

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

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In re:	:	Chapter 11
	:	
MODIVCARE INC., <i>et al.</i> ,	:	Case No. 25-90309 (ARP)
	:	
Reorganized Debtors. ¹	:	(Jointly Administered)
	:	
	X	
	X	
	:	
HEALTHSPRING, INC.,	:	
	:	
Plaintiff,	:	
	:	Adversary Proc. No. 26-03035
v.	:	
	:	
MODIVCARE SOLUTIONS, LLC,	:	
	:	
Defendant.	:	
	:	
	X	

**DEFENDANT’S OPPOSITION TO PLAINTIFF’S EMERGENCY MOTION FOR
 TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION**

Defendant Modivcare Solutions, LLC (“*Modivcare*” and collectively with its debtor affiliates in the above captioned chapter 11 cases, the “*Reorganized Debtors*”) hereby submits this opposition (the “*Opposition*”) to the *Emergency Motion for Temporary Restraining Order and Preliminary Injunction* [Adv. Docket No. 5]² (the “*TRO Motion*”) filed by HealthSpring, Inc.

¹ A complete list of each of the Reorganized Debtors in these chapter 11 cases (the “*Chapter 11 Cases*”) and the last four digits of each Reorganized Debtor’s taxpayer identification number (if applicable) may be obtained on the website of the Reorganized Debtors’ proposed claims and noticing agent at <https://www.veritaglobal.net/Modivcare>. Reorganized Debtor Modivcare Inc.’s principal place of business and the Reorganized Debtors’ service address in these Chapter 11 Cases is 6900 E. Layton Avenue, Suite 1200, Denver, Colorado 80237.

² References herein to “Adv. Docket No.” are to filings in the above-captioned adversary proceeding, and references to “Docket No.” are to filings in the above-captioned chapter 11 cases.



(“*HealthSpring*”). For the reasons set forth herein and in the Reorganized Debtors’ *Motion to Dismiss* [Adv. Docket No. 9] (the “*Motion to Dismiss*”), which is incorporated herein by reference, the TRO Motion should be denied in its entirety.³ In support of this Opposition, Modivcare respectfully states as follows:

PRELIMINARY STATEMENT

1. As this Court stated at the Rejection Hearing (as defined below), the power to reject contracts is one of the most powerful tools in the Bankruptcy Code, and rejection relieves a debtor of *any* future performance obligations. Now that the Court has entered the Rejection Order, the TRO Motion is moot and should be denied. Otherwise, the entire purpose of the rejection would be undermined. While the foregoing alone is sufficient to deny the TRO Motion, the Reorganized Debtors respond more fully to the TRO Motion below.

2. HealthSpring’s TRO Motion seeks extraordinary relief that is fundamentally incompatible with the Bankruptcy Code and well-established Supreme Court precedent. HealthSpring asks this Court to compel the Reorganized Debtors to continue performing under a contract that has already been rejected pursuant to section 365 of the Bankruptcy Code. This request directly conflicts with the purpose of rejection under the Bankruptcy Code—as already confirmed by this Court—which is to relieve debtors of the burden of performance under unprofitable contracts.

3. The Supreme Court has made clear that rejection constitutes a breach of the underlying contract, and the appropriate remedy for such breach is a claim for money damages, not specific performance. HealthSpring’s attempt to circumvent this fundamental principle

³ Capitalized terms used, but not defined herein, shall have the meaning ascribed to them in the Rejection Motion, Rejection Reply, or Motion to Dismiss, as applicable.

through their TRO Motion should be rejected, as HealthSpring fails to satisfy any of the four factors required for injunctive relief.

4. Moreover, the circumstances surrounding HealthSpring’s purported “emergency” undermine its characterization as such. HealthSpring was on notice of the impending termination and rejection of the contract since mid-December 2025, two months before filing their adversary proceeding. Additionally, HealthSpring waited nearly six weeks after the Reorganized Debtors filed the Rejection Motion before filing their TRO Motion. There is no emergency that would necessitate injunctive relief.

5. This Court held numerous hearings relating to the rejection of the HealthSpring Contract, culminating in the rejection of the very arguments made by HealthSpring in the TRO Motion and adversary proceeding. Thus, the Court should deny the TRO Motion.

