

2. The statutory predicates for the relief requested herein are 11 U.S.C. §§ 105, 503(a), 503(b)(1)(A), and 507(a)(2).

RELEVANT BACKGROUND

3. On June 2, 2024 and June 3, 2024 (“Petition Date”), LaVie Care Centers, LLC and 281 other affiliated companies (collectively, the “Debtors”) filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”).

4. The cases are being jointly administered under Case No. 24-55507 in the United States Bankruptcy Court for the Northern District of Georgia, Atlanta Division (the “Court”).

5. Among the Debtors, are Glenburney HealthCare, LLC (“Glenburney”) and Consulate Management Company III, LLC, d/b/a Consulate Healthcare (“Consulate”).²

6. On December 5, 2024, the Court entered an order confirming the Plan (the “Confirmation Order”). [Docket No. 735].

7. The Plan provides at paragraph 1.221 that a “PL/GL Administrative Claim means an Administrative Claim³ for death or personal injuries, including emotional distress arising from or related to the Debtors’ ownership, operation, provision of services, or care to residents, or management of any of the Facilities.” [Docket No. 730 at 36].

² Glenburney is the debtor in Case No. 24-55761-pmb and Consulate is the debtor in Case No. 24-55516.

³ “Administrative Claim” is defined as “a Claim against the Debtors or their Estates for costs or expenses of administration of the Estate pursuant to Bankruptcy Code sections 503(b), 503(c), 507(b), or 1114(e)(2), including: (a) the actual and necessary costs and expenses incurred after the Petition Date and through the Effective Date of preserving the Estates and operating the business of the Debtors; (b) compensation for legal, financial advisory, accounting, and other services and reimbursement of expenses awarded or allowed under Bankruptcy Code sections 330(a) or 331, including Professional Fee Claims; (c) all Allowed requests for compensation or expense reimbursement for making a substantial contribution in the Chapter 11 Cases pursuant to Bankruptcy Code sections 503(b)(3), (4), and (5); and (d) all fees and charges assessed against the Estates under chapter 123 of title 28 of the United States Code, 28 U.S.C. sections 1911–1930.” [Docket No. 730 at 21].

8. As set forth more fully below, *see infra* ¶¶ 12 - 39, Movant, in his personal capacity and as the administrator of Marsh's estate, holds a PL/GL Administrative Claim (the "Claim") arising from injuries sustained by Marsh while a resident of the Debtors' Glenburney facility which injuries occurred after the Petition Date in the Debtors' Bankruptcy Cases.

9. The Plan provides the following treatment for PL/GL Administrative Claims:

Unless a Holder agrees to less favorable treatment, each Holder of an Allowed Administrative Expense Claim (other than a Professional) shall receive Cash in an amount equal to the Face Amount of such Allowed Administrative Expense Claim either (1) in the ordinary course of business by the Debtors (or Reorganized Debtors, as applicable) or (2) on the later of (x) the Effective Date and (y) the date on which such Claim becomes an Allowed Claim (or as soon as reasonably practicable thereafter) by the Reorganized Debtors; *provided, however*, that Allowed Professional Fee Claims shall be paid from the Professional Fee Reserve pursuant to Article IV.C. For the avoidance of doubt, and notwithstanding anything to the contrary herein, Allowed Administrative Expense Claims shall not be paid by the GUC Trust or funded by the GUC Contribution and the Reorganized Debtors (not the Plan Sponsor) shall either assume (in the case of Allowed General Administrative Expense Claims) or pay Allowed Administrative Expense Claims subject to the terms and conditions set forth herein.

Requests for payment of an Administrative Expense Claim (including PL/GL Administrative Claims) that was not accrued in the ordinary course of business (other than Professional Fee Claims and the Claims of Governmental Units arising under Bankruptcy Code section 503(b)(1)(B), (C) or (D)) must be Filed on the Docket and served on the Reorganized Debtors no later than the Administrative Expense Claim Bar Date. Unless otherwise Ordered by the Bankruptcy Court, Holders of Administrative Expense Claims (other than the Holders of Professional Fee Claims and the Claims of Governmental Units arising under Bankruptcy Code section 503(b)(1)(B), (C) or (D)) that do not comply with the provisions set forth herein for the allowance and payment thereof on or before the Administrative Expense Claim Bar Date shall forever be barred from asserting such Administrative Expense Claims against the Reorganized Debtors, the Debtors, or their Estates. For the avoidance of doubt, Holders of General Administrative Claims shall not be required to file requests for payment of such Claims, and, notwithstanding anything to the contrary contained herein, the Debtors or Reorganized Debtors shall pay such General Administrative Claims in the ordinary course.

