

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

In re:

GLOBAL WOUND CARE MEDICAL GROUP, a
Professional Corporation,¹

Debtor and Debtor in Possession.

Chapter 11

Case No. 24-34908

(Emergency Hearing Requested)

**DEBTOR'S EMERGENCY MOTION FOR ENTRY OF AN ORDER AUTHORIZING
PAYMENT OF CERTAIN PREPETITION (I) WAGES, SALARIES, AND OTHER
COMPENSATION; (II) REIMBURSABLE EMPLOYEE EXPENSES;
(III) EMPLOYEE BENEFITS; AND (IV) RELATED COSTS**

**EMERGENCY RELIEF HAS BEEN REQUESTED. RELIEF IS REQUESTED NOT
LATER THAN OCTOBER 24, 2024.**

**IF YOU OBJECT TO THE RELIEF REQUESTED OR YOU BELIEVE THAT
EMERGENCY CONSIDERATION IS NOT WARRANTED, YOU MUST APPEAR AT
THE HEARING IF ONE IS SET, OR FILE A WRITTEN RESPONSE PRIOR TO THE
DATE THAT RELIEF IS REQUESTED IN THE PRECEDING PARAGRAPH.
OTHERWISE, THE COURT MAY TREAT THE PLEADING AS UNOPPOSED AND
GRANT THE RELIEF REQUESTED.**

Global Wound Care Medical Group, a Professional Corporation (the "Debtor") files this motion (the "Motion") for entry of an order pursuant to §§ 105(a), 363(b), 507(a)(4) and (5), 1107(a) and 1108 of chapter 11 of title 11 of the United States Code (the "Bankruptcy Code"),² Rules 6003 and 6004 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") and Rule 9013-1(b) of the Local Rules (the "BLR") for the United States Bankruptcy Court for the Southern District of Texas (the "Court") for the entry of an order (substantially in the form filed

¹ The last four digits of the Debtor's tax identification number in the jurisdiction in which it operates is 3572.

² Unless specified otherwise, all chapter and section references are to the Bankruptcy Code and "Rule" references are to the Bankruptcy Rules.



herewith, the “Proposed Order”): (A) authorizing, but not directing, the Debtor, in its discretion, to (i) pay or honor any outstanding prepetition wages, salaries, employee benefits, and other compensation; (ii) remit withholding obligations; (iii) maintain workers’ compensation and benefits programs; (iv) pay related administration obligations (the “Administration Fees”); and (v) pay reimbursable employee expenses (collectively, the “Employee Obligations”), with payments to each employee not to exceed the statutory limit for priority claims of \$15,150.00, except as noted; and (B) authorizing and directing the applicable bank to pay all checks and electronic payment requests made by the Debtor relating to the foregoing.

JURISDICTION AND VENUE

1. This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157(a) and 1334. Venue is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).

2. The statutory basis for the relief requested are §§ 105(a), 363, 507(a)(4) and (5), 1184, Bankruptcy Rules 6003 and 6004, and BLR 9013-1(b).

BACKGROUND

3. On October 21, 2024 (the “Petition Date”), the Debtor filed a voluntary petition for relief pursuant to chapter 11 of the Bankruptcy Code.

4. The Debtor continues to operate its business and manage its property as a debtor-in-possession pursuant to §§ 1107 and 1108.

5. No trustee, examiner or official committee has been appointed in this chapter 11 case.

6. A description of the Debtor, its business, and the facts and circumstances supporting this Motion and the reasons for commencing this case are set forth in greater detail in

the *Declaration of Ralph Cetrulo in Support of the Chapter 11 Petition and First Day Motions*, filed contemporaneously herewith. The First Day Declaration is incorporated by reference herein.

RELIEF REQUESTED

7. By this Motion, the Debtor seeks entry of an interim order and, pending a final hearing on the relief requested herein, a final order, pursuant to §§ 105(a), 363(b), and 507(a), for (I) authority to (a) pay Employee Compensation Obligations and Employee Benefit Obligations (each as defined below) and related expenses, fees, and costs incident to the foregoing, including amounts owed to third-party service providers and administrators and tax authorities, and (b) maintain, continue to honor, and pay amounts with respect to the Debtor's business practices, programs, and policies for its employees as such were in effect as of the commencement of these chapter 11 cases and as such may be modified or supplemented from time to time in the ordinary course of business; and (II) related relief. The Debtor further requests that the Court authorize financial institutions to receive, process, honor, and pay all checks presented for payment and to honor all funds transfer requests related to such obligations.

8. The approximate amount of monetary relief sought in this Motion is discussed in further detail below and summarized in the following chart:

| Prepetition Obligations | Total Relief Requested |
|-----------------------------------|-------------------------------|
| Employee Compensation Obligations | \$1,142,065.00 |
| Employee Benefit Obligations | \$815,835.00 |
| Total Employee Obligations | \$1,957,900.00 |

The Debtor's Workforce and Wage and Benefit Obligations

I. The Debtor's Employees

9. The Debtor's Employees and Medical Directors (each, defined below) fill a wide variety of roles and perform a wide range of tasks for the Debtor. Generally, the Debtor's Employees are patient facing clinicians (i.e., nurse practitioners, registered nurses, physical therapists) (the "Clinicians") who work together to provide care and support services for the Debtor's patients. The Medical Directors supervise the Debtor's Clinicians.

10. As of the Petition Date, the Debtor employs 248 full-time and 36 part-time employees ("Employees") and contracts with 49 medical directors, who are independent contractors ("Medical Directors").

