

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE**

In re	:	Chapter 15
	:	
ARCTIC GLACIER INTERNATIONAL INC.,	:	Case No. 12-10605 (KG)
<i>et al.</i> ¹	:	
	:	(Jointly Administered)
Debtors in a Foreign Proceeding.	:	
	:	Ref. Docket No. 81

**RESPONSE OF THE MONITOR AND THE DEBTORS TO MOTION
OF NESTOR H. IRIZARRY AND PATRICIA IRIZARRY
FOR RELIEF FROM THE AUTOMATIC STAY**

Alvarez & Marsal Canada Inc., in its capacity as the court-appointed monitor and authorized foreign representative (the “Monitor”) for the above-captioned debtors (collectively, the “Debtors”) in a proceeding (the “Canadian Proceeding”) commenced under Canada’s *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended, and pending before the Court of Queen’s Bench of Winnipeg Centre (the “Canadian Court”), by its undersigned counsel hereby submits this response (the “Response”) to the Motion of Nestor H. Irizarry and Patricia Irizarry (the “Movants”) for Relief from the Automatic Stay to Proceed with and Consummate Settlement of State Court Personal Injury Action [D.I. 81]. In support of this Response, the Monitor respectfully represents as follows:

¹ The last four digits of the United States Tax Identification Number or Canadian Business Number, as applicable, follow in parentheses: (i) Arctic Glacier California Inc. (7645); (ii) Arctic Glacier Grayling Inc. (0976); (iii) Arctic Glacier Inc. (4125); (iv) Arctic Glacier Income Fund (4736); (v) Arctic Glacier International Inc. (9353); (vi) Arctic Glacier Lansing Inc. (1769); (vii) Arctic Glacier Michigan Inc. (0975); (viii) Arctic Glacier Minnesota Inc. (2310); (ix) Arctic Glacier Nebraska Inc. (7790); (x) Arctic Glacier New York Inc. (2468); (xi) Arctic Glacier Newburgh Inc. (7431); (xii) Arctic Glacier Oregon, Inc. (4484); (xiii) Arctic Glacier Party Time Inc. (0977); (xiv) Arctic Glacier Pennsylvania Inc. (9475); (xv) Arctic Glacier Rochester Inc. (6989); (xvi) Arctic Glacier Services Inc. (6657); (xvii) Arctic Glacier Texas Inc. (3251); (xviii) Arctic Glacier Vernon Inc. (3211); (xix) Arctic Glacier Wisconsin Inc. (5835); (xx) Diamond Ice Cube Company Inc. (7146); (xxi) Diamond Newport Corporation (4811); (xxii) Glacier Ice Company, Inc. (4320); (xxiii) Ice Perfection Systems Inc. (7093); (xxiv) ICEsurance Inc. (0849); (xxv) Jack Frost Ice Service, Inc. (7210); (xxvi) Knowlton Enterprises Inc. (8701); (xxvii) Mountain Water Ice Company (2777); (xxviii) R&K Trucking, Inc. (6931); (xxix) Winkler Lucas Ice and Fuel Company (0049); (xxx) Wonderland Ice, Inc. (8662). The Debtors’ executive headquarters is located at 625 Henry Avenue, Winnipeg, Manitoba, R3A 0V1, Canada.



Response to Lift Stay Motion

1. Prior to the Debtors' commencement of the Canadian Proceeding and the commencement of the chapter 15 cases by the Monitor, the Debtors reached a settlement (the "Settlement") with the Movants to resolve certain state court personal injury litigation brought by the Movants against Debtors Arctic Glacier, Inc. and Arctic Glacier Rochester, Inc. The Settlement was agreed in large part on the basis that settlement payments to the Movants would be made from the Debtors' insurance proceeds and a contribution from a third-party, non-Debtor defendant. The Settlement, however, had not yet been consummated at the time the Debtors commenced the Canadian Proceeding. Subsequently, the relevant insurers for the Debtors, the Debtors, the Movants, and the third-party defendant all agreed to proceed with consummation of the Settlement. The Monitor has conferred with the Debtors and is in agreement with consummating the Settlement given that the settlement payments due from the Debtors will be made solely by the Debtors' insurers and given the adverse impact on the resources and time of the Debtors and the Monitor should the Settlement's consummation become a contested issue.

2. The Initial Order, entered by the Canadian Court on February 22, 2012, authorizes the Debtors, with the consent of the Monitor, to settle litigation against the Debtors. The Initial Order provides:

THIS COURT ORDERS that until and including March 23, 2012, or such later date as this Court may order (the "Stay Period"), no proceeding or enforcement process in any court or tribunal (each, a "Proceeding") shall be commenced or continued against or in respect of any of the Arctic Glacier Parties or the Monitor, or affecting the Business or the Property, except with the written consent of the Arctic Glacier Parties and the Monitor, or with leave of this Court, and any and all such Proceedings currently under way against or in respect of the Arctic Glacier Parties or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

Initial Order ¶ 30.² Thus, because the Debtors and the Monitor both consent to consummation of the Settlement, no further or other relief is needed from the Canadian Court to proceed with the settlement.

