

**IN THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

In re:)
) Chapter 11
)
 LAVIE CARE CENTERS, LLC, *et al.*,)
) Case No. 24-55507 (PMB)
)
 Debtors.¹)
) (Jointly Administered)
)
)
) Adversary Proc. No. 24-05127 (PMB)
 LAVIE CARE CENTERS, LLC; 1010)
 CARPENTERS WAY OPERATIONS LLC; 1120)
 WEST DONEGAN AVENUE OPERATIONS LLC;)
 11565 HARTS ROAD OPERATIONS LLC; 12170)
 CORTEZ BOULEVARD OPERATIONS LLC; 1465)
 OAKFIELD DRIVE OPERATIONS LLC; 15204)
 WEST COLONIAL DRIVE OPERATIONS LLC;)
 1550 JESS PARRISH COURT OPERATIONS LLC;)
 1615 MIAMI ROAD OPERATIONS LLC; 1851)
 ELKCAM BOULEVARD OPERATIONS LLC; 216)
 SANTA BARBARA BOULEVARD OPERATIONS)
 LLC; 2333 NORTH BRENTWOOD CIRCLE)
 OPERATIONS LLC; 2826 CLEVELAND AVENUE)
 OPERATIONS LLC; 3001 PALM COAST)
 PARKWAY OPERATIONS LLC; 3101 GINGER)
 DRIVE OPERATIONS LLC; 3735 EVANS)
 AVENUE OPERATIONS LLC; 4200)
 WASHINGTON STREET OPERATIONS LLC; 4641)
 OLD CANOE CREEK ROAD OPERATIONS LLC;)
 518 WEST FLETCHER AVENUE OPERATIONS)
 LLC; 5405 BABCOCK STREET OPERATIONS)
 LLC; 6305 CORTEZ ROAD WEST OPERATIONS)
 LLC; 6414 13TH ROAD SOUTH OPERATIONS)
 LLC; 6700 NW 10TH PLACE OPERATIONS LLC;)
 702 SOUTH KINGS AVENUE OPERATIONS LLC;)
 710 NORTH SUN DRIVE OPERATIONS LLC; 741)
 SOUTH BENEVA ROAD OPERATIONS LLC; 777)
 NINTH STREET NORTH OPERATIONS LLC; 7950)

¹ The last four digits of LaVie Care Centers, LLC’s federal tax identification number are 5592. There are 282 Debtors in these chapter 11 cases, which are being jointly administered for procedural purposes only. A complete list of the Debtors and the last four digits of their federal tax identification numbers are not provided herein. A complete list of such information may be obtained on the website of the Debtors’ claims and noticing agent at <https://www.kccllc.net/LaVie>. The location of LaVie Care Centers, LLC’s corporate headquarters and the Debtors’ service address is 1040 Crown Pointe Parkway, Suite 600, Atlanta, GA 30338.



LAKE UNDERHILL ROAD OPERATIONS LLC;)
9311 SOUTH ORANGE BLOSSOM TRAIL)
OPERATIONS LLC; 9355 SAN JOSE)
BOULEVARD OPERATIONS LLC; BAYA)
NURSING AND REHABILITATION, LLC;)
BRANDON FACILITY OPERATIONS, LLC;)
CONSULATE FACILITY LEASING, LLC;)
EPSILON HEALTH CARE PROPERTIES, LLC;)
FLORIDIAN FACILITY OPERATIONS, LLC;)
JACKSONVILLE FACILITY OPERATIONS, LLC;)
JOSERA, LLC; KISSIMMEE FACILITY)
OPERATIONS, LLC; LIDENSKAB, LLC; LV CHC)
HOLDINGS I, LLC; MELBOURNE FACILITY)
OPERATIONS, LLC; MIAMI FACILITY)
OPERATIONS, LLC; NEW PORT RICHEY)
FACILITY OPERATIONS, LLC; NORTH FORT)
MYERS FACILITY OPERATIONS, LLC; ORANGE)
PARK FACILITY OPERATIONS, LLC; PORT)
CHARLOTTE FACILITY OPERATIONS, LLC;)
TALLAHASSEE FACILITY OPERATIONS, LLC;)
TOSTURI, LLC; AND WEST ALTAMONTE)
FACILITY OPERATIONS, LLC;)

Plaintiffs,)

v.)

HEALTHCARE NEGLIGENCE SETTLEMENT)
RECOVERY CORP.)

Defendant.)

