

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

**IN RE:** )  
 )  
**STAGE STORES, INC., et al.,<sup>1</sup>** ) **CASE NO. 20-325644**  
 ) **(Jointly Administered)**  
 )  
**Debtor** ) **Chapter 11**

**MOTION SEEKING AUTHORITY TO MOVE FORWARD IN PURSUIT OF CLAIM**

**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.**

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

Diana Camp (“Ms. Camp”), a party-in-interest in the above-captioned bankruptcy case, files this *Motion Seeking Authority to Move Forward in Pursuit of Claim* (the “Motion”), and would show the Court as follows:

**I. JURISDICTION, VENUE, & CONSTITUTIONAL AUTHORITY**

1. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334.

This particular motion involves a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(B) and (L).

2. Venue is proper in this District pursuant to 28 U.S.C. § 1408.

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<sup>1</sup> The Debtors in these Chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are Stage Stores, Inc. (6900), and Specialty Retailers, Inc. (1900).



3. This Court has constitutional authority to enter a final order regarding this Motion, which seeks a determination of the applicability of, or relief from, the discharge injunction. 11 U.S.C. § 1141 has no equivalent in state law, thereby rendering the Supreme Court’s opinion in *Stern v. Marshall* inapplicable. See *In re Carlew*, 469 B.R. 666, 672 (Bankr. S.D. Tex. 2012) (discussing *See Stern v. Marshall*, 564 U.S. 462, (2011)). In the alternative, matters related to the discharge injunction are essential bankruptcy matters which trigger the “public rights” exception. See *Id.*

## **II. FACTUAL BACKGROUND**

4. On May 10, 2020 (the “Petition Date”) Debtor Specialty Retailers, Inc., and Stage Stores, Inc. (collectively referenced as the “Debtors”) filed their Chapter 11 bankruptcy case. The Debtors are retailers operating department stores under the Bealls, Goody’s, Palais Royal, Peebles, and Stage, and Gordmans brand. Subsequent to the Petition Date, the Debtors continued to operate.

5. On May 11, 2020, the Court entered its Order Directing Joint Administration of Chapter 11 Cases (the “Joint Administration Order”). The Joint Administration Order included provisions granting the Debtors authority to file one disclosure statement and plan of reorganization and to keep one consolidated docket and one consolidated service list for the Debtors. The Joint Administration Order required that all pleadings be filed in and docket in Case No. 20-32564.

6. On May 21, 2020, the Debtors filed their Disclosure Statement and Chapter 11 Plan of Reorganization [Doc. Nos. 295 and 296].

7. On or about June 6, 2020, Ms. Camp was injured while in the ordinary course and scope of shopping at a Peebles Department Store in Thomasville, North Carolina. At the conclusion of her visit to the store, Ms. Camp exited through the first set of a double set of doors. As Ms. Camp attempted to go through the second set of doors, the door suddenly closed, hitting Ms. Camp and causing her to fall. Ms. Camp lost consciousness for a short time and was subsequently taken to the hospital via EMS. Ms. Camp was diagnosed with a cracked right femur and fracture of the right hip—significant injuries requiring immediate surgery. As a result of the Debtors’ alleged negligence causing her injuries at the Debtors’ store, Ms. Camp has asserted a claim (the “Claim”) against the Debtors.

8. On June 18, 2020, the Court entered its Order (I) Setting Bar Dates for Filing Proofs of Claim, Including Requests for Payment Under Section 503(b)(9), (II) Establishing Amended Schedules Bar Date and Rejection Damages Bar Date, (III) Approving the Form of and Manner for Filing Proofs of Claim, Including Section 503(b)(9) Requests, (IV) Approving Notice of Bar Dates, and (V) Granting Related Relief (the “Bar Date Order”) [Doc. No. 478]. The language of the Bar Date identified certain “parties exempted from the bar date.” Amongst the enumerated exempt parties were those “holding a claim allowable under sections 503(b) [excepting 503(b)(9)] and 507(a)(2) of the Bankruptcy Code as an expense of administration incurred in the ordinary course. . .” Ms. Camp did not receive notice of entry of the Bar Date Order nor a copy of the Bar Date Order.

9. On June 30, 2020, the Debtors filed their Amended Chapter 11 Plan [Doc. No. 536]. Ms. Camp did not receive notice of the filing of the Amended Chapter 11 Plan or a copy of the Amended Chapter 11 Plan.

10. During the summer of 2020, Ms. Camp's counsel<sup>2</sup> sent letters referencing the June 6<sup>th</sup> incident and its representation of Ms. Camp (with contact information for future communication). Ms. Camp's counsel also provided notice that no video/electronic recording of the incident should be lost or destroyed. These letters (the "Notice Letters") were sent to the following addresses/on the following dates:

- a. Peebles, Inc.  
c/o CT Corporation System  
225 Hillsborough St.  
Raleigh, NC 27603  
**July 15, 2020**
- b. Gordmans Department Store  
Attn: Store Manager – Melinda Stump  
1022 Randolph St.  
Thomasville, NC 27360  
**August 20, 2020**
- c. Peebles, Inc.  
c/o CT Corporation System  
225 Hillsborough St.  
Raleigh, NC 27603  
**August 27, 2020**
- d. Gordmans Department Store  
1022 Randolph St.  
Thomasville, NC 45776  
**August 27, 2020**

11. All of the Notice Letters were returned as "Not Deliverable." Copies of the Notice Letters (along with returned envelopes) are attached as **Exhibit A** and are incorporated herein for all purposes.

