

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

_____	)	
In re:	)	Chapter 11
	)	
IEH AUTO PARTS HOLDING LLC, <i>et al.</i> , <sup>1</sup>	)	Case No. 23-90054 (CML)
	)	
Debtors.	)	(Jointly Administered)
_____	)	

**JASMINE KEMP’S FIRST AMENDED MOTION FOR RELIEF FROM STAY TO PROCEED  
WITH LITIGATION**

**THIS IS A MOTION FOR RELIEF FROM THE AUTOMATIC STAY. IF IT IS GRANTED, THE MOVANT MAY ACT OUTSIDE OF THE BANKRUPTCY PROCESS. IF YOU DO NOT WANT THE STAY LIFTED, IMMEDIATELY CONTACT THE MOVING PARTY TO SETTLE. IF YOU CANNOT SETTLE, YOU MUST FILE A RESPONSE AND SEND A COPY TO THE MOVING PARTY AT LEAST 7 DAYS BEFORE THE HEARING. IF YOU CANNOT SETTLE, YOU MUST ATTEND THE HEARING. EVIDENCE MAY BE OFFERED AT THE HEARING AND THE COURT MAY RULE.**

**REPRESENTED PARTIES SHOULD ACT THROUGH THEIR ATTORNEY.**

**THERE WILL BE A HEARING ON THIS MATTER ON APRIL 27, 2023 AT 10:00 AM IN COURTROOM 401, 515 RUSK, HOUSTON, TX 77002.**

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

Jasmine Kemp (“Movant”), creditor and party in interest in the above referenced bankruptcy case, files this Motion for Relief from Stay pursuant to 11 U.S.C. § 362(d) requesting that the stay be lifted so that Movant may proceed with litigation against the Debtors IEH Auto Parts LLC, IEH Auto Parts LLC d/b/a Auto Plus and its insurance carrier and pursue enforcement of any future judgment solely against the insurance company. Movant respectfully states as follows:

<sup>1</sup> The Debtor entities in these Chapter 11 cases, along with the last four digits of each Debtor entity’s federal tax identification number, are: IEH Auto Parts Holding LLC (6529); AP Acquisition Company Clark LLC (4531); AP Acquisition Company Gordon LLC (5666); AP Acquisition Company Massachusetts LLC (7581); AP Acquisition Company Missouri LLC (7840); AP Acquisition Company New York LLC (7361); AP Acquisition Company North Carolina LLC (N/A); AP Acquisition Company Washington LLC (2772); Auto Plus Auto Sales LLC (6921); IEH AIM LLC (2233); IEH Auto Parts LLC (2066); IEH Auto Parts Puerto Rico, Inc. (4539); and IEH BA LLC (1428). The Debtors’ service address is: 112 Townpark Drive NW, Suite 300, Kennesaw, GA 30144.



**JURISDICTION AND VENUE**

1. This Court has jurisdiction to consider the motion pursuant to 28 U.S.C. § 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409. The relief requested may be granted pursuant to 11 U.S.C. § 362(d).

**CONSTITUTIONAL AUTHORITY**

2. This Court has constitutional authority to enter a final order regarding relief from the automatic stay. 11 U.S.C. § 362 has no state law equivalent. Accordingly, the U.S. Supreme Court’s opinion in *Stern v. Marshall* is inapplicable. *See In re Carlew*, 469 B.R. 666, 672 (Bankr. S.D. Tex. 2012) (discussing *Stern v. Marshall*, 564 U.S. 462 (2011)).

3. In the alternative, matters related to the automatic stay imposed under section 362 of the Bankruptcy Code are essential bankruptcy matters which trigger the “public rights” exception. *See id.* The automatic stay is established by an express provision of the Bankruptcy Code, is central to the public bankruptcy scheme, and involves adjudication of rights created by the Bankruptcy Code. Therefore, the relief requested falls within this Court’s authority and this Court may enter a final order granting the relief requested.

