

1 Law Offices of
2 **EAST VALLEY INJURY LAW**
3 1525 South Greenfield Road
4 Mesa, Arizona 85206
5 (480) 542-5000

6 Matthew L. Riggs (SBN 015532)
7 Matt@evilaw.com
8 Attorney for Payson Geohagan

9 **IN THE UNITED STATES BANKRUPTCY COURT**
10 **FOR THE DISTRICT OF ARIZONA**

11 In Re:
12 LEGACY CARES, INC.,
13 Debtor.

Case No.: 2:23-bk-02832-DPC

Chapter 11

14 PAYSON GEOHAGAN
15 Movant,

**MOTION FOR RELIEF FROM THE
AUTOMATIC STAY
(COMFORT ORDER)**

16 vs.

17 LEGACY CARES, INC. d/b/a LEGACY
18 SPORTS USA, LLC, an Arizona
19 Corporation

20 Respondents.

21 Pursuant to Fe. R. Bankr. P. 4001 and Local Rule 4001-1, Payson Geohagan files this Motion
22 for Relief from the Automatic Stay with relation to a personal injury claim by Payson Geohagan
23 (“Mr. Geohagan”) against Legacy Sports USA, LLC (“Legacy Sports”). Mr. Geohagan wishes to
24 pursue his claim to conclusion and will look to the insurer and not the Legacy Cares bankruptcy
25 estate. Mr. Geohagan’s Motion is supported by the following memorandum of Points and Authorities.
26 A Proposed Form of Order is attached hereto as Exhibit 1.

27 **I. FACTUAL BACKGROUND**

1 On or about February 8, 2022, Payson Geohagan played softball on field 1 at Legacy Sports
2 Complex at Bell Bank Park located at 1 Legacy Dr. in Mesa, Arizona. Payson played in the outfield
3 that evening. The batter hit the ball in the gap between center and right field. Payson ran to catch the
4 ball. As would be expected, Payson knew where the fence was located, but also as would be
5 expected, he kept his eye on the ball as he ran to catch it. Attempting to make the catch as he ran into
6 the fence, Payson's left foot became lodged in a space between the bottom of the fence and the
7 ground. Instead of his whole person bouncing off the fence (as he has many times at many ballparks),
8 because his left foot was lodged in the space between the ground and the fence, his foot remained
9 lodged stayed as his body moved aggressively away from the fence. This movement caused
10 significant injury to his foot and lower leg.

11 **II. LEGAL ANALYSIS**

12 Under Arizona law, "[a]n owner or occupier of land or buildings who invites or induces
13 another to go thereon owes to such person the duty to have his premises in a reasonably safe
14 condition and give warning of latent or concealed perils." *Forbes v. Romo*, 123 548, 601 P.2d, 311
15 (Ariz.App., 1979). The duty of an owner or possessor of land "to make the premises safe for his
16 invitee may not be delegated to another." *Ft. Lowell-NSS Ltd. Partnership v. Kelly*, 166 Ariz. 96, 800
17 P.2d 962 (1990). The space between the bottom of the fence and the ground was an unreasonably
18 dangerous condition that was highly likely to cause an injury. Further, the nature of the hazard was
19 such that Payson (or anyone playing in the outfield) was unlikely to discover the hazard prior to
20 encountering it. Finally, Legacy Sports did nothing to warn Payson of the existence of the hazard.
21 Liability is clear – Legacy Sports is liable for the harm caused by the unreasonably dangerous
22 condition which it created.

23 **III. CONCLUSION**

24 For the foregoing reasons, Mr. Geohagan respectfully requests the Court to enter an order
25 lifting the automatic stay and provide any such other relief that the Court deems appropriate. See
26 attached Exhibit 1.
27

1 Respectfully submitted this 11th day of March, 2024.

2 **EAST VALLEY INJURY LAW PLC**

3
4 By: 

5 Matthew L. Riggs
6 1525 S. Greenfield Rd.
7 Mesa, AZ 85206
8 *Attorney for Payson Geohagan*

9 **CERTIFICATE OF SERVICE**

10 I hereby certify that on March 11th, 2024, I electronically transmitted the attached document
11 to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic
12 Filing to all CM/ECF registrants and to the Debtor, counsel for the Official Unsecured Creditors'
13 Committee, counsel for Legacy Sports USA, LLC and Elite Sports Group, LLC, and the Twenty
14 Largest Unsecured Creditors either via email and/or U.S. Mail postage prepaid as listed below:

15 Legacy Cares, Inc.
16 6321 S. Ellsworth Rd. Ste. 146
17 Mesa, AZ 85212

18 Robert H. McKirgan
19 Papetti Samuels Weiss McKirgan LLP
20 16430 N. Scottsdale Rd. Ste. 290
21 Scottsdale, AZ 85254
22 *Counsel for Debtor*

23 J. Henk Taylor
24 Warner Angle Hallam Jackson & Formanek,
25 PLC
26 2555 E. Camelback Rd. Ste. 800
27 Phoenix, AZ 85016
htaylor@warnerangle.com
Counsel for Debtor

Jordan A. Kroop
Cia M. Mackle
Bradford J. Sandler
Pachulski Stang Ziehl & Jones LLP
780 Third Ave. 34th Floor
New York, NY 10017
bsandler@pszjlaw.com
Counsel for Official Committee of Unsecured Creditors

James J. Palecek
Karen A. Palecek
Palecek & Palecek PLLC
62 N. Scottsdale Rd. Ste. 144
Scottsdale, AZ 85253
jim@paleceklaw.com
karen@paleceklaw.com
Counsel for Elite Sports Builders, LLC

Kelly Singer
Squire Patton Boggs LLP
2325 E. Camelback Rd. Ste. 700
Phoenix, AZ 85016
Kelly.singer@squirepb.com
Counsel for Legacy Sports, USA and Elite Sports Group, LLC

1 Josh Keown
2 Fieldturf USA
3 175 N. Industrial Blvd.
4 Calhoun, GA 30701

Icing Investment Holdings, LLC
11201 N. Tatum Blvd. Ste. 200
Phoenix, AZ 85028

5 Ken Young
6 Spectra Food Services & Hospitality
7 150 Rouse Blvd. 3rd Floor
8 Philadelphia, PA 19112

Marc Taylor
Marc Taylor Inc.
15396 N. 83rd. Ave. Ste. C103
Peoria, AZ 85381

9 Jeff Webster
10 OVG Facilities LLC
11 11755 Wilshire Blvd 900
12 Los Angeles, CA 90027

Hurricane Fence Co.
3404 W. Lincoln St.
Phoenix, AZ 85009

13 Pritchard Sports & Entertainment Group, LLC
14 Entertainment Group, LLC
15 2130 Priest Bridge Dr. 9
16 Crofton, MD 21114

Brenda Bahena, Director
Earthscaapes
4640 E. Cotton Gin Loop
Phoenix, AZ 85040

17 Reid Glick
18 R-Entertainment Company LLC
19 16413 N. 91st St. C-100
20 Scottsdale, AZ 85260

Mobile Modular
401 N. 56th St.
Chandler, AZ 85226

21 RJ Horsley
22 Spoton Transact LLC
23 100 California St. 900
24 San Francisco, CA 94111

ICON HD, LLC
702 Main St.
Stoughton, SK S0G 4T0
CANADA

25 Adam Blumenfeld
26 BSN Sports, LLC
27 14460 Varsity Brands Way
Branch, TX 75244

Norcon
5412 E. Calle Cerritos
Guadalupe, AZ 85283
tim@norconindustries.net

Icon HD, LLC
702 Main St.
Stoughton, SK S0G 4T0
CANADA

Todd Mitzel
ICON Architectural Group
4000 Garden View Dr. Ste. 101
Grand Forks, ND 58201-7215
Todd@iconarchitects.com

Jayson Morris, CEO
Jayco Design & Installations
2560 N. 33rd Ave.
Phoenix, AZ 85009

Hellas
1000 Franklin Village Dr.
Franklin, MA 02038

Anthony Stevenson
Lloyd Civil Group
605 W. Knox Rd. Ste. 210
Tempe, AZ 85284

Global Industrial
29833 Network Place
Chicago, IL 60673-1298

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

/s/ Porter Solomon

1 Law Offices of
2 **EAST VALLEY INJURY LAW**
3 1525 South Greenfield Road
4 Mesa, Arizona 85206
5 (480) 542-5000

6 Matthew L. Riggs (SBN 015532)
7 Matt@evilaw.com
8 Attorney for Payson Geohagan

9 **IN THE UNITED STATES BANKRUPTCY COURT**
10 **FOR THE DISTRICT OF ARIZONA**

11 In Re:
12 LEGACY CARES, INC.,
13 Debtor.

Case No.: 2:23-bk-02832-DPC

Chapter 11

14 PAYSON GEOHAGAN
15 Movant,

**PROPOSED ORDER GRANTING
PAYSON GEOHAGAN'S MOTION FOR
RELIEF FROM THE AUTOMATIC STAY
(COMFORT ORDER)**

16 vs.

