

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

In re:)	
)	Chapter 11
LAVIE CARE CENTERS, LLC, <i>et al.</i> ¹)	Case No. 24-55507 (PMB)
Debtors.)	(Jointly Administered)
)	
)	

JOINT MOTION FOR ORDER AUTHORIZING AND DIRECTING MEDIATION

LaVie Care Centers, LLC (“LaVie”) and certain of its affiliates and subsidiaries, as debtors and debtors-in-possession (collectively, the “Debtors”) in the above-captioned chapter 11 cases (collectively, the “Chapter 11 Cases”), the Official Committee of Unsecured Creditors appointed in the Chapter 11 Cases (the “Committee”), OHI DIP Lender, LLC (“OHI DIP Lender”), and TIX 33433 LLC (“TIX DIP Lender” and, collectively, with the Debtors, the Committee, and OHI DIP Lender, the “Parties”) hereby jointly move (the “Motion”) for entry of an order, substantially in the form attached hereto as **Exhibit A** (the “Proposed Order”), authorizing and directing a mediation by the Honorable Jeffery W. Cavender, pursuant to the Mediation Procedures of the United States Bankruptcy Court for the Northern District of Georgia (the “Mediation Procedures”). In further support of the Motion, the Parties respectfully state as follows:²

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.veritaglobal.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.

² A detailed description of the Debtors and their businesses, including the facts and circumstances giving rise to the Debtors’ chapter 11 cases, is set forth in the *Declaration of M. Benjamin Jones in Support of Chapter 11 Petitions and First Day Pleadings* (the “First Day Declaration”) [Docket No. 17].



JURISDICTION AND VENUE

1. The Court has jurisdiction to consider the Motion pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding under 28 U.S.C. § 157(b). Venue of these cases and the Motion in this District is proper under 28 U.S.C. §§ 1408 and 1409. The legal predicates for the relief requested herein are the Mediation Procedures.

BACKGROUND

2. On June 2, 2024 (the “Petition Date”), the Debtors commenced the Chapter 11 Cases by filing petitions for relief under chapter 11 of the Bankruptcy Court in the United States Bankruptcy Court for the Northern District of Georgia, Atlanta Division (the “Court”). The Debtors are operating their businesses and managing their property as debtors in possession pursuant to Bankruptcy Code sections 1107(a) and 1108.

3. On June 10, 2024, the Debtors filed the *Debtors’ Motion for Entry of an Order (I) Approving Bidding Procedures and Bid Protections, (II) Scheduling Certain Dates and Deadlines with Respect Thereto, (III) Approving the Form and Manner of Notice Thereof, (IV) Establishing Notice and Procedures for the Assumption and Assignment of Contracts and Leases, (V) Authorizing the Assumption and Assignment of Assumed Contracts, and (VI) Authorizing the Sale of Assets* [Docket No. 104] (the “Bidding Procedures and Sale Motion”).

4. On June 13, 2024, the Office of the United States Trustee for Region 21 (the “U.S. Trustee”) appointed the Committee. *See Appointment and Notice of Appointment of Committee of Creditors Holding Unsecured Claims* [Docket No. 112]. To date, no trustee or examiner has been appointed in the Chapter 11 Cases.

5. On June 27, 2024, the Court entered the *Order (I) Approving Bidding Procedures and Bid Protections, (II) Scheduling Certain Dates and Deadlines with Respect Thereto, (III) Approving the Form and Manner of Notice Thereof, (IV) Establishing Notice and Procedures*

for the Assumption and Assignment of Contracts and Leases, (V) Authorizing the Assumption and Assignment of Assumed Contracts, and (VI) Authorizing the Sale of Assets [Docket No. 177] (the “Bidding Procedures Order”). The Debtors have retained Stout Capital, LLC to market and sell the Debtors’ assets pursuant to the Bidding Procedures Order (the “Sale”), which set forth a deadline for bidders to submit qualified bids on September 5, 2024, and an auction, if necessary, on September 9, 2024.

6. On July 23, 2024, the Debtors filed the *Debtors’ Combined Disclosure Statement and Joint Chapter 11 Plan of Reorganization* [Docket No. 273] (the disclosure statement portion thereof, the “Disclosure Statement” and the chapter 11 plan portion thereof and all exhibits thereto and as amended, supplemented, or otherwise modified, the “Plan”, and together with the Disclosure Statement, as amended, supplemented, or otherwise modified, the “Combined Disclosure Statement and Plan”). On August 7, 2024, the Debtors filed the *Debtors’ Motion for Entry of Order (I) Approving Disclosure Statement, (II) Scheduling Confirmation Hearing, (III) Establishing Procedures for Solicitation and Tabulation of Votes on Plan, (IV) Approving Certain Forms and Notices, and (V) Granting Related Relief* [Docket No. 316] (the “Solicitation Procedures Motion”).

7. In the weeks prior to and following the filing of the Combined Disclosure Statement and Plan, the Parties have engaged in negotiations surrounding various global issues in the Chapter 11 Cases, including, among other things, the Sale and the Combined Disclosure Statement and Plan. Given the current status of these negotiations, the Parties have agreed that it would be in their best interests to utilize a mediator to facilitate further settlement discussions in these Chapter 11 Cases.

