

Presentment Date and Time: June 6, 2016 at 12:00 Noon (prevailing Eastern Time)

Deadline for Objections: June 6, 2016 at 9:00 a.m. (prevailing Eastern Time)

KRAMER LEVIN NAFTALIS & FRANKEL LLP

Adam C. Rogoff

P. Bradley O'Neill

Anupama Yerramalli

1177 Avenue of the Americas

New York, New York 10036

Telephone: (212) 715-9100

Facsimile: (212) 715-8000

Counsel for Post-Effective Date SVCMC

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

-----	X	
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	

NOTICE OF PRESENTMENT OF STIPULATIONS AND ORDERS

PLEASE TAKE NOTICE that Saint Vincents Catholic Medical Centers of New York ("**SVCMC**") and certain of its affiliates, as Chapter 11 debtors and debtors in possession (each a "**Debtor**" or the "**Debtors**")¹ in the above-referenced Chapter 11 cases (the "**Chapter 11 Cases**"), will present to the Honorable Cecelia G. Morris, Chief United States Bankruptcy Judge, for signature on **June 6, 2016 at 12:00 Noon** (prevailing Eastern Time) the Stipulations and Orders annexed hereto as Exhibit A.

¹ In addition to SVC MC, the Debtors are as follows: (i) 555 6th Avenue Apartment Operating Corporation; (ii) Bishop Francis J. Mugavero Center for Geriatric Care, Inc.; (iii) Chait Housing Development Corporation; (iv) Fort Place Housing Corporation; (v) Pax Christi Hospice, Inc.; (vi) Sisters of Charity Health Care System Nursing Home, Inc. d/b/a St. Elizabeth Ann's Health Care & Rehabilitation Center; (vii) St. Jerome's Health Services Corporation d/b/a Holy Family Home; and (viii) SVC MC Professional Registry, Inc. There are certain affiliates of SVC MC who are not Debtors.

PLEASE TAKE FURTHER NOTICE that objections, if any, to the proposed orders must be made in writing and received in the Bankruptcy Judge's chambers and by the undersigned not later than 9:00 a.m. (prevailing Eastern Time) on June 6, 2016. Unless objections are received by that time, the orders may be signed.

Dated: New York, New York
May 24, 2016

KRAMER LEVIN NAFTALIS & FRANKEL LLP

/s/ P. Bradley O'Neill

Adam C. Rogoff

P. Bradley O'Neill

Anupama Yerramalli

1177 Avenue of the Americas

New York, New York 10036

Telephone: (212) 715-9100

Counsel for Post-Effective Date SVC MC

To: Parties listed on the Special Service and General Service Lists as those terms are defined in the Final Case Management Order

EXHIBIT A

(Diane Covell)

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

-----	X	
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	

STIPULATION AND ORDER
(Diane Covell)

WHEREAS, on April 14, 2010, the Debtors filed voluntary petitions for relief (the "Second Bankruptcy Case") under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code");

WHEREAS, SVCMC previously filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code on July 5, 2005 (the "First Bankruptcy Case");

WHEREAS, on July 27, 2007, the Bankruptcy Court in the First Bankruptcy Case confirmed 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) (the "SV1 Plan"), which established medical malpractice trusts for certain medical malpractice claims asserted in the First Bankruptcy Case pursuant to MedMal Trust Agreements (as defined in the SV1 Plan);

WHEREAS, on June 29, 2012, the Bankruptcy Court in the Second Bankruptcy Case entered an order approving the Debtors' Second Amended Joint

Chapter 11 Plan, dated June 21, 2012, [Docket No. 3060] (the "Plan") and the Plan effective date (the "Effective Date") occurred;

WHEREAS, pursuant to the Plan, the Debtors entered into amendments to the MedMal Trust Agreements, and the MedMal Trusts Monitor (as defined in the Plan) retained the sole and exclusive authority to reconcile and resolve SV1 MedMal Claims (as defined in the Plan) in accordance with the SV1 Plan;

WHEREAS, Diane Covell ("Claimant"), has requested a modification of the automatic stay imposed by 11 U.S.C. § 362(a) with respect to the action entitled *Diane Covell v. Sisters of Charity Medical Center, a/k/a St. Vincent's Medical Center of Richmond, Armin M. Tehrany, M.D., N. Jayaram, M.D., C.S. Bhupathi, M.D., Richmond Orthopedic Associates, Stephen Hornyak, M.D., Staten Island University Hospital, Woo Tak, M.D., Staten Island Rehabilitation Medicine, P.C., George Digiacinto, M.D.*, currently pending in the Supreme Court of the State of New York, Richmond County (Index No. 100598/2005) (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 Bankruptcy Code section 362(a) and the injunction imposed by the Order Confirming Debtors' Second Amended Joint Chapter 11 Plan (also set forth in sections 11.3 and 11.5 of the Plan) (collectively, the "Stay") are 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 6 hereof.

