

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

Hearing Date and Time
September 13, 2013 @ 10:00 am

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Chapter 11

In Re:

**SOUND SHORE MEDICAL CENTER
OF WESTCHESTER,**

Case No. 13-22840 (RDD)

Debtor.

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**APPLICATION FOR ENTRY OF ORDER
MODIFYING THE AUTOMATIC STAY PROVISIONS OF SECTION 362(a) OF THE
BANKRUPTCY CODE, AND GRANTING SUCH OTHER AND FURTHER RELIEF AS
THIS COURT MAY DEEM JUST AND PROPER**

TO THE HONORABLE ROBERT D. DRAIN,
UNITED STATES BANKRUPTCY JUDGE:

The application of Frank Allgaier (öAllgaierö), by his counsel, Shafferman & Feldman
LLP, respectfully represents:

1. On or about January 24, 2012, Allgaier commenced a medical malpractice
action against Sound Shore Medical Center of Westchester, the debtor and debtor in possession (the
öDebtorö) among other defendants, in the Supreme Court of the State of New York, Westchester
County (Index Number 51100/13) (the öState Court Actionö)(Annexed hereto as Exhibit öAö is a
copy of Notice of Medical Malpractice Action in the State Court Action.).

2. On May 29, 2013 (the öPetition Date"), the Debtor filed a voluntary petition
for relief under Chapter 11 of Title 11 of the United States Code (the "Bankruptcy Code"), and has

continued in the operation and management of its business and property as a debtor in possession pursuant to sections 1107 and 1108 of the Bankruptcy Code.

3. The Office of the United States Trustee has appointed an Official Committee of Unsecured Creditors in this case.

4. Pursuant to the provisions of section 362(a) of the Bankruptcy Code, Allagier is automatically stayed from taking any action against the Debtor, taking any action to obtain possession of property of the Debtor or of its case, or to exercise control over any property of the Debtor or its estate or from continuing any action against the Debtor, including but not limited to, the State Court Action.

5. Upon information and belief, the debtor has adequate and sufficient insurance coverage in to pay for any settlement, verdict and/or judgment for damages claimed by Allagier. Additionally, upon information and belief this insurance coverage was in full force and effect at the time that the claim asserted by Allagier arose. The Debtor's Chapter 11 case will not be affected by permitting Allagier to proceed with his medical malpractice claim due to the insurance coverage.

6. Based upon the foregoing, it is respectfully submitted that allowing Allagier to proceed with his claim for medical malpractice will in no way jeopardize or prejudice any of the rights of the Debtor or its estate. Therefore, Allagier submits that pursuant to section 362(d)(1) of the Bankruptcy Code, there is sufficient cause to support entry of an order modifying the automatic stay provisions of section 362(a) of the Bankruptcy Code to allow Allagier to continue prosecution of the State Court Action through its conclusion, to the extent of available insurance coverage.

WHEREFORE, Allagier respectfully requests the entry of an order (1) modifying the automatic stay provisions of section 362(a) of the Bankruptcy Code, to enable him to continue prosecution of the State Court Action, through its conclusion, to the extent of the available medical malpractice insurance coverage, and (2) granting Allagier such other relief as is just and proper.

DATED: New York, New York
August 15, 2013

SHAFFERMAN & FELDMAN LLP
Counsel for Frank Allgaier
18 East 41st Street, Suite 1201
New York, New York 10017
(212) 509-1802

By: /S/ Joel M. Shafferman
Joel M. Shafferman

NOTICE OF MEDICAL MALPRACTICE ACTION



**SUPREME COURT: STATE OF NEW YORK
COUNTY OF WESTCHESTER**

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FRANK ALLGAIER,

Plaintiff,

-against-

**ROBERT CRISTOFORO, MD,
JOHN NELSON, MD,
SOUND SHORE MEDICAL CENTER OF
WESTCHESTER, and CABRINI NURSING
AND REHABILITATION CENTER,**

Index No.: 51100/13

Defendants.
-----X

PLEASE TAKE NOTICE that the above action for **MEDICAL** malpractice was commenced by filing of a summons and complaint on **1/24/12**, that issue was joined therein on **3/4/13**, and that the action has not been dismissed, settled or otherwise terminated.

