

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

**In Re:** ) **Chapter 11 Proceeding**  
 )  
**ODI OLDCO, INC.,** ) **Jointly Administered**  
 )  
**Debtor.** ) **Case No.: 24-05385**  
 )  
 ) **Hon. David D. Cleary**

**NOTICE OF MOTION**

TO: See attached list

PLEASE TAKE NOTICE that on February 5, 2025, at 10:00 am, I will appear before the Honorable David D. Cleary, or any judge sitting in that judge’s place, either in courtroom 644 of the Dirksen Federal Building, 219 S. Dearborn Street, Chicago, Illinois or electronically as described below, and present the motion of Maria Nida Panto-Escarayan for relief from the authomatic stay, a copy of which is attached.

**Important: Only parties and their counsel may appear for presentment of the motion electronically using Zoom for Government. All others must appear in person.**

To appear by Zoom using the internet, go to this link: <https://www.zoomgov.com/>. Then enter the meeting ID and passcode.

To appear by Zoom using a telephone, call Zoom for Government at 1-669-254-5252 or 1-646-828-7666. Then enter the meeting ID and passcode. Meeting ID and passcode.

The meeting ID for this hearing is 161 122 6457, and the passcode is Cleary644. The meeting ID and passcode can also be found on the judge’s page on the court’s web site.

**If you object to this motion** and want it called on the presentment date above, you must file a Notice of Objection no later than two (2) business days before that date. If a Notice of Objection is timely filed, the motion will be called on the presentment date. If no Notice of Objection is timely filed, the court may grant the motion in advance without calling it.

**MARIA NIDA PANTO-ESCARAYAN**

By: /s/ Gregory J. Jordan  
One of Her Attorneys

**CERTIFICATE OF SERVICE**

I, Gregory J. Jordan, certify that I served a copy of this notice and the attached motion on each entity as shown on the attached list at the address shown and by the method shown on January 21, 2025 at 4:00 p.m.

/s/ Gregory J. Jordan

**SERVICE LIST**

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| <b>In Re:</b>           | ) | <b>Chapter 11 Proceeding</b> |
|                         | ) |                              |
| <b>ODI OLDCO, INC.,</b> | ) | <b>Jointly Administered</b>  |
|                         | ) |                              |
| <b>Debtor.</b>          | ) | <b>Case No.: 24-05385</b>    |
|                         | ) |                              |
|                         | ) | <b>Hon. David D. Cleary</b>  |

**MOTION FOR RELIEF FROM THE AUTOMATIC STAY**

Now come Maria Nida Panto-Escarayan (“Movant”), a creditor, moves this Honorable Court, under §362(d) of the United States Bankruptcy Code for an order granting her relief from the automatic stay to permit the Movant to file and prosecute a lawsuit in the Circuit Court of Cook County, Illinois for the limited purpose of allowing the Movant to establish the amount of her claim against the debtors, ODI Oldco, Inc., TOGI Brands, LLC, Oberweis Dairy, Inc., TOGI Brands, LLC, The Oberweis Group, Inc., North Aurora Ice Cream, LLC, TOGI RE I, LLC, and Third Millennium Real Estate L.L.C.<sup>1</sup> (collectively and individually the “Debtors”) in such lawsuit and, and if applicable, to seek alternate or additional recovery from the Debtors’ liability insurer or insurers of any judgment entered in favor of the Movant in the such non-bankruptcy court proceeding. In support of the Movant’s request for relief, the Movant represent and allege as follows:

1. The Movant is a party seriously injured due to her sustaining burns resulting from one of the Debtors’ employees dropping scalding hot coffee on her. Due to the injuries suffered, the Movant intends to file a lawsuit to pursue compensation for her injuries. Based on an analysis

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<sup>1</sup> In an abundance of caution, as is typical in personal injury lawsuits, the Movant will file suit against each Debtor. On determining the Debtor or Debtors having liability, the Movant will voluntarily dismiss parties not having involvement in the events leading to the Movant’s cause of action.

of the facts and circumstances underlying the Movant's claim, her counsel has advised her that she possesses a substantial likelihood of success on the merit.

2. On April 12, 2024, the Debtor filed with this Court its voluntary petition for relief under Chapter 7 of the Bankruptcy Code.
3. The Debtors filing for protection under the United States Bankruptcy Code has stayed the Movant's ability to file and prosecute her claim.
4. The Movant believes the Debtors maintained an insurance policy or policies covering the Debtors for the occurrence which led to Movant's claims.
5. The Movant wishes to proceed with her cause of action against the Debtors for the limited purpose of determining the amount of her claim against the Debtors, collecting against one or more insurer and pursuing claims and collecting judgments against all other defendants in the cause of action.
6. The Movant requests this relief to proceed against nominally against the Debtors and the Debtor's insurer or insurers, as well as other defendants, as the Movant will need to serve and complete any discovery against one or more of the Debtors by taking depositions, interrogatories, request for production and the like from the Debtors along with testimony at trial.
7. The Movant does not seek any recovery from any Debtor or any of the Debtor's bankruptcy estates. Thus, the relief sought in this motion will not materially prejudice any Debtor in any way.
8. The Seventh Circuit and tis Court has granted creditors relief from the automatic stay to sue a debtor nominally, for purposes of establishing a right to insurance proceeds. *See In re D/C*

*Distribution, LLC, 617 B.R. 600, 615 (Bankr. N.D. Ill. 2020); Matter of Fernstrom Storage & Van Co., 938 F.2d 731 (7th Cir. 1991).*

9. The Movant requests that the Court waive that the fourteen (14) day stay of the effectiveness of this order provided under Rule 4001(a)(4).

WHEREFORE, Maria Nida Panto-Escarayan request this Court grant her relief from the automatic stay be allow her to proceed with prosecution of a lawsuit against the Debtors on the terms and conditions set forth herein above, waive the fourteen (14) day stay provided under Bankruptcy Rule 4001(a)(4) and grant such other and further relief as is just and proper in the circumstances.

January 21, 2025

**Respectfully submitted,**

**MARIA NIDA PANTO-  
ESCARAYAN**

By: /s/ Gregory J. Jordan  
One of Her Attorneys

Gregory J. Jordan (ARDC# 6205510)  
Mark Zito (ARDC# 6276231)  
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