17 LEGACY CARES, INC. d/b/a LEGACY
18 SPORTS USA, LLC, an Arizona
19 Corporation

20 Respondents.

21 This matter having come before the Court pursuant to Payson Geohagan's (Mr. Geohagan's)
22 Motion for Relief from the Automatic Stay with relation to a personal injury claim by Mr. Geohagan
23 against Legacy Sports USA, LLC (the "Motion"). Mr. Geohagan's Motion, Notice of Motion, and
24 proposed order having been duly served upon the Debtor, Legacy Sports USA, LLC, Elite Sports
25 Group, LLC and other parties in accordance with Local Rule 4001-1(b)(1), no objection having been
26 received and good cause appearing,

27 IT IS HEREBY ORDERED, ADJUDGED, and DECREED:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

1. That the automatic stay of 11 U.S.C. § 362 is terminated immediately so that Mr. Geohagan may pursue his personal injury claim.
2. Mr. Geohagan may pursue legal remedies for his personal injury claim against the debtor's insurer.
3. This Order shall be binding and effective despite any conversion of this bankruptcy case to a case under any chapter of Title 11 of the United States Code.

DATED and SIGNED as above.

1 Law Offices of
2 **EAST VALLEY INJURY LAW**
3 1525 South Greenfield Road
4 Mesa, Arizona 85206
5 (480) 542-5000

6 Matthew L. Riggs (SBN 015532)
7 Matt@evilaw.com
8 Attorney for Payson Geohagan

9 **IN THE UNITED STATES BANKRUPTCY COURT**
10 **FOR THE DISTRICT OF ARIZONA**

11 In Re:
12 LEGACY CARES, INC.,
13 Debtor.

Case No.: 2:23-bk-02832-DPC

Chapter 11

14 PAYSON GEOHAGAN
15 Movant,

**NOTICE OF MOTION FOR RELIEF
FROM THE AUTOMATIC STAY
(COMFORT ORDER)**

16 vs.

17 LEGACY CARES, INC. d/b/a LEGACY
18 SPORTS USA, LLC, an Arizona
19 Corporation

20 Respondents.

21 Pursuant to Fed. R. Bankr. P. 4001 and Local Rule and Local Rule 4001-1, Payson Geohagan
22 (“Mr. Geohagan”) has filed a Motion for Relief from the Automatic Stay with relation to a personal
23 injury claim by Mr. Geohagan against Legacy Sports USA, LLC (the “Motion”).

24 Mr. Geohagan’s Motion seeks stay relief to pursue a personal injury claim against the insurer
25 of Legacy Sports USA, LLC.

26 If no party objects to the Motion within fourteen (14) days from the date of the service of this
27 Motion, the Court may grant the relief without a hearing as provided by Local Rule 4001-1(c). If an

1 objection is received by Mr. Geohagan, Mr. Geohagan will set the matter for hearing in accordance
2 with Local Rule 4001-1(g). Any objection to this Motion should be served on:

3
4 Matthew L. Riggs
5 East Valley Injury Law, PLC
6 1525 S. Greenfield Rd.
7 Mesa, AZ 85206
8 matt@evilaw.com

9 Respectfully submitted this 11th day of March, 2024.

10 **EAST VALLEY INJURY LAW PLC**

11 By: 

12 Matthew L. Riggs
13 1525 S. Greenfield Rd.
14 Mesa, AZ 85206
15 *Attorney for Payson Geohagan*

16 **CERTIFICATE OF SERVICE**

17 I hereby certify that on August 9th, 2023, I electronically transmitted the attached document
18 to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic
19 Filing to all CM/ECF registrants and to the Debtor, counsel for the Official Unsecured Creditors'
20 Committee, counsel for Legacy Sports USA, LLC and Elite Sports Group, LLC, and the Twenty
21 Largest Unsecured Creditors either via email and/or U.S. Mail postage prepaid as listed below:

