IN THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

In re: WELLMADE FLOOR COVERINGS INTERNATIONAL, INC., *et al.*,[1] Debtors.	Chapter 11 Case No. 25-58764 (Jointly Administered)

DEBTORS' SUPPLEMENTAL RESPONSE IN OPPOSITION TO CREDITOR ANTHONY DAVIS'S MOTION FOR RELIEF FROM STAY

The above-captioned debtors and debtors in possession (collectively, the "Debtors"), by and through undersigned counsel, hereby file this supplemental response[2] in opposition (the "Supplemental Response") to *Creditor Anthony Davis's Motion for Relief from Stay* [Docket No. 383] (the "Motion") and *Creditor Anthony Davis's Supplemental Memorandum in Support of Motion for Relief from Automatic Stay* [Docket No. 521] (the "Supplemental Memo") filed by Anthony Davis ("Movant") in the above-styled cases (the "Cases"), showing the Court as follows:

PRELIMINARY STATEMENT

1. Movant's Supplemental Memo provides no further support for relief from stay. First, Movant fails to provide any controlling or persuasive authority that would require the Court's adoption of the "broad view" in defining "personal injury claims." Second, Movant cites no authority regarding the issue of waiver and fails to discredit the cases cited by the Debtors that show that Movant has consented to this Court's jurisdiction. Finally, even if the Court finds

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, include: Wellmade Industries MFR. N.A LLC (1058) and Wellmade Floor Coverings International, Inc. (8425). The mailing address for the Debtors for purposes of these chapter 11 cases is: 1 Wellmade Drive, Cartersville, GA 30121.

[2] *See Debtors' Response to Creditor Anthony Davis's Motion for Relief from Stay* [Docket No. 455] (the "Response").

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Movant's arguments on these points persuasive, there is no basis to grant stay relief until the Plan Administrator files a claim objection and this Court makes all non-factual determinations on the allowance of Movant's claim. Accordingly, the Motion should be denied.

ARGUMENT

A. Movant's Claim Is Not a Personal Injury Tort Claim.

2. As previously detailed in the Debtors' Response, courts have adopted three approaches in determining whether a dispute involves a "personal injury tort." *See* Response pp. 8-9. The Eleventh Circuit has not expressly adopted one of these positions, which Movant does not dispute. Nevertheless, Movant cites non-controlling authority that blindly adopts the "broader view." For example, the Court in *Goldschimdt v. Erickson (In re Erickson),* 330 B.R. 346, 349 (Bankr. D. Conn. 2005), adopts a ruling from another Connecticut Bankruptcy Court without explanation, even though the case on which it relies expressly stated that the "broader view" should not be adopted unconditionally. *Stranz v. Ice Cream Liquidation, Inc.,* 281 B.R. 154, 161 (Bankr. D. Conn. 2002) ("[I]n cases where it appears that a claim might be a 'personal injury tort claim' under the 'broader' view but has earmarks of a financial, business or property tort claim, or a contract claim, the court reserves the right to resolve the 'personal injury tort claim' issue by (among other things) a more searching analysis of the complaint."); *see also Barber v. Arnott (In re Arnott),* 512 B.R. 744 (Bankr. S.D.N.Y. 2014) (citing the ruling in *In re Erickson* with no explanation or additional citation).

3. The other cases cited by Movant are not persuasive. First, the Supreme Court's holding in *Goodman v. Lukens Steel Co.*, 482 U.S. 656, 661-62, 107 S. Ct. 2617, 96 L. Ed. 2d 572 (1987), *superseded by statute as stated in Jones v. R.R. Donnelley & Sons Co.,* 541 U.S. 369, 383, 124 S. Ct. 1836, 158 L. Ed. 2d 645 (2004), has been interpreted narrowly by the Eleventh Circuit.

In *Seco v. NCL (Bah.), Ltd.,* 588 Fed. Appx. 863, 866 (11th Cir. 2014), the Eleventh Circuit noted that "we have never held that civil rights claims are a type of personal injury claim" and ultimately held that plaintiff's ADA claims were not claims for personal injury. The Court explained that *Goodman* and *Wilson* "only decided whether civil rights or discrimination actions are most closely analogous to personal injury actions 'for statute of limitations purposes.'" *Id.* at 867.

4. Second, *In re Adams,* 478 B.R. 476 (Bankr. N.D. Ga. 2012) is distinguishable on multiple grounds. That court was interpreting 11 U.S.C. § 1328(a)(4) not 28 U.S.C. § 157(b)(5), making any statements regarding the statutory meaning of section 157 *dicta*. More importantly, in defining "personal injury" this court did not adopt the "broad view," but instead adopted the middle view, which requires the court to look at the underlying claim and the facts alleged to determine if the claim is truly a personal injury claim. The court looked at the defamation claims under Georgia and California law to determine that they were personal injury claims. There is no indication that the court in *Adams,* in looking at Movant's federal discrimination claim, would determine that it is a personal injury claim.

