

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF LOUISIANA
LAFAYETTE DIVISION

IN RE:	*	CASE NO. 16-50740
	*	
PROGRESSIVE ACUTE CARE, LLC, et al.	*	CHAPTER 11
	*	
DEBTORS	*	JUDGE ROBERT SUMMERHAYS
	*	
	*	JOINTLY ADMINISTERED
	*	

OBJECTION OF THE SCHUMACHER GROUP ENTITIES
TO PROPOSED ASSET SALE

NOW INTO COURT, through undersigned counsel, come The Schumacher Group of Louisiana, Inc., Iberia Physician Services, LLC, Iberia Emergency Group, LLC, Avoyelles Emergency Group, LLC, Winn Emergency Group, LLC and Allen Emergency Group, LLC (collectively “The Schumacher Group”), who file this joint objection to the sale of the Debtors’ assets as proposed in the *Motion Under 11 U.S.C. §§ 363(b) and (f) and 365* (Dkt. #183) filed by the Debtors on July 14, 2016 (the “Sale Motion”), and respectfully state:

PRELIMINARY REMARKS

1.

The Chapter 11 debtors in these jointly-administered Chapter 11 cases – Progressive Acute Care, LLC, Case No. 16-50740, Progressive Acute Care Avoyelles, LLC, Case No. 16-80584, Progressive Acute Care Oakdale, LLC, Case No. 16-50742, and Progressive Acute Care Winn, LLC, Case No. 16-50743, sometimes hereafter referred to as the “Joint Debtors” – all filed for relief under the Bankruptcy Code on May 31, 2016.

2.

The Schumacher Group holds a prepetition claim based on a state court judgment (and as supplemented by a further judgment to include awards of attorney fees and costs), the total judgment amount exceeding \$1.44 million with respect to the Joint Debtors in these jointly-administered Chapter 11 cases. A copy of the state court judgment for damages is attached hereto as Exhibit "A".

3.

The state court judgment representing the Joint Debtors' liability for damages, which totals \$1,244,951.27, was recorded in the following Parishes of the State of Louisiana:

- A. Avoyelles Parish – On March 4, 2016 in Mortgage Book 787, Page 732, as No. 2016-00001124;
- B. Allen Parish – On March 4, 2016 in Mortgage Book 398, Page 995, as No. 487748;
- C. Winn Parish – On March 4, 2016 in Mortgage Book 293, Page 320, as No. 217076; and
- D. St. Tammany Parish – On March 7, 2016 as No. 2014-109, registry 2423556.

4.

The above-described state court judgment for damages, when recorded, gave rise to judicial mortgages (liens) in favor of The Schumacher Group against the immovable assets of the Joint Debtors, respectively, in the Parishes of Avoyelles, Allen, Winn and St. Tammany, inclusive of all real estate comprised of hospitals, medical offices and other buildings and the underlying land.

OBJECTION TO PROPOSED ASSET SALE

5.

The Joint Debtors' Chapter 11 cases are only being jointly administered. No order for substantive consolidation of those Chapter 11 cases has been sought by the Debtors nor entered by the Court.

6.

The *Asset Purchase Agreement* executed by and between the Debtors and the stalking horse bidder, Central Louisiana Hospital Group, LLC ("CLHG"), does not include any breakdown or allocation of the purchase price offered for the Joint Debtors' assets:

- A. As among the respective non-consolidated bankruptcy estates of the four Joint Debtors; or
- B. As among the immovable (real estate) and non-immovable assets of each of the Joint Debtors.

7.

Holding judicial mortgages (liens) The Schumacher Group collectively objects to the proposed sale of the Joint Debtors' assets because the Joint Debtors cannot satisfy 11 U.S.C. §363(f).

8.

Applicable bankruptcy law does not permit a sale of the Joint Debtors' property free and clear of the liens held by The Schumacher Group.

9.

The Schumacher Group does not consent to the sale of the Joint Debtors' assets.

10.

The interests of The Schumacher Group are liens. The purchase price being offered is not greater than (a) the value of any lien held by Business First on each and every one of the real estate assets of the Joint Debtors and (b) the value of the lien or liens (judicial mortgages) held by The Schumacher Group on each and every one of such real estate assets.

11.

The interests (liens) of The Schumacher Group are not in bona fide dispute.

12.

The Joint Debtors do not propose a money satisfaction of the interests (liens) of The Schumacher Group.

For these reasons, The Schumacher Group prays that the sale of the Joint Debtors' assets proposed in the Sale Motion be denied.

Filed this 16th day of August, 2016.

