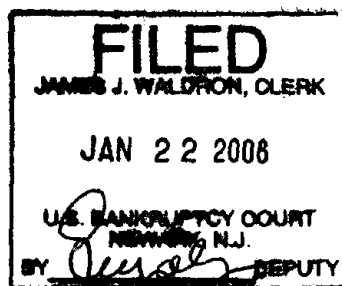


LAW OFFICES ROSEMARIE ARNOLD
1386 Palisade Avenue
Fort Lee, New Jersey 07024
(201) 461-1111



In the Matter of:

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

PASCACK VALLEY HOSPITAL
ASSOCIATES

Case No. 07-23686-RG
Chapter 11

**NOTICE OF MOTION TO VACATE
THE AUTOMATIC STAY TO THE
EXTENT OF THE INSURANCE
PROCEEDS**

TO: Lawrence H. Jacobs, Esq.
Reiseman Rosenberg & Pfund, LLP
201 Littleton Road
Morris Plains, NJ 07950
Attorney for Defendant, PASCACK VALLEY HOSPITAL

ON NOTICE TO :

Evelyn C. Farkas, Esq.
Farkas & Donohue, LLC
389 Passaic Avenue
Fairfield, NJ 07004
Attorney for Defendant, DR. EVAN STEINBERG

Sillis Cummis Epstein & Gross, P.C.
1 River Front Plaza, #12
Newark, New Jersey
Bankruptcy Attorney for PASCACK VALLEY HOSPITAL

SIRS:

PLEASE TAKE NOTICE that on **Monday, February 11, 2008 at ^{10:00}~~9:00~~ o'clock** in the forenoon, or as soon thereafter as counsel may be heard, pursuant to 11 U.S.C. 362 (d) and Rules 4001(a) and 9014, F.R. Bankr. P., the Movant, HOWARD FABER, Deceased, CAROL FABER, Administratrix of the Estate of Howard Faber, and CAROL FABER, individually by the undersigned attorney, moves this court to modify the automatic stay in this case, so as to permit the Movant to continue prosecution of the Movant's pending lawsuit against the Debtor and others to the extent of the insurance proceeds.

Oral argument is waived, unless this motion is contested. If this motion is contested, I respectfully requested an opportunity to have oral argument on the return date of this motion.

CERTIFICATION

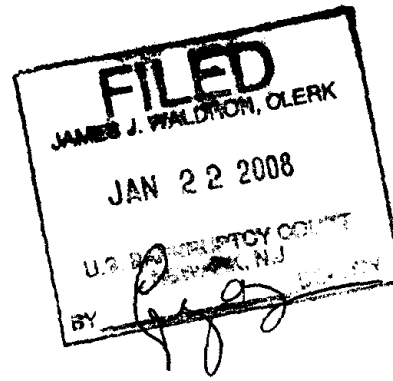
I certify that the issues raised by the within Motion cannot be informally resolved.

Dated: January 7, 2008



EVAND BAKER, ESQ.
Attorney for Plaintiff

LAW OFFICES ROSEMARIE ARNOLD
1386 Palisade Avenue
Fort Lee, New Jersey 07024
(201) 461-1111



In the Matter of:

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

PASCACK VALLEY HOSPITAL
ASSOCIATES

Case No. 07-23686-RG
Chapter 11

**BRIEF IN SUPPORT OF PLAINTIFF'S MOTION TO VACATE
THE AUTOMATIC STAY OF BARNERT HOSPITAL
TO THE EXTENT OF THE INSURANCE PROCEEDS**

Evan D. Baker, Esq.
On the Brief

TABLE OF CONTENTS

TABLE OF CONTENTS	2
TABLE OF AUTHORITIES	3
TABE OF APPENDIX	4
STATEMENT OF FACTS	5
LEGAL ARGUMENT POINT I	
THE AUTOMATIC STAY SHOULD BE VACATED TO THE EXTENT OF THE INSURANCE PROCEEDS	6
CONCLUSION	10

