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SCHILLER & KNAPP, LLP 950 New Loudon Road, Suite 109 Latham, New York 12110 (518) 786-9069 Martin A. Mooney, Esq. (MM 8333)

#### UNITED STATES BANKRUPTCY COURT SOUTHERN DISTRICT OF NEW YORK

In Re:

SOUND SHORE MEDICAL CENTER OF WESTCHESTER, <u>et al.</u>,

Debtors.

MOTION FOR RELIEF FROM AUTOMATIC STAY PURSUANT TO 11 U.S.C. SECTION 362(d)(1)

Case No. 13-22840-RDD (Chapter 11) (Jointly Administered)

Ford Motor Credit Company, a secured creditor in the above-captioned bankruptcy case, by its counsel, SCHILLER & KNAPP, LLP, as and for a Motion for Relief from Automatic Stay pursuant to 11 U.S.C. Section 362(d)(1), or, in the alternative, for adequate protection, states the following as grounds therefor:

1. On May 29, 2013, the debtor, The Mount Vernon Hospital, filed a voluntary petition in Bankruptcy under Title 11, Chapter 11, U.S.C., in the United States Bankruptcy Court, for the Southern District of New York.

2. The Court has jurisdiction to entertain this motion under 28 U.S.C. Section 157.

3. Ford Motor Credit Company (hereinafter "FMCC") is a secured creditor herein and the holder of a duly perfected purchase money security interest in one (1) 2008 Ford Expedition (V.I.N. 1FMFU16598LAGB407) (hereinafter "collateral") owned by the debtor, above-named.

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4. Pursuant to 11 U.S.C. Section 362, upon the commencement of the instant bankruptcy case, ACFS is stayed from taking any action against the debtor to obtain liquidate the collateral.

5. On March 3, 2009, the debtor, The Mount Vernon Hospital entered into a Retail Installment Contract (hereinafter "Contract") with Rye Ford, Inc. (hereinafter "dealer") for the purchase of the collateral. Pursuant to the terms and conditions of the Contract, the dealer was granted a purchase money security interest in the collateral. Thereafter, the Contract, pursuant to its terms, was duly assigned by the dealer to FMCC for good and valuable consideration. FMCC is now the holder and owner of said Contract. A copy of the Contract and evidence of the recorded lien are collectively annexed hereto and referred to as Exhibit "A" and made a part hereof.

6. As of November 14, 2013, the debtor was in default of its payment obligations to FMCC pursuant to the terms and conditions of the Contract as follows:

- a. Net balance due: \$6,215.89
- b. Post-petition arrears: \$598.85 for the months of June through October, 2013, together with applicable late charges.

(**NOTE:** The foregoing does not represent any amount which may be due for costs and attorneys' fees as may be allowed by the Court.)

7. FMCC has ascertained that the wholesale value of its security is THIRTEEN THOUSAND NINE HUNDRED TWENTY FIVE (\$13.925.00) DOLLARS based on estimated value of the collateral in average condition.

8. The debtor has failed to redeem the collateral pursuant to 11 U.S.C. Section 522 and has not reaffirmed underlying obligation to FMCC pursuant to 11 U.S.C. Section 524.

9. Upon information and belief, the debtor has surrendered the collateral.

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10. It is respectfully asserted that FMCC's interest in the collateral will not be adequately protected if the automatic stay is allowed to remain in effect.

11. Accordingly, sufficient cause exists to grant FMCC relief from the automatic stay herein which includes, but is not limited to, the following:

a. The debtor is in default under the terms and conditions of the Retail Installment Contract.

b. The security interest of FMCC with respect to the collateral is not adequately protected as envisioned under 11 U.S.C. Section 361.

c. The debtor has surrendered the collateral.

12. It is respectfully submitted that FMCC is in a more advantageous position to obtain an optimum price for the sale of the collateral thereby increasing the possibility of generating a surplus for distribution to creditors of the estate.

13. Alternatively, in the event relief from automatic stay is not granted, then FMCC respectfully requests that the Court compel the debtor to provide adequate protection to FMCC (a) curing any default of payment obligations arising pursuant to the terms and conditions of the Contract; (b) continuing to make payment in timely fashion thereunder, (c) maintaining adequate and continuous insurance coverage on the collateral, and (d) providing such other adequate protection as the Court may deem proper.

14. In the event this request for adequate protection is granted, and the debtor retains possession of the collateral, then FMCC respectfully requests that it be entitled to the immediate possession of the collateral without further Court proceedings in the event of default by the debtor under any provisions for adequate protection which may be awarded herein.