By: /s/ Joseph P. Hebert

Joseph P. Hebert
(LA #6734; TX #00789095)
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Attorneys for The Schumacher Group of Louisiana, Inc., Iberia Physician Services, LLC, Iberia Emergency Group, LLC, Avoyelles Emergency Group, LLC, Winn Emergency Group, LLC and Allen Emergency Group, LLC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on the 16th day of August, 2016, the foregoing *Objection Of The Schumacher Group Entities To Proposed Asset Sale* has been filed electronically with the Clerk of Court using the CM/ECF system and notice of this filing has been sent to all parties or counsel of record who have registered to receive electronic service via the Court's ECF Filing System. I further certify that, on the same date, the above-mentioned filing was also sent to the following persons via electronic mail:

- J. Eric Lockridge (eric.lockridge@keanmiller.com);
- Boris I. Mankovetskiy (bmankovetskiy@sillscummis.com);
- Andrew H. Sherman (asherman@sillscummis.com);
- Gail Bowen McCulloch (gail.mcculloch@usdoj.gov);
- Barbara B. Parsons (bparsons@steffeslaw.com);
- Michael H. Piper (mpiper@steffeslaw.com);
- Noel Steffes Melancon (nsteffes@steffeslaw.com);
- William E. Steffes (bsteffes@steffeslaw.com);
- Office of U.S. Trustee (USTPRegion05.SH.ECF@usdoj.gov);

and to the following via United States First Class Mail, postage prepaid and properly addressed:

Progressive Acute Care, LLC
Post Office Box 5309
Abita Springs, LA 70420

Stephen D. Wheelis
Richard A. Rozanski
Wheelis & Rozanski
P.O. Box 13199
Alexandria, LA 71315-3199

Lafayette, Louisiana, this 16th day of August, 2016.

By: /s/ Joseph P. Hebert

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Attorneys for The Schumacher Group of Louisiana, Inc., Iberia Physician Services, LLC, Iberia Emergency Group, LLC, Avoyelles Emergency Group, LLC, Winn Emergency Group, LLC and Allen Emergency Group, LLC

EXHIBIT

“A”



D41659194

cc_maarceneaux

NOTICE OF SIGNING OF JUDGMENT

SCHUMACHER GROUP OF LOUISIANA
INC, ET AL

FIFTEENTH JUDICIAL DISTRICT COURT

VS

DOCKET NUMBER: C-20145874 J

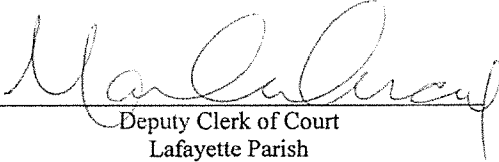
PROGRESSIVE ACUTE CARE LLC, ET AL

PARISH OF LAFAYETTE, LOUISIANA

TO: PATRICK J BRINEY
RYAN M GOUDELCKE
BARRY D ALEXANDER
WILLIAM F HOFFMAN

In accordance with Article 1913 of the Louisiana Code of Civil Procedure, you are hereby notified that judgment was rendered and signed in the above numbered and entitled cause on MARCH 3, 2016, a copy of which is attached hereto.

WITNESS my official hand and seal of office in Lafayette, Louisiana, this MARCH 3, 2016.


Deputy Clerk of Court
Lafayette Parish



THE SCHUMACHER GROUP OF LOUISIANA,
INC., IBERIA PHYSICIAN SERVICES, LLC,
IBERIA EMERGENCY GROUP, LLC,
AVOYELLES EMERGENCY GROUP, LLC,
WINN EMERGENCY GROUP, LLC, AND
ALLEN EMERGENCY GROUP, LLC

15th JUDICIAL DISTRICT COURT

VERSUS

DOCKET NO: 2014-5874 J

PROGRESSIVE ACUTE CARE, LLC,
PROGRESSIVE ACUTE CARE DAUTERIVE, LLC,
PROGRESSIVE ACUTE CARE AVOYELLES, LLC,
PROGRESSIVE ACUTE CARE WINN, LLC, AND
PROGRESSIVE ACUTE CARE OAKDALE, LLC LAFAYETTE PARISH, LOUISIANA

JUDGMENT

This matter came on for hearing on February 16, 2016, on Plaintiffs' *Motion to Reurge Plaintiffs' Peremptory Exception of No Cause of Action and/or Improper Use of Class Action Procedure and to Dismiss Alleged Class Action and Plaintiffs' Motion for Summary Judgment and Motion to Enforce Settlement Agreement*;

Present in Court were:

Mr. Michael P. Corry, Sr. and Mr. Patrick J. Briney for Plaintiffs, The Schumacher Group of Louisiana, Inc., Iberia Physician Services, LLC, Iberia Emergency Group, LLC, Avoyelles Emergency Group, LLC, Winn Emergency Group, LLC, and Allen Emergency Group, LLC, and

