IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

	)	Chapter 11
In re:	)	
	)	Case No. 24-11217 (BLS)
VYAIRE MEDICAL, INC., *et al.*,[1]	)	
	)	(Jointly Administered)
Debtors.	)	
	)	**Obj. Deadline: 9/11/24 at 4:00 p.m. (ET)**
	)	**Hrg. Date:** ***Only if an objection is filed***

SUMMARY OF FIRST MONTHLY FEE APPLICATION OF MCDERMOTT WILL & EMERY LLP, COUNSEL TO THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS, FOR ALLOWANCE OF COMPENSATION AND REIMBURSEMENT OF EXPENSES FOR THE PERIOD FROM JUNE 28, 2024 THROUGH JULY 31, 2024

Name of Applicant:	**McDermott Will & Emery LLP**
Authorized to provide professional services to:	**Official Committee of Unsecured Creditors of Vyaire Medical, Inc., *et al.***
Date of retention:	**July 30, 2024, effective June 28, 2024**
Period for which compensation and reimbursement are sought:	**June 28, 2024 through July 31, 2024**
Amount of compensation sought as actual, reasonable, and necessary:	**$591,192.00 (80% of $738,990.00)**
Amount of reimbursement sought as actual, reasonable, and necessary:	**$3,295.01**
This is a:	**Monthly Fee Application**

[1] The last four digits of Debtor Vyaire Medical, Inc.'s federal tax identification number are 6495. A complete list of each of the Debtors in these chapter 11 cases and each such Debtor's federal tax identification number may be obtained on the website of the Debtors' claims and noticing agent at https://omniagentsolutions.com/Vyaire. The location of Debtor Vyaire Medical, Inc.'s principal place of business and the Debtors' service address in these chapter 11 cases is 26125 North Riverwoods Boulevard, Mettawa, Illinois, USA 60045.

Prior Monthly Applications:

MONTHLY FEE APPLICATION			REQUESTED FEES AND EXPENSES		APPROVED FEES AND EXPENSES		HOLDBACK
Application Docket No. Date Filed	CNO Date Filed Docket No.	Period Covered	Requested Fees	Requested Expenses	Approved Fees (80%)	Approved Expenses (100%)	Fees Holdback (20%)
N/A							
Total							

OFFICIAL COMMITTEE OF UNSECURED CREDITORS OF VYAIRE MEDICAL, INC., *ET AL.*
SUMMARY OF BILLING BY PROFESSIONAL
JUNE 28, 2024 THROUGH JULY 31, 2024

Name of Professional Person	Date of Bar Admission	Position with the Applicant and Practice Area	Hourly Billing Rate[2]	Total Billed Hours	Total Compensation
Kristin K. Going	2002	Partner; Corporate Advisory	$1,750	71.6	$125,300.00
David R. Hurst	1998	Partner; Corporate Advisory	$1,750	84.1	$147,175.00
James R. Ravitz	1998	Partner; Healthcare	$1,700	8.9	$15,130.00
Darren Azman	2011	Partner; Corporate Advisory	$1,650	12.3	$20,295.00
Maris J. Kandestin	2004	Partner; Corporate Advisory	$1,650	104.1	$171,765.00
William Hadler	2008	Partner; Corporate Advisory	$1,575	11.3	$17,797.50
Kelly D. Newsome	2015	Partner; White Collar & Securities	$1,525	52.7	$80,367.50
Riley Orloff	2015	Partner; Corporate Advisory	$1,525	12.9	$19,672.50
Deanna D. Boll	1998	Counsel; Corporate Advisory	$1,395	7.3	$10,183.50
Nick W. Greiner	2018	Associate; Corporate Advisory	$1,245	2.1	$2,614.50
Carole Wurzelbacher	2015	Associate; Corporate Advisory	$1,245	66.9	$83,290.50

[2] Except as set forth below, the rate represents the current standard hourly rate of each McDermott attorney and paralegal who rendered legal services.