5. Movant failed to acknowledge the cases directly on point that support a finding that discrimination claims are not personal injury claims. In *In re Sheehan Mem. Hosp.*, the bankruptcy court considered several different factors in determining that the bankruptcy court had jurisdiction over employee discrimination claims. 377 B.R. 63, 68 (Bankr. W.D.N.Y. 2007). Among the factors in favor of retaining jurisdiction, the bankruptcy court noted that (i) the claims involved no unsettled or unusual issues of law, (ii) the present dispute involved a core matter, specifically the allowance or disallowance of claims, and (iii) prompt resolution of the dispute was important. *Id.* Each of these factors is applicable in this instance. Moreover, other courts dealing with discrimination claims have reached the same conclusion. *See Berman, Berman & Berman, LLP v.*

Jordan (In re Jordan), 2010 Bankr. LEXIS 5092, *9 (9th Cir. B.A.P. 2010) ("[I]t is by no means certain that the types of claims raised by Schneider[, including harassment, discrimination, and wrongful termination,] are personal injury tort claims within the meaning of the statute."); *DeGeorge Fin. Corp. v. Novak (In re DeGeorge Fin. Corp.),* 2002 U.S. Dist. LEXIS 17621, *1 (D. Conn. July 15, 2002) (holding that the Bankruptcy Court properly held a hearing on and disallowed the claimant's discrimination claim).

B. Movant Has Consented to the Jurisdiction of the Bankruptcy Court.

6. Movant cites only two cases in support of his argument that he has not consented to this Court's jurisdiction regarding his claim – spending the majority of his argument ineffectively distinguishing the cases cited by the Debtors in their Response. Neither case is controlling or persuasive.

7. The Court in *Thomas v. Adams (In re Gary Brew Enterprises, Ltd.)*, 198 B.R. 616, 619 (Bankr. S.D. Cal. 1996), spent less than a paragraph discussing the issue of waiver. Instead, the Court simply foreclosed the idea of waiver in light of the statutory requirement that 28 U.S.C. § 157(b)(5) requires any personal injury action to be tried in district court. No other court has adopted this black-line rule.

8. In fact, courts have found that creditors with discrimination claims have consented to the jurisdiction of the bankruptcy court by asserting their discrimination claims against the debtor through the filing of a proof of claim. *See Zinnerman v. Taylor-Wharton Cryogenics, LLC,* 2017 U.S. Dist. LEXIS 185113, *12-13 (S.D. Ala. Nov. 8, 2017) ("There is also no dispute that Plaintiff's May 2016 Proof of Claim is based on discriminatory acts alleged to have occurred before the issuance of the Confirmation Plan order …. By filing the proof of claim she submitted herself to the jurisdiction of the Bankruptcy Court."); *see also In re Safety Harbor Resort & Spa,* 456 B.R.

703, 710 (Bankr. M.D. Fla. 2011) ("[B]ecause section 157(b)(5) is not jurisdictional, Pierce could consent to the Bankruptcy Court's resolution of his defamation claim.").

9. Movant's reliance on *Germain v. Connecticut National Bank*, 988 F.2d 1323, 1327 (2d Cir. 1993) is misplaced. First, that case did not involve a jury request filed by someone who had filed a proof of claim in a bankruptcy case like Movant has here. Second, the court in *Germain* did not hold that a person who has filed a proof of claim in a bankruptcy case has a right to a jury trial on that claim. Instead, the court stated that "by filing a proof of claim a creditor forsakes its right to adjudicate before a jury any issue that bears directly on the allowance of that claim-and does so not so much on a theory of waiver as on the theory that the legal issue has been converted to an issue of equity." *Id.* at 1329. Therefore, by filing his claim in bankruptcy court, Movant agreed to have any objections to that claim heard by the bankruptcy court.

10. Movant's misunderstanding of this issue is again prevalent in his attempt to distinguish *In re Promise Healthcare Grp., LLC*, 2023 Bankr. LEXIS 1085, *36 (Bankr. D. Del. Apr. 20, 2023). Movant argues that this case is distinguishable because, unlike the claimant in that case, "Davis has no limitations problem." Supplemental Memo p. 11. The Debtors dispute that statement[3] and believe that there are other affirmative defenses that should be addressed by this Court through the claims allowance process. Moreover, the holding in this case does not support Movant's position. *Id.* Instead, this court's holding limits the use of the district court solely to a trial on the facts. *See In re Promise Healthcare Grp., LLC,* 2023 Bankr. LEXIS 1085, at *35 ("Until such time as the case is trial ready or the district court otherwise elects to withdraw the reference, however, this Court may exercise the subject-matter jurisdiction granted to the district court (and referred to this Court) by addressing pre-trial matters, including the present motion."

[3] *See* Answer p. 10, *Davis v. Wellmade Indus. MFR. N.A., LLC*, No. 4:25-cv-00030-WMR-WEJ (N.D. Ga. May 12, 2025).