**FACTUAL BACKGROUND**

4. Movant was seriously and permanently injured in an auto collision on July 16, 2019 in the State of New York. The collision occurred when a vehicle, owned by IEH AUTO PARTS, LLC (“IEH”) and driven by David Nicholson, caused a collision with a vehicle which Movant was operating. At the time of the collision, David Nicholson was an employee of Debtors IEH and Auto Plus.

**PROCEDURAL BACKGROUND**

5. On October 7, 2019, Movant filed a verified complaint (the “Verified Complaint”) naming IEH Auto Parts, LLC, Auto Plus, and David A. Nicholson as Defendants in the Dutchess Supreme Court under Index No. 2019-54025 (the “New York Litigation”). A copy of the Verified Complaint is attached hereto as Exhibit A. Debtors’ insurance company is defending the named Defendants in the New

York Litigation.

6. On January 31, 2023 (the “Petition Date”), the Debtors filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code, thereby creating its bankruptcy estate and commencing its bankruptcy case, jointly administered as the current Bankruptcy Case.

7. On February 3, 2023, a “Notice of Suggestion of Pendency of Bankruptcy for IEH Auto Parts LLC and Automatic Stay of Proceedings” (“Suggestion of Bankruptcy”) was filed in the New York Litigation. A copy of the Suggestion of Bankruptcy filed in the New York Litigation is attached hereto as Exhibit B. The automatic stay in the current bankruptcy case has halted the New York Litigation.

### **ARGUMENTS AND AUTHORITIES**

8. Movant asserts unsecured claims against the Debtor and the Estate based on the claims asserted in the New York Litigation. Debtor is disputing liability in the New York Litigation, which confirms adjudication of these claims is necessary and appropriate.

9. Section 362 provides that “[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) (citing *In re Xenon Anesthesia of Texas*, 510 B.R. 106, 112 (Bankr. S.D. Tex. 2014)).

10. Where a debtor has insurance in place covering the claim, “continuation of the [civil] litigation should be permitted since hardship to the debtor is likely to be outweighed by hardship to the plaintiff.” *In re Honosky*, 6 B.R. 667, 669 (Bankr. S.D.W. Va. 1980) (quoting 2 *Collier on Bankruptcy* § 362.07[3] at 362-49 (15th ed. 1979)); *see also In re Fowler*, 259 B.R. 856, 858 (Bankr. E.D. Tex. 2001) (“This 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.”); *In re Turner*, 55 B.R. 498, 501–02 (Bankr. N.D. Ohio 1985) (holding that relief from the automatic stay was appropriate where creditor was not seeking enforcement of judgment against debtor).

11. In considering whether cause exists for relief from the automatic stay with respect to the continuation of prepetition litigation, this Court employs the following twelve-factor analysis:

1) whether the relief will result in a partial or complete resolution of the issues; 2) lack of any connection with or interference with the bankruptcy case; 3) whether the other proceeding involves Debtor as a fiduciary; 4) whether a specialized tribunal has been established to hear the particular cause of action; 5) whether the debtor’s insurer has assumed full responsibility; 6) whether the action primarily involves third parties; 7) whether litigation in the other forum would prejudice the interests of other creditors; 8) whether the judgment claim arising from the other action is subject to equitable subordination; 9) whether movant’s success would result in a judicial lien avoidable by the debtor; 10) interests of judicial economy and the expedition and economical resolution of litigation; 11) whether the proceedings have progressed to the point that parties are ready for trial; and 12) impact of the stay on the parties and the balance of harm

*Xenon Anesthesia*, 510 B.R. at 112 (citing *In re Curtis*, 40 B.R. 795 (Bankr. D. Utah 1984)). The burden of proof is a shifting one: the creditor must make an initial showing of “cause,” whereafter the burden on all other issues, including retaining the automatic stay in place, is on the debtor. *See, e.g., In re Mosher*, 578 B.R. 765, 772 (Bankr. S.D. Tex. 2017).

