

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

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In re:	) Chapter 11
	)
	) Case No. 20-10766 (KBO)
QUORUM HEALTH CORPORATION, <i>et al.</i> ,	)
	) Jointly Administered
Debtors. <sup>1</sup>	)
	) <b>Related to Docket Nos. 679, 680</b>

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**OBJECTION OF REORGANIZED DEBTORS TO DR. VARMA'S  
(I) FIRST MOTION TO CONFIRM TERMINATION OR ABSENCE OF STAY  
AND (II) FIRST MOTION FOR CONTINUATION OF THE AUTOMATIC STAY**

Quorum Health Corporation (“Quorum”) and certain of its affiliates, the reorganized debtors in the above-captioned cases (collectively, the “Debtors”), file this objection (the “Objection”) to the *First Motion to Confirm Termination or Absence of Stay* [Docket No. 680] (the “Section 362(j) Motion”) and the *First Motion for Continuation of the Automatic Stay* [Docket No. 679] (the “Reimposition Motion” and, together with the Section 362(j) Motion, the “Automatic Stay Motions”), filed by Rajeev Varma, M.D. (“Dr. Varma”). In support of this Objection, the Debtors respectfully state as follows:

**PRELIMINARY STATEMENT**

1. In the Section 362(j) Motion, Dr. Varma requests entry of an order under Bankruptcy Code section 362(j) confirming whether the automatic stay remains in place in the Debtors’ chapter 11 cases. Then, in the Reimposition Motion, Dr. Varma requests, to the extent the automatic stay has terminated, that the Court reimpose the stay with respect to him (*i.e.*, so that

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<sup>1</sup> The last four digits of Quorum Health Corporation’s tax identification number are 5208. There are 132 Debtors in these chapter 11 cases, which cases are being jointly administered for procedural purposes only. A complete list of the Debtors and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information may be obtained on the website of the Debtors’ claims and noticing agent at <https://dm.epiq11.com/Quorum>. The location of Quorum Health Corporation’s corporate headquarters and the Debtors’ service address is 1573 Mallory Lane, Brentwood, Tennessee 37027.

his alleged claims against the Debtors are subject to the automatic stay). Because the automatic stay terminated with respect to the Galesburg Cases and the Affiliate Cases (both as defined below) in June and October of this year, respectively, the Debtors do not object to entry of an order under Bankruptcy Code section 362(j) confirming that the automatic stay has terminated with respect to these cases. Similarly, because the stay remains in place in the Lead Case (as defined below) pursuant to the explicit terms of Debtors' Plan and Confirmation Order (both as defined below) for the benefit of the QHC Litigation Trust (as defined in the Plan), the Debtors do not object to entry of a section 362(j) "comfort order" confirming the continued existence of the stay with respect to such case.

2. For the reasons discussed herein, however, the Debtors hereby object to the Reimposition Motion and Dr. Varma's request to reimpose the previously terminated automatic stay with respect to the Galesburg Cases and the Affiliate Cases (collectively, the "Subsidiary Cases"), as such relief contravenes the Bankruptcy Code, the Plan, and the Confirmation Order, and is inappropriate here. Indeed, because the automatic stay in the Subsidiary Cases was terminated pursuant to Bankruptcy Code section 362(c)(2) due to the closing or dismissal of such cases, the Court lacks discretion to reimpose the stay as requested by Dr. Varma. Moreover, although the Court may enter an injunction under Bankruptcy Code section 105(a) to effectively extend the automatic stay under certain limited circumstances, such relief is not appropriate following termination of the automatic stay under section 362(c)(2).

3. Further, even if a section 105(a) injunction were permissible when the automatic stay expired due to the closing or dismissal of a bankruptcy case—which it is not—it still would not be appropriate to grant such an injunction to Dr. Varma so that he could take advantage of the Bankruptcy Code's tolling provisions (which is his stated rationale for seeking the continuation or

reimposition of the automatic stay). The purpose of the automatic stay (and a section 105(a) injunction implemented to serve the purposes of the stay) is to provide a debtor a breathing spell from its creditors—and not to provide a means for creditors to avoid otherwise applicable statutes of limitation. Creditors should not be prejudiced by the stay, which is why the Bankruptcy Code section 108(c) tolling provisions exist—but it is not appropriate to implement a stay *solely* to enable a creditor to take advantage of those provisions. That is especially true here where Dr. Varma failed to diligently prosecute his purported claims against the Debtors prior to the filing of the Debtors' bankruptcy cases, and then has consistently failed to protect his rights during the chapter 11 cases, despite his regular and vocal participation in the cases beginning at the Debtors' first-day hearing and continuing to this day.

