



CLERK, U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

ENTERED

THE DATE OF ENTRY IS ON
THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

Signed June 7, 2021


United States Bankruptcy Judge

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

IN RE: § Chapter 11
FRESH ACQUISITIONS, LLC, et al,¹ §
DEBTOR § CASE NO: 21-30721-SGI
§ (Jointly Administered)
§
§

**ORDER GRANTING UNOPPOSED MOTION OF CHERYLIN WOODRUFF,
JEANETTE THOMAS, AND GARY COLLINS, AS GUARDIANS OF MILDRED
COLLINS FOR RELIEF FROM AUTOMATIC STAY PURSUANT TO 11 U.S.C. § 362(d)**

ON May 7, 2021, CherylIn Woodruff, Jeanette Thomas, and Gary Collins, as Guardians of Mildred Collins (“Movants”) filed their Unopposed Motion for Relief From the Automatic Stay Pursuant to 11 U.S.C. § 362(d), (the “Motion”) [Docket #135], seeking (1) modification of the automatic stay to allow them to continue the prosecution of their claim for personal injury

¹ The Debtors in these chapter 11 cases and the last four digits of each Debtor’s taxpayer identification number are as follows: Alamo Fresh Payroll, LLC (1590); Fresh Acquisitions, LLC (2795); Alamo Ovation, LLC (9002); Buffets LLC (2294); Hometown Buffet, Inc. (3002); Tahoe Joe’s Inc. (7129); OCB Restaurant Company, LLC (7607); OCB Purchasing, Co. (7610); Ryan’s Restaurant Group, LLC (7895); Fire Mountain Restaurants, LLC (8003); Food Management Partners, Inc. (7374); FMP SA Management Group, LLC (3031); FMP-Fresh Payroll, LLC (8962); FMP-Ovation Payroll, LLC (1728); and Alamo Buffets Payroll, LLC (0998). The Debtors’ principal offices are located at 2338 N. Loop 1604 W., Suite 350, San Antonio TX, 78248, United States

sustained on the premises of Fire Mountain Restaurants, LLC, by one of its employees, and (2) recovery on such claim outside of this case solely against the Debtor's insurance coverage. The Court finds that the Motion was properly served pursuant to the Federal and Local Rules of Bankruptcy Procedure and that it contained the appropriate fourteen (14)-day negative notice language, pursuant to LBR 4001, which directed any party opposed to the granting of the relief sought by the Motion to file a written response within fourteen days or the Motion would be deemed by the Court to be unopposed. The Court finds that no objection or other written response to the Motion has been timely filed by any party. Due to the failure of any party to file a timely written response, the allegations contained in the Motion stand unopposed and, therefore, the Court finds that good cause exists to grant the relief requested; accordingly, it is

ORDERED that the Motion shall be, and is hereby, granted as set forth herein; it is further

ORDERED that the automatic stay of 11 U.S.C. § 362(a) shall be and is hereby modified for all purposes to (i) allow that certain lawsuit filed by Cherylin Woodruff, Jeanette Thomas, and Gary Collins, as Guardians of Mildred Collins seeking recovery on a personal injury claim pending before the State Court of Banks County, Georgia, in that certain action styled *Cherylin Woodruff, Jeanette Thomas, and Gary Collins, as Guardians of Mildred Collins v. Fire Mountain Restaurants, LLC dba Ryan's, and John Doe Company*, Civil Action No. 19C049 (the "State Court Action"), to proceed to finality, including, without limitation, the pursuit of any and all appeals and/or necessary court actions, and (ii) allow Cherylin Woodruff, Jeanette Thomas, and Gary Collins, as Guardians of Mildred Collins to obtain recovery on any claim and/or judgment rendered through the State Action from the Debtor's insurer and any co-defendant; it is further

ORDERED that Movants shall be limited in their recovery (if any) to insurance proceeds only, and shall not have, and are hereby deemed to have waived, any and all claims against the estate arising out of, relating to or connected with, the State Court Action; and it is further

ORDERED that, since the Motion was unopposed by any party, the fourteen (14)-day stay period otherwise imposed by Fed. R. Bankr. P. 4001(3) shall not be applicable to this Order.

END OF ORDER

Submitted by:

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