

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:	) Chapter 11
	)
VYAIR MEDICAL, INC., <i>et al.</i> , ¹	) Case No. 24-11217 (BLS)
	)
	) (Jointly Administered)
Debtors.	)
	) Obj. Deadline: 12/12/24 at 4:00 p.m. (ET)
	) Hrg. Date: <i>Only if an objection is filed</i>

**SUMMARY OF FOURTH 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 OCTOBER 1, 2024 THROUGH OCTOBER 31, 2024**

Name of Applicant:	MCDERMOTT WILL & EMERY LLP
Authorized to provide professional services to:	Official Committee of Unsecured Creditors of Vyair Medical, Inc., <i>et al.</i>
Date of retention:	July 30, 2024, effective June 28, 2024
Period for which compensation and reimbursement are sought:	October 1, 2024 through October 31, 2024
Amount of compensation sought as actual, reasonable, and necessary:	\$263,284.78 (80% of \$329,105.98)
Amount of reimbursement sought as actual, reasonable, and necessary:	\$986.58
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
2 of each of the Debtors in these chapter 11 cases and each such Debtor's federal tax identification number may
3 be obtained on the website of the Debtors' claims and noticing agent at <https://omniagentsolutions.com/Vyaire>.
4 The location of Debtor Vyaire Medical, Inc.'s principal place of business and the Debtors' service address in
5 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%)
First Monthly D.I. 402 8/21/24	9/16/24 D.I. 525	6/28/24- 7/31/24	\$738,990.00	\$3,295.01	\$591,192.00	\$3,295.01	\$147,798.00
Second Monthly D.I. 592 10/1/24	10/25/24 D.I. 679	8/1/24- 8/31/24	\$536,880.40	\$1,664.69	\$429,504.32	\$1,664.69	\$107,376.08
Third Monthly D.I. 696 10/31/24	N/A	9/1/30- 9/30/24	\$480,715.38	\$2,222.21	<i>Pending</i>	<i>Pending</i>	\$96,143.08
Total			\$1,756,585.78	\$7,181.91	\$1,020,696.32	\$4,959.70	\$351,317.16

**OFFICIAL COMMITTEE OF UNSECURED
CREDITORS OF VYAIRE MEDICAL, INC., *ET AL.*
SUMMARY OF BILLING BY PROFESSIONAL
OCTOBER 1, 2024 THROUGH OCTOBER 31, 2024**

Name of Professional Person	Date of Bar Admission	Position with the Applicant and Practice Area	Hourly Billing Rate²	Total Billed Hours	Total Compensation
Joel C. Haims	1994	Partner; Trial	\$1,830	3.7	\$6,771.00
Kristin K. Going	2002	Partner; Corporate Advisory	\$1,750	58.9	\$103,075.00
David R. Hurst	1998	Partner; Corporate Advisory	\$1,750	22.1	\$38,675.00
Maris J. Kandestin	2004	Partner; Corporate Advisory	\$1,650	51.3	\$84,645.00
Kelly D. Newsome	2015	Partner; White Collar & Securities	\$1,525	32.7	\$49,867.50
Daniel A. Thomson	2019	Associate; Corporate Advisory	\$1,290	5.0	\$6,450.00
Carole Wurzelbacher	2015	Associate; Corporate Advisory	\$1,245	31.2	\$38,844.00
Kristin E. Schwam	2020	Associate; White Collar & Securities	\$1,200	29.6	\$35,520.00
Rebecca E. Trickey	2022	Associate; Corporate Advisory	\$925	11.2	\$10,360.00
Matthew G. Gibson	N/A	Law Clerk; Trial	\$805	5.0	\$4,025.00
Edward Y. Kwon	N/A	Technology Project Manager	\$570	1.3	\$741.00

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 Rate²	Total Billed Hours	Total Compensation
Nolley M. Rainey	N/A	Paralegal; Corporate Advisory	\$500	15.3	\$7,650.00
Andy Garcia	N/A	Litigation Technology Data Analyst	\$280	1.0	\$280.00
Daniel Valentino	N/A	Litigation Technology Data Analyst	\$280	1.0	\$280.00
Total				269.3	\$387,183.50
Less 15% Client Accommodation³					\$58,077.53
ADJUSTED TOTAL					\$329,105.98

Blended Rate: \$1,222.08⁴

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
OCTOBER 1, 2024 THROUGH OCTOBER 31, 2024**

Project Category	Total Hours	Total Fees
Case Administration	5.5	\$3,710.00
Asset Disposition	64.2	\$97,320.00
Meetings and Communications with Creditors	30.3	\$43,126.00
Fee and Employment Applications	30.2	\$42,673.50
Contested and Litigation-Related Matters	86.9	\$118,442.00
Court Hearings	0.5	\$825.00
Plan/Disclosure Statement	51.7	\$81,087.00
Total	269.3	\$387,183.50
Less 15% Client Accommodation⁵		\$58,077.53
ADJUSTED TOTAL		\$329,105.98

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
OCTOBER 1, 2024 THROUGH OCTOBER 31, 2024**

Expense Category	Service Provider (if applicable)	Total Expenses
Outside Service	Reliable	\$846.98
Messenger/Courier	Reliable	\$9.60
Other Court Fees	PACER	\$130.00
TOTAL		\$986.58

