

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

F21 OPCO, LLC, *et al.*,

Debtors.

Chapter 11

Case No. 25-10469 (MFW)

(Jointly Administered)

Hearing Date: To be Determined

**Objection Deadline: June 26, 2025 at 4:00 p.m.
(ET)**

**MOTION OF MARY ADAMS FOR RELIEF FROM THE AUTOMATIC STAY
PURSUANT TO SECTION 362(D) OF THE BANKRUPTCY CODE**

Mary Adams (“Ms. Adams”) or “Movant”), by and through undersigned counsel, hereby moves this Court (the “Motion”), pursuant to Section 362(d) of Title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the “Bankruptcy Code”), Federal Rule of Bankruptcy Procedure 4001, and Local Rule 4001-1 for an order lifting the automatic stay imposed by Section 362(a) of the Bankruptcy Code in order to permit Ms. Adams to prosecute a personal injury action in the District Court, 48th Judicial District, Tarrant County, Texas, Case No. 048-343300-23 (the “State Court Action”) against debtors Forever 21 Retail, Inc. and F21 OPCO, LLC (collectively, with the above captioned co-debtors, the “Debtors”) and any other parties responsible for her injuries and to proceed to collect any award against the Debtors’ applicable insurance policies. In support of this Motion, Ms. Adams respectfully represents as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction of this Motion pursuant to 28 U.S.C. §§ 157 and 1334. Venue in this judicial district is proper under 28 U.S.C. §1408 and 1409.
2. This is a core proceeding within the meaning of 28 U.S.C. § 157(b).



3. Ms. Adams consents pursuant to Local Rule 9013-1(f) to the entry of a final order by the Court in connection with this Motion to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution.

4. The statutory predicates for the relief requested herein are 11 U.S.C. §§ 362(d)(1) and 362(d)(2) and Bankruptcy Rule 4001.

FACTS

5. On, March 16, 2025, (the “Petition Date”), each of the Debtors filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code with the United States Bankruptcy Court for the District of Delaware (the “Court”). The Debtors’ cases are being jointly administered.

6. Prior to the Petition Date, on or about August 29, 2022, Ms. Adams was a business invitee of the Debtors at their retail store located at 3811 S. Cooper St., Arlington, TX 760015 (the “F21 Arlington Store”). On that same day, Ms. Adams was severely injured when she slipped and fell as a result of a grease line leak and untacked trim above the flooring in the F21 Arlington Store. As a result of this incident and the Debtors’ negligence, Ms. Adams suffered severe and permanent injuries, physical and mental pain and suffering, has incurred medical and other expenses.

7. The prosecution and liquidation of Ms. Adams’ claims in the State Court Action have been delayed as a consequence of the Debtors’ chapter 11 filings and the automatic stay provisions set forth in 11 U.S.C. § 362(a).

8. Upon information and belief, the Debtors are covered by insurance policies applicable to Ms. Adams’ claims.

RELIEF REQUESTED

9. Through this Motion, Ms. Adams seeks the entry of an order pursuant to § 362(d) of the Bankruptcy Code and 4001 of the Federal Rules of Bankruptcy Procedure, granting relief

from the automatic stay so that she may prosecute her claims to judgment in the State Court Action and satisfy any award or other resolution she may obtain against the Debtors' applicable insurance policies and any other responsible individual or entity

BASIS FOR RELIEF REQUESTED

10. Ms. Adams is entitled to relief from the automatic stay pursuant to 11 U.S.C. § 362(d)(1).

11. The Bankruptcy Code provides:

On request of a party in interest and after notice and a hearing, the Court shall grant relief from the stay provided under subsection (a) of this section, such as by terminating, annulling, modifying, or conditioning such stay....

11 U.S.C. §362(d)(1).

12. The term “cause” is not defined in the Code, but rather must be determined on a case-by-case basis. *In re Rexene Prods. Co.*, 141 B.R. 574, 576 (Bankr. D. Del. 1992) (internal citations and quotations omitted). “Cause is a flexible concept and courts often...examin[e] the totality of the circumstances to determine whether sufficient cause exists to lift the stay.” *In re SCO Group, Inc.*, 395 B.R. 852, 856 (Bankr. D. Del. 2007).

13. At a hearing for relief from automatic stay under Section 362(d), the party opposing stay relief bears the burden of proof on all issues with the exception of the debtors' equity in property. *See In re Domestic Fuel Corp.*, 70 B.R. 455, 462-463 (Bankr. S.D.N.Y. 1987); 11 U.S.C. §362(g). If a creditor seeking relief from the automatic say makes a *prima facie* case of “cause” for lifting the stay, the burden of going forward shifts to the trustee pursuant to Bankruptcy Code Section 362(g). *See In re 234-6 West 22nd Street Corp.*, 214 B.R. 751, 756 (Bankr. S.D.N.Y. 1997).

