

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
_____)	
)	
FC ENCORE ST. CLOUD, LLC,)	
)	
Plaintiff,)	
v.)	Adv. Pro. No. 25-05008-pmb
)	
WILLIAM BURNHAM,)	
)	
Defendant)	
_____)	

REQUEST FOR ENTRY OF DEFAULT

COMES NOW FC Encore St. Cloud, LLC (“FCE”), a Released Party² under the Plan (as defined herein) in the above-captioned Chapter 11 cases and the plaintiff in the above-captioned adversary proceeding (the “**Adversary Proceeding**”), by and through its undersigned attorneys, pursuant to Rule 55 of the Federal Rules of Civil Procedure and Rule 7055 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), and files this Request for Entry of Default (the

¹ The last four digits of LaVie Care Centers, LLC’s federal tax identification number are 5592. There are 282 debtors (the “**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.kcellc.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 All capitalized terms not otherwise defined herein shall have the meanings ascribed to them in *Debtors’ Modified Second Amended Combined Disclosure Statement and Joint Chapter 11 Plan of Reorganization*, filed on December 4, 2024 [Dkt. No. 730] (the “**Plan**”).



“**Request**”) against William Burnham (the “**Defendant**”). In support of the Request, FCE shows the Court as follows:

1. On January 7, 2025, FCE commenced an action against the Defendant by way of a complaint (the “**Complaint**”) filed in the Bankruptcy Court for the Northern District of Georgia (the “**Court**”) (Adversary No. 25-05008-pmb). *See* Adv. Pro. Dkt. No. 1. The Complaint seeks: (a) an extension of the automatic stay under Sections 105(a) and/or 362(a) of Title 11 of the United States Code (the “**Bankruptcy Code**”) to prohibit the continued prosecution of a state court action by the Defendant against FCE through and including the Effective Date of the Plan; or, in the alternative, (b) a preliminary injunction under Bankruptcy Code Section 105(a) and Rule 7065 of the Bankruptcy Rules to enjoin the continued prosecution of said state court action and all claims and causes of action set forth therein against FCE until the Effective Date of Plan.

2. The Clerk of Court issued a summons in the Adversary Proceeding on January 10, 2025 (the “**Summons**”). *See* Adv. Pro. Dkt. No. 4.

3. FCE caused the Summons and Complaint to be served by mail service on January 13, 2025, as shown on the Certificate of Service filed with this Court on January 13, 2025. *See* Adv. Pro. Dkt. No. 5; *see also* Declaration of Matthew W. Levin (the “**Levin Declaration**”), attached hereto and made a part hereof as Exhibit A, Paragraph 2.

4. As of the date of this Request, the Defendant has not filed an answer or other response, nor has the Defendant appeared or otherwise defended the causes of action asserted in the Complaint. *See* Levin Declaration, Paragraph 4.

5. Pursuant to Bankruptcy Rule 7055(a), entry of default against the Defendant shall be made by the Clerk of Court when, as in this case, the Defendant has failed to plead or otherwise defend.

6. FCE submits a proposed form of Entry of Default with this Request, attached hereto as Exhibit B.

WHEREFORE FCE respectfully requests the Court enter default against the Defendant and grant such other and further relief as is just and proper.

This 12th day of February, 2025.

SCROGGINS, WILLIAMSON & RAY, P.C.

By: /s/ Matthew W. Levin
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Counsel to FC Encore St. Cloud, LLC

EXHIBIT A

Declaration of Matthew W. Levin

UNITED STATES BANKRUPTCY COURT
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WILLIAM BURNHAM,)	
)	
Defendant)	
_____)	

DECLARATION OF MATTHEW W. LEVIN

I, MATTHEW W. LEVIN, declare under penalty of perjury as follows:

1. I am an attorney at law in the State of Georgia and am admitted to practice before the United States District Court for the Northern District of Georgia. I am counsel with the law firm of Scroggins, Williamson & Ray, P.C., attorneys for FC Encore St. Cloud, LLC (“FCE”), a Released Party² under the Plan (as defined herein) in the above-captioned Chapter 11 cases and

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the plaintiff in the above-captioned adversary proceeding (the “**Adversary Proceeding**”). I am fully familiar with the facts set forth herein.

2. On January 13, 2025, I caused FCE’s complaint seeking (a) an extension of the automatic stay under Sections 105(a) and/or 362(a) of Title 11 of the United States Code (the “**Bankruptcy Code**”) to prohibit the continued prosecution of a state court action by the Defendant against FCE through and including the Effective Date of the Plan; or, in the alternative, (b) a preliminary injunction under Bankruptcy Code Section 105(a) and Rule 7065 of the Bankruptcy Rules to enjoin the continued prosecution of said state court action and all claims and causes of action set forth therein against FCE until the Effective Date of Plan (the “**Complaint**”), and related summons to be served, by U.S. Postal Service First Class Mail, postage prepaid, upon William Burnham (the “**Defendant**”), as evidenced by the Certificate of Service of the Complaint filed with the United States Bankruptcy Court for the Northern District of Georgia (the “**Court**”) at Adversary Proceeding Docket No. 5.

3. The time within which the Defendant had to answer or otherwise respond to the Complaint has expired and has not been extended.

4. I have reviewed the electronic docket maintained by the Clerk of Court for the Adversary Proceeding and found no answer, response, defense or appearance by the Defendant or by any person on behalf of the Defendant. I have not been served with any such answer, response, defense or appearance by the Defendant or by any person on behalf of the Defendant.

5. The Defendant is an adult person, and thus, not an infant, and, upon information and belief, the Defendant is not an incompetent person.

6. Upon information and belief, the Defendant is not presently serving in the armed forces of the United States, and is not in active military service.

This 12th day of February, 2025.

/s/ Matthew W. Levin
MATTHEW W. LEVIN

EXHIBIT B

Proposed Entry of Default

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WILLIAM BURNHAM,)	
)	
Defendant)	
_____)	

ENTRY OF DEFAULT

It appears from the record that the following defendant failed to plead or otherwise defend in this case as required by law:

WILLIAM BURNHAM

Therefore, default is entered against the defendant as authorized by Federal Rule of Bankruptcy Procedure 7055.

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CERTIFICATE OF SERVICE

I hereby certify that on this date a true and correct copy of the foregoing document was served by the Court's CM/ECF system on all counsel of record registered in these Chapter 11 Cases through CM/ECF. I further certify that I have this day served a true and correct copy of the foregoing document via email and U.S. Mail upon the following parties:

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This 12th day of February, 2025.

SCROGGINS, WILLIAMSON & RAY, P.C.

By: /s/ Matthew W. Levin
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