

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

In re:

VYAIRE MEDICAL, INC., *et al.*,¹

Debtors.

)
) Chapter 11
)
) Case No. 24-11217 (BLS)
)
) (Jointly Administered)
)
) **Hearing Date: March 5, 2025 at 10:30 a.m. (ET)**
) **Obj. Deadline: February 7, 2025 at 4:00 p.m. (ET)**

**PLAN ADMINISTRATOR’S FIRST MOTION
TO EXTEND THE ADMINISTRATIVE CLAIMS OBJECTION DEADLINE**

David M. Barse, solely in his capacity as the Plan Administrator of Vyaire Medical, Inc., *et al.* (the “Plan Administrator”), appointed pursuant to the *Second Amended Joint Chapter 11 Plan of Vyaire Medical, Inc. and Its Debtor Affiliates* [Docket No. 719] (the “Plan”), which was confirmed by the Order of the United States Bankruptcy Court for the District of Delaware (the “Court”) on November 14, 2024 [Docket No. 745] (the “Confirmation Order”),² hereby moves (the “Motion”) pursuant to sections 105 and 502 of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the “Bankruptcy Code”), and Rules 3007 and 9006 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) for entry of an order, substantially in the form attached hereto as **Exhibit A** (the “Proposed Order”), extending the deadline to file objections to the allowance of Administrative Claims filed against the estates of the above-captioned debtors

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 Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Confirmation Order or Plan, as applicable.

(collectively, the “Debtors”) through and including May 27, 2025.³ In support of the Motion, the Plan Administrator respectfully represents as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction to consider the Motion under 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). Pursuant to Rule 9013-1(f) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (“Local Rules”), the Plan Administrator consents to the entry of a final order by the Court in connection with the Motion to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments consistent with Article III of the United States Constitution.

2. Venue is proper in this District under 28 U.S.C. §§ 1408 and 1409.

3. The statutory basis for the relief requested herein are sections 105 and 502 of the Bankruptcy Code. Such relief also is warranted under Bankruptcy Rule 3007 and 9006, and Rule 3007-1 of the Local Rules.

BACKGROUND

4. On June 9, 2024, each of the Debtors commenced a voluntary case under the Bankruptcy Code with the Court.

5. The Debtors’ chapter 11 cases are being jointly administered under the case styled *In re: Vyair Medical, Inc., et al.* for procedural purposes only pursuant to Bankruptcy Rule 1015(b), Local Rule 1015-1, and the *Order (I) Directing Joint Administration of Chapter 11 Cases and (II)*

³ May 27, 2025 is the Claim Objection Deadline for all Claims other than Administrative Claims. See Plan, Art. VII.E.

Granting Related Relief [Docket No. 84] entered by the Court on June 11, 2024. The Debtors operated their business and managed their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

3. On June 26, 2024, the Office of the United States Trustee for the District of Delaware (the “U.S. Trustee”) appointed an official committee of unsecured creditors in the chapter 11 cases [Docket No. 121] (the “Committee”).⁴ On October 30, 2024, the Court appointed a fee examiner [Docket No. 690]. No trustee has been appointed in these chapter 11 cases.

4. On November 14, 2024, the Court entered the Confirmation Order.

5. On November 27, 2024 (the “Effective Date”), the Plan became effective in accordance with its terms [Docket No. 810].

6. On the Effective Date, David M. Barse, in his capacity as Plan Administrator, became the sole representative of the Debtors’ estates for the purpose of, *inter alia*, reconciling claims filed against the Debtors’ estates and facilitating distributions in accordance with the Plan. *See* Plan, Art. IV.E., VII.

7. Pursuant to Article I.A.6. of the Plan, the Plan Administrator’s deadline for filing objections to requests for payment of Administrative Claims “shall be the later of (a) 60 days after the Effective Date [i.e., January 27, 2025]⁵ and (b) 60 days after the Filing of the applicable request for payment of the Administrative Claims” (the “Administrative Claims Objection Bar Date”).

8. To date, approximately fifty Administrative Claims, including claims asserted under section 503(b)(9) of the Bankruptcy Code, have been filed in these chapter 11 cases.

⁴ Pursuant to Art. IV.I. of the Plan, except for certain limited purposes including to prosecute fee applications, the Committee dissolved on the Effective Date (as defined herein).

⁵ Because 60 days after the Effective Date falls on Sunday, January 26, 2025, the Administrative Claims Objection Bar Date rolls until the next business day – i.e., Monday, January 27, 2025. *See* FED. R. BANKR. P. 9006(a).