2. Claimant has agreed to waive and hereby waives and releases any claim he may have against the following as defined in the Plan: (a) the estate of any Debtor in these Chapter 11 proceedings, (b) the Post-Effective Date SVCMC, (c) the Responsible Officer, (d) the Liquidating Trustee, (e) the Liquidating Trust¹, (f) the applicable MedMal Trust, (g) the MedMal Trust Monitor, (h) the MedMal Trustee² and (a) – (h)'s respective current and former officers, directors, employees, agents, and professionals, and agree that any recovery related to the Action shall be limited solely to the proceeds from SVCMC's third-party insurance coverage. Claimant agrees not to seek to recover any damages from SVCMC above the limits of the SVCMC's third party insurance coverage.

3. Any and all proofs of claim filed by the Claimant during the course of these Chapter 11 case are hereby deemed disallowed and expunged.

4. 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 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 Stay.

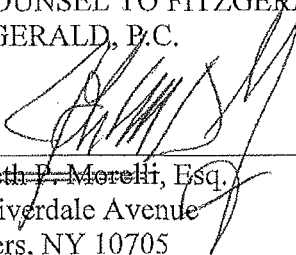
5. Other than as set forth herein, the Stay shall remain in full force and shall not be modified. Without limitation of the foregoing, the Stay shall remain in full force with respect to any third party actions that may be or that might otherwise have been asserted against any Debtor in connection with the Action.

¹ The terms set forth in (b) – (e) have the meaning ascribed to them in the Plan.

² The terms set forth in (f) – (h) have the meaning ascribed to them in the SV1 Plan.

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

THE FITZGERALD LAW FIRM, P.C.
OF COUNSEL TO FITZGERALD &
FITZGERALD, P.C.

By: 
Kenneth P. Morelli, Esq.
538 Riverdale Avenue
Yonkers, NY 10705


Attorney for Claimant

COOLEY LLP

By: _____
Richard S. Kanowitz, Esq.
1114 Avenue of the Americas
New York, New York 10036

Attorneys for the MedMal Trust Monitor

KRAMER LEVIN NAFTALIS &
FRANKEL LLP

By: 
P. Bradley O'Neill, Esq.
1177 Avenue of the Americas
New York, New York 10036

Attorneys for SVC MC

AKIN GUMP STRAUSS HAUSER &
FELD LLP

By: _____
Sarah Link Schultz (admitted *pro hac vice*)
One Bryant Park
New York, New York, 10036

Attorneys for the Liquidating Trustee

SO ORDERED:

Dated: New York, New York
_____, 2016

THE HONORABLE CECILIA G. MORRIS
CHIEF UNITED STATES BANKRUPTCY JUDGE

6. The Court shall retain jurisdiction to resolve all matters relating to

the implementation of this Stipulation and Order.

THE FITZGERALD LAW FIRM, P.C.
OF COUNSEL TO FITZGERALD &
FITZGERALD, P.C.

KRAMER LEVIN NAFTALIS &
FRANKEL LLP

By: _____
Kenneth P. Morelli, Esq.
538 Riverdale Avenue
Yonkers, NY 10705

Attorney for Claimant

COOLEY LLP

By: /s/ Richard S. Kanowitz
Richard S. Kanowitz, Esq.
1114 Avenue of the Americas
New York, New York 10036

Attorneys for the MedMal Trust Monitor

By: _____
P. Bradley O'Neill, Esq.
1177 Avenue of the Americas
New York, New York 10036

Attorneys for SVCMC

AKIN GUMP STRAUSS HAUER &
FELD LLP

By: /s/ Sarah Link Schultz
Sarah Link Schultz (admitted *pro hac vice*)
One Bryant Park
New York, New York, 10036

Attorneys for the Liquidating Trustee

SO ORDERED:

Dated: New York, New York
_____, 2016

THE HONORABLE CECELIA G. MORRIS
CHIEF UNITED STATES BANKRUPTCY JUDGE

EXHIBIT B

**([REDACTED], an infant by her mother and natural guardian, Karesh Jordon
and Karesh Jordon, individually)**

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

-----	X	
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	

STIPULATION AND ORDER

([REDACTED]), an infant by her mother and natural guardian, Karesha Jordon and Karesh Jordon, individually)

WHEREAS, on April 14, 2010, the Debtors filed voluntary petitions for relief (the “Second Bankruptcy Case”) under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”);

WHEREAS, SVCMC previously filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code on July 5, 2005 (the “First Bankruptcy Case”);

WHEREAS, on July 27, 2007, the Bankruptcy Court in the First Bankruptcy Case confirmed 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) (the “SV1 Plan”), which established medical malpractice trusts for certain medical malpractice claims asserted in the First Bankruptcy Case pursuant to MedMal Trust Agreements (as defined in the SV1 Plan);

WHEREAS, on June 29, 2012, the Bankruptcy Court in the Second Bankruptcy Case entered an order approving the Debtors’ Second Amended Joint Chapter 11 Plan, dated

June 21, 2012, [Docket No. 3060] (the "Plan") and the Plan effective date (the "Effective Date") occurred;

WHEREAS, pursuant to the Plan, the Debtors entered into amendments to the MedMal Trust Agreements, and the MedMal Trusts Monitor (as defined in the Plan) retained the sole and exclusive authority to reconcile and resolve SV1 MedMal Claims (as defined in the Plan) in accordance with the SV1 Plan;

WHEREAS, ([REDACTED], an infant by her mother and natural guardian, Karesha Jordon and Karesh Jordon, individually ("Claimants") have informally requested relief from the automatic stay imposed by 11 U.S.C. §362(a) with respect to the action entitled (*[REDACTED], an infant by her mother and natural guardian, Karesha Jordon and Karesh Jordon, individually vs. Mario N. Cordaro, M.D., Venerando M. Valencia, M.D., Edwardo D. Bernales, M.D., Chitra Perera, M.D., Staten Island Medical Group and St. Vincent's Catholic Medical Center of New York*, currently pending in the Supreme Court of the State of New York, Richmond County (Index No. 03/011087); (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 Bankruptcy Code section 362(a) and the injunction imposed by the Order Confirming Debtors' Second Amended Joint Chapter 11 Plan (also set forth in sections 11.3 and 11.5 of the Plan) (collectively, the "Stay") 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 6 hereof.

2. Claimants have agreed to waive and hereby waive and release any claim they may have against the following as defined in the Plan: (a) the estate of any Debtor in these

Chapter 11 proceedings, (b) the Post-Effective Date SVCMC, (c) the Responsible Officer, (d) the Liquidating Trustee; (e) the Liquidating Trust¹; (f) the applicable MedMal Trust, (g) the MedMal Trust Monitor, (h) the MedMal Trustee², and (a) – (h)'s respective current and former officers, directors, employees, agents, and professionals and agree that any recovery related to the Action shall be limited solely to the proceeds from SVCMC's third-party insurance coverage. Claimants agree not to seek to recover any damages from SVCMC above the limits of the SVCMC's third party insurance coverage and waive any claims against the bankruptcy estate.

3. Any and all proofs of claim filed by the Claimants during the course of these Chapter 11 cases are hereby deemed disallowed and expunged.

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

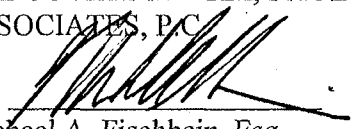
5. Without limitation of the foregoing, the Stay shall remain in full force with respect to any third party actions that may be or that might otherwise have been asserted against any Debtor in connection with the Action.

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

¹ The terms set forth in (b) – (e) have the meaning ascribed to them in the Plan.


² The terms set forth in (f) – (h) have the meaning ascribed to them in the SV1 Plan.

THE COCHRAN FIRM, PAUL B. WEITZ &
ASSOCIATES, P.C.

