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Proposed Attorneys for the Debtors

**IN THE UNITED STATES BANKRUPTCY COURT
 FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

<p>In re: PolarityTE, Inc., a Delaware corporation Debtor</p>	<p>Case No. 23-bk-22358-KRA Case No. 23-bk-22360-KRA Case No. 23-bk-22361-KRA</p>
<p>In re: PolarityTE, MD Inc., a Nevada corporation Debtor</p>	<p>Chapter 11 Judge Kevin R. Anderson</p>
<p>In re: PolarityTE, Inc., a Nevada corporation Debtor</p>	<p>THIS FILING RELATES TO ALL DEBTORS¹</p>

**DEBTORS' EX PARTE MOTION FOR ENTRY OF AN ORDER (I) DIRECTING
 JOINT ADMINISTRATION OF CHAPTER 11 CASES AND (II) GRANTING
 RELATED RELIEF**

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are PolarityTE, Inc. (9524); PolarityTE MD, Inc. (1555); and PolarityTE, Inc. (6882). The location of the Debtors' service address is 1960 S. 4250 W., Salt Lake City, UT 84104.



By this ex parte motion (the “**Motion**”), the above captioned debtors and debtors in possession (the “**Debtors**”), hereby move ex parte for entry of an order in the form attached as Exhibit A hereto (the “**Order**”) authorizing the joint administration of these Chapter 11 Cases.

MEMORANDUM OF POINTS AND AUTHORITIES

I. SUMMARY OF RELIEF REQUESTED

The Debtors seek entry of an Order substantially in the form attached as Exhibit A hereto (a) authorizing, but not directing, the Debtors to procedurally consolidate and jointly administer these Chapter 11 Cases; and (b) granting related relief. The Debtors request that the Bankruptcy Court maintain one file, one claims register, and one docket for all of the jointly administered cases under the case of PolarityTE, Inc., a Delaware Corporation (the parent) Case No. 23-bk-22358-KRA.²

II. JURISDICTION

1. The Court has jurisdiction over this matter under 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2).

2. The Debtors’ principal offices and principal place of business are in Salt Lake City, Utah, within the District of Utah, and, therefore, venue is proper in this District under 28 U.S.C. §§ 1408(1) and 1409.

3. The bases for the relief requested herein are sections 105(a), and 342(c)(1) of title 11 of the United States Code (the “**Bankruptcy Code**”) and rules 1015(b) and 2002 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”).

² Capitalized terms used herein but not otherwise defined in this Motion shall have the meanings ascribed to them in the *Declaration of Richard Hague in Support of First Day Motions* (the “**First Day Declaration**”). A detailed description of the Debtors, their businesses, and the facts and circumstances supporting the Debtors’ Chapter 11 Cases is set forth in detail in the First Day Declaration, filed contemporaneously herewith and incorporated by reference herein.

III. BACKGROUND

A. General Background

4. Debtors PolarityTE MD, Inc., a Nevada corporation (1555) (“**PTE MD**”); and PolarityTE, Inc., a Nevada corporation (6882) (“**PTE NV**”), are wholly owned subsidiaries of PolarityTE, Inc. (9524) (“**PTE**”), a Delaware corporation and publicly traded company.

5. The Debtors are a clinical stage biotechnology company with a promising product, SkinTE (“**SkinTE**”). SkinTE is a human cellular and tissue-based product derived and grown from a patient’s own skin to regenerate full-thickness skin with all of its layers (epidermis, dermis and hypodermis) and appendages (hair follicles and glands). SkinTE has been used to treat complex wounds, including both acute and chronic wounds, and can be used in addition to and/or in place of split-thickness skin grafting, full-thickness grafting, temporizing skin coverage and/or skin substitute products.

6. Previously the Debtors were selling SkinTE under the U.S. Food and Drug Administration’s (“**FDA**”) 361 HCT/P pathway governed by 21 C.F.R. 1271. SkinTE was earning revenue, which partially offset its operating expenses. However, based on FDA guidance, since May 2021, the Debtors have been conducting the first of two more-rigorous clinical trials under the FDA’s 351 Biologic pathway, from which they derive no revenue. On this pathway, the Debtors will not be generating revenue again until obtaining FDA approval, which it anticipates in 2026.

7. The Debtors cannot suspend their current clinical trial regime without jeopardizing FDA approval. But the Debtors are unable to continue to fund the clinical trials and will shortly run out of cash.

