

Attorney or Party Name, Address, Telephone & FAX Nos., State Bar No. & Email Address  <b>Stella Havkin (SBN 134334)</b> <b>David Jacob (SBN 256374)</b> <b>Havkin &amp; Shrago Attorneys at Law</b> <b>5950 Canoga Avenue, Suite 400</b> <b>Woodland Hills, California 91367</b> <b>Telephone: (818) 999-1568</b> <b>Facsimile: (818) 293-2414</b> <b>Email: stella@havkinandshrago.com</b>	FOR COURT USE ONLY
<b>UNITED STATES BANKRUPTCY COURT                  CENTRAL DISTRICT OF CALIFORNIA</b>	
In re:  <b>Beverly Community Hospital Association, dba Beverly Hospital,                  a non profit public benefit corporation, et al</b>	CASE NO.: <b>2:23-bk-12359-SK</b>  CHAPTER: <b>11</b>
Debtor(s).	<b>NOTICE OF MOTION AND MOTION FOR RELIEF                  FROM THE AUTOMATIC STAY UNDER 11 U.S.C. §                  362                  (with supporting declarations)                  (ACTION IN NON-BANKRUPTCY FORUM)</b>
<input checked="" type="checkbox"/> Affects All Debtors <input type="checkbox"/> Affects Beverly Community Hospital Association <input type="checkbox"/> Montebello Community Health Services, Inc. <input type="checkbox"/> Beverly Hospital Foundation	DATE: <b>8/16/2023</b> TIME: <b>8:30 a.m.</b> COURTROOM: <b>1575</b>
<b>MOVANT: Lung Chang, M.D.</b>	

**1. Hearing Location:**

- |   |  |
|---|--|
| <input checked="" type="checkbox"/> 255 East Temple Street, Los Angeles, CA 90012 | <input type="checkbox"/> 411 West Fourth Street, Santa Ana, CA 92701 |
| <input type="checkbox"/> 21041 Burbank Boulevard, Woodland Hills, CA 91367        | <input type="checkbox"/> 1415 State Street, Santa Barbara, CA 93101  |
| <input type="checkbox"/> 3420 Twelfth Street, Riverside, CA 92501                 |  |

2. Notice is given to the Debtor and trustee (*if any*) (Responding Parties), their attorneys (*if any*), and other interested parties that on the date and time and in the courtroom stated above, Movant will request that this court enter an order granting relief from the automatic stay as to Debtor and Debtor's bankruptcy estate on the grounds set forth in the attached Motion.
3. To file a response to the motion, you may obtain an approved court form at [www.cacb.uscourts.gov/forms](http://www.cacb.uscourts.gov/forms) for use in preparing your response (optional LBR form F 4001-1.RFS.RESPONSE), or you may prepare your response using the format required by LBR 9004-1 and the Court Manual.
4. When serving a response to the motion, serve a copy of it upon the Movant's attorney (or upon Movant, if the motion was filed by an unrepresented individual) at the address set forth above.

This form is mandatory. It has been approved for use in the United States Bankruptcy Court for the Central District of California.



5. If you fail to timely file and serve a written response to the motion, or fail to appear at the hearing, the court may deem such failure as consent to granting of the motion.
6.  This Motion is being heard on REGULAR NOTICE pursuant to LBR 9013-1(d). If you wish to oppose this motion, you must file and serve a written response to this motion no later than 14 days before the hearing and appear at the hearing.
7.  This Motion is being heard on SHORTENED NOTICE pursuant to LBR 9075-1(b). If you wish to oppose this motion, you must file and serve a response no later than (*date*) \_\_\_\_\_ and (*time*) \_\_\_\_\_; and you, may appear at the hearing.
- a.  An Application for Order Setting Hearing on Shortened Notice was not required (according to the calendaring procedures of the assigned judge).
- b.  An Application for Order Setting Hearing on Shortened Notice was filed per LBR 9075-1(b) and was granted by the court.
- c.  An Application for Order Setting Hearing on Shortened Notice has been filed and remains pending. Once the court has ruled on that motion, you will be served with another notice or an order that will specify the date, time and place of the hearing on the attached motion and the deadline for filing and serving a written opposition to the motion.

Date: 7/17/2023 \_\_\_\_\_

**Havkin & Shrago** \_\_\_\_\_

Printed name of law firm (*if applicable*)

**Stella Havkin** \_\_\_\_\_

Printed name of individual Movant or attorney for Movant

**/s/Stella Havkin** \_\_\_\_\_

Signature of individual Movant or attorney for Movant

## MOTION FOR RELIEF FROM THE AUTOMATIC STAY AS TO NONBANKRUPTCY ACTION

### 1. In the Non-bankruptcy Action, Movant is:

- a.  Plaintiff
- b.  Defendant
- c.  Other (*specify*): Future Plaintiff.