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15. No prior application for the relief requested herein has been made.

WHEREFORE, Ford Motor Credit Company respectfully requests that the Court issue an Order, pursuant to 11 U.S.C. Section 362 (a) granting FMCC from automatic stay in order to liquidate its collateral, or, in the alternative, (b) directing the debtor to provide for the adequate protection of the security interest of FMCC in the collateral as hereinabove requested, and for such other and further relief as to the Court may seem just and proper.

DATED: November 26, 2013 Latham, New York

FORD MOTOR CREDIT COMPANY By Its Counsel

/s/ Martin A. Mooney Martin A. Mooney, Esq. SCHILLER & KNAPP, LLP 950 New Loudon Road, Suite 109 Latham, New York 12110 Tel. (518) 786-9069 mmooney@schillerknapp.com

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rhursday, 13-22840-rdd Doc 460-1 Filed 11/27/13 Entered 11/27/13 08:59:58 Exhibit A NYS DMV - Check the Status of a Title Certificate of a Lien - Verify Your Vehicle Infor... Page 1 of 1

#### New York State DMV - Internet Office Transactions Check the Status of a Title Certificate or a Lien

#### Step 2: Verify Your Vehicle Information

VIN number: 1FMFU16598LA68407 Model year: 2008 Vehicle Make: FORD

Title Issue Date: 05/01/2009 Number of Liens: 01

11.32

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Liens: FORD MOTOR CREDIT

#### Instructions for Step 2:

Make sure that the VIN number, year and make are for your vehicle. They should match the information printed on your vehicle's <u>registration</u> <u>documents</u>.

If you recently ordered a duplicate title, please allow 1 to 2 weeks from the Title Issue Date to receive your title in the mail.

If this is NOT the correct vehicle...

- Use your browser's "Back" button to return to Step 1 and verify your entries. Make any necessary corrections and try again.
- If you have entered all of your information correctly, and this page still shows the wrong vehicle, then you will need to contact the <u>Title Services Bureau</u>.

11	Privacy and Security	Transactions Menu	DHV Home
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SCHILLER & KNAPP, LLP 950 New Loudon Road, Suite 109 Latham, New York 12110 (518) 786-9069 Martin A. Mooney, Esq. (MM 8333)

#### UNITED STATES BANKRUPTCY COURT SOUTHERN DISTRICT OF NEW YORK

In Re:

SOUND SHORE MEDICAL CENTER OF WESTCHESTER, et al.,

Debtors.

# Date of Hearing:February 4, 2014Time of Hearing:10:00 amPlace of Hearing:White Plains, NY

#### NOTICE OF MOTION FOR RELIEF FROM AUTOMATIC STAY PURSUANT TO 11 U.S.C. SECTION 362(d)(1)

Case No. 13-22840-RDD (Chapter 11) (Jointly Administered)

SIRS:

PLEASE TAKE NOTICE that upon the Motion for Relief from Automatic Stay pursuant to 11 U.S.C. Section 362(d)(1), of secured creditor, Ford Motor Credit Company, dated November 26, 2013, the undersigned will move at a hearing to be held at the United States Bankruptcy Court, U.S. Courthouse, 300 Quarropas Street, Courtroom 118, White Plains, New York on the 4th day of February, 2014 at 10:00 am of that day, or as soon thereafter as counsel can be heard, for an Order, pursuant to 11 U.S.C. Section 362(d)(1), granting such creditor relief from automatic stay, or, in the alternative, directing the debtor, above-named, to immediately provide for the adequate protection of any property subject to the security interests of such creditor; and for such other and further relief as to the Court may seem just and proper.

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PLEASE TAKE FURTHER NOTICE that pursuant to Rule 9006-1, Local Rules of Bankruptcy Practice for the Southern District of New York, answering papers and memoranda of law, if any, must be filed with the Court and served upon the undersigned so as to be received by the undersigned no later than seven (7) days before the return date of this motion.

DATED: November 26, 2013 Latham, New York

Yours, etc.

