IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

In re:	)	
	)	CASE NO. 25-58764-sms
WELLMADE FLOOR COVERINGS INTERNATIONAL, INC., *et al*.,	)	
	)	
Debtors.	)	
	)	

CREDITOR ANTHONY DAVIS'S MOTION FOR RELIEF FROM STAY

COMES NOW, Creditor Anthony Davis ("Creditor Davis"), through undersigned counsel, and moves the Court to lift the automatic stay, pursuant to 11 U.S.C. § 362(d)(1) to permit Creditor Davis to prosecute his claims in his pending action in the Federal Court for the Northern District of Georgia. In support of the request, Creditor Davis states as follows:

I. Relevant Facts and Procedural Posture

Creditor Davis filed suit in the Northern District of Georgia on February 4, 2025, against Wellmade Industries MRF. N.A., LLC ("Wellmade"). He later amended that Complaint on April 28, 2025, to include one of its owners, Zhu Chen, as an individual Defendant (hereinafter "the District Court Action"). In the District Court Action, Creditor Davis asserted a claim of unlawful retaliation, pursuant to 42 U.S.C. § 1981 ("Section 1981"). The particular facts of Creditor Davis's Section 1981 claim are as follows.

Creditor Davis is white and immediately noticed upon hire that most management-level employees were Chinese and that when management-level positions opened, a Chinese individual would simply show up and begin performing the role. [United States Court for the Northern District of Georgia, Rome Division, Case No. 4:25-cv-00030-WMR-WEJ, Doc. 12, ¶ 9, 12-13(hereinafter referred to as "D.C. Doc.")]. Creditor Davis was told that he would be promoted to Quality Director, but when that role became available, it was filled by a Chinese individual without quality experience while Creditor Davis's had twenty years experience. *Id.* at ¶, 14-17. As a result, Creditor Davis complained to John Bradford, Wellmade's Chief Operations Officer, and Waleska White, Wellmade's Human Resources Director, that Zhang's hiring was racial discrimination and that Defendant's general hiring practices of not even allowing non-Chinese individuals to compete for management roles were also racially discriminatory. *Id.* at ¶18-19. The next day, in a conversation with Creditor Davis, White agreed with Plaintiff, telling him that non-Chinese management had to teach Chinese management that they were operating on "U.S. soil," but also started to ask Creditor Davis how he could want to remain employed at Wellmade after his complaints, called his complaint unforutnate, told him that it was "not good," and told him that his complaints affected the fact of "even him as an employee" at Wellmade while attempting to negotiate a severance for

Creditor Davis to resign. *Id.* at ¶ 22-33. During the conversation, she inferred that this was coming from Zhu Chen. *Id.*

A few days later, Creditor Davis again spoke to White, and Chen entered the room, telling Creditor Davis that his complaint was not supported and that Wellmade could pay Plaintiff money to settle so they did not fight each other and so Plaintiff was not unhappy. *Id.* at ¶ 34-36. Chen then told Creditor Davis that his complaints were not true and that if he settled with Wellmade, it would consider hiring him as a consultant, nodding when Davis asked him if they were talking about Davis dropping his Equal Employment Opportunity Commission claim and complaints. *Id.* at ¶ 43-45. After Chen left the room, White told Plaintiff that Chen now saw Creditor Davis differently and no longer wanted him as an employee and that he was being terminated, but then said she would check with Chen before finalizing the termination. *Id.* at 46-48. Creditor Davis then rejected multiple settlement offers and said that he would be at work the next workday, but was terminated by White, who told him he was being terminated to "maintain a stable work environment for all involved" and that Wellmade would vigorosuly defendant agianst his "false accusations." *Id.* at ¶'s 50-54. Creditor Davis's conversations with White, including the one with Chen, were recorded.

In the District Court Action, Plaintiff seeks a declaratory judgment, damages for lost wages, benefits, prejudgment interest, emotional distress, attorneys' fees and expenses, reinstatement, and punitive damages.

On May 28, 2025, a Scheduling Order setting a discovery end date of September 8, 2025, was issued in the District Court Action. On August 8, 2025, Defendant Wellmade filed a Suggestion of Bankruptcy, triggering an automatic stay of the action. [D.C. Doc. 22]. On October 8, 2025, this Court entered an Order approving the private sale of Wellmade's assets. *Id.* at Doc. 29. The sale of the company subsequently closed on November 7, 2025. On April 30th, 2026, Wellmade confirmed in a Status Report in the District Court Action that it intends to object to Creditor Davis's proof of claim in this bankruptcy. [D.C. Doc. 43]. There have been no discussions between Wellmade and Creditor Davis to resolve his claims. Given the continuing passage of time and confirmation that Wellmade intends to object to Creditor Davis's proof of claim, Creditor Davis now moves for relief from the automatic stay to proceed with his claims in the District Court Action.