4. Thus, the Debtors respectfully request that the Court deny the Reimposition Motion and decline Dr. Varma's request to reimpose the automatic stay (or enter an analogous section 105(a) injunction) with respect to the Subsidiary Cases.

#### **JURISDICTION AND VENUE**

5. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012. This is a core proceeding under 28 U.S.C. § 157(b). Venue of these cases and the Objection in this District is proper under 28 U.S.C. §§ 1408 and 1409.

#### **BACKGROUND**

##### **A. The Chapter 11 Cases**

6. On April 7, 2020 (the “Petition Date”), each Debtor commenced a case (collectively, the “Chapter 11 Cases”) by filing a petition for relief under chapter 11 of the United States Bankruptcy Code (the “Bankruptcy Code”). The Chapter 11 Cases are being jointly

administered. The Office of the United States Trustee for the District of Delaware (the “U.S. Trustee”) declined to appoint an official committee, trustee, or examiner in the Chapter 11 Cases.

7. The Debtors are one of the leading operators of general acute care hospitals and outpatient healthcare facilities in the United States. Through their subsidiaries and affiliates, the Debtors own or operate 22 rural hospitals and seven outpatient centers in 13 states with almost 2,000 licensed beds. Additionally, the Debtors run a consulting business that provides hospital management advisory and healthcare consulting services to non-affiliated hospitals located throughout the country. A description of the Debtors and their business, and the facts and circumstances supporting the Chapter 11 Cases, is set forth in the *Declaration of Alfred Lumsdaine, Executive Vice President and Chief Financial Officer of Quorum Health Corporation, in Support of Chapter 11 Petitions and First Day Motions* [Docket No. 24] (the “First Day Declaration”).

#### **B. The Galesburg Sale**

8. On June 12, 2020, the Court entered the *Order (I) Authorizing the Sale of Certain Equity Interests, (II) Dismissing the Chapter 11 Cases of the Galesburg Debtors, and (III) Granting Related Relief* [Docket No. 489], thereby dismissing the Chapter 11 Cases of (a) Knox Clinic Corp., Case No. 20-10798 (KBO), (b) In-Home Medical Equipment Supplies and Services, Inc., Case No. 20-10799 (KBO), and (c) Galesburg Hospital Corporation, Case No. 20-10801 (KBO) (collectively, the “Galesburg Cases”).

#### **C. The Plan of Reorganization**

9. On the Petition Date, the Debtors filed the *Joint Prepackaged Chapter 11 Plan of Reorganization* [Docket No. 21] (as subsequently amended, modified, or supplemented, the “Plan”); and on April 8, 2020, the Debtors filed the *Disclosure Statement for the Debtors’ Joint*

*Prepackaged Chapter 11 Plan of Reorganization* [Docket No. 22] (the “Disclosure Statement”).

On June 30, 2020, the Court entered the *Findings of Fact, Conclusions of Law, and Order Approving the Disclosure Statement for, and Confirming, the Debtors’ Joint Prepackaged Chapter 11 Plan of Reorganization* [Docket No. 556], thereby approving the Disclosure Statement and confirming the Plan. The Plan became effective on July 7, 2020 (the “Effective Date”). *See* Docket No. 568.

**D. Closing the Affiliate Cases**

10. On September 25, 2020, the Debtors filed the *Motion of Reorganized Debtors for Entry of Final Decree Closing Certain Chapter 11 Cases* [Docket No. 649], seeking to close all of the chapter 11 cases (the cases to be closed, the “Affiliate Cases”), except for (a) the case of Quorum Health Corporation, Case No. 20-10766 (KBO) (the “Lead Case”) and (b) the Galesburg Cases (which already had been dismissed). On October 21, 2020, the Court entered the *Final Decree Closing Certain Chapter 11 Cases* [Docket No. 667], formally closing the Affiliate Cases.

