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Attorneys for Bryant Fisher

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

In re:

CBRM Realty Inc., et al.,

Debtors.

Chapter 11

Hon. Michael B. Kaplan

Case No. 25-15343-MBK
(Jointly Administered)

**NOTICE OF MOTION FOR RELIEF FROM THE AUTOMATIC STAY
TO PURSUE INSURANCE PROCEEDS ONLY**

**TO: Honorable Michael B. Kaplan
United States Bankruptcy Court
402 East State Street
Trenton, N.J. 08608**

All Parties on the Attached Service List

Bryant Fisher has filed papers with the court to for relief from automatic stay to pursue insurance proceeds only. Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not want the court to order the requested relief, or if you want the court to consider your views on the motion, then on or before January 2, 2026, you or your attorney must File with the court a written response, explaining your position at:

US Bankruptcy Court,
District of New Jersey



251534325121600000000004

PO Box 2067
Camden, NJ 08101

If you mail your response, to the court for filing, you must mail it early enough so the court will receive it on or before the date stated above.

You must also send a copy to:

Paul Pflumm
McDOWELL LAW, PC
46 W. Main Street
Maple Shade, NJ 08052

Attend the hearing scheduled to be held on January 8, 2026, at 10:00 a.m. in Courtroom 8, United States Bankruptcy Court, 402 East State Street, Trenton, N.J. 08608

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the motion or objection and may enter an order granting that relief.

McDOWELL LAW, PC

DATED: December 15, 2025

BY: /s/ *Paul Pflumm*

Paul Pflumm

Service List

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c/o Lynd Living
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US Dept of Housing and Urban
Development
Office of General Counsel
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UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

In re:

CBRM Realty Inc., *et al.*,

Debtors.

Chapter 11

Hon. Michael B. Kaplan

Case No. 25-15343-MBK
(Jointly Administered)

**MEMORANDUM OF LAW IN SUPPORT OF MOTION FOR RELIEF FROM THE
AUTOMATIC STAY TO PURSUE INSURANCE PROCEEDS ONLY**

THIS MEMORANDUM OF LAW, filed by Bryant Fisher, by and through undersigned
counsel, respectfully represents:

BACKGROUND

Bryant Fisher (“Fisher” or “Movant”) is a plaintiff in a personal injury lawsuit currently pending in Civil District Court for the Parish of Orleans, State of Louisiana captioned *Bryant Fisher vs. RH Chenault, LLC, Rapid Improvements, LLC, EVU Residential, LLC, RH New Orleans Holdings, LLC*, bearing Docket Number 2023-07266.

The personal injury lawsuit arises from an incident occurring on or about January 23, 2023, in which the co-Debtors, RH New Orleans Holdings, LLC and RH Chenault Creek, LLC, are named as a defendants. The allegations assert personal injuries sustained by the Movant when the stairs at the property owned by the Co-Debtors, Carmel Brook Apartments, collapsed while Movant was traversing them, causing him to fall through the defective steps. Carmel Brook Apartments is located at 12345 N. 1-10 Service Road, New Orleans, Louisiana 70128. Co-Debtor RH Chenault Creek, LLC is listed as the operating company of the Carmel brook Apartments. Co-Debtor RH

New Orleans Holdings, LLC is listed as a real estate holding company with a 100% membership interest in RH New Orleans Holdings, LLC.

Movant was notified that RH New Orleans Holdings, LLC, filed for bankruptcy on May 19, 2025. On July 2, 2025, a Notice of Suggestion of Pendency of Bankruptcy and Automatic Stay of Proceedings was filed in Civil District Court for the Parish of Orleans Case No. 2023-07266.

