

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

In re:

WELLMADE FLOOR COVERINGS
INTERNATIONAL, INC., *et al.*,¹

Debtors.

Chapter 11

Case No. 25-58764

(Jointly Administered)

**MING CHEN a/k/a ALLEN CHEN'S RESPONSE IN OPPOSITION TO LABOR
PLAINTIFFS' MOTION FOR RULE 2004 EXAMINATION AND
PRODUCTION OF DOCUMENTS BY DEBTORS AND ALLEN CHEN**

Ming Chen a/k/a Allen Chen files this Response in Opposition to Labor Plaintiffs' Motion for Rule 2004 Examination and Production of Documents by Debtors and Allen Chen [ECF No. 244] (the "2004 Motion"), and respectfully shows this Honorable Court as follows:

INTRODUCTION

Mr. Chen joins in the opposition to the 2004 Motion filed by the Debtors. Mr. Chen files this response to further show why the 2004 Motion should be denied.

The Labor Plaintiffs' motion is a contrived attempt to try to avoid the stay that they were aware their claims were subject to when they asserted claims under the Trafficking Victim Protection Act ("TVPA") in the District Court Litigation. To circumvent the status quo of the District Court Litigation effectively being stayed, the Labor Plaintiffs have turned to this forum to try to pursue their claims (and for its counsel to try to find more potential class plaintiffs).

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, include: Wellmade Industries MFR. N.A. LLC (1058) and Wellmade Floor Coverings International, Inc. (8425). The mailing address for the Debtors for purposes of these chapter 11 cases is: 1 Wellmade Drive, Cartersville, GA 30121.



The Labor Plaintiffs' latest tactic is the 2004 Motion. They claim that, to file a proof-of-claim regarding claims for which they filed a 59-page federal lawsuit, they need far-reaching documents and areas of examination from both the Debtors and Mr. Chen. This is nothing more than a transparent guise by the Labor Plaintiffs to try to litigate their claims in a different forum.

As set forth below and for the reasons set forth in the Debtors' response, the 2004 Motion should be denied.

ARGUMENT AND CITATIONS OF AUTHORITY

A. The pending proceeding rule bars the Labor Plaintiffs' request for 2004 examinations.

"[C]ourts rarely permit Rule 2004 to be used for discovery in connection with pending adversary proceedings or contested matters." *In re Bd. of Dirs. of Hopewell Int'l Ins. Ltd.*, 258 B.R. 580, 587 (Bankr. S.D.N.Y. 2001). This is because of the pending proceeding rule, which holds that "[i]f an adversary proceeding or contested matter is pending between the same two parties, the rules of civil procedure should be used, rather than Bankruptcy Rule 2004." *In re Kearney*, 590 B.R. 913, 923 (Bankr. D.N.M. 2018).

"[T]he relevant inquiry is whether the Rule 2004 examination will lead to discovery of evidence related to the pending proceeding or whether the requested examination seeks to discover evidence unrelated to the pending proceeding." *In re Washington Mut., Inc.*, 408 B.R. 45, 51 (D. Del. Bankr. 2009). Rule 2004 examinations are generally disfavored where the party requesting the examination could gain a benefit against the Rule 2004 examinee in pending litigation outside the bankruptcy court. *In re Enron Corp.*, 281 B.R. 836, 842 (2002). It is an abuse of Rule 2004 to use the rule to further a party's separate civil case. *Snyder v. Society Bank*, 181 B.R. 40, 42 (S.D. Tex. 1994); *see also In re Bennett Funding Group, Inc.*, 203 B.R. 24, 29-30 (N.D.N.Y. 1996).

The Labor Plaintiffs have sued the Debtors, Mr. Chen, and three other individuals in the District Court Litigation. They filed a 59-page, five-count complaint. They seek redress under an assortment of claims, including the TVPA, Fair Labor Standards Act, RICO, unjust enrichment, and quantum meruit.

The information in Labor Plaintiffs' proposed Notices of Rule 2004 Examinations plainly includes material to try to build their case for the District Court Litigation. [ECF Nos. 244-2 and 244-3]. For example, Labor Plaintiffs are seeking documents relating to the alleged confiscation of passports, workplace safety issues, and financial projections, among many other items, and they seek to question Mr. Chen regarding such topics as ownership of handguns and WeChat conversations.

