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8 UNITED STATES BANKRUPTCY COURT
9 EASTERN DISTRICT OF WASHINGTON

10 In Re:)
11) Case No. 19-01189 (Administratively
12) Consolidated)
13)
14)
15)
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25)
ASTRIA HEALTH,)
Debtor.)
MOTION FOR ALLOWANCE OF
ADMINISTRATIVE EXPENSE CLAIM
FOR ADVANCED TRANSFUSION
SERVICES PURSUANT TO 11 U.S.C.
§503(b)(1)A AND NOTICE THEREOF

15 **TO THE HONORABLE WHITMAN L. HOLT, THE OFFICE OF THE UNITED**
16 **STATES TRUSTEE, THE DEBTOR, AND COUNSEL TO THE DEBTOR:**

17 Advanced Transfusion Services, a division of Isto Biologics, (hereinafter "Advanced"),
18 by and through its undersigned attorney, William L. Hames of Hames, Anderson, Whitlow &
19 O'Leary, P.S., hereby submits its motion for allowance and payment of its administrative expense
20 claim for goods and services sold to the Debtor between May 6, 2019, and June 17, 2020.

21 Advanced respectfully states:

22 **JURISDICTION AND VENUE**

23 1. The United States Bankruptcy Court for the Eastern District of Washington (the
24 "Court"), has jurisdiction over this Motion pursuant to 28 U.S.C. §157 and 1334. This is a core
25 proceeding pursuant to 28 U.S.C. §157(b)(2)(A) and (O).

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1 2. Venue in this Court is proper pursuant to 28 U.S.C. §1408 and 1409.

2 3. This motion is made pursuant to 11 U.S.C. §503 of the United States Bankruptcy Code.

3 4. On May 6, 2019, Debtor commenced the above-captioned Chapter 11 bankruptcy case
4 by filing voluntary petitions for relief under Chapter 11 of the Bankruptcy Code. Joint
5 administration of the Debtor's bankruptcy cases was granted on May 6, 2019.

6 5. No trustee or examiner has been appointed and the debtor continues to operate its
7 business and manage its property as debtor in possession pursuant to §1107(a) and 1108 of the
8 Bankruptcy Code.

9 6. Advanced has a long-standing business relationship with Debtor, pursuant to which
10 Advanced has provided infusion care services and products for infusion care services pursuant to
11 an independent contract agreement attached to its Proof of Claim #247-1, pages 7-18 and by this
12 reference, incorporated herein.

13 7. After Debtor filed the above captioned proceeding, Advanced continued to supply
14 infusion care services and products to Debtor. Debtor promised it would continue to pay
15 Advanced in accordance with the above-referenced contract. As of the date of this Motion,
16 Debtor owes Advanced the sum of \$103,888.00 for services provided in late 2019 and in 2020.
17 Advanced has been paid for its prior invoices prior to December 2019. The breakdown is: 1)
18 infusion care services, \$102,848; 2) supplies, \$1,040; for a total of \$103,888.00. The unpaid
19 Invoices are attached as Exhibits and 1 and 2 to the Declaration of Donald Brown filed in support
20 of this motion and are true and correct copies of the invoices issued by Advanced to Debtor, for
21 which payment remains outstanding.

22 **RELIEF REQUESTED**

23 1. Advanced requests the entry of an order for the allowance and payment of its
24 administrative claim in the amount of \$103,888.00 pursuant to 11 U.S.C. §503(b)(1)(A), for its
25

1 outstanding invoices for goods and services provided to the Debtor post petition in the ordinary
2 course of business.

3 **LEGAL BASIS FOR RELIEF**

4 The Bankruptcy Code provides that “the actual, necessary costs and expenses in
5 preserving the estate” are characterized as administrative expenses and are entitled to priority. 11
6 U.S.C. §503(b) and 507(a)(2). Administrative priority is given to post petition vendors as an
7 inducement to engage in business transaction with the Debtor’s estate. *In Re Transamerican*
8 *National Gas Corp.*, 978 F.2d 1409, 1416, *Rehearing Denied*, 983 F.2d 1060 (5th Cir. 1993).

9 For a claim to qualify as an administrative expense and be entitled to administrative
10 expense priority, the Bankruptcy Court must consider 1) whether the expense arose from a post
11 petition transaction with the estate; and 2) whether the transaction directly and substantially
12 benefitted the estate. *In Re Abercrombie v. Hayden Corp.*, 139 F.3d, 755, 757 (9th Cir. 1998).
13 Advanced’s administrative claim satisfies both factors and must be accorded administrative
14 expense status under §503(b)(1) of the Bankruptcy Code. Advanced provided essential medical
15 services to Debtor’s patients which were necessary and required for the Debtor to operate post
16 petition as a regional medical center. The medical services and goods provided post petition by
17 Advanced were part of the operations of Astria under federal and state law and were thus entitled
18 to administrative expense priority and immediate payment.

19 Pursuant to §507(a)(2) of the Bankruptcy Code, administrative expense claims are
20 allowed under §503(b), including those under §503(b)(1)(A), and are entitled to second priority
21 of distribution. In the Debtor’s bankruptcy cases, given that there are no claims or expenses of
22 the types otherwise entitled to first priority under §507(a)(1), domestic support obligations and
23 the administrative expenses of a trustee (where one has been elected or appointed), claims under
24 §503(b)(1)(A) are entitled to the highest priority.

1 WHEREFORE, based upon the foregoing and the Declaration of Donald Brown,
2 Advanced Transfusion Services respectfully requests:

3 1. That this court enter an order allowing Advanced Transfusion Services' expense claim
4 in the sum of \$103,888.00, pursuant to 11 U.S.C. §507(a)(2) and §503(b)(1)(A).

5 2. For such other and further relief as the Court may deem just and equitable under the
6 circumstances.

7 **NOTICE**

8 **IF YOU OBJECT TO THE RELIEF REQUESTED BY DEBTORS, YOU MUST**
9 **FILE A WRITTEN OBJECTION WITH THE CLERK OF THE ABOVE-ENTITLED**
10 **COURT AT P.O. BOX 2164, 904 W. RIVERSIDE, ROOM 304, SPOKANE, WA 99201, ON**
11 **OR BEFORE 24 DAYS (21 DAYS PLUS 3 DAYS MAILING) FROM THE DATE OF THIS**
12 **NOTICE, AND SERVE A COPY OF THE UNDERSIGNED AT P.O. BOX 5498,**
13 **KENNEWICK, WA 99336; AND TO THE US TRUSTEE AT THE US COURTHOUSE,**
14 **920 W. RIVERSIDE #593, SPOKANE, WA 99201.**

15 **SHOULD YOU FAIL TO OBJECT AS SET FORTH ABOVE, PLEASE FURTHER**
16 **BE ADVISED THAT THE RELIEF REQUESTED MAY BE GRANTED WITHOUT**
17 **FURTHER NOTICE TO YOU.**

18 DATED this 22nd day of July 2020.

19 HAMES, ANDERSON, WHITLOW & O'LEARY, P.S.
20 Attorney for Advanced Transfusion Services

21 By: /s/ William L. Hames
22 WILLIAM L. HAMES, WSBA #12193