### 2. The Nonbankruptcy Action: There is a pending lawsuit or administrative proceeding (Nonbankruptcy Action) involving the Debtor or the Debtor's bankruptcy estate:

- a. *Name of Nonbankruptcy Action*: To be filed if relief granted.
- b. *Docket Number*: To be filed if relief granted.
- c. *Nonbankruptcy forum where Nonbankruptcy Action is pending*: To be filed if relief granted.
- d. Causes of action or claims for relief (Claims):

#### Claims:

Cal Health & Safety Code § 1278.5; Labor Code § 1102.5; Wrongful Revocation of Hospital Privileges; Wrongful Termination under Cal Bus & Prof Code § 2056 for advocating medically appropriate health care; Unfair peer review under Cal Bus & Prof § 809 et seq; Slander; Libel; Defamation and Cal Gov Code § 12940(h).

#### Remedies:

Request for damages for  
loss of income;  
loss of reputation;  
goodwill;  
Injunction  
Immediate stop to defamatory activity.

***Movant reserves the right to pursue other theories, causes of action, remedies not listed herein.***

### 3. Bankruptcy Case History:

- a.  A voluntary  An involuntary petition under chapter  7  11  12  13 was filed on (*date*) April 19, 2023
- b.  An order to convert this case to chapter  7  11  12  13 was entered on (*date*) \_\_\_\_\_.
- c.  Plan was confirmed on (*date*) \_\_\_\_\_.

### 4. Grounds for Relief from Stay: Pursuant to 11 U.S.C. § 362(d)(1), cause exists to grant Movant relief from stay to proceed with the Nonbankruptcy Action to final judgment in the nonbankruptcy forum for the following reasons:

- a.  Movant seeks recovery only from applicable insurance, if any, and waives any deficiency or other claim against the Debtor or property of the Debtor's bankruptcy estate.  
**Movant seeks recovery from insurance carrier if any and does not waive claims.**
- b.  Movant seeks recovery primarily from third parties and agrees that the stay will remain in effect as to enforcement of any resulting judgment against the Debtor or bankruptcy estate, except that Movant will retain the right to file a proof of claim under 11 U.S.C. § 501 and/or an adversary complaint under 11 U.S.C. § 523 or § 727 in this bankruptcy case.
- c.  Mandatory abstention applies under 28 U.S.C. § 1334(c)(2), and Movant agrees that the stay will remain in effect as to enforcement of any resulting judgment against the Debtor or bankruptcy estate, except that Movant will retain the right to file a proof of claim under 11 U.S.C. § 501 and/or an adversary complaint under 11 U.S.C. § 523 or § 727 in this bankruptcy case.
- d.  The claims are non-dischargeable in nature and can be most expeditiously resolved in the non-bankruptcy forum.
- e.  The claims arise under non-bankruptcy law and can be most expeditiously resolved in the non-bankruptcy forum.
- f.  The bankruptcy case was filed in bad faith
  - (1)  Movant is the only creditor, or one of very few creditors, listed or scheduled in the Debtor's case commencement documents
  - (2)  The timing of the filing of the bankruptcy petition indicates that it was intended to delay or interfere with the Nonbankruptcy Action.
  - (3)  Multiple bankruptcy cases affect the Nonbankruptcy Action.

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(4)  The Debtor filed only a few case commencement documents. No schedules or statement of financial affairs (or chapter 13 plan, if appropriate) has been filed.

g.  Movant seeks recovery from applicable insurance, if any.

5. **Grounds for Annulment of Stay.** Movant took postpetition actions against the Debtor.

- a.  The actions were taken before Movant knew that the bankruptcy case had been filed, and Movant would have been entitled to relief from stay to proceed with these actions.
- b.  Although Movant knew the bankruptcy case was filed. Movant previously obtained relief from stay to proceed in the Nonbankruptcy Action in prior bankruptcy cases affecting the Nonbankruptcy Action as set forth in Exhibit. \_\_\_\_\_ .
- c.  Other (specify):

6. **Evidence in Support of Motion: (Important Note: declaration(s) in support of the Motion MUST be signed under penalty of perjury and attached to this motion.)**

- a.  The DECLARATION RE ACTION IN NONBANKRUPTCY FORUM on page 6.
- b.  Supplemental declaration(s).
- c.  The statements made by Debtor under penalty of perjury concerning Movant's claims as set forth in Debtor's case commencement documents. Authenticated copies of the relevant portions of the Debtor's case commencement documents are attached as Exhibit. \_\_\_\_\_ .
- d.  Other evidence (specify):

7.  **An optional Memorandum of Points and Authorities is attached to this Motion.**

**Movant requests the following relief:**

1. Relief from the stay pursuant to 11 U.S.C § 362(d)(1).
2.  Movant may proceed under applicable nonbankruptcy law to enforce its remedies to proceed to final judgement in the nonbankruptcy forum, provided that the stay remains in effect with respect to enforcement of any judgment against the Debtor or property of the Debtor's bankruptcy estate.
3.  The stay is annulled retroactively to the bankruptcy petition date. Any postpetition acts taken by Movant in the Nonbankruptcy Action shall not constitute a violation of the stay.
4.  The co-debtor stay of 11 U.S.C § 1201(a) or § 1301(a) is terminated, modified, or annulled as to the co-debtor, on the same terms and condition as to the Debtor.
5.  The 14-day stay prescribed by FRBP 4001(a)(3) is waived.
6.  The order is binding and effective in any bankruptcy case commenced by or against the Debtor for a period of 180 days, so that no further automatic stay shall arise in that case as to the Nonbankruptcy Action.
7.  The order is binding and effective in any future bankruptcy case, no matter who the debtor may be, without further notice.
8.  Other relief requested.