By: 
Michael A. Fischbein, Esq.
55 Broadway, 23rd Floor
New York, NY 10006

Attorney for Claimants

KRAMER LEVIN NAFTALIS &
FRANKEL LLP

By: 
P. Bradley O'Neill, Esq.
1177 Avenue of the Americas
New York, New York 10036

Attorneys for SVCMC

COOLEY LLP

By: _____
Richard S. Kanowitz, Esq.
1114 Avenue of the Americas
New York, New York 10036

Attorneys for the MedMal Trust Monitor

AKIN GUMP STRAUSS HAUER &
FELD LLP

By: _____
Sarah Link Schultz (admitted *pro hac*
vice)
One Bryant Park
New York, New York 10036

Attorneys for the Liquidating Trustee

Dated: New York, New York
_____, 2016

SO ORDERED:

THE HONORABLE CECILIA G. MORRIS
CHIEF UNITED STATES BANKRUPTCY JUDGE

THE COCHRAN FIRM, PAUL B. WEITZ &
ASSOCIATES, P.C.

By: _____
Michael A. Fischbein, Esq.
55 Broadway, 23rd Floor
New York, NY 10006

Attorney for Claimants

KRAMER LEVIN NAFTALIS &
FRANKEL LLP

By: _____
P. Bradley O'Neill, Esq.
1177 Avenue of the Americas
New York, New York 10036

Attorneys for SVCMC

COOLEY LLP

By: /s/ Richard S. Kanowitz
Richard S. Kanowitz, Esq.
1114 Avenue of the Americas
New York, New York 10036

Attorneys for the MedMal Trust Monitor

AKIN GUMP STRAUSS HAUER &
FELD LLP

By: /s/ Sarah Link Schultz
Sarah Link Schultz (admitted *pro hac*
vice)
One Bryant Park
New York, New York 10036

Attorneys for the Liquidating Trustee

Dated: New York, New York
_____, 2016

SO ORDERED:

THE HONORABLE CECILIA G. MORRIS
CHIEF UNITED STATES BANKRUPTCY JUDGE

EXHIBIT C

**([REDACTED], an infant by her mother and natural guardian, Sandra Mendez,
and Sandra Mendez, individually)**

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

-----	X	
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	

STIPULATION AND ORDER

([REDACTED]), an Infant by her Mother and Natural Guardian, Sandra Mendez, and Sandra Mendez, Individually)

WHEREAS, on April 14, 2010, the Debtors filed voluntary petitions for relief (the "Second Bankruptcy Case") under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code");

WHEREAS, SVCMC previously filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code on July 5, 2005 (the "First Bankruptcy Case");

WHEREAS, on July 27, 2007, the Bankruptcy Court in the First Bankruptcy Case confirmed 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) (the "SV1 Plan"), which established medical malpractice trusts for certain medical malpractice claims asserted in the First Bankruptcy Case pursuant to MedMal Trust Agreements (as defined in the SV1 Plan);

WHEREAS, on June 29, 2012, the Bankruptcy Court in the Second Bankruptcy Case entered an order approving the Debtors' Second Amended Joint

Chapter 11 Plan, dated June 21, 2012, [Docket No. 3060] (the “Plan”) and the Plan effective date (the “Effective Date”) occurred;

WHEREAS, pursuant to the Plan, the Debtors entered into amendments to the MedMal Trust Agreements, and the MedMal Trusts Monitor (as defined in the Plan) retained the sole and exclusive authority to reconcile and resolve SV1 MedMal Claims (as defined in the Plan) in accordance with the SV1 Plan;

WHEREAS, [REDACTED], an Infant by her Mother and Natural Guardian, Sandra Mendez, and Sandra Mendez, Individually (“Claimant”), have requested a modification of the automatic stay imposed by 11 U.S.C. § 362(a) with respect to the action entitled [REDACTED], *an Infant by her Mother and Natural Guardian, Sandra Mendez, and Sandra Mendez, Individually v. St Vincent’s Hospital*, currently pending in the Supreme Court of the State of New York, New York County (Index No. 101900/2004) (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 Bankruptcy Code section 362(a) and the injunction imposed by the Order Confirming Debtors’ Second Amended Joint Chapter 11 Plan (also set forth in sections 11.3 and 11.5 of the Plan) (collectively, the “Stay”) are 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 6 hereof.

