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November 27, 2024

Via CM/ECF

The Honorable J. Kate Stickles, U.S.B.J.
United States Bankruptcy Court
For the District of Delaware
824 N Market St. # 500
Wilmington, DE 19801

**Re: In re IJKG Opco LLC d/b/a CarePoint Health-Bayonne Medical Center
Docket No.: 24-12551(JKS)**

Dear Judge Stickles:

I represent the plaintiff, the Estate of Nicola Calamita, by administrator Elia Calamita, in a medical malpractice case being heard in the Superior Court of New Jersey, Law Division, Bergen County, Docket No. BER-L-5191-21, against, among other defendants, the subject debtor, IJKG Opco LLC d/b/a CarePoint Health-Bayonne Medical Center and its employ. As this state-court action has been stayed given the proceedings before Your Honor, I have enclosed a certification requesting that the state-court action be approved to proceed, as so limited to the liability insurance policies held by debtor as to not affect any recovery by creditor(s) herein.

Thank you for Your Honor's time and kind courtesies.

Respectfully submitted,

/s/ Michael B. Zerres

Michael B. Zerres, Esq.

CC: All Counsel

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

Blume, Forte, Fried, Zerres & Molinari
Michael B. Zerres, Esq. - ID #010351988
Richard T. Madurski, Esq. - ID # 319962021
One Main Street
Chatham, New Jersey 07928
(973) 635-5400
Attorneys for Plaintiff, M.C.

In re: IJKG Opco LLC d/b/a CarePoint Health-Bayonne Medical Center, Debtor. Tax I.D. No. 26-1442063	Bankruptcy Action No.: 24- 12551 (JKS) Underlying State Civil Action No.: BER-L-5191-21 CERTIFICATION OF STATE-CIVIL- ACTION PLAINTIFF'S COUNSEL IN SUPPORT OF A REQUEST TO PROCEED WITH CLAIM TO THE EXTENT OF INSURANCE COVERAGE
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I, MICHAEL B. ZERRES, of full age, hereby certify that:

1. I am a partner at the law firm of Blume Forte, Fried, Zerres & Molinari, P.C., attorneys for the plaintiff in the within cause of action. As such, I am fully familiar with the facts and circumstances set forth herein.
2. I submit this certification in support of plaintiff's, the Estate of Nicola Calamita, by administrator Elia Calamita, request herein to this Honorable Court to proceed in a New Jersey Superior Court medical malpractice and wrongful death case against the subject debtor, IJKG Opco LLC d/b/a CarePoint Health-Bayonne Medical Center (hereinafter "Carepoint") and its employee, Kyra Santiago, being heard in the Superior Court of

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

New Jersey, Law Division, Bergen County, Docket No. BER-L-5191-21 (hereinafter "the New Jersey action").

3. The New Jersey action is a medical malpractice and wrongful death claim arising out of medical care that resulted in Mr. Calamita's demise from a pulmonary embolism ("PE") on August 17, 2019.
4. The Complaint in the New Jersey action was filed on August 4, 2021, a copy of which is annexed hereto as **Exhibit A**, and has been assigned a trial date of December 16, 2024.
5. Among the medical professionals and entities who were named as defendants in the New Jersey action are Carepoint and one of its employees at the time of the subject death, Kyra Santiago.
6. Carepoint has been named as a defendant who may be vicariously liable for the acts or omissions of its employ as it relates to the passing of the New Jersey action's decedent, Mr. Nicola Calamita.
7. Until the time of Carepoint's filing of involuntary bankruptcy in this Court, litigation in the New Jersey action has proceeded in the expected fashion of a medical malpractice lawsuit in the Superior Court of New Jersey.
8. It is understood that this Court must proceed through the Chapter 11 process, and that various creditors are seeking satisfaction of, or a solution to, Carepoint's various debts.

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

9. As such, plaintiff seeks this Court's approval to proceed in the New Jersey action, which this Counsel certifies will be limited to the amount of insurance coverage available to Carepoint and Ms. Santiago.
10. At the inception of the New Jersey action, Carepoint provided declaration sheets for the liability insurance policy that is expected to apply the claims in the New Jersey action.
11. Given the provision of insurance coverage information, Plaintiff is aware of the liability coverages available to Carepoint and Ms. Santiago and voluntarily agrees, should this Court approve same, to proceed against Carepoint and Ms. Santiago only to the extent that there is insurance coverage available to said defendants.
12. As Carepoint's insurer, Princeton Insurance Company, is not the subject of the pending bankruptcy proceedings herein, any potential recovery by plaintiffs, as so limited to liability insurance coverages, would not be expected to impact the present creditor(s) recover(ies) as to Carepoint.
13. Plaintiffs therefore respectfully request that this Court allow plaintiffs to proceed in the New Jersey action, as so limited to the applicable liability insurance coverages to Carepoint and its employ.

