

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE  
WILMINGTON DIVISION

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CLERK  
US BANKRUPTCY COURT  
DISTRICT OF DELAWARE

IN RE: HOLDCO, INC.

( Case No. 20-11259  
) Chapter 11

**MOTION TO LIFT STAY**

COMES NOW Movant Alexis A Brown ("Movant"), acting pro se, pursuant to 11 U.S.C. § 362 (d)(1), and Rules 4001-1 and 9013-1 of the Local Rules of the United States Bankruptcy Court for the District of Delaware, and applies to this Court for an Order granting relief from the automatic stay in the above-captioned matter to the extent of the liability insurance, if any, available to Debtor Advantage Holdco, Inc. ("Debtor"). In support thereof, Movant shows the following:

**JURISDICTION**

1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1334 and 11 U.S.C. § 362.
2. Venue is appropriate in this Court pursuant to 28 U.S.C. § 1409.
3. This is a core proceeding within the meaning of 28 U.S.C. § 157 (b)(2)(G).

**THE PARTIES**

4. On May 26, 2020, Debtor filed for Chapter 11 protection under the Bankruptcy Code.
5. Movant, Alexis A Brown, is an individual domiciled in the State of

Pennsylvania.

**FACTS**

6. At all times relevant to this matter, Debtor Advantage Holdco, Inc. owned or operated a vehicle rental business known, or doing business as Advantage Rent A Car, with a business address of 2200 Rental Car Center Parkway, College Park, GA 30337.

7. On July 17, 2019, the Movant was injured in an incident at Hartsfield Jackson International Airport, Atlanta, Georgia, on premises owned or occupied by Advantage Rent-A-Car, when Movant's vehicle was struck from below by an activated automatic road blocker, which caused Movant's vehicle to stop abruptly. As a result, Movant's head made contact with the front windshield and Movant received a laceration to his lip.

8. Upon information and belief, Debtor owned a commercial liability insurance policy, no. RBS0011744, issued by Scottsdale Insurance Company with \$3,000,000 limits of liability for bodily injury and \$5,000 per person limit in medical payments coverage, applicable to the claim asserted by the Movant in a claim for bodily injury. Debtor has not been issued a denial of coverage or reservation of rights letter from Scottsdale Insurance Company relative to the incident described in paragraph 7.

9. Movant has agreed to accept, and Scottsdale Insurance Company has agreed to pay, in settlement of any and all claims by Movant, the amount of \$3,000.00 for Movant's bodily injury claim, and \$2,564.21 in medical payment benefits under policy no. RBS0011744.

10. Movant is willing to abide by the limitations that (1) no action may be taken by Movant to execute on or otherwise attempt to collect any judgment or settlement from assets of the Debtor's estate, except from available liability and medical payments insurance coverage; (2) that any verdict, judgment or settlement may be used to liquidate the amount of Movant's claims to the extent not satisfied by Debtor's insurance, provided however that any claim for punitive damages shall be subordinate in right of payment to allowed unsecured claims pursuant to 11

U.S.C. § 726 (a)(4).

**REQUEST FOR RELIEF**

11. Movant respectfully requests the Court to grant relief from the automatic stay pursuant to 11 U.S.C. § 362 (d)(1), and subject to the above restrictions, so that they may proceed settlement of Movant's bodily injury and medical payment benefits claims.

**ARGUMENT**

12. Movant is entitled to stay relief under the current circumstances pursuant to § 362(d)(1).

13. The requested relief from the stay will have no effect on the assets of Debtor or upon its creditors.

14. The Bankruptcy Court has broad discretion in granting relief from the automatic stay. *See, e.g.*, 11 U.S.C. § 362, Revision Notes and Legislative Reports 1978 Acts. "The facts of each request will determine whether relief is appropriate under the circumstances." *In re Jewett*, 146 B.R. 250, 251 (Bankr. 9<sup>th</sup> Cir. 1992).