1. Full name, address and age of each plaintiff: **Frank Allgaier
51 Wayne Ave.
White Plains, NY 10606**

2. Full name and address of each defendant: **ROBERT CRISTOFORO, MD
3010 Westchester Avenue - #104
Purchase, NY 10571**

**JOHN NELSON, MD
3010 Westchester Avenue - #104
Purchase, NY 10571**

**SOUND SHORE MEDICAL
CENTER OF WESTCHESTER**

16 Guion Place
New Rochelle, NY 10801

**CABRINI NURSING &
REHABILITATION CENTER**

115 Broadway
Dobbs Ferry, NY 10522

3. Alleged specialty: **PHYSICIAN**
4. Claim is for **MEDICAL** malpractice.
5. Date and place claim arose: **9/14/12**
Sound Shore Med. Ctr.
16 Guion Pl., New Rochelle, NY 10801
6. Substance of Claim: **MEDICAL MALPRACTICE**
7. The following items are attached:
 - (a) Proof is attached that authorizations to obtain **MEDICAL** records have been served upon the defendants in the action.
 - (b) Copies of the **Summons, Notice of Appearance, all Pleadings, Certificate of Merit**, if required, and the **Bill of Particulars**, if served, are attached.
 - (c) Demand has not been made for arbitration.
 - (d) Information required by CPLR 3101(d)(1)(i) is not available.
8. Names, addresses, and telephone numbers of counsel for all parties:

Joshua A. Schulman, Esq.
Attorney for Plaintiff
80 Wall Street ó Suite 1214
New York, NY 10005
(212) 509-4222

Santangelo Benvenuto & Slattery
Attorneys for Defendants
Cristoforo, MD,
Nelson, MD
Sound Shore Medcial Center
1800 Northern Blvd.
Roslyn, NY 11576
(516) 775-2236

Cabrini Nursing & Rehabilitation Center
Defendant Pro Se
115 Broadway
Dobbs Ferry, NY 10522

Dated: New York, NY
3/11/13

Law Offices of
JOSHUA A. SCHULMAN, LLC

Joshua A. Schulman
Attorney for Plaintiff
80 Wall Street ó Suite 1214
New York, NY 10005
(212) 509-4222

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

JOSHUA A. SCHULMAN, an attorney duly licensed to practice law before the courts of the State of New York, affirms the following under the penalties of perjury:

On March 11th, 2013 affirmant served the within:

**NOTICE OF MEDICAL MALPRACTICE
REQUEST FOR JUDICIAL INTERVENTION and
RELATED DOCUMENTS**

upon:

Santangelo Benvenuto & Slattery
Attorneys for Defendants
**Cristoforo, MD,
Nelson, MD**
Sound Shore Medcial Center
1800 Northern Blvd.
Roslyn, NY 11576
(516) 775-2236

Cabrini Nursing & Rehabilitation Center
Defendant Pro Se
115 Broadway
Dobbs Ferry, NY 10522

the address designated by said attorney(s) for that purpose by depositing a true copy of same enclosed in a post-paid, properly addressed wrapper, in an official depository under the exclusive care and custody of the United States Postal Service within the State of New York.

Dated: New York, NY
3/11/13

Law Offices of
JOSHUA A. SCHULMAN, LLC

Joshua A. Schulman
Attorney for Plaintiff
80 Wall Street ó Suite 1214
New York, NY 10005
(212) 509-4222

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

Hearing Date and Time
September 13, 2013 @ 10:00 am

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Chapter 11

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**NOTICE OF MOTION OF APPLICATION FOR ENTRY OF ORDER
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THIS COURT MAY DEEM JUST AND PROPER**

PLEASE TAKE NOTICE, that upon the annexed application of Frank Allgaier, by his counsel, Shafferman & Feldman LLP, dated August 15, 2013, a hearing (the "Hearing") will be held before **the United States Bankruptcy Court, 300 Quarropus Street, White Plains, New York 10601 on the 13th day of September, 2013 at 10:00 am**, or as soon thereafter as counsel can be heard, for entry of an order modifying the automatic stay pursuant to section 362(d)(1) of the United States Code, to permit Frank Allgaier to prosecuted state court malpractice action through its conclusion, to the extent of the available medical malpractice insurance coverage, together with such other and further relief as the Court deems just and proper.

PLEASE TAKE FURTHER NOTICE, that objections, if any, to the relief sought in the application, must be in writing setting forth the facts and authorities upon which an objection is based, filed with the Clerk of the Court, United States Bankruptcy Court, 300 Quarropus Street, White

Plains, New York 10601, with a copy to Judge Drain's Chambers, provided, however, that pursuant to *general order* No. M-182 re Electronic Case Filing Procedures (as amended from time to time), entities with Internet access shall file objections (formatted with Adobe Acrobat, rider 3.0) at <http://www.nysb.uscourts.gov>, and served so as to be received by the attorneys for Frank Allgaier, Shafferman & Feldman LLP, 18 East 41st Street, Suite 1201, New York, New York 10017, Attention: Joel M. Shafferman, Esq., and the United States Trustee's Office, Southern District of New York, 201 Varick Street, Room 1006, New York, New York 10014, no later than **seven (7) days** prior to the Hearing Date.

PLEASE TAKE FURTHER NOTICE, that the Hearing may be adjourned from time to time without further notice except by announcement of such adjournment in open court on the date scheduled for the Hearing.

DATED: New York, New York
August 15, 2013

SHAFFERMAN & FELDMAN LLP
Counsel for Frank Allgaier
18 East 41st Street, Suite 1201
New York, New York 10017
(212) 509-1802

By: /S/ Joel M. Shafferman
Joel M. Shafferman