

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE: : CASE NO. 24-55507, 24-55688
:
:
MCCOMB HEALTHCARE, LLC,
LAVIE CARE CENTERS, LLC : CHAPTER 11
:
Debtors. : JUDGE BAISIER
:
:

BOBBIE SHOEMAKER, ON BEHALF
OF THE ESTATE AND WRONGFUL
DEATH BENEFICIARIES OF BILLY
WAYNE SHOEMAKER, DECEASED, :
:
Movant, :
v. : CONTESTED MATTER¹
:
MCCOMB HEALTHCARE, LLC
LAVIE CARE CENTERS, LLC, :
:
Respondents, :

:

NOTICE OF HEARING

PLEASE TAKE NOTICE that Bobbie Shoemaker, on Behalf of the Estate and Wrongful Death Beneficiaries of Billy Wayne Shoemaker, Deceased, has filed Motion for Relief from Stay and related papers with the Court seeking an order granting limited relief from the automatic stay to pursue a civil action and pursue insurance.

PLEASE TAKE FURTHER NOTICE that the Court will hold a hearing on the Motion for Relief from Stay at **1:00 P.M. on September 16, 2025** in Courtroom **1202**, United States Courthouse, 75 Ted Turner Drive, SW, Atlanta, Georgia 30303, 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



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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 pleadings 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 hearing. The address of the Clerk's Office is: Clerk, U. S. Bankruptcy Court, Suite 1340, 75 Ted Turner Drive, SW, Atlanta Georgia 30303. 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.

Dated: July 17, 2025

/s/ John F. Hawkins

John F. Hawkins

Counsel for Movant

Georgia Bar No: 621979

Hawkins Law, P.C.

P.O. Box 24627

Jackson, MS 39225-4627

Phone: (601) 969-9692

john@hgattorneys.com

Certificate of Service

I hereby certify that a true and correct copy of the foregoing Motion for Relief from Stay

was served via the Court's CM/ECF system and/or by U.S. Mail, postage prepaid, on this 20th day of June, 2025, to all interest parties and counsel of record, including:

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Dated: **June 17, 2025**

/s/ John F. Hawkins

John F. Hawkins

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**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF GEORGIA**

**IN RE: MCCOMB HEALTHCARE, LLC
LAVIE CARE CENTERS, LLC**

**CHAPTER 11 CASE NO.: 24-55688
CHAPTER 11 CASE NO.: 24-55507**

DEBTOR

(JOINTLY ADMINSTERED)

MOTION TO LIFT STAY

COMES NOW, Bobbie Shoemaker, on Behalf of the Estate and Wrongful Death Beneficiaries of Billy Wayne Shoemaker, Deceased (the “Movant”), by and through his attorney of record and moves the Court pursuant to 11 U.S.C. §362 for entry of an order lifting the automatic stay of 11 U.S.C. §§101, to the extent that the stay applies, to permit the consummation of certain claims and litigation, herein described, and to permit collection of insurance proceeds, by way of judgment or settlement, that are not property of the estate under 11 U.S.C. §541, and for other relief related thereto. In support of this motion, the Movant states as follows:

1. McComb Healthcare, LLC d/b/a Courtyard Rehabilitation and Healthcare - McComb (the “Debtor”), filed a voluntary petition under Chapter 11 of the Bankruptcy Code on June 2, 2024. The case is being jointly administered along with 281 other debtors under the Case No. 24-55507-pmb pursuant to order of this Court.

2. This Court has jurisdiction and venue pursuant to 28 U.S.C. §§156(b)(2)(G) and 1334.

3. Pursuant to Mississippi law, the Movant sent a notice letter to the Debtor on June 18, 2024, which sets a time period of sixty (60) days before a civil action can be instituted. *See* Miss. Code Ann. 15-1-36(15). A true and accurate copy of the notice letter is attached hereto as Exhibit “A” and incorporated herein. Prior to the expiration of the 60 day notice period and commencement of suit, debtor notified undersigned that this bankruptcy had been filed and all matters, including commencement of this action, were therefore stayed pursuant to 11 U.S.C. §362. Please see correspondence from Consulate Healthcare attached hereto as exhibit “B”.