BACKGROUND

6. The Reorganized Debtors refer the Court to the facts regarding the parties’ contractual relationship and the payment dispute contained in the Rejection Motion [Docket No. 1133], the *Reply in Support of Motion for Entry of an Order Authorizing the Debtors to Reject Certain Executory Contracts* [Docket No. 1213] (the “**Rejection Reply**”), the *Emergency Motion for Protective Order or, In the Alternative, To Bifurcate Hearing in Connection with Motion to Reject* [Docket No. 1262] (the “**Bifurcation Motion**”), and the Motion to Dismiss. This section contains additional facts relevant to this Opposition.

7. On February 13, 2026, the Court held a hearing to consider rejection of the Contract and, at the continued hearing on February 17, 2026 (the “**Rejection Hearing**”), the Court ruled that the Reorganized Debtors had reasonably exercised their business judgment in rejecting the Contract, and ruled that the rejection effective date would be February 28, 2026. On February 24,

2026, the Court entered the *Order Authorizing the Reorganized Debtors to Reject Certain Executory Contracts* [Docket No. 1325] (the “**Rejection Order**”).

ARGUMENT

8. “The standard for issuing a [temporary restraining order] is the same as the standard for issuing a preliminary injunction.” *In re Ozcelebi*, No. 20-70295, 2022 WL 1529359, at *3 (Bankr. S.D. Tex. May 13, 2022) (citing *Clark v. Prichard*, 812 F.2d 991, 993 (5th Cir. 1987)). A party seeking a temporary restraining order or preliminary injunction must establish: (a) a substantial likelihood of success on the merits; (b) irreparable injury if the injunction is not granted; (c) that the injury to the movant outweighs any harm to the opposing party; and (d) that the injunction will not disserve the public interest. *See Matter of Zale Corp.*, 62 F.3d 746, 765 (5th Cir. 1995); *Clark*, 812 F.2d at 993. A preliminary injunction is an extraordinary remedy that should not be granted unless the movant clearly establishes each of the four factors. *See Canal Auth. of State of Fla. v. Callaway*, 489 F.2d 567, 573 (5th Cir. 1974) (stating that “a preliminary injunction is an extraordinary and drastic remedy which should not be granted unless the movant clearly carries the burden of persuasion”); *Clark*, 812 F.2d at 993. HealthSpring cannot satisfy any of these factors, and the TRO Motion should be denied.

A. HEALTHSPRING CANNOT DEMONSTRATE A SUBSTANTIAL LIKELIHOOD OF SUCCESS ON THE MERITS

9. HealthSpring’s entire argument for injunctive relief rests on the flawed premise that it is entitled to specific performance of the Contract’s “Run-Out Services” and “Termination Assistance” obligations despite the fact that this Court has already entered the Rejection Order and ruled that there is no imminent health and safety issue resulting from the rejection of the Contract. HealthSpring’s position that the Reorganized Debtors should be forced to continue performing—

after the Contract is rejected—is contrary to black-letter bankruptcy law and this Court’s Rejection Order.

10. Section 365(g) of the Bankruptcy Code provides that rejection constitutes a “breach” of the contract. As the Supreme Court explained in *Mission Product Holdings, Inc. v. Tempnology, LLC*, 587 U.S. 370 (2019), rejection allows the debtor to “repudiat[e] any further performance of its duties.” See also *Gulfport Energy Corp. v. FERC*, 41 F.4th 667 (5th Cir. 2022) (“Rejection does not change or rescind a contract. It breaches that contract, excusing the debtor’s future performance[.]”); see also *In re Extraction Oil & Gas*, 622 B.R. 608, 622 (Bankr. D. Del. 2020) (“[R]ejection relieves a trustee from performing covenants requiring future performance.”). This Court confirmed the same at the Rejection Hearing. The effect of rejection is that the counterparty to a rejected contract may have “a claim against the estate for damages resulting from the debtor’s nonperformance.” *Tempnology*, 587 U.S. at 374. By “giving the counterparty a pre-petition claim, Section 365(g) places that party in the same boat as the debtor’s unsecured creditors.” *Id.* at 374; see also *In re Ultra Petroleum Corp.*, 621 B.R. 188, 204 (Bankr. S.D. Tex. 2020), *aff’d*, 28 F.4th 629, 636 (5th Cir. 2022) (asserting same). This alone demonstrates that HealthSpring is not likely to succeed on the merits – it already lost on this exact issue at the Rejection Hearing.