II. Employee Compensation Obligations

11. For full-time and part-time Employees, the Debtor's aggregate gross bi-weekly pay is approximately \$1,548,034.00 and the aggregate weekly pay is approximately \$774,017.00. For the Medical Directors, the Debtor's aggregate gross bi-weekly pay is approximately \$63,324.00 and the aggregate weekly pay is approximately \$31,662.00. Certain Clinicians are eligible for biologic handling and application fees based on number of procedures performed (the "Biologic Fees"). The Biologic Fees are accrued, and the prior month's Biologic Fees are paid out in the last pay period of the current month. In the prior three months from September 2024 to October 2024, the average monthly payment for these Biologic Fees is approximately \$638,870.00. The outstanding prepetition employee compensation (the "Employee Compensation Obligations") is summarized in four categories in the following chart and those categories are described in further detail below:

| Prepetition Obligations | Description | Total Relief Requested |
|---|--|-------------------------------|
| Compensation Obligations | Obligations related to Employees' and independent contractors' gross salaries and wages, including, for certain employees, overtime pay, and certain taxes, deductions and withholdings. | \$600,466.00 |
| Biologic Fees | Biologic handling and application fees earned based on number of procedures performed. | \$468,505.00 |
| Payroll Maintenance Fees | Fees owed for payroll processing software and payment services for preparing and filing employment tax documents. | \$5,088.00 |
| Employer Payroll Taxes | Payroll taxes paid by the Debtor for Social Security and Medicare taxes, based on a percentage of gross payroll, and additional amounts for federal and state unemployment insurance. | \$68,006.00 |
| Total Employee Compensation Obligations (\$) | | \$1,142,065.00 |

A. Compensation Obligations

12. In the ordinary course of business, the Debtor incurs and pays obligations relating to Employees' and Medical Directors' gross salaries and wages, and for certain Employees, overtime pay (the "Compensation Obligations"). As indicated above, the Debtor pays Compensation Obligations to Employees and Medical Directors in arrears on a bi-weekly payroll cycle and uses ADP, Inc. ("ADP") to process payroll internally through ADP's software.

13. For each applicable pay period, the Debtor routinely deducts certain amounts from each Employee's gross pay including, without limitation, garnishments, child support, spousal support, other deductions as required by applicable law, service charges, and other pre- and after-tax deductions payable pursuant to certain employee benefit plans discussed herein, including each Employee's share of health benefit plans, contributions under flexible spending plans, health savings accounts, retirement savings plans, and other miscellaneous deductions (collectively, the

“Deductions”).³ The Debtor makes a total of approximately \$95,071.00 in Deductions from Employees’ pay per pay period, which the Debtor remits, as necessary, to the appropriate third-party recipients.

14. In addition to the Deductions, state and federal law requires the Debtor to withhold amounts from the Employees’ gross pay related to federal, state, and local income taxes, including Social Security and Medicare taxes, for remittance to the appropriate federal, state, or local taxing authority (collectively, the “Withholding Obligations”).

15. As of the Petition Date, the Debtor owes approximately \$600,466.00 on account of prepetition Compensation Obligations. The Debtor seeks authority to pay such prepetition amounts as they come due in the ordinary course, up to \$15,150 per Employee and Medical Director (the “\$15,150 Cap”).⁴

B. Biologic Fees

16. As described above, certain Clinicians are eligible for Biologic Fees, which are paid in arrears for the prior month on the last pay period of the month. The Biologic Fees are subject to applicable Withholding Obligations.

17. The Debtor estimates that as of the Petition Date, it owes approximately \$468,505.00 on account of prepetition Biologic Fees. The Biologic Fees vary month to month. The prepetition Biologic Fees are estimated using two-thirds (or approximately 20 days prepetition for 31 days in October) of the aggregate total of (i) the average Biologic Fees for the prior three months from September 2024 to October 2024 plus (ii) a 10% gross-up to account for month to month

³ Certain of the Deductions, particularly with respect to the Health Benefits Programs, FSAs, and HSAs (each, as defined below) are discussed further below in connection with the Employee Benefit Obligations.

⁴ The Debtor seeks to pay each Employee and Medical Director up to \$15,150, in the aggregate, on account of wages and salaries, including vacation, or contributions to an employee benefit plan earned within 180 days before the Petition Date.

variability. The Debtor seeks authority to pay such prepetition amounts as they come due in the ordinary course, up to the \$15,150 Cap.

C. Payroll Servicer

18. To manage the processing and payment of the various obligations described above efficiently (the “Payroll Maintenance Fees”), the Debtor relies on payroll software provided by ADP.

19. The services that ADP provides are critical to the smooth functioning of the Debtor’s payroll system. ADP is responsible for ensuring, that: (i) Employees and Medical Directors are paid on time, (ii) appropriate deductions are made, (iii) payroll reporting is accurate, and (iv) appropriate amounts are reported and remitted to the applicable taxing authorities and other payees. The Debtor pays ADP approximately \$30,530.00 per quarter, in the aggregate, for the aforementioned services. As of the Petition Date, the Debtor estimates it owes ADP approximately \$5,088.00 on account of prepetition Payroll Maintenance Fees. The estimated prepetition Payroll Maintenance Fees can vary month to month and are estimated as one-sixth of the approximate aggregate quarterly fee in order to estimate fees for one-payroll period. The Debtor seeks authority to pay all Payroll Maintenance Fees in the ordinary course, including all prepetition fees.

D. Employer Payroll Taxes

20. The Debtor matches, from its own funds, amounts withheld from the Employees’ gross pay for Social Security and Medicare taxes and pays, based on a percentage of gross payroll, additional amounts for federal and state unemployment insurance (collectively the “Employer Payroll Taxes”). Employer Payroll Taxes total approximately \$222,865.00 per month.

21. As of the Petition Date, the Debtor estimates that it owes approximately \$68,006.00 in accrued Employer Payroll Taxes. The accrued Employer Payroll Taxes are an estimate based on (i) accrued Employer Payroll Taxes on prepetition Compensation Obligations of approximately \$35,210.00 and (ii) 7.0% of estimated prepetition Biologic Fees of \$468,505.00, or \$32,795.00. 7.0% is the approximate average of Employer Payroll Taxes as a percentage of Employees' total earnings for the last six months.

