

1 Bruce J. Borrus (WSBA #11751)  
2 FOX ROTHSCHILD LLP  
3 1001 4<sup>th</sup> Ave. Suite 4500  
4 Seattle, WA 98154  
5 Phone: (206) 624-3600  
6 [bborrus@foxrothschild.com](mailto:bborrus@foxrothschild.com)

Honorable Whitman L. Holt

7 *Attorneys for Nuance Communications, Inc.*

8 UNITED STATES BANKRUPTCY COURT  
9 FOR THE EASTERN DISTRICT OF WASHINGTON

10 In re  
11 ASTRIA HEALTH, et al.,  
12 Debtor.

Chapter 11  
Lead Case No. 19-01189 – WLH11  
Jointly Administered

**REQUEST OF NUANCE  
COMMUNICATIONS, INC. FOR  
ALLOWANCE AND PAYMENT  
OF ADMINISTRATIVE EXPENSE  
CLAIM**

13  
14  
15  
16 Nuance Communications, Inc. (“Nuance”), by and through its undersigned  
17 counsel, submits this Request (the “Request” or “Motion”), pursuant to Section  
18 503(b)(1)(A) of title 11 of the United States Code (the “Bankruptcy Code”), for  
19 allowance and payment of an administrative expense claim in an amount not less  
20 than \$347,364.75 for post-petition amounts due to Nuance from the above-  
21 captioned debtors (collectively, “Debtors”). In support of this Request, Nuance  
22 states as follows.  
23  
24  
25  
26

27 REQUEST OF NUANCE COMMUNICATIONS, INC.  
28 FOR ALLOWANCE AND PAYMENT OF  
ADMINISTRATIVE EXPENSE CLAIM – No. (19-  
01189 – WLH11) - 1

**Fox Rothschild LLP**  
1001 FOURTH AVENUE, SUITE 4500  
SEATTLE, WA 98154



1901189200722000000000029

1  
2  
3  
4  
5  
6  
7  
8  
9  
**JURISDICTION AND VENUE**

10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
1. This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

2. The statutory predicates for the requested relief are 11 U.S.C. §§ 503(b)(1)(A) and 507(a)(2).

**BACKGROUND**

3. On May 6, 2019 (the “Petition Date”), the Debtors filed their respective voluntary petitions for relief under chapter 11 of the Bankruptcy Code.

4. Debtors are indebted and liable to the Nuance under certain agreements by and between the Debtors and Nuance for services, licenses and products including, without limitation, Dragon Medical One and PowerScribe 360 (together with any amendments, exhibits, addenda, schedules, attachments, the “Agreements”). More specifically, post-Petition Date, Debtors have utilized Dragon Medical One, a cloud-based speech recognition software licensed by Nuance, and PowerScribe 360, a radiology reporting platform. Yet, Debtors have failed to pay Nuance.

**RELIEF REQUESTED**

5. Nuance asserts a claim for unpaid post-Petition Date amounts under the Agreements in the amount of at least \$347,364.75 (the “Administrative

1 Claim”). A statement of account is attached as Exhibit “A” hereto.<sup>1</sup> Nuance  
2 requests allowance and payment of its Administrative Claim pursuant to  
3 Section 503(b)(1)(A) of the Bankruptcy Code of amounts owed.  
4

5 **BASIS FOR RELIEF**

6 6. The Administrative Claim arises on or after the Petition Date.  
7 Consequently, the Administrative Claim is entitled to priority pursuant to Sections  
8 503(b) and 507(a)(2) of the Bankruptcy Code.  
9

10 7. Due to the proprietary nature of the Agreements and Nuance’s belief  
11 that Debtors are in possession thereof, the Agreements are not attached but will be  
12 provided upon agreement regarding appropriate protective procedures and upon  
13 written request sent to Nuance c/o Tiffany Strelow Cobb, Vorys, Sater, Seymour  
14 and Pease LLP, 52 East Gay Street, Columbus, Ohio 43215.  
15  
16