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<sup>2</sup> Ms. Camp's personal injury counsel is O'Malley Tunstall, PLLC, with offices in Raleigh, North Carolina, and Tarboro, North Carolina.

12. On August 13, 2020, the Debtors filed their Second Amended Chapter 11 Plan (the “Plan”) [Doc. No 694]. Neither Ms. Camp nor her counsel received a copy of the Plan or any notice regarding the filing of the Plan.

13. On August 14, 2020, in conjunction with the confirmation hearing conducted on the same date, the Bankruptcy Court entered an order (the “Confirmation Order”) [Doc. No. 705] confirming the Plan (such date being referenced as the “Confirmation Date”).

14. The Confirmation Order included the following provision:

. . . [A]ll entitles who have held, hold, or may hold claims or interests that have been released under the Plan, satisfied under the Plan, or are subject to exculpation under the Plan are permanently enjoined from and after the Effective Date, from taking any . . . [action] against, as applicable, the Debtors, the Wind-Down Debtors, the Exculpated Parties, or the Released Parties. . .

(the “Discharge Injunction”). *See* Page 102 of the Confirmation Order.

15. The Discharge Injunction enjoined actions that constituted “continuing in any manner any action or other proceeding of any kind on account of or in connection with or with respect to any such claim or interests. . .” *Id.*

16. In addition to the Discharge Injunction, the Confirmation Order set forth a deadline for the assertion of administrative claims which included a requirement that for administrative claims arising before the Confirmation Date, such claims were required to be filed on or before 30 days after the Confirmation Date. *See* Page 68 of the Confirmation Order. The Confirmation further provided that holders of administrative claims failing to meet the relevant deadline would be “forever barred, estopped, and enjoined from asserting such Administrative Claims. . .” *See* Page 78 of the Confirmation Order.

17. Neither Ms. Camp nor her counsel received notice of the confirmation hearing, a copy of the Confirmation Order, or notice of the Confirmation Date.

18. On September 15, 2020, prior to the occurrence of the Effective Date, the Debtors sent a letter to Ms. Camp acknowledging “we have notice of an incident, which may have involved [you].” The letter referenced the “date of event” as June 6, 2020, the location as Peebles in Thomasville, NC. This letter did not reference the Debtors’ pending bankruptcy, the entry of the Confirmation Order, or the impending occurrence of the Effective Date. A copy of this letter is attached as **Exhibit B** and is incorporated herein for all purposes.

19. On October 2, 2020, the Debtors sent a letter to Ms. Camps’ counsel acknowledging “receipt of your letter of representation.” This letter did not reference the Debtors’ pending bankruptcy, the entry of the Confirmation Order, or the impending occurrence of the Effective Date. A copy of this letter is attached as **Exhibit C** and is incorporated herein for all purposes.

20. The Effective Date of the Plan occurred on October 30, 2020. In conjunction with the Effective Date, the Debtors filed a notice regarding entry of the Compromise Order and occurrence of the Effective Date (the “Notice of Effective Date”) [Doc. No. 898]. Neither Ms. Camp nor her counsel received the Notice of Effective Date.

21. On April 13, 2021, and in conjunction with her Claim, Ms. Camp filed a complaint (the “Complaint”) initiating a lawsuit styled as *Diana Camp vs. Specialty Retailers, Inc. d/b/a Peebles d/b/a Gordmans, Defendant*, File No. 21-CVS-819 in the General Court of Justice, Superior Court Division of Davidson County in North Carolina (the “Lawsuit”). A copy of the Complaint is attached as **Exhibit D** and is incorporated herein for all purposes.

22. In the Complaint, Ms. Camp alleges negligence and gross negligence on the part of the Debtors and seeks an award for past and future medical bills, pain and suffering, and loss of wages. Ms. Camp further seeks costs, fees, and interest.

23. Service of the Complaint occurred on April 21, 2021. A copy of the Affidavit of Service is attached as **Exhibit E** and is incorporated herein for all purposes.

24. The Debtors, as reorganized, did not file an answer to the Complaint, and neither Ms. Camp nor her counsel received any communication from the Debtors in conjunction with filing of the Lawsuit.

25. Prior to filing a motion seeking a default judgment, Ms. Camp's counsel performed an online search in an effort to determine the reason for the Debtors' non-response and discovered the Debtors' bankruptcy filing.

26. Ms. Camp's counsel notified the State Court of the Debtors' bankruptcy; consequently, the State Court abated the Lawsuit.

27. Ms. Camp is now aware of entry of the Confirmation Order and the occurrence of the Effective Date (and the related discharge injunction). Given the fact that Ms. Camp had no notice of the Debtors' bankruptcy, the filing of the Plan, occurrence of the confirmation hearing, entry of the Confirmation Order, and occurrence of the Effective Date, the Discharge Injunction does not serve to bar Ms. Camp's assertion of her Claim. Though Ms. Camp believes an order from this Court may not be required to pursue her Claim via the Lawsuit (in light of the notice failures), given the concerns of the State Court, and out of an abundance of caution, Ms. Camp seeks an order from this Court authorizing her to move forward with the Lawsuit and/or to take other action to pursue her Claim.

#### **IV. ARGUMENT & AUTHORITIES**

##### **Post-Petition Tort Claim as Administrative Claim:**

28. Section 503(b) of the Bankruptcy Code provides that, after notice and hearing, “there shall be allowed administrative expenses . . . including . . . the actual, necessary costs of expenses of preserving the estate. 11 U.S.C. § 503(b)(1)(A). A movant establishes a prima facie case for the allowance of an administrative expense by showing (1) that the claim arises from a transaction with the debtor’s estate; and (2) that it has directly and substantially benefitted the estate. *In re Riley*, 923 F.3d 433, 439 (5th Cir. 2019).