TABLE OF AUTHORITIES

	<u>PAGE</u>
1. In <u>Re Todd Shipyard Corp.</u> 92 B.R. 600, 602 (Bkrtcy. N.J. 1988)	5, 6, 7
2. 11 U.S.C. Section 362(d)	5
3. <u>Midlantic National Bank v. Department of Environment Protection</u> , 475 U.S. 494, 503, 106 S.Ct. 755, 88 L.Ed. 2d 859 (1986)	6
4. U.S. Code Cong. And Admin. News (1978) pp. 5787, 5840, 5963, 6296	6, 7
5. <u>In RE Continental Airlines, Inc.</u> , 61 B.R. 75 (S.D. Tx 1986)	6
6. <u>In Re Pro Football Weekly, Inc.</u> , 60 B.R. 824 (N.D. 111. 1986)	6
7. 11 U.S.C. Section 362 (g)	6
8. Re <u>Bock Laundry Machine Company</u> , 37 B.R. 564, (Bankr. Md. Ohio 1984)	6
9. See <u>Matter of McGraw</u> , 18 B.R. 140 (Bkrt. Wd. Wis 1981)	6
10. <u>Northern Construction v. Marathon Pipeline Co.</u> , 458 U.S. 50, 52, 102, S. Ct. 2858, 2861-62, 73 L. Dd. 2d (1982)	7

STATEMENT OF FACTS

The Movant, HOWARD FABER, Deceased, CAROL FABER, Administratrix of the Estate of Howard Faber, and CAROL FABER, individually, brings this action before the Court seeking an Order vacating the automatic stay pursuant to Bankruptcy law allowing the movant to continue the personal injury suit pending in the Superior Court of New Jersey, Law Division, Bergen County. The personal injury case arises of participating in a sleep study in Pascack Valley Hospital on August 21, 2003. As a result of being released from the sleep study while he was exhausted and under the sedative effects of Ambien, Mr. Faber fell asleep while driving his vehicle and was involved in a serious head-on collision with a Mack truck. This matter forms the basis of Docket No. BER-L-5322-05 presently pending in the Superior Court of New Jersey, Law Division, Bergen County. A copy of the original Complaint is attached hereto as Exhibit "A."

To date, the civil action pending in the Superior Court under Docket Number BER-L-5322-05 has been stayed. The Defendant was insured at the time of the accident with **Princeton Insurance**. Plaintiff seeks leave to pursue this to the extent of the debtors available liability insurance.

LEGAL ARGUMENT

POINT I

IN THAT THIS MATTER COULD NOT BE RESOLVED THROUGH THE CLAIMS RESOLUTION PROCESS THIS MATTER SHOULD BE REMANDED TO THE SUPERIOR COURT OF NEW JERSEY AND THE AUTOMATIC STAY SHOULD BE VACATED

The Movant's request that an Order vacating the automatic stay be entered so that the personal injury case now pending in the Superior Court of New Jersey can proceed to the extent of the insurance proceeds.

The automatic stay from which Movant's seeks relief is set forth in 11 U.S.C. Section 362(a) which state in part:

- (a) Except as provided in subsection (b) of this section, petition filed under Section 301, 302, 303 of this operates as a stay, applicable to all entities of (1) the commencement of continuation including the issuance or employment of process, of a judicial, administrative, or other proceeding against debtor that was or could have been commenced before the commencement of the case under this title, or to recover claim against the debtor that arose at the commencement of the case under this title, or to recover claim against the debtor that arose at the commencement of the case under this title. In Re Todd Shipyard Corp. 92 B.R. 600, 602 (Bkrctcy. N.J. 1988).

However, relief from the automatic stay is permitted under provision of 11 U.S.C. Section 362(d) which state in part.

- (d) On request of a party in interest and after notice and hearing, the Court shall grant relief from the stay provided under subsection (a) of this

section, such as by termination, nulling, modifying or conditioning such stay (1) for cause including the lack of adequate protection of an interest in property of such party in interest... (emphasis added).

Plaintiff, CAROL FABER, Administratrix of the Estate of Howard Faber requests that the automatic stay be modified to allow her to prosecute the personal injury claim pending in the Superior Court. The automatic stay is causing substantial hardship upon her, causing her to remain uncompensated for the injuries her husband sustained which intern greatly impacted life. Movant requests that the stay be vacated to the extent of the debtor's insurance proceeds so that this matter can be quickly resolved and she can continue on with her life. Additionally, the stay of the civil action will prejudice the Movant's case in the Superior Court as witnesses' memories will taper, they may die or disappear.

