

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Ernest Robles, Presiding
Courtroom 1568 Calendar**

Monday, February 22, 2021

Hearing Room 1568

10:00 AM

2:18-20151 Verity Health System of California, Inc.

Chapter 11

#104.00 HearingRE: [6395] Notice of motion and motion for relief from automatic stay with supporting declarations ACTION IN NON-BANKRUPTCY FORUM RE: Complaint for Personal Injury.

Docket 6395

Matter Notes:

2/22/2021

The tentative ruling will be the order.

Party to lodge order: As set forth in the Tentative Ruling

POST PDF OF TENTATIVE OR AMENDED TENTATIVE RULING TO CIAO

Tentative Ruling:

2/18/2021

Note: Telephonic Appearances Only. The Courtroom will be unavailable for in-court appearances. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878 no later than one hour before the hearing. The cost for persons representing themselves has been waived.

For the reasons set forth below, the Motion is **GRANTED**, except that Movant shall not be permitted to file a proof of claim or an adversary proceeding under §§ 523 or 727.

Pleadings Filed and Reviewed:

- 1) Notice of Motion and Motion for Relief from the Automatic Stay Under 11 U.S.C. § 362 [Doc. No. 6395] (the "Motion")
 - a) Notice of Motion [Doc. No. 6396]
- 2) Debtors' Response to Motion for Relief from the Automatic Stay Filed on Behalf of Sophie Holley-Horton [Doc. No. 6416]



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I. Facts and Summary of Pleadings

On August 31, 2018 (the "Petition Date"), Verity Health System of California, Inc. ("VHS") and certain of its subsidiaries (collectively, the "Debtors") filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code. The Debtors' cases are being jointly administered. On August 14, 2020, the Court confirmed the *Modified Second Amended Joint Chapter 11 Plan of Liquidation (Dated July 2, 2020) of the Debtors, the Prepetition Secured Creditors, and the Committee* [Bankr. Doc. No. 5468, Ex. A] (the "Plan"). See Doc. No. 5504 (the "Confirmation Order"). The Effective Date of the Plan was September 4, 2020. See Doc. No. 6044.

Sophia Holley-Horton (the "Movant") seeks stay relief, pursuant to § 362(d)(1), for the purposing of litigating a personal injury action against VHS and St. Vincent Medical Center (collectively, the "Debtors") [**Note 1**] in the Los Angeles Superior Court (the "State Court Action"). Movant seeks recovery only from applicable insurance and waives any deficiency claim against the Debtors. Movant checked the box indicating that she retains the right to file a proof of claim against the Debtors and/or file an adversary proceeding under §§ 523 or 727. [**Note 2**]

Given that Movant seeks recovery only from applicable insurance, Debtors do not oppose the Motion. Debtors oppose only Movant's request that she retain the ability to file a proof of claim or an adversary proceeding. Debtors note that both the claims bar date and the deadline to commence an adversary proceeding expired long ago.

Movant has not filed a reply to the Debtors' limited opposition.

II. Findings and Conclusions

Section 362(d)(1) requires the Court to lift the automatic stay for "cause." "Because there is no clear definition of what constitutes 'cause,' discretionary relief from the stay must be determined on a case by case basis." *Piombo Corp. v. Castlerock Props. (In re Castlerock Props.)*, 781 F.2d 159, 163 (9th Cir. 1986). Where stay relief is sought to permit litigation to continue in another forum, the fact that the debtor's insurance carrier has assumed full financial responsibility for defending the litigation constitutes "cause" for lifting the stay. *Truebro, Inc. v. Plumberex Specialty Prods., Inc. (In re Plumberex Specialty Prods., Inc.)*, 311 B.R. 551, 559-60 (Bankr. C.D. Cal. 2004).

Since Movant seeks recovery only from applicable insurance and waives any deficiency claim, the Motion is **GRANTED** pursuant to § 362(d)(1). The State Court is best suited to adjudicate the personal injury claims which arise under non-

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bankruptcy law.

Movant shall not be permitted to file a proof of claim or an adversary proceeding under §§ 523 or 727. Movant is barred from filing a proof of claim because she received notice of the claims bar date and failed to timely file a proof of claim. Movant is barred from filing an adversary proceeding under § 523 because in a Chapter 11 case, a § 523 action may be filed only by a domestic governmental unit. *See* § 1141(d)(6)(A). Movant is barred from filing an adversary proceeding under § 727 because pursuant to § 13.2 of the Plan, “the Debtors will not receive a discharge under this Plan.” The fact that the Debtors are not receiving a discharge under the Plan renders moot any contemplated § 727 action. Movant’s request that the order granting stay relief be binding and effective in any bankruptcy case commenced by or against the Debtors for a period of 180 days is denied for lack of good cause shown.

Within seven days of the hearing, Movant shall submit an order incorporating this tentative ruling by reference. **[Note 3]**

No appearance is required if submitting on the court’s tentative ruling. If you intend to submit on the tentative ruling, please contact Andrew Lockridge or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

Note 1

The Court notes that pursuant to the Plan and Confirmation Order, VHS and St. Vincent are both “Post-Effective Date Debtors.” For simplicity, the Court refers to both entities collectively as “Debtors.”

Note 2

The box that Movant checked on the mandatory form also contains requests for relief other than the right to file a proof of claim or an adversary proceeding under §§ 523 or 727. As a result, it is unclear whether Movant actually intends to file a proof of claim or commence an adversary proceeding.

Note 3

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To ensure that the Debtors have the opportunity to review Movant's proposed order as to form, Movants shall either (a) submit a *Notice of Lodgment* of the proposed order in accordance with the procedure set forth in Local Bankruptcy Rule 9021-1(b)(3)(A) or, in the alternative, shall (b) obtain Debtors' endorsement as to the form of the proposed order pursuant to the procedure set forth in Local Bankruptcy Rule 9021-1(b)(3)(C).

Party Information

Debtor(s):

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

Kerry L Duffy

Brigette G McGrath

Gary D Underdahl

Nicholas C Brown

Anna Kordas

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