

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	

**IRMA MOORE’S MOTION FOR ENTRY OF ORDER GRANTING RELIEF  
FROM AUTOMATIC STAY TO PURSUE APPLICABLE INSURANCE PROCEEDS  
WITH BRIEF IN SUPPORT, AND NOTICE OF OPPORTUNITY FOR HEARING**

**NOTICE OF OPPORTUNITY FOR HEARING**

**Your rights may be affected. You should read this Document carefully and consult your attorney about your rights and the effect of this Document.** If you do not want the Court to grant the motion, or you wish to have your views considered, you must file a written response to the motion with the Clerk of the United States Bankruptcy Court for the Western District of Oklahoma, 215 Dean A. McGee Avenue, Oklahoma City, OK 73102 no later than 14 days from the date of filing of the motion. You should also serve a file-stamped copy of the response to the undersigned [and others who are required to be served] and file a certificate or affidavit of service with the Court.

**[Note – this is a flat fourteen (14) days regardless of the manner of service.]**

Irma Moore (“Moore”) hereby submits this motion (the “Motion”) for entry of an order, substantially in the form attached hereto as Exhibit 1 (the “Proposed Order”), granting her relief from the automatic stay as set forth herein, pursuant to sections 105 and 362(d) of title 11 of the United States Code, 11 U.S.C. §§ 101 *et seq.* (the “Bankruptcy Code”), 4001(a) and 9013 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and 4001-1 and 9013-1 of the Local Bankruptcy Rules for the Western District of Oklahoma (the “Local Rules”).



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### **Jurisdiction and Venue**

1. The Court has jurisdiction to consider this Motion pursuant to 28 U.S.C. §§ 157 and 1334 and rule 81.4(a) of the Local Civil Rules of the United States District Court for the Western District of Oklahoma. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue for purposes of considering this Motion is proper in the Court pursuant to 28 U.S.C. §§ 1408 and 1409. The statutory predicates for the relief requested herein are sections 105 and 362 of the Bankruptcy Code and Bankruptcy Rules 4001 and 9013.

### **Brief Statement of Facts**

2. On January 8, 2025, Moore filed a proof of claim sounding in tort against Debtor (the “Proof of Claim”) fully identifying Moore’s claims against the Debtor and its estate (collectively, the “Moore Claim”).

3. On April 8, 2025, Debtor filed an amendment to its Schedule E/F to identify Moore as a claimant with a contingent, unliquidated, and disputed claim. [Dkt. No. 236].

4. Counsel for Debtor and Moore have been engaging in ongoing communications regarding potential resolution of the Moore Claim.

5. Moore believes that any award of damages or litigation expenses incurred by Debtor in defending the Moore Claim would be covered by a policy of liability insurance issued to Debtor by Allied World Insurance Company (“AWIC”) (the “AWIC Policy”).

6. Accordingly, Moore seeks relief from the automatic stay in order to pursue available proceeds of the AWIC Policy according to (i) the terms of such policy, and not to exceed such Policy’s available limits, and (ii) the remedies available to her under state law.

7. In connection with her pursuit of the Moore Claim, Moore stipulates that, upon the grant of the relief requested herein, AWIC may exercise any and all of its contractual rights under the AWIC Policy without seeking further relief from this Court.

8. Moore is not seeking a distribution from Debtor or its estate, Moore agrees to waive her Proof of Claim, and Moore agrees that she will only proceed against the Debtor and/or AWIC to the extent of any insurance coverage available to Debtor under the AWIC Policy.

9. Debtor's counsel has advised that it consents on behalf of Debtor to the relief requested herein, solely as set forth in the Proposed Order.

### **Relief Requested**

10. By this Motion, Moore moves the Court for relief from the automatic stay to (i) permit Moore to pursue state-law remedies to which she may be entitled with respect to the Moore Claim, solely limited to the recovery of any applicable insurance proceeds under the AWIC Policy; and (ii) permit AWIC to expend applicable proceeds of the AWIC Policy in connection therewith, pursuant to the terms of said policy.

