

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re:	:	Chapter 11
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SAINT VINCENTS CATHOLIC MEDICAL	:	Case No. 10-11963 (CGM)
CENTERS OF NEW YORK, <u>et al.</u> ,	:	
	:	
Debtors.	:	Jointly Administered
-----	X	Related Doc. No. 202

**STIPULATION AND ORDER FURTHER
MODIFYING THE AUTOMATIC STAY**

WHEREAS, on April 14, 2010, Saint Vincents Catholic Medical Centers of New York (“SVCMC”) and certain of its affiliates, as Chapter 11 debtors and debtors in possession (the “Debtors”), filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code;

WHEREAS, on June 4, 2010, Donae Graham, an infant by her mother and natural guardian, Ineka Smith and Ineka Smith individually (together, “Movants”), filed a Motion for Entry of an Order Lifting the Stay (the “Motion”) with respect to their claims asserted in their action against SVCMC, et al. in the New York State Supreme Court, Richmond County, Index No. 102193/07 (the “Action”);

WHEREAS, on May 24, 2010, the Debtors filed an Omnibus Objection to Motions for Orders Lifting the Automatic Stay (the “Objection”) objecting to, among other motions, the Motion;

WHEREAS, on May 28, 2010, the Court entered an order modifying the automatic stay to, among other things, to permit adjudication of Claimants’ claims and causes of actions in the case entitled *Ineka Smith v. Carol M. Russell M.D., et al.*, Supreme Court of the State of New York, County of Richmond, Index No. 102193/07

(the “**Action**”), through final judgment;

WHEREAS, on or about June 25, 2010, the Supreme Court of the State of New York entered an Infant’s Compromise Order that, among other things, authorized Ineka Smith to enter into a settlement of the Action for the total sum of \$3,300,000.

WHEREAS, SVCMC’s insurers have assumed the duty to defend the Action and bear all costs of defending the Action, including attorneys’ fees (collectively, “Defense Costs”);

NOW, THEREFORE, IT IS HEREBY STIPULATED, AND AGREED, by and between the parties through their undersigned counsel, that:

1. The automatic stay imposed by 11 U.S.C. § 362(a) in respect of the Debtor Saint Vincents Catholic Medical Centers, Inc. (“**SVCMC**”) is hereby further modified to permit enforcement of Claimants’ fully liquidated claims in connection with the final resolution of their action in the Supreme Court of New York, Richmond County, Index No. 102193/07 (the “**Action**”) to the extent set forth therein, subject to the satisfaction of the conditions contained in paragraphs 3, 4 and 5 hereof.

2. Claimants’ are authorized to proceed with settlement of their claims against SVCMC and non-debtor defendants, including Anna C. Pavlides, M.D. as asserted in the Action, and furthermore Claimants are authorized to proceed to collect, as contemplated by the settlement described in their Motion and as set forth in the Infant’s Compromise Order as follows: SVCMC’s portion of the settlement of \$1,000,000 from SVCMC’s insurance carrier, Medical Liability Mutual Insurance Corporation under Policy No. HP8001026 and from such non-debtor defendants’ insurance including \$1,300,000, payable by Dr. Pavlides insurance carrier, Medical Liability Mutual

Insurance Corporation with Policy Number MP-0490409 and \$1,000,000 payable by Dr. Pavlides' excess insurance carrier, Medical Malpractice Insurance Pool with Policy Number 2-X26258.

3. Movants have agreed to waive and hereby waive any claim they may have against the estate of any Debtor in these Chapter 11 proceedings and agree to proceed solely against any third-party insurance coverage applicable to SVCMC as well as any applicable medical malpractice trust against which Claimant may have claims pursuant to the First Amended Plan of Reorganization for Saint Vincents Catholic Medical Centers of New York D/B/A Saint Vincent Catholic Medical Centers, and Chapter 11 Plans of Liquidation for Medical Service of St. Vincent's Hospital and Medical Center, P.C., Surgical Service of St. Vincent's, P.C., CMC Cardiology Services P.C., CMC Physician Services, P.C. and CMC Radiological Services), confirmed by the Bankruptcy Court by order dated July 27, 2007 (the "Plan"), provided, however, that Claimant further agrees to waive and hereby waives any claim to MedMal Interest (as such term is defined in the Plan).

4. In the event that SVCMC's insurers shall not honor or cease to honor a duty to defend or SVCMC's estate shall be called upon to bear any Defense Costs in connection with the Action, the modification of the automatic stay provided for in this order shall terminate automatically upon notice to the Movants without further order of this Court. Such termination shall be without prejudice to Movants' right to renew their application for relief from or modification of the automatic.

5. Other than as set forth herein, the automatic stay shall remain in full force and shall not be modified. Without limitation of the foregoing, the automatic

stay shall remain in full force with respect to any third party actions that may be or that might otherwise have been asserted against any Debtor in connection with the Action.

6. The Court shall retain jurisdiction to resolve all matters relating to the implementation of this Order.

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SO ORDERED:

Dated: Poughkeepsie, New York
July 8, 2010

/s/ Cecelia Morris
HONORABLE CECELIA G. MORRIS
UNITED STATES BANKRUPTCY JUDGE