2. Claimant has agreed to waive and hereby waives and releases any claim they may have against the following as defined in the Plan: (a) the estate of any

Debtor in these Chapter 11 proceedings, (b) the Post-Effective Date SVCMC, (c) the Responsible Officer, (d) the Liquidating Trustee, (e) the Liquidating Trust¹, (f) the applicable MedMal Trust, (g) the MedMal Trust Monitor, (h) the MedMal Trustee² and (a) – (h)'s respective current and former officers, directors, employees, agents, and professionals, and agree that any recovery related to the Action shall be limited solely to the proceeds from SVCMC's third-party insurance coverage. Claimant agrees not to seek to recover any damages from SVCMC above the limits of the SVCMC's third party insurance coverage and waive any claims against the bankruptcy estate.

3. Any and all proofs of claim filed by the Claimant during the course of these Chapter 11 case are hereby deemed disallowed and expunged.

4. 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 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 Stay.

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

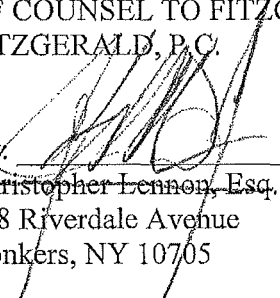
¹ The terms set forth in (b) – (e) have the meaning ascribed to them in the Plan.

² The terms set forth in (f) – (h) have the meaning ascribed to them in the SV1 Plan.


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

THE FITZGERALD LAW FIRM, P.C.
OF COUNSEL TO FITZGERALD &
FITZGERALD, P.C.

KRAMER LEVIN NAFTALIS &
FRANKEL LLP

By: 
~~Christopher Lennon, Esq.~~ John M. Dady, Esq.
538 Riverdale Avenue
Yonkers, NY 10705

Attorney for Claimant

By: 
P. Bradley O'Neill, Esq.
1177 Avenue of the Americas
New York, New York 10036

Attorneys for SVCMC

COOLEY LLP

AKIN GUMP STRAUSS HAUER &
FELD LLP

By: _____
Richard S. Kanowitz, Esq.
1114 Avenue of the Americas
New York, New York 10036

Attorneys for the MedMal Trust Monitor

By: _____
Sarah Link Schultz (admitted *pro hac vice*)
One Bryant Park
New York, New York, 10036

Attorneys for the Liquidating Trustee

SO ORDERED:

Dated: New York, New York
_____, 2016

THE HONORABLE CECELIA G. MORRIS
CHIEF UNITED STATES BANKRUPTCY JUDGE

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

THE FITZGERALD LAW FIRM, P.C.
OF COUNSEL TO FITZGERALD &
FITZGERALD, P.C.

KRAMER LEVIN NAFTALIS &
FRANKEL LLP

By: _____
Christopher Lennon, Esq.
538 Riverdale Avenue
Yonkers, NY 10705

Attorney for Claimant

COOLEY LLP

By: /s/ Richard S. Kanowitz
Richard S. Kanowitz, Esq.
1114 Avenue of the Americas
New York, New York 10036

Attorneys for the MedMal Trust Monitor

By: _____
P. Bradley O'Neill, Esq.
1177 Avenue of the Americas
New York, New York 10036

Attorneys for SVCMC

AKIN GUMP STRAUSS HAUER &
FELD LLP

By: /s/ Sarah Link Schultz
Sarah Link Schultz (admitted *pro hac vice*)
One Bryant Park
New York, New York, 10036

Attorneys for the Liquidating Trustee

SO ORDERED:

Dated: New York, New York
_____, 2016

THE HONORABLE CECELIA G. MORRIS
CHIEF UNITED STATES BANKRUPTCY JUDGE

EXHIBIT D

**([REDACTED], an infant by her mother and natural guardian, Nina Stepney
and Nina Stepney, individually)**

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

-----	X	
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	

STIPULATION AND ORDER

([REDACTED], an Infant by her Mother and Natural Guardian, Nina Stepney and Nina Stepney, Individually)

WHEREAS, on April 14, 2010, the Debtors filed voluntary petitions for relief (the “Second Bankruptcy Case”) under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”);

WHEREAS, SVCMC previously filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code on July 5, 2005 (the “First Bankruptcy Case”);

WHEREAS, on July 27, 2007, the Bankruptcy Court in the First Bankruptcy Case confirmed 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) (the “SV1 Plan”), which established medical malpractice trusts for certain medical malpractice claims asserted in the First Bankruptcy Case pursuant to MedMal Trust Agreements (as defined in the SV1 Plan);

WHEREAS, on June 29, 2012, the Bankruptcy Court in the Second Bankruptcy Case entered an order approving the Debtors’ Second Amended Joint

