

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. 896
)	

**DEBTORS' EMERGENCY MOTION FOR ENTRY OF ORDER SHORTENING
NOTICE AND SCHEDULING EXPEDITED HEARING ON DEBTORS' MOTION FOR
ENTRY OF ORDER (I) AUTHORIZING TRANSFER OF OPERATIONS AND
RELATED ASSETS OF HARTS HARBOR HEALTH CARE CENTER FREE AND
CLEAR OF ALL LIENS, CLAIMS, ENCUMBRANCES, AND INTERESTS;
(II) AUTHORIZING ASSUMPTION AND ASSIGNMENT OF EXECUTORY
CONTRACTS; (III) AUTHORIZING REJECTION OF THE HARTS HARBOR LEASE
AND RELATED SUBLEASES; (IV) APPROVING FORM OF OPERATIONS
TRANSFER AGREEMENT; AND (V) GRANTING RELATED RELIEF**

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"), hereby move (the "Motion")² for entry of an order, substantially in the form attached hereto as **Exhibit A** (the "Proposed Order"), granting the relief described below. In support of the Motion, the Debtors respectfully represent as follows:

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 Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Harts Harbor Motion (as defined herein).



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RELIEF REQUESTED

1. By this Motion, the Debtors respectfully request entry of the Proposed Order shortening the applicable notice period for the *Debtors' Motion for Entry of Order (I) Authorizing Transfer of Operations and Related Assets of Harts Harbor Health Care Center Free and Clear of All Liens, Claims, Encumbrances, and Interests, (II) Authorizing Assumption and Assignment of Executory Contracts; (III) Authorizing Rejection of the Harts Harbor Lease and Related Subleases; (IV) Approving Form of Operations Transfer Agreement; and (V) Granting Related Relief* [Docket No. 896] (the "Harts Harbor Motion"), setting the deadline to file objections with respect to (a) the Harts Harbor Motion and (b) any proposed Cure Costs set forth in the Contract Assumption Notice by April 18, 2025 at 4:00 p.m. (prevailing Eastern Time) (the "Objection Deadline"), and scheduling the hearing on the Harts Harbor Motion for April 22, 2025 at 9:30 a.m. (prevailing Eastern Time) (the "Hearing"), or at such other date and time during the week of April 21, 2025 that this Court is available.

JURISDICTION AND VENUE

2. 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 section 105 of title 11 of the United States Code (the "Bankruptcy Code"); Rule 9006(c)(1) of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), Local Rule 9006-2 of the Bankruptcy Court Rules for the Northern District of Georgia (the "Local Rules"), and Complex Case Procedure (E)(4) of the *General Order 26-2019, Procedures for Complex Chapter 11 Cases*, dated February 6, 2023 (the "Complex Case Procedures").

BACKGROUND

I. The Chapter 11 Cases

3. On June 2, 2024 (the “Petition Date”), each Debtor commenced a case by filing with the Court a petition for relief under chapter 11 of the Bankruptcy Code (collectively, the “Chapter 11 Cases”), which are being jointly administered for procedural purposes only. The Debtors continue to operate their business and manage their property as debtors and debtors-in-possession pursuant to Bankruptcy Code sections 1107(a) and 1108.

4. On June 13, 2024, the Office of the United States Trustee for Region 21, Atlanta Division (the “U.S. Trustee”) appointed an official committee of unsecured creditors (the “Committee”). *See* Docket No. 112. To date, no chapter 11 trustee or examiner has been appointed in the Chapter 11 Cases.

5. On November 14, 2024, the Court held a hearing on confirmation of the Debtors’ proposed chapter 11 plan (the “Confirmation Hearing”). On December 5, 2024, the Court entered the *Findings of Fact, Conclusions of Law, and Order Approving on Final Basis and Confirming Debtors’ Modified Second Amended Combined Disclosure Statement and Joint Chapter 11 Plan of Reorganization* [Docket No. 735] (the “Confirmation Order”), confirming the *Debtors’ Modified Second Amended Combined Disclosure Statement and Joint Chapter 11 Plan of Reorganization* [Docket No. 730] (the “Plan”). As part of confirming the Plan, the Court also entered the *Memorandum Decision on Opt Out Third-Party Releases Included in Debtors’ Joint Second Amended Plan of Reorganization* [Docket No. 736] (the “Confirmation Opinion”).