The purported "proceeding" for which the Labor Plaintiffs claim to need the 2004 examination is the upcoming deadline to file proof-of-claims. However, it is obvious from the face of the proposed 2004 examination notices that the Labor Plaintiffs' goal is to prosecute and conduct full discovery for purposes of the claims of the District Court Litigation, and that the purported necessity of gathering information so they can file a proof-of-claim before the bar date is simply a guise. *The Labor Plaintiffs' own proposed Notices of Rule 2004 Examinations make no bones about this*, explicitly stating that they are seeking to examine the Debtors and Mr. Chen on "the merits of the Labor Plaintiffs' claims against Debtors as set forth in the Complaint filed in the [Civil Action]." [ECF Nos. 244-2 p. 2, 244-3 p. 3]. The Labor Plaintiffs are thus pursuing an impermissible use of Rule 2004 and their request should be denied.

Labor Plaintiffs' reliance on *In re Table Talk, Inc.* as purportedly establishing the broad nature of Rule 2004 examinations is misplaced. 51. B.R. 143 (Bankr. D. Mass. 1985). *Table Talk* involved a Rule 2004 examination being used to understand whether the estate had a claim against

the examinees. 51 B.R. 143 (Bankr. D. Mass. 1985). That is not the case here. The Labor Plaintiffs already concluded they have valid claims against the proposed examinees when they filed a 59-page lawsuit. Notably, the Court in *Table Talk* noted that Rule 2004 largely serves the purpose of locating the assets and frauds of an estate so that the pool of assets is understood. *Id.* That is not what the Labor Plaintiffs seek. Rather, they are plainly seeking to develop the claims they have *already* asserted.

B. The Labor Plaintiffs are trying to circumvent the stay under the TVPA.

The Complaint in the District Court Litigation was filed following a March 2025 law enforcement raid on Debtors. [ECF 242, Ex. 2, ¶¶ 201-203]. The raid resulted in the arrest of three individuals on labor trafficking charges. [*Id.*, ¶ 204].² As noted above, the Complaint includes claims under the TVPA, 18 U.S.C. § 1591 *et al.*

The TVPA provides for a mandatory stay during pending criminal proceedings. More specifically, “[a]ny civil action filed under subsection (a) [the subsection allowing civil actions for alleged violations of the TVPA] ***shall*** be stayed during the pendency of any criminal action arising out of the same occurrence in which the claimant is the victim” 18 U.S.C. § 1595(b)(1) (emphasis added).

The subsection additionally clarifies “a ‘criminal action’ *includes investigation and prosecution* and is pending until final adjudication in the trial court.” 18 U.S.C. § 1595(b)(2) (emphasis added). Court have interpreted the stay requirement broadly to include all defendants in an action, regardless of whether they have been charged in the related criminal proceedings: “[i]n light of the statute’s goal of protecting the government’s ability to prosecute traffickers criminally, it is most appropriate for a Section 1595 stay to encompass all defendants in a case.” *Lunkes v.*

² Mr. Chen was not arrested.

Yannai, 882 F. Supp. 2d 545, 550 (S.D.N.Y. 2012). Furthermore, additional claims in the same action are also subject to the stay: “[t]he plain language of the statute requires a stay of ‘any civil action.’ . . . The statute does not limit the stay to particular defendants or claims.” *Sharma v. Balwinder*, 21-CV-00480-BLF, 2021 WL 4865281, at *2 (N.D. Cal. Sept. 29, 2021) (emphasis in original) (citation omitted).

On August 8, 2025, the Debtors filed their suggestion of bankruptcy in the District Court Litigation, which triggered the automatic stay as to the Debtors. On August 26, 2025, the individuals named as defendants in the District Court Litigation, including Mr. Chen, moved to stay the case, including based on the stay provision in the TVPA.

Following the filing of the motion to stay, the Labor Plaintiffs’ counsel approached the undersigned to explore whether the motion to stay could be resolved by agreement. The Labor Plaintiffs’ counsel acknowledged that they were aware of the stay provision under the TVPA and that they anticipated it being raised given the pending criminal proceedings. [See Certification of Counsel, attached as Exhibit A].