14. Courts often follow the logic of the intent behind §362(d) which is that it is most often appropriate to allow litigation to proceed in a non-bankruptcy forum, if there is no prejudice

to the estate, “in order to leave the parties to their chosen forum and to relieve the bankruptcy court from duties that may be handled elsewhere.” *In re Tribune Co.*, 418 B.R. 116, 126 (Bankr. D. Del. 2009) (quoting legislative history of §362(d)) (internal citations omitted).

15. Courts in this District rely upon a three-pronged balancing test in determining whether “cause” exists for granting relief from the automatic stay to continue litigation:

(1) Whether prejudice to either the bankrupt estate or the debtor will result from continuation of the civil suit;

(2) Whether the hardship to the non-bankrupt party by maintenance of the stay outweighs the debtor’s hardship; and

(3) The creditor’s probability of success on the merits.

See In re Tribune Co., 418 B.R. at 126.

16. Here, the facts weigh in Ms. Adams’ favor on each of these three prongs. First, the Debtors will not suffer prejudice should the stay be lifted because Ms. Adams’ claims must eventually be liquidated before she can recover from the bankruptcy estate or its insurers. Further, because her claims involve personal injury, they must be liquidated in a forum outside the Bankruptcy Court. 11 U.S.C. §157(b)(5) (“personal injury tort...claims shall be tried in the district court in which the bankruptcy case is pending, or in the district court in the district in which the claims arose...”). Furthermore, Ms. Adams has demanded and is entitled to a jury trial in the State Court Action and a jury trial is not available in this Court.

17. Upon information and belief, the Debtors’ liability in this matter is covered by insurance. As such, any recovery by Ms. Adams will not greatly impact the Debtors’ estates. *See In re 15375 Memorial Corp.*, 382 B.R. 652, 687 (Bankr. D. Del. 2008), *rev’d on other grounds*, 400 B.R. 420 (D. Del. 2009) (“when a payment by an insurer cannot inure to the debtor’s pecuniary interest, then that payment should neither enhance nor decrease the bankruptcy estate” (quoting *In*

re Edgeworth, 993 F.2d 51, 55-56 (5th Cir. 1993)); *see also In re Allied Digital Tech Corp.*, 306 B.R. 505, 510 (Bankr. D. Del 2004) (ownership by a bankruptcy estate is not necessarily determinative of the ownership of the proceeds of that policy. “[W]hen the debtor has no legally cognizable claim to the insurance proceeds, those proceeds are not property of the estate.” *In re Edgeworth*, 993 F.2d 51, 55-56 (5th Cir. 1993).

18. Conversely, Ms. Adams will face substantial hardship if the stay is not lifted. She suffered severe injuries, loss of a normal life and medical expenses as a result of the Debtors’ negligence. Ms. Adams will be prejudiced by the continued delay resulting from the automatic stay due to the possibility of witnesses moving to unknown locations, witnesses who may pass away and the memory of events becoming less clear. Further, Ms. Adams resides in the State of Texas and the events which form the basis of her claims occurred exclusively in Texas. If Ms. Adams is forced to litigate her claims in Delaware, she would incur the increased expense of bringing attorneys, witnesses, and physical evidence to Delaware. “[O]ne of the primary purposes in granting relief from the stay to permit claim liquidation is to conserve economic judicial resources.” *In re Peterson*, 116 B.R. 247, 250 (D. Colo. 1990). Here, judicial economy would be served by lifting the automatic stay and allowing Ms. Adams’ claims to be liquidated in the forum where they are presently postured to be adjudicated quickly.

19. Neither the Debtors nor their estates will suffer any hardship if Ms. Adams’ claims in the State Court Action are allowed to proceed. Her claims are personal injury claims which do not present any factual or legal issues which will impact or distract the Debtors from their liquidation or reorganization process.

20. Lastly, the likelihood of success on the merits prong is satisfied by “even a slight probability of success on the merits may be sufficient to support lifting an automatic stay.” *In re*

Continental Airlines, Inc., 152 B.R. 420, 426 (D. Del. 1993). This prong also weighs in Ms. Adams' favor. The facts regarding the Debtors' negligence speak for themselves. No defenses, much less strong defenses, appear to exist here. "Only strong defenses to state court proceedings can prevent a bankruptcy court from granting relief from the stay in cases where...the decision-making process should be relegated to bodies other than [the bankruptcy] court." *In re Fonseca v. Philadelphia Housing Authority*, 110 B.R. 191, 196 (Bankr. E.D. Pa. 1990).