8. On August 16, 2024, counsel to the Debtors reached out to this Court to request a judicial referral of a potential mediator. Following correspondence with this Court's chambers regarding availability of bankruptcy court judges in this district, the Parties conferred and, on August 23, 2024, agreed to a mediation before the Honorable Jeffery W. Cavender, which is anticipated to take place in-person on or around September 9-11, 2024.³ The Parties intend to use good faith efforts to attempt to settle their disputes through the proposed mediation and without further litigation, thereby lessening the burden on the Court and the Parties. Accordingly, good cause exists for the relief requested in this Motion.

NOTICE

9. The Debtors will provide notice of this Motion to the following parties and/or their respective counsel, as applicable: (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) counsel to the Committee; (i) counsel to the Debtors' prepetition lenders; (j) counsel to the DIP Lenders; and (k) all parties entitled to notice pursuant to Bankruptcy Rule 2002. The Debtors submit that no other or further notice is required.

NO PRIOR REQUEST

10. No prior request for the relief sought in this Motion has been made to this or any other court.

³ As set forth in the Bidding Procedures Order, the Sale Hearing (as defined in the Bidding Procedures Order) is currently scheduled for September 11, 2024 at 9:30 a.m. (prevailing Eastern Time). Similarly, as proposed in the Solicitation Procedures Motion, the Disclosure Statement Hearing (as defined in the Solicitation Procedures Motion) is also scheduled for September 11, 2024 at 9:30 a.m. (prevailing Eastern Time). Contemporaneously herewith, the Debtors have filed a notice of continued hearing with respect to the Sale Hearing and the Disclosure Statement Hearing, continuing both hearings to September 17, 2024 at 9:30 a.m. (prevailing Eastern Time).

WHEREFORE, the Parties respectfully request that the Court enter the Proposed Order, granting this Motion and authorizing and directing a mediation before the Honorable Jeffery W. Cavender on or around September 9-11, 2024.

Dated: August 26, 2024

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CERTIFICATE OF SERVICE

I hereby certify that on August 26, 2024, all ECF participants registered in this case were served electronically with the foregoing Motion through the Court's ECF system at their respective email addresses registered with this Court. The Debtors' claims and noticing agent will be filing a supplemental certificate of service on the docket to reflect any additional service of the foregoing Motion, including on the Limited Service List.

Dated: Atlanta, Georgia
August 26, 2024

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EXHIBIT A

Proposed Order

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

)	
In re:)	Chapter 11
)	
LAVIE CARE CENTERS, LLC, <i>et al.</i> ¹)	Case No. 24-55507 (PMB)
)	
Debtors.)	(Jointly Administered)
)	
)	Related to Docket No. ____
)	

ORDER AUTHORIZING AND DIRECTING MEDIATION

This matter is before the Court on the joint motion (the “Motion”), filed on August 26, 2024 at Docket No. [__], of LaVie Care Centers, LLC (“LaVie”) and certain of its affiliates and subsidiaries, as debtors and debtors-in-possession (collectively, the “Debtors”) in the above-

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.veritaglobal.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.

captioned chapter 11 cases (collectively, the “Chapter 11 Cases”), the Official Committee of Unsecured Creditors appointed in the Chapter 11 Cases (the “Committee”), OHI DIP Lender, LLC (“OHI DIP Lender”), and TIX 33433 LLC (“TIX DIP Lender” and, collectively, with the Debtors, the Committee, and OHI DIP Lender, the “Parties”). The Parties have requested that they be authorized to participate in mediation with regard to the issues in this proceeding. It appears that the most productive form of mediation is to designate a current bankruptcy judge with no assignment or responsibility for these proceedings as a settlement judge to serve as a neutral mediator and that Bankruptcy Judge Jeffery W. Cavender is qualified and suitable to serve in that capacity.

For good cause, it is hereby **ORDERED** as follows:

1. The Motion is GRANTED as set forth herein.
2. The Parties to this proceeding shall mediate the issues and disputes presented in these proceedings. The Parties’ representatives, including members of the Committee, may attend the mediation in person or may join by either video conference or telephone.
3. Bankruptcy Judge Cavender is designated as a settlement judge with regard to this matter for the purpose of conducting mediation proceedings as the neutral mediator. Such mediation shall be conducted at a time and place and in accordance with procedures mutually agreed upon by the parties and Judge Cavender.
4. Because Judge Cavender will be serving as the neutral mediator in this matter and because the nature of the mediation process requires *ex parte* contacts and communications between the neutral mediator and each of the sides, the prohibitions of FED. R. BANKR. P. 9003 do not apply to communications among the parties, their attorneys, and Judge Cavender in connection with the mediation proceedings. The Parties and their attorneys may, therefore, have *ex parte*

communications with Judge Cavender in his capacity as the neutral mediator in connection with the mediation proceedings.

5. All communications made by the Parties or their attorneys to each other or to Judge Cavender in connection with the mediation process, the conduct and demeanor of the Parties and their counsel during the mediation, and any documents prepared or produced in connection with the mediation process, including Judge Cavender's notes or records, shall be confidential and shall not be admissible in evidence or the subject of any discovery in any proceeding (unless admissible or discoverable without regard to the mediation). The mediation sessions and any conferences or proceedings in connection therewith shall be treated as compromise negotiations for purposes of the Federal Rules of Evidence, the Georgia Rules of Evidence, or any rules of evidence of any other jurisdiction. No record will be made of the mediation proceedings. Judge Cavender is disqualified from appearing as a witness in any matter, and shall not be called as a witness, with regard to the mediation or any matter arising out of or related thereto.

END OF ORDER

Prepared and presented by:

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