22 Legacy Cares, Inc.
23 6321 S. Ellsworth Rd. Ste. 146
24 Mesa, AZ 85212

25 Robert H. McKirgan
26 Papetti Samuels Weiss McKirgan LLP
27 16430 N. Scottsdale Rd. Ste. 290
Scottsdale, AZ 85254
Counsel for Debtor

28 J. Henk Taylor
29 Warner Angle Hallam Jackson & Formanek,
30 PLC
31 2555 E. Camelback Rd. Ste. 800
32 Phoenix, AZ 85016
33 htaylor@warnerangle.com
34 *Counsel for Debtor*

35 Jordan A. Kroop
36 Cia M. Mackle
37 Bradford J. Sandler
38 Pachulski Stang Ziehl & Jones LLP
39 780 Third Ave. 34th Floor
40 New York, NY 10017
41 bsandler@pszjlaw.com
42 *Counsel for Official Committee of Unsecured
43 Creditors*

1 James J. Palecek
2 Karen A. Palecek
3 Palecek & Palecek PLLC
4 62 N. Scottsdale Rd. Ste. 144
5 Scottsdale, AZ 85253
6 jim@paleceklaw.com
7 karen@paleceklaw.com
8 *Counsel for Elite Sports Builders, LLC*

9 Josh Keown
10 Fieldturf USA
11 175 N. Industrial Blvd.
12 Calhoun, GA 30701

13 Ken Young
14 Spectra Food Services & Hospitality
15 150 Rouse Blvd. 3rd Floor
16 Philadelphia, PA 19112

17 Jeff Webster
18 OVG Facilities LLC
19 11755 Wilshire Blvd 900
20 Los Angeles, CA 90027

21 Pritchard Sports & Entertainment Group, LLC
22 Entertainment Group, LLC
23 2130 Priest Bridge Dr. 9
24 Crofton, MD 21114

25 Reid Glick
26 R-Entertainment Company LLC
27 16413 N. 91st St. C-100
Scottsdale, AZ 85260

28 RJ Horsley
29 Spoton Transact LLC
30 100 California St. 900
31 San Francisco, CA 94111

32 Adam Blumenfeld
33 BSN Sports, LLC
34 14460 Varsity Brands Way
35 Branch, TX 75244

36 Icon HD, LLC
37 702 Main St.
38 Stoughton, SK S0G 4T0
39 CANADA

40 Jayson Morris, CEO
41 Jayco Design & Installations
42 2560 N. 33rd Ave.
43 Phoenix, AZ 85009

Kelly Singer
Squire Patton Boggs LLP
2325 E. Camelback Rd. Ste. 700
Phoenix, AZ 85016
Kelly.singer@squirepb.com
Counsel for Legacy Sports, USA and Elite Sports Group, LLC

Icing Investment Holdings, LLC
11201 N. Tatum Blvd. Ste. 200
Phoenix, AZ 85028

Marc Taylor
Marc Taylor Inc.
15396 N. 83rd Ave. Ste. C103
Peoria, AZ 85381

Hurricane Fence Co.
3404 W. Lincoln St.
Phoenix, AZ 85009

Brenda Bahena, Director
Earthscapes
4640 E. Cotton Gin Loop
Phoenix, AZ 85040

Mobile Modular
401 N. 56th St.
Chandler, AZ 85226

ICON HD, LLC
702 Main St.
Stoughton, SK S0G 4T0
CANADA

Norcon
5412 E. Calle Cerritos
Guadalupe, AZ 85283
tim@norconindustries.net

Todd Mitzel
ICON Architectural Group
4000 Garden View Dr. Ste. 101
Grand Forks, ND 58201-7215
Todd@iconarchitects.com

Hellas
1000 Franklin Village Dr.
Franklin, MA 02038

1 Anthony Stevenson
2 Lloyd Civil Group
3 605 W. Knox Rd. Ste. 210
4 Tempe, AZ 85284

Global Industrial
29833 Network Place
Chicago, IL 60673-1298

5 /s/ Porter Solomon