

**IN THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ROME DIVISION**

IN RE:

**REGIONAL HOUSING & COMMUNITY
SERVICES CORPORATION, et al.,**

Debtors.

WILLIE JACKSON, JR.,

Movant,

v.

**RHCSC SAVANNAH HEALTH
HOLDINGS LLC,**

Respondent.

Chapter 11

Jointly Administered Under

CASE NO. 21-41034-pwb

CONTESTED MATTER

NOTICE OF HEARING

PLEASE TAKE NOTICE that Willie Jackson, Jr. (“Movant”) has filed a *Motion for Relief from Stay* (the “Motion”) and related papers with the Court.

PLEASE TAKE FURTHER NOTICE that the Court will hold a hearing on the Motion at **9:25 a.m. on July 9, 2025, in Courtroom 342, United States Courthouse, 600 East 1st Street, Rome, GA 30161**, which may be attended in person or via the Court’s Virtual Hearing Room. You may join the Virtual Hearing Room through the “Dial-in and Virtual Bankruptcy Hearing Information” link at the top of the homepage of the Court’s website, www.ganb.uscourts.gov, or the link on the judge’s webpage, which can also be found on the Court’s website. Please also review the “Hearing Information” tab on the judge’s webpage for further information about the hearing. You should be prepared to appear at the hearing via video, but you may leave your camera in the off position until the Court instructs otherwise. Unrepresented persons who do not have video capability may use the telephone dial-in information on the judge’s webpage.

Your rights may be affected by the court’s ruling on these pleadings. You should read these pleadings carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.) If you do not want the Court to grant the relief sought in these pleadings or if you want the Court to consider your views, then you and/or your attorney must attend the hearing. You may also file a written response to the pleading with the Clerk at the address stated below, but you are not required to do so. If you file a written response, you must attach a certificate stating when, how and on whom (including addresses) you served the response. Mail or deliver your response so that it is received by the Clerk before the



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hearing. The address of the Clerk's Office is **Clerk, U. S. Bankruptcy Court, 600 East 1st Street, Room 339, Rome, GA 30161**. You must also mail a copy of your response to the undersigned at the address stated below.

If a hearing on the Motion cannot be held within thirty (30) days, Movant waives the requirement for holding a preliminary hearing within thirty days of filing the Motion and agrees to a hearing on the earliest possible date. Movant consents to the automatic stay remaining in effect until the Court orders otherwise.

Respectfully submitted this 10th day of June, 2025.

JONES & WALDEN LLC

/s/ Eric J. Breithaupt

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UNOPPOSED MOTION FOR RELIEF FROM STAY TO CONTINUE LITIGATION

COMES NOW Willie Jackson, Jr. (“Movant”), through the undersigned counsel and files this unopposed motion seeking relief from or modification of the automatic stay pursuant to 11 U.S.C. § 362(d) (the “Motion”) regarding RHCSC Savannah Health Holdings LLC (“RHCSC” or “Respondent Debtor”), one of the Debtors in the above jointly administered case¹ to allow Movant to pursue litigation in the State Court solely for the purpose of pursuing insurance proceeds. In support of the Motion, Movant respectfully shows the Court as follows:

BACKGROUND

1. On August 26, 2021 (the “Petition Date”), RHCSC filed a voluntary petition for relief under Chapter 11 of Title 11 of the United States Code, 11 U.S.C. §§ 101 et seq., (the “Bankruptcy Code”).

¹ RHCSC Savannah Health Holdings LLC’s Case Number is 21-41046-pwb.

2. Respondent Debtor previously owned, operated, and/or managed a skilled nursing home facility doing business as The Gardens of Savannah (the “Facility”).

3. Movant was a resident of the Facility for long term rehabilitation following a stroke.

4. Post-petition, on September 8, 2023, an incident occurred at the Facility that resulted in the personal injury of Movant on account of an alleged physical assault by another resident.

5. On March 27, 2025, Movant initiated a civil action in the State Court of Fulton County, Georgia (the “State Court”), against the Respondent Debtor case styled *Willie Jackson, Jr. v. Samantha Simmons, et al.*, Civil Action No. 25EV003453 (the “Fulton County Action.”). In the Fulton County Action, Movant sought to recover under claims for negligence, violations of state law and regulations in the operation of a long-term care facility, breach of contract, special damages and punitive damages.

6. On April 3, 2025, counsel for Respondent Debtor filed a *Notice of Bankruptcy and Suggestion of Automatic Stay* into the Fulton County Action.

7. The Fulton County Action is still pending.

8. By Order entered by this Court on March 5, 2025, a sale of the Facility, free and clear of liens was authorized [Doc. 353] including any tort claims for successor liability.

RELIEF REQUESTED

9. Movant submits that cause exists for such relief from the automatic stay under 11 U.S.C. § 362(d), in that if not permitted to proceed with the Fulton County Action, Movant will suffer irreparable harm. Stay relief will serve the fair and efficient administration of justice. Movant’s interests are not adequately protected unless the stay is lifted. Cause exists for the lifting of the automatic stay because, among other things, the stay must be lifted to liquidate the Movant’s

claim. Movant will not pursue collection against Respondent Debtor's assets and will limit Movant's recovery against Respondent Debtor solely to any available insurance proceeds. Movant only seeks relief from the automatic stay to recover on his injury claim to the extent of any applicable insurance coverage. No additional recovery is requested by way of this Motion. The Motion is unopposed by Debtor's counsel.