II. Creditor Davis's Claims are Personal Injury Tort Claims that Must be Adjudicated in the District Court Action

A. Subject-Matter Jurisdiction

Creditor Davis's motion to lift the stay presents an issue of subject matter jurisdiction. The list of "core" matters set forth in 28 U.S.C. § 157(b)(2) specifically excludes adjudication of "personal injury tort . . . claims." 28 U.S.C. §§

157(b)(2)(B)(O). Accordingly, 28 U.S.C. § 157(b)(5) provides that "[t]he district court shall order that personal injury tort . . . claims shall be tried in the district court in which the bankruptcy case is pending." Id. § 157(b)(5).

Creditor Davis's Section 1981 claim falls squarely within the scope of "personal injury" actions. He was retaliated against for reporting a pattern of and an instance of racial discrimination at Defendant. Courts have regularly found that employment discrimination claims like Creditor Davis's are personal injury actions and lifted automatic stays on that basis. *See Goldschmidt v. Erickson (In re Erickson)*, 330 B.R. 346, 349 (Bankr. D. Conn. 2005) (lifting stay, finding that employment discrimination claims are personal injury claims, and holding that "In light of the fact that this court cannot liquidate the discrimination claim, it is readily apparent that the movant is entitled to relief from stay so that she may liquidate the claim."); *compare with Barber v. Arnott (In re Arnott)*, 512 B.R. 744 (SDNY Bankr. Ct. 2014) (An employee who sued her former employer and an immediate supervisor ("debtors") in federal district court established cause for lifting the automatic stay because her claims under Section 1981, including a retaliation claim, were personal injury tort claims that must be resolved by the district court pursuant to 28 U.S.C.S. § 157); *In re BFW Liquidation, LLC*, 2009 Bankr. LEXIS 5528, fn. 5 (N. Ala. Bank. Ct. 2009) (noting that even though the creditor had not alleged her employment discrimination claim was a personal injury claims that there was a laundry list of

authority that supported that proposition). The Court should therefore Order that the stay be lifted and that the District Court Action proceed.

B. Relief from the Stay is Warranted

Relief from the automatic stay may be granted for "cause." 11 U.S.C. § 362(d)(1). Although "cause" is not defined by the Bankruptcy Code, this Court uses a three-prong balancing test to determine whether to grant relief from the stay to pursue litigation in a non-bankruptcy forum:

1. Whether any great prejudice to either the bankruptcy 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 considerably outweighs the hardship to the debtor; and

3. The probability of the creditor prevailing on the merits.

In re Kiener Maschinenbau GmbH, 664 B.R. 863, 874 (Bankr. N.D. Ga. 2024)

First, the District Court Action was filed before the bankruptcy case and involves issues not only uniquely suited for, but also **required to be** adjudicated by the District Court. This Court cannot liquidate Creditor Davis's claim, given that it lacks jurisdiction to do so, and the claim must be liquidated. It also does not have jurisdiction as to Creditor Davis's claim against Zhu Chen individually.

Furthermore, the District Court is familiar with the underlying facts, procedural posture, witnesses, and evidentiary issues, and discovery in the District

Court action was already underway before the stay. Allowing the litigation to proceed will promote judicial economy, avoid duplicative litigation, and is the most efficient (and only) way to resolve the claim. Given that Wellmade has confirmed it intends to object to Creditor Davis's proof of claim, there is no reason delay the District Court Action, which will need to be adjudicated in full before this bankruptcy action can be concluded and all claims can be reconciled.

Second, Creditor Davis has an extremely high probability of success on the merits. There are audio recordings of his meetings with Waleska White and Zhu Chen that largely, if not conclusively, establish that Wellmade and its owner, Zhu Chen, fired Creditor Davis because he engaged in protected activity under Section 1981, which would establish liability on his claims.

Further, Creditor Davis may suffer substantial prejudice and hardship if prevented from prosecuting the District Court Action, including not being able to liquidate his claims properly, fading witness memories, potential loss of evidence, and continued delay in the liquidation of the claim. By contrast, Debtor will suffer little or no prejudice because Creditor Davis seeks only to liquidate the claim in the appropriate forum. To the extent applicable, Creditor Davis agrees that enforcement or collection of any judgment against property of the bankruptcy estate shall remain subject to further order of this Court.

For the foregoing reasons, Creditor Davis respectfully requests that this Court lift the stay in this action and allow the District Court Action to proceed.

Submitted this 28th day of May, 2026.

THE WORKERS' FIRM

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

PHILLIP BERRY,	)	
	)	
Plaintiff,	)	Civil Action File
	)	No. 1:25-CV-5894-TRJ-JKL
v.	)	
	)	
WASTE PRO OF GEORGIA, INC.,	)	
	)	
	)	
Defendant.	)	
	)	

I hereby certify that on this day, I electronically filed the foregoing *Creditor Davis's Motion for Relief from Stay* with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing to all attorneys of record.

Respectfully submitted, this 28th day of May, 2026.

THE WORKERS FIRM

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