22. In addition to ADP's payroll services described above, the Debtor also uses ADP's payment services (the "Payment Services") to prepare and submit employment tax filings. As such, the Debtor requests authority to (i) direct ADP Payment Services to pay or remit any outstanding prepetition taxes on a postpetition basis as the taxes come due and (ii) continue to honor and process, or to direct ADP Payment Services to process Employer Payroll Taxes and Deductions on a postpetition basis, in the ordinary course of business and consistent with prepetition practices (whether or not related to the prepetition period).

III. Employee Benefit Obligations

23. In the ordinary course of business, the Debtor makes various benefit plans available to its Employees. These benefit plans fall within the following categories: (i) paid time off, including personal time off and holidays (collectively, the "Employee Leave Benefits"); (ii) medical, dental, vision, and prescription drug benefits, flexible spending accounts and health savings accounts, health reimbursement arrangement plans, life insurance, accidental death and dismemberment insurance ("AD&D"), disability insurance, (collectively, the "Health and Welfare Benefits"); (iii) a qualified 401(k) retirement savings plan; and (iv) certain other benefits (each of (i)-(iv), an "Employee Benefit"). The Debtor's outstanding prepetition obligations related to these

categories of Employee Benefits (the “Employee Benefit Obligations”) are summarized in the following chart and those categories are described in further detail below:

| Prepetition Obligations | Description | Total Relief Requested |
|--|--|-------------------------------|
| Employee Leave Benefits | Obligations related to Employee paid time off and related benefits | \$628,694.00 |
| Health and Welfare Benefits | Obligations related to medical benefits, disability benefits, and other health and welfare programs | \$12,141.00 |
| 401(k) Retirement Plan | Obligations related to the 401(k) Plan | \$0.00 |
| Other Benefits | Obligations related to miscellaneous benefits, including reimbursable expenses, general employee assistance, identity theft protection and tuition reimbursement | \$175,000.00 |
| Total Employee Benefit Obligations (\$) | | \$815,835.00 |

A. Employee Leave Benefits

24. The Employee Leave Benefits available to Employees may vary slightly by state to comply with all applicable state laws. As part of the Employee Leave Benefits, the Debtor offers certain paid leave to all Employees, which include, among other things, PTO (as defined below), employee and family sick leave, holidays, bereavement leave, child bereavement leave, jury duty, and military service leave. The Debtor also provides up to twelve (12) weeks unpaid leave to all Employees pursuant to the federally-mandated Family and Medical Leave Act. In addition, the Debtor offers Employees to request unpaid leaves of absence which may be granted in accordance with the Debtor’s personal leave of absence policy.

25. Non-temporary Employees are eligible to accrue paid time off (“PTO”), which accrues throughout the year based on actual hours worked. PTO consists of vacation time, which can be carried over from year to year, however, any unused vacation is paid in accordance with applicable law. Employees are paid for any unused accrued PTO at the time of termination. In

addition to being required by the Debtor's policy, payments on account of PTO are required by law in some states in which the Debtor operate.

26. As of the Petition Date, the Debtor estimates that it owes approximately \$628,694.00 on account of unused vacation time. The Debtor does not pay out unused sick days to Employees. The Debtor seeks authority to assess and pay the amounts described above in accordance with past practice, but only up to the \$15,150 Cap for prepetition services and, for postpetition services, to the extent those claims are entitled to administrative expense treatment under § 503(b)(1) of the Bankruptcy Code. The Debtor seeks authority to pay such amounts only after approval of this Motion on a final basis.

B. Health and Welfare Benefits

27. The Debtor provides several Health and Welfare Benefits to eligible Employees. Health and Welfare Benefits provided to Employees are covered by insurance and benefits programs obtained and paid by Wound Pros Management Group, Inc. ("Wound Pros"). The Debtor is managed and supported by Wound Pros, a Management Services Organization ("MSO"), and a leader in wound care management and standardization that is an accredited supplier of durable medical equipment, prosthetics, orthotics, and supplies and biologics. As an MSO, Wound Pros, through a Management Services Agreement, provides the Debtor with non-clinical administrative and management services.

28. The Debtor repays Wound Pros for such benefits provided to its Employees. The Health and Welfare Benefits include: medical, vision, and dental programs (each, a "Health Benefits Program"); flexible spending accounts, health saving accounts, health reimbursement arrangement plans, and other voluntary welfare programs (collectively, the "Additional Health Benefits"); and disability benefits, AD&D, and life insurance benefits.

(i) Health Benefits Programs

29. The Debtor offers the following Health Benefits Programs, which are administered through Cigna Health Life Insurance Co (“Cigna”) to enrolled Employees and their families.

30. Medical Program. The Debtor offers eligible Employees medical coverage (the “Medical Program”). Wound Pros pays a portion of premiums owed to Cigna with the Employees paying the remaining portion of premiums and their share of copays and deductibles to Cigna on account of services rendered to them. The Debtor then repays Wound Pros for such premiums paid to Cigna. The current monthly amount of premiums paid by Wound Pros is approximately \$120,404.00 for 183 Employees and the current monthly amount of premiums paid by the Employees is approximately \$63,451.00. As of the Petition Date, the Debtor does not owe any amounts to Wound Pros on account of premiums paid to Cigna.

31. Vision and Dental Program. The Debtor offers eligible Employees voluntary vision coverage (the “Vision Program”) and dental coverage (the “Dental Program”), which are fully insured by Sun Life U.S. (“Sun Life”). Employees pay 100% of premiums under the Vision Program and Dental Program. Wound Pros makes premium payments to Sun Life on behalf of participating Employees. Premiums for the Vision Program and Dental Program are deducted from participating Employees’ payroll, and then transferred by the Debtor to Wound Pros on behalf of Employees. The monthly premium for October enrollments for the Vision Program and Dental Program is approximately \$12,719.00. This outstanding amount is included in the total amount for Deductions, provided above.