4. Upon information and belief, the Debtor is covered by certain liability insurance, namely, which may include primary, excess and/or “umbrella” coverage for the claims and damages alleged by the Movant.

5. Movant requests by this motion that the automatic stay of 11 U.S.C. § 362(a) be lifted, to the extent it applies, to authorize the Movant to prosecute this claim and collect funds, by judgment or settlement, from any/all liability insurance companies providing coverage for the claims to be asserted in this litigation.

6. In the event Movant is paid pursuant to the settlement or judgment, Movant will not assert a claim against the Debtor’s bankruptcy estate. However, in the event Movant is not paid by applicable liability carriers, Movant expressly reserves all rights to seek further relief pursuant to applicable bankruptcy and non-bankruptcy law. Movant will not seek to enforce any judgment obtained against assets of the bankruptcy estate without further order of the Court.

7. Movant further requests by this motion that the automatic stay of 11 U.S.C. § 362(a) be lifted, to the extent it applies, to permit the prosecution and collection of sums to which the Movant may be entitled, if any, against any/all insurance carriers providing coverage for this debtor for the claim (s) asserted by the movant, as outlined in exhibit “A”.

8. As described above, cause exists for granting Movant relief from the automatic stay, to the extent it applies.

9. Pursuant to Federal Rule of Bankruptcy Procedure 40001(a)(3), Movant requests that the order granting relief from the automatic stay, to the extent it applies, be effective immediately upon its entry.

WHEREFORE, Movant requests that the Court enter an order:

I. Lifting the automatic stay of 11 U.S.C. § 362(a), to the extent it applies, such that the movant be permitted to prosecute and collect by way of settlement or judgment, as more

particularly described in Exhibit "A" attached, from any and all insurance companies which would cover such claim(s) and limit such recovery at this time to the amount of liability insurance coverage applicable;

II. That is effective immediately upon entry pursuant to Federal Rule of Bankruptcy Procedure 40001(a)(3); and

III. Granting such other and further relief as the Court deems just and appropriate under the circumstances.

RESPECTFULLY SUBMITTED, this, the 17th day of July 2025.

Bobbie Shoemaker

BY: /s/ John F. Hawkins

John Hawkins, Esq. (GA Bar No.: 621979)

Hawkins Law, PC
P O Box 24627
Jackson, MS 39225-4627
Phone: (601) 969-9692
john@hgattorneys.com
Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I, John Hawkins, attorney for Movant, do hereby certify that I have this day filed the above document using the Courts CM/ECF filing system which sent notice to all counsel of record, the Chapter 11 Trustee (if applicable) and the United States Trustee.

This, the 17th day of July 2025.

By: /s/ John Hawkins

JOHN F. HAWKINS*
john@hgattorneys.com

JOSHUA P. GINN
OF COUNSEL

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31 Lenox Pointe, NE
Atlanta, GA 30324

June 18, 2024

VIA FACSIMILE TO: (601) 250-4951 & U.S. MAIL

Courtyard Rehabilitation and Healthcare - McComb
Attention: Lisa Buchanan, Administrator
501 South Locust Street
McComb, Mississippi 39648

Re: Billy Wayne Shoemaker - *Miss. Code Ann. § 15-1-36 Notice Letter*

Dear Ms. Buchanan:

This letter will provide notice of claims against Courtyard Rehabilitation and Healthcare - McComb and any and all known and unknown staff, doctors, and nurses or other agents or representatives of Courtyard Rehabilitation and Healthcare - McComb involved in any way in failing to treat Mr. Shoemaker within the applicable standard of care and thereby causing damages as a result of Courtyard Rehabilitation and Healthcare - McComb's negligence and gross neglect. This notice is being provided pursuant to Miss. Code Ann. § 15-1-36(15); the claimants herein base the claims on negligence and gross negligence, which directly caused injury, damages and death to Billy Wayne Shoemaker.

