IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

In re:	§	Chapter 11
WELLPATH SF HOLDCO, LLC., et al.,	§	Case No. 24-90566 (ARP)
Debtors.	§	(Jointly Administered)

ESTATE OF ABBY ANGELO'S MOTION TO PROCEED IN FEDERAL DISTRICT COURT AGAINST DEBTOR WELLPATH, LLC FOR PURPOSES OF PURSUING INSURANCE PROCEEDS

If you object to the relief requested, you must respond in writing. Unless otherwise directed by the Court, you must file your response electronically at https://ecf.txsb.uscourts.gov/ within twenty-one days from the date this motion was filed. If you do not have electronic filing privileges, you must file a written objection that is actually received by the clerk within twenty-one days from the date this motion was filed. Otherwise, the Court may treat the pleading as unopposed and grant the relief requested.

The Estate of Abby Angelo, Kristie Angelo as Personal Representative of the Estate of Abby Angelo, and K.L. (collectively Plaintiffs), by and through undersigned counsel, hereby submit the following *Motion to Proceed in United States District Court for the District of Colorado against Debtor Wellpath, LLC for Purposes of Pursuing Insurance Proceeds*, pursuant to this Court's *Revised and Amended Clarifying Order Enforcing (A) The First Amended Joint Chapter 11 Plan of Reorganization of Wellpath Holdings, Inc. and Certain of its Debtor Affiliates, and (B) The Trust Distribution Procedures*. Doc. 1279.

Background

1. Abby Angelo died on June 28, 2021 while a pretrial detainee at the Jefferson County Detention Facility (JCDF) in Jefferson County, Colorado at age 29 from a treatable heart infection. *Third Amended Complaint*, ECF No. 209, No. 23-cv-01607-CNS-STV (D. Colo.).

2. Wellpath was the medical provider at the JCDF at that time.

3. Plaintiffs filed suit in the District of Colorado on June 23, 2023 for their damages arising out of the constitutionally deficient and medically negligent care Ms. Angelo received at the JCDF.

4. Plaintiffs' suit is maintained against Jefferson County Sheriff Reggie Marinelli in her official capacity, Wellpath LLC, and six individual Wellpath nurses.

5. The parties were in discovery when Wellpath filed for bankruptcy on November 11, 2024 and the case was stayed and then administratively closed through the pendency of the bankruptcy proceedings.

6. Plaintiffs timely filed a proof of claim and opted out of third party releases in the bankruptcy proceedings.

7. On June 3, 2025, the District Court reopened the case.

8. On November 21, 2025, Plaintiffs filed a motion to amend to name Wellpath LLC as a nominal defendant following the conclusion of the bankruptcy proceedings.

9. Wellpath did not oppose being added as a nominal defendant.

10. Four months later, on March 20, 2026, Wellpath filed a motion to dismiss arguing that it was not a proper nominal defendant.

11. On August 17, 2026, the District Court held a hearing on Wellpath's motion to dismiss.

12. The District Court ordered Plaintiffs to appear in this Court and to seek permission to allow Plaintiffs to proceed against Wellpath as a nominal defendant.

Wellpath, LLC has Excess Insurance Coverage for 2023-2024 over $15 million and Plaintiffs' Claims Will Exceed the SIR of $15 million

13. In the Clarification Order, this Court ordered Unsecured Creditors "seeking an order of this Court to proceed against a Debtor for purposes of pursing insurance proceeds" to "provide sufficient evidence to this Court that (a) insurance coverage exists for such claims and (b) either (i) there is no applicable SIR or (ii) such claim will exceed the applicable SIR." Doc. 1279 at 2. There is insurance coverage for Plaintiffs' claims, and such claims will exceed the applicable self-insured retention ("SIR").

14. At the time of filing suit in 2023, Debtor maintained an excess insurance coverage policy that covers claims over $15 million, which is the limit of Debtor's self-insured retention responsibility.