12. Here, Movant submits that an application of these factors weighs heavily in favor of granting relief from the stay to liquidate Movant’s claims. A brief discussion of the relevant factors follows:

i. Lifting the stay will not interfere with the bankruptcy case and the New York Litigation is not connected with the bankruptcy case. Upon information and belief, insurance is providing a defense to Movant’s claims, meaning that the Debtor should not incur any material costs in defending against those claims. However, even if the Debtor has or will incur costs defending the claims, costs alone are not sufficient to deny relief from the automatic stay. *Fowler* at 861 (“Cost of defending an action is but one factor for the court to consider which alone does not constitute grounds for denying a movant relief from the automatic stay.”) This weighs in favor of lifting the stay.

ii. Movant is not seeking to recover on their claims against the Debtor nor the Estate outside of the bankruptcy process, consequently no other creditor will be prejudiced if relief from the automatic stay is granted. On the contrary, as the Movant may be able to recover from non-Debtor and non-estate property, the Debtor and other creditors may benefit from having Movant's substantial claims satisfied in whole or in part from collateral sources of recovery. This weighs in favor of lifting the stay.

iii. Similarly, since the New York Litigation involves a non-debtor defendant, that defendant may be able to argue against continued litigation on the grounds that Debtor is a necessary and indispensable party, thus potentially leading to additional, severe, and actual prejudice to the Movant. This weighs in favor of lifting the stay.

iv. The interests of judicial economy and the expedition and economical resolution of litigation strongly support granting relief from the automatic stay, as the New York Litigation is already pending in the most efficient and economical manner possible. This weighs in favor of lifting the stay.

v. The impact of the automatic stay and the balance of harms greatly support granting relief from the automatic stay. Movant has already suffered serious and permanent injuries. To deny Movant her "day in court" would violate Movant's due process and constitutional rights. *Id.* at 861 (holding that failing to lift the stay to proceed with a tort claim "does not comport with due process," as the injured party would be left without a remedy). If the stay is not lifted, Movant would be prevented from receiving meaningful and actual redress for her damages, as well as unnecessarily delaying Movant's ability cover medical and other costs associated with her injuries, while offering no material benefit to the Debtor or to the Estate, given that Movant's claims must inevitably be liquidated by another court. This weighs heavily in favor of lifting the stay.

13. When taken collectively, the factors weigh in favor of lifting the stay. Denying Movant's Motion and depriving Movant of her day in court will subject Movant to continuing, needless delay while benefiting the interests of Debtors' insurance carrier and non-debtor defendant, none of whom are entitled to protection by the automatic stay.

**PRAYER**

WHEREFORE, PREMISES CONSIDERED, Movant respectfully requests that the Court enter an order: (i) granting this Motion; (ii) granting Movant relief from the automatic stay to liquidate Movant's claims to finality; (iii) allowing recovery from any applicable insurance policy or non-debtor; (iv) retaining the automatic stay in place for purposes of any collection as against the Debtor, and to the extent that any such claims are not satisfied from the proceeds of any available insurance policies or non-debtor third parties, recovery solely as a general unsecured prepetition claims in the Debtors' Chapter 11 cases; and (v) granting Movant such other and further relief to which Movant may be justly entitled.

Respectfully submitted,

THE LANE LAW FIRM, PLLC

/s/Robert C. Lane

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COUNSEL FOR JASMINE KEMP

**CERTIFICATE OF CONFERENCE**

I, Zachary Casas, certify that on March 15, 2023, I sent an email to Proposed Counsel for Debtors regarding this Motion for Relief, and the basis for the Motion. A follow-up was sent by this office on March 23, 2023. No agreement has been reached.

/s/ A. Zachary Casas  
A. Zachary Casas

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the First Amended Motion for Relief was served to the parties listed below either via e-mail, electronic notice by the court's ECF noticing system, or by first-class mail pre-paid postage and via ECF notification on all parties entitled to ECF notification in this case on March 28, 2023:

Debtors:

IEH Auto Parts Holding LLC  
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/s/Robert C. Lane  
Robert C. Lane

Label Matrix for local noticing  
0541-4  
Case 23-90054  
Southern District of Texas  
Houston  
Tue Mar 28 11:03:51 CDT 2023