Chapter 11 Plan, dated June 21, 2012, [Docket No. 3060] (the “Plan”) and the Plan effective date (the “Effective Date”) occurred;

WHEREAS, pursuant to the Plan, the Debtors entered into amendments to the MedMal Trust Agreements, and the MedMal Trusts Monitor (as defined in the Plan) retained the sole and exclusive authority to reconcile and resolve SV1 MedMal Claims (as defined in the Plan) in accordance with the SV1 Plan;

WHEREAS, [REDACTED], an Infant by her Mother and Natural Guardian, Nina Stepney and Nina Stepney, Individually (“Claimant”), has requested a modification of the automatic stay imposed by 11 U.S.C. § 362(a) with respect to the action entitled *[REDACTED], an Infant by her Mother and Natural Guardian, Nina Stepney and Nina Stepney, Individually v. Venerando M. Valencia, M.D., Chitra M. Perrera, M.D., Michael L Moretti, M.D., Greater Staten Island Medical Group, P.C., and St. Vincent’s Catholic Medical Center of N.Y. d/b/a SVCMC-St. Vincent’s Staten Island*, currently pending in the Supreme Court of the State of New York, Kings County (Index No. 10380/2004) (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 Bankruptcy Code section 362(a) and the injunction imposed by the Order Confirming Debtors’ Second Amended Joint Chapter 11 Plan (also set forth in sections 11.3 and 11.5 of the Plan) (collectively, the “Stay”) are 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 6 hereof.

2. Claimant has agreed to waive and hereby waives and releases any claim they may have against the following as defined in the Plan: (a) the estate of any Debtor in these Chapter 11 proceedings, (b) the Post-Effective Date SVCMC, (c) the Responsible Officer, (d) the Liquidating Trustee, (e) the Liquidating Trust¹, (f) the applicable MedMal Trust, (g) the MedMal Trust Monitor, (h) the MedMal Trustee² and (a) – (h)'s respective current and former officers, directors, employees, agents, and professionals, and agree that any recovery related to the Action shall be limited solely to the proceeds from SVCMC's third-party insurance coverage. Claimant agrees not to seek to recover any damages from SVCMC above the limits of the SVCMC's third party insurance coverage and waive any claims against the bankruptcy estate.

3. Any and all proofs of claim filed by the Claimant during the course of these Chapter 11 case are hereby deemed disallowed and expunged.

4. 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 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 Stay.

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

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² The terms set forth in (f) – (h) have the meaning ascribed to them in the SV1 Plan.

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

THE FITZGERALD LAW FIRM, P.C.
OF COUNSEL TO FITZGERALD &
FITZGERALD, P.C.

By: 

~~Jim Duffy, Esq.~~ John M. Daly, Esq.
538 Riverdale Avenue
Yonkers, NY 10705

Attorney for Claimant

COOLEY LLP

By: _____

Richard S. Kanowitz, Esq.
1114 Avenue of the Americas
New York, New York 10036

Attorneys for the MedMal Trust Monitor

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FRANKEL LLP

By: 

P. Bradley O'Neill, Esq.
1177 Avenue of the Americas
New York, New York 10036

Attorneys for SVCMC

AKIN GUMP STRAUSS HAUER &
FELD LLP

By: _____

Sarah Link Schultz (admitted *pro hac vice*)
One Bryant Park
New York, New York, 10036

Attorneys for the Liquidating Trustee

SO ORDERED:

Dated: New York, New York
_____, 2016

THE HONORABLE CECILIA G. MORRIS
CHIEF UNITED STATES BANKRUPTCY JUDGE

6. The Court shall retain jurisdiction to resolve all matters relating to

the implementation of this Stipulation and Order.

THE FITZGERALD LAW FIRM, P.C.
OF COUNSEL TO FITZGERALD &
FITZGERALD, P.C.