**E. The Automatic Stay Motions**

11. On November 20, 2020, a month after the entry of the final decree closing the Affiliate Cases, Dr. Varma filed (a) the Section 362(j) Motion, thereby requesting entry of an order under Bankruptcy Code section 362(j) confirming whether the automatic stay remains in place in the Chapter 11 Cases, and (b) the Reimposition Motion, thereby requesting reimposition of the automatic stay with respect to his alleged claims against the Debtors, to the extent the automatic stay has terminated.

## **OBJECTION**

**I. Because the Automatic Stay Has Terminated With Respect to the Subsidiary Cases Under the Plan, the Confirmation Order, and Bankruptcy Code Section 362(c)(2)(A)-(B), It is Appropriate for the Court to Enter a “Comfort Order” Under Bankruptcy Code Section 362(j) Confirming Its Termination.**

12. Bankruptcy Code section 362(j) provides that “[o]n request of a party in interest, the court shall issue an order under subsection (c) [of section 362] confirming that the automatic stay has been terminated.” 11 U.S.C. § 362(j); *see In re Hill*, 364 B.R. 826, 828–29 (Bankr. M.D. Fla. 2007) (“[B]y its own terms, Section 362(j) mandates the entry of comfort orders only if the request arises under Section 362(c) of the Bankruptcy Code.”). The relief provided by section 362(j) is very limited and specific and merely authorizes the court’s entry of a “comfort order” that “identif[ies] and reiterate[s] what has already occurred by operation of law” (*i.e.*, termination of the automatic stay). *See, e.g., In re Hill*, 364 B.R. at 828; *see also In re Murphy*, 346 B.R. 79, 80 (Bankr. S.D.N.Y. 2006) (“The Court’s role under Section 362(j) is limited to a review of objective criteria in the public record . . .”); *In re Dienberg*, 348 B.R. 482, 485–86 (Bankr. N.D. Ind. 2006) (“[S]ection 362(j) allows a creditor to obtain the entry of an order reflecting what the court’s docket confirms has already taken place. . .”).

13. Entry of a section 362(j) “comfort order” is appropriate here because the automatic stay has been terminated with respect to the Subsidiary Cases, as dictated by Bankruptcy Code section 362(c)(2), the Confirmation Order, and the Plan. Bankruptcy Code section 362(c)(2) provides, in relevant part, that the automatic stay continues until the earliest of “(a) the time the case is closed; (b) the time the case is dismissed; or (c) . . . the time a discharge is granted or denied.” 11 U.S.C. § 362(c)(2)(A)-(C). Additionally, Article XII.M of the Plan provides that “the automatic stay imposed by section 362 of the Bankruptcy Code shall remain in full force and effect in each of the Chapter 11 Cases until the earlier of (i) the date a Chapter 11 Case is closed and

(ii) thirty days after September 30, 2021.” Plan, Art. XII.M. Finally, paragraph 108 of the Confirmation Order provides that “the automatic stay imposed by section 362 of the Bankruptcy Code shall remain in full force and effect in each of the chapter 11 cases until the earlier of (a) the date a chapter 11 case is closed and (ii) thirty days after September 30, 2021.” Confirmation Order, ¶ 108. Therefore, the applicable statutory and legal framework in these Chapter 11 Cases provides that the automatic stay terminates once such cases are dismissed or closed.<sup>2</sup>

14. Here, pursuant to Bankruptcy Code section 362(c)(2)(B), the automatic stay terminated with respect to the Galesburg Cases on June 12, 2020, following the Court’s entry of the order dismissing these chapter 11 cases. *See* Docket No. 489. Pursuant to Bankruptcy Code section 362(c)(2)(A), as well as the Plan and the Confirmation Order, the automatic stay terminated with respect to the Affiliate Cases on October 21, 2020, following the Court’s entry of the final decree closing the Affiliate Cases. *See* Docket No. 667. In contrast, because the Lead Case remains open and pending, the automatic stay remains active in the Lead Case pursuant to the terms of the Plan and Confirmation Order.