Counsel have continued to discuss the terms of an agreed-upon stay as to the claims against the individuals named as defendants in the District Court Litigation, including Mr. Chen. During that time, the Labor Plaintiffs’ counsel have agreed to lengthy extensions of the deadlines in the District Court Litigation. The individuals’ deadline to respond to the lawsuit in the District Court Litigation was extended through October 6, 2025, and then to December 6, 2025. The Labor Plaintiffs’ deadline to respond to the motion to stay was similarly extended. For all intents and purposes, the District Court Litigation has effectively been stayed by agreement of the parties.

However, because there is not yet a court order staying the District Court Litigation (which is the expected outcome if the motion to stay the District Court Litigation is not resolved by

agreement), the Labor Plaintiffs concocted a tactic to take a last shot at pursuing immediate discovery in support of their claims: 2004 examinations in this bankruptcy proceeding. Because that effort is ostensibly a last-ditched shot to circumvent the stay under the TVPA, this Court should decline to grant the 2004 motion.³

C. The Labor Plaintiffs' request for an examination of Mr. Chen is improper.

The Labor Plaintiffs' request for an examination of Mr. Chen should be denied for the reasons set forth above. Labor Plaintiffs cite several cases on pages 15-17 of the 2004 Motion to argue that their request for an examination of Mr. Chen is proper, but none of those cases apply here. Labor Plaintiffs cite *In re Drexel Burnham Lambert Grp., Inc.* to argue that a Rule 2004 examination *may* be allowed even if the examination could provide information used to prosecute an action against a witness. 123 B.R. 702 (S.D.N.Y. Bankr. 1991). However, *Drexel* concerned whether pending litigation by or against a bankruptcy trustee is sufficient to deny examination under Rule 2004. *Id.* at 711-12. Here, the issue is not whether there is pending litigation against the bankruptcy trustee—the pending litigation is directly between the debtor and creditor. Such a relationship is exactly the type of relation the pending proceeding rule envisions and protects against.

Labor Plaintiffs also again return to *In re Table Talk*, this time to assert that the possible use of Rule 2004 testimony against a witness facing pending litigation is not enough to deny an examination. However, as noted above, the use of a Rule 2004 examination in *Table Talk* was not by a party seeking information to build its concurrent matter against the examinee—rather, it was by an estate seeking to locate the assets and frauds of an estate. Here, Labor Plaintiffs are seeking

³ While Mr. Chen has not been arrested or charged, the request to subject him to a 2004 examination may still have Fifth Amendment implications both for him—to the extent he is the subject of an investigation—and for purposes of any potential criminal exposure of the Debtors.

to develop the claims they have *already* asserted, so *Table Talk* does not support their position. 51 B.R. at 145.

D. The Discovery Sought through the 2004 Motion is Subject to Various Objections.

As set forth in the Debtors' contemporaneously-filed response, and setting aside that the request for 2004 exams is procedural improper for the reasons discussed herein and in the Debtor's response, the examination topics and document requested are also objectionable for various other reasons, including their scope, overbreadth, privilege concerns, and the unreasonable proposed timing of the response and production. In the interest of brevity, Mr. Chen joins in and incorporates the objections discussed in the Debtors' response.

CONCLUSION

For the reasons set forth herein and in the Debtors' response, Mr. Chen respectfully requests that the Court deny the 2004 Motions.⁴

Respectfully submitted, this 4th day of November, 2025.

BERMAN FINK VAN HORN P.C.

By: /s/ Charles H. Van Horn

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⁴ While not germane to the substance of the relief sought, the undersigned submit the Certification attached as Exhibit A to clarify the record as to the parties' conferral attempts discussed by Labor Plaintiffs' counsel in the 2004 Motion.

CERTIFICATE OF SERVICE

I hereby certify that all ECF participants registered in this case were served electronically with the foregoing response through the Court's ECF system at their respective email addresses registered with this Court.

This 4th day of November, 2025.

BERMAN FINK VAN HORN P.C.

By: /s/ Charles H. Van Horn

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EXHIBIT A

**IN THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
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In re:

WELLMADE FLOOR COVERINGS
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Debtors.