On the date that Fisher was injured at the property owned by RH New Orleans Holdings, LLC and RH Chenault Creek, LLC, there was a valid commercial liability insurance policy issued by James River Insurance Company pursuant to Policy No. 00099047-3 in the amount of \$1,000,000.00 and excess liability insurance policy issued by Merchants National Insurance Company Policy No. EXL0002414 in the amount of \$5,000,000.00, providing liability insurance coverage to RH Chenault Creek, LLC and RH New Orleans Holdings, LLC. *See* Declaration pages annexed as Exhibit A and Exhibit B. There may be other insurance coverage that has yet to be discovered.

On May 19, 2025, the Debtors, RH New Orleans Holdings, LLC and RH Chenault Creek, LLC, filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code. Pursuant to 11 U.S.C. § 362, an automatic stay went into effect, staying all judicial proceedings against the Debtor. The movant seeks relief from the automatic stay to pursue insurance proceeds

LEGAL ARGUMENT

Movant seeks relief from the Automatic Stay for the limited purpose of continuing the personal injury litigation to pursue recovery solely against any available insurance coverage¹.

Louisiana law provides a procedure to permit Fisher to proceed against the insurer under the Louisiana Direct Action statute as set forth in La. R.S. 22:1269. Furthermore, Louisiana precedent under *Gasquet v. Commercial Union Ins. Co.*, 391 So.2d 466 (La. App. 4 Cir. 1980) allows an

¹ This would include any interest and costs available under such coverage.

insured to remain in a case as a nominal party to pursue claims against an insurance company.

Pursuant to 11 U.S.C. § 362(d)(1), relief from the automatic stay is warranted "for cause." Cause exists here because: (1) Movant does not seek to recover from the Debtor or estate property personally; (2) The Debtor's insurance carrier is responsible for defense and payment and damages (within policy limits); and (3) The continuation of the lawsuit will not prejudice the Bankruptcy Estate or creditors.

Moreover, "[w]hen an action seeks to recover from a Debtor's insurance policy and the Debtor is represented by the insurer, courts routinely grant stay relief because the burden on the estate is likely to be outweighed by the hardship on the plaintiff if the action is not permitted to continue." *In re Almonacy*, No. 10-37235 DHS, 2011 WL 13659, at *3 (Bankr. D.N.J. Jan. 4, 2011)(citing *First Fidelity Bank v. McAteer*, 985 F.2d 114, 188 (3d Cir.1993); *Houston v. Edgeworth (In re Edgeworth)*, 993 F.2d 51, 54–55 (5th Cir.1993); *In re Hendrix*, 986 F.2d 195 (7th Cir.1993); *Green v. Welsh*, 956 F.2d 30 (2d Cir.1992); *In re Shondel*, 950 F.2d 1301 (7th Cir.1991); *In re Jet Florida Systems, Inc.*, 883 F.2d 970 (11th Cir.1989). Movant submits said relief is appropriate in the instant case.

CONCLUSION

For all the foregoing reasons, the Movant requests entry of the proposed Order submitted herewith granting relief from the automatic stay pursuant to 11 U.S.C. § 362(d)(1) permitting Movant to proceed with the personal injury lawsuit against the Debtor only to the extent of available insurance coverage with Debtor remaining in the lawsuit as a nominal party pursuant to Louisiana law.

Respectfully submitted,

McDowell Law, P.C.

DATED: December 15, 2025

BY: /s/ *Paul Pflumm*
Paul Pflumm

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

In re:

CBRM Realty Inc., *et al.*,

Debtors.

Chapter 11

Hon. Michael B. Kaplan

Case No. 25-15343-MBK
(Jointly Administered)

**CERTIFICATION IN SUPPORT OF MOTION FOR RELIEF FROM AUTOMATIC
STAY TO PURSUE INSURANCE PROCEEDS ONLY**

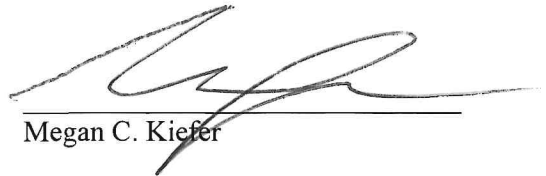
I, Megan C. Kiefer, being of legal age, do hereby certify:

1. I am an attorney-at-law of the State of Louisiana, and a partner of the firm of Kiefer & Kiefer. As such, I have personal knowledge of the facts stated herein.
2. The firm of Kiefer & Kiefer represents Bryant Fisher (“Fisher” or “Movant”) in a personal injury lawsuit currently pending in Civil District Court for the Parish of Orleans, State of Louisiana captioned *Bryant Fisher vs. RH Chenault, LLC, Rapid Improvements, LLC, EVU Residential, LLC, RH New Orleans Holdings, LLC*, bearing Docket Number 2023-07266.
3. The Petition commencing Fisher’s action pleads that he was injured or about January 23, 2023, on the real property of the co-Debtor, RH New Orleans Holdings, LLC. located at 12345 N. 1-10 Service Road, New Orleans, Louisiana 70128.
4. The allegations assert personal injuries sustained by the Movant when the stairs at the property owned by the Co-Debtors, Carmel Brook Apartments, collapsed while Movant was traversing them, causing him to fall through the defective steps.
5. Co-Debtor RH Chenault Creek, LLC is listed as one of the operating companies of the Carmel Brook Apartments. Co-Debtor RH New Orleans Holdings, LLC is listed as a real estate holding

company with a 100% membership interest in RH Chenault Creek, LLC.

6. The allegations assert personal injuries sustained by the Movant when the stairs at the property owned by Debtor collapsed while Movant was traversing them, causing him to fall through the defective steps.
7. Movant was notified that RH New Orleans Holdings, LLC, filed for bankruptcy on May 19, 2025. On July 2, 2025, a Notice of Suggestion of Pendency of Bankruptcy and Automatic Stay of Proceedings was filed in Civil District Court for the Parish of Orleans Case No. 2023-07266.
8. On the date that Fisher was injured at the property owned by RH New Orleans Holdings, LLC and RH Chenault Creek, LLC, there was a valid commercial liability insurance policy issued by James River Insurance Company pursuant to Policy No. 00099047-3 in the amount of \$1,000,000.00, and excess liability insurance policy issued by Merchants National Insurance Company Policy No. EXL0002414 in the amount of \$5,000,000.00, providing liability insurance coverage to RH Chenault Creek, LLC and RH New Orleans Holdings, LLC. . *See Declaration pages annexed as Exhibit A and Exhibit B.* There may be other insurance coverage that has yet to be discovered.
9. Movant seeks relief from the automatic stay to proceed against said insurance coverage only, including any interest and costs payable under such policy.

I declare under penalty of perjury that the foregoing is true and correct. Executed on the 16th day of December, 2025.



Megan C. Kiefer

EXHIBIT “A”

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

POLICY CHANGES - MIDTERM CHANGES

Policy Change
Number 4

POLICY NUMBER 00099047-3	POLICY CHANGES EFFECTIVE 1/14/2023 12:01 AM Standard Time at the address of the Named Insured	COMPANY JAMES RIVER INSURANCE COMPANY
NAMED INSURED RH New Orleans LLC		AUTHORIZED REPRESENTATIVE Richard J. Schmitzer
COVERAGE PARTS AFFECTED ALL COVERAGE PARTS		
<p style="text-align: center;">CHANGES</p> <p>For no additional premium, The Declaration Page has been amended to read as follows: Named Insured: RH New Orleans Holdings LLC RH Chenault Creek LLC; RH Coppe</p> <p style="text-align: center;">ALL OTHER TERMS AND CONDITIONS OF THE POLICY REMAIN UNCHANGED.</p>		



Authorized Representative Signature

EXHIBIT “B”

COMMERCIAL GENERAL LIABILITY DECLARATIONS

COMPANY:
JAMES RIVER INSURANCE COMPANY
6641 WEST BROAD STREET, SUITE 300
RICHMOND, VA 23230

POLICY NUMBER:
00099047-3

1. NAMED INSURED AND MAILING ADDRESS:

RH New Orleans LLC
46 Main Street Suite 339
Monsey, NY 10952

PRODUCER: 11175

R-T Specialty (ARL Richmond)
9020 Stony Point Parkway, Ste 450
Richmond, VA 23235