29. A debtor’s post-petition, pre-confirmation conduct may give rise to administrative claim liability. *See In re Quinn*, 425 B.R. 136, 138 (Bankr. D. Del. 2010) (citing *In re Stenbridge*, 287 B.R. 658 (Bankr. N.D. Tex. 2002). “Actual and necessary” costs of an estate include “costs ordinarily incident to operation of a business.” *Reading Co. v. Brown*, 391, U.S. 471, 483 (1968). Likewise, liabilities incurred by a bankruptcy estate based upon post-petition operations constitute “actual and necessary” costs. *In re Al Copeland Enters.*, 991 F.2d 233, 238-240 (5th Cir. 1993). Liabilities constituting administrative expenses include damages for post-petition torts. *In re Dennis Ponte, Inc.*, 61 B.R. 296, 299 (9th Cir. 1986) (citing *Reading Co.*, 391 at 488 (1968); *In re Charles Bank Laundry, Inc.*, 755 F.2d 200, 202 (1st Cir. 1985); *In re Chicago Pacific Corp.*, 773 F.2d 909, 913-914 (7th Cir. 1986); *In re Hemingway Transport, Inc.*, 73 B.R. 494, 503-504 (Bankr. Mass. 1987); *In re Pettibone Corp.*, 90 B.R. 918, 934 (Bankr. N.D. Ill. 1988).

30. Ms. Camp was injured at the Debtors’ store on June 6, 2020, a post-petition/pre-confirmation date. As reiterated in many of the Debtors’ bankruptcy filings, the Debtors continued operations post-petition, and their stores remained open to customers. The Debtors’ continued



operations generated funds for the estate by virtue of the continued sale of merchandise to customers.

31. Injuries to customers resulting from a debtor's negligence during post-petition operations (a risk all businesses assume when open to the public for the purposes of generating sales/generating profit) are necessarily a cost of doing business, i.e., a cost "ordinarily incident" to the operation of a business. Given the timing and location of Ms. Camp's injury, if such injury was the result of the Debtors' negligence, then any claim resulting from the injury is an administrative claim entitled to priority.

**Due Process Rights Related to Confirmation Order:**

32. In the context of bankruptcy, due process requires that, for an order confirming a plan of reorganization to be binding on a party, the relevant party must receive adequate notice of the reorganization process. *Reliable Elec. Co., Inc. v. Olson Const. Co.* 726 F.2d 620, 623 (10<sup>th</sup> Cir. 1984). Adequate notice of the reorganization process includes notice of a hearing on plan confirmation. *Id.* A confirmation order does not discharge or enjoin a claim unless the claimant receives adequate notice of the bankruptcy proceeding and any claims bar dates. *In re Pettibone*, 162 B.R. 791, 808 (Bankr. N.D. Ill. 1994) (citing *In re Longardner and Assocs., Inc.*, 855 F.2d 455, 465 (7th Cir. 1988)); *In re CareMatric Corp.*, 306 B.R. 478, 486 (Bankr. D. Del. 2004). "[N]otwithstanding the language of Section 1141, the discharge of a claim without reasonable notice of the confirmation hearing is violative of the [F]ifth [A]mendment to the United States Constitution." *Reliable Elec.*, 726 F.2d at 623.

33. When a creditor is not bound by the discharge set forth in Section 1141 of the Bankruptcy Code, a creditor retains his or her rights against a debtor. *In re St. James Mechanical*,

*Inc.*, 434 B.R. 54, 63 (Bankr. E.D.N.Y. 2010). The creditor may seek to exercise these rights in a non-bankruptcy forum. *Id.*

34. Both Section 1141 and the terms of the Debtors' Confirmation Order provide for the discharge of claims and enjoin parties from continuing a pursuit of such claims; however, for Ms. Camp to be bound by the Debtors' Confirmation Order and related mandates arising from the course of the bankruptcy, the Debtors were required to provide adequate notice to Ms. Camp of the reorganization process, the Plan, the confirmation hearing, and entry of the Confirmation Order. Despite its awareness of Ms. Camps' post-petition/pre-confirmation Claim, as recognized in its correspondence to Ms. Camp and her personal injury counsel, the Debtors failed to make Ms. Camp aware of the pendency of the bankruptcy case (or any of the above-listed events of import) and failed to serve Ms. Camp with case notices that would have afforded Ms. Camp with an opportunity to preserve her interests.

35. Given the failures of the Debtors to provide adequate notice to Ms. Camp, she is not bound by the Confirmation Order, its provisions regarding claim deadlines, and/or any injunction against the continued pursuit of pre-confirmation claims.

WHEREFORE, based upon the foregoing, Ms. Camp requests that the Court enter an order authorizing her to move forward with the Lawsuit and/or otherwise pursue the Claim. Ms. Camp further requests such other and further relief, at law or in equity, to which she may be justly entitled.

DATED: September 15, 2022.

