

The Supreme Court of South Carolina

Sarah Dawkins, Appellant,

v.

Union Hospital District (aka) Wallace Thomson Hospital,
Respondent.

Appellate Case No. 2012-211938

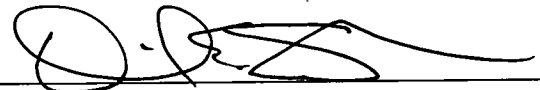
Lower Court Case No. 2011CP4400074

ORDER

Pursuant to Rule 222 of the South Carolina Appellate Court Rules, the motion for costs filed by appellant is granted in the amount of \$1,360.64 against respondent. The Court of Common Pleas is directed to add this award of costs to the remittitur. This award is subject to the restrictions contained in the order of December 8, 2014, issued by the United States Bankruptcy Court. A copy of that order is enclosed.

FOR THE COURT

BY



CLERK

Enclosure

Columbia, South Carolina

January 9, 2015

cc: Donald Gist, Esquire
Joshua Tate Thompson, Esquire
John S. Nichols, Esquire
William U. Gunn, Esquire
Stephen Lynwood Brown, Esquire
William L. Howard, Sr., Esquire
Russell Grainger Hines, Esquire

The Honorable William F. Gault
The Honorable John C. Hayes, III

IN THE UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

In re:

Union Hospital District,

Debtor.

Case No.: 14-03299-dd
Chapter 9

CONSENT ORDER MODIFYING STAY

This matter comes before the Court pursuant to the request of Sarah Dawkins (“Dawkins”) and Union Hospital District (“Debtor”) to allow certain state litigation between them to proceed. Based on the below indicated consent of the parties and good cause being shown, the Court hereby finds as follows:

FACTUAL BACKGROUND

1. Dawkins commenced litigation against the Debtor in the Court of Common Pleas for Union County, captioned *Sarah Dawkins v. Union Hospital District a/k/a Wallace Thomson Hospital*, Case No. 2011-CP-44-0074 (“State Court Case”), arising from a 2009 injury suffered at Wallace Thomson Hospital.
2. Debtor has an insurance policy (the “Policy”) issued that covers the claims alleged by Dawkins subject to a \$10,000 deductible. The insurance carrier (National Fire and Marine Insurance Company) has retained counsel to defend Debtor in the State Court Case. Even though the Policy provides for the payment by National Fire and Marine Insurance Company of all attorneys’ fees and costs related the Dawkins litigation, the Policy requires the District to pay a \$10,000 loss-only deductible for any settlement or judgment of claims subject to the Policy.
3. The State Court Case was dismissed by the trial court in early 2012, but the dismissal was reversed by the South Carolina Supreme Court, and the case is in the process of being remitted to the trial court for further proceedings, subject to the automatic stay.

4. Dawkins wishes to move forward with the State Court Case and has agreed to seek damages only up to the amount of insurance coverage provided by the Policy.

5. Debtor believes that modifying the stay as provided herein to allow Dawkins' claims to proceed in the State Court Case will provide it with the most timely and cost efficient resolution of the claims.

TERMS OF MODIFICATION OF THE AUTOMATIC STAY BY CONSENT

6. The automatic stay pursuant to 11 U.S.C. § 362 is hereby modified to the extent necessary to allow Dawkins to prosecute the State Court Case for the purpose of pursuing a judgment against Debtor and collection on such judgment to the extent of any applicable insurance coverage under the Policy for the claims in the State Court Case, without prejudice to the bankruptcy case. Further, Dawkins hereby waives the right to assert any claim against Debtor for the acts, damages (known and unknown) and causes of action now or hereafter asserted in the State Court Case, with such waiver being without prejudice to the rights of Dawkins to pursue recovery of any such claims against the Policy.

7. Debtor consents to National Fire and Marine Insurance Company filing a claim against the Debtor to the extent of any insurance deductible that is the liability of Debtor under the Policy.

8. The automatic stay remains in effect to prohibit Dawkins from collecting or pursuing any judgment against property of the Debtor. Further, to the extent any judgment is entered against Debtor in the State Court Case, such judgment will not constitute or give rise to a lien against any real property of Debtor. Dawkins agrees to execute and deliver to Debtor such release of lien or other documentation as might be reasonably required to release any real property of Debtor from any judgment that might be entered in the State Court Case.

Based on the foregoing and for good cause show,

IT IS ORDERED, ADJUDGED AND DECREED that the automatic stay is hereby modified as provided herein to allow the State Court Case to continue until final judgment, subject to the terms of this Order

AND IT IS FURTHER ORDERED that the relief granted herein shall be without prejudice to Debtor's rights as to any other action protected under 11 U.S.C. § 362 and the terms of this Order.

AND IT IS FURTHER ORDERED that this Order shall become effective immediately upon entry as the Debtor agrees to waive the 14-day delay provided by Rule 4001(a)(3).

AND IT IS SO ORDERED.

**FILED BY THE COURT
12/08/2014**



Entered: 12/08/2014

David R. Duncan
Chief US Bankruptcy Judge
District of South Carolina

WE SO MOVE AND CONSENT:

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