32. COBRA. Under COBRA, Employees who are terminated have the right to continue health benefits from their employer for a limited period of time and under certain circumstances. The Debtor provides COBRA benefits to exiting Employees as required by law. The Debtor’s

COBRA program is administered by Employee Benefits Corporation (“EBC”) and paid for by Wound Pros. Upon termination of an Employee qualified for COBRA coverage, the Debtor informs EBC, EBC then notifies the terminated Employee of his or her rights, determines if he or she wishes to continue coverage, collects COBRA premiums from the terminated Employee and remits them to the Debtor, and furnishes the Debtor with reports of its activities. The Debtor then repays Wound Pros for premiums paid with respect to former Employees enrolled on COBRA. Currently, the Debtor only has one member enrolled on COBRA with a monthly premium expense of approximately \$826.00. The Debtor seeks authority to pay prepetition amounts owed to Wound Pros under COBRA, and to continue providing COBRA benefits in the ordinary course.

(ii) Additional Health Benefits

33. The Debtor provides additional health benefits to its Employees under various policies and programs, in some cases automatically and in others upon election by a particular eligible Employee.

34. HSA and HRA Programs. The Debtor provides the option for eligible Employees to maintain a health savings account (“HSA”) or a dependent care flexible spending account (“DCAP” together with the HSAs, the “Health Accounts”) to pay for qualified health, dental, and vision expenses. The Health Accounts are covered by Wound Pros and administered by Peak One Administration (“Peak One”). Wound Pros makes contributions to the Health Accounts in the amount of \$50 per month for HSAs and \$100 per month for DCAPs, for a total of \$2,250.00 per month and the Debtor repays Wound Pros for such contributions. Wound Pros also pays service fees to Peak One of approximately \$3.09 per month, in the aggregate, and the Debtor repays Wound Pros for such service fees. As of the Petition Date, the Debtor does not owe Wound Pros

any amounts for any contributions to the Health Accounts or payments made to Peak One. There are currently 36 Health Account enrollments.

35. Flexible Spending Accounts. The Debtor also provides Employees the option to contribute to flexible spending accounts (the “FSAs”), which are covered by Wound Pros and administered by Peak One. The health care FSA (“HCFSA”) allows Employees to make pre-tax payroll deductions to pay for qualified medical, pharmacy, dental and vision expenses in the maximum amount of \$3,200.00 annually. The dependent care FSA (“DCFSA” together with the FSAs and HCFSAs, the “Flexible Spending Accounts”) allows Employees to make pre-tax payroll deductions to pay for eligible day care or elderly care expenses in the maximum amount of \$5,000.00 annually. If an Employee is terminated, any balance remaining in their Flexible Spending Account(s) is lost.⁵ Neither Wound Pros nor the Debtor make any contributions to the FSAs. Wound Pros pays Peak One administrative fees of approximately \$4.19 per month for its administrative services related to the Flexible Spending Accounts and the Debtor repays Wound Pros for such fees paid to Peak One. As of the Petition Date, the Debtor does not owe Wound Pros any amounts for payments made to Peak One. There are 80 Flexible Spending Account enrollments.

(iii) Life, Disability and Workers’ Compensation Benefits Programs

36. The Debtor offers certain types of insurance or other benefit plans to eligible Employees under various policies and programs obtained by Wound Pros, in some cases automatically and in others upon election by a particular eligible Employee. The chart below outlines the available programs and specifies which Employees are eligible and whether those programs are paid by the Debtor or funded through Employee contributions:

⁵ An Employee may continue to use the HCFSAs if the Employee elects COBRA and continues to make after-tax contributions to the FSA.

| Type of Benefit | Provided by Debtor/Voluntary |
|-----------------------------|------------------------------|
| Life and AD&D | Provided by Debtor |
| Supplemental Life Insurance | Voluntary |
| Short-Term Disability | Voluntary |
| Long-Term Disability | Voluntary |
| Workers' Compensation | Provided by Debtor |

37. Life and AD&D. The Debtor provides eligible Employees with life insurance and AD&D insurance coverage (“Basic Life and AD&D Insurance Plans”), which is fully insured by Symetra. Wound Pros pays 100% of premiums to Symetra totaling approximately \$2,534.00 per month on account of the Basic Life and AD&D Insurance Plans and the Debtor repays Wound Pros for such premiums paid. The Debtor seeks authority to pay such amounts to Wound Pros.

38. Supplemental Life Insurance Plans. All eligible Employees can elect to purchase life insurance coverage for their spouses and/or children, as well as purchase additional life and AD&D insurance coverage for themselves (collectively, the “Supplemental Life Insurance Plans”), at their own expense. The Supplemental Life Insurance Plans are fully insured by Symetra, and Employees pay 100% of premiums. Wound Pros makes premium payments to Symetra on behalf of participating Employees. Premiums for the Supplemental Life Insurance Plans are deducted from participating Employees’ payroll, and then transferred by the Debtor to Wound Pros on behalf of the Employees. The Debtor transfers approximately \$2,030.00 per month in withheld Employee contributions to Wound Pros in connection with the Supplemental Life Insurance Plans.

39. Short-Term Disability. All eligible Employees can elect to purchase salary continuation or short-term disability coverage (the “Short-Term Disability Plan”), at their expense. The Short-Term Disability Plan is fully insured by Symetra. Wound Pros makes premium payments to Symetra on behalf of participating Employees. Premiums for the Short-Term Disability Plan are deducted from participating Employees’ payroll, and then transferred by the

Debtor to Wound Pros on behalf of the Employees. The Debtor transfers approximately \$4,068.00 per month to Wound Pros on account of the Short-Term Disability Plan.