B. HEALTHSPRING CANNOT DEMONSTRATE IRREPARABLE HARM IF THE INJUNCTION IS NOT GRANTED

11. The second factor requires showing that the movant “is ‘likely to suffer irreparable’ harm, that is, harm for which there is no adequate remedy at law.” *Daniels Health Scis., L.L.C. v. Vascular Health Scis., L.L.C.*, 710 F.3d 579, 585 (5th Cir. 2013); *Ozcelebi*, 2022 WL 1529359, at *5; see also *Allied Pipe, LLC v. Paulsen*, No. 4:21-CV-1315, 2021 WL 6050729, at *5 (S.D. Tex. Dec. 21, 2021) (stating that “the movant must also demonstrate a ‘likelihood of substantial

and immediate irreparable injury’ if the injunction is not granted, and the ‘inadequacy of remedies at law’”) (quoting *O’Shea v. Littleton*, 414 U.S. 488, 502 (1974)).

12. *First*, HealthSpring has conceded that its alleged injury is compensable in money damages. The touchstone of an irreparable injury is one for which monetary damages would be “especially difficult to calculate.” *Heil Trailer Int’l Co. v. Kula*, 542 F. App’x 329, 335 (5th Cir. 2013). That is plainly not the case here. HealthSpring itself has acknowledged that it “will have an enormous rejection damages claim, particularly with the costs HealthSpring will have to incur to find and install a replacement NEMT vendor and the damages that HealthSpring enrollees will assert.” Rejection Objection ¶ 40. The availability of money damages itself indicates there is no irreparable injury and defeats any claim for specific performance and injunctive relief.

13. *Second*, HealthSpring’s claim of irreparable harm is further undermined by the undisputed fact that HealthSpring has engaged a replacement provider. The fact that HealthSpring may prefer a longer transition period does not establish irreparable harm, and any transition costs can be addressed through HealthSpring’s rejection damages claim.

14. *Third*, HealthSpring was on notice of the impending termination and rejection of the Contract since mid-December 2025. After the Reorganized Debtors filed the Rejection Motion on December 29, 2025, HealthSpring waited nearly six weeks before filing this adversary proceeding and the “emergency” TRO Motion.

15. HealthSpring’s own delay in seeking relief undermines its claim that an emergency exists. If the threatened harm were truly irreparable and imminent, HealthSpring would not have waited almost two months to seek emergency relief. *See Gonannies, Inc. v. Goaupair.com, Inc.*, 464 F. Supp. 2d 603, 609 (N.D. Tex. 2006) (holding that delay in seeking injunctive relief “militates against the issuance of a preliminary injunction”); *see also Tough Traveler, Ltd. v.*

Outbound Prods., 60 F.3d 964, 968 (2d Cir. 1995) (finding that “delay alone may justify denial of a preliminary injunction”) (quoting *Citibank, N.A. v. Citytrust*, 756 F.2d 273, 276 (2d Cir. 1985)). Instead, HealthSpring apparently expected Modivcare to continue providing services without adequate payment indefinitely, which Modivcare has already done for the past 19 months.

C. HEALTHSPRING CANNOT DEMONSTRATE THE INJURY TO IT OUTWEIGHS ANY HARM TO THE REORGANIZED DEBTORS

16. The third element requires that a movant demonstrate that it would suffer more harm absent the injunction than the enjoined party would suffer if the injunction were granted. *See Allied Pipe, LLC*, 2021 WL 6050729, at *6. “If there is reason to believe that an injunction issued prior to a trial on the merits would be burdensome, the balance tips toward denying preliminary [injunctive] relief.” *See id*; *see also In re Ozcelebi*, No. 20-70295, 2022 WL 1529359, at *6.

17. The balance of harms strongly favors the Reorganized Debtors. Granting the TRO Motion would undermine the Rejection Order and the very purpose of rejection. Requiring the Reorganized Debtors to continue operating an unprofitable contract that provides no ongoing benefit to the estates is contrary to the very purpose of section 365 of the Bankruptcy Code, and would strip the Reorganized Debtors of one of the most fundamental benefits of chapter 11 reorganization.

