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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN MARIANA ISLANDS
BANKRUPTCY DIVISION

IN RE IMPERIAL PACIFIC

INTERNATIONAL (CNMI) LLC,

Debtor and
Debtor-in-Possession.

CASE NO. 24-BK-00002
CHAPTER 11

Reply to Debtor's Opposition to Saipan
Stevedore's Motion for Relief From
Automatic Stay

Hearing:
Date: March 25, 2025
Time: 9:00 AM
Judge: Robert J. Faris

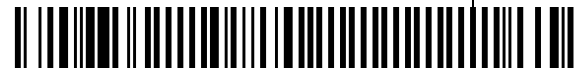
[Relates to ECF 365]

Saipan Stevedore Company, Inc. ("Saipan Stevedore"), by and through its undersigned attorneys, hereby replies to Debtor Imperial Pacific International (CNMI), LLC's ("Debtor's") Opposition to Saipan Stevedore's Motion for Relief from Automatic Stay ("Motion").

I. Motion and Notice Have Been Properly Served.

LBR 4001-1(d) governs motions for relief from automatic stay and requires any relief from stay motion and a notice to be served upon debtor, debtor's attorney, and any other relevant parties.

Saipan Stevedore has since corrected any defect in service of its Motion and Notice that may have existed. Saipan Stevedore served copies of its Motion and Notice of Hearing to Debtor, by and through Debtor's attorney, pursuant to LRB 4001-1(d). *See* ECF 399.



1 **II. Cause Exists Under 11 U.S.C. 362(d)(1) to Grant Relief From Automatic**
2 **Stay.**

3 Saipan Stevedore seeks relief for immediate resolution addressing Debtor's Containers that
4 have been sitting at Saipan Stevedore's storage facility solely for the benefit of the Estate. The
5 function of an automatic stay under 11 U.S.C. § 362(a) is to protect both the debtor and its
6 creditors. *See In re Zapata*, 204 B.R. 762, 763 (Bkrtcy.S.D.Cal. 1997). Section 362(d) provides
7 that a court can grant relief from the stay for "cause." "Cause" has no specific definition and is
8 thus addressed on case-by-case basis. *In re Snyder*, 420 B.R. 794, 805 (Bkrtcy.D.Mont. 2009)
9 (internal citations omitted). The decision, whether to grant relief from automatic stay, is within the
10 sound discretion of this Court. *See In re Conejo Enterprises, Inc.*, 96 F.3d 346, 351 (9th Cir. 1996).
11 Section 362 of the Bankruptcy Code confers on this Court wide latitude in crafting relief from
12 automatic stay, which may include modifying or conditioning the stay. *In re Delaney-Morin*, 304
13 B.R. 365, 369 (9th Cir. 2003) (internal citations omitted). Lack of adequate protection is an
14 example of cause. *In re Ellis*, 60 B.R. 432, 435 (9th Cir. BAP 1985); *In re Avila*, 311 B.R. 81, 83
15 (Bankr.N.D.Cal.2004).

16 Saipan Stevedore seeks relief as an administrative creditor, which may have priority of
17 secured creditor under 11 U.S.C § 507. Like a secured creditor, Saipan Stevedore lacks adequate
18 protection if there is a threat of decline in the value of the property. *See In re Delaney-Morin*, 304
19 B.R. 365, 370 (9th Cir. 2003) (internal citations omitted). In this case, Saipan Stevedore lacks
20 adequate protection in two respects. First, even if this Court finds that Saipan Stevedore will be
21 entitled to administrative expenses, there is no guarantee that this Court will award the entire
22 amount that Saipan Stevedore will eventually seek, if and when a sale of Debtor's assets is ever
23 approved. Second, Saipan Stevedore continues to lose immediate income due to the continued loss
24 of use of the space in its storage facility that is currently occupied by Debtor's Containers. In its
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1 Opposition, Debtor appears to imply that the sale will be approved immediately. *See* ECF 377,
2 Debtor's Opposition at p. 10. However, this Court has not ruled on Debtor's Motion to Approve
3 the Sale, noting that various oppositions to Debtor's Motion to Approve the Sale have already been
4 filed. *See* ECF 388 and 390.

