankr. P. 4001(a)(3) or anything else to the contrary, this Order is enforceable immediately upon entry.

4. The Court retains jurisdiction with respect to all matters arising from or related to the interpretation or implementation of this Order.

5. Counsel for the Debtors, through Kurtzman Carson Consultants, LLC d/b/a Verita Global (“Verita”) shall, within three (3) days of the entry of this Order, cause a copy of this Order to be served by electronic mail or first class mail, as applicable, on the Debtors’ insurer with respect to the Claim.

6. The insurer shall have twenty-one (21) days from the service of this Order to file an objection to the relief provided in this Order. If an objection is timely filed, counsel for the Debtors will set such objection for hearing pursuant to the Court’s Open Calendar Procedures.

7. If no objection is timely filed, this Order shall be a final Order approving the Motion as set forth herein.

[END OF ORDER]

AGREED TO BY AND REQUEST ENTRY OF:

/s/ Jeffrey R. Dutson

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