KRAMER LEVIN NAFTALIS &
FRANKEL LLP

By: _____
Jim Duffy, Esq.
538 Riverdale Avenue
Yonkers, NY 10705

Attorney for Claimant

COOLEY LLP

By: /s/ Richard S. Kanowitz
Richard S. Kanowitz, Esq.
1114 Avenue of the Americas
New York, New York 10036

Attorneys for the MedMal Trust Monitor

By: _____
P. Bradley O'Neill, Esq.
1177 Avenue of the Americas
New York, New York 10036

Attorneys for SVCMC

AKIN GUMP STRAUSS HAUER &
FELD LLP

By: /s/ Sarah Link Schultz
Sarah Link Schultz (admitted *pro hac vice*)
One Bryant Park
New York, New York, 10036

Attorneys for the Liquidating Trustee

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_____, 2016

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CHIEF UNITED STATES BANKRUPTCY JUDGE

EXHIBIT E

**([REDACTED], an infant by his mother and natural guardian,
Teresa Gonzalez, individually)**

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

-----	X	
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	

STIPULATION AND ORDER

([REDACTED], Infant by his Mother and Natural Guardian, Teresa Gonzalez)

WHEREAS, on April 14, 2010, the Debtors filed voluntary petitions for relief (the “Second Bankruptcy Case”) under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”);

WHEREAS, SVCMC previously filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code on July 5, 2005 (the “First Bankruptcy Case”);

WHEREAS, on July 27, 2007, the Bankruptcy Court in the First Bankruptcy Case confirmed 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) (the “SV1 Plan”), which established medical malpractice trusts for certain medical malpractice claims asserted in the First Bankruptcy Case pursuant to MedMal Trust Agreements (as defined in the SV1 Plan);

WHEREAS, on June 29, 2012, the Bankruptcy Court in the Second Bankruptcy Case entered an order approving the Debtors’ Second Amended Joint

Chapter 11 Plan, dated June 21, 2012, [Docket No. 3060] (the “Plan”) and the Plan effective date (the “Effective Date”) occurred;

WHEREAS, pursuant to the Plan, the Debtors entered into amendments to the MedMal Trust Agreements, and the MedMal Trusts Monitor (as defined in the Plan) retained the sole and exclusive authority to reconcile and resolve SV1 MedMal Claims (as defined in the Plan) in accordance with the SV1 Plan;

WHEREAS, [REDACTED], Infant by his Mother and Natural Guardian, Teresa Gonzalez (“Claimant”), have requested a modification of the automatic stay imposed by 11 U.S.C. § 362(a) with respect to the action entitled *[REDACTED], Infant by his Mother and Natural Guardian, Teresa Gonzalez v. Lilian Diaz, M.D. and Port Richmond Family Health Center*, currently pending in the Supreme Court of the State of New York, Richmond County (Index No. 102125/2005) (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 Bankruptcy Code section 362(a) and the injunction imposed by the Order Confirming Debtors’ Second Amended Joint Chapter 11 Plan (also set forth in sections 11.3 and 11.5 of the Plan) (collectively, the “Stay”) are 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 6 hereof.

2. Claimant has agreed to waive and hereby waives and releases any claim they may have against the following as defined in the Plan: (a) the estate of any Debtor in these Chapter 11 proceedings, (b) the Post-Effective Date SVCMC, (c) the

Responsible Officer, (d) the Liquidating Trustee, (e) the Liquidating Trust¹, (f) the applicable MedMal Trust, (g) the MedMal Trust Monitor, (h) the MedMal Trustee² and (a) – (h)'s respective current and former officers, directors, employees, agents, and professionals, and agree that any recovery related to the Action shall be limited solely to the proceeds from SVCMC's third-party insurance coverage. Claimant agrees not to seek to recover any damages from SVCMC, or the named defendants in the Action, above the limits of the SVCMC's third party insurance coverage and waive any claims against the bankruptcy estate.

3. Any and all proofs of claim filed by the Claimant during the course of these Chapter 11 case are hereby deemed disallowed and expunged.

4. 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 Stay provided for in this order shall terminate automatically without further order of this Court. Such termination shall be without prejudice to Claimant's rights to renew their application for relief from or modification of the Stay.

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

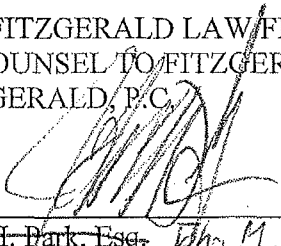
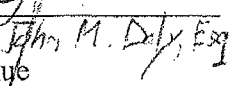
¹ The terms set forth in (b) – (e) have the meaning ascribed to them in the Plan.

² The terms set forth in (f) – (h) have the meaning ascribed to them in the SV1 Plan.

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By: 
Joon H. Park, Esq. 
538 Riverdale Avenue
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Attorney for Claimant

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Richard S. Kanowitz, Esq.
1114 Avenue of the Americas
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