



Keith M. Lundin  
U.S. Bankruptcy Judge

Dated: 05/18/12



**UNITED STATES BANKRUPTCY COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE**

In Re:	)	
	)	Case No. 12-01573
CHURCH STREET HEALTH	)	Judge Lundin
MANAGEMENT, LLC, <i>et al</i> <sup>1</sup>	)	
	)	Jointly Administered
Debtors	)	

**AGREED ORDER GRANTING MOTIONS FOR RELIEF FROM THE  
AUTOMATIC STAY WITH REGARD TO STATE COURT LITIGATION**

This matter is before the Court on the following three motions: 1) Motion for Relief from the Automatic Stay filed by Timothy Angus, as parent and natural guardian of infant Jacob Angus; Jessalynn Purcell, as parent and natural guardian of infant Isaiah Berg; Brian Carter, as parent and natural guardian of infant Briana Carter; April Ferguson, as parent and natural guardian of infant Joseph Ferguson; Sherain Rivera, as parent and natural guardian of infant Shadaya Gilmore; Tonya Potter, as parent and natural guardian of infant Desirae Hager; Nancy Ward, as legal custodian of infant Aalyiarose Labombard-Black; Nancy Ward, as legal custodian of infant Manuel Laborde Jr.; Jennifer Bacon, as parent and natural guardian of infant Ashley Parker; Courtney Conrad, as parent and natural guardian of infant Zakary Wilson, Kelly Varano, as parent and natural guardian of infant Jeremy Bohn; Shannon Froio, as parent and natural guardian of infant Shawn Darling; Brenda Fortino, as parent and natural guardian of infant Julie Fortino; Marie Martin, as parent and natural guardian of infant Kenneth Kenyon; Jenny Lynn Cowher, as parent and natural guardian of infant William Martin; Hollan Crippen, as parent and

<sup>1</sup> The Debtors are Church Street Health Management, LLC (Case No. 12-01573), Small Smiles Holding Company, LLC (Case No. 12-01574), FORBA NY, LLC (Case No. 12-10575), EEHC, Inc. (Case No. 12-01576) and FORBA Services, Inc. (Case No. 12-01577).

natural guardian of infant Devan Mathews; Jessica Recore, as parent and natural guardian of infant Samantha McLoughlin; Laurie and Dominick Rizzo, as legal custodians of infant Jacob McMahon; Jason Montanye, as parent and natural guardian of infant Kadem Montanye; Frances Shellings, as parent and natural guardian of infant Rayne Shellings, Shantel Johnson, as parent and natural guardian of infant Kevin Butler; Veronica Robinson, as parent and natural guardian of infant Ariana Flores; Demita Garrett, as parent and natural guardian of infant I'yana Garcia Santos; Kathryn Justice, as parent and natural guardian of infant Breyonna Howard; Elizabeth Lorraine, as parent and natural guardian of infant Shiloh Lorraine Jr.; Laporsha Shaw, as parent and natural guardian of infant Alexis Parker; Robert Ralston, as parent and natural guardian of infant Brandie Ralston; Katrice Marshall, as parent and natural guardian of infant Lesana Ross; Tiffany Henton, as parent and natural guardian of infant Corey Smith; Janet Taber, as parent and natural guardian of infant Jon Taber; and Jennifer Hill (collectively, the "New York Plaintiffs") (Docket No. 237); 2) Motion for Relief from the Automatic Stay filed by Michell and Bradley Higgs, as parents and natural guardians of infant Alasha Higgs, and Schinetrica Spearman, as parent and natural guardian of infant Antonio Bell, Jr. (collectively, the "the Ohio Plaintiffs") (Docket No. 335); and 3) Motion for Relief from the Automatic Stay filed by Henry A. Meyer, III, as Guardian Ad Litem of infants Ivan Romero, Jarrell Figueroa, Madison Chernobyl, Lesley Lopez, Noah Gonzalez, Juan Ramirez, Regelio Esquivel, Ramiro De Los Reyes, Juan Ortiz, Justin Marquez, Jesus Esquivel, Angel De Los Reyes, Israel Casas, Jesus Julian Aguirre, Jonathan Carcamo, Emmanuel Martinez, Matthew Cavazos, Joselyn Esparza, Leslie Santos, Karen Santillian, Yolanda Flores, Emily Sianez, Bridgette Guzman, Jose Carrillo, Breanna Mmendez, Leonardo Ramirez, Angel Pando, Jessica Barboza, Trinity Doughty, Michelle Fierro, Hector Fierro, Ruben Ccarcamo, Carlos Duenez, Sara Deloera, Cheyenne Doughty, Wendy Travizo, Abriella Chavez, Arianna Camarillo, Anna Olivas, Crystal Estrada, Mayra Lozano,

Eduardo Bedolla, and Maria Lorena Hernandez, as mother and next friend of Aaliyah Esparza, a minor (collectively, “the Oklahoma Plaintiffs”) (Docket No. 338). The New York Plaintiffs, the Ohio Plaintiffs and the Oklahoma Plaintiffs are referred to herein collectively as the “Movants.”