APPLICABLE AUTHORITY

10. Section 362(d)(1) of the Bankruptcy Code provides:

- (d) On request of party in interest and after notice and a hearing, the court shall grant relief from the stay provided under subsection (a) of this section, such as by terminating, annulling, modifying or condition such stay . . .
- (1) for cause, including the lack of adequate protection of an interest in property of such party in interest.

11 U.S.C. § 362(d)(1).

11. "Generally, in the determination of 'cause,' section 362(g) is interpreted as placing an initial burden on the moving party to establish its prima facie case which must then be rebutted by the party opposing such relief." *Izzarelli v. Rexene Prods. Co. (In re Rexene Prods.)*, 141 B.R. 574, 577 (Bankr. D. Del. 1992); *see also Vincent Props., Inc. v. Five Star Partners, L.P. (In re Five Star Partners, L.P.)*, 193 B.R. 603, 611 (Bankr. N.D. Ga. 1996).

12. As one Court explained:

The legislative history indicates that cause may be established by a single factor such as "desire to permit an action to proceed in another tribunal," or "lack of any connection with or interference with the pending bankruptcy case." The legislative history of § 362(d)(1) emphasizes the section's applicability to proceedings in another tribunal. "It will often be more appropriate to permit proceedings to continue in their place of origin, when no great prejudice to the bankruptcy estate would result, in order to leave the parties to their chosen forum and to relieve the bankruptcy court from any duties that may be handled elsewhere."

Rexene Prods., 141 B.R. at 576 (quoting H.R. Rep. No. 95-595, 95th Cong., 1st Sess., 343-344 (1977)) (citations omitted).

13. Courts determine whether sufficient cause exists to lift the stay on a case-by-case basis, considering the totality of the circumstances. *See Baldino v. Wilson (In re Wilson)*, 116 F.3d 87, 90 (3d Cir. 1997).

14. When determining whether a stay should be lifted for cause, the Court should consider three main factors:

- a. Whether any great prejudice to either the bankruptcy estate or the debtor will result from prosecution of the lawsuit;
- b. Whether the hardship to the non-debtor party by continuation of the automatic stay considerably outweighs the hardship to the debtor; and
- c. Whether the creditor has a probability of success on the merits of his case.

Egwineke v. Roberston (In re Robertson), 244 B.R. 880, 882 (Bankr N.D. Ga. 2000) (Drake, J.).

15. Additional considerations may include:

- (1) whether relief would result in partial or complete resolution of the issues;
- (2) lack of any connection with or interference with the bankruptcy case;
- (3) whether the other proceeding involves the debtor as a fiduciary;
- (4) whether a specialized tribunal with the necessary expertise has been established to hear the cause of action;
- (5) whether the debtor's insurer has assumed full responsibility for defending it;
- (6) whether the action primarily involves third parties;
- (7) whether litigation in another forum would prejudice the interest of other creditors;
- (8) whether the judgment claim arising from the other action is subject to equitable subordination;
- (9) whether the movant's success in the other proceeding would result in a judicial lien avoidable by the debtor;
- (10) the interest of judicial economy and the expeditious and economical resolution of litigation;
- (11) whether the parties are ready for trial in the other proceeding; and
- (12) the impact of the stay on the parties and the balance of the harms.

See Groover v. R. J. Groover Constr., LLC (In re R. J. Groover Constr. LLC), 411 B.R. 473, 477 (Bankr. S.D. Ga. 2008). The relevance of these factors varies by case, and courts may afford different weights to various factors. *Schuler v. Sandalwood Nursing Ctr., Inc. (In re Sandalwood Nursing Ctr., Inc.)*, 2018 Bankr. LEXIS 2526, at *11-12 (Bankr. N.D. Ga. 2018).

I. ANALYSIS

A. No great prejudice to Respondent Debtor or the bankruptcy estate would result from granting Movant limited relief from the stay.

16. Movant respectfully submits that neither Respondent Debtor nor the Jointly Administered Debtors' bankruptcy estate will suffer any great undue prejudice if the requested relief is granted. Since the Facility has been sold and is no longer part of the bankruptcy estate, there is no burden upon the Respondent Debtor.

17. Defending the Fulton County Action will not create an undue burden upon the Respondent Debtor as Movant only seeks recovery to the extent of insurance coverage and presumably, the insurance carrier will tender the defense of the case. *See Davis v. Day (In re Day)*, 2004 Bankr. LEXIS 1521, at *4-5 (Bankr. S.D. Ga. Jan. 28, 2004) ("This Court notes its agreement with the line of cases where courts have held that, 'the cost of defending litigation, by itself, has not been regarded as constituting great prejudice, precluding relief from the automatic stay.'") (internal citations omitted).

