

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

In re:

LAVIE CARE CENTERS, LLC, *et al.*<sup>1</sup>

Debtors.

)  
) Chapter 11

)  
) Case No. 24-55507 (PMB)

)  
) (Jointly Administered)

)  
) Related to Docket Nos. 825, 831, 848, 862

**NOTICE OF FILING OF REVISED PROPOSED ORDER  
(A) AUTHORIZING DEBTORS' ENTRY INTO, AND PERFORMANCE UNDER,  
ERC SETTLEMENT WITH INTERNAL REVENUE SERVICE, (B) APPROVING  
THE ERC SETTLEMENT, AS MODIFIED, AND (C) GRANTING RELATED RELIEF**

**PLEASE TAKE NOTICE** that, on January 29, 2025, the above-captioned debtors and debtors-in-possession (collectively, the "Debtors") filed the *Debtors' Motion for Entry of Order (A) Authorizing Debtors' Entry into, and Performance Under, ERC Settlement with Internal Revenue Service, (B) Approving the ERC Settlement, and (C) Granting Related Relief* [Docket No. 825] (the "9019 Motion") with the United States Bankruptcy Court for the Northern District of Georgia (the "Court"). A copy of the proposed order (the "Original 9019 Order") was attached as Exhibit A to the 9019 Motion and contained the terms of the proposed settlement between the Internal Revenue Service (the "IRS") and the Debtors (the "ERC Settlement").

**PLEASE TAKE FURTHER NOTICE** that, on February 3, 2025, the Official Committee of Unsecured Creditors (the "Committee") filed the *Official Committee of Unsecured Creditors' Objection to Debtors' Motion for Entry of Order (A) Authorizing Debtors' Entry into, and Performance Under, ERC Settlement with Internal Revenue Service, (B) Approving the ERC Settlement, and (C) Granting Related Relief* [Docket No. 848] (the "UCC Objection").

**PLEASE TAKE FURTHER NOTICE** that, pursuant to the Court's order entered at Docket No. 831, the Court held a hearing (the "Hearing") on February 4, 2025 on the 9019 Motion and the UCC Objection, which was continued until February 11, 2025 at 11:00 a.m. (prevailing

<sup>1</sup> 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.



Eastern Time) and subsequently continued until February 13, 2025 at 3:00 p.m. (prevailing Eastern Time).<sup>2</sup>

**PLEASE TAKE FURTHER NOTICE** that, on February 7, 2025, the IRS filed the *United States' Supplemental Response to Debtors' Objection to Claim* [Docket No. 862], apprising the Court of certain factual updates regarding the IRS' asserted priority of its ERC Claim.

**PLEASE TAKE FURTHER NOTICE** that, following the Hearing, the Debtors, the Committee, and the IRS engaged in good faith negotiations regarding the ERC Settlement and reached agreement on revised settlement terms (the "Revised ERC Settlement") with respect to the IRS ERC Claim.

**PLEASE TAKE FURTHER NOTICE** that the Debtors hereby file a revised proposed order (the "Revised 9019 Order") reflecting the terms of the Revised ERC Settlement, attached hereto as **Exhibit A**. A redline comparing the Original 9019 Order and the Revised 9019 Order is attached hereto as **Exhibit B**.

**PLEASE TAKE FURTHER NOTICE** that a copy of each document filed in the above captioned chapter 11 cases can be viewed on the Court's website at [www.ganb.uscourts.gov](http://www.ganb.uscourts.gov) and the website of the Debtors' claims and noticing agent, Kurtzman Carson Consultants LLC d/b/a Verita, at <https://www.veritaglobal.net/LaVie>. Further information may be obtained by using the "Submit an Inquiry" function at <https://www.veritaglobal.net/LaVie/inquiry>.

*[Remainder of Page Intentionally Left Blank]*

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<sup>2</sup> The hearing will be held on **February 13, 2025 at 3:00 P.M. in Courtroom 1202** at the **Richard B. Russell Federal Building and United States Courthouse, 75 Ted Turner Drive, S.W., Atlanta, Georgia 30303**, which may be attended in person or via the Court's Virtual Hearing Room. You may join the Virtual Hearing Room through the "Dial-in and Virtual Bankruptcy Hearing Information" link at the top of the homepage of the Court's website, [www.ganb.uscourts.gov](http://www.ganb.uscourts.gov), or the link on the judge's webpage, which can also be found on the Court's website. Please also review the "Hearing Information" tab on the judge's webpage for further information about the hearing. You should be prepared to appear at the hearing via video, but you may leave your camera in the off position until the Court instructs otherwise. Unrepresented persons who do not have video capability may use the telephone dial-in information on the judge's webpage.