6. Paragraph 28 of the Confirmation Order provides that, upon the earlier of (a) the date upon which Jacksonville Nursing Home, Ltd. and the Debtors are prepared to transfer operations of 11565 Harts Road Operations, LLC d/b/a Harts Harbor Health Care Center to a new

operator to be selected by the Harts Harbor Landlord or (b) the Effective Date, that certain lease agreement dated August 10, 2017 by and among the Harts Harbor Landlord and Debtor Epsilon Health Care Properties, LLC shall be rejected and the Debtors shall file a motion with the Court in advance of the Effective Date, seeking rejection of the Harts Harbor Lease and any other and further relief that may be necessary. *See* Confirmation Order, ¶ 28.

7. Accordingly, by the Harts Harbor Motion, the Debtors seek authority to, among other things, reject the Harts Harbor Lease and transfer the operations of the Facility to New Operator. As set forth in the Harts Harbor Motion, the Debtors believe that such transfer is in the best interest of the Debtors' estates, as it will ensure continuity of care for the residents at the Facility following the Debtors' emergence from chapter 11.

BASIS FOR RELIEF REQUESTED AND APPLICABLE AUTHORITY

8. Bankruptcy Code section 102(1) explains that the phrase "after notice and a hearing" requires only such notice and opportunity for a hearing as may be appropriate under the circumstances. 11 U.S.C. § 102(1). Further, Bankruptcy Code section 105(a) provides that "[t]he court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title." "The basic purpose of section 105(a) is to assure the bankruptcy court's power to take whatever action is appropriate or necessary in aid of the exercise of their jurisdiction." 2 Collier on Bankruptcy ¶ 105.01 (16th ed. 2015). Thus, Bankruptcy Code section 105(a) essentially codifies the bankruptcy court's inherent equitable powers. *See Mgmt. Tech. Corp. v. Pardo (In re Mgmt. Tech. Corp.)*, 56 B.R. 337, 339 (Bankr. D.N.J. 1985) (holding that a court's equitable power is derived from section 105).

9. Under Bankruptcy Rule 9006(c)(1), the Court may order time periods set by the Bankruptcy Rules to be reduced "for cause shown." Fed. R. Bank. P. 9006(c)(1). More

specifically, that bankruptcy rule provides, in pertinent part: “when an act is required or allowed to be done at or within a specified time by these rules or by a notice given thereunder or by order of court, the court for cause shown may in its discretion with or without motion or notice order the period reduced.” *Id.* Local Rule 9006-2 and Complex Case Procedure E(4) permit shortened notice and hearing with regard to an emergency matter requiring immediate attention or a matter requiring expedited consideration upon written motion and for good cause shown. *See, e.g.*, Bankr. L.R. 9006-2; Complex Case Procedure E(4).

10. The Debtors respectfully request that good cause exists here to shorten the notice period and scheduling an expedited hearing with respect to the Harts Harbor Motion. Given the Debtors’ goal of going effective on the Plan on May 1, 2025 and the need to ensure continuity of resident care at the Facility as of that date, time is of the essence with respect to obtaining Court approval of the relief requested in the Harts Harbor Motion. As set forth in the Harts Harbor Motion, after weeks of good faith negotiations between the Debtors and New Operator, the parties are substantially agreed on the form OTA, which sets forth the terms of the transfer of the Debtors’ operations of the Facility to New Operator. If approved, the relief sought in the Harts Harbor Motion and OTA resolves the last gating issue to the Plan’s effectiveness and ensures continuity of resident care following the Debtors’ emergence from chapter 11.

11. Moreover, the Debtors do not believe that any party-in-interest will be unfairly prejudiced by the shortening of the notice period with respect to the Harts Harbor Motion. The Debtors and New Operator intend to work in good faith with parties-in-interest to resolve any objections or outstanding issues with respect to the Harts Harbor Motion in advance of the Hearing. Accordingly, the Debtors submit that good and sufficient cause exists to shorten the notice period with respect to the Harts Harbor Motion so that it can be heard, considered, and ruled upon at the

Hearing to be scheduled for April 22, 2025 at 9:30 a.m. (prevailing Eastern Time)—or such other date and time during the week of April 21, 2025 that works best for this Court—and objections with respect thereto and to any proposed Cure Costs set forth in the Contract Assumption Notice can be filed by no later than April 18, 2025 at 4:00 p.m. (prevailing Eastern Time). A copy of the proposed notice of hearing with respect to the Harts Harbor Motion is attached to the Proposed Order as **Exhibit 1**.