I certify that the foregoing statements made by me are true. I am aware that if any are willfully false, I am subject to punishment.

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

BLUME, FORTE, FRIED, ZERRES &
MOLINARI

/s/ Michael B. Zerres



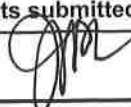
MICHAEL B. ZERRES, Esq.

Bar ID # 010351988

DATED: November 27, 2024

EXHIBIT A

Appendix XII-B1

	CIVIL CASE INFORMATION STATEMENT (CIS) Use for initial Law Division Civil Part pleadings (not motions) under <i>Rule 4:5-1</i> Pleading will be rejected for filing, under <i>Rule 1:5-6(c)</i>, if information above the black bar is not completed or attorney's signature is not affixed		FOR USE BY CLERK'S OFFICE ONLY PAYMENT TYPE: <input type="checkbox"/> CK <input type="checkbox"/> CG <input type="checkbox"/> CA CHG/CK NO. AMOUNT: OVERPAYMENT: BATCH NUMBER:	
	ATTORNEY / PRO SE NAME MICHAEL B. ZERRES		TELEPHONE NUMBER (973) 635-5400	COUNTY OF VENUE Bergen
	FIRM NAME (if applicable)		DOCKET NUMBER (when available) BER-L-	
	OFFICE ADDRESS ONE MAIN STREET CHATHAM, NJ 07928		DOCUMENT TYPE COMPLAINT	
			JURY DEMAND <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
NAME OF PARTY (e.g., John Doe, Plaintiff) ESTATE OF NICOLA CALAMITA, deceased, by administrator Elia Calamita and Elia Calamita, individually.		CAPTION EO Calamita v. Choudhry, MD., et als.		
CASE TYPE NUMBER (See reverse side for listing) 604	HURRICANE SANDY RELATED? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	IS THIS A PROFESSIONAL MALPRACTICE CASE? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO IF YOU HAVE CHECKED "YES," SEE N.J.S.A. 2A:53 A -27 AND APPLICABLE CASE LAW REGARDING YOUR OBLIGATION TO FILE AN AFFIDAVIT OF MERIT.		
RELATED CASES PENDING? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		IF YES, LIST DOCKET NUMBERS		
DO YOU ANTICIPATE ADDING ANY PARTIES (arising out of same transaction or occurrence)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		NAME OF DEFENDANT'S PRIMARY INSURANCE COMPANY (if known) <input type="checkbox"/> NONE <input checked="" type="checkbox"/> UNKNOWN		
THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE.				
CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION				
DO PARTIES HAVE A CURRENT, PAST OR RECURRENT RELATIONSHIP? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		IF YES, IS THAT RELATIONSHIP: <input type="checkbox"/> EMPLOYER/EMPLOYEE <input type="checkbox"/> FRIEND/NEIGHBOR <input type="checkbox"/> OTHER (explain) <input type="checkbox"/> FAMILIAL <input type="checkbox"/> BUSINESS		
DOES THE STATUTE GOVERNING THIS CASE PROVIDE FOR PAYMENT OF FEES BY THE LOSING PARTY? <input type="checkbox"/> Yes <input type="checkbox"/> No				
USE THIS SPACE TO ALERT THE COURT TO ANY SPECIAL CASE CHARACTERISTICS THAT MAY WARRANT INDIVIDUAL MANAGEMENT OR ACCELERATED DISPOSITION				
 DO YOU OR YOUR CLIENT NEED ANY DISABILITY ACCOMMODATIONS? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		IF YES, PLEASE IDENTIFY THE REQUESTED ACCOMMODATION		
WILL AN INTERPRETER BE NEEDED? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		IF YES, FOR WHAT LANGUAGE?		
I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with <i>Rule 1:38-7(b)</i> .				
ATTORNEY SIGNATURE: 				

Side 2



CIVIL CASE INFORMATION STATEMENT (CIS)

Use for initial pleadings (not motions) under *Rule 4:5-1*

CASE TYPES (Choose one and enter number of case type in appropriate space on the reverse side.)