Dated: Atlanta, Georgia  
February 12, 2025

**MCDERMOTT WILL & EMERY LLP**

/s/ Daniel M. Simon

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

**CERTIFICATE OF SERVICE**

I hereby certify that on February 12, 2025, all ECF participants registered in this case were served electronically with the foregoing document 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 document, including on the Limited Service List.

Dated: Atlanta, Georgia  
February 12, 2025

**MCDERMOTT WILL & EMERY LLP**

/s/ Daniel M. Simon

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

**EXHIBIT A**

**Revised 9019 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> <sup>1</sup>	)	
	)	Case No. 24-55507 (PMB)
	)	
Debtors.	)	(Jointly Administered)
	)	
	)	<b>Related to Docket No. 825</b>

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**ORDER (A) AUTHORIZING DEBTORS' ENTRY INTO,  
AND PERFORMANCE UNDER, ERC SETTLEMENT WITH  
INTERNAL REVENUE SERVICE, (B) APPROVING THE ERC  
SETTLEMENT, AS MODIFIED, AND (C) GRANTING RELATED RELIEF**

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<sup>1</sup> 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.

Upon the motion (the “Motion”)<sup>2</sup> of the Debtors, filed on January 29, 2025 at Docket No. 825, for entry of an order (this “Order”) approving the ERC Settlement (as defined herein) between the Debtors and the IRS with respect to the IRS ERC Claim, all as more fully set forth in the Motion; and 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; and the Court being able to issue a final order consistent with Article III of the United States Constitution; and due and sufficient notice of the opportunity to object to and for hearing on the Motion having been given under the particular circumstances; and the Court having considered the Motion, the objection to the Motion filed by the Official Committee of Unsecured Creditors (the “Committee”) on February 3, 2025 at Docket No. 848, and all other matters of record at the hearing on February 4, 2025 (the “Hearing”); and the Court having considered, at a continued hearing on February 13, 2025, proposed modifications to the ERC Settlement which occurred subsequent to the Hearing, as well as certain reported factual updates and proposed modifications related to the IRS ERC Claim reflected in the supplemental response filed by the Internal Revenue Service (the “IRS”) on February 7, 2025 at Docket No. 862; and based on the foregoing, no further notice or hearing is required; and the Court having determined that the legal and factual bases set forth in the Motion, as modified, establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion, as modified, is in the best interests of the Debtors, their estates, their creditors, and other parties-in-interest; and after due deliberation thereon; and the Court having found that good and sufficient cause exists to grant the relief requested in the Motion; it is hereby

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<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Motion or the Plan, as applicable.

**ORDERED, ADJUDGED, AND DECREED that:**

1. The Motion is **GRANTED** as set forth herein.

2. The terms of the settlement by and among the Debtors and the IRS (the “ERC Settlement”) consist of the following, and are hereby **APPROVED**, subject to the Final DOJ Approval Rights:

- (a) The IRS shall amend the IRS ERC Claim to account for the appropriate distinction between its Priority Tax Claim and General Unsecured Claim.
- (b) The Debtors shall withdraw the IRS Claim Objection, and the Committee shall withdraw its joinder to the IRS Claim Objection.
- (c) For purposes of these Chapter 11 Cases only, the IRS ERC Claim will be allowed as set forth herein; *provided, however*, that the Debtors, the IRS, and the Committee each agree that such claim will be paid as follows:
  - (i) an Allowed Priority Claim in the aggregate amount of \$8,431,694.32, exclusive of prepetition interest, for which the IRS agrees to accept in satisfaction \$550,000, to be paid within five business days following the Effective Date from the Debtors’ cash on hand;
  - (ii) an Allowed Class 6A General Unsecured Claim for \$6,942,352.07, which the IRS agrees shall not be paid through Class 6A until other Class 6A creditors’ claims are paid in full; and
  - (iii) an Allowed Class 6B General Unsecured Claim for \$13,669,289.57, exclusive of prepetition interest; *provided, however*,
    - (A) the IRS shall not receive any part of the first \$500,000 in total distributions from the GUC Trust for Class 6B General Unsecured Claims, after satisfaction of Class 6B GUC Trust related fees and expenses;
    - (B) after a total of \$500,000 has been distributed from the GUC Trust to other Class 6B creditors, the IRS shall receive the next tranche of distributions from the GUC Trust for Class 6B claims as a “catch-up” payment, which shall be computed according to the following formula:

$$\frac{\$500,000}{\text{sum of all allowed Class 6B claims except for the IRS's 6B claim}} \times \$13,669,289.57$$

and

- (C) after the distributions described in 3(iii)(A) and 3(iii)(B) above, the IRS' Allowed Class 6B General Unsecured Claim shall be treated *pro rata* with the other Class 6B general unsecured creditors.
- (d) The Debtors shall withdraw their remaining outstanding claimed ERCs in the amount of approximately \$3.7 million.
- (e) The IRS shall not seek any amounts relating to the ERCs, including any applicable penalties or interest, against the Reorganized Debtors, and shall not otherwise seek any civil penalties or other damages against the Debtors or the Reorganized Debtors. To the extent any Governmental Entity seeks to bring an action against any other third-party in connection with the Debtors' ERCs, all such parties reserve all rights and remedies in connection therewith.
- (f) The ERC Settlement shall neither be an admission of invalidity by the Debtors nor an admission of validity by the IRS with respect to the ERCs claimed by the Debtors.

3. The foregoing terms of the ERC Settlement are fair, reasonable, and in the best interests of the Debtors and their estates, and are hereby approved in their entirety pursuant to Bankruptcy Rule 9019(a). The IRS will file a notice in these Chapter 11 Cases on or before such date that is 30 days after entry of this Order indicating whether the IRS has received all requisite, final approvals necessary to effectuate the ERC Settlement. In the event that the IRS indicates to this Court that requisite approval was not obtained, all of the rights, remedies, claims, and objections of the Debtors, the Committee, and the IRS with respect to the ERCs, the IRS ERC Claim, the Debtors' objection with respect thereto (filed at Docket No. 751), and the Committee's joinder with respect to the Debtors' objection (filed at Docket No. 766) are fully preserved, and



the Court shall schedule a status hearing to determine any issues relating to the ERC Settlement or otherwise.

4. All objections, if any, with regard to the relief granted herein that have not been withdrawn, waived, settled, or otherwise dealt with as expressly provided herein or on the record at the hearing to consider entry hereof are hereby overruled.

5. Nothing in this Order shall be interpreted as an indication that this Court, or any third-party has taken a position with respect to the ERCs, the IRS ERC Claim, or the Debtors' objection with respect thereto.

6. The Debtors and the IRS are authorized to take all actions necessary to implement the relief granted in this Order.

7. The Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, or enforcement of this Order.

END OF ORDER

Prepared and presented by:

/s/ Daniel M. Simon

Daniel M. Simon (Georgia Bar No. 690075)

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**EXHIBIT B**

**Redline of Revised 9019 Order**

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

---

In re:

LAVIE CARE CENTERS, LLC, *et al.*<sup>1</sup>

Debtors.

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) Case No. 24-55507 (PMB)  
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<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Motion or the Plan, as applicable.

after due deliberation thereon; and the Court having found that good and sufficient cause exists to grant the relief requested in the Motion; it is hereby

**ORDERED, ADJUDGED, AND DECREED that:**

1. The Motion is **GRANTED** as set forth herein.
2. The terms of the settlement by and among the Debtors and the IRS (the “ERC Settlement”) consist of the following, and are hereby **APPROVED**, subject to the Final DOJ

Approval Rights:

- (a) The IRS shall amend the IRS ERC Claim to account for the appropriate distinction between its Priority Tax Claim and General Unsecured Claim.
- (b) ~~(a)~~ The Debtors shall withdraw the IRS Claim Objection, and the Committee shall withdraw its joinder to the IRS Claim Objection.
- (c) ~~(b)~~ For purposes of these Chapter 11 Cases only, the IRS ERC Claim will be allowed, ~~in full,~~ as ~~an erroneous refund under 26 U.S.C. § 7405~~ set forth herein; provided, however, that the Debtors, the IRS, and the Committee each agree that such claim ~~shall~~ will be ~~treated~~ paid as follows:
  - (i) an Allowed ~~General Unsecured~~ Priority Claim in the aggregate amount of ~~\$20.0 million; and 8,431,694.32,~~ exclusive of prepetition interest, for which the IRS agrees to accept in satisfaction \$550,000, to be paid within five business days following the Effective Date from the Debtors’ cash on hand;
  - (ii) an Allowed Class 6A General Unsecured Claim for ~~the remaining amount~~ \$6,942,352.07, which the IRS agrees shall not be ~~subordinated in recovery to Holders of General Unsecured Claims unless and until such Holders receive a full recovery. The foregoing Allowed~~ paid through Class 6A until other Class 6A creditors’ claims are paid in full; and
  - (iii) an Allowed Class 6B General Unsecured Claim for \$13,669,289.57, exclusive of prepetition interest; provided, however,
    - (A) the IRS shall not receive any part of the first \$500,000 in total distributions from the GUC Trust for Class 6B General Unsecured Claims ~~shall be allocated between~~