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Harris County, et al  
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JPMorgan Chase Bank, N.A.  
s/b/m/t Chase Bank USA, N.A.  
c/o Robertson, Anschutz, Schneid,  
Crane & Partners, PLLC  
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Jenray Products, Inc  
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W. W. Grainger, Inc  
401 S. Wright Rd.  
Janesville, WI 53546-8729

Wells Fargo Bank, N.A.  
800 Walnut Street MAC F0005-055  
Des Moines, IA 50309-3891

Wells Fargo Vendor Financial Services, LLC  
1010 Thomas Edison Blvd SW  
Cedar Rapids, IA 52404-8247

Elizabeth Carol Freeman  
The Law Office of Liz Freeman  
PO Box 61209  
Houston, TX 77208-1209

Emily Flynn  
Jackson Walker LLP  
1401 McKinney Street  
Ste 1900  
Houston, TX 77010-1900

Genevieve Marie Graham  
Jackson Walker LLP  
1401 McKinney Street  
Suite 1900  
Houston, TX 77010-1900

Ira Capital Management Systems LLC and EHL H  
c/o Deiches & Ferschmann  
25 Wilkins Avenue  
Haddonfield, NJ 08033-2405

Matthew D Cavanaugh  
Jackson Walker LLP  
1401 McKinney Street  
Ste 1900  
Houston, TX 77010-1900

Veronica Ann Polnick  
Jackson Walker, LLP  
1401 McKinney St.  
Suite 1900  
Houston, TX 77010-1900

Vienna Flores Anaya  
Jackson Walker LLP  
2323 Ross Avenue, Suite 600  
Dallas, TX 75201-2725

The preferred mailing address (p) above has been substituted for the following entity/entities as so specified by said entity/entities in a Notice of Address filed pursuant to 11 U.S.C. 342(f) and Fed.R.Bank.P. 2002 (g)(4).

Eversource Gas of Massachusetts  
POB 2025  
Springfield, MA 01056

Velvac Inc.  
2405 S Calhoun Rd  
New Berlin, WI 53151

The following recipients may be/have been bypassed for notice due to an undeliverable (u) or duplicate (d) address.

(u)1005 Raco Court Owner LLC	(u)86 Winter Street LLC	(u)American Entertainment Properties Corp.
(u)Axalta Coating Systems, LLC	(u)BBB Industries, LLC	(u)Brazoria County, et al
(u)CITGO Petroleum Corporation	(u)Conestoga Ceramic Tile Distributors, Inc.	(u)Cortland Squires, LLC
(u)DRiV Automotive Inc.	(u)Element Fleet Corporation	(u)Gates Corporation
(u)Geodis Logistics LLC	(u)HNP Investments LLC	(u)IAP WEST, INC.
(u)IAP, Inc.	(u)Interstate Batteries, Inc.	(u)Life Insurance Company of North America
(u)Official Committee of Unsecured Creditors	(u)Peerless Chain Company	(u)RIDC of Southwestern PA
(u)The Pep Boys Manny, Moe & Jack LLC	(u)The Texas Taxing Authorities	(u)US Pack Parts LLC
(u)WMB, L.C.	(u)Wilbarger County	

End of Label Matrix	
Mailable recipients	112
Bypassed recipients	26
Total	138

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF DUTCHESS

-----X

JASMINE F. KEMP,  
Plaintiff,

Index No:

-against-

**SUMMONS**

IEH AUTO PARTS, LLC., AUTO PLUS and  
DAVID A. NICHOLSON,  
Defendants.

Plaintiff designates  
Dutchess County  
as the place of trial

-----X

The basis of this venue is  
Plaintiff's residence

**To the above-named Defendant(s):**

**You are hereby summoned** to answer the Complaint in this action, and to serve a copy of your Answer, or if the Complaint is not served with this Summons, to serve a Notice of Appearance on the Plaintiff's attorney within twenty days after the service of this Summons exclusive of the day of service, where service is made by delivery upon you personally within the state, or within 30 days after completion of service where service is made in any other manner. In case of your failure to appear or answer, Judgment will be taken against you by default for the relief demanded in the Complaint.

Plaintiff resides at 108 South Avenue, Poughkeepsie, NY 12601.

Dated: White Plains, New York  
October 7, 2019

Yours, etc.