Date: 7/17/2023

**Havkin and Shrago Attorneys at Law**

Printed name of law firm (if applicable)

**Stella Havkin**

Printed name of individual Movant or attorney for Movant

**/s/ Stella Havkin**

Signature of individual Movant or Attorney for Movant

**DECLARATION RE ACTION IN NON-BANKRUPTCY FORUM**

I, (name of Declarant) Dr. Lung Chang, M.D., declare as follows:

1. I have personal knowledge of the matters set forth in this declaration and, if called upon to testify, I could and would competently testify thereto. I am over 18 years of age. I have knowledge regarding (Nonbankruptcy Action) because:

- I am the Movant
- I am the Movant's attorney of record in the Nonbankruptcy Action.
- I am employed by the Movant as (*title and capacity*):
- Other (*specify*):

2. I am one of the custodians of the books, records and files of Movant as to those books, records and files that pertain to the Non-bankruptcy Action. I have personally worked on books, records and files, and as to the following facts, I know them to be true of my own knowledge or I have gained knowledge of them from the business records of Movant on behalf of Movant, which were made at or about the time of the events recorded, and which are maintained in the ordinary course of Movant's business at or near the time of the acts, conditions or events to which they relate. Any such document was prepared in the ordinary course of business of Movant by a person who had personal knowledge of the event being recorded and had or has a business duty to record accurately such event. The business records are available for inspection and copies can be submitted to the Court if required.

3. In the Nonbankruptcy Action, Movant is:

- Plaintiff
- Defendant
- Other (*specify*): Future Plaintiff.

4. Nonbankruptcy court or agency where Nonbankruptcy Action is pending:

- a. *Name of Nonbankruptcy Action*: To be filed if relief granted.
- b. *Docket number*: To be filed if relief granted.
- c. *Nonbankruptcy court or agency where Nonbankruptcy Action is pending*: To be filed if relief granted in California Superior Court.

5. **Procedural Status of Nonbankruptcy Action:**

a. The Claims are:

**Claims:**

Cal Health & Safety Code § 1278.5; Labor Code § 1102.5; Wrongful Revocation of Hospital Privileges; Wrongful Termination under Cal Bus & Prof Code § 2056 for advocating medically appropriate health care; Unfair peer review under Cal Bus & Prof § 809 et seq; Slander; Libel; Defamation; Intentional Interference with Prospective Economic Relations; Cal Gov Code § 12940(h)

**Remedies:**

Request for damages for  
loss of income;  
loss of reputation;  
goodwill;

Injunction

Immediate stop to defamatory activity.

***Movant reserves the right to pursue other theories, causes of action, remedies not listed herein.***

- b. True and correct copies of the documents filed in the Nonbankruptcy Action are attached as Exhibit \_\_\_\_\_.
- c. The Non-bankruptcy Action was filed on (date): \_\_\_\_\_.
- d. Trial or hearing began/is scheduled to begin on (date): \_\_\_\_\_.
- e. The trial or hearing is estimated to require \_\_\_\_\_ days (specify).
- f. Other plaintiffs in the Nonbankruptcy Action are (specify): \_\_\_\_\_.
- g. Other defendants in the Nonbankruptcy Action are (specify): \_\_\_\_\_.

**5. Grounds for relief from stay:**

- a.  Movant seeks recovery primarily from third parties and agrees that the stay will remain in effect as to enforcement of any resulting judgment against the Debtor or the Debtor's bankruptcy estate, except that Movant will retain the right to file a proof of claim under 11 U.S.C § 501 and/or an adversary complaint under 11 U.S.C § 523 or § 727 in this bankruptcy case.
- b.  Mandatory abstention applies under 28 U.S.C § 1334(c)(2), and Movant agrees that the stay will remain in effect as to enforcement of any resulting judgment against the Debtor of the Debtor's bankruptcy estate, except that Movant will retain the right to file a proof of claim under 11 U.S.C. § 501 and/or an adversary complaint under 11 U.S.C. § 523 or § 727 in this bankruptcy case.
- c.  Movant seeks recovery only from applicable insurance, if any, and waives any deficiency or other claim against the Debtor or property of the Debtor's bankruptcy estate. The insurance carrier and policy number are (specify) :

**Movant seeks recovery from insurance carrier if any.**

- d.  The Nonbankruptcy Action can be tried more expeditiously in the nonbankruptcy forum.
  - (1)  It is currently set for trial on (date) \_\_\_\_\_.
  - (2)  It is in advanced stages of discovery and Movant believes that it will be set for trial by (date) \_\_\_\_\_. The basis for this belief is (specify):
  - (3)  The Nonbankruptcy Action involves non-debtor parties and a single trial in the nonbankruptcy forum is the most efficient use of judicial resources.
- e.  The bankruptcy case was filed in bad faith specifically to delay or interfere with the prosecution of the Nonbankruptcy Action.
  - (1)  Movant is the only creditor, or one of very few creditors, listed or scheduled in the Debtor's case commencement documents.
  - (2)  The timing of the filing of the bankruptcy petition indicates it was intended to delay or interfere with the Nonbankruptcy Action based upon the following facts (specify):
  - (3)  Multiple bankruptcy cases affecting the Property include:
    - (A) Case name: \_\_\_\_\_ Chapter: \_\_\_\_\_ Date dismissed: \_\_\_\_\_
    - Case number: \_\_\_\_\_ Date Dismissed: \_\_\_\_\_
    - Date filed: \_\_\_\_\_ Date Discharged: \_\_\_\_\_

