

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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In re:	:	Chapter 11
	:	
SAINT VINCENTS CATHOLIC MEDICAL	:	Case No. 10-11963 (CGM)
CENTERS OF NEW YORK, <u>et al.</u> ,	:	
	:	
Debtors.	:	Jointly Administered
-----	X	Related Doc Nos. 1476, 1477

**STIPULATION AND ORDER**  
**(Lotito)**

**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**, Richard W. Lotito, Sr., individually and as Executor of the Estate of Frances Lotito, deceased (“Claimant”), has requested a modification of the automatic stay imposed by 11 U.S.C. § 362(a) (the “Stay Relief Request”) with respect to the action entitled *Richard W. Lotito Sr., individually and as Executor of the Estate of Frances Lotito, deceased v. John Frank Bachi, M.D., Hazel Brana, M.D., John Doe I, Richard Steinbruck, M.D., Plubius Martin, M.D., and Saint Vincent’s Catholic Medical Centers of Staten Island*, currently pending in the Supreme Court of the State of New York, County of Richmond (Index No. 100675/05) (the “Action”);

**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 SVCMC is hereby modified to permit adjudication of the Action through final judgment

and enforcement thereof, subject to the satisfaction of the conditions contained in paragraphs 2 through 5 hereof.

2. Claimant has agreed to waive and hereby waives and releases any claim he may have against the estate of any Debtor in these Chapter 11 proceedings and agrees 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 the Claimant further agrees to waive and hereby waives any claim to MedMal Interest (as such term is defined in the Plan).

3. In the event that any of the Debtors' estates shall be called upon to bear any costs of defending the Action, including attorneys' fees, the modification of the automatic stay provided for in this order shall terminate automatically without further order of this Court. Such termination shall be without prejudice to Claimant's right to renew their application for relief from or modification of the automatic stay.

4. 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.

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

NATHAN L. DEMBIN &  
ASSOCIATES, P.C.

KRAMER LEVIN NAFTALIS & FRANKEL

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SO ORDERED:

Dated: Poughkeepsie, New York  
May 2, 2011

*/s/ Cecelia G. Morris*  
UNITED STATES BANKRUPTCY JUDGE