<u>/s/ Martin A. Mooney</u> Martin A. Mooney, Esq. SCHILLER & KNAPP, LLP Attorneys for Creditor Ford Motor Credit Company 950 New Loudon Road, Suite 109 Latham, New York 12110 Tel. (518) 786-9069

TO: Burton S. Weston, Esq. Attorney for Debtor 111 Great Neck Road Great Neck, New York 11021

> Office of the U.S. Trustee Office of the United States Trustee U.S. Federal Office Building 201 Varick Street, Room 1006 New York, New York 10014

The Mount Vernon Hospital (Debtor) 12 North Seventh Avenue Mount Vernon, New York 10550

GCG, Inc. (Claims and Noticing Agent) 1985 Marcus Avenue, Suite 200 New Hyde Park, New York 11042

Attached List of Largest Creditors

Allscripts Healthcare, LLC P.O. Box 8538-0133 Lockbox #077133 Philadelphia, PA 19171-0133

Americoucebergen Drug Cor. 101 Norfolk Street Mansfield, MA 02048

Stryker Orthopedics 480 South Dean Street New Jersey Sales Office Englewood, NJ 07631

Convergent Revenue Cycle M 1357 Heathcott Blvd., Suite 300 Gainesville, VA 20155

1199 SEIU National Benefit 330 West 42<sup>nd</sup> Street New York, New York 10036

New York Medical College Attn: Dr. Marc Wallack 40 Sunshine Cottage Road Valhalla, New York 10595

TGC LLC c/o Theodore N. Giovanis P.O. Box 130 Highland, MD 20777

Miller & Milone, P.C. Attn: Karen A. Till 100 Quentin Roosevelt Blvd. Garden City, New York 11530

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Oceanside Institutional Attn: Sheila 2525 Long Beach Road Oceanside, New York 11572

New York Radiology Alliance Attn: Jonathan Schwartz 25983 Network Place Chicago. IL 60673-1259

Health/ROI PO Box 362 344 Main Street Metuchen, NJ 08840

Healthcare Assoc. of NYS Attn: Larry Edinger Albany, New York 10087-5535

Emergency Medical Association Attn: Benjamin Carrino 651 W. Mt. Pleasant Avenue Livingston, NJ 07039

Medtronic USA, Inc. Attn: John Hauwiller 4642 Collection Center Drive Chicago, IL 60693

Nutrition Mgmt Services Co. Attn: George 2071 Kimberton Road Kimberton, PA 19442

Modern Medical Systems Attn: WM Pope 170 Finn Court, Suite 1 Farmingdale, New York 11735

Children's Phy. Of West LL New York Medical College Valhalla, New York 10595 Enterprise Systems Software, LLC-ESD Attn: David Mikola 5151 Monroe Street, Suite 101 Toledo, OH 43623

Fresenius Management Ser. Attn: Karen Vaughin 16343 Collections Center Drive Chicago, IL 60693

Michael Anthony Contracting Attn: John Ballo 161 Rail Road Avenue Garden City Park, New York 11040

Cannon Design Attn: Jennie M. Muscarella, Esq. 360 Madison Avenue New York, New York 10017

New York Blood Center Attn: Melissa 1200 Prospect Avenue Westbury, New York 11590

Medline Industries Attn: Dave Gilligan One Medline Place Mundelein, IL 60060-4485

Pension Benefit Guaranty Corp. Attn: Franklin G. Tate, Jr. P.O. Box 64880 Baltimore, MD 21264-4880

Dormitory Authority of SNY Attn: S. Stevens Counsels Office 515 Broadway Albany, New York 12207

McKesson Information Sol. P.O. Box 98347 Chicago, IL 60693

Apollo Health Street, Inc. 2 Brighton Road, Suite 300 Clifton, NJ 07012 Westchester County Health Care Corp, a/k/a Westchester Medical Center Attn: Julie Switzer 100 Woods Road Valhalla, New York 10595

Greystone Servicing Corporation, Inc. 111 Rockville Pike, Suite 1150 Rockville, MD 20850

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SCHILLER & KNAPP, LLP 950 New Loudon Road, Suite 109 Latham, New York 12110 (518) 786-9069 Martin A. Mooney, Esq. (MM 8333)

#### UNITED STATES BANKRUPTCY COURT SOUTHERN DISTRICT OF NEW YORK

In Re:

#### **AFFIDAVIT OF FACT**

## SOUND SHORE MEDICAL CENTER OF WESTCHESTER, et al.,

Case No. 13-22840-RDD (Chapter 11) (Jointly Administered)

Debtors.

STATE OF MICHIGAN

) ss.:

COUNTY OF WAYNE

Danielle Walker, being duly sworn, deposes and says:

)

)

1. I am a Bankruptcy Specialist for Ford Motor Credit Company is a foreign corporation, duly authorized to do business in the State of New York.

2. I have direct access to and am familiar with the facts and circumstances set forth in this Affidavit by reason of the examination of the books and records maintained by Ford Motor Credit Company in the ordinary course of business.