Mr. Ryan M. Goudelocke for Defendants, Progressive Acute Care LLC, Progressive Acute Care Dauterive, LLC, Progressive Acute Care Avoyelles, LLC, Progressive Acute Care Winn, LLC, and Progressive Acute Care Oakdale, LLC

2016 MAR -1 PM 1:54
CLERK OF COURT

The Court, having determined the *Motion to Compel Enforcement of Settlement Agreement* would be dispositive of all motions and pending matters in the case, heard the testimony of the witnesses and considered the evidence filed in support of and in opposition to the *Motion to Enforce*. The Court finds that the law and evidence is in favor of Plaintiffs and against the defendants, that the Plaintiffs and Defendants entered into a binding settlement agreement on April 29, 2014, and that Plaintiffs are entitled to Judgement for the reasons orally assigned:

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED THAT: *Plaintiffs' Motion to Enforce Settlement Agreement* is granted;

IT IS FURTHER ORDERED, ADJUDGED AND DECREED THAT: Progressive Acute Care, LLC and Progressive Acute Care Dauterive d/b/a Dauterive Hospital are liable, *in solido*, to Schumacher of Louisiana, Inc. and its subsidiary, Iberia Physicians Services, LLC, in the amount of \$22,928.49, plus interest at the rate of 8% per annum beginning on July 16, 2014;

IT IS FURTHER ORDERED, ADJUDGED AND DECREED THAT: Progressive Acute Care, LLC and Progressive Acute Care Dauterive d/b/a Dauterive Hospital are liable, in solido, to Schumacher of Louisiana, Inc. and its subsidiary, Iberia Emergency Group, LLC, in the amount of \$268,235.99, plus interest at the rate of 8% per annum beginning on July 16, 2014;

IT IS FURTHER ORDERED, ADJUDGED AND DECREED THAT: Progressive Acute Care, LLC and Progressive Acute Care Avoyelles, LLC d/b/a Avoyelles Hospital are liable, *in solido*, to Schumacher of Louisiana, Inc. and its subsidiary, Avoyelles Emergency Group, LLC, in the amount of \$214,390.00 plus interest at the rate of 8% per annum beginning on July 16, 2014;

IT IS FURTHER ORDERED, ADJUDGED AND DECREED THAT: Progressive Acute Care, LLC and Progressive Acute Care Oakdale, LLC d/b/a Oakdale Community Hospital are liable, *in solido*, to Schumacher of Louisiana, Inc. and its subsidiary, Allen Emergency Group, LLC, in the amount of \$322,252.04 plus interest at the rate of 8% per annum beginning on July 16, 2014;

IT IS FURTHER ORDERED, ADJUDGED AND DECREED THAT: Progressive Acute Care, LLC and Progressive Acute Care Winn, LLC d/b/a Winn Parish Medical Center are liable, *in solido*, to Schumacher of Louisiana, Inc. and its subsidiary, Winn Emergency Group, LLC, in the amount of \$417,144.75 plus interest at the rate of 8% per annum beginning on July 16, 2014;

IT IS FURTHER ORDERED, ADJUDGED AND DECREED THAT Defendants, Progressive Acute Care LLC, Progressive Acute Care Dauterive, LLC, Progressive Acute Care Avoyelles, LLC, Progressive Acute Care Winn, LLC, and Progressive Acute Care Oakdale, LLC, are liable, *in solido*, to Plaintiffs - The Schumacher Group of Louisiana, Inc., Iberia Physician Services, LLC, Iberia Emergency Group, LLC, Avoyelles Emergency Group, LLC, Winn Emergency Group, LLC, and Allen Emergency Group, LLC - for all of their attorneys' fees as well as all legal costs and expenses incurred by Plaintiffs in the management, prosecution and/or defense of the above captioned matter and associated claims;

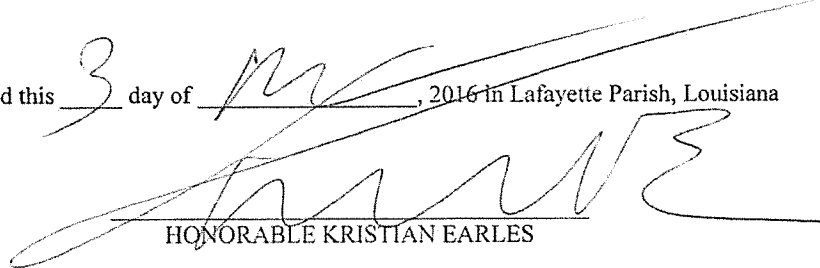
IT IS FURTHER ORDERED, ADJUDGED AND DECREED THAT: Plaintiffs are ordered to file a Motion to Fix the amount of their attorneys' fees as well as all legal costs and expenses incurred by Plaintiff in the management, prosecution and/or defense of the above captioned matter and associated claims, within fifteen (15) days of the signing of this judgement, and Plaintiffs are to submit affidavits and documentation setting forth the amounts they are claiming as to these attorneys' fees, legal costs and expenses;