Respectfully Submitted,

NATHAN SOMMERS JACOBS,  
A PROFESSIONAL CORPORATION

By: /s/ Heather R. Potts

Heather R. Potts  
Texas Bar No. 24051204  
[hpotts@nathansommers.com](mailto:hpotts@nathansommers.com)  
2800 Post Oak Blvd., 61<sup>st</sup> Floor  
Houston, Texas 77056-5705  
Telephone: (713) 960-0303  
Facsimile: (713) 892-4800

O'MALLEY TUNSTALL, PC

By: /s/ Joseph P. Tunstall, III

Joseph P. Tunstall, III  
N.C. Bar No. 29477  
[jptunstall@omalleytunstall.com](mailto:jptunstall@omalleytunstall.com)  
Post Office Box 1158  
Tarboro, NC 27886  
Telephone: (252) 823-2266

*COUNSEL TO DIANA CAMP*

**CERTIFICATE OF CONFERENCE**

The undersigned certifies that she has spoken to Debtors' counsel telephonically; however, the parties have been unable to reach a resolution of the matter.

/s/ Heather R. Potts  
Heather R. Potts

**CERTIFICATE OF SERVICE**

The undersigned certifies that on September 15, 2022, a true and correct copy of the foregoing Motion was served electronically on all parties registered to receive electronic notice of filings in this case via this Court's ECF notification system and any other parties identified on the attached Service List.

/s/ Heather R. Potts  
Heather R. Potts



# o'malley tunstall

PLLC

Susan M. O'Malley\*  
Joseph P. Tunstall, III

\*NC Board Certified Specialist in  
Social Security Disability Law

Tarboro (252) 823-2266  
Raleigh (919) 277-0150  
Facsimile (252) 641-9009

Mailing: P.O. Box 1158  
405 North Main St.  
Tarboro, NC 27886

8300 Falls of Neuse Rd.  
Suite 108  
Raleigh, NC 27615

July 15, 2020

Peebles, Inc.  
c/o CT Corporation System  
225 Hillsborough Street  
Raleigh, NC 27603

Re: Our Client: Diana Camp  
Our File Number: 45776

Dear Sir or Madam:

Please be informed that I represent Diana Camp in the incident occurring on June 6, 2020 at your store in Thomasville. Please acknowledge this letter of representation in writing and supply me with a copy of any statement, written or oral, that you may have obtained from my client. It will also be helpful if you will voluntarily supply me with any statements by witnesses to the incident.

Further please accept this letter as our request for any surveillance video, audio or any other electronic recording of the incident. You are now on notice both for yourself and for your representatives that in NO CASE should any video or electronic recording of the incident be lost or destroyed pending litigation.

Please direct all future communications to O'Malley Tunstall, PLLC, Joseph P. Tunstall, III, P. O. Box 1158, Tarboro, NC 27886.

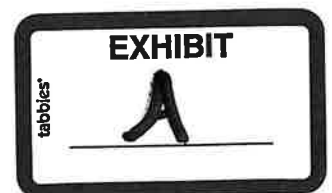
Thank you for your cooperation in this matter.

Sincerely,

*Joseph P. Tunstall, III/sdz*

Joseph P. Tunstall, III

JPT/sdz  
File: 45776/ Camp, Diana





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O'Malley Tunstall  
PLLC

P.O. Box 1158 • Tarboro, NC 27886

15, 2020

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Sincerely,

Joseph P. Tunstall, III/sdz

Joseph P. Tunstall, III

Peebles, Inc.  
c/o CT Corporation System  
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File: 45776/ Camp, Diana



**o'malley tunstall**  
PLLC

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Mailing: P.O. Box 1158  
405 North Main St.  
Tarboro, NC 27886

8300 Falls of Neuse Rd.  
Suite 108  
Raleigh, NC 27615

August 20, 2020

Gordmans Department Store  
Attn: Store Manager – Melinda Stumpp  
1033 Randolph Street  
Thomasville, NC 27360

Re: Our Client: Diana Camp  
Our File Number: 45776

Dear Sir or Madam:

Please be informed that I represent Diana Camp in the incident occurring on June 6, 2020 at your store. Please acknowledge this letter of representation in writing and supply me with a copy of any incident reports or statements, written or oral, that you may have obtained from my client. It will also be helpful if you will voluntarily supply me with any statements by witnesses to the incident.

**Further, please accept this letter as our request for any surveillance video, audio or any other electronic recording of the incident. You are now on notice both for yourself and for your representatives that in NO CASE should any video or electronic recording of the incident be lost or destroyed pending litigation.**

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Thank you for your cooperation in this matter.

Sincerely,

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Joseph P. Tunstall, III

JPT/sdz  
File: 45776/ Camp, Diana







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August 27, 2020

***VIA CERTIFIED MAIL***

Peebles, Inc.  
c/o CT Corporation System  
225 Hillsborough Street  
Raleigh, NC 27603

Re: Our Client: Diana Camp  
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Thank you for your cooperation in this matter.

Sincerely,

*Joseph P. Tunstall, III/sdz*

Joseph P. Tunstall, III

JPT/sdz  
File: 45776/ Camp, Diana

CERTIFIED MAIL



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**o'malley tunstall**  
PLLC  
p.o. box 1158 • tarboro, nc 27886

45776 Camp, D

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JPT/sdz  
File: 45776/ Camp, Diana

Peebles, Inc.  
c/o CT Corporation System  
225 Hillsborough Street  
Raleigh, NC

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252) 823-2266  
(919) 277-0150  
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27, 2020

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Sincerely,

Joseph P. Tunstall, III/sdz

Joseph P. Tunstall, III



**o'malley tunstall**  
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August 27, 2020

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Thank you for your cooperation in this matter.

