

1 WALTER WILHELM LAW GROUP
a Professional Corporation
2 Michael L. Wilhelm #101495
Matthew P. Bunting #306034
3 205 E. River Park Circle, Suite 410
Fresno, CA 93720
4 Telephone: (559) 435-9800
Facsimile: (559) 435-9868
5 E-mail: mwilhelm@W2LG.com
mbunting@W2LG.com

(SPACE BELOW FOR FILING STAMP ONLY)

6 Attorneys for Movants
7 CAL LeDUC; TORI ABBY; MILEY ABBY, a
Minor, by and through her Guardian ad Litem
8 TORI ABBY; MANDY JOBE; LUKUS LeDUC;
JAY LeDUC; and CAL LeDUC as successor
9 In interest to the estate of Marsha Kay LeDUC,

10
11 IN THE UNITED STATES BANKRUPTCY COURT
12 EASTERN DISTRICT OF CALIFORNIA
13 FRESNO DIVISION

14 In re
15 MARIO A. GUERRA,
16 Debtor.

CASE NO. 17-11365

Chapter 7

DC NO. WW-1

17 CAL LeDUC; TORI ABBY; MILEY ABBY, a
18 Minor, by and through her Guardian ad
Litem TORI ABBY; MANDY JOBE; LUKUS
19 LeDUC; JAY LeDUC; and CAL LeDUC as
20 successor In interest to the estate of
Marsha Kay LeDUC,

Movants.

v.

23 MARIO A. GUERRA and TRUDI G.
24 MANFREDO, Chapter 7 Trustee,

Respondents.

DECLARATION OF STEPHEN
CORNWELL IN SUPPORT OF CAL
LeDUC et. al's MOTION FOR AN
ORDER GRANTING RELIEF FROM
STAY TO PURSUE PENDING ACTION
IN NON-BANKRUPTCY FORUM
PURSUANT TO 11 U.S.C. 362(d)(1)

Date: July 6, 2017
Time: 9:30 a.m.
Place: 2500 Tulare Street
Fresno, CA 93721
Courtroom 13
Judge: Honorable René Lastreto II

27 TO THE HONORABLE RENÉ LASTRETO II, UNITED STATES BANKRUPTCY
28 JUDGE:

MOTION FOR AN ORDER GRANTING RELIEF FROM -1-
STAY TO PURSUE PENDING ACTION IN NON-
BANKRUPTCY FORUM PURSUANT TO 11 U.S.C.
362(d)(1)

00145776-MPB-08.06.2017

1 I, Stephen Cornwell, hereby declare as follows:

2 1. My name is Stephen Cornwell. I am an attorney duly licensed and
3 practicing in the state of California.

4 2. I make this declaration in support of the Motion for an Order Granting
5 Relief from Stay to Pursue Pending Action In Non-Bankruptcy Forum Pursuant to 11
6 U.S.C. 362(d)(1) (the "Motion") filed herewith. I have personal knowledge of the facts
7 contained herein, except for those stated on information and belief, and as to those
8 matters I believe them to be true.

9 3. I represent Movants in Case no. 13CECG03811 (the "Car Crash
10 Litigation") which is currently pending in Fresno County Superior Court ("Superior
11 Court").

12 4. The Complaint in the Car Crash Litigation case was filed on December 11,
13 2013 and has been amended several times.

14 5. The Complaint alleges causes of action for wrongful death, personal
15 injury, emotional distress, and punitive damages.

16 6. In general, the Complaint alleges that Canchola and Guerra (along with
17 other defendants) both negligently caused the accident resulting in the injuries
18 sustained by the three in Tori Abby's car.

19 7. The accident occurred approximately four years ago and litigation has
20 been going on about that same length of time.

21 8. All discovery and pretrial work has been concluded.

22 9. The matter is ready for trial.

23 10. A Good Faith Settlement Hearing was set for April 13, 2017 in front of the
24 Honorable Mark Snauffer and trial was set to begin on April 24, 2017.

25 11. At this hearing, the Superior Court would decide if the remaining
26 defendants (other than Canchola, Guerra, and Guerra Produce) were settling in good
27 faith with Movants.
28

1 12. These remaining defendants were Toyota Motor Corporation, General
2 Motors, LLC, and New United Motor Manufacturing, Inc.

3 13. Due to the bankruptcy cases that were filed by Guerra and Canchola, the
4 trial has been stayed and dropped from the calendar. The good faith settlement was
5 also dropped from the calendar due to concerns over the automatic stay.

6 14. If the court grants Movants' Motion, I will have the good faith settlement
7 hearing reset and the case will proceed to trial.

8 15. It has been close to four years since Movants have suffered their injuries
9 and they still have not been compensated for their damages.

10 16. There is insurance coverage through Infinity Insurance but a dispute as to
11 the amount of the coverage has arisen. It appears Infinity Insurance underinsured the
12 Guerra vehicle as a matter of law and may be required to recognize a higher policy
13 limit.

14 17. Infinity Insurance might be subject to a claim of \$750,000 of coverage.

15 I am over the age of eighteen and if I were called as a witness in connection with
16 this proceeding I would and could testify as is set out in this Declaration.

17 I SO DECLARE and represent under penalty of perjury this 6 day of
18 June, 2017 at Fresno, California.

19
20
21
22 By:


Stephen Cornwell