Mr. Shoemaker was admitted to your facility on or about July 22, 2022, and was a C5 quadriplegic from a previous spinal injury in June of 2022. Courtyard Rehabilitation and Healthcare - McComb and unknown staff, doctors, and nurses or other agents or representatives of Courtyard Rehabilitation and Healthcare - McComb were grossly negligent in failing to follow policies and procedures thereby breaching the standard of care, failing to appropriately and timely complete physical assessments and assessment tools thereby allowing Mr. Shoemaker to develop and suffer from pressure wounds, failed to keep Mr. Shoemaker safe from injuries as a result of multiple falls; failure to appropriately assess, monitor and provide the needed nutritional interventions and collaboration with the medical staff to allow Mr. Shoemaker to remain hydrated without significant weight loss and to become severely protein malnourished and failure to accurately assess Mr. Shoemaker to ensure that the needed information was obtained in order to appropriately escalate a change in his condition and notify the physicians as needed.

The negligence of Courtyard Rehabilitation and Healthcare - McComb, its staff, nurses and other healthcare workers proximately caused or contributed to Mr. Shoemaker suffering avoidable injuries, physical and emotional pain and suffering and caused or contributed to his death.

Exhibit "A"

Lisa Buchanan, Administrator
June 18, 2024
Page 2

At all pertinent times hereto, the responsible parties, Courtyard Rehabilitation and Healthcare - McComb and its respective agents and/or employees of the same owed a duty to Billy Wayne Shoemaker to provide professional healthcare services consistent with the nationally recognized minimally acceptable levels of competency which they would be expected to possess and apply given their qualifications and levels of expertise which they held themselves out as possessing, considering the circumstances of Mr. Shoemaker's case. Courtyard Rehabilitation and Healthcare - McComb breached said duty, actually and proximately causing damages including personal injury and death to Mr. Shoemaker.

Bobbie Shoemaker, Individually and for and on behalf of the Estate and Wrongful Death Beneficiaries of Billy Wayne Shoemaker intends to bring suit against Courtyard Rehabilitation and Healthcare - McComb for Mr. Shoemaker's injuries, damages and death. The claimant intends to demand any and all damages available to them under applicable law, including but not limited to damages for related medical billing, physical and emotional pain and suffering and death of Mr. Shoemaker. You are furthermore hereby notified that Bobbie Shoemaker Individually and for and on behalf of the Estate and Wrongful Death Beneficiaries of Billy Wayne Shoemaker intends to challenge the unconstitutional, arbitrary cap on non-economic damages and will join parties as may be necessary to proceed with that claim.

If this claim cannot be resolved within the period required before litigation can be commenced, the claimant will have no alternative but to file suit and proceed with an action against the above-named potential defendants. We look forward to hearing from your legal representative.

Sincerely,

HAWKINS LAW, P.C.

By: /s/ John F. Hawkins
John F. Hawkins

JFH:cts
cc: Ms. Bobbie Shoemaker

FAX COVER SHEET

TO

COMPANY

FAX NUMBER 16019143580

FROM Herrman, Noelle C

DATE 2024-07-19 04:10:36 MDT

RE BillyShoemaker

COVER MESSAGE

Exhibit "B"



FROM THE OFFICE OF CORPORATE LEGAL COUNSEL

July 18, 2024

VIA FACSIMILE ONLY: (601) 914-3580

John F. Hawkins, Esq.
Hawkins Law, P.C.
226 North President Street
Jackson, MS 39201

RE: Billy Wayne Shoemaker

McComb Healthcare, LLC d/b/a Courtyard Rehabilitation and Healthcare is in receipt of your correspondence dated June 18, 2024 regarding your client, Billy Wayne Shoemaker.

Please note on June 2, 2024 and June 3, 2024 (the "Petition Date"), LaVie Care Centers, LLC, Consulate Management Company III, LLC, McComb Healthcare, LLC and certain of their affiliates (collectively, the "Debtors") filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101–1532 (the "Bankruptcy Code") in the United States Bankruptcy Court for the Northern District of Georgia (the "Bankruptcy Court").

To the extent you wish to review the docket of the chapter 11 cases or file a proof of claim, please visit the following web address of the Debtors' claims and noticing agent: <https://www.kccllc.net/lavie>.

Very truly yours,

Noelle C. Herrman

Noelle C. Herrman
VP, Litigation Account Management

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