DEBTORS’ MOTION FOR ENTRY OF ORDER (I) EXTENDING THE AUTOMATIC STAY AND/OR PRELIMINARILY ENJOINING CLAIMS AND CAUSES OF ACTION AGAINST NON-DEBTOR DEFENDANTS AND (II) EXPEDITION

LaVie Care Centers, LLC (“LaVie”)² and certain of its affiliates and subsidiaries, as debtors and debtors-in-possession in the above-captioned chapter 11 cases (collectively, the “Debtors”), hereby move (the “Motion”) for entry of an order, substantially in the form

² Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Complaint or Brief, as defined herein and as applicable.

attached hereto as **Exhibit A** (the “Proposed Order”), granting the relief described below. In support of thereof, the Debtors submit the (a) the *Complaint* (the “Complaint”) initiating this adversary proceeding (which is adopted and expressly incorporated herein by reference); (b) the *Brief in Support of Debtors’ Motion for Entry of Order (I) Extending the Automatic Stay and Preliminarily Enjoining Claims Against Non-Debtor Defendants and (II) Expedition* (the “Brief”); and (c) the *Declaration of M. Benjamin Jones in Support of Debtors’ Motion for Entry of Order (I) Extending the Automatic Stay and Preliminary Enjoining Claims and Causes of Action Against Non-Debtor Defendants and (II) Expedition* (the “Jones Declaration”), each of which is filed contemporaneously herewith and fully incorporated herein by reference. In further support thereof, the Debtors rely on the *Declaration of M. Benjamin Jones in Support of Chapter 11 Petitions and First Day Pleadings* (the “First Day Declaration”) filed in these Chapter 11 Cases, which is fully incorporated herein by reference.

RELIEF REQUESTED

1. The Debtors seek entry of the Proposed Order, which includes the following relief: (a) a declaration that the automatic stay provided by section 362(a) of the Bankruptcy Code applies to and prohibits the continued prosecution of the claims and causes of action against the Non-Debtor Defendants named as defendants in the Recovery Corp. Action; (b)(i) an extension of the automatic stay under section 105(a) and/or 362(a) of the Bankruptcy Code to prohibit the continued prosecution of the Recovery Corp. Action against the Non-Debtor Defendants or, in the alternative, (ii) a preliminary injunction under section 105(a) of the Bankruptcy Code and Bankruptcy Rule 7065 to enjoin the continued prosecution of the Recovery Corp. Action and all claims and causes of action set forth therein against the Non-Debtor Defendants, unless and until a chapter 11 plan is confirmed in these Chapter 11 Cases, or until such cases are converted or dismissed; and (c) expedition of the proceedings. In addition, the Debtors seek authorization to

file a stay extension notice in the Recovery Corp. Action, substantially in the form appended to the Proposed Order as **Exhibit 1**, notifying all parties that the automatic stay applies to claims asserted against the Non-Debtor Defendants in the Recovery Corp. Action or extending the automatic stay and preliminarily enjoining claims against the Non-Debtor Defendants in the Recovery Corp. Action.

JURISDICTION AND VENUE

2. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b), and the Court may enter a final order consistent with Article III of the United States Constitution. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

3. The legal predicates for the relief requested herein are sections 105(a) and 362(a) of title 11 of the United States Code (the “Bankruptcy Code”), Rules 7001(7), 7007 and 7065 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), Rule 7007-1 of the Local Rules of Practice for the United States Bankruptcy Court for the Northern District of Georgia (the “Local Rules”), and the *Second Amended and Restated General Order 26-2019, Procedures for Complex Chapter 11 Cases*, dated February 6, 2023 (the “Complex Case Procedures”).

BACKGROUND

4. The Debtors hereby incorporate the factual background set forth in the Brief as if set forth fully herein.

ARGUMENT

5. The Debtors hereby incorporate the arguments set forth in the Brief as if set forth fully herein.

RESERVATION OF RIGHTS

6. The Debtors expressly reserve all rights, claims, causes of action, counter-claims, and defenses with respect to the Recovery Corp. Action and nothing contained herein shall constitute a waiver or release of the foregoing.

NOTICE

7. The Debtors will provide notice of the Motion to: (a) the U.S. Trustee; (b) the Internal Revenue Service; (c) the United States Attorney for the Northern District of Georgia; (d) the Attorney General for the State of Georgia; (e) the Georgia Department of Revenue; (f) the Centers for Medicare and Medicaid Services; (g) the states attorneys general for states in which the Debtors conduct business; (h) proposed counsel to the Committee; (i) counsel to the Debtors' prepetition lenders; (j) counsel to the DIP Lenders; (k) Recovery Corp.; and (l) all parties entitled to notice pursuant to Bankruptcy Rule 2002. The Debtors submit that no other or further notice is required.