~~Class 6~~, after satisfaction of Class 6B GUC Trust related fees and expenses;

(B) after a total of \$500,000 has been distributed from the GUC Trust to other Class 6B creditors, the IRS shall receive the next tranche of distributions from the GUC Trust for Class 6B claims as a “catch-up” payment, which shall be computed according to the following formula:

$$\frac{\$500,000}{\text{sum of all allowed Class 6B claims except for the IRS's 6B claim}} \times \$13,669,289.57$$

and

(C) after the distributions described in 3(iii)(A) and 3(iii)(B) above, the IRS’ Allowed Class 6B ~~under the Plan on a General Unsecured Claim shall be treated pro rata basis based upon~~ with the ~~entities that claimed such ERCs, as follows:~~ other Class 6B general unsecured creditors.

Amount	Class 6A	Class 6B
Amount Treated & Paid as an Allowed General Unsecured Claim	\$6,347,685.47	\$13,652,314.53
Amount Treated as an Allowed General Unsecured Claim & Subordinated in Recovery to Other General Unsecured Claims	\$2,870,212.62, together with all pre-petition interest on claims against OpCo Debtors	\$6,173,123.34, together with all pre-petition interest on claims against DivestCo Debtors

(d) ~~(e)~~ The Debtors shall withdraw their remaining outstanding claimed ERCs in the amount of approximately \$3.7 million.

(e) ~~(d)~~ The IRS shall not seek any amounts relating to the ERCs, including any applicable penalties or interest, against the Reorganized Debtors, and shall not otherwise seek any civil penalties or other damages against the Debtors or the Reorganized Debtors. To the extent any Governmental Entity seeks to bring an action against any other third-party in connection with the Debtors’ ERCs, all such parties reserve all rights and remedies in connection therewith.



(f) ~~(e)~~ The ERC Settlement shall neither be an admission of invalidity by the Debtors nor an admission of validity by the IRS with respect to the ERCs claimed by the Debtors.

~~(f) The ERC Settlement is contingent on obtaining any necessary approval from the Court.~~

3. The foregoing terms of the ERC Settlement are fair, reasonable, and in the best interests of the Debtors and their estates, and are hereby approved in their entirety pursuant to Bankruptcy Rule 9019(a). The IRS will file a notice in these Chapter 11 Cases on or before such date that is 30 days after entry of this Order indicating whether the IRS has received all requisite, final approvals necessary to effectuate the ERC Settlement. In the event that the IRS indicates to this Court that requisite approval was not obtained, all of the rights, remedies, claims, and objections of the Debtors, the Committee, and the IRS with respect to the ERCs, the IRS ERC Claim, ~~or~~ the Debtors' objection with respect thereto (filed at Docket No. 751), and the Committee's joinder with respect to the Debtors' objection (filed at Docket No. 766) are fully preserved, and the Court shall schedule a status hearing to determine any issues relating to the ERC Settlement or otherwise.

4. All objections, if any, with regard to the relief granted herein that have not been withdrawn, waived, settled, or otherwise dealt with as expressly provided herein or on the record at the hearing to consider entry hereof are hereby overruled.

5. Nothing in this Order shall be interpreted as an indication that this Court, or any third-party has taken a position with respect to the ERCs, the IRS ERC Claim, or the Debtors' objection with respect thereto.

6. The Debtors and the IRS are authorized to take all actions necessary to implement the relief granted in this Order.

7. The Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, or enforcement of this Order.

END OF ORDER

Prepared and presented by:

/s/ Daniel M. Simon

Daniel M. Simon (Georgia Bar No. 690075)

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