8. Rather than abandon the clinical trials and their promising product, on June 6, 2023 (the “**Petition Date**”), each of the Debtors filed a petition for relief under chapter 11 of the Bankruptcy Code (the “**Chapter 11 Cases**”) in the United States Bankruptcy Court for the District of Utah (the “**Bankruptcy Court**”). The Debtors will seek to sell their assets, including the ongoing clinical trials, to the highest bidder who can maximize the value of the assets and, presumably, will have funding to allow the clinical trials to go forward and eventually monetize the SkinTE product. Without this relief, the Debtors will be forced to close the clinical trials due to lack of funding, which will greatly reduce the potential value of their assets and delay, perhaps for years, the availability of the SkinTE product.

9. Additional information about the Debtors and their business and the facts and circumstances leading to the filing of the petition for relief are set forth in the Declaration of Richard Hague in Support of Chapter 11 Petition and First Day Motions (the “**First Day Declaration**”) filed on the Petition Date. Additional facts specific to the Motion are set forth below.

B. Background Specific to Motion

10. The Debtors’ operations, capital structures, and, importantly, assets, are intertwined. In addition, the Debtors anticipate that the proceeds from the sale of their assets will be sufficient to pay all creditors and, no matter where they are allocated, the excess will be sent as a dividend to their shareholders. Therefore, while separate bookkeeping will be undertaken for each entity, the Debtors’ strategies and goals are fully aligned. Further, there are substantial cost savings for joint administration. The Debtors’ financial affairs and business operations are related, and joint administration of the Chapter 11 Cases will ease administrative burden on the Bankruptcy Court, the Debtors, and other parties in interest.

11. Joint administration will avoid duplicate notices, applications, motions, and orders, thereby saving the Debtors considerable time and expense. For example, joint administration will permit the Clerk of the Court to use a single general docket for these cases and combine notices to creditors of the respective estates of the various debtors and other parties in interest. Indeed, the rights of creditors and parties in interest will be enhanced by the reduced costs that will result from joint administration. The Bankruptcy Court will also be relieved of the burden of hearing duplicative motions, entering duplicative orders, and maintaining duplicative files. Supervision of the administrative aspects of these cases by the United States Trustee also will be simplified and streamlined. Requiring the Debtors to serve three separate copies of pleadings seeking the same relief as to all Debtors would be a substantial waste of estate resources to the detriment of the Debtors' creditors and other parties in interest.

IV. BASIS FOR RELIEF

Bankruptcy Rule 1015(b) provides, in pertinent part, that “[i]f . . . two or more petitions are pending in the same court by or against . . . a debtor and an affiliate, the court may order a joint administration of the estates.” Fed. R. Bankr. P. 1015. The Debtors are “affiliates” as that term is defined in section 101(2) of the Bankruptcy Code. Accordingly, the Bankruptcy Code and Bankruptcy Rules authorize the Bankruptcy Court to grant the relief requested herein.

“Joint administration is designed in large part to promote procedural convenience and cost efficiencies which do not affect the substantive rights of claims or the respective debtor estates.” *In re McKenzie Energy Corp.*, 228 B.R. 854, 857 (Bankr. S.D. Tex. 1998). Thus, “joint administration or administrative consolidation is merely a procedural device which enables a court to efficiently oversee multiple estates.” *In re Babcock & Wilcox Co.*, 250 F.3d 955, 958 n.6 (5th Cir. 2001).

Joint administration is appropriate in these Chapter 11 Cases because PTE MD and PTE NV are wholly owned subsidiaries of PTE, which makes them affiliates within the meaning of section 101(2) of the Bankruptcy Code. Further, the Debtors' financial affairs and business operations are related, and joint administration of the Chapter 11 Cases will ease administrative burden on the Bankruptcy Court, the Debtors, and other parties in interest.

Joint administration will avoid duplicate notices, applications, motions, and orders, thereby saving the Debtors considerable time and expense. For example, joint administration will permit the Clerk of the Court to use a single general docket for these cases and combine notices to creditors of the respective estates of the various debtors and other parties in interest.

Moreover, the rights of creditors and other parties in interest will not be adversely affected by joint administration of the Debtors' Chapter 11 Cases because the relief sought in this Motion is purely procedural and is in no way intended to affect substantive rights. Indeed, the rights of creditors and parties in interest will be enhanced by the reduced costs that will result from joint administration. The Bankruptcy Court will also be relieved of the burden of hearing duplicative motions, entering duplicative orders, and maintaining duplicative files. Supervision of the administrative aspects of these cases by the United States Trustee also will be simplified and streamlined.

Lastly, the Debtors respectfully request the Court permit use of a combined service list and correspondingly combined notices. The official mailing matrixes for Debtors are substantively similar, and many of Debtors' filings will relate to all Debtors and would likely serve the same creditors and parties in interest. Requiring the Debtors to serve three separate copies of pleadings seeking the same relief as to all Debtors would be a substantial waste of estate resources to the detriment of the Debtors' creditors and other parties in interest.

