

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

IN RE:	§	CHAPTER 11
	§	
FOREST PARK MEDICAL CENTER	§	
AT FRISCO, LLC,	§	CASE NO. 15-41684-BTR
	§	
DEBTOR.	§	Complex Case
	§	

AGREED MOTION TO MODIFY AUTOMATIC STAY

NO HEARING WILL BE CONDUCTED ON THIS MOTION UNLESS A WRITTEN OBJECTION IS FILED WITH THE CLERK OF THE UNITED STATES BANKRUPTCY COURT AND SERVED UPON THE PARTY FILING THIS PLEADING WITHIN FOURTEEN (14) DAYS FROM THE DATE OF SERVICE UNLESS THE COURT SHORTENS OR EXTENDS THE TIME FOR FILING SUCH OBJECTION. IF NO OBJECTION IS TIMELY SERVED AND FILED, THIS PLEADING SHALL BE DEEMED TO BE UNOPPOSED, AND THE COURT MAY ENTER AN ORDER GRANTING THE RELIEF SOUGHT. IF AN OBJECTION IS FILED AND SERVED IN A TIMELY MANNER, THE COURT WILL THEREAFTER SET A HEARING. IF YOU FAIL TO APPEAR AT THE HEARING, YOUR OBJECTION MAY BE STRICKEN. THE COURT RESERVES THE RIGHT TO SET A HEARING ON ANY MATTER.

TO THE HONORABLE BRENDA T. RHOADES,
CHIEF UNITED STATES BANKRUPTCY JUDGE:

Jason Davis, Individually, as Representative of the Estate of Talva Davis, deceased, and as Next Friend of the Minors, J.D., T.D., and B.D.; and Shealan Hayes, Individually (collectively, “Movants”) hereby submit this agreed motion (the “Motion”) to modify the automatic stay pursuant to Section 362 of the United States Bankruptcy Code and 11 U.S.C. §§ 101 *et. seq.* (the “Bankruptcy Code”). In support of this Motion, Movants respectfully represent as follows:

1. There currently exists a Texas State Court legal proceeding styled *Jason Davis, Individually, as Representative of the Estate of Talva Davis, deceased, and as Next Friend of the Minors, J.D., T.D., and B.D.; and Shealan Hayes, Individually vs. Forest Park Medical Center at Frisco, LLC D/B/A Forest Park Medical Center Frisco; Michael Richardson, M.D.; and Inpatient Physician Associates, PLLC*, pending in the 68th Judicial District Court of Dallas County under Cause No. DC-13-09404 (“the Davis Matter”). Movants are plaintiffs and Forest Park Medical Center at Frisco, LLC (the “Debtor”), debtor, and debtor-in-possession, is a defendant in the Davis Matter.

2. By this Motion, Movants seek authority from this Court to proceed in the Davis Matter to judgment as to liability and damages against the Debtor, if any, with the condition that Movants would be prohibited from taking any collection actions against the Debtor without further order of the Court, including, without limitation, as to insurance proceeds of any of the Debtor’s insurance policies. Movants request that the Court grant this Motion and modify the automatic stay to permit the continuation of the Davis Matter, as limited herein. Movants submit that no substantial prejudice to either the Debtor or the bankruptcy estate would result from the continuation of the Davis Matter, as limited herein.

3. Movants further allege that good cause exists to modify the automatic stay as requested herein because a jury trial is currently set for March 22, 2016, significant discovery including multiple depositions are scheduled, and all issues are based on Texas state law.

WHEREFORE, PREMISES CONSIDERED, Movants respectfully pray that this Court enter an order modifying the automatic stay to permit Movants to continue the Davis Matter, for the limited purpose of reducing Movants’ alleged claims against the Debtor to judgment as to liability and damages, if any, and for any and all other such relief to which the Court finds Movants

to be justly entitled,

Dated: October 23rd, 2015.

Respectfully submitted,

By: /s/ Maria Wormington

Maria Wormington, RN JD

State Bar No. 24013783

David Benford, JD

State Bar No. 02132940

WORMINGTON LAW GROUP, PLLC

212 East Virginia Street

McKinney, Texas 75069

(972) 569-3930

(972) 547-6440 Facsimile

**Counsel for Jason Davis, Individually, as
Representative of the Estate of Talva Davis,
deceased, and as Next Friend of the Minors, J.D.,
T.D., and B.D.; and Shealan Hayes, Individually**

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and exact copy of the foregoing was served electronically by ECF on all parties entitled to and requesting electronic notice on this 23rd day of October, 2015.

/S/ MARIAWORMINGTON, JD
Maria Wormington, Esq.

CERTIFICATE OF CONFERENCE

The undersigned hereby certifies that on or about October 22, 2015, I conferred with Vickie L. Driver, proposed counsel for the Debtor, and Ms. Driver indicated that the Debtor agreed to the relief requested herein.

/S/ DAVID BENFORD, JD
David Benford, Esq.

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AGREED ORDER MODIFYING AUTOMATIC STAY

Upon consideration of the agreed motion of Jason Davis, Individually, as Representative of the Estate of Talva Davis, deceased, and as Next Friend of the Minors, J.D., T.D., and B.D.; and Shealan Hayes, Individually (collectively, “Movants”), filed on October __, 2015 (the “Motion”) the Court finds that the Motion was properly served pursuant to the Federal and Local Rules of Bankruptcy Procedure and that it contained the appropriate fourteen (14)-day negative notice language, pursuant to LBR 4001, which directed any party opposed to the granting of the relief sought by the Motion to file a written response within fourteen days or the Motion would be deemed by the Court to be unopposed. The Court finds that no objection or other written response to the Motion has been timely filed by any party. Due to the failure of any party to file a timely written response, the allegations contained in the Motion stand unopposed and, therefore, the Court finds that good cause exists for the entry of the following order.

IT IS THEREFORE ORDERED that the Agreed Motion to Modify Automatic Stay filed by Movants on October __, 2015 is hereby **GRANTED** so as to authorize the modification of the automatic stay to allow Movants to proceed against the Debtor in the Davis Matter for the limited purpose of reducing Movants’ alleged claims against the Debtor to judgment as to liability and

damages, if any, while prohibiting any Movant's recovery against the Debtor, including, without limitation, any proceeds of any of the Debtor's insurance policies, absent further order of the Court.

IT IS FURTHER ORDERED that, since the Motion was unopposed by any party, the fourteen (14)-day stay period otherwise imposed by Fed. R. Bankr. P. 4001(3) shall not be applicable to this Order.

HONORABLE BRENDA T. RHOADES,
CHIEF UNITED STATES BANKRUPTCY JUDGE

PREPARED BY:

/S/ MARIA WORMINGTON

Maria Wormington, JD
State Bar No. 24013783
David Benford, JD
State Bar No. 02132940
WORMINGTON LAW GROUP, PLLC
212 East Virginia Street
McKinney, Texas 75069
(972) 569-3930
(972) 547-6440 Facsimile

**Counsel for Jason Davis, Individually, as
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and as Next Friend of the Minors, J.D., T.D., and B.D.;
and Shealan Hayes, Individually**

AGREED AS TO ENTRY:

/s/ VICKIE DRIVER

Vickie Driver/William L. Medford
Lewis Brisbois Bisgaard & Smith, LLP
2100 Ross Avenue, Suite 2000
Dallas, Texas 75201
(214) 722-7100
Fax: (214) 722-7111

Proposed Counsel for Debtor