17 **WHEREFORE**, based upon the foregoing, Nuance respectfully requests  
18 that this Court enter an order:

19 A. Allowing Nuance an Administrative Claim in the case in the amount  
20 of \$347,364.75 and providing for payment; and  
21  
22  
23

24 <sup>1</sup> As noted on Exhibit A, a portion of the Administrative Claim is for amounts due to Nuance through third-party  
25 Cerner Corporation (“Cerner”) under a reseller agreement. As of the date of this filing, Nuance has not received  
26 payment from Cerner for the amounts due for Debtors’ use of Nuance products, and it is unclear whether Cerner has  
separately been paid for such amounts or has otherwise asserted an administrative claim. Accordingly, Nuance  
includes such amounts in this Request as delineated in Exhibit “A”.

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

3  
4 **IF YOU OBJECT TO THE RELIEF REQUESTED, YOU MUST FILE**  
5 **WITH THE CLERK OF THE BANKRUPTCY COURT FOR THE**  
6 **EASTERN DISTRICT OF WASHINGTON LOCATED AT PO BOX 2164,**  
7 **SPOKANE, WASHINGTON, 992102164 AND SERVE ON THE MOVING**  
8 **PARTY A WRITTEN OBJECTION NO LATER THAN TWENTY-FOUR**  
9 **(24) DAYS AFTER THE SERVICE DATE OF THIS NOTICE SET**  
10 **FORTH BELOW. A STATEMENT OF THE GROUNDS FOR THE**  
11 **OBJECTION MUST BE INCLUDED. FAILURE TO FILE AN**  
12 **OBJECTION TO THE MOTION WITHIN THE SPECIFIED TIME MAY**  
13 **RESULT IN THE COURT ENTERING AN ORDER GRANTING THE**  
14 **MOTION WITHOUT FURTHER NOTICE OR HEARING. FAILURE**  
15 **TO STATE A GROUNDS FOR AN OBJECTION MAY RESULT IN THE**  
16 **COURT STRIKING YOUR OBJECTION.**

17 Dated: July 22, 2020

18 FOX ROTHSCHILD LLP

19 /s/ Bruce J. Borrus

20 Bruce J. Borrus, WSBA #11751

21 1001 4<sup>th</sup> Ave. Suite 4500

22 Seattle, WA 98154

23 Tel. 206.624.3600

24 Fax 206.389.1708

25 [bborrus@foxrothschild.com](mailto:bborrus@foxrothschild.com)

26 *Attorney for Nuance Communications, Inc.*

27 REQUEST OF NUANCE COMMUNICATIONS, INC.  
28 FOR ALLOWANCE AND PAYMENT OF  
ADMINISTRATIVE EXPENSE CLAIM – No. (19-  
01189 – WLH11) - 4

