

Laura Baker
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CLERK
US BANKRUPTCY COURT
DISTRICT OF DELAWARE

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

)	Chapter 11
In Re:)	
SUN POWER CORPORATION, et al.,)	Case No. 24-11649 (CTG)
BLUE RAVEN SOLAR, LLC)	Case No. 24-24-11659
Debtors)	(Case No. CV01-23-11270)

**MEMORANDUM IN SUPPORT OF MOTION FOR RELIEF FROM
AUTOMATIC STAY**

Cause exists for the Court to grant Ms. Laura Baker relief from the automatic stay pursuant to 11 U.S.C. § 362(d). Ms. Baker is a senior of 76 years, on a fixed income and this automatic stay presents a considerable financial hardship. Ms. Baker is currently involved in a civil lawsuit against Blue Raven Solar for specific violations of The Idaho Consumer Protection Act, negligence and breach of contract.

FACTUAL BACKGROUND AND CAUSE

Briefly, Plaintiff, Laura Baker filed a civil claim on July 17, 2023 against Blue Raven Solar, LLC for violation of the Idaho Consumer Protection Act (48-603) for making false claims to obtain a contract. Claims of negligence and breach of contract were also in the suit. The fraudulent promises of beneficial budget augmentations as a result of the solar project have yet to materialize and the doubling of Ms. Baker's electrical cost have proven detrimental and constitute an economic hardship. Again, she is a senior and living on a fixed income.

To further demonstrate a genuine hardship please consider the following:

- Ms. Baker's widow's benefit is \$1819.00 monthly.
- Ms. Baker's current monthly expenses are \$1680.56 monthly.
 - Utilities = \$510.55 (power, phone, water, trash, etc.).
 - Mortgage = \$846.00.
 - Medical = \$120.00
 - Vehicle Insurance = \$94.01
 - SOLAR payment = \$110.00

The court should note that the above figures **do not** include the expenses pertaining to food, fuel, vehicle maintenance and incidentals around the property which could only be approximated at best. Copies of actual statements can be made available at the request of the Court if necessary. Additionally, Ms. Baker has been pursuing her civil case, pro se, relying solely on the free public resources and senior centers.

Movant recently learned that Defendant Blue Raven, under its parent corporation, filed a Voluntary Petition under Chapter 11 of the Bankruptcy Code after the date of the civil complaint filing. As a result of 11 U.S.C. 362(a), Movant is prohibited from pursuing her claim against Defendant Blue Raven in the Idaho Action absent an Order from this Court.

As set forth above the Plaintiff suffered considerable injury as a result of actions by the defendant Blue Raven. The Idaho Action is presently pending in the 4th District Court of Ada County under Case No. CV01-23-11270. Movant would like to continue with the action and her pursuit damages for violations against her consumer rights which are applicable at the time of the offense.

ARGUMENTS AND AUTHORITIES

Under the Bankruptcy Code, “[o]n request of a party in interest and after notice and a hearing, the court shall grant relief from the stay provided under subsection (a) of this section, such as by terminating, annulling, modifying, or conditioning such stay— (1) for cause.” 11 U.S.C. § 362(d) (1).

As recently emphasized by the Fifth Circuit, “[c]ourts often grant creditors relief from the automatic stay so they can adjudicate their unliquidated claims against a debtor outside of bankruptcy court, particularly when the claims are already the subject of pending litigation.” **Kipp Flores Architects LLC v. Mid-Continent Cas. Co.**, 852 F.3d 405, 414 (5th Cir. 2017); see also **Bouchillon v. Caffey**, 539 B.R. 102, 104 (Bankr. N.D. Miss. 2015) (“This Court is bound by clear Congressional intent to deny bankruptcy courts the jurisdiction to hear such personal injury torts. This Court may only determine dischargeability of any debts arising from the tort,

but not the underlying tort itself. The state court is the more appropriate forum for resolution of the underlying case.”). 11. This principle is supported and confirmed by the legislative history of the automatic stay. As stated in the Senate Report accompanying the **Bankruptcy Reform Act of 1978**, “[i]t will **Case 20-34114 Document 785 Filed in TXSB on 12/11/20 Page 4 of 13 Page 5 of 10** often be more appropriate to permit proceedings to continue in their place of origin, when no great prejudice to the bankruptcy estate would result, in order to leave the parties to their chosen forum and to relieve the bankruptcy court from many duties that may be handled elsewhere.” S. Rep. No. 989, 95th Cong., 2d Sess. 50 (1978), reprinted in 1978 U.S.C.C.A.N. 5787, 5836; see also 2 Collier on Bankruptcy § 362.07[3], at 362-71 (15th ed. 1991); **In re Robbins, 964 F.2d 342, 345-46 (4th Cir. 1992)**.