RELIEF REQUESTED

9. By this Motion, the Plan Administrator respectfully requests that the Court enter the Proposed Order extending the Administrative Claims Objection Bar Date to May 27, 2025, which is the same date as the Claims Objection Deadline for non-Administrative Claims.

BASIS FOR RELIEF

10. Bankruptcy Rule 9006(b)(1) provides that the Court can extend unexpired time periods as follows:

when an act is required or allowed to be done at or within a specified period by these rules or by a notice given thereunder or by order of court, the court for cause shown may at any time in its discretion ... with or without motion or notice order the period enlarged if the request therefor is made before the expiration of the period originally prescribed or as extended by a previous order

FED. R. BANKR. P. 9006(b)(1)⁶. As discussed below, good and sufficient cause exists to extend the Administrative Claims Objection Bar Date.

11. Immediately following the Effective Date, the Plan Administrator began to identify and resolve pending issues required to implement the Plan. Among other things, the Plan Administrator worked with international professionals to address immediate matters as to the Debtors' international affiliates. The Plan Administrator has been working with tax professionals to address ongoing tax obligations, including filing extensions. The Plan Administrator has also been working with the purchasers of the Debtors' assets pursuant to the terms of transition services agreements.

12. Also following the Effective Date, the Plan Administrator commenced his review and reconciliation of certain claims asserted against the Debtors' estates, including Administrative

⁶ Pursuant to Local Rule 9006-2, the filing of this Motion prior to the Administrative Claims Objection Bar Date serves to extend automatically the Administrative Claims Objection Bar Date until such time as the Court rules on this Motion. See DEL. BANKR. LR 9006-2.

Claims. To date, the Plan Administrator has reconciled and paid numerous claims asserted under section 503(b)(9) of the Bankruptcy Code, and has been working closely with counsel to review and reconcile remaining administrative and priority unsecured claims, and prepare objections or responses to such claims where appropriate.

13. In light of the foregoing, the claims reconciliation process is ongoing and the Plan Administrator requires additional time to effectively review, resolve and/or object to Administrative Claims. Notwithstanding, the Plan Administrator will endeavor to reconcile and pay undisputed Administrative Claims as soon as practicable. Thus, the requested extension will not prejudice any creditor or other party in interest. Absent an extension, the Plan Administrator may forfeit valuable potential claim objections to the detriment of the Debtors' other, legitimate stakeholders. As such, an extension of the Administrative Claims Objection Bar Date will preserve estate assets by ensuring that all proper claim objections are asserted, and only legitimate Administrative Claims are paid.

14. In addition, creating one unified objection deadline for *all* claims – both Administrative Claims and non-Administrative Claims – will streamline the claims reconciliation process, lessen the administrative burden on the Plan Administrator, and avoid multiple and duplicative claim objections.

15. For the reasons set forth herein, the Plan Administrator believes that an extension of the Administrative Claims Objection Bar Date through and including May 27, 2025 is necessary and appropriate. Similar relief has been granted in this District. *See, e.g., In re Fisker, Inc.*, Case No. 24-11390 (TMH) (Bankr. D. Del. Dec. 4, 2024) [Docket No. 817] (extending the administrative claim objection deadline 150 days); *In re Allena Pharmaceuticals, Inc.*, Case No. 22-10842 (KBO) (Bankr. D. Del. June 3, 2024) [Docket No. 415] (extending the administrative

claim objection deadline 120 days); *In re Insys Therapeutics, Inc.*, Case No. 19-11292 (JTD) (Bankr. D. Del. May 14, 2021) [Docket No. 1661] (extending administrative claim objection deadline).

NO PRIOR REQUEST

16. No prior request for the relief requested herein has been made by the Plan Administrator to this or any other court.

NOTICE

17. Notice of the Motion will be provided to: (i) the U.S. Trustee; (ii) all parties entitled to notice under Bankruptcy Rule 2002 and Local Rule 2002-1(b); and (iii) parties that have filed Administrative Claims. The Plan Administrator submits that no further notice is required.

CONCLUSION

WHEREFORE, the Plan Administrator respectfully requests that the Court enter the Proposed Order, substantially in the form attached hereto as **Exhibit A**, extending the Administrative Claims Objection Bar Date through and including May 27, 2025 and granting such other and further relief as may be just and proper.

Dated: January 24, 2025
Wilmington, Delaware

COLE SCHOTZ P.C.

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