NOTICE

12. The Debtors will serve this Motion on 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; (k) counsel to the Harts Harbor Landlord; (l) counsel to the New Operator; (m) the Union; and (n) all parties entitled to notice pursuant to Bankruptcy Rule 2002.

NO PRIOR REQUEST

13. 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, substantially in the form attached hereto as **Exhibit A**, granting the relief requested herein and such other and further relief as may be just and proper.

Dated: April 8, 2025
Atlanta, Georgia

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 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 document via first-class mail, including on the Limited Service List and the notice parties enumerated in the Motion.

Dated: April 8, 2025
Atlanta, Georgia

MCDERMOTT WILL & EMERY LLP

/s/ Daniel M. Simon

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Counsel for the Debtors and Debtors-in-Possession

EXHIBIT A

Proposed Order

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

In re:

LAVIE CARE CENTERS, LLC, *et al.*,¹

Debtors.

)
) Chapter 11
)

) Case No. 24-55507 (PMB)
)

) (Jointly Administered)
)

) Related to Docket No. ____
)

**ORDER SHORTENING NOTICE AND SCHEDULING EXPEDITED HEARING ON
DEBTORS' MOTION FOR ENTRY OF ORDER (I) AUTHORIZING TRANSFER OF
OPERATIONS AND RELATED ASSETS OF HARTS HARBOR HEALTH CARE
CENTER FREE AND CLEAR OF ALL LIENS, CLAIMS, ENCUMBRANCES, AND
INTERESTS; (II) AUTHORIZING ASSUMPTION AND ASSIGNMENT OF
EXECUTORY CONTRACTS; (III) AUTHORIZING REJECTION OF THE HARTS
HARBOR LEASE AND RELATED SUBLEASES; (IV) APPROVING FORM OF
OPERATIONS TRANSFER AGREEMENT; AND (V) GRANTING RELATED RELIEF**

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.

Upon consideration of the motion (the “Motion”)² filed by the Debtors on April 8, 2025 at Docket No. [] for entry of an order (this “Order”) shortening the notice period and scheduling an expedited hearing with respect to the *Debtors’ Motion for Entry of Order (I) Authorizing Transfer of Operations and Related Assets of Harts Harbor Health Care Center Free and Clear of All Liens, Claims, Encumbrances, and Interests, (II) Authorizing Assumption and Assignment of Executory Contracts; (III) Authorizing Rejection of the Harts Harbor Lease and Related Subleases; (IV) Approving Form of Operations Transfer Agreement; and (V) Granting Related Relief* (the “Harts Harbor Motion”), all as more fully set forth in the Motion; and the Court having jurisdiction over the Motion pursuant to 28 U.S.C. §§ 1334 and 157(b), the Motion being a core matter pursuant to 28 U.S.C. § 157(b)(2), and the Court being able to enter a final order consistent with Article III of the United States Constitution; the Court having found that notice of the Motion was appropriate; and, it appearing that the relief requested in the Motion is in the best interests of the Debtors, their estates, and their creditors, and that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and after due deliberation thereon, it is hereby

ORDERED, ADJUDGED, AND DECREED that:

1. The Motion is **GRANTED** as set forth herein.
2. A hearing (the “Hearing”) shall be held on the Harts Harbor Motion **on April 22, 2025 at 9:30 a.m. (prevailing Eastern Time)** at the United States Bankruptcy Court for the Northern District of Georgia, 75 Ted Turner Dr. SW, Courtroom 1202, 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

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

at the top of the homepage of the Court's website, www.ganb.uscourts.gov, or link on the judge's webpage, <https://www.ganb.uscourts.gov/content/honorable-paul-m-baisier>. Please also review the "Hearing Information" tab on the Court'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.