Track I - 150 days' discovery

- 151 NAME CHANGE
- 175 FORFEITURE
- 302 TENANCY
- 399 REAL PROPERTY (other than Tenancy, Contract, Condemnation, Complex Commercial or Construction)
- 502 BOOK ACCOUNT (debt collection matters only)
- 505 OTHER INSURANCE CLAIM (including declaratory judgment actions)
- 506 PIP COVERAGE
- 510 UM or UIM CLAIM (coverage issues only)
- 511 ACTION ON NEGOTIABLE INSTRUMENT
- 512 LEMON LAW
- 801 SUMMARY ACTION
- 802 OPEN PUBLIC RECORDS ACT (summary action)
- 999 OTHER (briefly describe nature of action)

Track II - 300 days' discovery

- 305 CONSTRUCTION
- 509 EMPLOYMENT (other than CEPA or LAD)
- 599 CONTRACT/COMMERCIAL TRANSACTION
- 603N AUTO NEGLIGENCE – PERSONAL INJURY (non-verbal threshold)
- 603Y AUTO NEGLIGENCE – PERSONAL INJURY (verbal threshold)
- 605 PERSONAL INJURY
- 610 AUTO NEGLIGENCE – PROPERTY DAMAGE
- 621 UM or UIM CLAIM (includes bodily injury)
- 699 TORT – OTHER

Track III - 450 days' discovery

- 005 CIVIL RIGHTS
- 301 CONDEMNATION
- 602 ASSAULT AND BATTERY
- 604 MEDICAL MALPRACTICE
- 606 PRODUCT LIABILITY
- 607 PROFESSIONAL MALPRACTICE
- 608 TOXIC TORT
- 609 DEFAMATION
- 616 WHISTLEBLOWER / CONSCIENTIOUS EMPLOYEE PROTECTION ACT (CEPA) CASES
- 617 INVERSE CONDEMNATION
- 618 LAW AGAINST DISCRIMINATION (LAD) CASES

Track IV - Active Case Management by Individual Judge / 450 days' discovery

- 156 ENVIRONMENTAL/ENVIRONMENTAL COVERAGE LITIGATION
- 303 MT. LAUREL
- 508 COMPLEX COMMERCIAL
- 513 COMPLEX CONSTRUCTION
- 514 INSURANCE FRAUD
- 620 FALSE CLAIMS ACT
- 701 ACTIONS IN LIEU OF PREROGATIVE WRITS

Multicounty Litigation (Track IV)

- | | |
|---|---|
| 271 ACCUTANE/ISOTRETINOIN | 296 STRYKER REJUVENATE/ABG II MODULAR HIP STEM COMPONENTS |
| 274 RISPERDAL/SEROQUEL/ZYPREXA | 297 MIRENA CONTRACEPTIVE DEVICE |
| 281 BRISTOL-MYERS SQUIBB ENVIRONMENTAL | 299 OLMESARTAN MEDOXOMIL MEDICATIONS/BENICAR |
| 282 FOSAMAX | 300 TALC-BASED BODY POWDERS |
| 285 STRYKER TRIDENT HIP IMPLANTS | 601 ASBESTOS |
| 286 LEVAQUIN | 623 PROPECIA |
| 287 YAZ/YASMIN/OCELLA | 624 STRYKER LFIT CoCr V40 FEMORAL HEADS |
| 289 REGLAN | 625 FIREFIGHTER HEARING LOSS LITIGATION |
| 291 PELVIC MESH/GYNECARE | 626 ABILIFY |
| 292 PELVIC MESH/BARD | 627 PHYSIOMESH FLEXIBLE COMPOSITE MESH |
| 293 DEPUY ASR HIP IMPLANT LITIGATION | 628 TAXOTERE/DOCETAXEL |
| 295 ALLODERM REGENERATIVE TISSUE MATRIX | 629 ZOSTAVAX |

If you believe this case requires a track other than that provided above, please indicate the reason on Side 1, in the space under "Case Characteristics."