**Fox ROTHSCHILD LLP**  
1001 FOURTH AVENUE, SUITE 4500  
SEATTLE, WA 98154  
206.624.3600

**Exhibit A**

<u>Bill to Customer</u>	<u>Ship to Customer</u>	<u>Invoice No.</u>	<u>Invoice Amount</u>	<u>Due Date</u>
ASTRIA HEALTH SUNNYSIDE COMMUNITY HOSPITAL	ASTRIA HEALTH SUNNYSIDE COMMUNITY HOSPITAL	10312938	\$ 76.50	6/4/2020
ASTRIA HEALTH SUNNYSIDE COMMUNITY HOSPITAL	ASTRIA HEALTH SUNNYSIDE COMMUNITY HOSPITAL	10312948	\$ 4.50	6/4/2020
SCH MEDICAL CENTER	SCH MEDICAL CENTER	10269149	\$ 321.81	6/6/2019
SCH MEDICAL CENTER	SCH MEDICAL CENTER	10269549	\$ 3,484.87	6/6/2019
SCH MEDICAL CENTER	SCH MEDICAL CENTER	10272397	\$ 402.71	7/7/2019
SCH MEDICAL CENTER	SCH MEDICAL CENTER	10273084	\$ 28.08	7/7/2019
SCH MEDICAL CENTER	SCH MEDICAL CENTER	12247	\$ (2.00)	12/17/2019
SCH MEDICAL CENTER	SCH MEDICAL CENTER	10313772	\$ 401.10	7/4/2020
SUNNYSIDE COMMUNITY HOSPITAL	SUNNYSIDE COMMUNITY HOSPITAL	10269425	\$ 688.60	6/6/2019
SUNNYSIDE COMMUNITY HOSPITAL	SUNNYSIDE COMMUNITY HOSPITAL	10273019	\$ 823.40	7/7/2019
SUNNYSIDE COMMUNITY HOSPITAL	SUNNYSIDE COMMUNITY HOSPITAL	10314051	\$ 2,853.33	7/4/2020
SUNNYSIDE COMMUNITY HOSPITAL	SUNNYSIDE COMMUNITY HOSPITAL	70312108	\$ 21.58	7/22/2020
YAKIMA VALLEY MEMORIAL HOSPITAL	YAKIMA VALLEY MEMORIAL HOSPITAL	10284521	\$ 412.25	10/27/2019
YAKIMA VALLEY MEMORIAL HOSPITAL	YAKIMA VALLEY MEMORIAL HOSPITAL	607792	\$ (412.25)	11/25/2019
YAKIMA VALLEY MEMORIAL HOSPITAL	YAKIMA VALLEY MEMORIAL HOSPITAL	70297453	\$ 10,897.60	5/28/2020
YAKIMA VALLEY MEMORIAL HOSPITAL	YAKIMA VALLEY MEMORIAL HOSPITAL	70299842	\$ 1,082.00	6/2/2020
YAKIMA VALLEY MEMORIAL HOSPITAL	YAKIMA VALLEY MEMORIAL HOSPITAL	70303847	\$ 11,979.60	6/25/2020
YAKIMA VALLEY MEMORIAL HOSPITAL	YAKIMA VALLEY MEMORIAL HOSPITAL	10312925	\$ 7,214.29	7/4/2020
YAKIMA VALLEY MEMORIAL HOSPITAL	YAKIMA VALLEY MEMORIAL HOSPITAL	70310057	\$ 11,979.60	7/25/2020
CERNER CORPORATION	ASTRIA HEALTH SUNNYSIDE COMMUNITY HOSPITAL	70212438	\$ 124,175.40	3/20/2019
CERNER CORPORATION	ASTRIA HEALTH SUNNYSIDE COMMUNITY HOSPITAL	70231995	\$ 3,146.70	6/26/2019
CERNER CORPORATION	ASTRIA HEALTH SUNNYSIDE COMMUNITY HOSPITAL	70232341	\$ 487.44	6/27/2019
CERNER CORPORATION	ASTRIA HEALTH SUNNYSIDE COMMUNITY HOSPITAL	70238355	\$ 3,146.70	7/26/2019
CERNER CORPORATION	ASTRIA HEALTH SUNNYSIDE COMMUNITY HOSPITAL	70238686	\$ 487.44	7/29/2019
CERNER CORPORATION	ASTRIA HEALTH SUNNYSIDE COMMUNITY HOSPITAL	70244795	\$ 3,146.70	8/26/2019
CERNER CORPORATION	ASTRIA HEALTH SUNNYSIDE COMMUNITY HOSPITAL	70245330	\$ 487.44	8/27/2019
CERNER CORPORATION	ASTRIA HEALTH SUNNYSIDE COMMUNITY HOSPITAL	70251742	\$ 3,146.70	9/26/2019
CERNER CORPORATION	ASTRIA HEALTH SUNNYSIDE COMMUNITY HOSPITAL	70252089	\$ 487.44	9/27/2019
CERNER CORPORATION	ASTRIA HEALTH SUNNYSIDE COMMUNITY HOSPITAL	70258306	\$ 487.44	10/28/2019
CERNER CORPORATION	ASTRIA HEALTH SUNNYSIDE COMMUNITY HOSPITAL	70258923	\$ 3,146.70	10/28/2019
CERNER CORPORATION	ASTRIA HEALTH SUNNYSIDE COMMUNITY HOSPITAL	70265214	\$ 3,146.70	11/26/2019
CERNER CORPORATION	ASTRIA HEALTH SUNNYSIDE COMMUNITY HOSPITAL	70265806	\$ 487.44	11/27/2019
CERNER CORPORATION	ASTRIA HEALTH SUNNYSIDE COMMUNITY HOSPITAL	70271745	\$ 3,146.70	12/26/2019
CERNER CORPORATION	ASTRIA HEALTH SUNNYSIDE COMMUNITY HOSPITAL	70272391	\$ 487.44	12/27/2019
CERNER CORPORATION	ASTRIA HEALTH SUNNYSIDE COMMUNITY HOSPITAL	70278942	\$ 3,146.70	1/27/2020
CERNER CORPORATION	ASTRIA HEALTH SUNNYSIDE COMMUNITY HOSPITAL	70278943	\$ 487.44	1/27/2020
CERNER CORPORATION	ASTRIA HEALTH SUNNYSIDE COMMUNITY HOSPITAL	70286035	\$ 3,146.70	2/26/2020
CERNER CORPORATION	ASTRIA HEALTH SUNNYSIDE COMMUNITY HOSPITAL	70286387	\$ 487.44	2/27/2020
CERNER CORPORATION	ASTRIA HEALTH SUNNYSIDE COMMUNITY HOSPITAL	70291705	\$ 124,175.40	3/20/2020
CERNER CORPORATION	ASTRIA HEALTH SUNNYSIDE COMMUNITY HOSPITAL	70293164	\$ 3,146.70	3/26/2020
CERNER CORPORATION	ASTRIA HEALTH SUNNYSIDE COMMUNITY HOSPITAL	70293509	\$ 487.44	3/27/2020
CERNER CORPORATION	ASTRIA HEALTH SUNNYSIDE COMMUNITY HOSPITAL	70300348	\$ 3,146.70	4/27/2020
CERNER CORPORATION	ASTRIA HEALTH SUNNYSIDE COMMUNITY HOSPITAL	70300349	\$ 487.44	4/27/2020
CERNER CORPORATION	ASTRIA HEALTH SUNNYSIDE COMMUNITY HOSPITAL	70306442	\$ 3,146.70	5/26/2020
CERNER CORPORATION	ASTRIA HEALTH SUNNYSIDE COMMUNITY HOSPITAL	70307171	\$ 487.44	5/27/2020
CERNER CORPORATION	ASTRIA HEALTH SUNNYSIDE COMMUNITY HOSPITAL	70313217	\$ 3,146.70	6/26/2020
<b>Total</b>			<b>\$ 347,364.75</b>	