3. Any party objecting to (a) the relief requested in the Harts Harbor Motion or (b) the proposed Cure Costs set forth in the Contract Assumption Notice must file an objection with the Court by **4:00 p.m. (prevailing Eastern Time) on April 18, 2025** (the "Objection Deadline") and serve such objection on counsel to the Debtors, counsel to the New Operator, and any other requisite parties by the Objection Deadline.

4. The Debtors are authorized to take all actions necessary to effectuate the relief granted in this Order in accordance with the Motion.

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

END OF ORDER

Prepared and presented by:

/s/ Daniel M. Simon

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EXHIBIT 1

Form of Notice

**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 Nos. 896, 897
)	

**NOTICE OF HEARING AND DEADLINE TO OBJECT TO DEBTORS' MOTION FOR
ENTRY OF ORDER (I) AUTHORIZING TRANSFER OF OPERATIONS AND
RELATED ASSETS OF HARTS HARBOR HEALTH CARE CENTER FREE AND
CLEAR OF ALL LIENS, CLAIMS, ENCUMBRANCES, AND INTERESTS;
(II) AUTHORIZING ASSUMPTION AND ASSIGNMENT OF EXECUTORY
CONTRACTS; (III) AUTHORIZING REJECTION OF THE HARTS HARBOR LEASE
AND RELATED SUBLEASES; (IV) APPROVING FORM OF OPERATIONS
TRANSFER AGREEMENT; AND (V) GRANTING RELATED RELIEF**

On April 8, 2025, LaVie Care Centers, LLC and certain of its affiliates and subsidiaries, as debtors and debtors-in-possession in the above-captioned chapter 11 case (collectively, the “Debtors”), filed (a) the *Debtors’ Motion for Entry of Order (I) Authorizing Transfer of Operations and Related Assets of Harts Harbor Health Care Center Free and Clear of All Liens, Claims, Encumbrances, and Interests; (II) Authorizing Assumption and Assignment of Executory Contracts; (III) Authorizing Rejection of the Harts Harbor Lease and Related Subleases; (IV) Approving Form of Operations Transfer Agreement; and (V) Granting Related Relief* [Docket No. 896] (the “Harts Harbor Motion”) and (b) the *Debtors’ Emergency Motion for Entry of Order Shortening Notice and Scheduling Expedited Hearing for Debtors’ Motion for Entry of Order (I) Authorizing Transfer of Operations and Related Assets of Harts Harbor Health Care Center Free and Clear of All Liens, Claims, Encumbrances, and Interests; (II) Authorizing Assumption and Assignment of Executory Contracts; (III) Authorizing Rejection of the Harts Harbor Lease and Related Subleases; (IV) Approving Form of Operations Transfer Agreement; and (V) Granting Related Relief* [Docket No. 897] (the “Motion to Shorten”).

On April [], 2025, the Court entered an order granting the Motion to Shorten notice and schedule an expedited hearing for the Harts Harbor Motion. See Docket No. [].

The Court shall hold a hearing (the “Hearing”) on the Harts Harbor Motion on **April 22, 2025 at 9:30 a.m. (prevailing Eastern Time) at the United States Bankruptcy Court for the**

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Northern District of Georgia, 75 Ted Turner Dr. SW, Courtroom 1202, 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, or link on the judge's webpage, <https://www.ganb.uscourts.gov/content/honorable-paul-m-baisier>. Please also review the "Hearing Information" tab on the Court'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.

If you object to the relief requested in this pleading, you must timely file your objection by April 18, 2025 at 4:00 p.m. (prevailing Eastern Time) with the Bankruptcy Clerk at the United States Bankruptcy Court for the Northern District of Georgia, Atlanta Division, 75 Ted Turner Dr. SW, Suite 1340, Atlanta, GA 30303 and serve a copy on the Debtor's attorney, McDermott Will & Emery LLP, 1180 Peachtree St. NE, Suite 3350, Atlanta, GA, Attn: Daniel M. Simon (dsimon@mwe.com) and any other appropriate persons by the objection deadline. The response or objection must explain your position and be actually received by the Bankruptcy Clerk within the required time.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. If you do not have an attorney, you may wish to consult one.

Dated: Atlanta, Georgia
April [], 2025

MCDERMOTT WILL & EMERY LLP

/s/ DRAFT

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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.