### **Arguments and Authorities**

11. Creditors may seek relief from the automatic stay by showing "cause." 11 U.S.C. § 362(d)(1). Whether a creditor has shown cause is a "a discretionary determination made on a case by case basis." *In re Phoenix Corp.*, 342 B.R. 385, 2006 WL 694290, at \*2 (B.A.P. 10th Cir. 2006). While the United States Court of Appeals for the Tenth Circuit "has not set forth a precise framework or exhaustive set of factors for analyzing whether cause exists" to lift a stay, courts may consider the factors set forth in *In re Curtis*, 40 B.R. 795 (Bankr. D. Utah 1984) (the "Curtis Factors") to determine whether the stay should be lifted. *See In re Dampier*, No. BAP

CO-15-006, 2015 WL 6756446, at \*4 (10th Cir. BAP Nov. 5, 2015) (internal quotations and citations omitted)).<sup>1</sup>

12. Here, the applicable *Curtis* factors are met. If the Motion is granted, the relief will result in a complete resolution of the issues and will not interfere with the Chapter 11 Case. Since Moore has agreed to seek recovery solely to the extent of applicable insurance proceeds through AWIC and to waive any claims against Debtor and its estate, the requested relief will have no impact on creditors or any other interested parties in the bankruptcy proceeding. Granting the relief requested will not interfere with Debtor's proposed plan of reorganization, or otherwise interfere with the claims administration process.

### **Notice**

13. Pursuant to Local Rule 4001-1(D), notice of this Motion has been provided to the Debtor, Debtor's counsel, the U.S. Trustee, all other parties who have requested notice in this Chapter 11 Case, and any other individuals known to have an interest in the property affected by this Motion. Moore submits that, in light of the nature of the relief requested, no other or further notice need be provided.

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<sup>1</sup> The *Curtis* factors are: "(1) Whether the relief will result in a partial or complete resolution of the issues; (2) The lack of any connection with or interference with the bankruptcy case; (3) Whether the foreign proceeding involves the debtor as a fiduciary; (4) Whether a specialized tribunal has been established to hear the particular cause of action and that tribunal has the expertise to hear such cases; (5) Whether the debtor's insurance carrier has assumed full financial responsibility for defending the litigation; (6) Whether the action essentially involves third parties, and the debtor functions only as a bailee or conduit for the goods or proceeds in question; (7) Whether litigation in another forum would prejudice the interests of other creditors, the creditors' committee and other interested parties; (8) Whether the judgment claim arising from the foreign action is subject to equitable subordination under Section 510(c); (9) Whether movant's success in the foreign proceeding would result in a judicial lien avoidable by the debtor under Section 522(f); (10) The interest of judicial economy and the expeditious and economical determination of litigation for the parties; (11) Whether the foreign proceedings have progressed to the point where the parties are prepared for trial; (12) The impact of the stay on the parties and the "balance of hurt." *In re Dampier*, 2015 WL 6756446 at 4–5.

**Conclusion**

14. For the foregoing reasons, there is good cause to lift the automatic stay (i) for the limited purpose of allowing Moore to pursue her state-law remedies with respect to the Moore claim, solely limited to her ability to recover through the AWIC Policy, and subject to the terms thereof; and (ii) permitting AWIC to expend applicable insurance proceeds in connection therewith.

Dated: May 5, 2025

Respectfully submitted,

**IRMA MOORE**

/s/ Geren T. Steiner

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**EXHIBIT 1**

**Proposed Order**

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

In re  HOSPITAL FOR SPECIAL SURGERY, LLC <i>Db</i> a ONECORE HEALTH,  <div style="text-align: right;">Debtor.</div>	X : : : : : : : : X	Chapter 11  Case No. 24-12862-JDL
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**ORDER GRANTING IRMA MOORE’S  
MOTION FOR ENTRY OF ORDER GRANTING RELIEF FROM  
AUTOMATIC STAY TO PURSUE APPLICABLE INSURANCE PROCEEDS**