40. Long-Term Disability. The Debtor provides eligible Employees with long term disability insurance coverage (the “Long-Term Disability Plan”), which is a fully-insured plan with Symetra. Wound Pros pays 100% of premiums related to the Long-Term Disability Plan and the Debtor repays Wound Pros for such premiums paid. Wound Pros pays approximately \$3,656.00 per month to Symetra on account of the Long-Term Disability Plan.

41. As of the Petition Date, the Debtor estimates that it owes approximately \$12,141.00 to Wound Pros on account of premiums paid to Symetra for (i) Basic Life and AD&D Insurance Plans, (ii) Supplemental Life Insurance Plans, (iii) Short-Term Disability Plan, and (iv) Long-Term Disability Plan. The Debtor seeks authority to pay such amounts.

42. Workers’ Compensation. The Debtor also provides workers’ compensation insurance through a QBE Insurance policy obtained by Wound Pros. Wound Pros pays 100% of the premiums to QBE Insurance for workers’ compensation coverage and the Debtor repays Wound Pros for such premiums paid. The annual cost of such insurance is \$997,923.00, which is paid bi-weekly. As of the Petition Date, the Debtor does not owe any amounts to Wound Pros on account of premiums paid to QBE Insurance.

C. Other Benefits and Obligations

43. Voluntary Accident, Critical Illness, and Hospital Indemnity Insurance Options. The Debtor provides all Employees access to voluntary accident, critical illness, and hospital indemnity insurance options (the “Other Insurance Options”), which is administered by Symetra. Employees pay all premiums for the Other Insurance Options on a monthly basis and premiums are due on the first of each month. Quarterly premiums for this benefit based upon current

enrollments are approximately \$11,150.00. As of the Petition Date, no amounts are outstanding in respect of these programs.

44. Voluntary Identity Theft Protection. The Debtor also provides its Employees access to identity theft protection (the “Identity Theft Program”) offered through Experian PLC (“Experian”). Wound Pros makes payments to Experian to maintain the Identity Theft Program. Employees make monthly payments for the Identity Theft Program and such payments are deducted from participating Employees’ payroll, and then transferred by the Debtor to Wound Pros on behalf of the Employees. The Debtor transfers approximately \$455.00 per month in withheld Employee contributions to Wound Pros, any outstanding amounts of which are included in the total amount for Deductions above.

45. Reimbursement of Business Expenses. Employees pay for reimbursable expenses they incur and then can submit business-related expenses through ExpenseWire for supplies, travel, lodging, meals, and tuition/CEU-approved credits. Gas mileage reimbursement is handled separately through Motus, LLC. To submit a reimbursement through ExpenseWire, employees must complete the necessary forms with details such as the date, amount, and purpose of each expense. Supporting receipts and documentation must be attached to each claim. The submitted expenses then proceed through an approval process to ensure they comply with the Debtor’s policies before reimbursement is issued. In the prior six months from May 2024 to October 2024, the Debtor has paid approximately \$1,040,218.00 of business expenses incurred by Employees that were submitted for reimbursement to the Debtor. As of the Petition Date, the Debtor estimates it owes approximately \$175,000.00 on account of Employee expense reimbursements. Employee Expense reimbursements vary month to month. The Employee expense reimbursements are estimated based on the monthly average for the prior six months from May 2024 to October 2024.

The Debtor requests authorization to pay all outstanding prepetition amounts incurred on account of such Employee expenses and to continue paying all outstanding amounts incurred postpetition in the ordinary course of business and consistent with its prepetition practices.

D. Qualified 401(k) Retirement Savings Plan

46. The Debtor offers eligible Employees the opportunity to participate in a qualified 401(k) retirement savings plan set up by Wound Pros (the “401(k) Plan”). Under the 401(k) Plan, Employees can make pretax and/or post-tax traditional or ROTH contributions, up to the IRS calendar year dollar limit (the “401(k) Employee Contributions”).⁶ Each eligible Employee’s 401(k) Employee Contributions are deducted automatically from his or her paychecks.

47. The 401(k) Plan is administered by Equitable Financial Life Insurance Company (“Equitable”), which charges annual fees of \$2,500. The 401(k) Plan participants fund the administrative fees on a pro rata basis through quarterly charges at 0.57% to their 401(k) Plan accounts. As of the Petition Date, the Debtor does not owe any outstanding amounts on account of the administrative, audit, legal, investment management and oversight fees for the 401(k) Plan (the “401(k) Administration Fees”).

48. By this Motion, the Debtor seeks authority to continue the 401(k) Plan and to pay the 401(k) Employee Contributions and the 401(k) Administration Fees in respect of the 401(k) Plan thereunder as they come due in the ordinary course of business. Although the Debtor expects the 401(k) Administration Fees to be funded by the 401(k) Plan participants, in accordance with past practice, to the extent they are not, the Debtor seeks authority to pay such amounts.

⁶ Employees over the age of 50 may make an additional catch-up contribution of \$7,500 during the calendar year.

BASIS FOR RELIEF REQUESTED

49. The Debtor requires a stable workforce to preserve and maximize the value of the Debtor's estates. To minimize the personal hardship the Employees and Medical Directors will suffer in connection with the filing of the chapter 11 case, by this Motion, the Debtor requests entry of an order authorizing the Debtor, in its sole discretion, to (i) make certain payments consistent with existing practices, policies, and programs to the extent such payments would otherwise be inconsistent with the provisions of the Bankruptcy Code, and (ii) continue to honor certain practices, programs, and policies with respect to its Employees and Medical Directors, as such were in effect as of the Petition Date. Otherwise, there is a real, immediate risk that, absent the relief requested in this Motion, Employees and Medical Directors would no longer support and maintain the operations of the Debtor, thereby crippling the Debtor's ability to maintain care for patients and maximize successfully the value of its estate during the chapter 11 case.