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:	)	Chapter 11
VYAIRE MEDICAL, INC., <i>et al.</i> , ¹	)	Case No. 24-11217 (BLS)
Debtors.	)	(Jointly Administered)
	)	Obj. Deadline: 12/12/24 at 4:00 p.m. (ET)
	)	Hrg. Date: <i>Only if an objection is filed</i>

**FOURTH 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
OCTOBER 1, 2024 THROUGH OCTOBER 31, 2024**

McDermott Will & Emery LLP (the “Applicant” or “McDermott”), counsel to the Official Committee of Unsecured Creditors (the “Committee”) of Vyair 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 October 1, 2024 through October 31, 2024 (the “Application Period”), and respectfully represents as follows:

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.

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 No. 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 the 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 \$263,284.78, which is equal to eighty percent (80%) of the \$329,105.98 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 \$986.58 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 269.3 hours to, among other things, contested and litigation-related matters, sale matters, plan and disclosure statement matters, communications with the Committee and other creditors, and preparation of professional fee applications. 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. Contested and Litigation-Related Matters
Amount Sought: \$118,442.00

10. During the Application Period, McDermott Professionals continued their investigation into potential claims and causes of action. Among other things, McDermott Professionals (i) prepared summaries and presentation materials for the Committee regarding the investigation; (ii) reviewed materials produced in connection with discovery requests;

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

(iii) conducted research regarding discovery matters, including issues relating to privilege; (iv) met and conferred with the discovery parties as appropriate to better coordinate production of discovery; and (iv) coordinated with the Committee's other professionals regarding the on-going investigation and strategy related to the same.

11. McDermott Professionals devoted a total of 86.9 hours to contested and litigation-related matters during the Application Period, for which compensation in the amount of \$118,442.00 is sought.

B. Asset Disposition
Amount Sought: \$97,320.00

12. During the Application Period, McDermott Professionals devoted time to, among other things, reviewing asset purchase agreements, amendments thereto, and other documents related to the sale of the Debtors' assets. In addition, McDermott Professionals conferred with the Committee's financial advisor, the Debtors' counsel, and the Committee regarding closing of sales, the status thereof, and issues related thereto.

13. McDermott Professionals devoted a total of 64.2 hours to sale matters during the Application Period, for which compensation in the amount of \$97,320.00 is sought.

C. Plan/Disclosure Statement
Amount Sought: \$81,087.00

14. During the Application Period, McDermott Professionals devoted substantial time to matters relating to the Debtors' proposed chapter 11 plan [Docket No. 518]. Among other things, McDermott Professionals (i) conducted research relating to, among other things, the releases in the proposed plan; (ii) coordinated with the Committee's other professionals and the Debtors' advisors regarding a settlement of various issues relating to confirmation of the plan; and (iii) drafted and revised a settlement proposal and counterproposal.

15. McDermott Professionals devoted a total of 51.7 hours to plan and disclosure statement matters during the Application Period, for which compensation in the amount of \$81,087.00 is sought.

D. Meetings and Communications with Creditors
Amount Sought: \$43,126.00

16. 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 provided recommendations to the Committee regarding various requests of the Debtors and other parties in interest, counseled the Committee in connection with the sale of the Debtors' assets, and delivered email updates regarding case status 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 the Debtors' operations and finances and case strategy.

17. McDermott Professionals devoted a total of 30.3 hours to communications with the Committee and other creditors (and related tasks) during the Application Period, for which compensation in the amount of \$43,126.00 is sought.

E. Fee and Employment Applications
Amount Sought: \$42,673.50

18. During the Application Period, McDermott Professionals drafted and filed McDermott's September monthly fee application [Docket No. 696] and first interim fee application [Docket No. 619]. McDermott Professionals also spent time assisting the Committee's financial advisor with the finalization and filing of its August monthly fee application [Docket No. 612] and first interim fee application [Docket No. 633]. Finally,

McDermott Professionals reviewed the draft order appointing a fee examiner and coordinated with the fee examiner and the U.S. Trustee regarding the same.

19. McDermott Professionals devoted a total of 30.2 hours to the preparation of professional fee and retention applications during the Application Period, for which compensation in the amount of \$42,673.50 is sought.

**DESCRIPTION OF ACTUAL, REASONABLE,
AND NECESSARY EXPENSES INCURRED**

20. During the Application Period, McDermott incurred actual, reasonable, and necessary expenses in connection with its engagement by the Committee in the aggregate amount of \$986.58, 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

VALUATION OF SERVICES

21. McDermott Professionals have expended a total of 269.3 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

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.

McDermott during the Application Period as counsel for the Committee in the Chapter 11 Cases is \$329,105.98.⁵

22. 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

23. 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

24. 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.

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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 \$263,284.98 (80% of the \$329,105.98) for necessary professional services rendered to the Committee during the Application Period, and (ii) reimbursement of actual and necessary expenses in the amount of \$986.58 incurred during that period, and (b) be granted such other and further relief as the Court deems just and proper.

Dated: Wilmington, Delaware
November 21, 2024

MCDERMOTT WILL & EMERY LLP

/s/ David R. Hurst

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