Sincerely,

*Joseph P. Tunstall, III/sdz*

Joseph P. Tunstall, III

JPT/sdz  
File: 45776/ Camp, Diana



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O'Malley Tunstall  
PLLC

P.O. Box 1158 • Tarboro, NC 27886

27, 2020

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Gordmans Department Store  
1033 Randolph Street  
Thomasville, NC 27360

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CERTIFIED MAIL

Diana Camp in the incident occurring on June  
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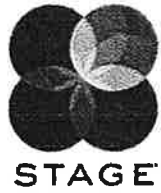
Sincerely,

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Joseph P. Tunstall, III

JPT/sdz

File: 45776/ Camp, Diana



STAGE  
BEALLS  
PALAIS ROYAL  
Peebles  
GOODY'S  
*Gordmans*

# STAGE

09/15/2020

Diana Camp  
408 Brewer Street  
Thomasville, NC 27360

Re: Report Number: 2020GL43118  
Date of Event: 06/06/2020  
Location: Thomasville, NC  
Store Number: 5126 - Peebles - Thomasville, NC

Dear Diana Camp,

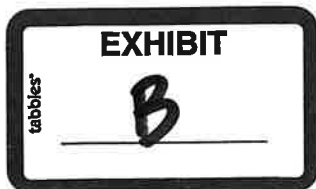
We have attempted to reach you by phone to let you know that we have notice of an incident, which may have involved yourself.

We would like to share our concern and confirm the facts. Please give me a call at your earliest convenience to discuss this matter. You can reach me at 713-331-5055.

Sincerely,

Rebekah Preston  
Claims & Safety Coordinator

2425 West Loop South, 11<sup>th</sup> Floor  
Houston, TX 77027  
Phone: 713-331-5055  
Fax: 713.583.5113  
E-Mail: [rpreston@stagestores.com](mailto:rpreston@stagestores.com)





# STAGE

10/02/2020

*O'Malley Tunstall  
P.O. Box 1158  
Tarboro, NC  
27886*

RE: Your Client: Diana Camp  
Date of loss: 06/06/2020  
Location: 5126 - Peebles - Thomasville, NC; Thomasville, NC

Dear Joseph Tunstall, III,

This letter is to acknowledge receipt of your letter of representation. Please provide me with your theory of liability, as based on what we know at this time, this does not appear to be a case of liability. Please provide copies of any medical reports/bills, as well.

I look forward to your response.

Sincerely,

Rebekah Preston  
Claims & Safety Coordinator

2425 West Loop South, 11<sup>th</sup> Floor  
Houston, TX 77027  
Phone: 713-331-5055  
Fax: 713.583.5113  
E-Mail: rpreston@stagestores.com



NORTH CAROLINA  
DAVIDSON COUNTY

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION

21CV819

Diana Camp,  
Plaintiff,

vs.

Specialty Retailers, Inc. d/b/a  
Peebles d/b/a Gordmans,  
Defendant.

COMPLAINT

The Plaintiff, complaining of the Defendant, alleges and says that:

1. Plaintiff is a citizen and resident of Davidson County, North Carolina.
2. Defendant, Specialty Retailers, Inc., is upon information and belief; a corporation organized under the laws of the State of Texas and is licensed to do business and is doing business in the State of North Carolina, doing business as Specialty Retailers, Inc. d/b/a Peebles Store number 5126 in Thomasville, North Carolina.
3. The registered agent of the Defendant Specialty Retailers, Inc. is Cogency Global Inc., located at 212 South Tryon Street, Suite 1000, Charlotte, NC 28281.
4. Defendant is doing business as Peebles and/or Gordmans in Thomasville, NC.
5. At all times mentioned herein Defendant was the owner of premises doing business as Peebles and/or Gordmans and located at 1033 Randolph Street, Thomasville, NC 27360.
6. That all times complained herein, Defendant exercised the authority and control over the premises doing business as Peebles and/or Gordmans and located at 1033 Randolph Street, Thomasville, NC 27360.

EXHIBIT

tabbles

D



7. That on or about June 6, 2020, the premises doing business as doing business as Peebles and/or Gordmans and located at 1033 Randolph Street, Thomasville, NC 27360 as described in detail above, housed a store and was open to the public.
8. That on or about June 6, 2020, Plaintiff was a customer at the premises.
9. That on or about June 6, 2020, Plaintiff, while in the ordinary course and scope of shopping in the premises, attempted to exit the door.
10. That on or about June 6, 2020, wind draft created by the door caused it to swing back towards Plaintiff violently, causing her to fall.
11. Defendant was negligent and grossly negligent in that they:
  - A. Failed to warn Plaintiff of the dangerous condition with the entrance doors within said store;
  - B. Knew, or should have know, of the hazardous, dangerous, and unsafe condition created by wind barrier in the vestibule doors;
  - C. Knew, or should have know, of the hazardous, dangerous, and unsafe condition created by failure to regularly inspect and repair the vestibule doors;
  - D. Failed to inspect, discover, remove, repair or correct the condition;
  - E. Failed to take reasonable precautions to protect Plaintiff and other lawful visitors from the dangerous condition;
  - F. Failed to make timely inspections of their premises such that they might discover the dangerous conditions;
  - G. Created the dangerous condition by their own conduct;
  - H. Such other and further liability as will be proven in discovery and trial.
12. Plaintiff, as a direct and proximate result of the negligence and gross negligence of Defendant, received traumatic injuries, incurred medical bills, endured pain



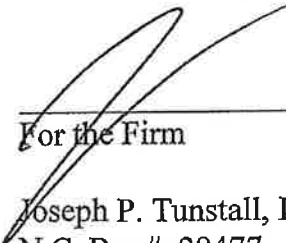
and suffering, incurred lost wages, and suffered other damages, both past and future, in an amount in excess of twenty-five thousand dollars (\$25,000.00).

