

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA

	X	
In re	:	
	:	Chapter 11
HOSPITAL FOR SPECIAL SURGERY, LLC	:	
<i>Db</i> a ONECORE HEALTH,	:	Case No. 24-12862-JDL
	:	
Debtor.	:	
	X	

**DEBTOR’S OBJECTION TO TIMOTHY W. FOX ’S MOTION FOR  
RELIEF FROM AUTOMATIC STAY**

Hospital for Special Surgery, LLC *dba* OneCore Health (“OneCore” or the “Debtor”) hereby submits this objection (the “Objection”) to *Timothy W. Fox’s Motion for Relief from Automatic Stay* [Dkt. No. 206] (the “Motion”). The Motion requests entry of an order lifting or modifying the automatic stay under 11 U.S.C. § 362 to allow Timothy W. Fox (“Fox”), an alleged prepetition claimant, to pursue a state court lawsuit filed in Oklahoma County against Debtor provided that his recovery from Debtor, if any, is limited to proceeds from any applicable insurance policy.

As Fox impliedly acknowledges through his Motion, the proceeds of any applicable insurance policy are property of the estate under section 541 of title 11 of the United States Code, 11 U.S.C. §§ 101-1532, as in effect and hereafter amended (the “Bankruptcy Code”). Under section 362(a) of the Bankruptcy Code, the automatic stay prohibits creditors, including contingent creditors, from “commenc[ing] or continu[ing]...a judicial, administrative, or other action or proceeding against the debtor...or to recover a claim against the debtor that arose before the commencement of the [bankruptcy] case”; it further prohibits taking “any act to obtain possession of property of the estate or of property from the estate or to exercise control over property of the



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estate.” 11 U.S.C. § 362(a)(1), (3). It is the movant’s burden to establish that cause exists to lift the automatic stay. *In re Busch*, 294 B.R. 137, 140-41 (10<sup>th</sup> Cir. B.A.P. 2003).

Critically, any claim against Debtor is subject to the claims administration process in this Chapter 11 Case and because Fox did not timely file a proof of claim prior to the deadline established by the Claims Bar Date Order [Dkt. No. 140], his claim is barred. Accordingly, Fox cannot establish cause for relief from the automatic stay, and the Motion should be denied. In support of its objection, Debtor states as follows:

**Brief Statement of Relevant Facts**

1. OneCore filed its Voluntary Petition for Relief under Chapter 11 of the Bankruptcy Code on October 7, 2024 (the “Petition Date”).

2. On October 11, 2024, Debtor filed a *Notice of Suggestion of Pendency of Bankruptcy and Automatic Stay of These Proceedings* in the state-court action titled *Timothy W. Fox v. Hospital for Special Surgery, LLC dba OneCore Health*, Case No. CJ-2023-3620 (Okla. Cnty.).

3. On December 14, 2024, Debtor filed its *Application for Entry of an Order (I) Setting Bar Dates for Filing Proofs of Claim; (II) Approving Form and Manner for Filing Proofs of Claim; and (III) Approving the Form and Manner of Notice of Bar Dates* [Dkt. No. 137].

4. The Court entered its *Order (I) Setting Bar Dates for Filing Proofs of Claim; (II) Approving Form and Manner for Filing Proofs of Claim; and (III) Approving the Form and Manner of Notice of Bar Dates* (the “Claims Bar Date Order”) [Dkt. No. 140] on December 18, 2024.

5. Debtor subsequently filed its *Notice of (I) Date by which Parties Must File Proofs of Claim; and (II) Procedures for Filing Proofs of Claim Against Debtor* (the “Claims Bar Date Notice”) [Dkt. No. 141] on the same day.

6. On December 20, 2024, the Claims Bar Date Notice was served on Fox’s counsel via electronic mail and first-class mail. [Dkt. No. 146]. The Notice of Claims Bar Date was also published in *The Oklahoman*. [Dkt. No. 147]. Therefore, Fox received timely notice of the Claims Bar Date, as hereinafter set forth.

7. Pursuant to the Claims Bar Date Notice and the Court’s Claims Bar Date Order, the deadline for creditors to file their proofs of claims was January 22, 2025 (the “Claims Bar Date”).

8. Timothy W. Fox’s proof of claim was filed after the expiration of the Claims Bar Date, on January 23, 2025. *See* Claim No. 23.

9. Thus, Fox’s claim is time-barred pursuant to the Claims Bar Date Order and may not serve as a basis for relief from the automatic stay.

### **Argument and Authorities**

10. A creditor...“must [timely] file a proof of claim or interest.” *See* Fed. R. Bankr. P. 3003(b)(2), (3). Pursuant to 502(b)(9) of the Bankruptcy Code, a claim shall not be allowed to the extent that “proof of such claim is not timely filed.” 11 U.S.C. § 502(b)(9); *see also In re Maxus Energy Corp.*, 639 B.R. 51, 63 (Bankr. D. Del. 2022) (“[A] claims bar date operates as a federally created statute of limitations, after which the claimant loses all of [its] right to bring an action against the debtor. A bar date means a drop-dead date that bars claimants who fail to file a proof of claim as set by the court” (internal quotations and citations omitted)); *In re Keene Corp.*, 188 B.R. 903, 907 (Bankr. S.D.N.Y. 1995) (stating that bar dates “must be strictly observed”); *In re*

*Carrillo*, 215 B.R. 212, 216 (Bankr. N.D. Okla. 1997) (holding in a chapter 13 case that untimely claims are not allowed).

11. Further, pursuant to this Court’s Claims Bar Date Order, “[i]f proofs of claim are not [properly received] on or before the applicable Bar Date, the holders of the underlying claims shall be barred from asserting such claims against Debtor.” *See* Claims Bar Date Order, ¶ 6. Any person or entity that fails to timely file their proof of claim, “shall be forever barred, estopped, and enjoined from asserting such claim against Debtor and its chapter 11 estate...and Debtor and its property and estate shall be forever discharged from any and all indebtedness or liability with respect to or arising from such claim.” *Id.* at ¶ 22.

12. Fox has been on notice of this Chapter 11 Case since at least on or around October 11, 2024 when a Notice of Suggestion of Bankruptcy was filed in its state-court action. Fox also received notice of the Claims Bar Date pursuant to Debtor’s service and publication of the Claims Bar Date Notice. Notwithstanding the sufficiency of its notice, Fox failed to timely file its proof of claim. “[A] bar date order does not function merely as a procedural gauntlet...but as an integral part of the reorganization process.” *In re Hooker Investments, Inc.*, 937 F.2d 833, 840 (2d Cir. 1991). Accordingly, the Court should deny Fox’s Motion for Relief from Automatic Stay on the basis that his claim is “forever barred” and Debtor and its property and estate [are] forever discharged from...liability with respect to...such claim.” *See* Claims Bar Date Order, ¶ 22.

### **Conclusion**

13. For the foregoing reasons, Debtor respectfully requests that the Court find that Fox’s claim is time-barred and that he is not entitled to any relief from Debtor, and therefore, deny the Motion.

Respectfully submitted,

**ONECORE**

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