NO PRIOR REQUEST

8. No previous request for the relief sought herein has been made to this or any other court.

[Remainder of page intentionally left blank]

WHEREFORE, the Debtors respectfully request that the Court enter the proposed Order, granting the relief requested in this Motion and any such other and further relief as may be just and proper.

Dated: Atlanta, Georgia
June 30, 2024

MCDERMOTT WILL & EMERY LLP

/s/ Daniel M. Simon

Daniel M. Simon (Georgia Bar No. 690075)
1180 Peachtree St. NE, Suite 3350
Atlanta, Georgia 30309
Telephone: (404) 260-8535
Facsimile: (404) 393-5260
Email: dsimon@mwe.com

- and -

Emily C. Keil (admitted *pro hac vice*)
Jake Jumbeck (admitted *pro hac vice*)
Catherine Lee (admitted *pro hac vice*)
444 West Lake Street, Suite 4000
Chicago, Illinois 60606
Telephone: (312) 372-2000
Facsimile: (312) 984-7700
Email: ekeil@mwe.com
jjumbeck@mwe.com
clee@mwe.com

*Proposed Counsel for the Debtors and
Debtors-in-Possession*

CERTIFICATE OF SERVICE

I hereby certify that on this date a true and correct copy of the foregoing Brief was served by the Court's CM/ECF system on all counsel of record registered in these Chapter 11 Cases through CM/ECF. The Debtors' claims and noticing agent, Kurtzman Carson Consultants LLC, will be filing a supplemental certificate of service on the docket to reflect any additional service of the foregoing Brief, including on the Limited Service List.

Dated: Atlanta, Georgia
June 30, 2024

MCDERMOTT WILL & EMERY LLP

/s/ Daniel M. Simon

Daniel M. Simon (Georgia Bar No. 690075)
1180 Peachtree St. NE, Suite 3350
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*Proposed Counsel for the Debtors and
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EXHIBIT A

Proposed Order

**IN THE UNITED STATES BANKRUPTCY COURT
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In re:)	Chapter 11
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FACILITY OPERATIONS, LLC;)

Plaintiffs,)

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HEALTHCARE NEGLIGENCE SETTLEMENT)
RECOVERY CORP.)

Defendants.)
)
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**ORDER (I) EXTENDING THE AUTOMATIC STAY
AND/OR PRELIMINARY ENJOINING CLAIMS AND CAUSES OF ACTION
AGAINST NON-DEBTOR DEFENDANTS AND (II) EXPEDITION**

Upon the motion (the “Motion”)² of LaVie Care Centers, LLC (“LaVie”) and certain of its affiliates and subsidiaries, as debtors and debtors-in-possession in the above-captioned chapter 11 cases (collectively, the “Debtors”) for entry of an order (this “Order”) (a) declaring that the automatic stay applies to claims asserted against Non-Debtor Defendants in the Recovery Corp. Action or, alternatively, (b) extending the Automatic Stay and preliminarily enjoining the claims against the Non-Debtor Defendants in the Recovery Corp. Action, and (c) granting related relief, all as fully set forth in the Motion, the Brief, the Complaint, and the Jones Declaration; and the Court having jurisdiction to decide the Motion and to enter this Order pursuant to 28 U.S.C. § 1334; and consideration of the Motion being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper in this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and it appearing that proper and adequate notice of the Motion has been given and that no other or further notice is necessary; and upon the record herein; and after due deliberation thereon; and the Court having determined that there is good and sufficient cause for the relief; and it appearing that entry of this Order on an emergency basis is in the best interests of the Debtors’ estates and that relief is justified to avoid immediate and irreparable harm to the Debtors’ estates; it is hereby

ORDERED, ADJUDGED, AND DECREED that:

1. The Motion is GRANTED as set forth herein.

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

2. Pursuant to Bankruptcy Code section 362(a)(3), the automatic stay applies to the claims and causes of action asserted against the Non-Debtor Defendants in the Recovery Corp. Action. Accordingly, the automatic stay is hereby extended to the claims and causes of action asserted against the Non-Debtor Defendants in the Recovery Corp. Action.

3. Pursuant to Bankruptcy Code section 105(a), the parties to the Recovery Corp. Action are hereby enjoined from continuing the Recovery Corp. Action against the Non-Debtor Defendants.