3. This Affidavit is submitted pursuant to Local Bankruptcy Rules and in support of Ford Motor Credit Company's Motion for Relief from the Automatic Stay in this case pursuant to 11 U.S.C. Section 362(d). 13-22840-rdd Doc 460-3 Filed 11/27/13 Entered 11/27/13 08:59:58 Affidavit of Fact Pg 2 of 2

4. A review of the records maintained by Ford Motor Credit Company reveals that the debtor is in default of its payment obligations to Ford Motor Credit Company in that as of November 14, 2013, payments have not been made for the months of June through October, 2013. The net balance due and owing as of November 14, 2013 was \$ 6,215.89. Based upon the foregoing default in payment, Ford Motor Credit Company seeks relief from the automatic stay so that it may liquidate the collateral, one (1) 2008 Ford Expedition (V.I.N. 1FMFU16598LAGB407). The wholesale value of the collateral as of the date of the filing of the instant motion, pursuant to the NADA Official Used Car Guide was \$13.925.00.

I have read the Motion for Relief from the Automatic Stay dated November 19,
 2013 and attest to the allegations set forth therein.

WHEREFORE, your deponent respectfully requests that the Court grant Ford Motor Credit Company's Motion for Relief from the Automatic Stay pursuant to 11 U.S.C. Section 362(d); and for such other and further relief as to the Court may seem just and proper.

Nanielle Welker

Sworn to before me this 2/2 day of November, 2013.

Notary Public-State of

13.10452

Loratta Kaczmanozyk Niotary Public Navne County Michigan . 9 Commission Expires 4/11/2018 13-22840-rdd Doc 460-4 Filed 11/27/13 Entered 11/27/13 08:59:58 Certificate of Service Pg 1 of 4

SCHILLER & KNAPP, LLP 950 New Loudon Road, Suite 109 Latham, New York 12110 (518) 786-9069 Martin A. Mooney, Esq. (MM 8333)

UNITED STATES BANKRUPTCY COURT SOUTHERN DISTRICT OF NEW YORK

In Re:

SOUND SHORE MEDICAL CENTER OF WESTCHESTER, et al.,

Debtors.

Case No. 13-22840-RDD (Chapter 11) (Jointly Administered)

#### **CERTIFICATE OF SERVICE**

I, David A. Carta, certify that I am not less than eighteen (18) years of age; that service of the Notice of Motion, Motion for Relief from Automatic Stay Pursuant to 11 U.S.C. Section 362(d)(1) (with attached Exhibits) and Affidavit of Fact was made on November 27, 2013.

Mail Service: Regular, first-class United States mail, postage fully pre-paid, addressed to:

The Mount Vernon Hospital (Debtor) 12 North Seventh Avenue Mount Vernon, New York 10550

GCG, Inc. (Claims and Noticing Agent) 1985 Marcus Avenue, Suite 200 New Hyde Park, New York 11042 Office of the U.S. Trustee Office of the United States Trustee U.S. Federal Office Building 201 Varick Street, Room 1006 New York, New York 10014

E-Mail Service: via e-mail notification to the following:

Burton S. Weston, Esq. Attorney for Debtor Garfunkel Wild, P.C. Great Neck, New York 11021 bweston@garfunkelwild.com

And Mail Service of the Notice of Motion to attached List of Largest Creditors Regular, first-class United States mail, postage fully pre-paid, addressed to:

/s/ David A. Carta\_\_\_\_ David A. Carta

Allscripts Healthcare, LLC P.O. Box 8538-0133 Lockbox #077133 Philadelphia, PA 19171-0133

Americoucebergen Drug Cor. 101 Norfolk Street Mansfield, MA 02048

Stryker Orthopedics 480 South Dean Street New Jersey Sales Office Englewood, NJ 07631

Convergent Revenue Cycle M 1357 Heathcott Blvd., Suite 300 Gainesville, VA 20155

1199 SEIU National Benefit 330 West 42<sup>nd</sup> Street New York, New York 10036

New York Medical College Attn: Dr. Marc Wallack 40 Sunshine Cottage Road Valhalla, New York 10595

TGC LLC c/o Theodore N. Giovanis P.O. Box 130 Highland, MD 20777

Miller & Milone, P.C. Attn: Karen A. Till 100 Quentin Roosevelt Blvd. Garden City, New York 11530

of Service

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**Oceanside Institutional** Attn: Sheila 2525 Long Beach Road Oceanside, New York 11572

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