15. A section 362(j) “comfort order” should solely confirm that the automatic stay has been terminated pursuant to section 362(c) and should not consider or grant any additional requests for relief. *See, e.g., In re Murphy*, 346 B.R. at 80 (indicating that section 362(j) “does not authorize the Court to make determinations as to other facts or to order other prospective relief. . .”); *In re Hill*, 364 B.R. at 831 (“Comfort orders are not appropriate when a court must consider information outside of a case’s docket or outside of the court’s immediate purview . . .”). Importantly, an order entered pursuant to section 362(j) “does not provide for a declaration of any individual creditor’s

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<sup>2</sup> The Plan and Confirmation Order provide for the continuance of the automatic stay despite the Bankruptcy Code section 1141(d) discharge that otherwise would have terminated the stay under Bankruptcy Code section 362(c)(2)(C) on the Effective Date of the Plan. Each of the Plan, the Confirmation Order, and Bankruptcy Code section 362(c)(2)(A) provide that the automatic stay is terminated upon the closing of a Chapter 11 Case.

rights.” *In re Murphy*, 346 B.R. at 80. Because the automatic stay has been terminated with respect to the Subsidiary Cases, the Debtors do not object to the Court’s entry of a section 362(j) “comfort order” confirming said termination,<sup>3</sup> provided that such an order is limited to said confirmation only and does not provide any declaration of Dr. Varma’s rights or grant the additional relief Dr. Varma requests (*i.e.*, the continuation or reimposition of the automatic stay with respect to the Subsidiary Cases). Such relief is improper and should not be granted in the instant case, as discussed below.

**II. Once the Automatic Stay Has Been Terminated Pursuant to Bankruptcy Code Section 362(c)(2), the Court Does Not Have Discretion to Reinstate It.**

16. As discussed above, the plain language of Bankruptcy Code section 362(c)(2) provides that the automatic stay continues until, among other things, the time a bankruptcy case is closed or dismissed. *See* 11 U.S.C. § 362(c)(2)(A)-(B); *see also In re Leeds*, 589 B.R. 186, 192 (Bankr. D. Nev. 2018) (“Under Section 362(c)(2), the stay of all other acts continues until the case is closed, the case is dismissed, or the debtor is granted or denied a discharge.”). Once the stay has terminated, the Court lacks authority to reimpose the automatic stay. *See, e.g., In re Trevino*, 78 B.R. 29, 37 (Bankr. M.D. Pa. 1987) (“Quite simply, once a case is closed, dismissed, or a discharge is granted or denied, the court lacks jurisdiction to continue the provisions of section 362 of the Bankruptcy Code. Moreover, there is no statutory provision in which Congress has authorized a Bankruptcy Court once it has terminated the automatic stay pursuant to section 362(c)(2) to continue imposition of the automatic stay.”); *In re Maes*, No. 04-14871-j7, 2018 WL 3655381, at \*2 (Bankr. D.N.M. July 31, 2018) (“No provision in the Code provides for or contemplates reimposing the stay after it is terminated . . . Reimposing the automatic stay upon reopening the

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<sup>3</sup> As noted above, the Debtors also do not object to entry of an order under Bankruptcy Code section 362(j) confirming the continued existence of the automatic stay in the Lead Case.

bankruptcy cases would contravene the provisions of the Code governing the termination of the automatic stay and the protection afforded by the discharge injunction that replaces the automatic stay . . .”); *In re Leeds*, 589 B.R. at 192 (“By operation of [section 362(c)(2)], the automatic stay is terminated and cannot be reinstated.”); *Matter of Terramar Min. Corp.*, 70 B.R. 875, 877 (Bankr. M.D. Fla. 1987) (“[T]his Court is satisfied that there is no statutory authority whatsoever in the Bankruptcy Code to reinstate an automatic stay once the stay has been lifted.”); *In re Sykes*, 53 B.R. 107, 108 (Bankr. W.D. Va. 1985) (“Upon investigation, this Court has found no authority which grants a bankruptcy court the ability to reinstate a stay which has properly terminated.”).

17. Here, as discussed above, the automatic stay terminated on June 12, 2020 with respect to the Galesburg Cases following their dismissal, and on October 21, 2020 with respect to the Affiliate Cases following the Court’s entry of the final decree closing the Affiliate Cases. *See* Docket Nos. 489, 667. Therefore, because the automatic stay has been terminated under Bankruptcy Code section 362(c)(2)(A)-(B) as a result of the dismissal or closing of the Subsidiary Cases, the Court lacks discretion under the Bankruptcy Code to reimpose the stay in such cases.

