

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:

CANO HEALTH, INC., *et al.*,

Reorganized Debtors.

Chapter 11

Case Nos. 24-10164 (KBO), *et seq.*
(Jointly Administered)

Hearing Date: November 14, 2024, 9:30 a.m.
Objections Due By: November 1, 2024

**DELIA MORALES COLON'S
MOTION FOR RELIEF FROM PLAN INJUNCTIONS**

Delia Morales Colon (“Movant”), by Movant’s undersigned counsel, files this Motion for Relief From Plan Injunctions (the “Motion”), and in support hereof states as follows:

BACKGROUND

1. This Court has jurisdiction over this Motion pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue is proper pursuant to 28 U.S.C. § 1409(a). The bases for the relief requested in this motion is 11 U.S.C. § 105 and the Court’s inherent power to interpret and enforce its own orders.

2. Beginning on February 4, 2024 (the “Petition Date”), Cano Health, Inc. and certain of its subsidiaries, as debtors and reorganized debtors (collectively, the “Debtors,” or as reorganized pursuant to the Plan (as defined below) the “Reorganized Debtors”) filed voluntary petitions for relief under Chapter 11 of the Bankruptcy



Code. The Reorganized Debtors' chapter 11 cases are being jointly administered for procedural purposes only pursuant to Fed. R. Bankr. P. 1015(b) and Del. Bankr.LR 1015-1.

3. On June 28, 2024 (the "Confirmation Date"), the Court entered an order (Docket No. 1148) (the "Confirmation Order") confirming the Modified Fourth Amended Joint Chapter 11 Plan of Reorganization of Cano Health, Inc. and its Affiliated Debtors (Docket No. 1125) (including any exhibits, schedules, and supplements thereto and as may be amended, restated, supplemented, or otherwise modified from time to time in accordance with the terms thereof, the "Plan"). On the same day (the "Effective Date"), the Plan was substantially consummated and became effective. See Docket No. 1152.

4. On or about February 11, 2021, Francisco Reyes, who was employed by debtor Cano Health, LLC (the "Debtor") at the time, was acting within the course and scope of his employment when he negligently operated a motor vehicle, causing a collision with another vehicle while transporting Movant (the "Accident"). The Debtor was the registered owner of the vehicle driven by Mr. Reyes. As a direct and proximate result of Mr. Reyes' negligence and the resulting vicarious liability of the Debtor, Movant sustained serious bodily injury.

5. On January 12, 2023, Movant filed a complaint (the "State Court Complaint") in the Circuit Court for the State of Florida in and for the County of

Hillsborough (the “State Court”) on account of the Accident against the Debtor and Mr. Reyes, commencing the case styled as *Delia M. Colon v. Francisco Reyes and Cano Health, LLC*, Case No. 23-CA-000287 (the “State Court Case”), sounding in negligence and other causes of action.

6. Before the State Court could adjudicate Movant’s claims and rights under the Complaint, the Debtors filed their Chapter 11 petitions in this Court on the Petition Date, thus staying the State Court Case pursuant to 11 U.S.C. § 362(a).

7. Section 362(a) was replaced by certain injunctions under the Plan and the Confirmation Order, effective as of the Effective Date, when the Plan was confirmed.

ARGUMENT

8. As noted above, the Plan was confirmed on the Confirmation Date and became effective on the Effective Date. The automatic stay may have ceased to be effective on the Effective Date under the § 10.4 of the Plan; however, the Plan and the Confirmation Order contain certain injunctions that act similarly to the automatic stay,

specifically § 10.5 of the Plan¹ and ¶ 32 of the Confirmation Order² (the “Plan Injunctions”). Therefore, absent relief from this Court, Movant’s actions in the State Court Case are likely stayed.

9. The Plan and the Confirmation Order do not recite the standards for relief from the Plan Injunctions, but it is customary in this district for courts to look to the same grounds applicable to relief from the automatic stay pursuant to 11 U.S.C. § 362(d). The automatic stay is not meant to be indefinite or absolute, and the Court has authority to grant relief from the stay in appropriate circumstances. *In re Rexene Prods., Co.*, 141 B.R. 574, 576 (Bankr. D. Del. 1992). Section 362(d)(1) provides that the automatic stay may be lifted where “cause” exists. After a *prima facie* showing by

¹ Section 10.5(b) of the Plan provides, in relevant part: “Except as expressly provided in the Plan, the Confirmation Order, or a separate order of the Bankruptcy Court or as agreed to by the Debtors and a holder of a Claim against or Interest in the Debtors, all Entities who have held, hold, or may hold Claims against or Interests in any or all of the Debtors (whether proof of such Claims or Interests has been filed or not and whether or not such Entities vote in favor of, against or abstain from voting on the Plan or are presumed to have accepted or deemed to have rejected the Plan) and other parties in interest, along with their respective present or former employees, agents, officers, directors, principals, and affiliates, are permanently enjoined, on and after the Effective Date, solely with respect to any Claims, Interests, and Causes of Action that will be or are extinguished, discharged, released, or treated pursuant to the Plan from (i) commencing, conducting, or continuing in any manner, directly or indirectly, any suit, action, or other proceeding of any kind (including any proceeding in a judicial, arbitral, administrative or other forum) against or affecting the Released Parties or the property of any of the Released Parties.”