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Date filed: \_\_\_\_\_ Date Discharged: \_\_\_\_\_  
Relief from stay regarding this Nonbankruptcy Action

Date Dismissed: \_\_\_\_\_  
 was  was not granted

(B) Case name: \_\_\_\_\_  
Case number: \_\_\_\_\_  
Date filed: \_\_\_\_\_ Date Discharged: \_\_\_\_\_  
Relief from stay regarding this Nonbankruptcy Action

Chapter: \_\_\_\_\_ Date dismissed: \_\_\_\_\_  
Date Dismissed: \_\_\_\_\_  
 was  was not granted

(C) Case name: \_\_\_\_\_  
Case number: \_\_\_\_\_  
Date filed: \_\_\_\_\_ Date Discharged: \_\_\_\_\_  
Relief from stay regarding this Nonbankruptcy Action

Chapter: \_\_\_\_\_ Date dismissed: \_\_\_\_\_  
Date Dismissed: \_\_\_\_\_  
 was  was not granted

See attached continuation page for information about other bankruptcy cases affecting the Nonbankruptcy Action.

See attached continuation page for additional facts establishing that this case was filed in bad faith.

f.  See attached continuation page for other facts justifying relief from stay.

6.  Actions taken in the Nonbankruptcy Action after the bankruptcy petition was filed are specified in the attached supplemental declaration(s).

a.  These actions were taken before Movant knew the bankruptcy petition had been filed, and Movant would have been entitled to relief from stay to proceed with these actions

b.  Movant knew the bankruptcy case had been filed, but Movant previously obtained relief from stay to proceed with the nonbankruptcy Action enforcement actions in prior bankruptcy cases affecting the Property as set forth in Exhibit \_\_\_\_\_

c.  For other facts justifying annulment, see attached continuation page.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

7/17/2023  
Date

Dr. Lung Chang, M.D.  
Printed name

L. Chang M.D.  
Signature



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David Jacob (SBN 256374)  
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5 Attorney for Movant Dr. Lung Chang, M.D.  
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8 **UNITED STATES BANKRUPTCY COURT**  
9 **CENTRAL DISTRICT OF CALIFORNIA**  
10 **LOS ANGELES DIVISION**

11 In re

12 BEVERLY COMMUNITY HOSPITAL  
ASSOCIATION, dba BEVERLY HOSPITAL a  
13 Non-Profit Public Benefit Corporation, et al,

14 Debtors

Case No: 8:23-bk-10680-SC

Chapter 7

**MEMORANDUM OF POINTS AND  
AUTHORITIES IN SUPPORT OF MOTION  
FOR RELIEF FROM STAY (ACTION IN  
NONBANKRUPTCY FORUM)**

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- 
- 17  Affects All Debtors  
18  Affects Beverly Community Hospital Association  
 Montebello Community Health Services, Inc.  
24  Beverly Hospital Foundation

20 **I. INTRODUCTION**

21 Dr. Lung Chang M.D. ("Dr. Chang") files this motion ("Motion") for relief from stay to pursue  
22 damages resulting from the above titled debtors' ("Debtors") conduct which included the wrongful  
23 revocation of hospital privileges wrongful termination under California Business & Professions  
24 Code § 2056 advocating medically appropriate healthcare; unfair peer review under California  
25 Business & Professions Code § 809 et seq.; slander; libel; defamation; violating California Health  
26 & Safety Code § 1278.5, California Labor Code § 1102.5, California Gov Code § 12940(h). Dr.  
27 Chang has been practicing medicine for over 40 years and has conducted thousands upon thousands  
28 of cataract surgeries. For 40 years, Dr. Chang has had no malpractice complaints and has carefully

1 crafted an impeccable and immaculate reputation among his colleagues, his patients and the general  
2 public. Dr. Chang alleges that his sparkling reputation was wrongfully besmirched by the Debtor’s  
3 review board that was both procedurally and substantively defective. (Dr. Chang reserves the right  
4 to pursue other claims not presented in this Motion). The Debtors retaliated against Dr. Chang  
5 because Dr. Chang used too many lenses. The Debtors’ bankruptcy prevents Dr. Chang from  
6 pursuing his claims in California Superior Court. Dr. Chang requests relief from stay to liquidate  
7 his claims and enable him to collect from third parties while reserving the right to pursue any  
8 deficiencies in any potential proof of claim. He also seeks to pursue his claims from any available  
9 insurance policies of the Debtor.