**III. Although Bankruptcy Code Section 105(a) May Permit the Court’s Entry of an Injunction to Serve the Purposes of a Previously Terminated Automatic Stay, These Circumstances Are Limited and Do Not Apply Following Stay Termination Under Bankruptcy Code Section 362(c)(2).**

18. After the automatic stay has been terminated, a court may, in limited circumstances, enter an injunction under Bankruptcy Code section 105(a) to serve the purposes previously served by the existence of the automatic stay. *See In re Wedgewood Realty Group, Ltd.*, 878 F.2d 693, 701 (3d Cir. 1989) (“[A] lapsed stay may be reimposed under the equitable provisions of section 105(a), provided that the debtor has properly applied for such injunctive relief.”); *In re Leeds*, 589 B.R. at 192 (“After the automatic stay is terminated, a debtor may seek to obtain an injunction from the bankruptcy court.”); *In re Jones*, 354 B.R. 727, 729 (Bankr. W.D. Pa. 2006) (“[O]nce the

automatic stay is terminated, the appropriate standard utilized by the courts to determine whether the automatic stay should be reimposed is the ‘injunctive principles [that] are more stringent than those applied under section 362(d) to continue the stay.’’’); *Matter of Terramar Min. Corp.*, 70 B.R. at 877 (noting that, in an “extraordinary situation” and on “properly filed complaint for injunctive relief,” the court could grant injunctive relief under section 105(a)).<sup>4</sup>

19. Although imposition of an injunction under Bankruptcy Code section 105(a) may be appropriate following termination of the automatic stay under Bankruptcy Code sections 362(c)(3) or 362(e), which include specific language concerning the court’s ability to extend the stay, such relief is not appropriate when the stay has expired under Bankruptcy Code section 362(c)(2). *See* 11 U.S.C. § 362(c)(3)(B) (“[O]n the motion of a party in interest for continuation of the automatic stay . . . ***the court may extend the stay in particular cases as to any or all creditors*** . . . before the expiration of the 30-day period only if the party in interest demonstrates that the filing of the later case is in good faith as to the creditors to be stayed . . .”) (emphasis added); *see* 11 U.S.C. § 362(e) (“. . . such stay is terminated with respect to the party in interest making such request, ***unless the court . . . orders such stay continued*** in effect pending the conclusion of, or as a result of, a final hearing and determination . . .”) (emphasis added); *see also* *In re Wedgewood Realty Group, Ltd.*, 878 F.2d at 701 (“Nothing in the language of either section 105(a) or section 362(e) precludes injunctive relief where the automatic stay has terminated as a

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<sup>4</sup> A movant wishing to invoke the Court’s injunctive power under section 105(a) must apply for such injunctive relief. *See, e.g., In re Wedgewood Realty Group, Ltd.*, 878 F.2d at 701 (“The relief under section 105(a), however, is neither automatic nor may it be imposed *sua sponte* by the court . . . The movant must meet the standards for injunctive relief.”); *In re Nasco P.R., Inc.*, 117 B.R. 35, 38 (Bankr. D.P.R.1990) (“A party wishing to invoke the Court’s injunctive power under Section 105(a) must file an adversary proceeding . . . and must follow the traditional standards for issuance of an injunction.”). In the Automatic Stay Motions, Dr. Varma has not requested injunctive relief or attempted to demonstrate that such relief is necessary or appropriate under the circumstances. *See In re Wedgewood Realty Group, Ltd.*, 878 F.2d at 701 (noting that in order to obtain injunctive relief, the movant has the burden of demonstrating to the Court the following: “substantial likelihood of success on the merits, irreparable harm to the movant, harm to the movant outweighs harm to the movant, and injunctive relief would not violate public interest”).

result of the court’s failure to adhere to the time constraints of section 362(e) . . .”); *In re Nasco P.R., Inc.*, 117 B.R. at 38 (“The bankruptcy court has power under Section 105(a) to reimpose a stay that has lapsed under Section 362(e). . .”). In contrast, entering an injunction in the present context would contravene the express language of Bankruptcy Code section 362(c)(2). *See In re Maes*, No. 04-14871-j7, 2018 WL 3655381, at \*2 (Bankr. D.N.M. July 31, 2018) (finding that section 105(a) did not provide requisite authority for reimposition of automatic stay in reopened cases because doing so “would contravene the provisions of the Code governing the termination of the automatic stay”).