² Paragraph 32 of the Confirmation Order provides, in relevant part: “As of the Effective Date, pursuant to Bankruptcy Rule 3020(c)(1), all release, injunction, and exculpation provisions embodied in the Plan, including those contained in Sections 10.4 (Term of Injunctions or Stays), 10.5 (Injunction), 10.6(a) (Releases by Debtors), 10.6(b) (Releases by Holders of Claims and Interests), and 10.7 (Exculpation) are hereby approved and shall be effective and binding on all Persons and Entities, to the extent provided in the Plan, without further order or action by the Court.”

a Movant, the debtor has the burden of proving that a Movant is not entitled to relief from the stay. *Id.* at 577; 11 U.S.C. § 362(g).

10. “Cause” is not defined in the Bankruptcy Code and must be determined on a case-by-case basis. *IBM v. Fernstrom Storage & Van Co.*, 938 F.2d 731, 735 (7th Cir. 1991). Most courts employ an equitable balancing test to determine “cause.” *Rexene Prods., Co.*, 141 B.R. at 576. According to the *Rexene Prods.* case, this balancing test requires the Court to determine whether:

- a. any great prejudice to either the bankruptcy estate or the debtor will result,
- b. the hardship to the Movant by maintenance of the stay considerably outweighs the hardship to the debtor, and
- c. the Movant has a probability of prevailing on the merits.

Id. at 576.

11. Cause exists in this case to grant Movant relief from the Plan Injunctions. First, there will be no prejudice to the Reorganized Debtors. To the extent that Movant is seeking a recovery from third parties, such as applicable insurance, and are not attempting to execute directly on assets of the Debtors’ estates, the Debtors’ assets will remain available for whatever disposition may ultimately be sought by the Debtors and/or ordered by the Court.

12. Further, the hardship that will be suffered by Movant far outweighs any potential hardship to the Reorganized Debtors if Movant is not granted relief from the

automatic stay. Movant has suffered substantial injury and impairment as a result of the Debtors' prepetition conduct and negligence, as described above. Denying or delaying Movant access to available insurance proceeds and claims against other third parties would cause very severe hardship.

13. Regarding the third *Rexene* factor, Movant need only prove this prong with a showing that is "very slight." *Rexene Prods.*, 141 B.R. at 578. The facts described above establish sufficient probability to support a damages award in favor of Movant. In addition, this Court has broad jurisdiction to supervise the administration of claims, but claims arising from personal injury are expressly excluded. 28 U.S.C. § 157(b)(5). Therefore, the usual purpose of providing a "central forum to adjudicate claims against the Debtors," *see, e.g., 15375 Memorial Corp. v. Bepco, LP (In re 15375 Memorial Corp.)*, 589 F.3d 605, 622 (3rd Cir. 2009), does not apply to Movant's claims.

14. When weighing the above factors, the Court should grant Movant relief from the Plan Injunctions in this case to permit Movant to prosecute Movant's claims against the Debtors and any other responsible individual or entity to judgment in a non-bankruptcy forum on account of the above-described accident and satisfy any award or other resolution Movant may obtain against the Debtors' applicable insurance policies and any other individuals or entities that are responsible for the injuries sustained.

15. Service by mail upon the entire 2002 notice list in this case would be unduly burdensome and cost significant resources, as most parties on that list receive automatic notification of new docket entries contemporaneously with their filing. Therefore, Movant is causing copies of this Motion to be served by mail only upon counsel for the Debtors and counsel for the United States Trustee and intends to rely on CM/ECF service for the remaining interested parties.

16. Movant believes that the relief granted in connection with this Motion will be consensual and will have no meaningful effect on the administration of these cases and the Debtors' assets. Therefore, Movant respectfully submits that any order granting this Motion should be effective immediately upon its entry, notwithstanding the fourteen (14) day stay contemplated in Fed.R.Bankr.P. 4001(a)(3) to the extent otherwise applicable.

WHEREFORE, Movant requests that this Court enter an order, substantially in the form appended hereto, granting Movant relief from the Plan Injunctions; and grant Movant such further relief as this Court deems just and proper.

Dated: October 15, 2024
Wilmington, Delaware

Respectfully submitted,

HILLER LAW, LLC

/s/ Adam Hiller

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Attorneys for Movant, Delia Morales Colon

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:

CANO HEALTH, INC., *et al.*,

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Case Nos. 24-10164 (KBO), *et seq.*
(Jointly Administered)

Hearing Date: November 14, 2024, 9:30 a.m.
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NOTICE OF MOTION

TO: Parties listed on the Certificate of Service

Delia Morales Colon (“Movant”) has filed a Motion for Relief From Plan Injunctions (the “Motion”), which seeks the following relief: Relief from any applicable plan injunctions to prosecute litigation under applicable non-bankruptcy law against one or more of the above-captioned debtors for claims, including but not limited to pursuing available insurance proceeds.