Please check off each applicable category

☐ Putative Class Action

☐ Title 59

**BLUME FORTE FRIED
ZERRES & MOLINARI, P.C.**

Michael B. Zerres, Esq. - NJ Bar ID# 010351988
One Main Street
Chatham, New Jersey 07928-0924
(973) 635-5400
Attorneys for Plaintiffs

ESTATE OF NICOLA CALAMITA, deceased, by
administrator ELIA CALAMITA and ELIA
CALAMITA, individually,

Plaintiffs,

vs.

HAMMAD CHOUDHRY MD, ZBIGNIEW
MOSZCZYNSKI MD, VEIN AND SKIN STUDIO,
NEIL RASWANT, DO, CAREPOINT HEALTH
BAYONNE MEDICAL CENTER, CAREPOINT
HEALTH SYSTEM and JOHN DOES, M.D., 1-5 (a
class of fictitiously named defendants), JANE DOE,
R.N., 1-5 (a class of fictitiously named defendants)
and DOE PHYSICIAN GROUP, PA or DOE
PHYSICIAN GROUP, PC or DOE MANAGED
CARE COMPANY, (a fictitious designation
representing the class of as yet unknown corporate
entities affiliated or connected in any manner with
the individual defendants in this matter or with
plaintiff's care and vicariously, directly or
administratively responsible for the other medical
providers actions or failures or plaintiff's injury),

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: BERGEN COUNTY
DOCKET NO. BER-L-

Civil Action

**COMPLAINT, JURY DEMAND,
DESIGNATION OF TRIAL COUNSEL
AND CERTIFICATION**

Plaintiffs, ESTATE OF NICOLA CALAMITA, by His Administratrix and Administratrix Ad
Prosequendum, ELIA CALAMITA and ELIA CALAMITA Individually, residing at 318 Avenue A,
Bayonne, NJ, by way of Complaint say:

FIRST COUNT

1. NICOLA CALAMITA died on or about August 17, 2019. An application for Letters of
Administration is pending or has been granted by the Probate Division of the Superior Court of New

Jersey, Surrogate's Office to plaintiff, ELIA CALAMITA, for the purpose of prosecuting a claim on behalf of the ESTATE OF NICOLA CALAMITA.

2. The said NICOLA CALAMITA, deceased, leaves surviving his next of kin, dependents and beneficiaries, all of whom were dependent upon the decedent and all of whom have sustained pecuniary injuries resulting from his death.

3. This suit is commenced within two years of the death of NICOLA CALAMITA.

4. On or about August 17, 2019, and at times prior thereto, plaintiff's decedent NICOLA CALAMITA was a patient at defendant, VEIN AND SKIN STUDIO, CAREPOINT HEALTH BAYONNE MEDICAL CENTER and CAREPOINT HEALTH SYSTEM, where he was treated by defendants, HAMMAD CHOUDHRY MD, ZBIGNIEW MOSZCZYNSKI MD., NEIL RASWANT, DO, JOHN DOES, M.D. 1-5 (a class of fictitiously named defendants), and JANE DOE, R.N./CRNA/N.P. 1-5 (a class of fictitiously named defendants), who were physicians, nurses or other health care providers employed by or on the staff of defendants, VEIN AND SKIN STUDIO, CAREPOINT HEALTH BAYONNE MEDICAL CENTER and CAREPOINT HEALTH SYSTEM which defendants were negligent and careless in their diagnosis of decedent's condition and in the treatment rendered, and did thereby deviate from accepted medical standards, as a result of which decedent sustained painful, disabling and permanent injuries ultimately resulting in his death, and whereby decedent's next of kin suffered pecuniary losses such as loss of future income, guidance, counseling, advice, services and companionship, and, funeral and burial expenses.

5. Said defendants, their agents, servants and employees were negligent and careless in the diagnosis of decedent's condition and the medical treatment that was rendered to him, did deviate from accepted standards in failure to use the care and skill ordinarily used by physicians engaged in medical practice and in rendering said medical care, as a result of which NICOLA CALAMITA sustained, serious, painful and permanent injuries, ultimately resulting in his death, and, his next of kin was caused to lose sums of income, and was caused to incur medical expenses.

6. Further the defendant, VEIN AND SKIN STUDIO, CAREPOINT HEALTH BAYONNE MEDICAL CENTER and CAREPOINT HEALTH SYSTEM, are vicariously liable for the negligence of its agents, servants and employees, as set forth herein, pursuant to the doctrines of Apparent Authority and Respondeat Superior.

WHEREFORE, plaintiff, ELIA CALAMITA, Administratrix of the ESTATE of NICOLA CALAMITA, deceased, demands judgment against the defendants, together with interest and costs of suit.