5 Since April 19, 2024 (the "Petition Date"), Debtor's Containers have been accruing
6 \$590.00 (consisting of nineteen 40-foot containers at a daily rate of \$23.00, and nine 20-foot
7 containers at a daily rate of \$17.00; a total of 28 containers) in daily storage fees, or approximately
8 \$17,700.00 in monthly storage fees. As of February 5, 2025, Debtor has accrued \$189,390.00 in
9 total storage fees since the Petition Date. Debtor has not given any reason as to why Debtor's
10 Containers cannot or should not be moved from Saipan Stevedore's storage facility before a sale
11 is approved. Debtor continues to accumulate administrative expenses by refusing to seek more
12 economic alternatives to storing Debtor's Containers rather than dealing with Debtor's Containers
13 in a more cost-conscious manner. At a minimum, Debtor should be trying to minimize any
14 unnecessary expenses to the Estate, including moving Debtor's Containers to a more cost-effective
15 location. Thus, this Court should grant Saipan Stevedore's relief from stay to require Debtor to
16 take such necessary steps accordingly.

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19 **III. This Court Has Wide Latitude in Crafting Relief from Stay.**

20 Except for related relief from a co-debtor's stay under 11 U.S.C. § 1201(a) or § 1301(a),
21 a motion for relief from automatic stay may not include requests for other relief. LBR 4001-
22 1(a)(1). However, section 362 confers on this Court wide latitude in crafting relief from
23 automatic stay, which may include modifying or conditioning to the stay. *In re Cohen*, 656 B.R.
24 798, 808 (9th Cir. 2023), *In re Stephens*, 661 B.R. 948, 956 (Bankr.C.D.Cal.2024) (citing *In re*
25 *Schwartz*, 954 F.2d 569, 527 (9th Cir. 1992)).
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1 Saipan Stevedore seeks relief from the automatic stay pursuant to 11 U.S.C. § 362(a). To
2 the extent that Saipan Stevedore's Motion enumerated various forms of relief, Saipan Stevedore
3 defers to this Court's wide latitude in crafting the most appropriate relief from stay. *Id.* The
4 various options provided by Saipan Stevedore is merely a list such types of relief this Court has
5 the inherent power to grant under section 362.

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7 Thus, while Saipan Stevedore may not necessarily seek "other relief" besides relief from
8 automatic stay under LBR 4001-1(a)(1), it is inapposite that this Court may not nonetheless grant
9 such relief. See *In re Mac Donald*, 755 F.2d 715, 717 (9th Cir. 1985). On the contrary, it is
10 entirely within this Court's discretion to craft such appropriate relief based on the specific facts
11 of this particular case. Here, Saipan Stevedore is essentially stuck in bankruptcy purgatory
12 having to continue storing and securing Debtor's Containers indefinitely. At a minimum, this
13 Court is empowered to force Debtor to immediately remove Debtor's Containers from Saipan
14 Stevedore's storage facility, minimizing the daily accrual of storage fees to the detriment of
15 Debtor and its creditor and further loss of income to Saipan Stevedore due to the loss of space
16 due to Debtor's Containers, while allowing Saipan Stevedore to request for administrative
17 expenses at the appropriate time.

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19 **IV. Conclusion.**

20 Saipan Stevedore seeks relief from the automatic stay to require Debtor to take immediate
21 action to address Debtor's Containers that are sitting at Saipan Stevedore's storage facility
22 accruing storage fees of \$590.00 daily. This Court has wide discretion to craft such relief to address
23 Debtor's Containers. Given the advantages to Debtor and its creditors to minimize the storage fees
24 incurred by the Estate, this Court should grant such relief that would immediately address the issue
25 of Debtor's Containers' daily accrual of storage fees.
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Dated March 18, 2025.

Respectfully submitted,

SEMAN LAW OFFICES LLC

/s/

Vincent J. Seman

Attorney for Saipan Stevedore, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on March 18, 2025, I caused the forgoing document to be filed with the Clerk of Court for the United States District Court for the Northern Mariana Islands, Bankruptcy Division, using the CM/ECF System. A true and correct copy of the said pleading has been served on all counsel of record via the Courts CM/ECF System.

Executed on March 18, 2025.

SEMAN LAW OFFICES LLC

/s/
Vincent J. Seman
Attorney for Saipan Stevedore, Inc.