A. Payment of the Employee Obligations is Warranted Under § 363(b)(1) and 105(a) of the Bankruptcy Code and the Doctrine of Necessity

50. The Court may grant the relief requested herein pursuant to § 363 of the Bankruptcy Code, which provides, in relevant part, that “[t]he [debtor], after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate” 11 U.S.C. § 363(b)(1). A debtor's request to use property of the estate outside of the ordinary course of business pursuant to § 363(b) of the Bankruptcy Code must be supported by sound business reasons. *See, e.g., In re Montgomery Ward Holding Corp.*, 242 B.R. 147, 153 (D. Del. 1999); *In re Nine West Holdings, Inc.*, 588 B.R. 678, 686 (Bankr. S.D.N.Y. 2018). The business judgment rule is highly deferential to debtor and may be satisfied “as long as the proposed action appears to enhance the debtor's estate.” *Crystalin, LLC v. Selma Props. Inc. (In re Crystalin, LLC)*, 293

B.R. 455, 463–64 (B.A.P. 8th Cir. 2003) (quoting *Four B. Corp. v. Food Barn Stores, Inc.* (*In re Food Barn Stores, Inc.*), 107 F.3d 558, 566 n.16 (8th Cir. 1997)).

51. In addition, under § 105(a) of the Bankruptcy Code, “[t]he court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.” 11 U.S.C. §105(a); *In re CoServ, L.L.C.*, 273 B.R. 487, 497 (Bankr. N.D. Tex. 2002) (finding that §§ 105 and 1107 of the Bankruptcy Code provide the authority for a debtor-in-possession to pay prepetition claims); *In re CEI Roofing, Inc.*, 315 B.R. 50, 60 (Bankr. N.D. Tex. 2004) (finding that “[b]ecause Congress has specifically provided that prepetition wage claims up to a certain amount per claim be elevated to priority status under § 503(1)(3)” the court’s task is easier when it considers approval of such prepetition claims); *In re Mirant Corp.*, 296 B.R. 427, 429 (Bankr. N.D. Tex. 2003) (noting that non-payment of prepetition claims may seriously damage a debtor’s business). Moreover, Rule 6003 itself implies that the payment of prepetition obligations may be permissible within the first 21 days of a case where doing so is “necessary to avoid immediate and irreparable harm.” Fed. R. Bankr. 6003. Accordingly, the Bankruptcy Code authorizes the postpetition payment of prepetition claims where, as here, such payments are critical to preserving the going-concern value of a debtor’s estate.

52. The relief requested by this Motion represents a sound exercise of the Debtor’s business judgment, is necessary to avoid immediate and irreparable harm to the Debtor’s estate and is justified under §§ 105(a) and 363(b) of the Bankruptcy Code. Authorizing the Debtor to pay prepetition wages and honor certain employee benefits will benefit the Debtor’s estate and its creditors by allowing the Debtor’s business operations to continue without interruption, preserving the value of the Debtor’s assets and cash flows throughout this chapter 11 case. Indeed, without the relief requested herein being granted, the Debtor’s Employees and Medical Directors may seek

alternative opportunities, perhaps with the Debtor's competitors. The loss of valuable Employees and Medical Directors would deplete the Debtor's workforce, thereby hindering the Debtor's ability to continue to provide necessary care for its patients and likely diminishing stakeholder confidence in the Debtor's ability to carry out its chapter 11 strategy successfully.

53. Failure to satisfy certain prepetition obligations will likely lead to significant attrition and jeopardize Employee morale at a time when Employee support is critical to preserving the value of the Debtor's business. The majority of the Debtor's Employees and Medical Directors rely exclusively on their compensation and benefits and the reimbursement of their expenses to satisfy their daily living expenses. These Employees and Medical Directors will be exposed to significant financial difficulties and other distractions if the Debtor is not permitted to honor its obligations for unpaid compensation, benefits and reimbursable expenses. Furthermore, Employee and Medical Director attrition would cause the Debtor to incur additional expenses to find appropriate and experienced replacements, severely disrupting the Debtor's operations at a critical juncture.

B. Payment of the Employee Obligations Would Not Prejudice Parties in Interest

54. The Debtor is seeking to pay Employees and Medical Directors amounts owed on account of prepetition wages, salaries, PTO, and/or contributions to an employee benefit plan up to the aggregated \$15,150 Cap. The Debtor believes that the vast majority of the prepetition Employee Obligations that the Debtor seeks to pay constitute priority claims under §§ 507(a)(4) or (5) of the Bankruptcy Code. As priority claims, the Employee Obligations are entitled to payment in full before any general unsecured claims asserted against the Debtor can be satisfied. Thus, the relief requested largely affects only the timing of the payment of the priority Prepetition Employee Obligations and should not prejudice the rights of general unsecured creditors or other

parties in interest. *See In re Equalnet Commc'ns Corp.*, 258 B.R. 368, 370 (Bankr. S.D. Tex. 2000) (“The need to pay [employee wage] claims in an ordinary course of business time frame is simple common sense. Employees are more likely to stay in place and to refrain from actions which could be detrimental to the case and/or the estate if their pay and benefits remain intact and uninterrupted.”).

55. Furthermore, the Debtor believes that applying the \$15,150 Cap to all Employees and Medical Directors will minimize the administrative burden associated with calculating complex individual accruals and entitlements for each respective benefits.

C. Payment of Certain Employee Obligations is Required by Law

56. The Debtor seeks authority to pay Deductions and Payroll Taxes to the appropriate entities. These amounts principally represent Employee earnings that governments, Employees and judicial authorities have designated for deduction from Employees’ paychecks. Indeed, certain Deductions, including contributions to the Employee Benefit Programs and child support and alimony payments, are not property of the Debtor’s estate because they have been withheld from Employees’ paychecks on another party’s behalf. *See* 11 U.S.C. § 541(b); *see In re Equalnet Commc'ns Corp.*, 258 B.R. 368, 370 (Bankr. S.D. Tex. 2000) (legal right to payment for tax claims and funds in trust appears irrefutable and an authorized exception to rule prohibiting payment of prepetition claims prior to plan confirmation); *see also City of Farrell v. Sharon Steel Corp.*, 41 F.3d 92, 95-97 (3d Cir. 1994) (finding that state law requiring a corporate debtor to withhold municipal income tax from employee wages created a trust relationship between the debtor and tax authority for payment of withheld income taxes).