18. Movant submits that neither the Respondent Debtor nor the Respondent Debtor's bankruptcy estate will suffer any great prejudice if the requested relief is granted.

B. The hardship to Movant by maintaining the stay considerably outweighs any hardship to Respondent Debtor.

19. Movant will suffer great hardship if the stay is not lifted or at least modified.

20. Furthermore, Movant has personal injury claims which must be adjudicated.

21. Georgia state courts have jurisdiction over and attendant expertise in addressing the claims at the court of the Fulton County Action: negligence, violations of state law and regulations in the operation of a long-term care facility, breach of contract, special damages and punitive damages.

22. The relief sought in the Fulton County Action would result in complete resolution of the litigation between the parties. *See supra*, factor one.

23. Lifting the stay to allow the State Court to hear the Fulton County Action would serve the interest of judicial economy. “[P]rinciples of juridical economy require that, without good reason, judicial resources should not be spent by duplicitous litigation, and that a lawsuit should only be tried once, if one forum with jurisdiction over all parties involved is available to fully dispose of all issues relating to that lawsuit.” *In re Coachworks Holdings, Inc.*, 418 B.R. 490, 493-94 (Bankr. M.D. Ga. 2009) (Walker, J.) (quoting *Smith v. Tricare Rehab Sys. (In re Tricare Rehab. Sys.)*, 181 B.R. 569, 574 (Bankr. N.D. Ala. 1994)).

24. Judicial economy would be served by allowing Movant to proceed in prosecuting the Fulton County Action to finality. The State Court of Fulton County has personal jurisdiction over all of the parties in the lawsuit and is able to liquidate all claims between the Movant and the Respondent Debtor.

25. If the prosecution of the Fulton County Action is not permitted to move forward, then the interests of judicial economy would not be served and there will not be an economical resolution of litigation (factor #10 above); and the impact of the stay will unfairly benefit the Respondent Debtor and unfairly harm the Movant (factor #11 above).

26. Accordingly, Movant respectfully submits that the hardship that it would suffer if the stay remains in effect considerably outweighs any hardship to Respondent Debtor concerning the requested relief.

C. Movant's Probability of Success

27. With respect to this prong of the analysis, courts hold that “[t]he required showing is very slight.” *Rexene Prods.*, 141 B.R. at 578. In addition, “[o]nly strong defenses to state court proceedings can prevent a bankruptcy court from granting relief from the stay in cases where [. . .] the decision-making process should be relegated to bodies other than [the bankruptcy] court.” *In re Fonseca v. Philadelphia Housing Authority*, 110 B.R. 191, 196 (Bankr. E.D. Pa. 1990).

28. Movant alleges that he has suffered damages as result of the actions of Respondent Debtor in its negligence of its duties. The Fulton County Action will determine the extent of liability of Respondent Debtor and will award damages accordingly.

29. Movant has a probability of success in the Fulton County Action. Accordingly, Movant shows that this factor weighs in favor of granting the Motion.

D. In Summary, Cause Exists for the Lifting of the Stay

30. Cause exists for the modification of the automatic stay. The Movant's claims against the Respondent Debtor should be decided by the State Court. No great prejudice to the estate or the Respondent Debtor will result from allowing the State Court case to proceed to resolution on the claims asserted in the Movant's Complaint.

31. The hardship to Movant presented by the stay significantly outweighs any hardship to the Respondent Debtor. Movant has a probability of success on the merits of the case. And judicial economy is better served by allowing the State Court to adjudicate the claim without duplicative litigation.

32. Movant therefore requests entry of an order modifying, annulling and/or lifting the automatic stay pursuant to 11 U.S.C. § 362 in order to permit the Fulton County Action to proceed uninterrupted against Respondent Debtor for the purpose of determining the parties' respective claims for liability, damages, and attorneys' fees; however, Movant has agreed to limit any recovery against Respondent Debtor to any available insurance proceeds.

33. Movant requests that the Court grant him relief from the automatic stay, instant, without the necessity of any 14-day stay, all as authorized by the provisions of Federal Rule of Bankruptcy Procedure 4001(a)(3).

34. If a hearing on the Motion cannot be held within 30 days, Movant waives the requirement under 11 U.S.C. § 362(e) for holding a preliminary hearing within 30 days of the filing of the Motion and agrees to a hearing on the earliest possible date. Movant consents to the automatic stay remaining in effect until the Court orders otherwise.

Respectfully submitted this 28th day of May, 2025.

Prepared and presented by:
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CERTIFICATE OF SERVICE

This is to certify that I have on this day electronically filed the foregoing *Notice of Hearing* ("Notice") and the related *Motion for Relief from Stay* ("Motion") using the Bankruptcy Court's Electronic Case Filing program, which sends a notice of and an accompanying link to the Notice and Motion to the following parties who have appeared in this case under the Bankruptcy Court's Electronic Case Filing Program:

- **Valentin Henri Jacques Dubuis** vdubuis@law.ga.gov
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I further certify that I served true and correct copies of the Notice and Motion on the following parties via First Class United States Mail, adequate postage prepaid.

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This 10th day of June, 2025.

JONES & WALDEN LLC

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