



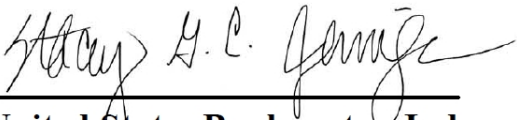
CLERK, U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

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 August 9, 2021


United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

_____	§	
	§	
IN RE:	§	CHAPTER 11
	§	
FRESH ACQUISITIONS, LLC, <i>et al.</i> ,	§	CASE NO. 21-30721-SGJ
	§	
<i>Debtors.</i>	§	(JOINTLY ADMINISTERED)
	§	
_____	§	

**AGREED ORDER GRANTING MOTION FOR RELIEF FROM AUTOMATIC STAY
TO PERMIT CONTINUATION OF PERSONAL INJURY LITIGATION
AND TO PURSUE INSURANCE PROCEEDS**
[Related Dkt. Nos. 160, 205, 214]

Kenneth Page, a creditor and party-in-interest herein, and Alamo Buffets Payroll, LLC, Fire Mountain Restaurants, LLC (each a “Debtor” and collectively, the “Debtors”) hereby stipulate and agree (the “Stipulation and Agreed Order”) as follows:

RECITALS

WHEREAS, the Court has jurisdiction over this matter pursuant to the provisions of 28 U.S.C. §§ 157 and 1334. This matter constitutes a core proceeding within the meaning of 28 U.S.C. § 157(b)(2)(G). Venue is proper in this Court pursuant to 11 U.S.C. § 1409;

WHEREAS, the statutory basis for the relief requested herein is 11 U.S.C. § 362 and Federal Rule of Bankruptcy Procedure 4001(d);

WHEREAS, on April 20, 2021 (the "Petition Date"), each of the Debtors filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101–1330 (the "Bankruptcy Code"), in the United States Bankruptcy Court for the Northern District of Texas (the "Court");

WHEREAS, on May 14, 2021, Kenneth Page filed a *Motion for Relief from Automatic Stay to Permit Continuation of Personal Injury Litigation and to Pursue Insurance Proceeds*, ECF 160 ("Motion"), arising from a prepetition event on which Kenneth Page had filed prepetition litigation in Case No. 20-CI-01351, styled *Kenneth Page v. Alamo Buffets Payroll, LLC and Fire Mountain Restaurants, LLC* (the "Personal Injury Litigation");

WHEREAS, on May 28, 2021, the Debtors filed an *Objection to the Motion for Relief from Stay to Permit Continuation of Personal Injury Litigation and to Pursue Insurance Proceeds by Kenneth Page*, ECF 205;

WHEREAS, on June 4, 2021, Kenneth Page filed a *Reply in Support of Motion for Relief from Automatic Stay*, ECF 214;

WHEREAS, Kenneth Page and the Debtors have determined that it is in their best interests to stipulate and agree to relief from the automatic stay of section 362 of the Bankruptcy Code to permit continuation of the Personal Injury Litigation;

WHEREAS, by this Stipulation and Agreed Order the Parties seek to resolve all outstanding issues between the Parties;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, AND, UPON APPROVAL BY THE COURT, IT IS HEREBY:

ORDERED that the Motion is granted as set forth herein; it is further

ORDERED that the automatic stay of Section 362 of Title 11 of the United States Code is hereby terminated as to the Personal Injury Litigation; it is further

ORDERED that Movant shall only collect on any judgment rendered in the Personal Injury Litigation from applicable insurance proceeds and that Movant waives any claim against the bankruptcy estates of Alamo Buffets Payroll, LLC and Fire Mountain Restaurants, LLC or their affiliates; it is further

ORDERED that this Stipulation and Agreed Order be served on the Debtors' insurance carrier; it is further

ORDERED that any claim by the insurer for reimbursement from the Debtors in any manner pursuant to the applicable insurance policy shall be classified as a prepetition general unsecured non-priority claim; it is further

ORDERED that notice of the Motion and of this Stipulation and Agreed Order are proper under the applicable rules; it is further

ORDERED that the stay imposed by Rule 4001(a)(3) is waived; it is further

ORDERED that this Court shall retain jurisdiction over all matters arising from or related to the interpretation and implementation of this Agreed Order.

END OF ORDER

AGREED:

/s/ Jonathan S. Petree (2021-08-09)

Marc Taubenfeld

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Jonathan S. Petree

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