

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
(Martinsburg)**

In re

PANTHERA ENTERPRISES, LLC,

BK No. 2:19-bk-00787

Chapter 11

Debtor.

**ORDER GRANTING MOTION OF DARRICK AND EMILY GUST FOR RELIEF
FROM AUTOMATIC STAY TO PURSUE INSURANCE WITH COMBINED REQUEST
FOR ALLOWANCE OF ADMINISTRATIVE EXPENSE CLAIM**

Upon consideration of the *MOTION OF DARRICK AND EMILY GUST FOR RELIEF FROM AUTOMATIC STAY TO PURSUE INSURANCE WITH COMBINED REQUEST FOR ALLOWANCE OF ADMINISTRATIVE EXPENSE CLAIM*, Docket # ____ (“Motion”), and this Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334; and consideration of the Motion and the request for stay relief and for an administrative expense therein being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided under the particular circumstances, and it appearing that no other or further notice need be provided; and after due deliberation and sufficient cause appearing therefor, it is hereby ORDERED THAT:

1. The Motion is GRANTED as set forth herein.

2. Darrick Gust has claims for personal injury arising from a post-petition explosion during a training exercise on the Debtor's premises. Emily Gust has related claims, including but not limited to, claims for loss of consortium arising from Darrick Gust's injuries. Movants are informed and believe that there are one or more insurance policies, owned by the Debtors, and also owned by non-debtor Panthera Training, LLC, covering Movants' claims against the Debtor ("Available Coverage").

3. It is accordingly ORDERED that the Automatic Stay is hereby modified to enable and allow Movants to name the Debtor as a defendant in a civil action to be filed in state court in West Virginia: (a) to proceed to a final judgment or settlement of Movants' claims; and (b) to attempt to recover any liquidated final judgment or settlement on the claims from and under the terms of Available Coverage, and (c) to fix the amount of Movants' administrative expense claim awarded under this Order as set forth below.

4. Movants' personal injury claims are post-petition tort claims entitled to administrative expense priority against the Debtor's estate pursuant to 11 U.S.C. § 503(b)(1) of the Bankruptcy Code, as authorized under *Reading Co. v. Brown*, 391 U.S. 471 (1968).

5. Movants are hereby granted an allowed administrative expense claim pursuant to 11 U.S.C. § 503(b)(1) in an amount to be fixed through liquidation of such claim in state court in West Virginia. Movants shall first seek recovery from the combined sources available for payment of Movants' claims, including the Available Coverage, as follows: (i) insurance covering claims against the Debtor, (ii) insurance covering claims against any non-debtor, and (iii) any direct recovery against any non-debtor. In the event all sources listed above are insufficient to satisfy any judgment in Movants' favor, Movants may seek to fix and obtain payment of the

administrative expense claim granted under this Order. In the event all sources listed above are sufficient to satisfy Movants' claims, Movants' administrative expense claim granted under this Order may be fixed at \$0.00.

6. The relief granted by this Order shall survive any discharge and/or injunction provisions set forth in any Plan of Reorganization confirmed by the Debtor.

7. This Order may be filed in any Court of competent jurisdiction to establish that Movants' claims are not stayed or otherwise impaired by the Debtor's bankruptcy case.

8. Nothing in this Order is intended to bind any non-debtor defendant nor shall it be deemed to waive or release any claim against any non-debtor defendant in any of civil action filed by Movants.

9. The Court shall retain jurisdiction with respect to all matters arising from or related to the implementation of this Order.

IT IS SO ORDERED

Presented by:

/s/ Spencer D. Elliott
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