It is well know that the automatic stay is "one of the most fundamental debtor protections provided by the bankruptcy laws" Midlantic National Bank v. Department of Environment Protection, 475 U.S. 494, 503, 106 S.Ct. 755, 88 L.Ed. 2d 859 (1986), quoting Rep. Nmo. 95-989, pp 54, H.R. Rep. No. 95-595 page 340 (1977); U.S. Code Cong. And Admin. News (1978) pp. 5787, 5840, 5963, 6296. In deciding whether there is sufficient cause present to lift the stay, the hardship that will be incurred by the movant. In RE Continental Airlines, Inc., 61 B.R. 75 (S.D. Tx 1986); In Re Pro Football Weekly, Inc., 60 B.R. 824 (N.D. 111. 1986). The Court is balancing the hardships must read 11 U.S.C. Section 362 (d) in conjunction with 11 U.S.C. Section 362 (g) since the latter allocates the burden of proof in motion seeking relief from the stay. Section 362 (g) states in relevant part:

In any hearing under subsection (d) or (e) this section concerning relief from the stay of any act under subsection (a) of this section – (1) the party requesting such relief has the burden of proof on the issue of debtors equity in property; and (2) the party opposing such leave has of proof on al other issues.

Furthermore, “Courts have regarded the opportunity to litigate the issue of liability as a significant right which cannot easily be set aside, even when pre-petition causes of action are involved.” In Re Todd Shipyard Corp., 92 B.R. 600 (Bankr. D.N.J. 1988) citing in Re Continental Airlines, Inc. Supra at pp. 779; See also in Re Bock Laundry Machine Company, 37 B.R. 564, (Bankr. Md. Ohio 1984).

Additionally, the automatic stay was never intended to preclude a determination of tort liability and the attendant damages. It was merely intended to prevent the prejudicial dissipation of the debtor’s asset, which would not be affected if the stay were lifted to the extent that the debtor has insuance. In Re Todd Shipyards, Supra., at 603. See Matter of McGraw, 18 B.R. 140 (Bkrt. Wd. Wis 1981).

As the Court stated In Re Terry Shipyards Corp., supra, 603, Congress has organized that the automatic stay should be lifted in appropriate circumstances, it will often be more appropriate to permit proceedings to continue in their place of origin, with no great prejudice to the bankruptcy estate would result, in order to leave the parties to their chosen forum and to relive the bankruptcy court from any duties that may be handled elsewhere.” City H.R. Rep. 95-595, 95th Congress 1st Sess. 341 (1977); S. Rep. No. 95-989, 95th Congress, 2nd Session 50 (1978); U.S. Code Cong. And Admin. News, 1978, pp.5787, 5836, 6297.

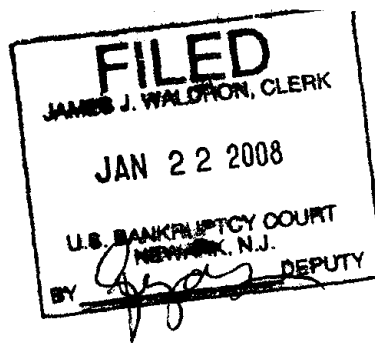
CONCLUSION

For the foregoing reasons, the court must conclude that cause exists to lift the automatic stay thereby allowing the Movant to proceed with the Superior Court of New Jersey lawsuit bearing Docket No. BER-L-5322-05.

EVAN D. BAKER, ESQ.

Dated: January 7, 2008

LAW OFFICES ROSEMARIE ARNOLD
1386 Palisade Avenue
Fort Lee, New Jersey 07024
(201) 461-1111



In the Matter of:

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

PASCACK VALLEY HOSPITAL
ASSOCIATES

Case No. 07-23686-RG
Chapter 11

CERTIFICATION OF COUNSEL

I, EVAN D. BAKER, ESQ., upon his oath, does hereby state:

1. I am an attorney of the State of New Jersey and I am fully familiar with the facts herein. My office represents, Plaintiff, HOWARD FABER, Deceased, CAROL FABER, Administratrix of the Estate of Howard Faber, and CAROL FABER, individually, who sustained serious personal injuries as the result of an accident which occurred on August 22, 2003.