Name of Professional Person	Date of Bar Admission	Position with the Applicant and Practice Area	Hourly Billing Rate[2]	Total Billed Hours	Total Compensation
Kristin E. Schwam	2020	Associate; White Collar & Securities	$1,200	9.1	$10,920.00
Marissa L. Hill Daley	2017	Associate; Healthcare	$1,155	11.0	$12,705.00
Jesse E. Douglas	2020	Associate; Corporate Advisory	$1,155	24.9	$28,759.50
Benjamin Glass	2023	Associate; Corporate Advisory	$925	17.3	$16,002.50
Rebecca E. Trickey	2022	Associate; Corporate Advisory	$925	84.1	$77,792.50
Matthew G. Gibson	N/A	Law Clerk; Trial	$805	21.2	$17,066.00
Jessica M. Hirshon	N/A	Paralegal; Corporate Advisory	$565	7.9	$4,463.50
Nolley M. Rainey	N/A	Paralegal; Corporate Advisory	$500	16.2	$8,100.00
Total				**625.9**	**$869,400.00**
Less 15% Client Accommodation[3]					**$130,410.00**
ADJUSTED TOTAL					**$738,990.00**

Blended Rate: $1,180.68[4]

3 As an accommodation to the Committee, McDermott has agreed to discount the amount of its monthly invoices by an amount equal to 15% of the aggregate fees requested in each such invoice.

4 The blended rate was calculated by dividing the adjusted total fees sought by the aggregate number of hours worked by McDermott Professionals.

OFFICIAL COMMITTEE OF UNSECURED CREDITORS OF VYAIRE MEDICAL, INC., *ET AL.*
SUMMARY OF FEES BY PROJECT CATEGORY
JUNE 28, 2024 THROUGH JULY 31, 2024

Project Category	Total Hours	Total Fees
Case Administration	81.9	$110,878.00
Asset Disposition	113.3	$154,748.00
Meetings and Communications with Creditors	64.5	$91,732.50
Court Hearings	0.5	$865.00
Fee and Employment Applications	78.7	$121,490.50
Assumption/Rejection of Leases	0.8	$1,228.50
Contested and Litigation-Related Matters	119.3	$164,418.00
Financing/Cash Collateral	165.2	$221,164.50
Claims Administration and Objections	1.7	$2,875.00
Total	**625.9**	**$869,400.00**
Less 15% Client Accommodation[5]		**$130,410.00**
ADJUSTED TOTAL		**$738,990.00**

[5] As an accommodation to the Committee, McDermott has agreed to discount the amount of its monthly invoices by an amount equal to 15% of the aggregate fees requested in each such invoice.

OFFICIAL COMMITTEE OF UNSECURED CREDITORS OF VYAIRE MEDICAL, INC., *ET AL.*
SUMMARY OF EXPENSES
JUNE 28, 2024 THROUGH JULY 31, 2024

Expense Category	Service Provider (if applicable)	Total Expenses
Outside Service	Reliable	$3,295.01
TOTAL		**$3,295.01**

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	)	Chapter 11
	)	
VYAIRE MEDICAL, INC., *et al.*,[1]	)	Case No. 24-11217 (BLS)
	)	
Debtors.	)	(Jointly Administered)
	)	
	)	**Obj. Deadline: 9/11/24 at 4:00 p.m. (ET)**
	)	**Hrg. Date:** ***Only if an objection is filed***

FIRST MONTHLY FEE APPLICATION OF MCDERMOTT WILL & EMERY LLP, COUNSEL TO THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS, FOR ALLOWANCE OF COMPENSATION AND REIMBURSEMENT OF EXPENSES FOR THE PERIOD FROM JUNE 28, 2024 THROUGH JULY 31, 2024

McDermott Will & Emery LLP (the "Applicant" or "McDermott"), counsel to the Official Committee of Unsecured Creditors (the "Committee") of Vyaire Medical, Inc., *et al*., the debtors and debtors in possession (collectively, the "Debtors") in the above-captioned chapter 11 cases (the "Chapter 11 Cases"), hereby applies (the "Application"), pursuant to sections 330 and 331 of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the "Bankruptcy Code"), Rule 2016 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), and Rule 2016-2 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "Local Rules"), for allowance of compensation for services rendered and expenses incurred for the period from June 28, 2024 through July 31, 2024 (the "Application Period"), and respectfully represents as follows:

[1] The last four digits of Debtor Vyaire Medical, Inc.'s federal tax identification number are 6495. A complete list of each of the Debtors in these chapter 11 cases and each such Debtor's federal tax identification number may be obtained on the website of the Debtors' claims and noticing agent at https://omniagentsolutions.com/Vyaire. The location of Debtor Vyaire Medical, Inc.'s principal place of business and the Debtors' service address in these chapter 11 cases is 26125 North Riverwoods Boulevard, Mettawa, Illinois, USA 60045.

