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Objections due by: October 22, 2019
 Preliminary hearing date: 10/23/19
 Hearing Time: 1:30 p.m.
 Location: Telephonic (888)273-3658
 Access Code: 5423885

Telephone: (509) 452-1115
 Facsimile: (509) 965-5860
 Counsel for Dr. Jan Hemstad

UNITED STATES BANKRUPTCY COURT
 EASTERN DISTRICT OF WASHINGTON

In re: ASTRIA HEALTH,
 Debtor.

Case No. 19-01189 (Administratively
 Consolidated)

**MOTION FOR ANNULMENT AND
 RELIEF FROM THE AUTOMATIC
 STAY AND NOTICE THEREON**

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, Jan Hemstad, moves the Court for an order annulling the automatic
 stay effective as of August 5, 2019, thereby giving effect to the exercise of his contractual right
 to terminate his employment contract with the Debtor without cause on providing 90 days notice
 to the Debtor, and to otherwise grant him immediate relief so that he may terminate his
 employment with the Debtor and to give notice in the event of any current or future defaults
 under the terms of the Dr. Hempstad's employment agreement.

This Motion is made pursuant to Bankruptcy Code (the "Code") § 362(d)(2) that the
 Debtor has no equity in the contractual rights that is the subject of stay and those contractual
 rights are not necessary to an effective reorganization of the Debtor and 2) for cause, as a matter
 of public policy that continued enforcement of the employment contract does nothing more than



1 delay Dr. Hemstad's departure from the Debtor's employment to the detriment of the public
2 interest. The Motion is based upon the following grounds:

3 1. On or about May 24, 2017 Dr. Hemstad that certain Physician Employment
4 Agreement dated May 8, 2017 (the "Agreement").

5 2. The Agreement is for a term of thirty-six months and provides that the agreed
6 compensation is to be adjusted commencing after the first year of the Agreement.

7 3. Section 4.2 of the Agreement is captioned "Termination without Cause", and
8 provides:

9 The Agreement may be terminated by either party for no cause upon ninety (90)
10 days written notice to the other party . . . (*emphasis added*)

11 4. The Employer's consolidated bankruptcy case was filed on May 6, 2019.

12 5. On August 5, 2019, Dr. Hemstad delivered his resignation letter to the Debtor (the
13 "Resignation Notice"). A true and correct copy of that letter is attached as Exhibit "5" to the
14 Declaration of Dr. Jan Hemstad in Support of Motion Annulment or Relief of the Automatic Stay
15 (the "Hemstad Declaration") and is incorporated herein by reference.

16 6. Absent the imposition of the automatic stay the effect of the Resignation Notice
17 would be to terminate the Agreement as of approximately November 4, 2019.

18 7. On September 4, 2019, the Debtor finally advised Dr. Hempsted that Astria intended
19 to enforce the Agreement through provisions of the bankruptcy law.

20 WHEREFORE, based upon the foregoing, Dr Hempsted respectfully requests that this
21 Court enter an order:

22 A. Annulling the automatic stay effective as of August 5, 2019;

23 B. In the alternative, granting immediate relief from the automatic say to exercise his ato
24 will termination rights and to give notice of any current or future breaches under the
25 Agreement; and

26 C. Granting such other and further relief as the Court may deem just and appropriate
27 under the facts and circumstances of these cases.

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

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12 DATED this 4Tth day of October, 2019.

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