SECOND COUNT

1. Plaintiffs repeat each and every allegation of the prior Count as if set forth herein at length.

2. At the time plaintiff's decedent, NICOLA CALAMITA, was a patient of defendants, VEIN AND SKIN STUDIO, CAREPOINT HEALTH BAYONNE MEDICAL CENTER and CAREPOINT HEALTH SYSTEM, he was treated by defendants, HAMMAD CHOUDHRY MD, ZBIGNIEW MOSZCZYNSKI MD., NEIL RASWANT, DO, JOHN DOES, M.D. 1-5 (a class of fictitiously named defendants), and JANE DOE, R.N./ CRNA/N.P. 1-5 (a class of fictitiously named defendants, who were nurses, nurse practitioners or certified registered nurse anesthetists) who were involved in treatment and care to plaintiff's decedent during the period referred to herein, which care and treatment was rendered in a careless, negligent and reckless manner as a result of which plaintiffs sustained the aforesaid injuries, damages and losses set forth herein.

WHEREFORE, plaintiff, ELIA CALAMITA, Administratrix of the ESTATE of NICOLA CALAMITA, deceased, demands judgment against the defendants, together with interest and costs of suit.

THIRD COUNT

1. Plaintiffs repeat each and every allegation of the previous Counts as though set forth at length herein.

2. The defendants aforesaid failed to advise the plaintiff's decedent of all the risks and benefits that a reasonably prudent person would want to have under the circumstances then existing, and, thus, failed to obtain him informed consent and deprived him of the opportunity to choose from among reasonable options for his medical care.

3. As a result of this negligence, plaintiffs sustained the injuries, damages and losses referred to herein.

WHEREFORE, plaintiff, ELIA CALAMITA, Administratrix of the ESTATE of NICOLA CALAMITA, deceased, demands judgment against the defendants, together with interest and costs of suit.

FOURTH COUNT

1. Plaintiffs repeat each and every allegation of the prior Count as if set forth herein at length.

2. The defendants, JOHN DOE, M.D., 1-5 (a class of fictitiously named defendants), JANE DOE, R.N., 1-5 (a class of fictitiously named defendants) and DOE PHYSICIAN GROUP, PA OR DOE PHYSICIAN GROUP, PC OR DOE MANAGED CARE COMPANY (a fictitious designation representing the class of as yet unknown corporate entities affiliated or connected in any manner with the individual defendants in this matter or with plaintiff's care and vicariously, directly or administratively responsible for the other medical providers actions or failures or plaintiff's injury) and JANE DOE, R.N./ CRNA/N.P. 1-5 (a class of fictitiously named defendants, who were nurses, nurse practitioners or certified registered nurse anesthetists) were also involved in the care and treatment of the plaintiff's decedent, NICOLA CALAMITA, and also deviated from accepted standards of practice and were negligent so as to cause the same injuries, damages and losses to the plaintiffs and decedent as set forth herein.

WHEREFORE, plaintiff, ELIA CALAMITA, Administratrix of the ESTATE of NICOLA CALAMITA, deceased, demands judgment against the defendants, together with interest and costs of suit.

DEMAND FOR TRIAL BY JURY

Plaintiff hereby demands a trial by jury as to all issues involved herein.

DESIGNATION OF TRIAL COUNSEL

Pursuant to Rule 4:24-4, Michael B. Zerres, Esq. has been designated as trial counsel in the above matter.

AFFIDAVIT OF MERIT

See Affidavits of Merit attached hereto, or, to be provided upon defendants filing of an Answer.

DEMAND FOR INSURANCE COVERAGE

In accordance with Rule 4:10-2, defendants are demands to provide a complete copy of their applicable liability insurance policies including any excess or umbrella policies with declaration sheets within thirty (30) days of the service of this Complaint.

DEMAND FOR INTERROGATORIES

Plaintiff demands that defendants answer Form C, and C3 interrogatories.

CERTIFICATION

I hereby certify that this matter is not the subject of any other action pending in any Court or a pending Arbitration proceeding, nor is any other action or Arbitration proceeding contemplated.

BLUME, FORTE, FRIED,
ZERRES & MOLINARI, P.C.
Attorneys for Plaintiffs

By:


MICHAEL B. ZERRES
Bar # 010351988

Dated: July 29, 2021