4. Absent further order of this Court (such period prior to a further order of the Court regarding the following, the “Stay Period”), Healthcare Negligence Settlement Recovery Corp. shall not: (a) continue the Recovery Corp. Action (including by prosecuting or defending the Recovery Corp. Action through any new filings before the court presiding over that action, except as authorized by this Court); (b) continue or commence including the issuance or employment of process, of a judicial, administrative, or other action or proceeding against the Debtors or the Non-Debtor Defendants that asserts allegations or causes of action relating to those asserted in the Recovery Corp. Action, unless that action is proceeding before this Court; or (c) take any action to obtain possession of property of the Debtors’ estates or property from the Debtors’ estates or to exercise control of the Debtors’ estates, including, but not limited to, filing a motion to sever the Recovery Corp. Action as to the Debtors or the Non-Debtor Defendants.

5. The form of notice of entry of the Order attached hereto as **Exhibit 1** (the “Stay Extension Notice”) is hereby approved. The Debtors are authorized, but not directed, to file a notice substantially in the form of the Stay Extension Notice on the docket in the Recovery Corp. Action.

6. During the Stay Period, all deadlines in the Recovery Corp. Action, under any law, rule, regulation, or legal process, including any deadline for any party to (a) seek to transfer the Recovery Corp. Action to any court, (b) seek to remove the Recovery Corp. Action to federal court, or (c) respond to any motion or pleading in the Recovery Corp. Action, are suspended and tolled for the duration of the Stay Period. Nothing herein shall prevent any party from requesting the court presiding over the Recovery Corp. Action to reschedule any deadline applicable to such action following the expiration of the Stay Period. The failure of any party to seek, during the Stay Period, any relief subject to a deadline that has been suspended or tolled pursuant to this Order shall not constitute delay, laches, waiver, estoppel, or any similar defense.

7. This Order shall not affect the substantive rights of any party, nor create any rights, defenses, or arguments not otherwise available under applicable law. Specifically, this Order shall not affect the exceptions contained in Bankruptcy Code sections 362(b), 365(b)(4), and 365(e)(2), the right of any party in interest to seek relief from the automatic stay in accordance with Bankruptcy Code section 362(d), or, with respect to an unexpired lease or executory contract, any party's rights under Bankruptcy Code section 365.

8. Nothing contained in the Motion or this Order or any payment made pursuant to the authority granted by this Order is intended to be or shall be construed as (a) authority to assume or reject any executory contract or unexpired lease of real property, or as a request for the same; (b) an admission as to the validity, priority, or character of any claim or other asserted right or obligation, or a waiver or other limitation on the Debtors' ability to contest the same on any ground permitted by bankruptcy or applicable non-bankruptcy law; (c) a promise or requirement to pay any claim or other obligation; or (d) granting third-party-beneficiary status, bestowing any additional rights on any third party, or being otherwise enforceable by any third party.

9. Notwithstanding any provision of the Bankruptcy Rules or Local Rules, the terms of this Order shall be immediately effective and enforceable upon its entry.

10. The Debtors and their agents are authorized to take all steps necessary or appropriate to carry out this Order.

11. The Court retains jurisdiction over all matters arising from or related to the implementation, interpretation, or enforcement of this Order.

END OF ORDER

Prepared and presented by:

/s/ Daneil M. Simon

Daniel M. Simon (Georgia Bar No. 690075)

MCDERMOTT WILL & EMERY LLP

1180 Peachtree Street NE, Suite 3350

Atlanta, Georgia 30309

Telephone: (404) 260-8535

Facsimile: (404) 393-5260

Email: dsimon@mwe.com

- and -

Emily C. Keil (admitted *pro hac vice*)

Jake Jumbeck (admitted *pro hac vice*)

Catherine Lee (admitted *pro hac vice*)

MCDERMOTT WILL & EMERY LLP

444 West Lake Street, Suite 4000

Chicago, Illinois 60606

Telephone: (312) 372-2000

Facsimile: (312) 984-7700

Email: ekeil@mwe.com

jjumbeck@mwe.com

clee@mwe.com

*Proposed Counsel for the Debtors and
Debtors-in-Possession*

EXHIBIT 1

Stay Extension Notice

**IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT
IN AND FOR MIAMI-DADE COUNTY, FLORIDA
CIVIL DIVISION**

HEALTHCARE NEGLIGENCE SETTLEMENT
RECOVERY CORP.

Case No. 2024-007342-CA-01

Plaintiff,

v.