Plan at Article IV., A. [Docket No. 730 at 70-71].

10. The Plan become effective June 1, 2025. *See* Notice of (I) Entry of Order Confirming Debtors' Second Amended Combined Disclosure Statement and Joint Chapter 11 Plan

of Reorganization and (II) Occurrence of Effective Date (the “Notice of Effective Date”). [Docket No. 1016].

11. The Notice of Effective Date provides that “requests for payment of an Administrative Expense Claim, including PL/GL Administrative Claims, but excluding General Administrative Claims, must be filed with the Court and served on the Reorganized Debtors and their counsel by **no later than July 1, 2025.**” Notice of Effective Date at 2 [Docket No. 1016 at 2] (emphasis in original). Accordingly, this Motion and request for payment of an Administrative Expense Claim is timely.

BASIS FOR CLAIM

12. This Claim is for wrongful death.⁴ Debtor Glenburney’s misconduct caused the untimely and agonizing death of Melanie Marsh (“Ms. Marsh”) in January 2025. Movant seeks not less than \$5 million for actual and punitive damages. The facts supporting this Claim are very straightforward.

13. Movant Terry Farmer is Ms. Marsh’s brother and the only living immediate family member of Ms. Marsh. He is a resident of Lee County, North Carolina.

14. On July 17, 2024, Ms. Marsh, a 76-year-old resident of Tate County, Mississippi, was transported via ambulance to Highland Hills Medical Center in Senatobia, Mississippi for an

⁴ Movant brings this Claim under Miss. Code Ann. § 11-7-13, which consolidates wrongful death and survivor actions into one claim. *See Clark Sand Co. v. Kelly*, 60 So. 3d 149, 161 (Miss. 2011) (“An action for wrongful death includes the decedent’s ‘survival-type’ claims, such as claims for his or her personal injury, property damage, and medical and funeral expenses, and the wrongful-death claimants’ so called ‘wrongful-death’ claims, such as loss of consortium, society, and companionship.”). Movant’s Claim seeks damages for both.

Additionally, Movant has complied with Mississippi’s pre-suit notice requirement (Miss. Code Ann § 15-1-36(15)), which requires health care providers be given 60 days’ notice before bringing a malpractice claim. *See Exhibit A*, February 10, 2025 Ltr. to Glenburney and Proof of Receipt.

acute mental health episode. While there, it was decided by Movant and her doctors that, given the deterioration of her mental health, Ms. Marsh could no longer live alone.

15. Movant began searching for a facility that could care for and treat Ms. Marsh's mental health condition.

16. On or around July 21, 2024, Ms. Marsh was transferred to a short-term facility (Behavioral Health Geriatric Inpatient Facility at Merit Health River Region) in Vicksburg, Mississippi. While at the Vicksburg facility, Movant continued searching for a longer-term option for his sister.

17. On or around July 30, 2024, a Glenburney sales representative, Mathew Brumsfield, contacted Movant to solicit Ms. Marsh's transfer to Glenburney in Natchez, Mississippi. It is unknown how Mr. Brumfield learned about Ms. Marsh's need for a new facility or obtained Movant's contact information. Mr. Brumsfield represented that Glenburney could provide the care Ms. Marsh needed. In reliance on Mr. Brumsfield's representations, Ms. Marsh was transferred and admitted to Glenburney on August 1, 2024.

18. Glenburney's August 1, 2024 admission records for Ms. Marsh indicate that she was admitted to Glenburney from a "psychiatric hospital" and the reason for her admission was "schizoaffective disorder, bipolar type." Ms. Marsh was also noted to have, in pertinent part, the following diagnoses "present on admission" to Glenburney:

- a. Unspecified dementia;
- b. Paranoid schizophrenia;
- c. Unspecified major depressive disorder, moderate; and
- d. Unspecified mood (affective) disorder.

19. At the time of her admission on August 1, 2024, Ms. Marsh's mobility was evaluated to be "chairfast," which means she was largely confined to a wheelchair.

20. On August 8, 2024, Glenburney staff completed a formal/clinical assessment of Ms. Marsh's skin conditions, which showed that Ms. Marsh did not have any preexisting pressure ulcers/injuries. Nevertheless, Ms. Marsh was identified as a "resident at risk of developing pressure ulcers/injuries." Despite acknowledging this risk as early as August 8, Glenburney did not heed it—opting instead to neglect Ms. Marsh.