15. Three factors are considered when balancing the competing interests of a debtor and a movant in a relief from stay proceeding: to wit (1) the prejudice that would be suffered should the stay be lifted, (2) the balance of hardships facing the parties, and (3) the probable success on the merits if the stay is lifted. *In re Continental Airlines*, 152 B.R. 420, 424 (Bankr. D. Del. 1993). *See also, In re Rexene Products Co.*, 141 B.R. 574 (Bankr. D. Del. 1992).

16. First, Debtor will not suffer any prejudice if the stay is lifted given that Movant's recovery, absent further Order of this Bankruptcy Court, will be limited to available insurance proceeds. Second, the balance of hardships facing the parties favors stay relief in that Movant will be completely precluded from seeking compensation out of otherwise available insurance

proceeds so long as the stay remains in effect. Third, there is a high probability of success on the merits given that, among other grounds, the Movant was injured as a result of substandard hair removal techniques. Debtor, as a premises owner or occupier, had a duty to exercise ordinary care in keeping the premises safe for invitees. Debtor was negligent in failing to adhere to that standard of care.

17. Relief from the Stay is warranted when a discharge in bankruptcy would not prevent an insured debtor from being a named defendant in a negligence action, *e.g.*, *In re Beeny*, 142 B.R. 360, 362-363 (Bankr. 9<sup>th</sup> Cir. 1992); *In re Edgeworth*, 993 F.2d 51 (5<sup>th</sup> Cir. 1993); *First Fidelity Bank v. McAteer*, 985 F.2d 113 (3d Cir. 1993); *Green v. Welsh*, 956 F.2d 30, 35 (2d Cir. 1992).

18. The Code mandates that a Bankruptcy Court "shall" lift the automatic stay for "cause." 11 U.S.C. § 362 (d)(1); see *Christensen v. Tucson Estates, Inc. (In re Tucson Estates, Inc.)*, 912 F.2d 1162, 1166 (9<sup>th</sup> Cir. 1990); *Piombo Corporation v. Castlerock Properties (In Re Castlerock Properties)*, 781 F.2d 159, 162 (9<sup>th</sup> Cir. 1986); *MacDonald v. McDonald (In re MacDonald)*, 755 F.2d 715, 717 (9<sup>th</sup> Cir. 1985); *In re Davis*, 91 B.R. 470, 471 (Bankr. N.D. Ill. 1988). "Cause" is not defined in the Bankruptcy Code and is determined on a case-by-case basis. See *In re Tucson Estates, Inc.*, 912 F.2d at 1166 ("Cause' has no clear definition and is determined on a case by case basis . . . "); *In re MacDonald*, 755 F.2d at 717.

19. The facts and circumstances of this case demonstrate that there is ample "cause" requiring relief from the automatic stay in this matter and it is Debtor's burden to prove that there is no "cause" for relief. Given that Movant has stipulated to limit any recovery to available insurance proceeds absent further Order of this Bankruptcy Court, Debtor cannot meet its burden of showing that no cause exists for stay modification.

WHEREFORE, Movant \_\_\_\_\_, pro se, requests entry of an Order deeming their respective claims allowed and granting relief from the automatic stay pursuant to 11 U.S.C. § 362 (a)(1) to permit Movant to continue pursuing available remedies against Debtor in the personal injury claim with the express conditions and terms set forth in the proposed Order and for such other and further relief is just and proper.

/s/ \_\_\_\_\_  
Alexis Brown, pro se  
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Philadelphia, PA 19132  
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DATED:

**CERTIFICATE OF SERVICE**

I, Alexis Brown, do hereby certify that on this \_\_\_\_th day of \_\_\_\_\_, 2021,  
a copy of the foregoing Movant Alexis Brown's Motion to Life Stay was served upon counsel for  
plaintiff listed below via the bankruptcy court ECF System or by regular mail addressed to:

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Under penalty of perjury, I declare that the foregoing is true and correct.

/s/\_\_\_\_\_  
Alexis Brown, pro se  
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