JURISDICTION AND VENUE

1. The Court has jurisdiction to consider the Application pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012. This is a core proceeding under 28 U.S.C. § 157(b). Venue of these cases and the Application in this District is proper under 28 U.S.C. §§ 1408 and 1409.

2. The legal predicates for the relief requested herein are Bankruptcy Code sections 330 and 331, Bankruptcy Rule 2016, and Local Rule 2016-2.

3. McDermott confirms its consent, pursuant to Local Rule 9013-1(f), to the entry of a final order by the Court in connection with the Application in the event that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution.

BACKGROUND

A. The Chapter 11 Cases

4. On June 9, 2024 (the "Petition Date"), the Debtors commenced the Chapter 11 Cases by filing petitions for relief under chapter 11 of the Bankruptcy Code with the Court. The Debtors continue to operate their business and manage their properties as debtors and debtors in possession under sections 1107(a) and 1108 of the Bankruptcy Code. No trustee or examiner has been appointed in the Chapter 11 Cases.

5. On June 26, 2024, the Office of the United States Trustee for the District of Delaware (the "U.S. Trustee") appointed the Committee under section 1102(a)(1) of the Bankruptcy Code. *See* Docket No. 121.

B. The Committee's Retention of McDermott

6. On July 9, 2024, the Committee applied [Docket Nos. 215] to the Court for an order authorizing the Committee to retain and employ McDermott as its counsel, effective as of June 28, 2024. On July 30, 2024, the Court entered an order [Docket No. 336] authorizing such retention.

C. The Interim Compensation Order

7. On July 9, 2024, the Court entered the *Order (I) Establishing Procedures for Interim Compensation and Reimbursement of Expenses for Retained Professionals and (II) Granting Related Relief* [Docket No. 218] (the "Interim Compensation Order"),[2] which sets forth the procedures for interim compensation and reimbursement of expenses in the Chapter 11 Cases. Specifically, the Interim Compensation Order provides that a retained professional may file and serve a Monthly Fee Statement on or after twenty-first (21st) day of each month following the month for which compensation is sought. Provided that there are no objections to the Monthly Fee Statement filed within twenty-one (21) days after the service of a Monthly Fee Statement, the professional may file a certificate of no objection with the Court, after which the Debtors are authorized to pay such professional eighty percent (80%) of the fees and one-hundred percent (100%) of the expenses requested in such Monthly Fee Statement.

RELIEF REQUESTED

8. By this Application, McDermott requests the allowance of $591,192.00, which is equal to eighty percent (80%) of the $738,990.00 in fees for professional services rendered by

[2] Capitalized terms used but not defined herein shall have the meanings ascribed to such items in the Interim Compensation Order.

McDermott during the Application Period.[3] McDermott also requests reimbursement of $3,295.01 in expenses incurred during the Application Period in connection with its engagement by the Committee.

DESCRIPTION OF SERVICES RENDERED

9. During the Application Period, McDermott professionals, including attorneys and paraprofessionals (collectively, the "McDermott Professionals"), devoted 625.9 hours to, among other things, financing and use of cash collateral, contested and litigation-related matters, sale matters, preparation of professional retention and fee applications, case administration matters, and meetings and communications with the Committee and other creditors. McDermott Professionals' most significant work in these matter categories is summarized below, and all work performed by McDermott Professionals is described in detail in **Exhibit A** hereto, which provides a detailed itemization, by project category, of all services performed by McDermott Professionals with respect to the Chapter 11 Cases during the Application Period. This detailed itemization complies with Local Rule 2016-2(d) in that each time entry contains a separate time allotment, a description of the type of activity, and the subject matter of the activity, all time is billed in increments of one-tenth of an hour, time entries are presented chronologically in categories, and all meetings or hearings are individually identified.