21. On September 2, 2024, Glenburney discovered the initial fruits of its neglect. In a progress note from September 2, it was noted that Ms. Marsh had developed a "Stage II pressure area coccyx," which measured 2cm x 1cm with a depth of 0.2cm. The progress note also states that Ms. Marsh's pressure ulcer had never occurred before; it was new.

22. Glenburney's neglect of Ms. Marsh continued. The pressure ulcer grew larger.

23. On September 11, 2024, Glenburney performed another progress check on Ms. Marsh's pressure ulcer. It had grown. The pressure ulcer was now 3.5cm x 1.2cm with a depth of 0.2cm. It was still noted as Stage II.

24. Glenburney's neglect of Ms. Marsh continued. The pressure ulcer grew larger.

25. On September 18, 2024, Glenburney performed another progress check on Ms. Marsh's pressure ulcer. Again, it had grown. The pressure ulcer was now 3.5cm x 3.5cm with an unknown depth. The stage of the ulcer was no longer Stage II, but "unstageable", which, according to the progress note, meant "[f]ull thickness tissue loss in which the base of the ulcer is covered by slough (yellow, tan, gray, green, or brown) and/or eschar (tan, brown, or black) in the wound bed."

26. Glenburney's neglect of Ms. Marsh continued. The pressure ulcer grew larger.

27. On September 25, 2024, Glenburney performed another progress check on Ms. Marsh's pressure ulcer. Once again, it had grown. The pressure ulcer was now 4.5cm x 4.9cm with an unknown depth. It was still listed as "unstageable."

28. Glenburney's neglect of Ms. Marsh continued. The pressure ulcer grew larger.

29. On October 6, 2024, Glenburney performed another progress check on Ms. Marsh's pressure ulcer. Unsurprisingly, it had grown. The pressure ulcer was now 8cm x 7.6cm with a depth of 3cm—which represents a 45,500% increase in the size of the ulcer (by volume) from the day it was discovered four weeks prior.

30. Astonishingly, Glenburney continued to neglect Ms. Marsh for another eight days. On October 14, 2024, Glenburney officially diagnosed Ms. Marsh with a Stage IV pressure ulcer and sent her to the emergency room at Merit Health hospital in Natchez.

31. Upon her admission to Merit Health in Natchez, Ms. Marsh immediately underwent a surgery consultation. The surgeon's note states: "76-year-old female presenting with a necrotic apparent stage IV sacral decubitus wound. It has a horrific odor. This will require extensive excisional debridement." At the time of her admission, Ms. Marsh also had "sepsis due to Stage IV pressure ulcer", "suspected stercoral colitis with fecal stasis", and "severe protein-calorie malnutrition."

32. A day later, on October 15, Ms. Marsh underwent surgery for the Stage IV ulcer. At the time of the surgery, the pressure ulcer measured 15cm x 15cm (a near doubling in size since October 6—nine days earlier). Although the depth of the ulcer was not identified in the operative note, photographs taken at the time show a gapping wound the size of a small basketball with a fully exposed sacrum bone.

33. Following surgery and postoperative care at Merit Health in Natchez, Ms. Marsh was transferred to RiverBridge Specialty Hospital in Vidalia, Louisiana on October 17, 2024 for specialized wound care. Upon her admission to RiverBridge, Ms. Marsh was diagnosed with, among many other things, functional quadriplegia.

34. Remarkably, on October 18, 2024, and while Ms. Marsh was battling for her life due to Glenburney's neglect, Glenburney began pursuing aggressive collection efforts against Movant for Ms. Marsh's unpaid balance. Specifically, Glenburney's October 18 demand letter states that "[u]nless payment [of \$12,580.00] is received within 3 days of receipt of this letter, this account will be turned over to a collection agency or an attorney to collect the outstanding debt." On November 1, 2024, Consulate Healthcare (Glenburney's parent company) sent an updated invoice to Movant for \$21,484.00, which included charges for full room and board in October 2024, as well as prepayment for November.

35. On November 11, 2024, after spending 25 days at RiverBridge specialty hospital, Ms. Marsh was transferred to Meadville Convalescent Home in Meadville, Mississippi, which is where Ms. Marsh would spend the final few months of her life.

36. The final few months of Ms. Marsh's life were horrific. Ms. Marsh's wound was completely open and raw, which required constant cleaning and redressing, as well as routine use of a wound vac. During this time, Ms. Marsh was in an inescapable state of severe pain and confined to her bed, unable to make any movements. The only time Ms. Marsh left her bed was when she was transferred to the local hospital with sepsis and a UTI.