WORBY VECCHIO EDELMAN LLP



By: Richard S. Vecchio  
Attorneys for Plaintiff  
11 Martine Avenue  
White Plains New York 10606  
(914) 686-3700  
[rvecchio@wvelaw.com](mailto:rvecchio@wvelaw.com)

TO:  
IEH AUTO PARTS, LLC  
940 Ridgebrook Road  
Sparks, Maryland 21152

AUTO PLUS  
18 Delavergne Avenue  
Wappingers Falls, NY 12590

DAVID A. NICHOLSON  
29 Saint Nicholas Road  
Wappingers Falls, NY 12590

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF DUTCHESS

-----X  
JASMINE F. KEMP,  
Plaintiff,

Index No:

-against-

**VERIFIED  
COMPLAINT**

IEH AUTO PARTS, LLC., AUTO PLUS and  
DAVID A. NICHOLSON,  
Defendants.  
-----X

Plaintiff, by her attorneys, **WORBY VECCHIO EDELMAN LLP**, as and for her verified complaint against Defendants, hereby states:

1. At all times hereinafter mentioned, Plaintiff, JASMINE F. KEMP resides in the County of Dutchess, State of New York.
2. The incident occurred in the County of Orange, State of New York.
3. The limited liability provisions of C.P.L.R. § 1601 do not apply pursuant to one or more of the exceptions of C.P.L.R. § 1602, including but not limited to subsections 2, 5, 6 and/or and/or 10.
4. That at all times herein mentioned and upon information and belief, Defendant, IEH AUTO PARTS, LLC., (hereinafter referred to as "IEH"), was and still is a domestic corporation organized and existing under and by virtue of the laws of the State of New York.
5. That at all times herein mentioned and upon information and belief, Defendant, IEH, was and still is a foreign corporation authorized to do business under and by virtue of the laws of the State of New York.
6. That at all times herein mentioned and upon information and belief, Defendant, IEH maintains a principal place of business at 940 Ridgebrook Road, Sparks, Maryland 21152.
7. That prior to July 16, 2019, Defendant, IEH regularly did and solicited business in the State of New York and engaged in a persistent course of conduct and derived substantial revenue from goods sold or used in the State of New York.

8. That prior to July 16, 2019, Defendant, IEH expected or should reasonably have expected its business to have consequences in the State of New York and derived substantial revenue from its interstate or international commerce.

9. That at all times herein mentioned, Defendant, IEH transacted business within the State of New York or contracted outside of the State of New York to supply goods in the State of New York.

10. That at all times hereinafter mentioned, Defendant, AUTO PLUS, was and is a domestic corporation organized and existing under and by virtue of the laws of the State of New York.

11. That at all times herein mentioned and upon information and belief, Defendant, AUTO PLUS, was and still is a foreign corporation authorized to do business under and by virtue of the laws of the State of New York.

12. That at all times herein mentioned and upon information and belief, Defendant, AUTO PLUS maintains a retail auto parts business at 18 Delavergne Avenue, Wappingers Falls, New York.

13. Upon information and belief, Defendant, DAVID A. NICHOLSON (hereinafter referred to as "NICHOLSON") was and still is a resident of Wappingers Falls, New York.

14. On July 16, 2019, Defendant, NICHOLSON was an employee of Defendant, AUTO PLUS.

15. On July 16, 2019, Defendant, NICHOLSON was an employee of Defendant, IEH.

16. Upon information and belief, Defendant, IEH was the registered owner of a 2011 Toyota pickup motor vehicle bearing New York State license plate number 65189MJ (hereinafter referred to as "Defendants' Vehicle").

17. Upon information and belief, Defendant, IEH was the title owner of a 2011 Toyota pickup motor vehicle bearing New York State license plate number 65189MJ.

18. Upon information and belief, Defendant, IEH was the registered and title owner of a 2011 Toyota pickup motor vehicle bearing New York State license plate number 65189MJ.

19. On July 16, 2019, Defendant, NICHOLSON operated Defendants' vehicle with the knowledge, permission and consent, express or implied, of Defendant, IEH.