**WHEREFORE**, Plaintiff prays that she have and recover from Defendant the following:

1. A sum in excess of twenty-five thousand dollars (\$25,000.00) for past and future medical bills, pain and suffering, loss of wages for Plaintiff;
2. Interest at the maximum rate allowable by law from the date of the filing of this action;
3. The cost of this action;
4. Reasonable attorney's fees;
5. Such other and further relief as the Court may deem just and proper.

This the 13<sup>th</sup> day of April, 2021.

O'MALLEY TUNSTALL, PLLC

  
\_\_\_\_\_  
For the Firm

Joseph P. Tunstall, III  
N.C. Bar #: 29477  
Attorney for Plaintiff  
Post Office Box 1158  
Tarboro, NC 27886  
(252) 823-2266

NORTH CAROLINA  
DAVIDSON COUNTY

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
FILE NUMBER 21-CVS-819

Diana Camp,  
PLAINTIFF,

2021 / 4 / 28

DAVIDSON COUNTY, N.C.

vs.

AFFIDAVIT OF SERVICE

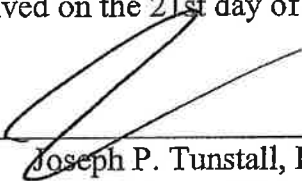
Specialty Retailers, Inc. d/b/a  
Peebles d/b/a Gordmans,  
DEFENDANT.

The undersigned certifies that service of process was completed by mailing a copy of the Civil Cover Sheet, Summons, and Complaint by certified mail, return receipt requested, addressed to the following:


Specialty Retailers  
c/o Cogency Global, Inc. – Registered Agent  
212 S. Tryon Street, Suite 1000  
Charlotte, NC 28281

and delivered to the above named addressee.

Process was in fact received on the 21st day of April, 2021, as evidenced by the attached return receipt.

  
\_\_\_\_\_  
Joseph P. Tunstall, III  
N.C. Bar #: 29477  
Attorney for Plaintiff  
P.O. Box 1158  
Tarboro, NC 27886  
252-823-2266

Sworn to and subscribed before me this the 23<sup>rd</sup> day of April, 2021.

  
\_\_\_\_\_  
Susan D. Zimmerman - Notary Public  
My commission expires 11/19/2024.



NORTH CAROLINA  
 DAVIDSON COUNTY

IN THE GENERAL COURT OF JUSTICE  
 SUPERIOR COURT DIVISION  
 FILE NUMBER 21-CVS-819


Diana Camp,  
 PLAINTIFF,

2021 / 7 / 28  
 DATE  
 P.M.C.

vs.

AFFIDAVIT OF SERVICE

Specialty Retailers, Inc. d/b/a  
 Peebles d/b/a Gordmans,  
 DEFENDANT.

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY																	
<ul style="list-style-type: none"> <li>Complete items 1, 2, and 3.</li> <li>Print your name and address on the reverse so that we can return the card to you.</li> <li>Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul>	A. Signature <input type="checkbox"/> Agent <input type="checkbox"/> Addressee X SM CV19209																	
1. Article Addressed to: SPECIALTY RETAILERS C/O COGENCY GLOBAL INC. REGISTERED AGENT 212 S. RYAN STREET, #1000 CHARLOTTE, NC 28281  9590 9402 5780 0003 0544 60.	B. Received by (Printed Name) SM CV19209	C. Date of Delivery 4/21/21																
2. Article Number (Transfer from service label) 7020 0090 0002 3165 5129	D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input type="checkbox"/> No If YES, enter delivery address below:  3. Service Type <table border="0"> <tr> <td><input type="checkbox"/> Adult Signature</td> <td><input type="checkbox"/> Priority Mail Express®</td> </tr> <tr> <td><input type="checkbox"/> Adult Signature Restricted Delivery</td> <td><input type="checkbox"/> Registered Mail™</td> </tr> <tr> <td><input checked="" type="checkbox"/> Certified Mail®</td> <td><input type="checkbox"/> Registered Mail Restricted Delivery</td> </tr> <tr> <td><input type="checkbox"/> Certified Mail Restricted Delivery</td> <td><input checked="" type="checkbox"/> Return Receipt for Merchandise</td> </tr> <tr> <td><input type="checkbox"/> Collect on Delivery</td> <td><input type="checkbox"/> Signature Confirmation™</td> </tr> <tr> <td><input type="checkbox"/> Collect on Delivery Restricted Delivery</td> <td><input type="checkbox"/> Signature Confirmation Restricted Delivery</td> </tr> <tr> <td><input type="checkbox"/> Insured Mail</td> <td></td> </tr> <tr> <td><input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)</td> <td></td> </tr> </table>		<input type="checkbox"/> Adult Signature	<input type="checkbox"/> Priority Mail Express®	<input type="checkbox"/> Adult Signature Restricted Delivery	<input type="checkbox"/> Registered Mail™	<input checked="" type="checkbox"/> Certified Mail®	<input type="checkbox"/> Registered Mail Restricted Delivery	<input type="checkbox"/> Certified Mail Restricted Delivery	<input checked="" type="checkbox"/> Return Receipt for Merchandise	<input type="checkbox"/> Collect on Delivery	<input type="checkbox"/> Signature Confirmation™	<input type="checkbox"/> Collect on Delivery Restricted Delivery	<input type="checkbox"/> Signature Confirmation Restricted Delivery	<input type="checkbox"/> Insured Mail		<input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)	
<input type="checkbox"/> Adult Signature	<input type="checkbox"/> Priority Mail Express®																	
<input type="checkbox"/> Adult Signature Restricted Delivery	<input type="checkbox"/> Registered Mail™																	
<input checked="" type="checkbox"/> Certified Mail®	<input type="checkbox"/> Registered Mail Restricted Delivery																	
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<input type="checkbox"/> Collect on Delivery Restricted Delivery	<input type="checkbox"/> Signature Confirmation Restricted Delivery																	
<input type="checkbox"/> Insured Mail																		
<input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)																		