11. Therefore, even if the Court were to find that Movant still has a right to a jury trial, that does not prevent the Court from addressing preliminary legal issues with this claim and then, if factual issues remain, sending the matter to district court to be tried before a jury. *See Flake v. Alper Holdings USA, Inc. (In re Alper Holdings USA, Inc.),* 398 B.R. 736, 749 (S.D.N.Y. 2008) ("[I]t is well settled that a bankruptcy court has "the authority . . . to apply . . . dispositive legal defenses in the disallowance of claims, including personal injury claims."); *In re Dow Corning Corp.,* 215 B.R. 346, 360 (Bankr. E.D. Mich. 1997) ("Consequently, the protections provided to a personal injury claimant in § 157(b)(5) and § 1411(a) are entirely procedural in nature.").

C. Movant Has Not Met His Burden to Show Cause Under Section 362(d)(1)

12. Movant has still failed to establish cause to lift the stay.

13. First, the prejudice to the Debtors remains in light of pending confirmation of the Plan. Once the Plan is confirmed, the Plan Administrator's initial focus should be on liquidating remaining assets and paying creditors with Allowed Claims. Diverting that attention to respond to or participate in separate litigation initiated by a single unsecured creditor—especially where the claim is disputed—would inject unnecessary administrative burden and expense at a critical juncture in these Cases. The Estates' funds would be better spent resolving Movant's claim through the claims allowance process rather than through a separate lawsuit outside of the Cases, especially where that lawsuit was filed just before the Petition Date.

14. The Plan proposes a specific mechanism to deal with disputed claims – like Movant's Claim – after the Plan is confirmed and other Allowed Claims have been paid. *See* Plan Art. VI.D ("Disputed Unsecured Claims Reserve") & Art. VII ("Procedures for Resolving,

Contingent, Unliquidated, and Disputed Claims"). The procedure set out in the Plan is designed to avoid wasting estate resources on disputed claims to the detriment of other creditors.

15. Second, there is little prejudice to Movant in waiting to have his claim resolved through the Plan. Movant has made no showing of hardship beyond his desire to advance his litigation now and, under the terms of any chapter 11 plan, Movant would not get paid any sooner if he is able to prove up his claim.[4]

16. While the Debtors and their estates will face significant cost and distraction in defending the Lawsuit, Movant will not suffer any hardship or prejudice by having to liquidate his claim in these Cases. Far from being on the eve of trial, the Lawsuit had barely progressed past the pleadings phase. As such, there will be no added efficiencies to liquidating Movant's claim in the Lawsuit as opposed to in these Cases.

17. With respect to Movant's concerns of "potential loss of evidence, and continued delay in the liquidation of the claim,"[5] given the early stage of discovery when the Lawsuit was stayed, it is unlikely that evidence will materially deteriorate in the next few months while the Debtors pursue confirmation of their Plan. Moreover, any required discovery can take place in the Bankruptcy Case through the claims allowance process.

18. Finally, the merits of Movant's proposed action remain unclear. There are certain factual issues and affirmative defenses that the Debtors believe prevent Movant from successfully proving its retaliation claim in the Lawsuit. Addressing this claim through the claims allowance process will allow the Court to quickly and efficiently address certain affirmative defenses that could negate the need for trial entirely. *See Keating v. United States Lines, Inc. (In re United*

[4] As previously stated in the Response, there is no potential insurance coverage and thus, even if Movant is successful in proving his claim, he will have to seek payment from the Debtors' estate pursuant to the distribution authorized under the Plan.
[5] Motion p. 7.

*States Lines, Inc.), 2006 U.S. Dist. LEXIS 37114, *19* (S.D.N.Y. June 7, 2006) ("Bankruptcy courts may hear and enter judgments on all 'core proceedings,' a category of proceedings that is specifically defined to include determinations on the 'allowance or disallowance of claims against the estate.'") (citing 28 U.S.C. § 157(b)(2)(B)); *In re Noble,* 2008 Bankr. LEXIS 1987, 2009 WL 6499363, at *6 (Bankr. N.D. Ga. Aug. 21, 2009) ("[T]he fact that a jury trial is required is not a basis for . . . the immediate withdrawal of the reference by the district court [because t]he Court's local rules provide a procedure applicable to cases in which a jury trial must be held and in which the parties do not consent to the Court holding such a trial.").

19. Accordingly, there is no reason why Movant should be allowed to liquidate his claim in the Lawsuit before the claims allowance process in these Cases.

CONCLUSION

WHEREFORE, the Debtors respectfully request that the Court deny the Motion and provide such other relief as is just and proper.

Dated: September 10, 2026
Atlanta, Georgia

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on September 10, 2026, all ECF participants registered in this case were served electronically with the foregoing Response through the Court's ECF system at their respective email addresses registered with this Court. The Debtors' claims and noticing agent, Kurtzman Carson Consultants LLC d/b/a Verita Global, will be filing a supplemental certificate of service on the docket to reflect any additional service of the foregoing Response, including on Movant and Movant's counsel.

Dated: September 10, 2026
Atlanta, Georgia

Respectfully submitted,

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