2. POLICY PERIOD: From 01/14/2023 to 02/14/2024 12:01 A.M. Standard Time at your Mailing Address above.

IN RETURN FOR THE PAYMENT OF THE PREMIUM, IN RELIANCE UPON THE STATEMENTS IN THE APPLICATION(S) AND SUBJECT TO ALL THE TERMS OF THIS POLICY, WE AGREE WITH YOU TO PROVIDE THE INSURANCE AS STATED IN THIS POLICY.

LIMITS OF INSURANCE			
EACH OCCURRENCE LIMIT	\$	1,000,000	
DAMAGE TO PREMISES RENTED TO YOU LIMIT	\$	50,000	Any one premises
MEDICAL EXPENSE LIMIT		Excluded	Any one person
PERSONAL & ADVERTISING INJURY LIMIT	\$	1,000,000	Any one person or organization
GENERAL AGGREGATE LIMIT	\$	2,000,000	
PRODUCTS/COMPLETED OPERATIONS AGGREGATE LIMIT	\$	2,000,000	

RETROACTIVE DATE (CG 00 02 ONLY)

THIS INSURANCE DOES NOT APPLY TO "BODILY INJURY", "PROPERTY DAMAGE" OR "PERSONAL AND ADVERTISING INJURY" WHICH OCCURS BEFORE THE RETROACTIVE DATE, IF ANY, SHOWN BELOW.

RETROACTIVE DATE: **NONE; THIS IS NOT A CLAIMS POLICY**

(ENTER DATE OR "NONE" IF NO RETROACTIVE DATE APPLIES)

DESCRIPTION OF BUSINESS

FORM OF BUSINESS: Corporation

BUSINESS DESCRIPTION: Apartments

UNITED STATES BANKRUPTCY COURT DISTRICT OF NEW JERSEY	
Caption in Compliance with D.N.J. LBR 9004-2(c) Paul Pflumm (006912002) McDowell Law, P.C. 46 West Main Street Maple Shade, NJ 08052 ppflumm@mcdowelllegal.com (856) 482-5544 Attorneys for Bryant Fisher	Chapter 11
In re: CBRM Realty Inc., et al., Debtor.	Case No. 25-15343-MBK (Jointly Administered) Adv. No.: Judge: Honorable Michael B. Kaplan

**ORDER GRANTING MOTION FOR RELIEF FROM THE AUTOMATIC STAY
TO PURSUE INSURANCE PROCEEDS ONLY**

The relief set forth on the following pages, numbered two (2) through two (2) is hereby **ORDERED**.

THIS MATTER having been brought before the Court by Bryant Fisher, by and through his attorneys McDowell Law, P.C. Paul Pflumm appearing, upon motion for relief from the stay, and good service having been made, and for good cause shown;

IT IS HEREBY ORDERED:

- 1) The Motion for Relief from Automatic Stay To Pursue Insurance Proceeds Only is granted.
- 2) The automatic stay imposed by 11 U.S.C. § 362 is hereby modified to allow Bryant Fisher to continue prosecution of the civil action captioned *Bryant Fisher vs. RH Chenault, LLC, Rapid Improvements, LLC, EVU Residential, LLC, RH New Orleans Holdings, LLC*, bearing Docket Number 2023-07266., pending in the Civil District Court for the Parish of Orleans, State of Louisiana, but solely for the purpose of pursuing recovery from any applicable insurance coverage maintained by or on behalf of the debtors, RH New Orleans Holdings, LLC and RH Chenault Creek, LLC.
- 3) The Debtors may remain as nominal parties to the lawsuit pursuant to Louisiana law.
- 4) This Order does not authorize any action to recover from the debtor personally or from the Bankruptcy Estate.