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

<b>IN RE:</b>	§	
	§	<b>CASE NO. 20-32564</b>
<b>STAGE STORES, INC., et al.,<sup>1</sup></b>	§	<b>(Jointly Administered)</b>
	§	
<b>Debtor</b>	§	<b>Chapter 11</b>

**ORDER AUTHORIZING PURSUIT OF CLAIM**

**[Related to Doc. No. \_\_\_\_]**

CAME ON FOR CONSIDERATION the *Motion Seeking Authority to Move Forward in Pursuit of Claim* (the “Motion”) filed by Diana Camp (“Camp”) and the Court, after considering the Motion finds the requested relief to be appropriate. The Court hereby ORDERS the following:

1. Camp is authorized to pursue her Claim (as that term is identified and utilized in the Motion) in the context of the Lawsuit (as that term is identified and utilized).
2. To the extent that Camp pursues her Claim in the Lawsuit, Camp is not in violation of any automatic stay and/or discharge injunction entered in the above-captioned bankruptcy case prior to entry of this Order.

Dated:

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<sup>1</sup> The Debtors in these Chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are Stage Stores, Inc. (6900), and Specialty Retailers, Inc. (1900).

**SERVICE LIST**

**DEBTOR**

Stage Stores, Inc.  
2425 West Loop South  
Houston, TX 77027

**REPRESENTED BY**

Matthew D Cavanaugh  
Jackson Walker LLP  
1401 McKinney Street  
Ste 1900  
Houston, TX 77010

**DEBTOR**

Specialty Retailers, Inc  
**U.S. TRUSTEE**  
US Trustee  
Office of the US Trustee  
515 Rusk Ave  
Ste 3516  
Houston, TX 77002

**CREDITORS AND PARTIES REQUESTING NOTICE**

Atlantic Trading & Marketing, Inc.  
Undeliverable

Tulsa, OK 74103-3705

CITGO Petroleum Corporation  
Undeliverable

RIL USA Inc.  
Undeliverable

Castleton Commodities Merchant Trading L.P.  
Mayer Brown LLP  
700 Louisiana St.Suite 3400  
Houston, TX 77002-2798

SNOW & GREEN LLP  
ATTN KENNETH GREEN  
P O BOX 549  
HOCKLEY TX 77447-0549

Monroe Energy, LLC  
Undeliverable

Sundive Commodity Group, LLC  
21010 N. Caramel Apple Trl.  
Cypress, TX 77433-5133

Murex LLC  
Undeliverable

The Claro Group, LLC  
711 Louisiana Street, Suite 2100  
Houston, TX 77002-2746

Nathan Sommers Jacobs  
2800 Post Oak Blvd., 61st Floor  
Houston, TX 77056-6131

United Energy Trading LLC  
co Leah Capritta  
1801 California Street Suite 5000  
Denver, CO 80202-2669

Official Committee Of Unsecured Creditors  
c/o Ken Green  
P O Box 549  
Hockley, TX 77447-0549

Victory Renewables, LLC  
Undeliverable

Fuels Incorporated c/o Steven W. SouleHall,  
Estill, et al.  
320 South Boston AvenueSuite 200  
Tulsa, OK 74103-3705

United States Bankruptcy Court  
PO Box 61010  
Houston, TX 77208-1010

QuikTrip Corporation c/o Steven W. Soule  
320 South Boston AvenueSuite 200

ACT Fuels Inc.  
437 Madison Ave.Suite 19C  
New York, NY 10022-7001

Altitude Fuel Inc.  
1110 South Avenue Suites 41-43  
Staten Island, NY 10314-3403

APEX OIL COMPANY INCATTN CAROL  
WHITEHEAD  
8235 FORSYTH BOULEVARD SUITE 400  
ST LOUIS MO 63105-1644

Atlantic Trading & Marketing, Inc.  
5847 San Felipe Rd. Suite 2100  
Houston, TX 77057-3193

BAT Commodities  
5615 Kirby Drive Suite 940  
Houston, TX 77005-2466

BB Energy USA, LLC  
2229 San Felipe Place Suite 1075  
Houston, TX 77019-5670

Banyan Commodity Group  
3301 Bonita Beach Road Suite 313  
Bonita Springs, FL 34134-7836

Blue Ocean Brokerage  
326 East 65th Street Box 373  
New York, NY 10065-6746

CITGO Petroleum Corporation  
1293 Eldridge Parkway  
Houston, TX 77077-1670

Castleton Commodities Merchant Trading L.P.  
c/o John Tesoriero 2200 Atlantic St, Suite 800  
Stamford, CT 06902-6834

Castleton Commodities Merchant Trading LP  
2200 Atlantic Street  
Stamford, CT 06902-6834