37. As a direct result of Glenburney's actions and inactions, Ms. Marsh tragically succumbed to her injuries on January 23, 2025.

38. Based on the foregoing, Movant asserts the following causes of action against Glenburney under Miss. Code Ann. § 11-7-13:

- a. negligence and negligence per se;
- b. malice and/or gross negligence which evidences a willful, wanton, or reckless disregard for the safety of Ms. Marsh;
- c. intentional infliction of emotional distress;
- d. breach of contract; and
- e. respondeat superior.

39. As a direct and proximate result of the negligence and other actions, inactions, and omissions of Glenburney and Consulate, which are detailed herein, Movant and Ms. Marsh suffered the following damages:⁵

- a. Severe physical pain and suffering;
- b. Psychological and emotional trauma, distress, worry, anxiety, and mental suffering (for both Ms. Marsh and Movant);
- c. Loss of enjoyment of life;
- d. Incurred medical bills;
- e. Movant's incurred significant travel expenses in caring for Ms. Marsh from October 2024 through the time of her death;
- f. Punitive damages and all other damages allowed by the laws of the State of Mississippi for the reckless disregard of Ms. Marsh's condition and concealment of the danger to Ms. Marsh and significance of her wounds;

WHEREFORE respectfully requests that the Court enter an order, substantially in the form attached hereto, allowing the Claim in an amount of not less than \$5 million for actual and

⁵ Movant expressly preserves all challenges as to the constitutionality of Miss. Code Ann. § 11-1-60(2)(A).

punitive damages to be paid, and directing the payment of said amount as an administrative expense claim and grant such other and further relief as is just and proper.

Respectfully submitted,

BUTLER SNOW LLP

/s/ Adam M. Langley
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Memphis, TN 38119
(901) 680-7316
(901) 680-7201 facsimile
adam.langley@butlersnow.com
*Attorneys for Terry Farmer, Administrator
of the Estate of Melanie Marsh*

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was served on the persons listed below via first class U.S. mail postage prepaid or electronically via the Court's CM/ECF Noticing System this June 27, 2025:

All creditors and interested parties receiving electronic notice via the Court's CM/ECF Noticing System

LaVie Care Centers, LLC, et al.
1040 Crowne Point Parkway, Suite 600
Atlanta, Georgia 30338

McDermott Will & Emery LLP
1180 Peachtree St. NE, Suite 3350
Atlanta, Georgia 30309
Attn: Daniel M. Simon

McDermott Will & Emery LLP
444 West Lake Street, Suite 4000
Chicago, Illinois 60606
Attn: Emily C. Keil, Jake Jumbeck, and Catherine Lee

U.S. Trustee
Office of the United States Trustee
362 Richard Russell Building
75 Ted Turner Drive, SW
Atlanta, Georgia 30303

Claims Agent
KCC, LLC d/b/a Verita Global
222 N. Pacific Coast Highway Suite 300
El Segundo, California 90245

/s/ Adam M. Langley

February 10, 2025

VIA CERTIFIED MAIL

Glenburney Nursing Home
Attn: Casey Hollis, Executive Director
555 John R. Junkin Dr.
Natchez, MS 39120-4709

To Director Hollis:

Pursuant to Mississippi Code § 15-1-36(15), you are hereby notified that our firm intends to initiate legal action¹ against Glenburney Nursing Home (“Glenburney”) based on its grossly negligent care and treatment of Melanie Marsh from approximately August 1, 2024 through October 8, 2024. As a direct result of said care and treatment, Ms. Marsh passed away on January 23, 2025 at 77 years old.

A few weeks before her arrival at Glenbury, Ms. Marsh experienced an unexpected, acute mental health episode, which put her in Merit River Region Mental Health Hospital—a short-term facility in Vicksburg, Mississippi. While there, Glenburney somehow learned about Ms. Marsh’s condition, as well as her need for a long-term care facility, and contacted Ms. Marsh’s brother, Terry Farmer, to recruit Ms. Marsh to Glenburney. The solicitation worked. Believing it to be a blessing, the decision was made to transfer Ms. Marsh to Glenburney in Natchez, Mississippi.

On August 1, 2024, the day she arrived at Glenburney, Ms. Marsh was ambulatory and capable of walking short distances. She had no pressure sores or decubitus ulcers upon her admission to Glenburney. From August 1 until her emergent departure from Glenburney in October, Glenburney staff injected Ms. Marsh with sedatives against her will, and at the same time failed to turn and reposition Ms. Marsh to prevent pressure sores while she inevitably slept for most of the day and night. Eventually, in October 2024, Glenburney staff discovered their wrongdoing—a stage IV decubitus ulcer had developed at Ms. Marsh’s sacrum, which was 6 inches x 6 inches in circumference. The wound was so deep that the sacrum bone was easily visible to the human eye.