20. On July 16, 2019, Defendant, NICHOLSON operated the Defendants' vehicle during the course of his employment with Defendant, AUTO PLUS.

21. On July 16, 2019, Defendant, NICHOLSON operated the Defendants' vehicle during the course of his employment with Defendant, IEH.

22. At all times herein mentioned, Defendant, IEH managed the Defendants' vehicle.

23. At all times herein mentioned, Defendant, AUTO PLUS managed the Defendants' vehicle.

24. At all times herein mentioned, Defendant, NICHOLSON managed the Defendants' vehicle.

25. At all times herein mentioned, Defendant, IEH maintained the Defendants' vehicle.

26. At all times herein mentioned, Defendant, AUTO PLUS maintained the Defendants' vehicle.

27. At all times herein mentioned, Defendant, NICHOLSON maintained the Defendants' vehicle.

28. At all times herein mentioned, Defendant, IEH controlled the Defendants' vehicle.

29. At all times herein mentioned, Defendant, AUTO PLUS controlled the Defendants' vehicle.

vehicle.

30. At all times herein mentioned, Defendant, NICHOLSON controlled the Defendants'

vehicle.

31. At all times herein mentioned, and on July 16, 2019, the roadway in the vicinity of 547 Broadway, approximately 100 feet West of Dupont Avenue, City of Newburgh, County of Orange, State of New York, was a public roadway and/or thoroughfare.

32. On July 16, 2019, Defendant, NICHOLSON was operating the Defendants' vehicle at the aforementioned location.

33. On July 16, 2019, at approximately 12:58 p.m., Plaintiff, JASMINE F. KEMP was operating a 2014 Mazda motor vehicle, owned by Gilda J. McGue, bearing New York State license plate number JJB9780 at the aforementioned location.

34. On July 16, 2019, the Defendants' vehicle operated by Defendant NICHOLSON and owned by Defendant IEH, struck the motor vehicle which Plaintiff, JASMINE F. KEMP was operating.

35. As a result of the contact, Plaintiff, JASMINE F. KEMP was injured.

36. The occurrence was caused wholly and solely by reason of the negligence of the Defendants without any fault or negligence on the part of the Plaintiff contributing thereto.

37. The Defendants, individually and/or jointly, were negligent, wanton, careless and reckless in the ownership, operation, management, control, supervision and maintenance of their vehicle, in permitting the vehicle to be operated at a dangerous, excessive and unlawful rate of speed under the circumstances; in failing to yield the right of way to Plaintiff; in failing to equip the vehicle with proper and necessary operating equipment; in failing to use proper braking

devices; in permitting the vehicle to be operated without due regard to the rights and safety of Plaintiff; in turning improperly; in constituting an immediate hazard by turning left and failing to yield the right of way to Plaintiff in violation of the Vehicle and Traffic Law, including Section 1141; in striking Plaintiff's vehicle; in permitting the vehicle to be operated in a manner which unreasonably endangered Plaintiff; in permitting the vehicle to be operated at a rate of speed greater than was reasonable and proper at the time and place of occurrence; in failing to stop or slow down; in operating the vehicle in a distracted and inattentive manner; in failing to see Plaintiff; in failing to properly maintain the vehicle according to law; in failing to give any signal or warning to Plaintiff prior to striking her vehicle; in failing to apply the brakes in a timely manner; in being unable to stop in time to avoid striking Plaintiff's vehicle; in failing to use proper and good judgment in the ownership and operation of the vehicle; in violating the applicable laws, rules, ordinances, statutes and regulations in such cases made and provided; and the Defendants were otherwise grossly negligent careless, reckless and negligent and failed to exercise reasonable care.

38. By reason of the foregoing, Plaintiff sustained severe and permanent personal injuries, became sick, sore, lame and disabled; suffered injuries to her nervous system; suffered mental anguish, was confined to hospital, bed and home and may, in the future, be so confined; was incapacitated from attending to her usual duties and vocation and may, in the future, be so incapacitated; will suffer a loss and/or limitation of quality and enjoyment of life and loss of income; and Plaintiff was otherwise damaged.