10 **II. ARGUMENT.**

11 **A. Applicable legal standard – “Cause”**

12 11 U.S.C. § 362(d)(1) provides that on “request of a party in interest and after notice and a  
13 hearing, the court shall grant relief from stay provided under subsection (a) of this section... **for**  
14 **cause** including the lack of adequate protection...” *Id* (emphasis added). The “adequate protection”  
15 reason for cause is part of a non-exhaustive list of examples of “cause” by operation of 11 U.S.C. §  
16 102(3)(“includes and including are not limiting”). “What constitutes ‘cause’ for relief is decided on  
17 a case-by-case basis. *In re Mense*, 509 B.R. 269, 278 (Bankr. C.D. Cal. 2014) (internal citations  
18 omitted). The decision whether to grant or deny stay relief is within the broad discretion of the  
24 bankruptcy court *Id* at page 278 (internal citations omitted). Under 11 U.S.C. § 362(g)(2), the  
20 burden of proof on all issues other than valuations is on the party opposing the relief from stay  
21 motion. To determine whether a creditor has shown cause, courts use the factors set forth in the  
22 case of *In re Curtis*, 40 B.R. 795 (Bank D. Utah 1994).

23 The *Curtis* factors are as follows:

- 24 (1) Whether the relief will result in a partial or complete resolution of the issues;  
25 (2) The lack of any connection with or interference with the bankruptcy case;  
26 (3) Whether the foreign proceeding involves the debtor as a fiduciary;  
27 (4) Whether a specialized tribunal has been established to hear the particular  
28 cause of action and whether that tribunal has the expertise to hear such cases;  
(5) Whether the debtor's insurance carrier has assumed full financial  
responsibility for defending the litigation;  
(6) Whether the action essentially involves third parties, and the debtor functions  
only as a bailee or conduit for the goods or proceeds in question;  
(7) Whether the litigation in another forum would prejudice the interests of other  
creditors, the creditors' committee and other interested parties;

- 1 (8) Whether the judgment claim arising from the foreign action is subject to  
equitable subordination under Section 510(c);  
2 (9) Whether movant's success in the foreign proceeding would result in a judicial  
lien avoidable by the debtor under Section 522(f);  
3 (10) The interests of judicial economy and the expeditious and economical  
determination of litigation for the parties;  
4 (11) Whether the foreign proceedings have progressed to the point where the  
parties are prepared for trial; and  
5 (12) The impact of the stay on the parties and the "balance of hurt."  
*In re Korean W. Presbyterian Church of L.A.*, 618 B.R. 282, 288 (Bankr. C.D.  
6 Cal 2020) (internal citations omitted).

7 “While the *Curtis* factors are widely used to determine the existence of 'cause,' not all of the factors  
8 are relevant in every case, nor is a court required to give each factor equal weight”. *In re Korean W.*  
9 *Presbyterian Church of L.A.*, at page 289 (internal citation omitted). “In considering the foregoing  
10 factors, it must be borne in mind that the process of determining the allowance of claims is of basic  
11 importance to the administration of a bankruptcy estate”. *Curtis* at page 800. (internal citations  
12 omitted). Allowance or disallowance of claims against the estate is a core proceeding under 11  
13 U.S.C. § 157(b)(2)(B).

14 **B. Relief will result in a complete resolution of the issues (First Curtis Factor)**

15 The first *Curtis* factor favors Dr. Chang because pursuing the lawsuit will resolve all the issues.  
16 There are no other issues such as dischargeability for this Court to determine.

17 **C. Relief will not interfere with the bankruptcy case (Second Curtis Factor)**

18 Dr. Chang is requesting the Superior Court to liquidate the claim and the opportunity to pursue  
24 insurance. The stay will remain against enforcement against the bankruptcy estate. The court in  
20 *Curtis* at page 800 cited the *Penn-Dixie Industries* 6 B.R. 832 (Bankr S.D.N.Y. 1980) case as an  
21 example of a case which exemplifies the non-interference concept. The movant in *Penn-Dixie*  
22 sought limited relief for the sole purpose of allowing discovery to go forward. *Id* at 833. The movant  
23 here, Dr. Chang is only requesting that the Superior Court liquidate his claim and pursue non-debtor  
24 third parties as well as the Debtors’ potential insurance policies.

25 **D. Third Curtis Factor does not apply**

26 The Debtors are not like the pension plan in the *In re Bailey.*, 11 B.R. 199 (Bankr. E.D.Va 1981)  
27 the case cited for this factor in *Curtis Id* at page 800.

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**E. The Fourth Curtis Factor favors Dr. Chang because the Superior Court is specialized to hear California Health and Safety, Business and Professions Code and tort issues.**

If relief is denied, this Court will have to conduct a trial/evidentiary hearing on issues regarding the propriety of the medical peer review procedures, the appropriate grounds for the denial of Dr. Chang’s hospital privileges, the appropriateness of Dr. Chang’s medical care. This Court granted relief to another doctor with similar claims as Dr. Chang Dkt No. 202. This case is analogous to the *In re Terry*, 12 B.R. 578, 582-583 (Bankr. E.D. Wis 1981) cited for this factor in *Curtis* at page 800. The debtor in *Terry* requested the creditor be held in contempt for violating the stay to pursue a claim in state created patient compensation panel. Further, the court in *Terry* vacated the stay for the creditor to move forward with the claim. *Id* at page 583. That state legislature provided a “unique and comprehensive screening procedure” which would be interfered with if the bankruptcy court were to rule on the matter. *Id*. Here we have unique and specialized code sections for the medical field and for doctors in general.