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(Jointly Administered)

CERTIFICATION

I Neal Weinrich hereby declare:

1. My law firm, Berman Fink Van Horn P.C., represents Allen Chen in the civil action filed by the Labor Plaintiffs against Mr. Chen and others in the United States District Court for the Northern District of Georgia, Civil Action No. 4:25-cv-00134-WMR (the “District Court Litigation”).
2. I am submitting this Certification in further support of Mr. Chen’s opposition to the Labor Plaintiffs’ Motion for Rule 2004 Examination and Production of Documents by Debtors and Allen Chen (the “2004 Motion”), and to address and respond to the Labor Plaintiffs’ counsel’s Certification that is attached to the 2004 Motion.
3. On Sunday, October 26, 2025 at 6:58 p.m., Labor Plaintiffs’ counsel sent an e-mail to myself and counsel for the Debtors. The email stated that his clients would like to take Rule 2004 examinations of the Debtors and Mr. Chen on November 5 and 6. The email further stated that his clients were seeking to have the Debtors and Mr. Chen produce documents by November 4.
4. Labor Plaintiffs’ counsel’s Sunday evening email also requested that counsel participate in a meet-and-confer fifteen hours later at 10:00 a.m. or between 4-7:00 p.m. the next day.

5. I was scheduled to appear at a summary judgment hearing in the Superior Court of Oconee County at 1:30 p.m. on Monday, October 27, 2025. I was preparing for that hearing that Sunday evening and the morning of Monday, October 27. I was thus unavailable to confer that Monday morning.
6. During the morning of Monday, October 27, I was copied on communications between the Debtors' counsel and Labor Plaintiffs' counsel that indicated that a conferral call might take place Thursday morning.
7. On the evening of Monday October 27th at 6:05 p.m., I sent an e-mail to the Labor Plaintiffs' counsel that stated as follows: "Aaron, I was tied up preparing for a hearing today that resolved at the last minute and I am now knee-deep in a large brief due Wednesday. Because of those other case obligations I haven't yet been able to devote time to the email you sent us last night. I saw the emails with John from today about a call with the GT lawyers. I should be able to make a call Thursday morning work if you can include me when you are scheduling that one."
8. On Tuesday, October 28, 2025 at 5:42 p.m., the Labor Plaintiffs' counsel sent the following e-mail in response to my above email: "Does this mean that your client is not consenting to the Rule 2004 exam and document requests as drafted? Like for the Debtors, if that is the case, we would ask that you provide us an email stating the reasons for your objections so that we may have a chance to research and then address your concerns."
9. On Wednesday October 29, 2025, at 4:19 a.m., I sent the following e-mail in response: "Aaron, I will review and respond substantively after I get past my brief deadline. I also plan to get back to you with our comments on the stipulation. Thanks."

10. The “stipulation” in the above email refers to a potential agreed-upon resolution of my clients’ motion to stay the District Court Litigation. We filed a motion to stay on behalf of Mr. Chen and the other individuals named as defendants in the District Court Litigation based on the stay provision in the Trafficking Victims Protection Act. Following receipt of that motion, counsel for the Labor Plaintiffs approached us to discuss the motion. Labor Plaintiffs’ counsel acknowledged that they were aware of the stay provision under the TVPA and that they anticipated it being raised given the pending criminal proceedings. Counsel have since had, and continue to have, dialogue about an agreed-upon resolution of the individual defendants’ motion to stay the District Court Litigation.
11. On Wednesday, October 29, 2025, I received a calendar appointment for a 9:30 a.m. call. On Thursday morning, I emailed the Labor Plaintiffs’ counsel and asked who would be participating in that call. I did not hear back from him. I nevertheless joined the call. During that call, I expressed on behalf of Mr. Chen that while I had not had the opportunity to formulate and determine our objections given my commitments in other matters earlier in the week, Mr. Chen did not consent to the Labor Plaintiffs’ request.
12. At 4:19 p.m. in the afternoon of Thursday, October 30, counsel for the Labor Plaintiffs sent me the e-mail that is attached to his Certification at Exhibit B, which requested a response by the end of the day. Shortly after receiving the e-mail, I sent counsel for the Labor Plaintiffs an e-mail that said as follows: “Aaron, I just got back to my desk from a meeting and am stepping out of the office now to go to an event that I am late for. I will review and respond substantively as soon as I can but it won't be before the end of today.”
13. Before I could substantively respond, counsel for the Labor Plaintiffs filed the 2004 Motion the following morning.

Executed on this 4th day of November, 2025.

/s/ Neal F. Weinrich
Neal F. Weinrich