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**UNITED STATES BANKRUPTCY COURT
THE SOUTHERN DISTRICT OF NEW YORK**

IN RE:

JENNIFER CONVERTIBLES, INC.

Reorganized Debtor.

Chapter 11

Case No.: 10-13779 (ALG)

**OBJECTION AND RESERVATION OF RIGHTS OF
JENNIFER CONVERTIBLES, INC. WITH RESPECT TO THE MOTION TO MODIFY
STAY TO PERMIT PROCEEDING WITH PERSONAL INJURY ACTION AGAINST
DEBTOR UP TO THE LIMITS OF THE DEBTOR'S
INSURANCE POLICY PROCEEDS ONLY**

Jennifer Convertibles, Inc. (the "Reorganized Debtor"), by and through its undersigned counsel, hereby submits this objection and reservation of rights (the "Objection") with respect to the application in support of a motion to modify the stay (the "Application") submitted by Gloria Gazzola (the "Movant"). In support of this Objection, the Reorganized Debtor respectfully states as follows:

BACKGROUND

1. On or about March 28, 2011, Gloria Gazzola caused to be served on the Reorganized Debtor, through its attorneys at Olshan Grundman Frome Rosenzweig & Wolosky LLP, a Summons and Verified Complaint (the "Summons and Complaint") which together

sought judgment against the Debtor for an unspecified injury that befell the Movant in the Debtor's store located in Carle Place, New York (the "Personal Injury"). The Summons and Complaint were filed and entered on account of a prepetition claim dating back to July 22, 2009.

2. As stated by the Movant in the Application, the filing of this chapter 11 bankruptcy proceeding stayed any possible action relating to the Personal Injury by the Movant against the Debtor. Movant, however, did not file a claim in the Debtor's bankruptcy case and did not serve the Summons and Complaint until more than a month after the effective date (the "Effective Date") of the Debtors' chapter 11 plan (the "Plan"). In accordance with the terms of the Plan¹ and section 1141(d) of title 11 of the United States Code (the "Bankruptcy Code")² any claim relating to the Personal Injury would have been discharged.

3. On October 20, 2011, the Movant filed the Application seeking to modify the automatic stay pursuant to section 362 of the Bankruptcy Code to permit the Movant to pursue recovery against the Debtor for the alleged Personal Injury to the extent of any insurance coverage in effect as of the date of the alleged personal injury without limitation (the "Proceeds").

OBJECTION AND RESERVATION OF RIGHTS

4. The Reorganized Debtor files this Objection on the grounds that Movant's action was commenced post-Effective Date and has thus been discharged pursuant to section 12.04 of the Plan and section 1141(d) of the Bankruptcy Code. Accordingly, any attempt to pursue the cause of action would violate the terms of the Plan and the Bankruptcy Code.

¹ Section 12.04 of the Plan provides for the discharge of claims against the Debtors.

² Section 1141 (d) of the Bankruptcy Code provides, in relevant part, "Except as otherwise provided in this subsection, in the plan, or in the order confirming the plan, the confirmation of a plan (A) discharges the debtor from any debt that arose before the date of such confirmation"

5. Nevertheless, should the Court permit the Movant to proceed with its action, the Reorganized Debtor respectfully seeks to preserve its rights with respect to the Application (as well as the protections and limitations of the proposed order relating thereto), and seeks to limit Movant to recover exclusively from the Proceeds. However, the Reorganized Debtor makes no representations, warranties or assertions that any insurance policy was in effect as of the date of the Personal Injury from which any Proceeds may be available.

6. To the extent that the Movant seeks to recover beyond the Proceeds, the Reorganized Debtor objects to such action and ask that this Court limit Movant to any recovery on account of the Proceeds.

WHEREFORE, the Reorganized Debtor (i) objects to the relief sought in the Application and. in the alternative, (ii) reserves its rights with respect to the Application to the extent set forth herein and respectfully requests that the Court limit any recovery by the Movant against the Debtor to the Proceeds.

Dated: New York, New York
November 9, 2011

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By: /s/ Michael S. Fox

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