V. NOTICE

No trustee or examiner has been appointed in the Chapter 11 Cases. The Debtors have provided or will provide notice of this Motion to (a) the Office of the United States Trustee for the District of Utah; (b) the parties listed on the Combined List of Creditors Holding the 20 Largest Unsecured Claims for the Debtors; (c) all ECF notice parties; (d) the United States Internal Revenue Service; (e) the Utah Tax Commission; (f) the United States Securities and Exchange Commission; and (g) all parties on the Debtors' combined mailing matrix. In light of the nature of the relief requested in this ex parte Motion, the Debtors respectfully submit that no further notice is necessary.

No prior application for the relief sought in this Motion has been made to the Bankruptcy Court or any other court in connection with this Chapter 11 Cases.

VI. CONCLUSION

WHEREFORE, for the reasons set forth herein, the Debtors respectfully request that the Bankruptcy Court enter the Order substantially in the form attached as Exhibit A hereto, granting the relief requested in the Motion and other and further relief as is just and proper.

DATED June 6, 2023.

PARSONS BEHLE & LATIMER

/s/ Brian M. Rothschild

J. Thomas Beckett
Brian M. Rothschild
Darren Neilson

Proposed Attorneys for the Debtors

EXHIBIT A

PROPOSED ORDER

Order prepared and submitted by:

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Proposed Attorneys for the Joint Debtors

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

<p>In re:</p> <p>PolarityTE, Inc., a Delaware corporation</p> <p style="text-align: center;">Debtor</p>	<p>Case No. 23-bk-22358-KRA</p> <p>Case No. 23-bk-22360-KRA</p> <p>Case No. 23-bk-22361-KRA</p>
<p>In re:</p> <p>PolarityTE, MD Inc., a Nevada corporation</p> <p style="text-align: center;">Debtor</p>	<p>Chapter 11</p> <p>Judge Kevin R. Anderson</p>
<p>In re:</p> <p>PolarityTE, Inc., a Nevada corporation</p> <p style="text-align: center;">Debtor</p>	<p style="text-align: center;">THIS ORDER RELATES TO ALL DEBTORS¹</p>

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are PolarityTE, Inc. (9524); PolarityTE MD, Inc. (1555); and PolarityTE, Inc. (6882). The location of the Debtors' service address is 1960 S. 4250 W., Salt Lake City, UT 84104.

**ORDER (I) DIRECTING JOINT ADMINISTRATION OF
CHAPTER 11 CASES AND (II) GRANTING RELATED RELIEF**

Upon the motion (the “**Motion**”)² filed by the above-captioned debtors and debtors in possession (the “**Debtors**”) seeking entry of an order authorizing the joint administration and procedural consolidation of the Debtors’ Chapter 11 Cases and related relief; and the Court, having reviewed the Motion and having heard the statements of counsel in support of the relief requested in the Motion at the hearing (the “**Hearing**”), and upon the Declaration of Richard Hague in Support of Chapter 11 Petition and First Day Motions, and for cause shown, finds that the Court has jurisdiction over this matter under 28 U.S.C. §§ 157 and 1334, that this is a core matter under 28 U.S.C. § 157(b)(2), that notice of the Motion and the Hearing were sufficient under the circumstances and that no further notice need be given; and the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein,

IT IS HEREBY ORDERED AS FOLLOWS:

1. The Motion is GRANTED as provided herein.
2. The Chapter 11 Cases filed by the three Debtors, PolarityTE MD, Inc. (1555) (“**PTE MD**”) (Case No. 23-bk-22360); and PolarityTE, Inc. (6882) (“**PTE NV**”) (Case No. 23-bk-22361); and PolarityTE, Inc. (9524) (“**PTE**”) (Case No. 23-bk-22358-KRA) shall be procedurally consolidated and jointly administered under the docket for PolarityTE Inc., Case No. 23-bk-22358-KRA.
3. All parties in interest filing or noticing any matter before the Bankruptcy Court in the case of any of the Debtors is directed to file such paper or notice in the case of PTE, Case No.

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

23-bk-22358-KRA and indicate which Debtor or Debtors the filing applies to. All parties in interest filing proofs of claim should also file them in the case of PTE, Case No. 23-bk-22358-KRA and indicate which Debtor or Debtors the proof of claim applies to.

4. Following entry of this Order and unless and until ordered otherwise, all filings, proofs of claim, and notices filed on the docket or claims registry of PTE, Case No. 23-bk-22358-KRA, will be deemed to have been also filed in the cases of PTE MD and PTE NV.

[END OF DOCUMENT]

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