18. By contrast, HealthSpring has a replacement vendor ready and willing to provide services. Any harm to HealthSpring during a brief transition period is compensable through monetary damages and a rejection damages claim against the Reorganized Debtors. The harm to the Reorganized Debtors from continued forced performance substantially outweighs any transitional inconvenience to HealthSpring.

D. GRANTING INJUNCTIVE RELIEF WOULD DISSERVE THE PUBLIC INTEREST

19. While HealthSpring emphasizes the importance of NEMT services to Medicare beneficiaries, this factor does not support the extraordinary remedy of specific performance in bankruptcy. “In bankruptcy, the public policy is to have an orderly administration of the debtor’s assets via their bankruptcy estate, such that the debtor may be able to gain a fresh start, by satisfying valid claims against that estate.” *In re OGA Charters, LLC*, 554 B.R. 415, 426 (Bankr. S.D. Tex. 2016). HealthSpring’s requested relief would disrupt the fresh start the Reorganized Debtors achieved through their Chapter 11 Cases.

20. The public interest is served by the orderly administration of bankruptcy cases and the preservation of the Reorganized Debtors’ rights under the Bankruptcy Code. Allowing counterparties to force continued performance of rejected contracts through injunctive relief would undermine the bankruptcy system’s ability to provide debtors with a fresh start and reorganize their affairs.

CONCLUSION

21. For the foregoing reasons, HealthSpring’s TRO Motion should be denied in its entirety. The Court approved the rejection of the Contracts and expressly found that such rejection relieves the Reorganized Debtors of any future performance. In addition, HealthSpring has failed to demonstrate a substantial likelihood of success on the merits, has not established irreparable harm, and the balance of equities and public interest weigh against granting extraordinary injunctive relief. HealthSpring’s remedy lies in a claim for money damages, not specific performance of a rejected contract.

WHEREFORE, the Reorganized Debtors respectfully request that the Court enter an order, substantially in the form attached hereto, sustaining this Opposition and denying the TRO Motion.

Dated: February 27, 2026

Respectfully submitted,

/s/ Timothy A. ("Tad") Davidson II

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Co-Counsel to the Reorganized Debtors

CERTIFICATE OF SERVICE

I certify that on February 27, 2026, a true and correct copy of the foregoing document was served by the Electronic Case Filing System for the United States Bankruptcy Court for the Southern District of Texas on those parties registered to receive electronic notices.

/s/ Timothy A. ("Tad") Davidson II
Timothy A. ("Tad") Davidson II

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MODIVCARE INC., <i>et al.</i> ,	:	Case No. 25-90309 (ARP)
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	X	
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	:	
HEALTHSPRING, INC.,	:	
	:	
Plaintiff,	:	
	:	Adversary Proc. No. 26-03035
v.	:	
	:	
MODIVCARE SOLUTIONS, LLC,	:	
	:	
Defendant.	:	
	:	
	X	

**ORDER DENYING PLAINTIFF’S EMERGENCY MOTION FOR TEMPORARY
RESTRAINING ORDER AND PRELIMINARY INJUNCTION
[RELATES TO ADVERSARY DOCKET NO. 5]**

The Court has considered the Plaintiff’s *Emergency Motion for Temporary Restraining Order and Preliminary Injunction* [Adv. Docket No. 5] (the “**TRO Motion**”) and Defendant’s opposition thereto (the “**Opposition**”).² After due consideration, it is hereby

¹ A complete list of each of the Reorganized Debtors in these chapter 11 cases (the “**Chapter 11 Cases**”) and the last four digits of each Reorganized Debtor’s taxpayer identification number (if applicable) may be obtained on the website of the Reorganized Debtors’ proposed claims and noticing agent at <https://www.veritaglobal.net/Modivcare>. Reorganized Debtor Modivcare Inc.’s principal place of business and the Reorganized Debtors’ service address in these Chapter 11 Cases is 6900 E. Layton Avenue, Suite 1200, Denver, Colorado 80237.

² Capitalized terms used, but not defined herein, have the meaning assigned in the Opposition.

ORDERED, ADJUDGED, AND DECREED:

1. The Opposition is **SUSTAINED**.
2. The TRO Motion is **DENIED WITH PREJUDICE**.
3. The Court retains exclusive jurisdiction regarding the implementation, interpretation, and enforcement of this Order.

Signed: _____, 2026
Houston, Texas

UNITED STATES BANKRUPTCY JUDGE