WHEREAS, the three Motions are substantially similar in that they are filed by plaintiffs in personal injury litigation that was pending as of the Petition Date in the state courts of New York, Ohio and Oklahoma, and the Movants all seek relief from the automatic stay under 11 U.S.C. § 362(a)(1) to allow the personal injury lawsuits they commenced against one or more of Debtors Small Smiles Holding Company, LLC, FORBA Services, Inc., Church Street Health Management, LLC, or FORBA NY, LLC to continue in their respective state courts;

WHEREAS, the Debtors, the Official Committee of Unsecured Creditors, the United States Trustee and all parties receiving notice through ECF received notice of the Motion filed by the New York Plaintiffs and full opportunity to object;

WHEREAS, the Debtors objected to the Motion filed by the New York Plaintiffs, and the Debtors were supported in their objection by certain dentist defendants in the New York litigation, and the Court conducted a preliminary hearing on May 1, 2012, and set the Motion filed by the New York Plaintiffs for final hearing on May 22, 2012;

WHEREAS, the Debtors, the Official Committee of Unsecured Creditors, the United States Trustee and all parties receiving notice through ECF received notice of the Motions filed by the Ohio Plaintiffs and the Oklahoma Plaintiffs, which Motions are substantially similar to the Motion filed by the New York Plaintiffs, when the Motions were filed on May 8, 2012;

WHEREAS, the Debtors, the Movants, and other parties in interest are presently engaged in settlement negotiations regarding the litigation claims filed by the Movants in the three jurisdictions, and believe it would be in their collective interests to pursue those negotiations without the necessity of having to litigate a stay relief motion;

WHEREAS, in their Motions, Movants have made clear that they do not intend to seek estate assets or otherwise impair the orderly administration of the estate;

WHEREAS, the Debtors have agreed that in the event the parties cannot settle their disputes, to the relief from the automatic stay requested by all Movants, subject to the conditions set forth in this Agreed Order;

NOW THEREFORE, IT IS HEREBY ORDERED THAT THE FOLLOWING RELIEF SHALL BE GRANTED:

1. In the event that the parties have not executed, on or before June 20, 2012, a settlement agreement resolving the litigation initiated by the New York Plaintiffs, the Ohio Plaintiffs and the Oklahoma Plaintiffs, the automatic stay under 11 U.S.C. § 362 shall be lifted, effective June 20, 2012, with respect to the pending litigation filed by the New York Plaintiffs, the Ohio Plaintiffs, and the Oklahoma Plaintiffs identified more specifically in the Motions. If and when the automatic stay is lifted in accordance with this paragraph, and except as limited by paragraphs 2 and 3 below, any such litigation may proceed against the Debtors without restriction from 11 U.S.C. § 362.

2. Any recovery against the Debtors obtained from litigation governed by this order shall be limited to the proceeds of any applicable insurance policies of the Debtors. To the extent Movants obtain any judgment against Debtors in the litigation identified above, they shall not be entitled to any distribution from the estates on account of any of the Debtors' respective non-insurance assets and hereby waive any recovery against the Debtors or their estates except with respect to the proceeds of any insurance policies that might cover any of Movants' claims against the Debtors.

3. The foregoing is without waiver of any party's right to seek an injunction pursuant to 11 U.S.C. § 105(a) to request a stay of any litigation, or to any other party's right to

seek relief from the automatic stay for any purpose.

THIS ORDER WAS SIGNED AND ENTERED ELECTRONICALLY  
AS INDICATED AT THE TOP OF THE PAGE.

Approved for entry by:

HARWELL HOWARD HYNE  
GABBERT & MANNER, P.C.

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 17th day of May, 2012 a true and correct copy of the Agreed Order was filed electronically. Notice of this filing was sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. Parties may access this filing through the Court's electronic filing system.

/s/ Glenn B. Rose

Glenn B. Rose

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This Order has been electronically signed. The Judge's signature and Court's seal appear at the top of the first page.  
United States Bankruptcy Court.