21. When weighing the above factors, the Court should lift the automatic stay, in order to permit Ms. Adams to prosecute her claims against the Debtors and any other responsible individual or entity to judgment in the State Court Action and satisfy any award or other resolution she may obtain against the Debtors' applicable insurance policies and any other individuals or entities that are responsible for the injuries sustained.

WHEREFORE, Ms. Adams respectfully requests that the Court enter an Order lifting the automatic stay, substantially in the form attached hereto, and for such further additional relief as may be just and proper under the circumstances.

Dated: June 12, 2025

/s/ Michael J. Joyce
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**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

F21 OPCO, LLC, *et al.*,

Debtors.

Chapter 11

Case No. 25-10469 (MFW)

(Jointly Administered)

**ORDER GRANTING MOTION OF MARY ADAMS FOR RELIEF FROM THE
AUTOMATIC STAY PURSUANT TO SECTION 362(D) OF THE BANKRUPTCY CODE**

Upon consideration of the Motion of Mary Admas (the “Movant”) for Relief from the Automatic Stay Pursuant to Section 362(d) of the Bankruptcy Code (the “Motion”), it is hereby ORDERED that:

1. The Motion is Granted.
2. Movant is granted relief from the Automatic Stay for cause shown and is permitted to commence and prosecute the State Court Action¹ against the Debtors and any other individuals or entities, including any subsequent appeals, and may enforce any judgment, including any alternative dispute resolution award or settlement obtained in the State Court Action against the Debtors’ applicable insurance policies.
3. This Order shall become effective immediately upon entry by the Court and is not subject to the fourteen-day stay provided in Rule 4001(a)(3) of the Federal Rules of Bankruptcy Procedure.

¹ Capitalized terms not defined herein shall have the meanings ascribed to them in the Motion.

4. This Court shall retain jurisdiction over any and all issues arising from or related to the implementation and interpretation of this Order.

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

F21 OPCO, LLC, *et al.*,

Debtors.

Chapter 11

Case No. 25-10469 (MFW)

(Jointly Administered)

Hearing Date: To be Determined

Objection Deadline: June 26, 2025 at 4:00 p.m.

**NOTICE OF MOTION
OF MARY ADAMS FOR RELIEF FROM THE AUTOMATIC STAY PURSUANT TO
SECTION 362(D) OF THE BANKRUPTCY CODE**

PLEASE TAKE NOTICE that on June 12, 2025, Mary Admas (“Movant”) filed the *Motion of Mary Adams for Relief from the Automatic Stay Pursuant to Section 362(d) of the Bankruptcy Code* (the “Motion”) with the United States Bankruptcy Court for the District of Delaware.

PLEASE TAKE FURTHER NOTICE that any objections to the Motion must be filed on or before **June 26, 2025, at 4:00 p.m. (ET)** (the “Objection Deadline”) with the United States Bankruptcy Court for the District of Delaware, 3rd Floor, 824 Market Street, Wilmington, Delaware 19801. At the same time, you must serve a copy of any objection upon Movant’s undersigned counsel so as to be received on or before the Objection Deadline.

PLEASE TAKE FURTHER NOTICE that a hearing on the Motion will be held on a **date to be determined** before the Honorable Mary F. Walrath, in the United States Bankruptcy Court for the District of Delaware, 824 N. Market Street, 5th Floor, courtroom 4, Wilmington, Delaware 19801, if an objection is filed.

The hearing date specified above may be a preliminary hearing or may be consolidated with the final hearing, as determined by the Court.

The attorneys for the parties shall confer with respect to the issues raised by the Motion in advance for the purpose of determining whether a consent judgment may be entered and/or for the purpose of stipulating to relevant facts such as value of the property, and the extent and validity of any security interest.

PLEASE TAKE FURTHER NOTICE THAT IF YOU FAIL TO RESPOND IN ACCORDANCE WITH THIS NOTICE, THE COURT MAY GRANT THE RELIEF REQUESTED IN THE MOTION WITHOUT FURTHER NOTICE OF A HEARING.

Dated: June 12, 2025
Wilmington, Delaware

/s/ Michael J. Joyce
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Counsel to Mary Adams

CERTIFICATE OF SERVICE

I hereby certify that on June 12, 2025, I caused a true and correct copy of the foregoing *Motion of Mary Adams for Relief from the Automatic Stay Pursuant to Section 362(d) of the Bankruptcy Code* to be electronically filed with the Clerk of Court and served on the parties identified below via CM/ECF and first-class mail.

Dated: June 12, 2025

/s/ Michael Joyce
Michael J. Joyce

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