Ms. Marsh underwent emergent surgery at the hospital in Natchez, and was then transferred to River Bridge Wound Care Center in Vidalia, Louisiana for nearly two weeks. In early

¹ We are aware of the Chapter 11 petitions that Glenburney and Consulate Health Care filed in the U.S. Bankruptcy Court for the Northern District of Georgia (the “Bankruptcy Court”) in June 2024. We will file a formal proof of a post-petition PL/GL Administrative Claim with the Bankruptcy Court within the time frame established by the Plan confirmed by the Bankruptcy Court.

Glenburney Nursing Home

February 10, 2025

Page 2

November 2024, Ms. Marsh was transferred to Meadville Convalescent Home. During her three months at Meadville Convalescent Home, Ms. Marsh was paralyzed in agonizing pain and constantly fought systemic infection, which required multiple hospitalizations. Ms. Marsh succumbed to her injuries on January 23, 2025.

Based on the foregoing, Terry Farmer, personally and as the eventual executor of Ms. Marsh's estate, intends to bring both a wrongful death and survival action against Glenburney for all economic and non-economic damages, including punitive damages, that Mr. Farmer and Ms. Marsh experienced from August 1, 2024 until her death.

Please put your insurance carrier on notice of this claim. If you have additional insurance coverage, such as any excess or umbrella policies, you should notify them as well.

Please contact me should you wish to discuss the issues set forth in this letter.

Sincerely,

A handwritten signature in black ink, appearing to read "Adam D. Porter", written over a circular stamp or seal.

Adam D. Porter
BUTLER SNOW LLP

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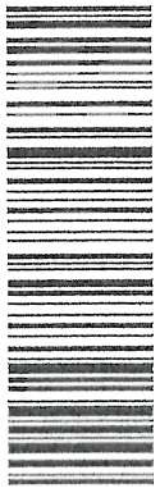
Butler Snow LLP
Suite 1400
1020 Highland Colony Parkway
Ridgeland, MS 39157

VIA CERTIFIED MAIL

Glenburney Nursing Home
Attn: Casey Hollis, Executive Director
555 John R. Junkin Dr.
Natchez, MS 39120-4709

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

)	Chapter 11
In re:)	
)	Case No. 24-55507 (PMB)
LAVIE CARE CENTERS, LLC, <i>et al.</i> ¹)	
)	(Jointly Administered)
Debtors.)	
)	

**ORDER GRANTING MOTION OF
OF TERRY FARMER, AS ADMINSTRATOR OF THE ESTATE
OF MELANIE MARSH, FOR ALLOWANCE AND PAYMENT OF
GL/PLADMINISTRATIVE EXPENSE CLAIM**

Upon consideration of the Motion for Allowance and Payment of Administrative Expense Claim Pursuant to 11 U.S.C. § 503(b)(1)(A) (the “Motion”) filed by Terry Farmer, in his personal capacity and as the duly appointed and acting administrator of the estate of Melanie Marsh (“Movant”), and any responses or objections thereto; and having found good and sufficient cause, including any predicates under 11 U.S.C. § 503(b); it is hereby **ORDERED, ADJUDGED, AND DECREED** that:

¹ The last four digits of LaVie Care Centers, LLC's federal tax identification number are 5592. There are 282 Debtors in these chapter 11 cases, which are being jointly administered for procedural purposes only. A complete list of the Debtors and the last four digits of their federal tax identification numbers are not provided herein. A complete list of such information may be obtained on the website of the Debtors' claims and noticing agent at <https://www.veritaglobal.net/LaVie>. The location of LaVie Care Centers, LLC's corporate headquarters and the Debtors' service address is 1040 Crown Pointe Parkway, Suite 600, Atlanta, GA 30338.

1. The Motion is **GRANTED**; and
2. Pursuant to 11 U.S.C. § 503(b), Movant is granted and allowed an administrative expense claim in the amount of \$5,000,000.00 (the “Claim”); and
3. The Debtors are directed to pay the Claim pari passu with other administrative claims in these above-captioned cases; and
4. The Court shall retain jurisdiction to enforce the terms and provisions of this Order.

PREPARED BY:

BUTLER SNOW LLP

/s/ Adam M. Langley

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