20. Further, such an injunction is properly requested by a debtor, rather than by a creditor such as Dr. Varma, as the purpose of the injunction is to protect the interests of a debtor’s estate and prevent creditors from commencing subsequent litigation against it.<sup>5</sup> *See, e.g., In re Wedgewood Realty Group, Ltd.*, 878 F.2d at 701 (noting that *debtor* could apply for injunctive relief to reinstate a stay that lapsed due to court’s failure to adhere to time constraints of section 362(e)); *In re Sykes*, 53 B.R. at 108 (following *debtor’s* request for reinstatement of automatic stay to prevent lienholders from selling or otherwise disposing of certain real property, court noted that debtor’s proper remedy was to seek injunctive relief); *Matter of Terramar Min. Corp.*, 70 B.R. at 877 (*trustee* filed motion to reinstate automatic stay and though the court declined to reinstate the stay, it noted that it could do so on properly filed complaint for injunctive relief). Indeed, it would not make sense for a creditor to seek to enjoin itself from asserting its own claims against a

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<sup>5</sup> As the Court is well aware, the purpose of the automatic stay is to provide the *debtor* with relief from the pressure and harassment of creditors seeking to collect their claims. *See* 3 Collier on Bankruptcy ¶ 362.03. The initial imposition of the automatic stay helps protect the property of the debtor’s estate that may be necessary for the debtor’s fresh start from existing or new claims of its creditors and “provides breathing space to permit the debtor to focus on rehabilitation or reorganization.” *Id.*

debtor—unless of course the injunction (which would be serving to continue the stay) were being sought for improper purposes.

21. Here, because the automatic stay terminated with respect to the Subsidiary Cases under Bankruptcy Code section 362(c)(2), rather than sections 362(c)(3) or 362(e)—and because such an injunction would not serve a proper bankruptcy purpose—a Bankruptcy Code section 105(a) injunction designed to reimpose the automatic stay should not be permitted in these cases.<sup>6</sup>

**IV. Even If a Bankruptcy Code Section 105(a) Injunction Were Permissible When the Automatic Stay Expired Due to the Closing or Dismissal of a Bankruptcy Case—Which It Is Not—It Still Would Not Be Appropriate to Grant Such an Injunction Here.**

22. The purpose of the automatic stay (and a Bankruptcy Code section 105(a) injunction implemented to serve the purposes of the stay) is to provide a debtor a breathing spell from its creditors. Creditors should not be prejudiced by the stay, which is why the Bankruptcy Code section 108(c) tolling provisions exist—but it is not appropriate to implement a stay *solely* to enable a creditor like Dr. Varma to take advantage of those provisions. That is especially true here where Dr. Varma failed to diligently prosecute his purported claims against the Debtors prior to the filing of the Debtors’ bankruptcy cases, and then has consistently failed to protect his rights during the Chapter 11 Cases—despite having every opportunity to do so.

23. In particular, Dr. Varma has been an active participant in these Chapter 11 Cases from their inception. He appeared and participated at the Debtors’ first day hearing on April 9, 2020; at the fourth day of the Debtors’ confirmation hearing on June 19, 2020; and at the Debtors’

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<sup>6</sup> As noted above, Dr. Varma has not requested injunctive relief or attempted to demonstrate that such relief is necessary or appropriate under the circumstances, which is yet another reason that a Bankruptcy Code section 105(a) injunction should not be entered by the Court.

post-confirmation hearings on August 12, 2020 and October 20, 2020.<sup>7</sup> Despite his regular and vocal participation in these Chapter 11 Cases, Dr. Varma declined to exercise his rights and failed to file a formal confirmation objection or any formal pleading documenting his various issues with the Debtors prior to the confirmation hearing, the entry of the Confirmation Order, or the Effective Date. Dr. Varma should not be permitted to reimpose the automatic stay almost six months after the Debtors' June 30, 2020 confirmation and almost two months after the closing of the Affiliate Cases, solely to facilitate the litigation of his purported claims against the Debtors.<sup>8</sup>

24. Moreover, Dr. Varma *already* has asserted his purported claims against the Debtors through litigation in Illinois state court. Specifically, in 2018 and 2019, Dr. Varma sought to litigate his alleged state law tort claims *pro se* in Madison County, Illinois against certain of the Debtors, other related entities, and nurses, physicians, and officers of those entities. In both instances, the cases were dismissed due to Dr. Varma's failure to prosecute or properly serve the defendants:

- (a) On February 28, 2018, Dr. Varma filed a defamation of character tort action in Illinois against Debtors Gateway Regional Medical Center, Marion Hospital Corporation, and Quorum Health Corporation, as well as other affiliates and certain of the Debtors' nurses, physicians, and officers. *See Rajeev Varma M.D. vs. Mark Edward Cunningham*, 2018L000147 (Ill. Cir. Ct. Feb. 28, 2018).<sup>9</sup> This case was dismissed without prejudice on June 21, 2019 for want of prosecution.

