



IT IS ORDERED as set forth below:

Date: October 25, 2024

Paul Baisier

**Paul Baisier
U.S. Bankruptcy Court Judge**

**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. 518
_____)	

**ORDER DENYING MOTION TO ALLOW
REMOTE TESTIMONY AT CONFIRMATION HEARING**

This matter is before the Court on Recovery Corp.’s *Motion to Allow Remote Testimony at Confirmation Hearing* (the “Motion”) filed by Healthcare Negligence Settlement Recovery Corp.

¹The 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.



(“Recovery Corp.”)² on October 7, 2024, at Docket No. 518, seeking permission to permit seven (7) attorneys (the “Attorneys”) and one (1) expert witness (the “Expert”) to appear and testify remotely at the confirmation hearing in this case presently scheduled for November 14, 2024 (the “Confirmation Hearing”). Recovery Corp. makes this request under Federal Rule of Civil Procedure (“FRCP”) 43, made applicable to this bankruptcy case by Federal Rule of Bankruptcy Procedure (“FRBP”) 9017.

In the Motion, Recovery Corp. asserts that the Attorneys are trial attorneys who practice in Florida and are members of law firms that represented personal injury victims that hold claims against the Debtors. It further asserts that the Attorneys “have professional and personal commitments that make it difficult, or in some instances, impossible for them to travel to Atlanta, Georgia to provide live testimony at a trial that was scheduled on forty-five (45) days’ notice.” As to the Expert, Recovery Corp. asserts that she is expected to testify about the value of certain of the Debtors at a point of time in the past. It further asserts that she is in Tampa, Florida and has “a range of professional commitments that make it difficult for her to travel to Atlanta, Georgia to provide live testimony at the Confirmation Hearing.” Finally, Recovery Corp. asserts that it will incur “significant expense” if the Expert “is required to travel to Atlanta to provide live testimony at the Confirmation Hearing.”

² In its *Order Granting In Part Debtors’ (I) Motion to Strike and Denying (II) Cross-Motion to Compel Discovery Responses* (Docket No. 541) (the “Strike Order”), this Court found that Recovery Corp. does not have standing to file pleadings or otherwise participate in this case. The Court allowed certain other parties twenty (20) days to seek to intervene in the various matters filed by Recovery Corp. A motion seeking to do that has been filed (Docket No. 566) but has not yet been addressed, as the Court has been advised that the Debtors and counsel for the moving parties are discussing the matter. The Court addresses this Motion now notwithstanding the lack of standing of Recovery Corp. so as to permit the Attorneys and the Expert to make arrangements to be at the Confirmation Hearing in person. *Also, see* fn. 3.

The Court has presided over these cases since their inception. Based on its familiarity with the case and the parties involved, the Court presently anticipates that Recovery Corp., or the claimants that hold the claims that were purportedly assigned to Recovery Corp., will be the primary party opposing confirmation of the Debtors' Chapter 11 plan *in toto* and will be the only party to put on evidence in opposition to confirmation of the Debtors' plan. Consequently, the presentation of Recovery Corp., the credibility of its witnesses, and the reliability of their testimony may be critical to the determination of whether the plan will be confirmed. In those circumstances, it is important to the Court that the witnesses appear in person so that their credibility and demeanor can be adequately assessed, and the reliability of their testimony and the circumstances under which it is given assured.

FRCP 43(a) permits live testimony to be contemporaneously transmitted from another location only "for good cause and in compelling circumstances." The reasons for remote testimony proffered by Recovery Corp. in the Motion are both extremely general and entirely unconvincing. As the Court advised counsel for Recovery Corp. previously, the reasons proffered in the Motion are generally that the witnesses are just "really busy."³ If a particular witness has a particular problem that might rise to the level of being compelling, it is not at all apparent from the generalities put forth in the Motion.

The Court, having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; and the matter being a core proceeding within the meaning of 28 U.S.C. § 157(b)(2); and venue of this proceeding and the Motion in this District being proper pursuant to 28 U.S.C. §§ 1408 and 1409;

³ At a hearing in these cases held on October 8, 2024, the day after the Motion was filed, counsel for Recovery Corp. was advised by the Court that this remote testimony would likely not be permitted due to his clients' critical position in this case *vis a vis* confirmation and the vague bases for doing so set forth in the Motion. He was also advised that it may be possible to provide a second day for the continuation of the Confirmation Hearing at which his witnesses might testify. Hr'g Tr. 57-59 (Oct. 8, 2024). Any second day, if permitted on an adequate showing and otherwise necessary, must not, of course, materially delay the conclusion of the Confirmation Hearing.

and the Court being able to issue a final order consistent with Article III of the United States Constitution; and it appearing that no hearing is necessary; and it appearing that the relief requested in the Motion should be denied without prejudice for the reasons set forth above; and after due deliberation thereon; and good and sufficient cause appearing therefor; pursuant to FRCP 43 made applicable herein pursuant to FRBP 9017, it is hereby

ORDERED, ADJUDGED, AND DECREED that the Motion is **DENIED**.

END OF ORDER

Distribution List

LaVie Care Centers, LLC
c/o Ankura Consulting Group, LLC,
485 Lexington Avenue, 10th Floor,
New York, NY 10017
Attn: M. Benjamin Jones

Daniel M. Simon
McDermott Will & Emery LLP
1180 Peachtree Street NE, Suite 3350A
Atlanta, GA 30309

Emily C. Keil
McDermott Will & Emery LLP
444 West Lake Street, Suite 4000
Chicago, IL 60606

Kurtzman Carson Consultants LLC d/b/a Verita Global
222 N. Pacific Coast Highway, 3rd Floor
El Segundo, CA 90245

Jonathan S. Adams
Office of the United States Trustee
362 Richard Russell Federal Building
75 Ted Turner Drive, SW
Atlanta, GA 30303

Health Negligence Settlement Recovery Corp.
c/o John Anthony
Anthony & Partners, LLC
100 S. Ashley Drive, Suite 1600
Tampa, Florida 33602