15. Specifically, according to the Declaration of James Seitz, Director of Insurance of Wellpath Holdings, Inc., filed in this Court on January 7, 2025 and relied on by this Court, for claims filed in 2023-24, "[t]he Debtors' 2023-2024 Fronting Policy, 2023-2024 Buffer SIR, and 2023-2024 Captive Policy constitute $15 million of SIR coverage." Doc. 828 at 7-8, 11. Once this SIR is met, "AXA has liability for defense costs, damages, judgments, and settlements arising from any single claim only in excess of the Debtors' $15 million SIR for each and every claim." *Id.*

16. The claims in this case exceed $15 million.

17. Both the magistrate judge and the Article III judge assigned to this case in the District of Colorado have made findings that a verdict in this case could exceed the $15 million SIR.

18. Magistrate Judge Scott T. Varholak found:

> To the extent, the argument is that, which was brief, that we're never going to get to insurance coverage in this case because it requires a showing of more than $15 million, I'm not persuaded by that argument. Indeed, the case that's cited, the *McGill* case is a 2014 case in which there was an $11 million verdict. That was 12 years ago now, and I don't find it beyond the realm that a jury today, based upon these facts, could not give more than an $11 million verdict. I just had a case last week in which a jury gave, I think, ultimately, a $4.5 million verdict for a delay in payment of insurance benefits. Based upon that, I can't find it implausible that a jury couldn't find a $15 million claim through a lack of medical care ultimately resulting in death. *Transcript of 2026.04.23 Hearing*, ECF No. 253 at 26, No. 23-cv-01607-CNS-STV (D. Colo.).

19. In ordering Plaintiffs to come before this Court and seek leave to proceed against Wellpath as a nominal defendant, the District Court made explicit findings that the claims could exceed the SIR. The District Court found:

> From the beginning of the case the plaintiff has set out damages potential that would exceed that 15 million no matter how you look at it. So whether that happens or not remains to be seen, but clearly the potential is there and has been alleged. So it strikes me that inclusion of Wellpath would be necessary to, at least from Wellpath's point of view, bind that insurance company. What the insurance company thinks about this, as you've noted, nobody seems to know. But at least based on Wellpath's representation, it would seem to be appropriate. *Transcript of 2026.08.17 Hearing*, ECF No. 267 at 10, No. 23-cv-01607-CNS-STV (D. Colo.).
>
> So what I'd like to do is deny this motion without prejudice, and then what I want plaintiff to do is go back to the bankruptcy court, follow the procedure kind of that [Wellpath] outlined to get that really kind of stamp of approval from the bankruptcy court noting that **this Court believes that the inclusion is necessary to maintain that insurance coverage because I do find that the plaintiff has articulated a basis for keeping the insurance proceeds at issue here**. *Id.* at 15-16 (emphasis added).

Plaintiffs' claims will exceed the $15 million SIR and Plaintiffs accordingly seek leave to proceed against Wellpath as a nominal defendant.

Request for Relief

WHEREFORE, Plaintiffs respectfully request that the Court issue an Order allowing it to proceed against Debtor Wellpath, LLC as a nominal Defendant in its lawsuit in the District of Colorado, case number 23-cv-01607, and grant any other further relief as justice requires and that this Court deems just and proper.

RESPECTFULLY SUBMITTED this 2nd day of September, 2026.

/s/ *Virginia Hill Butler*
Virginia Hill Butler
Admitted *Pro Hac Vice*

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[Relates to Dkt. No. _____]

Before the Court is the *Motion to Proceed in United States District Court for the District of Colorado against Debtor Wellpath, LLC for Purposes of Pursuing Insurance Proceeds* (the "Motion"), filed by Plaintiffs. The Court finds that service and notice of the Motion were proper and sufficient, and no further notice is required. The Court finds that good cause exists to grant the relief requested in the motion, and no objections were filed or otherwise received in response to the Motion. It is therefore ORDERED that the Motion is GRANTED, and the Estate of Abby Angelo is authorized to proceed against Debtor Wellpath, LLC as a nominal Defendant in its lawsuit in the District of Colorado, case number 23-cv-01607.

Dated _____, 2026.

Hon. Alfredo Perez,
United States Bankruptcy Judge