IT IS FURTHER ORDERED, ADJUDGED AND DECREED THAT: in light of this Court's ruling, the Plaintiffs and Defendants are found by the Court to have entered into a binding settlement agreement and that, as such, Defendants' Reconventional Demand and Class Action should be and is hereby dismissed, with prejudice;

IT IS FURTHER ORDERED, ADJUDGED AND DECREED THAT; Plaintiffs' Motion for Summary Judgment is moot in light of this Court's ruling; and

IT IS FURTHER ORDERED, ADJUDGED AND DECREED THAT: Defendants pay all court costs.

Signed this 3 day of Mar, 2016 in Lafayette Parish, Louisiana



HONORABLE KRISTIAN EARLES

RESPECTFULLY SUBMITTED:

BRINEY FORET CORRY

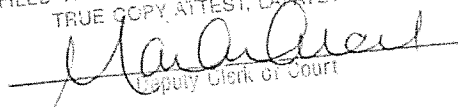
By: 

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ATTORNEYS FOR PLAINTIFFS,
THE SCHUMACHER GROUP OF LOUISIANA,
INC., IBERIA PHYSICIAN SERVICES, LLC,
IBERIA EMERGENCY GROUP, LLC,
AVOYELLES EMERGENCY GROUP, LLC,
WINN EMERGENCY GROUP, LLC AND ALLEN
EMERGENCY GROUP, LLC

FILED THIS 3 DAY OF Mar, 2016
TRUE COPY ATTEST, LAFAYETTE, LA

Deputy Clerk of Court

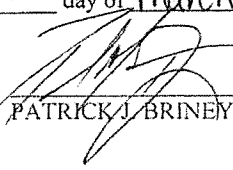


CERTIFICATE

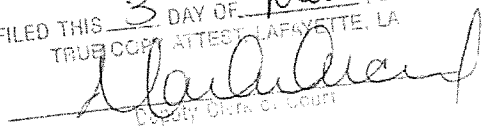
I HEREBY CERTIFY that a copy of the above and foregoing Pleading was this day forwarded to all counsel of record by depositing a copy of same via:

- United States Mail
- Certified Mail
- Facsimile
- Hand Delivery
- Email
- Overnight Mail

Lafayette, Louisiana, this 12 day of March, 2016.



 PATRICK J. BRINEY - 03467

FILED THIS 3 DAY OF Mar, 2016
 TRUE COPY ATTEST LAFAYETTE, LA

 Clerk of Court



THE SCHUMACHER GROUP OF LOUISIANA,
INC., IBERIA PHYSICIAN SERVICES, LLC,
IBERIA EMERGENCY GROUP, LLC,
AVOYELLES EMERGENCY GROUP, LLC,
WINN EMERGENCY GROUP, LLC, AND
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15th JUDICIAL DISTRICT COURT

VERSUS

DOCKET NO: 2014-5874 J

PROGRESSIVE ACUTE CARE, LLC,
PROGRESSIVE ACUTE CARE DAUTERIVE, LLC,
PROGRESSIVE ACUTE CARE AVOYELLES, LLC,
PROGRESSIVE ACUTE CARE WINN, LLC, AND
PROGRESSIVE ACUTE CARE OAKDALE, LLC LAFAYETTE PARISH, LOUISIANA

RULE 9.5 CERTIFICATE

I certify that I circulated this proposed Judgment to counsel for all parties and/or to self-represented parties by email on February 19, 2016, and that:

The following opposition was received:


Counsel for Defendants, Ryan Goudelocke, objected to the paragraph of the Judgment holding all defendants liable, *in solido*, for Plaintiffs' attorneys fees and costs. Otherwise Mr. Goudelocke registered no objection to the Judgement.


I have allowed at least five (5) working days before presentation to the court.

Certified this 1st day of March, 2016.

RESPECTFULLY SUBMITTED:

~~BRINEY FORET CORRY~~

By: 
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SERVICES, LLC, IBERIA EMERGENCY
GROUP, LLC, AVOYELLES EMERGENCY
GROUP, LLC, WINN EMERGENCY GROUP,
LLC AND ALLEN EMERGENCY GROUP,
LLC

FILED THIS 3 DAY OF Mar, 2016
TRUE COPY ATTEST, LAFAYETTE, LA

Deputy Clerk of Court