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UNITED STATES BANKRUPTCY COURT
 EASTERN DISTRICT OF WASHINGTON

In re: ASTRIA HEALTH,
 Debtors.

Case No. 19-0118 (Administratively
 Consolidated)

**MOTION FOR ORDER GRANTING
 LIMITED RELIEF FROM THE
 AUTOMATIC STAY RE; PENDING
 PERSONAL INJURY CLAIM OF
 FLORENDA LECLAIR AND NOTICE**

TO THE HONORABLE FRANK L. KURTZ, THE OFFICE OF THE UNITED STATES
 TRUSTEE, THE DEBTORS, AND COUNSEL TO THE DEBTORS:

In accordance with Federal Rule of Bankruptcy Procedure 4001 and Local Bankruptcy
 Rules 4001-1 and 4001-3, Florenda LeClair, moves the Court for an order granting the her
 limited relief from the automatic stay (the "Motion"); in order to liquidate her claim to judgment
 against the debtor and other related parties, up to and including entry of judgment but barring
 any attempt to collect the proceeds of the judgment from the debtor or from assets of the debtor,
 except to allow satisfaction of said claim solely from the proceeds from medical bodily injury
 liability insurance policies issued to Sunnyside Community Hospital Associates and its agents
 and employees.

This Motion is made pursuant to Bankruptcy Code (the "Code") § 362(d)(1) for cause.
 The Motion is based upon the following grounds:



1 1. In September and October of 2016, Valentin Antoci, M.D. was an orthopedic
2 surgeon, licensed to practice in the state of Washington, employed by the Sunnyside Community
3 Hospital Association.

4 2. On October 5, 2016 Florenda LeClair submitted to a right shoulder total
5 arthroplasty surgery with Dr. Antoci, at Sunnyside Community Hospital. Dr. Antoci totally
6 botched that surgery. Ms. LeClair required medical transport to Swedish Medical Center, in
7 Seattle, for emergency surgery by a vascular surgeon and an orthopedic surgeon. She also
8 required subsequent, multiple surgical attempts by other Seattle orthopedic surgeons to try to
9 salvage some of the use of her right upper extremity. Ms. LeClair basically has been left with a
10 flail arm and hand. She basically has no use of her dominant arm and hand, and never will.

11 3. The law firm of Johnson & Johnson (the “Firm”) was retained by Ms. LeClair to
12 represent her in her claims against the debtor and its agents. The Firm has collected all of their
13 medical records and had independent review of standard of care done by other practicing
14 orthopedic surgeons. The independent reviews of her case resulted in a report that the treatment
15 LeClair received from Dr. Antoci was well below the accepted standard of care for an orthopedic
16 surgeon practicing in the state of Washington, under the same or similar circumstances.

17 4. Dr. Antoci is the subject of multiple complaints filed against him with the
18 Medical Quality Assurance Commission of the state of Washington Department of Health
19 concerning the extremely poor care provided by Dr. Antoci. Those complaints are pending a
20 hearing before the commission sometime during the coming year.

21 5. The Firm presented a claim for Ms. LeClair to the Washington State Physicians
22 Insurance Association, Inc., a/k/a Physicians Insurance, a Mutual Company, which was / is the
23 errors and omissions insurer for the Sunnyside Community Hospital Association, and its
24 employees, including Dr. Antoci. The parties were not able to amicably resolve the claim.

25 6. On August 15, 2018 LeClair had filed a Summons and Complaint, as plaintiff,
26 against Valentin Antoci, M.D., and the Sunnyside Community Hospital Association, as
27 defendants, in Yakima County Superior Court. That case was assigned cause number 18–2–

1 02842–39 and has a current trial date beginning on January 6, 2020. A true and correct copy of
2 that complaint is attached as Exhibit “1” (the “Complaint”) to the Declaration of Richard R.
3 Johnson filed in support of this motion and is incorporated herein by reference as if fully set
4 forth.

5 7. LeClair requests entry of an order modifying the automatic stay of 11 USC Sec.
6 362(a) to allow her to pursue her civil claims in state court to liquidation and recovery from the
7 medical bodily injury liability insurance policy(ies) issued to the Sunnyside Community Hospital
8 Association, and it’s agents and employees, including Dr. Antoci.

9 8. The insurance proceeds from Physicians Insurance should be more than adequate
10 to cover any awards or settlement Ms. LeClair may receive in connection with her claims
11 asserted in her civil actions against Dr. Antoci and the Sunnyside Community Hospital
12 Association.

13 9. The debtors in this bankruptcy proceeding will not suffer any prejudice when
14 creditors such as Ms. LeClair obtain stay relief to liquidate claims that are covered by medical
15 liability bodily injury insurance proceeds.

16 10. Ms. LeClair, on the other hand, will suffer great hardship if she is denied relief
17 from the stay. She suffered serious and painful injuries for which she has not been compensated.
18 Additional delay compounds the already significant hardship that she has suffered. Prejudice is
19 suffered from delay due to the lost time value of money.

20 11. The lapse of time could well adversely affect Ms. LeClair’s ability to effectively
21 prosecute her claims because witnesses and documentary evidence may become unavailable.
22 Ms. LeClair is also in serious jeopardy of losing the January 6, 2020 trial date if the stay is not
23 lifted in the very near future.

24 WHEREFORE, based upon the foregoing, LeClair respectfully requests that this Court
25 enter an order:

26 A. Granting LeClair relief from the automatic stay;

27 B. Allow her to prosecute the Complaint to judgment;

28 In re: Astria, Case No. 19-01189
Motion for Limited Relief From the Automatic Stay LeClair

1 C. Allow her to enforce any judgment in her favor against the Debtor's insurance
2 carrier's coverage; and

3 D. Granting such other and further relief as the Court may deem just and appropriate
4 under the facts and circumstances of these cases.

5 **THE STAY WILL BE TERMINATED WITH RESPECT TO THE PARTY SEEKING**
6 **RELIEF UNLESS THE DEBTOR FILES AND SERVES A WRITTEN OBJECTION. IF**
7 **YOU OBJECT TO THE RELIEF REQUESTED, YOU MUST FILE WITH THE CLERK**
8 **OF THE BANKRUPTCY COURT AT P.O. BOX 2164, SPOKANE, WA, 99210 AND**
9 **SERVE ON THE MOVING PARTY A WRITTEN OBJECTION WITHIN SEVENTEEN**
10 **(17) DAYS OF THE DATE OF SERVICE OF THIS MOTION. A STATEMENT OF THE**
11 **GROUND FOR THE OBJECTION MUST BE INCLUDED. FAILURE TO FILE AN**
12 **OBJECTION WITHIN THE SPECIFIED TIME MAY RESULT IN THE COURT**
13 **ENTERING AN ORDER GRANTING THE MOTION WITHOUT FURTHER NOTICE**
14 **OR HEARING.**

15 DATED this 19th day of August, 2019.

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17 KIMEL LAW OFFICES
18 By /s/ Metiner G Kimel
19 WSBA No. 21280
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