

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re

VYAIRE MEDICAL, INC., *et al.*,¹

Debtors.

Chapter 11

Case Nos. 24-11217 (BLS), *et seq.*

(Jointly Administered)

Hearing Date: November 14, 2024, 1:30 p.m.

Objections Due By: October 18, 2024

JEFFREY PAUL LYONS, II'S
MOTION FOR RELIEF FROM THE AUTOMATIC STAY

Jeffrey Paul Lyons, II (“Movant”), by Movant’s undersigned counsel, files this Motion for Relief From The Automatic Stay (the “Motion”), and in support hereof states as follows:

BACKGROUND

1. This Court has jurisdiction over this Motion pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue is proper pursuant to 28 U.S.C. § 1409(a). The statutory basis for the relief requested in this motion is 11 U.S.C. § 362.

¹ The last four digits of Debtor Vyair 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/Vyair>. The location of Debtor Vyair 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.

2. On June 9, 2024 (the “Petition Date”), Vyaire Medical, Inc. and certain of its affiliates (collectively, the “Debtors”) filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code. Since the Petition Date, the Debtors have managed their affairs and remained in possession of their assets as debtors in possession pursuant to 11 U.S.C. §§ 1107 and 1108. These Chapter 11 cases have been consolidated for procedural purposes only and are being administered jointly.

3. On or about January 1, 2021, minor child J.R.B., age 3 with myotonic muscular dystrophy, died when an LTV 1150 ventilator, which had been designed, developed, manufactured, produced, assembled, distributed, and serviced by one or more of the Debtors, became disconnected and failed to generate any audible or visual alarm or signal as required (the “Incident”).

4. On December 19, 2022, Connita Ransom, as surviving parent and guardian of J.R.B., filed a complaint against three of the Debtors, Vyaire Medical, Inc., Vyaire Medical 203, Inc., Vyaire Medical 211, Inc., and two non-debtors in the State Court of Gwinnett County, State of Georgia (the “State Court”), commencing the case styled as *Connita Ransom v. Vyaire Medical, Inc.*, Case No. 22-C-07343-S5 (the “State Court Case”) on account of the Incident, sounding in strict liability, negligent wrongful death, and other claims. On February 16, 2023, Ms. Ransom filed a First Amended Complaint in the State Court Case (the “Complaint”). On February 15, 2024, Movant, as Administrator of the Estate of Connita Shontell Ransom, was

substituted as plaintiff in the State Court Case, and the caption of that case was updated to *Jeffrey Paul Lyons, II v. Vyair Medical, Inc.*

5. Before the State Court could adjudicate Movant's claims and rights under the Complaint, the Debtors filed their Chapter 11 petitions in this Court, thus staying the State Court Case pursuant to 11 U.S.C. § 362(a).

ARGUMENT

6. Section 362(d) of the Bankruptcy Code states, in pertinent part, as follows:

On request of a party in interest and after notice and a hearing, the court shall grant relief from the stay provided under subsection (a) of this section, such as by terminating, annulling, modifying, or conditioning such stay—

- (1) for cause, including the lack of adequate protection of an interest in property of such party in interest;
- (2) with respect to a stay of an act against property under subsection (a) of this section, if—
 - (A) the debtor does not have equity in such property; and
 - (B) such property is not necessary to an effective reorganization

7. Because the automatic stay is not meant to be indefinite or absolute, the Court has authority to grant relief from the stay in appropriate circumstances. *In re Rexene Prods., Co.*, 141 B.R. 574, 576 (Bankr. D. Del. 1992). Section 362(d)(1) provides that the automatic stay may be lifted where “cause” exists. After a *prima*

facia showing by a Movant, the debtor has the burden of proving that a Movant is not entitled to relief from the stay. *Id.* at 577; 11 U.S.C. § 362(g).

8. “Cause” is not defined in the Bankruptcy Code and must be determined on a case-by-case basis. *IBM v. Fernstrom Storage & Van Co.*, 938 F.2d 731, 735 (7th Cir. 1991). Most courts employ an equitable balancing test to determine “cause.” *Rexene Prods., Co.*, 141 B.R. at 576. According to the *Rexene Prods.* case, this balancing test requires the Court to determine whether:

- a. any great prejudice to either the bankruptcy estate or the debtor will result,
- b. the hardship to the Movant by maintenance of the stay considerably outweighs the hardship to the debtor, and
- c. the Movant has a probability of prevailing on the merits.

Id. at 576.

9. Cause exists in this case to grant Movant relief from the automatic stay. First, there will be no prejudice to the Debtors or their bankruptcy estates. To the extent that Movant is seeking a recovery from third parties, such as applicable insurance, and are not attempting to execute directly on assets of the Debtors’ estates, the Debtors’ assets will remain available for whatever disposition may ultimately be sought by the Trustee and/or ordered by the Court.

10. Further, the hardship that will be suffered by J.R.B.’s estate far outweighs any potential hardship to the Debtors if Movant is not granted relief from the

automatic stay. J.R.B.'s family has suffered greatly as a result of the Debtors' prepetition conduct and negligence, as described above. Denying or delaying Movant access to available insurance proceeds and claims against other third parties would cause very severe hardship.

11. Regarding the third *Rexene* factor, Movant need only prove this prong with a showing that is "very slight." *Rexene Prods.*, 141 B.R. at 578. The facts described above establish sufficient probability to support a damages award in favor of Movant. In addition, this Court has broad jurisdiction to supervise the administration of claims, but claims arising from personal injury are expressly excluded. 28 U.S.C. § 157(b)(5). Therefore, the usual purpose of providing a "central forum to adjudicate claims against the Debtor," *see, e.g., 15375 Memorial Corp. v. Bepco, LP (In re 15375 Memorial Corp.)*, 589 F.3d 605, 622 (3rd Cir. 2009), does not apply to Movant's claims.

12. When weighing the above factors, the Court should lift the automatic stay to permit Movant to commence and prosecute Movant's claims against the Debtors and any other responsible individual or entity to judgment in a non-bankruptcy forum on account of the above-described accident and satisfy any award or other resolution Movant may obtain against the Debtor's applicable insurance policies and any other individuals or entities that are responsible for the injuries sustained.

13. Movant believes that the relief granted in connection with this Motion will be consensual and will have no meaningful effect on the administration of these cases and the Debtors' assets. Therefore, Movant respectfully submits that any order granting this Motion should be effective immediately upon its entry, notwithstanding the fourteen (14) day stay contemplated in Fed.R.Bankr.P. 4001(a)(3).

WHEREFORE, Movant requests that this Court enter an order, substantially in the form appended hereto, lifting and modifying the stay set forth in 11 U.S.C. § 362(a); and grant Movant such further relief as this Court deems just and proper.

Dated: October 1, 2024
Wilmington, Delaware

Respectfully submitted,

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