Upon the Motion (the “Motion”)<sup>2</sup> of Irma Moore (“Moore”), for entry of an order (this “Order”), under sections 105 and 362 of the Bankruptcy Code and Bankruptcy Rules 4001 and 9013, and Local Rules 4001-1 and 9013-1, granting relief from the automatic stay, solely as set forth herein; and this Court having jurisdiction to consider the Motion pursuant to 28 U.S.C. §§ 157 and 1334 and rule 81.4(a) of the Local Civil Rules of the United States District Court for the Western District of Oklahoma; and venue of this Chapter 11 Case and the Motion in this district being proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this matter being a core proceeding pursuant to 28 U.S.C. § 157(b); and this Court having found that the Motion was filed and contemporaneously served on April \_\_\_, 2025, and that the response deadline to the Motion expired on \_\_\_\_\_, \_\_, 2025; and objections (if any) to the Motion having been withdrawn, resolved or overruled on the merits; and this Court finding that proper and adequate notice of the Motion and the relief requested therein has been provided in accordance with the Bankruptcy Rules and the Local Bankruptcy Rules of the United States Bankruptcy Court for the Western District of

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<sup>2</sup> All defined terms shall have the meaning ascribed to them in the Motion unless otherwise defined herein.

Oklahoma, and that, except as otherwise ordered herein, no other or further notice is necessary; and a hearing, if requested, having been held to consider the relief requested in the Motion and upon the record of any such hearing and all of the proceedings had before this Court; and this Court having found and determined that the relief sought in the Motion is in the best interests of Debtor, its estate, its creditors and all other parties-in-interest; and that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor;

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED as set forth herein.
2. Debtor maintains certain insurance policies through AWIC (the “Insurance Policies”), which may provide coverage with respect to the Moore Claim.
3. Debtor listed the Insurance Policies in its *Amended Schedules* [Dkt. No. 139] as property of its estate. The Court finds that Debtor’s Insurance Policies are property of the estate under section 541 of the Bankruptcy Code. Debtor is operating its business and managing its properties as a debtor-in-possession under section 1107(a) and 1108 of the Bankruptcy Code. Further, Debtor has filed its *Chapter 11 Plan of Reorganization of Hospital for Special Surgery, LLC dba OneCore Health* [Dkt. No. 254] (the “Plan”). Accordingly, absent Debtor’s consent, the automatic stay may not be modified during its exclusive period to solicit acceptances of the Plan.
4. By and through this Order, Debtor stipulates and agrees to the modification of the automatic stay, solely with respect to the Moore Claim and solely as set forth herein.
5. The automatic stay is modified solely to permit Moore to pursue state-law remedies associated with the Moore Claim and solely to the extent that she seeks to recover proceeds from any applicable Insurance Policies of Debtor.



6. In this regard, AWIC is permitted, but not required, to pay proceeds from any applicable Insurance Policies, pursuant to the terms thereof, in connection with defending, settling, or otherwise taking action it deems necessary with respect to the Moore Claim.

7. Nothing in this Order shall modify or alter the terms and conditions of the Insurance Policies or the parties' contractual rights and obligations thereunder.

8. Moore stipulates and agrees, by and through this Order, and the Court hereby finds and directs, that Moore waives her Proof of Claim and waives any further right to assert a claim against Debtor or its estate in this Chapter 11 Case. For the avoidance of doubt, with respect to the Moore Claim, Moore shall recover no amount of money directly from Debtor and shall not be entitled to any distribution from Debtor under a confirmed plan of reorganization in this Chapter 11 Case or otherwise.

9. Nothing contained herein or any action taken pursuant to relief requested by the Motion or granted by this Order is intended to be or shall be construed as (a) an admission as to the amount of, or basis for, or validity of, any claim against Debtor under the Bankruptcy Code or other applicable non-bankruptcy law; (b) a waiver of Debtor's or any party in interest's rights to dispute any claim or interest on any grounds; (c) a promise or requirement to pay any claim; (d) a waiver of Debtor's or any other party in interest's rights under the Bankruptcy Code or any other applicable law; (e) an implication or admission that any particular claim is of a type specified or defined in the Motion or this Order; or (f) an admission as to the validity, priority, enforceability, or perfection of any lien on, security interest in, or other encumbrance on property of Debtor's estate. Likewise, this Order is not intended to be and shall not be construed as an admission to the validity of any claim or a waiver of Debtor's or any party in interest's rights subsequently to dispute such claim.

10. This Court shall retain jurisdiction over any and all matters arising from or related to the interpretation and implementation of this Order.

11. Moore shall effectuate service of this Order on all parties in interest.

12. Findings of fact are based upon representations of counsel. Local Rule 9013-1.L.1.

IT IS SO ORDERED.

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Approved for Entry:

**IRMA MOORE**

/s/ Geren T. Steiner

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—AND—

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