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<sup>7</sup> Although he appeared *pro se* at these hearings, Dr. Varma was represented by Delaware bankruptcy counsel during at least a portion of the Chapter 11 Cases, and currently is represented by bankruptcy counsel in Chicago. *See Hr'g Tr. 10:15-16, In re Quorum Health Corp.*, No. 20-10766 (KBO) (Bankr. D. Del. Oct. 20, 2020) ("And I had an attorney on a continuously [sic] basis, Mr. Charlie Brown. I understand there's two Charlie Browns in Wilmington. I don't have his Delaware – like the one that I was – that I had retained.").

<sup>8</sup> The Debtors reserve their rights to assert that the statute of limitations applicable to Dr. Varma's purported claims expired prior to the filing of the Chapter 11 Cases, thereby rendering the Bankruptcy Code section 108(c) tolling provisions irrelevant.

<sup>9</sup> The complete list of parties and docket entries for 2018L000147 are available on the Madison County, Illinois circuit court website. *See* Madison County, IL Circuit Court, Court Records Search, available at <http://www.clericusmagnus.com/medoc/Reports/tmp/QACXQW3GK1489696MA.PDF>.

(b) On March 7, 2019, Dr. Varma filed another defamation of character tort action in Illinois against Debtors Edwardsville Ambulatory Surgery Center, L.L.C., Gateway Regional Medical Center, Granite City Physicians Corporation, Marion Hospital Corporation, and Quorum Health Corporation, as well as certain of the Debtors' nurses, physicians, and officers. *See Rajeev Varma vs. Rhonda Heatherly*, 2019L000314 (Ill. Cir. Ct. Mar. 7, 2019).<sup>10</sup> This case was dismissed on February 26, 2020 due to Dr. Varma's failure to serve the defendants.

25. Finally, and importantly, Dr. Varma was well aware, several months ago, that the automatic stay existed in these Chapter 11 Cases and might eventually expire under the terms of the Plan and Confirmation Order: he acknowledged as much in correspondence to Debtors' counsel on August 6, 2020 and on the record at the August 12, 2020 post-confirmation hearing before this Court<sup>11</sup>—when the stay was still in place in the Affiliate Cases. Nevertheless, Dr. Varma sat on his rights for the next several months and waited to file the Automatic Stay Motions until a month after the closure of the Affiliate Cases in hopes that he might reimpose the automatic stay and avail himself of additional time extensions and tolling provisions available under the Bankruptcy Code. Such relief should not be permitted here, where Dr. Varma has had numerous opportunities to pursue his purported claims—both before and after the filing of the Chapter 11 Cases—and he has repeatedly failed to diligently protect his rights.

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<sup>10</sup> The complete list of parties and docket entries for 2019L000314 are available on the Madison County, Illinois circuit court website. *See* Madison County, IL Circuit Court, Court Records Search, available at <http://www.clericusmagnus.com/medoc/Reports/tmp/QACXBWLMXB489696MA.PDF>.

<sup>11</sup> *See* Hr'g Tr. 8:19-22, *In re Quorum Health Corp.*, No. 20-10766 (KBO) (Bankr. D. Del. Aug. 12, 2020) (Dr. Varma: "So, Your Honor, a question I have is I sent an email on . . . August 6th, asking debtors' counsel . . . if – it is my understanding that the automatic stay is still in place."); *see id.* at 9:6-7 (Dr. Varma: "I mean, I think we're still in this automatic stay, as per the plan . . .").

**CONCLUSION**

26. Accordingly, for the reasons set forth herein, the Debtors respectfully request that the Court (a) grant the Section 362(j) Motion for the limited purpose of entering an order confirming (i) the termination of the automatic stay in the Subsidiary Cases and (ii) the continued existence of the automatic stay in the Lead Case; (b) deny the Reimposition Motion requesting to reimpose the automatic stay in the Subsidiary Cases; and (c) grant the Debtors such other and further relief as the Court deems just and proper.

Dated: December 14, 2020  
Wilmington, Delaware

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