A. Financing/Cash Collateral Amount Sought: $221,164.50

10. During the Application Period, McDermott Professionals reviewed and analyzed the Debtors' motion to approve debtor-in-possession ("**DIP**") financing [Docket No. 12] and the proposed final DIP financing order, along with related declarations and loan documents, and

[3] These figures reflect a 15% voluntary fee reduction provided by McDermott to the Committee as a client accommodation.

began a lien perfection analysis. McDermott Professionals identified significant issues with the relief being requested by the Debtors and, following substantial negotiations with the Debtors and their lenders, were able to negotiate revisions to numerous provisions of the final DIP financing order. McDermott Professionals also devoted time during the Application Period to the analysis of intercompany loan obligations and related issues.

11. McDermott Professionals devoted a total of 165.2 hours to cash collateral and financing matters during the Application Period, for which compensation in the amount of $221,164.50 is sought.

B. Contested and Litigation-Related Matters
Amount Sought: $164,418.00

12. During the Application Period, McDermott Professionals initiated the Committee's investigation into potential causes of action against the Debtors' directors and officers and lender parties. In connection with this work, McDermott Professionals drafted and issued discovery requests to the Debtors and their lenders, reviewed and analyzed documents produced in connection with the discovery process, participated in witness interviews, conferred with Cole Schotz regarding the results of Cole Schotz's investigation into the conduct of the Debtors' directors and officers, and conferenced internally and with the Committee regarding investigation strategy.

13. McDermott Professionals devoted a total of 119.3 hours to contested and litigation-related matters during the Application Period, for which compensation in the amount of $164,418.00 is sought.

C. Asset Disposition
Amount Sought: $154,748.00

14. During the Application Period, McDermott Professionals reviewed and analyzed the Debtors' proposed bidding procedures [Docket No. 16] with respect to the sale of the

Debtors' various business lines and identified a number of potential concerns. After extensive discussions, McDermott Professionals were able to negotiate meaningful improvements to the procedures, obviating the need for the filing of a formal objection.

15. After the bidding procedures were approved, McDermott Professionals turned their focus to the Debtors' proposed asset sales themselves. McDermott Professionals engaged in numerous discussions with the Debtors, the Committee, and the Committee's financial advisor regarding the proposed sales. McDermott Professionals devoted time to reviewing and analyzing the indications of interest and asset purchase agreements submitted in connection with the sales, reviewing diligence produced by the Debtors in connection with the sale process, and reviewing the proposed sales for potential regulatory and intellectual property concerns. The sale timeline was pushed back by the Debtors on several occasions, and therefore McDermott Professionals also analyzed the possible interactions between such timeline changes and the approved DIP financing.

16. McDermott Professionals devoted a total of 113.3 hours to sale matters during the Application Period, for which compensation in the amount of $154,748.00 is sought.

D. Fee and Employment Applications
Amount Sought: $121,490.50

17. During the Application Period, McDermott Professionals drafted, revised, and filed McDermott's retention application, performed the associated conflict check, and drafted, revised, and filed a supplemental declaration and certification of counsel with respect to McDermott's retention application. McDermott Professionals also assisted the Committee's financial advisor with the preparation of its retention application and the resolution of informal objections to such application.

18. McDermott Professionals also reviewed and analyzed the Debtors' various retention applications, and the Debtors' proposed motion for the retention of ordinary course professionals [Docket No. 119].

19. McDermott Professionals devoted a total of 78.7 hours to the preparation of professional fee and retention applications during the Application Period, for which compensation in the amount of $121,490.50 is sought.

E. Case Administration
Amount Sought: $110,878.00

20. During the Application Period, McDermott Professionals devoted time to, among other things: (i) monitoring the Court's docket for case updates and deadlines; (ii) drafting Committee bylaws; (iii) preparing for and attending the section 341 meeting; (iv) corresponding with the Debtors, the Committee, and other parties in interest regarding case status, pending motions, and case administration issues; (v) drafting administrative pleadings and notices; and (vi) preparing for and participating in conferences with case professionals and various parties in interest regarding case status and case management issues.

21. McDermott Professionals devoted a total of 81.9 hours to case administration matters during the Application Period, for which compensation in the amount of $110,878.00 is sought.

