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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
 MARIA E. ESTRELLA 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, Maria E. Estrella (“Estrella”), 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 September 13, 2016 Estrella submitted to a left knee total arthroplasty surgery
5 with Dr. Antoci, at Sunnyside Community Hospital. Dr. Antoci totally botched that surgery.
6 Ms. Estrella did not do well, at all. She transferred her care to an orthopedic surgeon in the Tri-
7 Cities. She required a subsequent complete re-do of the left total knee arthroplasty with the Tri-
8 Cities orthopedic surgeon to try to salvage some of the use of her left lower extremity.

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

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

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

23 6. On August 15, 2018 Estrella had filed a Summons and Complaint, as plaintiff,
24 against Valentin Antoci, M.D., and the Sunnyside Community Hospital Association, as
25 defendants, in Yakima County Superior Court. That case was assigned cause number 19-2-
26 00816-39. A trial date has not yet been assigned in the case. A true and correct copy of that
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complaint is attached as Exhibit “1” (the “Complaint”) to the Declaration of Richard R. Johnson filed in support of this motion and is incorporated herein by reference as if fully set forth.

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

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

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

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

11. The lapse of time could well adversely affect Ms. Estrella’s ability to effectively prosecute her claims because witnesses and documentary evidence may become unavailable. Ms. Estrella has invested considerable amounts of time and money to date in developing her claims against Dr. Antoci and the Sunnyside Community Hospital Association.

WHEREFORE, based upon the foregoing, Estrella respectfully requests that this Court enter an order:

- A. Granting Estrella relief from the automatic stay;
- B. Allow her to prosecute the Complaint to judgment;
- C. Allow her to enforce any judgment in her favor against the Debtor’s insurance carrier’s coverage; and

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

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

13 DATED this 19th day of August 2019.

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15 KIMEL LAW OFFICES
16 By /s/ Metiner G Kimel
17 WSBA No. 21280
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