Cloud 9 Technologies  
565 5th Avenue 18th Floor  
New York, NY 10017-2431

Coffeyville Resources Refining & Marketing  
2277 Plaza Drive STE 500  
Sugar Land, TX 77479-6602

Core+ Tax Strategies  
20467 Cypresswood Dr. Suite B  
Cypress, TX 77433-5846

DTE Energy Trading, Inc.  
414 S. Main Street Suite 200  
Ann Arbor, MI 48104-2397

Dooley Petro Inc.  
3101 3rd Ave  
SW Willmar, MN 56201-4487

Eco-Energy, LLC  
6100 Tower Circle  
Suite 500  
Franklin, TN 37067-1466

First National Oil Brokers  
148 East Avenue  
Suite 2J  
Norwalk, CT 06851-5727

Funderburk Funderburk Courtois, LLP  
2777 Allen Parkway  
Suite 1000  
Houston, TX 77019-2165

Gresham Petroleum  
P.O. Box 690  
Indianola, MS 38751-0690

HTP ENERGY  
920 10th Avenue North  
Onalaska, WI 54650-2166

Huguenot Fuels Inc.  
613 Cape Romain Road  
Williams, SC 29493

IVG Energy, Ltd.  
1885 St. James Place  
Suite 1100  
Houston, TX 77056-4177

Internal Revenue Service  
P.O. Box 7346  
Philadelphia, PA 19101-7346

Ion Energy  
5151 San Felipe

Suite 2000  
Houston, TX 77056-3629

Kempstar LLC  
4000 Ponce de Leon Blvd  
Suite 830  
Miami, FL 33146-1431

Kenny Baudat  
17122 Paluxy Court  
Splendora, TX 77372-5284

Kwik Trip, Inc.  
1626 Oak Street  
La Crosse, WI 54603-2308

Lincoln Energy Solutions  
22 S. Main Street  
Greenville, SC 29601-4872

Liquidity Energy LLC  
666 Plainsboro Rd.  
Suite 1185  
Plainsboro, NJ 08536-3036

Marathon Petroleum Corporation  
539 S. Main St  
Findlay, OH 45840-3229

Marcello Paolacci  
114 45th Ave.  
Saint Petersburg, FL 33706-2523

Martin Eagle Oil Company, Inc  
2700 James St.  
Denton, TX 76205-7699

Michael Stabile  
6603 49th Court  
EastEllenton, FL 34222-4037

Monroe Energy, LLC  
4101 Post Road  
Trainer, PA 19061-5052

Murex LLC  
Attn: Rick Bartel  
7160 North Dallas Parkway, Suite 300  
Plano, TX 75024-7112

Murex, LLC  
7160 N. Dallas Parkway  
Plano, TX 75024-7112

NCP West, LLC  
P.O. Box 39  
Zeeland, MI 49464-0039

NGL Crude Logistics, LLC  
3773 Cherry Creek North Dr.  
Suite 1000  
Denver, CO 80209-3820

Olympia Gold Brokerage  
2338 Immokalee Rd.  
Suite 255  
Naples, FL 34110-1445

PBF Holding Company LLC  
1 Sylvan Way  
2nd Floor  
Parsippany, NJ 07054-3879

Pennsylvania Grain Processing, LLC  
250 Technology Drive  
Clearfield, PA 16830-2663

Perry Brothers Oil Co. Inc.  
302 E. Furlow St.  
Americus, GA 31709-4031

QT Fuels Incorporated  
4705 S 129th East Avenue  
Tulsa, OK 74134-7005

RIL USA Inc.  
2000 W. Sam Houston Parkway S.  
Suite 700  
Houston, TX 77042-3621

Saratoga RP East  
3773 Cherry Park North Dr.  
Suite 1000  
Denver, CO 80209-3820

Securities and Exchange Commission  
100 F Street, NE  
Washington, DC 20549-2001

Sheetz Inc. 5700

6th Avenue  
Altoona, PA 16602-1199

Sunoco, LLC  
1300 Main Street, 8th Floor  
Houston, TX 77002-6803

Sunoco, LLC  
1735 Market Street  
Suite LL  
Philadelphia, PA 19103-7528

TAC Energy  
701 S. Robison Road  
Texarkana, TX 75501-6747

The Redwood Group, LLC  
5920 Nall Avenue  
Suite 400  
Shawnee Mission, KS 66202-3469

Thomas Arledge  
5609 Wernecke Lane  
Brenham, TX 77833-0611

Thumb BioEnergy, LLC  
155 Orval Street  
Sandusky, MI 48471-1491

Topco Associates, LLC  
150 NW Point Blvd  
Elk Grove Village, IL 60007-1015

Tullet Prebon Americas Corp / ICAP Energy

PO Box 417453  
Boston, MA 02241-7453

U.S. Trustee Office  
515 Rusk Avenue, #3516  
Houston, Texas 77002-2604

US Oil, a Division of US Venture Inc  
425 Better Way  
Appleton, WI 54915-6192

United Energy Trading, LLC  
225 Union Boulevard, Suite 200  
Lakewood, CO 80228-1861

Valero Marketing and Supply Company  
Attn: Sherena Shawrieh  
P.O. Box 69600  
San Antonio, TX 78269

Victory Renewables, LLC  
930 S. Kimball Avenue  
Suite 100  
Southlake, TX 76092-9027

Woroco Management, LLC  
40 Woodbridge Avenue  
Suite 203  
Sewaren, NJ 07077-1351

Matthew Hoffman Hoffman & Saweris, p.c.  
2777 Allen Parkway  
Suite 1000  
Houston, TX 77019-2165