5405 BABCOCK STREET OPERATIONS, LLC,
EPSILON HEALTH CARE PROPERTIES, LLC,
CMC II, LLC, LAVIE CARE CENTERS, LLC, 6700
N.W. 10TH PLACE OPERATIONS, LLC, 4200
WASHINGTON STREET OPERATIONS, LLC,
2826 CLEVELAND A VENUE OPERATIONS,
LLC, BAY A NURSING AND REHABILITATION,
LLC, 1465 OAKFIELD DRIVE OPERATIONS,
LLC, 777 NINTH STREET NORTH
OPERATIONS, LLC, 3101 GINGER DRIVE
OPERATIONS, LLC, TALLAHASSEE FACILITY
OPERATIONS, LLC, JOSERA, LLC; TOSTURI,
LLC, MELBOURNE FACILITY OPERATIONS,
LLC, NORTH FORT MYERS FACILITY
OPERATIONS, LLC, CONSULATE FACILITY
LEASING, LLC, 1010 CARPENTERS WAY
OPERATIONS, LLC, MIAMI FACILITY
OPERATIONS, LLC, 741 SOUTH BENEVA
ROAD OPERATIONS, LLC, 3735 EVANS A
VENUE OPERATIONS, LLC, 7950 LAKE
UNDERHILL ROAD OPERATIONS, LLC, 518
WEST FLETCHER A VENUE OPERATIONS,
LLC, LIDENSKAB LLC, JACKSONVILLE
FACILITY OPERATIONS, LLC, 3001 PALM
COAST PARKWAY OPERATIONS, LLC,
KISSIMMEE FACILITY OPERATIONS, LLC,
9311 SOUTH ORANGE BLOSSOM TRAIL
OPERATIONS, LLC, 4641 OLD CANOE CREEK
ROAD OPERATIONS, LLC, 2333 NORTH
BRENTWOOD CIRCLE OPERATIONS, LLC, 710
NORTH SUN DRIVE OPERATIONS, LLC, 1851
ELKCAM BOULEVARD OPERATIONS, LLC,
6414 13TH ROAD SOUTH OPERATIONS, LLC,
1120 WEST DONEGAN AVENUE OPERATIONS,
LLC, 12170 CORTEZ BOULEVARD

OPERATIONS, LLC, 9400 SW 137TH AVENUE
OPERATIONS LLC, NSPRMC, LLC, 1550 JESS
PARRISH COURT OPERATIONS, LLC, LV CHC
HOLDINGS I, LLC, CONCOURSE PARTNERS,
LLC, CONCURRENT PARTNERS, LLLP, PORT
CHARLOTTE FACILITY OPERATIONS, LLC,
WEST ALTAMONTE FACILITY OPERATIONS,
LLC, 216 SANTA BARBARA BOULEY ARD
OPERATIONS, LLC, FLORIDIAN FACILITY
OPERATIONS, LLC, 1615 MIAMI ROAD
OPERATIONS, LLC, 6305 CORTEZ ROAD WEST
OPERATIONS, LLC, 15204 WEST COLONIAL
DRIVE OPERA TIO NS, LLC, NEW PORT
RICHEY FACILITY OPERATIONS, LLC, 11565
HARTS ROAD OPERATIONS, LLC, BRANDON
FACILITY OPERATIONS, LLC, 9355 SAN JOSE
BOULEVARD OPERATIONS, LLC, 702 SOUTH
KINGS AVENUE OPERATIONS, LLC, ORANGE
PARK FACILITY OPERATIONS, LLC,
SYNERGY HEALTHCARE SERVICES, INC.,
NSPIRE HEALTHCARE INC., ASPIRE
HEALTHCARE, LLC, and DANIEL E. DIAS,
ESQUIRE,

Defendants.

**NOTICE OF ENTRY OF AN ORDER
BY THE BANKRUPTCY COURT (I) EXTENDING THE AUTOMATIC
STAY AND/OR PRELIMINARILY ENJOINING CLAIMS AND CAUSES
OF ACTION AGAINST NON-DEBTOR DEFENDANTS AND (II) EXPEDITION**

PLEASE TAKE NOTICE that the attached true and correct copy of the *Order (I) Extending the Automatic Stay and/or Preliminarily Enjoining Claims and Causes of Action Against Non-Debtor Defendants and (II) Expedition*, issued by the United States Bankruptcy Court for the Northern District of Georgia, dated _____, 2024 provides that this action is temporarily stayed against 9400 SW 137th Avenue Operations LLC, Aspire Healthcare, LLC, CMC II, LLC, Concourse Partners, LLC, Concurrent Partners, LLP, Daniel E. Dias, Esq., NSPIRE

Healthcare Inc., NSPRMC, LLC, and Synergy Healthcare Services, Inc., through _____, 2024.