1 **DECLARATION OF SERVICE**

2 Veronica Magda, declares:

- 3 1. I am an employee of Fox Rothschild LLP, which represents Nuance  
4 Communications, Inc. I am over the age of 18, and competent to make  
5 this Declaration.
- 6 2. On July 22, 2020, I electronically filed REQUEST OF NUANCE  
7 COMMUNICATIONS, INC. FOR ALLOWANCE AND PAYMENT  
8 OF ADMINISTRATIVE EXPENSE CLAIM with the Clerk of the  
9 Court (using the CM/ECF System).
- 10 3. It is my understanding that the CM/ECF System will send notifications  
11 of this filing to all parties listed in this case to receive notice  
12 electronically.

13 I declare under penalty of perjury under the laws of the United States that the  
14 foregoing is true and correct.

15 DATED this 22<sup>ND</sup> day of July 2020, at Seattle, Washington.

16  
17  
18 /s/ Veronica I. Magda  
19 Veronica I. Magda  
20 Fox Rothschild LLP  
21 1001 Fourth Avenue, Suite 4500  
22 Seattle, WA 98154-1192  
23 Telephone: (206) 624-3600  
24 Facsimile: (206) 389-1708  
25 [vmagda@foxrothschild.com](mailto:vmagda@foxrothschild.com)