**F. The Fifth Curtis Factor is neutral.**

Because Dr. Chang has not filed his lawsuit yet, it is unknown whether the Debtors’ insurance will take responsibility to defend the Debtors.

**G. The Sixth Curtis Factor is neutral.**

Because Dr. Chang has not filed his lawsuit yet, it is unknown whether the Debtors’ insurance will take responsibility to defend the Debtors, on the other hand the Debtors are projected to be the main defendants for the lawsuit.

**H. The Seventh Curtis Factor favors Dr. Chang.**

This seventh factor is a close relative to the First Curtis factor, the future lawsuit in Superior Court unlike the case in the *In re Cloud Nine Ltd.*, 3 B.R. 202 (Bankr. N.M. 1980) matter cited for this factor in *Curtis* will result in a complete resolution of the issues. The Debtors here will be able to defend themselves in Superior Court.

**I. The Eight Curtis Factor does not apply.**

There is no subordination agreement.

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**J. The Ninth Curtis Factor does not apply.**

11 U.S.C. § 522 only applies to individuals not corporations.

**K. The Tenth Curtis Factor is neutral.**

Since the stay has stopped the commencement of the lawsuit and the parties would have to incur same costs proving or defending against the claims whether in state or this Court.

**L. The Eleventh Curtis Factor favors the Debtors.**

Since stay prevented the commencement of the lawsuit, the foreign proceedings have not progressed to the point where the parties are ready for trial.

**M. The Twelfth Curtis Factor favors Dr. Chang.**

The twelfth *Curtis* factor is the “impact of the stay on the parties and the ‘balance of hurt’”. Here, the stay has prevented Dr. Chang from pursuing his claim in the venue of his choice. The *Curtis* court cites the following cases to help instruct this Court on how to weigh the impact and the balance of hurt.

*In re San Clemente Estates*, 5 B.R. 605, 611, ... (Bkrcty. S.D. Cal. 1980);  
*Matter of McGraw*, 18 B.R. 140, 141-42... (Bkrcty. W.D. Wis. 1982).  
*See In re Hoffman*, 33 B.R. 937, 941 (Bkrcty. W.D. Okla. 1983);  
*In re Saxon Industries*, 33 B.R. 54, 56 (Bkrcty. S.D.N.Y. 1983);  
*In re Terry*, supra, 12 B.R. 578.  
*In re Penn-Dixie Industries, Inc.*, supra, 6 B.R. at 837.  
*In re Honosky*, supra, 6 B.R. at 669  
Cited in *Curtis* at 800.

In *San Clemente Estates* case, that court weighed the impact and balance of hurt in favor of the debtor because of the equity in the property and diligent work of the debtor to make the movant whole. *In re San Clemente Estates*, 5 B.R. 605, 611, (Bankr. S.D. Cal. 1980); In the *McGraw* matter, without the debtor in that case, the personal injury plaintiff would never be able to resolve their rights regarding their accident injuries. *Matter of McGraw*, 18 B.R. 140, 141-42 (Bankr. W.D. Wis. 1982). The case is analogous to the one here, because Dr. Chung cannot resolve his rights without the Debtors. The *In re Hoffman* 33 B.R. 937 (Bankr. W.D. Okla 1983) court weighed in favor of the movants because of their jury trial rights. *Id* at 941-942.

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**III. CONCLUSION**

Based on the foregoing, the relevant *Curtis* factors support the granting of relief from stay to Dr. Chang. As such, there is Cause for Relief and therefore, the Court should grant the relief requested in the Motion and such other relief as is necessary.

Date: 7/17/2023

HAVKIN AND SHRAGO

/s/ Stella Havkin \_\_\_\_\_  
Stella Havkin  
Attorneys for Dr. Lung Chung.

### PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:  
5950 Canoga Avenue, Suite 400 Woodland Hills, California 91367

A true and correct copy of the foregoing document entitled (*specify*): NOTICE OF MOTION AND MOTION FOR RELIEF FROM THE AUTOMATIC STAY UNDER 11 U.S.C §362 (with will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d); and **(b)** in the manner stated below:

**1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF):** Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (*date*) July 21, 2023, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:



Service information continued on attached page

**2. SERVED BY UNITED STATES MAIL:** On (*date*) July 21, 2023, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

**United States Bankruptcy Court**  
Honorable Sandra R. Klein  
255 E. Temple Street, Suite 1582  
Los Angeles, California 90012

**Debtor's Counsel**  
Jennifer L. Nassiri, Esq  
Sheppard Mullin Richter & Hampton LLP  
650 Town Center Drive, 10th Floor  
Costa Mesa, California 92626

**Debtor**  
Chief Reorganization Officer or Responsible Officer  
Beverly Hospital Foundation  
309 West Beverly Blvd  
Montebello, California 90640

**Debtor**  
Chief Reorganization Officer or Responsible Officer  
Beverly Community Hospital Association  
309 West Beverly Blvd  
Montebello, California 90640



x Service information continued on attached page

**3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL** (*state method for each person or entity served*): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (*date*) \_\_\_\_\_, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.