This is especially true in cases, like here, that are based on state law and lack any connection with or interference with the pending bankruptcy case. See Kipp Flores, 852 F.3d at 414; *In re Fowler*, 259 B.R. 856, 858 (Bankr. E.D. Tex. 2001) (noting that “[t]his Court, like all bankruptcy courts, routinely lifts the stay to allow tort suits to go forward in state court to determine the liability, if any, of the Debtor”).

RELIEF REQUESTED

Relief Requested Under section 362(d)(1) of the Bankruptcy Code, the court may grant relief from the automatic stay “for cause.” 11 U.S.C. § 362(d)(1).

“Cause is determined on a case by case basis. *In re Tucson Estates, Inc.*, 912 F.2d 1162, 1166 (9th Cir. 1990). Although the term “cause” is not defined, the legislative history to this section indicates that cause includes “a desire to permit an action to proceed in another tribunal.” H.R. Rep.No. 595, 95th Cong., 1st Sess. 343

(1977)¹. Relief from an automatic stay has been granted to allow a creditor to obtain a judgment against a debtor in name only in order to recover from the debtor's insurer. *International Business Machines v. Fernstrom & Van Co.* (In re *Fernstrom & Van Co.*), 938 F.2d 731 (7th Cir. 1991).

Pursuant to Section 362(d) of the Bankruptcy Code, the Plaintiff, Ms. Baker respectfully motions the Court for relief from automatic stay in the bankruptcy proceedings involving Blue Raven Solar, LLC *only*, so that current civil litigation may proceed in the 4th District Court of Ada County Idaho.

DATED this 31th day of October, 2024.



Laura Baker

¹ “It will often be more appropriate to permit proceedings to continue in their place of origin, when no great prejudice to the bankruptcy estate would result, in order to leave the parties to their chosen forum and to relieve the bankruptcy court from duties that may be handled elsewhere.” *In re Tribune Co.*, 418 B.R. 116, 126 (Bankr. D. Del. 2009) (citing *In re SCO Group, Inc.*, 395 B.R. at 856) (quoting legislative history to section 362(d)(1) in H. R. Rep. No. 595, 95th Cong., 1st Sess., 341 (1977))

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ORDER GRANTING LIFT OF AUTOMATIC STAY

Upon consideration of the motion dated October 11, 2024 for relief from the automatic stay pursuant to section 362(d) of the Bankruptcy Code (the “**Motion**”) filed by Laura Baker is hereby granted.

DATED this _____ day of _____, 2024.

CERTIFICATE OF SERVICE

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US BANKRUPTCY COURT
DISTRICT OF DELAWARE

I HEREBY CERTIFY that on this 31 day of October, 2024, I caused
to be served a true copy of the foregoing AFFIDAVIT, by the method indicated
below, and addressed those parties marked below.

Served	Party	Counsel	Means of Service
X	Defendant	Bennett, Tueller, Johnson & Deere 3165 Millrock Drive #500 Salt Lake City, Utah 84121	[X] Mail

Laura Baker

Laura Baker

October 31, 2024

Date

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I HEREBY CERTIFY that on this 31th day of October, 2024, I caused to be served

a true copy of the foregoing MOTION FOR RELIEF FROM AUTOMATIC

STAY, by the method indicated below, and addressed those parties marked below.

Served	Party	Court Clerk	Means of Service
X	US Bankruptcy Court	Alyce Doody 824 N. Market St. #500 Wilmington, DE 19801	[X] Mail

Laura Baker

Laura Baker

October 31, 2024

Date