2. The lawsuit against the responsible party was originally filed on July of 2005.

3. This is an action for injuries sustained by Plaintiff as the result of participating in a sleep study in Pascack Valley Hospital on August 21, 2003. As a result of being released from the sleep study while he was exhausted and under the sedative effects of Ambien, Mr. Faber fell asleep while driving his vehicle and was involved in a serious head-on collision with a truck, ultimately resulting in his death.

4. Lawrence H. Jacobs, Esq. of the law firm of Reiseman, Rosenberg & Pfund, P.C. has entered an appearance on behalf of the Defendant, PASCACK VALLEY HOSPITAL.

5. During the pending of the Civil case, defendant, PASCACK VALLEY HOSPITAL filed for bankruptcy.

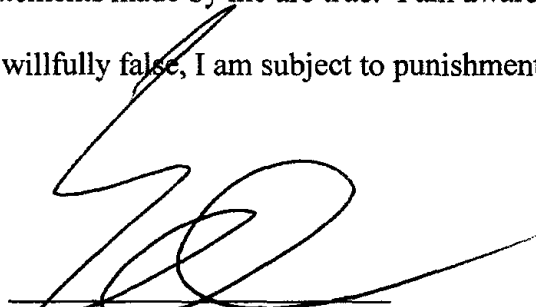
6. On October 19, 2007, an Order of disposition on account of bankruptcy proceeding was signed by Honorable Joseph Conte, JSC at the superior Court of Bergen County staying the Civil matter in Bergen County.

7. The Administration of this bankruptcy case will not be delayed and indeed may well be expedited by having this particular controversy resolved promptly in the Superior Court of New Jersey.

8. No issues of federal or bankruptcy law are involved and only questions of local law are involved in the pending lawsuit.

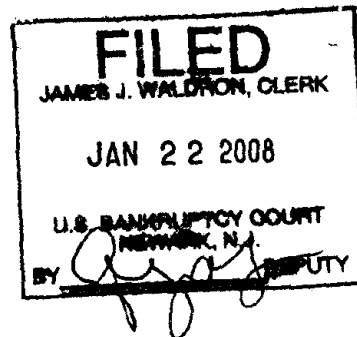
I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: January 7, 2008



EVAN D. BAKER, ESQ
Attorney for Plaintiff

LAW OFFICES ROSEMARIE ARNOLD
1386 Palisade Avenue
Fort Lee, New Jersey 07024
(201) 461-1111



In the Matter of:

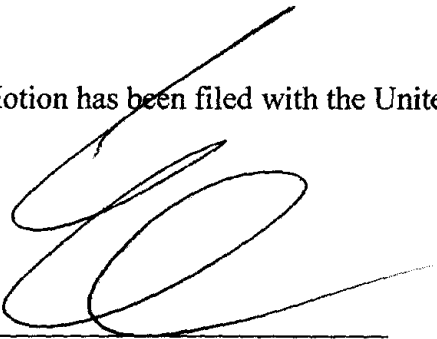
UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

PASCACK VALLEY HOSPITAL
ASSOCIATES

Case No. 07-23686-RG
Chapter 11

PROOF OF SERVICE

The original of the within Notice of Motion has been filed with the United States
Bankruptcy Court, District of New Jersey.



EVAN D. BAKER, ESQ.
Attorney for Plaintiff, Sarah Belle

PROOF OF MAILING

On January 7, 2008, I, the undersigned, mailed the following: Copy of Notice of Motion
to Vacate the Automatic Stay, Certification of Counsel, Supporting Brief and Order by way of
New Jersey Lawyers Service to:

Lawrence H. Jacobs, Esq.
Reiseman Rosenberg & Pfund, LLP
201 Littleton Road
Morris Plains, NJ 07950
Attorney for Defendant, PASCACK VALLEY HOSPITAL

Evelyn C. Farkas, Esq.
Farkas & Donohue, LLC
389 Passaic Avenue
Fairfield, NJ 07004
Attorney for Defendant, DR. EVAN STEINBERG

Sillis Cummis Epstein & Gross, P.C.
1 River Front Plaza, #12
Newark, New Jersey
Bankruptcy Attorney for PASCACK VALLEY HOSPITAL

TABLE OF APPENDIX

FILED COMPLAINT: Faber vs. Pascaek Valley Hospital, et als

ORDERED, that a copy of the Order shall be served upon all parties within ____ days
from the date herewith.

J.S.C.