F. Meetings and Communications with Creditors
Amount Sought: $91,732.50

22. During the Application Period, McDermott Professionals prepared for and conducted regular Committee meetings and communicated with the Committee members and their counsel both as a group and on an individual basis. Among other things, McDermott Professionals organized and conducted interviews to select the Committee's financial advisor,

drafted Committee governance documents, provided recommendations to the Committee regarding various requests of the Debtors and other parties in interest, counseled the Committee in connection with the Committee's responses to the Debtors' pleadings, and delivered email updates regarding Committee business, case updates, and various outstanding matters. McDermott Professionals also coordinated with the Committee's financial advisor to prepare for weekly Committee calls by preparing, discussing, and reviewing Committee presentations on topics such as case status and strategy, and the Debtors' operations and finances.

23. McDermott Professionals devoted a total of 64.5 hours to communications with the Committee and other creditors (and related tasks) during the Application Period, for which compensation in the amount of $91,732.50 is sought.

DESCRIPTION OF ACTUAL, REASONABLE, AND NECESSARY EXPENSES INCURRED

24. During the Application Period, McDermott incurred actual, reasonable, and necessary expenses in connection with its engagement by the Committee in the aggregate amount of $3,295.01, for which McDermott seeks reimbursement. Attached hereto as **Exhibit B** are descriptions of the expenses actually incurred by McDermott in the performance of services rendered as counsel to the Committee. The expenses are broken down into categories of charges, including, among other things, the following charges: travel expenses, business meals, service and hearing binder expenses, and certain other non-ordinary expenses.[4]

[4] In accordance with Del. Bankr. L.R. 2016-2(e)(iii), McDermott does not charge more than $0.10 per page for photocopies, does not charge for incoming facsimile transmissions, and does not charge more than $0.25 per page for outgoing facsimiles.

VALUATION OF SERVICES

25. McDermott Professionals have expended a total of 625.9 hours in connection with this matter during the Application Period. The amount of time spent by each of the McDermott Professionals providing services to the Committee during the Application Period is set forth in **Exhibit A**. The rates reflected in this Application are McDermott's normal hourly rates of compensation for work of this character. The reasonable value of the services rendered by McDermott during the Application Period as counsel for the Committee in the Chapter 11 Cases is $738,990.00.[5]

26. In accordance with the factors enumerated in Bankruptcy Code section 330, McDermott submits that the amount requested is fair and reasonable given (a) the complexity of the Chapter 11 Cases, (b) the time expended, (c) the nature and extent of the services rendered, (d) the value of such services, and (e) the costs of comparable services other than in a case under the Bankruptcy Code.

NO PRIOR REQUEST

27. No prior request for the relief requested in this Application has been made to this Court or any other court.

CERTIFICATE OF COMPLIANCE AND REQUEST FOR WAIVER

28. The undersigned representative of McDermott certifies that he has reviewed the requirements of Local Rule 2016-2 and that the Application substantially complies with that Local Rule. To the extent that the Application does not comply in all respects with the requirements of Local Rule 2016-2, McDermott believes that such deviations are not material and respectfully requests that any such requirement be waived.

---

[5] This figure reflects a 15% voluntary fee reduction provided by McDermott to the Committee as a client accommodation.

WHEREFORE, McDermott respectfully requests that it (a) be allowed (i) compensation in the amount of $591,192.00 (80% of the $738,990.00) for necessary professional services rendered to the Committee during the Application Period, and (ii) reimbursement of actual and necessary expenses in the amount of $3,295.01 incurred during that period, and (b) be granted such other and further relief as the Court deems just and proper.

Dated: Wilmington, Delaware
August 21, 2024

MCDERMOTT WILL & EMERY LLP

<u>/s/ David R. Hurst</u>
David R. Hurst (I.D. No. 3743)
Maris J. Kandestin (I.D. No. 5294)
The Brandywine Building
1000 N. West Street, Suite 1400
Wilmington, Delaware 19801
(302) 485-3900
dhurst@mwe.com
mkandestin@mwe.com

- and -

Darren Azman
Kristin K. Going
One Vanderbilt Avenue
New York, New York 10017
(212) 547-5400
dazman@mwe.com
kgoing@mwe.com

Counsel for the Official Committee of Unsecured Creditors