57. Further, federal and state laws require the Debtor and its officers to make certain tax payments that have been withheld from its Employees’ paychecks. *See* 26 U.S.C. § 6672 and

7501(a); *DuCharmes & Co., Inc. v. State of Mich (In re DuCharmes & Co.)*, 852 F.2d 194, 196 (6th Cir. 1988) (noting that individual officers of a company may be held personally liable for failure to pay trust fund taxes). Because the Deductions and Payroll Taxes are not property of the Debtor's estate, the Debtor requests that the Court authorize them to transmit the Payroll Taxes to the proper parties in the ordinary course of business.

**APPLICABLE FINANCIAL INSTITUTIONS SHOULD BE AUTHORIZED TO
RECEIVE, PROCESS, HONOR, AND PAY CHECKS ISSUED AND TRANSFERS
REQUESTED TO PAY EMPLOYEE OBLIGATIONS**

58. The Debtor further requests that the Court authorize applicable financial institutions (the "Banks") to receive, process, honor, and pay any and all checks issued, or to be issued, and electronic funds transfers requested, or to be requested, by the Debtor relating to the Employee Obligations, to the extent that sufficient funds are on deposit in available funds in the applicable bank accounts to cover such payment. The Debtor also seeks authority to issue new postpetition checks or effect new postpetition electronic funds transfers in replacement of any checks or fund transfer requests on account of prepetition Employee Obligations dishonored or rejected as a result of the commencement of the Debtor's chapter 11 case.

EMERGENCY CONSIDERATION

59. The Debtor requests emergency consideration of this Motion pursuant to Rule 6003, which empowers a court to grant relief within the first twenty-one (21) days after the commencement of a chapter 11 case "to the extent that relief is necessary to avoid immediate and irreparable harm." FED. R. BANKR. P. 6003. An immediate and orderly transition into chapter 11 is critical to the viability of the Debtor's operations. Without the relief requested in the Motion within twenty-one (21) days of the Petition Date, the Debtor will be unable to pay Employee Compensation Obligations in the ordinary course, thereby harming Employees and Medical

Directors. In turn, such harm to Employees and Medical Directors threatens the Debtor in that Employees and Medical Directors may be unwilling to continue their employment with the Debtor without assurance that Employee Compensation Obligations will be paid and Employee Benefits continued. Without Employees and Medical Directors, the Debtor cannot maintain its operations and, thereby, maintain providing essential medical care to its patients. Thus, the Debtor has satisfied the “immediate and irreparable harm” standard of Rule 6003 and requests that the Court approve the relief requested in this Motion on an emergency basis.

WAIVER OF BANKRUPTCY RULES 6004(a) AND 6004(h)

60. The Debtor requests that the Court enter an order providing that notice of the relief requested herein satisfies Rule 6004(a) and that the Debtor has established cause to exclude such relief from the fourteen-day stay period under Rule 6004(h).

RESERVATION OF RIGHTS

61. Nothing contained herein is intended to be or shall be deemed as (i) an admission as to the validity of any claim against the Debtor, (ii) a waiver or limitation of the Debtor’s or any party in interest’s rights to dispute the amount of, basis for, or validity of any claim, (iii) a waiver of the Debtor’s rights under the Bankruptcy Code or any other applicable nonbankruptcy law, (iv) an agreement or obligation to pay any claims, (v) a waiver of any claims or causes of action which may exist against any creditor or interest holder, (vi) an admission as to the validity of any liens satisfied pursuant to this Motion, or (vii) an approval, assumption, adoption, or rejection of any agreement, contract, lease, program, or policy under § 365 of the Bankruptcy Code. Likewise, if the Court grants the relief sought herein, any payment made pursuant to the Court’s order is not intended to be and should not be construed as an admission to the validity of any claim or a waiver of the Debtor’s right to dispute such claim subsequently.

NO PREVIOUS REQUEST

62. No previous application for the relief sought herein has been made to this or any other Court.

NOTICE

63. The Debtor has provided notice of this Motion to the following parties or their respective counsel: (a) the U.S. Trustee for the Southern District of Texas; (b) the holders of the twenty (20) largest unsecured claims against the Debtor; (c) the Office of the United States Attorney for the Southern District of Texas; (d) the United States, acting by and through the Department of Health & Human Services and the Centers for Medicare & Medicaid Services; and (e) any party that has requested notice pursuant to Rule 2002. In light of the nature of the relief requested, the Debtor submits that no other or further notice is required.

CONCLUSION

Based on the foregoing, the Debtor respectfully requests that this Court enter the Order granting the relief requested herein and such other relief as the Court deems appropriate under the circumstances.

Dated: October 21, 2024

Respectfully submitted,

DENTONS US LLP

/s/ Casey Doherty

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*Proposed Counsel to the Debtor and
Debtor-in-Possession*

CERTIFICATE OF ACCURACY

I certify that the foregoing statements are true and accurate to the best of my knowledge. This statement is being made pursuant to BLR 9013-1(i).

/s/ Casey Doherty

CERTIFICATE OF SERVICE

This is to certify that I have on October 21, 2024, I caused a copy of the foregoing document to be served by the Electronic Case Filing System for the United States Bankruptcy Court for the Southern District of Texas.

/s/ Casey Doherty

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

In re:

GLOBAL WOUND CARE MEDICAL GROUP, a
Professional Corporation.¹

Debtor and Debtor in Possession.