39. That Plaintiff sustained a "Serious Injury" or "Serious Injuries" as defined in Section 5102(d) the Insurance Law of the State of New York.

40. That Plaintiff sustained a serious injury or serious injuries and economic loss greater than basic economic loss as defined in Section 5104 of the Insurance Law of the State of New York.

41. This action falls within the exceptions set forth in CPLR §1602(6) and (7).

42. That Defendants aforesaid acts and failures were negligent, careless, and reckless, entitling Plaintiff to compensatory damages.

43. By reason of the foregoing, Plaintiff has been damaged in an amount which exceeds the jurisdictional limitations of all lower court which would otherwise have jurisdiction over this action for compensatory damages.

**WHEREFORE**, Plaintiff demands judgment against Defendants herein in a sum which exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction over this action for compensatory damages; together with the interest, costs and disbursements of this action.

Dated: White Plains, New York  
October 7, 2019

Yours, etc.,

WORBY VECCHIO EDELMAN LLP

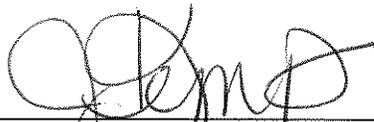
  
By: Richard S. Vecchio  
Attorneys for Plaintiff  
11 Martine Avenue, Penthouse  
White Plains, NY 10606  
(914) 686-3700

VERIFICATION

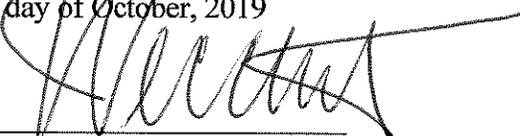
STATE OF NEW YORK )  
 ) ss:  
COUNTY OF WESTCHESTER )

JASMINE F. KEMP, being duly sworn says:

I am the plaintiff in the action herein; I have read the annexed COMPLAINT, know the contents thereof and the same are true to the best of my knowledge, except those matters therein which are stated to be alleged on information and belief, and as to those matter I believe them to be true.

  
\_\_\_\_\_  
JASMINE F. KEMP

Sworn to before me this  
7<sup>th</sup> day of October, 2019

  
\_\_\_\_\_  
Notary Public

**RICHARD S. VECCHIO**  
Notary Public, State of New York  
No. 02VE4948240  
Qualified in Westchester County  
Commission Expires March 6, 2023

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF DUTCHESS

-----X  
JASMINE F. KEMP,

Index No.: 54025/19

Plaintiff,

-against-

IEH AUTO PARTS LLC and AUTO PLUS,

Defendants.

-----X

**NOTICE OF SUGGESTION ON PENDENCY OF BANKRUPTCY  
FOR IEH AUTO PARTS LLC AND AUTOMATIC STAY OF PROCEEDINGS**

PLEASE TAKE NOTICE that on January 31, 2023, IEH Auto Parts LLC and Auto Plus (collectively, the “Debtors”) filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101–1532 (the “Bankruptcy Code”), in the United States Bankruptcy Court for the Southern District of Texas (the “Bankruptcy Court”). The Debtors’ chapter 11 case is being administered under Case No. 23-90057. A copy of the voluntary petition of IEH Auto Parts LLC and Auto Plus is attached hereto as Exhibit A.

PLEASE TAKE FURTHER NOTICE that pursuant to section 362(a) of the Bankruptcy Code, the Debtors’ filing of their respective voluntary petitions gives rise to a stay, applicable to all entities, of, among other things: (a) the commencement or continuation of any judicial, administrative, or other action or proceeding against the Debtors (i) that was or could have been commenced before the commencement of the Chapter 11 Case or (ii) to recover a claim against the Debtors that arose before the commencement of the Chapter 11 Case;

EXHIBIT B

(b) the enforcement against any of the Debtors or against any property of each of the Debtors' bankruptcy estates of a judgment obtained prior to the commencement of the Chapter 11 Cases; and (c) any act to obtain possession of property of or from any of the Debtors' bankruptcy estates, or to exercise control over property of any of the Debtors' bankruptcy estates.<sup>1</sup> No order has been entered in the Chapter 11 Cases granting relief from the automatic stay.