Service information continued on attached page

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

July 21, 2023  
*Date*

Stella Havkin  
*Printed Name*

/s/Stella Havkin  
*Signature*

Description	CreditorName	CreditorNoticeName	Address1	Address2	Address3	City	State	Zip
Attorney General of California	Attorney General of California	Attn Bankruptcy Department	California Department of Justice	1300 "I" Street		Sacramento	CA	95814
Attorneys for California Statewide Communities Development Authority	Allen Matkins Leck Gamble Mallory & Natsis LLP	Debra A. Riley, Esq.	One America Plaza	600 West Broadway, 27th Floor		San Diego	CA	92101-0903
California Department of Health Care Services	California Department of Health Care Services	Jennifer Kent, Director	1501 Capitol Avenue, Suite 4510			Sacramento	CA	95814
California Department of Public Health	California Department of Public Health	Stephanie Spich	PO Box 997377 MS 0500			Sacramento	CA	95899-7377
California Secretary of State	California Secretary of State		1500 11th Street			Sacramento	CA	95814
California State Board of Pharmacy	California State Board of Pharmacy		1625 North Market Boulevard			Sacramento	CA	95834
California Statewide Communities Development Authority	California Statewide Communities Development Authority	Chair	1100 K Street, Suite 101			Sacramento	CA	95814
Center for Medicare and Medicaid Services	Center for Medicare and Medicaid Services	Steven Chickering, the Associate Regional Administrator	90 – 7th Street, Suite 5-300			San Francisco	CA	94103-6706
Chambers	USBC Central District of California		Edward R. Roybal Federal Building and U.S. Courthouse	255 East Temple Street, Suite 1560		Los Angeles	CA	90012
Counsel for Advantis Medical Staffing	Akerman LLP	Evelina Gentry and Anthony D. Sbardellati	601 West Fifth Street, Suite 300			Los Angeles	CA	90071
Counsel for California Statewide Communities Development Corporation dba CSDA	Richards, Watson & Gershon	Stephen D. Lee	350 South Grand Avenue, 37th Floor			Los Angeles	CA	90071
Counsel for Hanmi Bank	Law Office of Nathan A. Schultz, P.C.	Nathan A. Schultz, Esq.	10621 Craig Road			Traverse City	MI	49686
Counsel to Hanmi Bank	Shulman Hodges & Bastian LLP	Michael J. Petersen	100 Spectrum Center Drive, Suite 600			Irvine	CA	92614
Counsel to Indenture Trustee	Greenberg Traurig, LLP	Colleen Murphy, Kevin Walsh	One International Place, Suite 2000			Boston	MA	02110
Counsel to Proposed DIP Lender	Bryan Cave Leighton Paisner LLP	Eric S. Prezant	161 North Clark Street, Suite 4300			Chicago	IL	60612
Counsel to Proposed DIP Lender	Bryan Cave Leighton Paisner LLP	Vanessa Sunshine and Sharon Weiss	120 Broadway, Suite 300			Santa Monica	CA	90401-2386
Department of Health Care Services	Department of Health Care Services	Tanya Homman, Chief of Provider Enrollment Division	MS 4704, P.O. Box 997412			Sacramento	CA	95899-7412
Deputy General Counsel to California Department of Health Care Services	Office of the California Attorney General	Department of Justice	Kenneth K. Wang	300 South Spring Street, Suite 1702		Los Angeles	CA	90013
Employment Development Dept.	Employment Development Dept.		722 Capitol Mall, MIC 92E			Sacramento	CA	95814
Hanmi Bank	Hanmi Bank	Specialty Lending	2010 Main St. Suite 590			Irvine	CA	92614
Hanmi Bank	Hanmi Bank	Specialty Lending	1920 Main St. Suite 1140	Attn Ben Sottile		Irvine	CA	92614
Hanmi Bank	Hanmi Bank		10180 Reseda Blvd			Northridge	CA	91324
Indenture Trustee	US Bank NA	Christopher H. Gehman Vice President, Global Corporate Trust Services	James Center Three	1051 East Cary Street, 6th Floor		Richmond	VA	23219
Indenture Trustee	US Bank NA		Po Box 70870			St Paul	MN	55170-9690
IRS	Internal Revenue Service	Centralized Insolvency Operation	P.O. Box 7346			Philadelphia	PA	19101-7346
IRS	Internal Revenue Service	Attn Susanne Larson	31 Hopkins Plz Rm 1150			Baltimore	MD	21201
IRS	Internal Revenue Service	Centralized Insolvency Operation	2970 Market St			Philadelphia	PA	19104
IRS	Internal Revenue Service		300 North Los Angeles Street			Los Angeles	CA	90012
IRS	Internal Revenue Service		600 Arch Street			Philadelphia	PA	19101
National Association of Attorneys General	National Association of Attorneys General		1850 M Street NW, 12th Floor			Washington	DC	20036
Office of the Attorney General of California	Office of the Attorney General of California	Consumer Law Section	Attn Bankruptcy Notices	455 Golden Gate Ave., Suite 11000		San Francisco	CA	94102