HEARING ON THE MOTION WILL BE HELD ON NOVEMBER 14, 2024 AT 9:30 A.M. PREVAILING EASTERN TIME.

You are required to file a response, if any, on or before November 1, 2024 at 4:00 P.M. Prevailing Eastern Time. At the same time, you must also serve a copy of the response upon Movant’s attorneys:

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The hearing date specified above may be a preliminary hearing or may be consolidated with the final hearing, as determined by the Court.

The attorneys for the parties shall confer with respect to the issues raised by the motion in advance for the purpose of determining whether a consent judgment may be entered and/or for the purpose of stipulating to relevant facts such as value of the property, and the extent and validity of any security instrument.

IF YOU FAIL TO RESPOND IN ACCORDANCE WITH THIS NOTICE, THE RELIEF REQUESTED IN THE MOTION MAY BE GRANTED BY THE COURT WITHOUT FURTHER NOTICE OR HEARING.

Dated: October 15, 2024
Wilmington, Delaware

Respectfully submitted,

HILLER LAW, LLC

/s/ Adam Hiller

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Attorneys for Movant, Delia Morales Colon

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:

CANO HEALTH, INC., *et al.*,

Reorganized Debtors.

Chapter 11

Case Nos. 24-10164 (KBO), *et seq.*
(Jointly Administered)

Re: Docket No(s).

**ORDER GRANTING
DELIA MORALES COLON'S MOTION FOR RELIEF FROM
PLAN INJUNCTIONS TO PURSUE NON-BANKRUPTCY LITIGATION**

UPON CONSIDERATION of the Motion for Relief From Plan Injunctions (the “Motion”) filed by Delia Morales Colon (“Movant”), and any response thereto; the Court having determined that (A) the Court has jurisdiction over the Motion pursuant to 28 U.S.C. §§ 1334 and 157; (B) this is a core proceeding pursuant to 28 U.S.C. § 157; (C) venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and (D) service to the limited parties stated on the Certificate of Service is adequate under the circumstances; and the Court having further determined that cause exists to grant the relief requested in the Motion; it is hereby ORDERED as follows:

1. The Motion is GRANTED, as set forth herein. All capitalized terms not otherwise defined herein shall have the respective meanings set forth in the Motion.
2. Movant is hereby granted relief from the injunctions and stays (collectively, the “Plan Injunctions”) in the Modified Fourth Amended Joint Chapter

11 Plan of Reorganization of Cano Health, Inc. and its Affiliated Debtors (Docket No. 1125) (including any exhibits, schedules, and supplements thereto and as may be amended, restated, supplemented, or otherwise modified from time to time in accordance with the terms thereof, the “Plan”) and the order (Docket No. 1148) (the “Confirmation Order”) confirming the Plan on June 28, 2024 (the “Confirmation Date”), including but not limited to § 10.5 of the Plan and ¶ 32 of the Confirmation Order, to continue and prosecute, in a non-bankruptcy court of competent jurisdiction—including but not limited to the Circuit Court for the State of Florida in and for the County of Hillsborough (the “State Court”) in the case styled as *Delia M. Colon v. Francisco Reyes and Cano Health, LLC*, Case No. 23-CA-000287 (the “State Court Case”)—any claims and causes of action arising from a certain accident occurring or about February 11, 2021 (the “Accident”); provided that Movant shall enforce such claims only against third-party non-debtors, including but not limited to the Debtors’ applicable insurance carriers and third parties and their insurance carriers. Without limiting the foregoing, any insurance carrier is authorized to pay any judgment, award or settlement from the Debtors’ applicable insurance policies and any proceeds thereof. Except as otherwise set forth herein, the Plan Injunctions shall otherwise remain in full effect.

3. The automatic stay under 11 U.S.C. § 362(a) does not apply to Movant's continuation and prosecution of claims and causes of action arising from the Accident, but to the extent that it were to apply, it is terminated for that purpose.

4. Nothing in this order shall limit or affect Movant's rights under any proofs of claim and to receive any distribution available to similarly situated creditors in these bankruptcy cases, all defenses to such claims being preserved.

5. Movant represents and warrants that Movant has not sold, assigned, pledged, or otherwise transferred any claims that they might have against the Debtors and their estates.

6. No stay of this Order shall be in effect, including but not limited to any stay contemplated under Fed.R.Bankr.P. 4001(a)(3).

7. The Court retains jurisdiction to interpret and enforce the terms of this order.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on October 15, 2024, I caused copies of the foregoing Motion for Relief from Plan Injunctions to be served via first-class mail, postage prepaid, upon the parties listed on the attached matrix and via CM/ECF electronic noticing on parties registered to receive electronic notices in this case.

Dated: October 15, 2024
Wilmington, Delaware

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