**PLEASE TAKE FURTHER NOTICE** that additional information regarding the status of the Debtors' chapter 11 cases may be obtained by (i) reviewing, free of charge, the docket of the Debtors' chapter 11 cases on the website of the Debtors', at [www.kccllc.net/autoplus](http://www.kccllc.net/autoplus), (ii) visiting the Court's website at [www.nysb.uscourts.gov](http://www.nysb.uscourts.gov) (PACER login and password required) in accordance with the procedures and fees set forth therein, or (iii) contacting the following proposed counsel for the Debtors: Jackson Walker LLP, 1401 McKinney Street, Suite 1900, Houston, TX 77010, (713) 752-4200.

Dated: New York, New York  
February 3, 2023

Clyde & Co US LLP



By:

Jeffrey C. Fegan, Esq.  
The Chrysler Building  
405 Lexington Avenue, 16<sup>th</sup> Floor  
New York, NY 10174

*Attorneys for Defendants IEH Auto Parts LLC  
IEH Auto Parts LLC d/b/a Auto Plus, Incorrectly  
s/h/a Auto Plus, and David A. Nicholson*

To: Worby Vecchio Edelman LLP  
11 Martine Avenue  
White Plains, NY 10606

<sup>1</sup> Nothing herein shall constitute a waiver of the Debtors' rights to assert any claims, counterclaims, defenses, rights of setoff or recoupment, or any other claims against any party to the above-captioned cases. The Debtors expressly reserve all rights to contest any claims that may be asserted against the Debtors.

(914) 686-3700

*Attorneys for Plaintiff Jasmine F. Kemp*

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

In re:	)	
	)	Chapter 11
IEH AUTO PARTS HOLDING LLC, <i>et al.</i> , <sup>1</sup>	)	Case No. 23-90054 (CML)
Debtors.	)	(Jointly Administered)
	)	

**ORDER GRANTING JASMINE KEMP’S MOTION FOR RELIEF  
FROM THE AUTOMATIC STAY**

CAME ON FOR CONSIDERATION the Motion for Relief (the “Motion”), filed by Jasmine Kemp (“Movant”), a creditor in the above styled and numbered jointly administered Chapter 11 case of IEH Auto Parts Holding LLC, *et al.* Having considered the Motion, finding that service and notice thereof was sufficient and appropriate, and finding that cause for granting said relief exists, it is hereby:

**ORDERED** that the automatic stay is modified so as to permit Movant to liquidate the claims against Debtors IEH Auto Parts LLC and Auto Plus to finality in the currently pending New York Litigation. It is further,

**ORDERED** that, notwithstanding the foregoing, the automatic stay shall remain in place with respect to collection on any judgment or claim by Movant against the Debtors, but not as against any insurance carrier or third party. It is further,

**ORDERED** that to the extent that any judgment or settlement is not satisfied from any available proceeds of insurance policies, the balance of such judgment or settlement shall be treated as a general

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<sup>1</sup> The Debtor entities in these Chapter 11 cases, along with the last four digits of each Debtor entity’s federal tax identification number, are: IEH Auto Parts Holding LLC (6529); AP Acquisition Company Clark LLC (4531); AP Acquisition Company Gordon LLC (5666); AP Acquisition Company Massachusetts LLC (7581); AP Acquisition Company Missouri LLC (7840); AP Acquisition Company New York LLC (7361); AP Acquisition Company North Carolina LLC (N/A); AP Acquisition Company Washington LLC (2772); Auto Plus Auto Sales LLC (6921); IEH AIM LLC (2233); IEH Auto Parts LLC (2066); IEH Auto Parts Puerto Rico, Inc. (4539); and IEH BA LLC (1428). The Debtors’ service address is: 112 Townpark Drive NW, Suite 300, Kennesaw, GA 30144.

unsecured claim in the Debtors' Chapter 11 case, and subject to treatment as such under any confirmed plan.

Signed: \_\_\_\_\_

\_\_\_\_\_  
Christopher M. Lopez  
United States Bankruptcy Judge