Description	CreditorName	CreditorNoticeName	Address1	Address2	Address3	City	State	Zip
Office of the Attorney General of the United States	Attorney General of the United States	U.S. Department of Justice	950 Pennsylvania Avenue, NW			Washington	DC	20530-0001
Office of the CA Attorney General	Office of the California Attorney General	Department of Justice	Jennifer Kim	300 South Spring Street, Floor 9		Los Angeles	CA	90013
Office of the United States Trustee	United States Trustee	Peter C. Anderson	Office of the UST/DOJ	915 Wilshire Blvd., Suite 1850		Los Angeles	CA	90017
Proposed DIP Lender	Hilco Real Estate	Attn Gary C. Epstein, Ryan Lawlor, Neil Aaronson and Robert Lubin	5 Revere Drive, Suite 206			Northbrook	IL	60062
State of California Employment Development Department	State of California Employment Development Department	Bankruptcy Group MIC 92E	P. O. Box 826880			Sacramento	CA	94280-0001
TOP 30	Abbott Laboratories Inc	Nathan Scott	100 Abbot Park Road			Abbot Park	IL	60064
TOP 30	Advantis Medical Staffing	Elayne Goldmane	13155 Noel Road Suite 300			Dallas	TX	75240
TOP 30	Alhambra Hospital Medical Center	Terry Chu	4619 N. Rosemead Blvd.			Rosemead	CA	91770
TOP 30	Allied Universal Security Services	Moises Rodriguez	161 Washington St Suite 600			Conshohocken	PA	19428
TOP 30	Arthrex, Inc	Carla Pitcher	2825 Airview Boulevard			Kalamazoo	MI	49002
TOP 30	Axis Spine Llc	DD Mate	1812 W Burbank Blvd #5384			Burbank	CA	91506
TOP 30	Baxter Healthcare Corp	Yolieth Bazan Matamoros	17511 Armstrong Ave			Irvine	CA	92614
TOP 30	Boston Scientific Corp	Kathleen Homsab	300 Boston Scientific Way 1501 Capitol Avenue, Suite 4510			Marlborough	MA	01752-1234
TOP 30	California Department Of Health Care	Tomas J. Aragon				Sacramento	CA	95814
TOP 30	Cepheid Inc.	Susan Jose	904 E Caribbean Dr			Sunnyvale	CA	94089
TOP 30	Cloudwave	Loraine Sarno	100 Crowley Dr.			Marlborough	MA	01752
TOP 30	Constellation New Energy-Gas	Zachary Keczkecy	9400 Bunsen Parkway Suite 100			Louisville	KY	40220
TOP 30	First Financial Holdings Llc	Ricardo Osequera	750 The City Drive South, Suite 300			Orange	CA	92868
TOP 30	Huntington Technology Finance	Brent McQueen	2285 Franklin Road 2355 Crenshaw Blvd., Suite 200			Bloomfield Hills	MI	48302
TOP 30	Keenan and Associates	Raquel Wallace				Torrance	CA	90501
TOP 30	Medical Information Technology, Inc	Goretti Medeiros	7 Blue Hill River Road			Canton	MA	02021
TOP 30	Medical Solutions LLC	Ruben Ramirez	1010 N 102Nd St Suite 300			Omaha	NE	68114
TOP 30	Medline Industries Inc	Brent Fogel	Three Lakes Drive			Northfield	IL	60093
TOP 30	Medstar Anesthesia Services Inc	Robert Resnick	9251 Wedgewood St			Temple City	CA	91780
TOP 30	Nixon Peabody Llp	Jennifer O'Neal	1300 Clinton Square			Rochester	NY	14604
TOP 30	Noridian Healthcare Solutions, LLC	Theresa Pachel	900 42nd Street S 405 South Main Street Suite 350			Fargo	ND	58103
TOP 30	Office of Inspector General (OIG)	Nicole Caucci				Salt Lake City	UT	84111
TOP 30	Outset Medical Inc	Andy Rabon	3052 Orchard Drive			San Jose	CA	95134
TOP 30	Philips Healthcare	Jose Rivera	222 Jacobs Street			Cambridge	MA	02141
TOP 30	Private Attorney General Act (PAGA)	Jarrod Salinas	1411 North Batavia Street #105			Orange	CA	92867
TOP 30	Shiftwise	Jennifer Folds	200 SW Market Street Suite 700			Portland	OR	97201
TOP 30	Sodexo Inc & Affiliates	Luis Lunalluna	9801 Washingtonian Boulevard			Gaithersburg	MD	20878
TOP 30	Stryker Endoscopy	Joe Gallinatti	5900 Optical Ct			San Jose	CA	95138
TOP 30	Stryker Instruments	Donovan Reiley	4100 E. Milham Road			Kalamazoo	MI	49001
TOP 30	Stryker Orthopedics	Trent Zaks	325 Corporate Drive			Mahwah	NJ	07430
U.S. Department of Health & Human Services	U.S. Department of Health & Human Services	Alex M. Azar II, Secretary	200 Independence Avenue, S.W.			Washington	DC	20201
U.S. Department of Health and Human Services	U.S. Department of Health and Human Services	Angela M. Belgrove, Assistant Regional Counsel	Office of the General Counsel, Region IX	90 7th Street, Suite 4-500		San Francisco	CA	94103-6705
United States Attorney's Office	United States Attorneys Office	Northern District of California	150 Almaden Boulevard	Suite 900		San Jose	CA	95113

Description	CreditorName	CreditorNoticeName	Address1	Address2	Address3	City	State	Zip
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