3. Out of an abundance of caution, however, the Movants have requested that this Court enter an order providing for relief from the automatic stay to allow the Settlement to be consummated. The Monitor and the Debtors do not oppose this relief provided that the Settlement is implemented strictly in accordance with its terms, under which the Debtors' payment performance shall be borne in its entirety by the Debtors' insurers.

4. The Monitor and the Debtors counterpropose the attached order that clarifies that the Movants shall not collect on or enforce settlement payments due to them against the Debtors' assets subject to this Court's jurisdiction, other than proceeds of the Debtors' insurance as provided in the Settlement. The Debtors are discussing this order with the Movants and the insurers, and the parties hope to submit an agreed order next week.

Dated: Wilmington, Delaware
April 13, 2012

YOUNG CONAWAY STARGATT & TAYLOR, LLP

/s/ Ryan M. Bartley

Robert S. Brady (No. 2847)
Matthew B. Lunn (No. 4119)
Ryan M. Bartley (No. 4985)
Rodney Square
1000 North King Street
Wilmington, Delaware 19801
Telephone: (302) 571-6600
Facsimile: (302) 571-1253

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The Stay Period has been extended by the Canadian Court to June 27, 2012.

WILLKIE FARR & GALLAGHER LLP

Marc Abrams

Mary K. Warren

Alex W. Cannon

787 Seventh Avenue

New York, New York 10019-6099

Telephone: (212) 728-8000

Facsimile: (212) 728-8111

*Co-Counsel to the Monitor and
Foreign Representative*

RICHARDS, LAYTON & FINGER, P.A.

/s/ Paul N. Heath

Daniel J. DeFranceschi (DE 2732)

Paul N. Heath (DE 3704)

One Rodney Square

920 North King Street

Wilmington, Delaware 19801

Telephone: (302) 651-7700

Facsimile: (302) 651-7701

- and -

JONES DAY

Gregory M. Gordon (TX 08435300)

Daniel P. Winikka (TX 00794873)

Paul M. Green (TX 24059854)

2727 N. Harwood Street

Dallas, Texas 75201

Telephone: (214) 220-3939

Facsimile: (214) 969-5100

Attorneys for Debtors

PROPOSED FORM OF ORDER

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE**

In re	:	Chapter 15
	:	
ARCTIC GLACIER INTERNATIONAL INC.,	:	Case No. 12-10605 (KG)
<i>et al.</i> , ¹	:	
	:	(Jointly Administered)
Debtors in a Foreign Proceeding.	:	
	:	Ref. Docket No __

**ORDER GRANTING MOTION OF NESTOR H. IRIZARRY AND PATRICIA
IRIZARRY FOR RELIEF FROM THE AUTOMATIC STAY TO PROCEED
WITH AND CONSUMMATE SETTLEMENT OF STATE COURT
PERSONAL INJURY ACTION**

Upon consideration of the motion (the “Motion”)² of Nestor H. Irizarry and Patricia Irizarry (together, the “Movants”) for the entry of an order granting relief from the stay to proceed with and consummate the Settlement of the State Court Liability Action; and upon the Response of the Monitor and the Debtors to Motion of Nestor H. Irizarry and Patricia Irizarry for Relief from the Automatic Stay, containing representations by the Debtors and Alvarez & Marsal Canada Inc. (the “Foreign Representative” or the “Monitor”), in its capacity as the duly appointed foreign representative of the Debtors, that the relief requested in the Motion is

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² Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Motion

consistent with and not prohibited by any relevant order of the Court of Queen's Bench of Winnipeg Centre (the "Canadian Court"); and it appearing that this Court has jurisdiction over this matter; and it appearing that due and adequate notice of the Motion having been given; and that no other or further notice need be provided; and it further appearing that cause exists to grant the relief requested in the Motion; and upon all of the proceedings had before the Court; and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that:

1. The Motion is granted.
2. The stay imposed pursuant to sections 1521(a)(1) and 362(a) of the Bankruptcy Code is lifted to the extent necessary and for the sole purpose of permitting the Movants to consummate the Settlement of the State Court Liability Action.
3. The Movants shall not collect on or enforce the Settlement of the State Court Liability Action against assets subject to this Court's jurisdiction (other than insurance policies) of any of the Debtors, the Debtors' subsidiaries, affiliates, successors, or assigns, or the Debtors' current or former shareholders or unitholders, directors, officers, agents, employees, attorneys, consultants, or professional advisors, or the Foreign Representative or the Monitor (collectively, the "Excluded Parties").
4. Other than as explicitly set forth herein, any and all protections and benefits afforded by this Court's *Order Granting Recognition of Foreign Main Proceeding and Certain Related Relief* [Docket No. 70] to the Excluded Parties shall remain in full force and effect, unless subsequently modified by an Order of this Court.

5. This Court shall retain jurisdiction with respect to all matters arising from or in relation to the implementation of this Order. Any motion or application brought before this Court to resolve any dispute arising under or related to this Order shall be brought on proper notice in accordance with the relevant Federal Rules of Bankruptcy Procedure and the Local Rules.

Dated: April __, 2012
Wilmington, Delaware

The Honorable Kevin Gross
United States Bankruptcy Judge