Chapter 11

Case No. 24-34908

(Emergency Hearing Requested)

**ORDER GRANTING DEBTOR’S EMERGENCY MOTION FOR ENTRY OF AN
ORDER AUTHORIZING PAYMENT OF CERTAIN PREPETITION (I) WAGES,
SALARIES, AND OTHER COMPENSATION; (II) REIMBURSABLE EMPLOYEE
EXPENSES; (III) EMPLOYEE BENEFITS; AND (IV) RELATED COSTS**

Upon the emergency motion (the “Motion”)² of the above-captioned debtor and debtor in possession (the “Debtor”) for entry of this order (the “Order”) (A) authorizing, but not directing, the Debtor, in its discretion, to (i) pay or honor any outstanding prepetition wages, salaries, employee benefits, and other compensation; (ii) remit withholding obligations; (iii) maintain workers’ compensation and benefits programs, (iv) pay related administration obligations; and (v) pay reimbursable employee expenses, with payments to each employee and independent contractor not to exceed the statutory limit for priority claims of \$15,150.00; and (B) authorizing and directing applicable banks to pay all checks and electronic payment requests made by the Debtor relating to the foregoing, all as more fully set forth in the Motion; and upon the First Day Declaration; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. § 1334; and this Court having found that (a) this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); (b) that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; (c)

¹ The last four digits of the Debtor’s tax identification number in the jurisdiction in which it operates is 3572.

² Capitalized terms not otherwise defined herein shall have the meaning afforded in the Motion.

that the relief requested in the Motion is in the best interests of the Debtor's estate, its creditors, and other parties in interest; and (d) that the Debtor's notice of the Motion and opportunity for a hearing on the Motion were appropriate under the circumstances and no other notice need be provided; and this Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing before this Court, if any; and this Court having determined that the legal and factual bases set forth in support of the Motion establish just cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor, it is HEREBY ORDERED THAT:

1. The Motion is granted subject to the terms of this Order.
2. The Debtor is authorized, in its sole discretion, to do the following:
 - a) To honor and pay any Employee Obligations for Employees and Medical Directors of the Debtor that are outstanding as of the Petition Date, including Compensation Obligations, Biologic Fees, Payroll Maintenance Fees and Employer Payroll Taxes, expense reimbursements, and PTO, provided, however, that no payment to any individual Employee or Medical Director of prepetition Employee Obligations shall exceed, in the aggregate for that individual Employee, the statutory cap of \$15,150.00 provided for under § 507(a)(4) of the Bankruptcy Code (the "Statutory Cap") unless otherwise required by applicable law or ordered by this Court;
 - b) To pay postpetition (when payable) any amounts that accrued prepetition for Continuation Health Coverage, and to continue to perform any obligations related thereto in the ordinary course of business;
 - c) To repay Wound Pros for any premiums, claims or administration fees paid

as of the Petition Date and to continue to repay Wound Pros, in its discretion and in the ordinary course of its business, for the administration fees, premiums for and claims under the Health Plans that are paid postpetition;

- d) To repay Wound Pros for prepetition premiums payments and related charges to maintain Employee Life Insurance and Workers' Compensation Insurance;
- f) To continue to honor, in its discretion and in the ordinary course of its business, miscellaneous employee retirement and benefit programs and to distribute to third-parties the payments for these programs in connection with the payment of Employee Compensation Obligations; and
- g) To continue to pay and honor, in its discretion and in the ordinary course of its business, all Employee-related expenses and obligations that accrue postpetition in the ordinary course of the Debtor's business.

3. Applicable banks shall honor and pay all checks and electronic payment requests made by the Debtor relating to the foregoing obligations.

4. The Debtor shall maintain a matrix/schedule of amounts that are over \$25,000 paid to a single clinician related to the Biologic Fees, made pursuant to this Order, including the following information: (a) the names of the payee; (b) the date and amount of the payment; (c) the category or type of payment, as further described and classified in the Motion; and (d) the Debtor that made the payment. The Debtor shall provide a copy of such matrix/schedule to the U.S. Trustee and any statutory committee appointed in this chapter 11 case every 30 days beginning upon entry of this Order.

5. Notwithstanding the relief granted in this Order and any actions taken pursuant to

such relief, nothing in this Order shall be deemed: (a) an admission as to the validity of any claim against the Debtor; (b) a waiver of the Debtor's right to dispute any claim on any grounds; (c) a promise or requirement to pay any claim; (d) an implication or admission that any particular claim is of a type specified or defined in this Order, or the Motion; (e) a request or authorization to assume any agreement, contract, or lease pursuant to § 365 of the Bankruptcy Code; (f) a waiver or limitation of the Debtor's rights under the Bankruptcy Code or any other applicable law; or (g) a concession by the Debtor that any liens (contractual, common law, statutory, or otherwise) satisfied pursuant to the Motion are valid, and the Debtor expressly reserves its rights to contest the extent, validity, or perfection or seek avoidance of any or all such liens.

6. Nothing in this Order or any action taken by the Debtor in furtherance of the implementation hereof shall be deemed to constitute an assumption or rejection of any executory contract or unexpired lease pursuant to § 365 of the Bankruptcy Code, and all of the Debtor's rights with respect to such matters are expressly reserved.

7. Notwithstanding the relief granted herein and any actions taken hereunder, nothing contained herein shall (a) create, nor is it intended to create, any rights in favor of, or enhance the status of any claim held by, any person or entity, or (b) be deemed to convert the priority of any claim from a prepetition claim into an administrative expense claim.

8. Notice of the Motion as provided therein shall be deemed good and sufficient notice, and the requirements of Bankruptcy Rules 2002 and 6004(a), and BLR 9013-1(b) are waived and/or satisfied by such notice.

9. The Debtor is authorized to take all actions necessary to effectuate the relief granted in this Order in accordance with the Motion.

10. This Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.

Dated: _____, 2024

[Name of Judge]
United States Bankruptcy Judge