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**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

	§	
	§	
In re:	§	Chapter 11
	§	
4 West Holdings, Inc. <i>et al.</i> , <sup>1</sup>	§	Case No. 18-30777
	§	
Debtors.	§	(Joint Administration Requested)
	§	
	§	

**MOTION OF THE DEBTORS FOR ENTRY OF INTERIM AND FINAL ORDERS  
AUTHORIZING THE DEBTORS TO (I) MAINTAIN, ADMINISTER  
AND MODIFY THEIR REFUND PROGRAMS AND PRACTICES,  
AND (II) HONOR OBLIGATIONS RELATED THERETO**

The above-captioned debtors (collectively the “Debtors”), by and through their proposed counsel, DLA Piper LLP (US), hereby submit this motion (the “Motion”) for entry of an interim order, substantially in the form attached hereto as Exhibit B (the “Proposed Interim Order”) and a final order, substantially in the form attached hereto as Exhibit C (the “Proposed Final Order”)

<sup>1</sup> A list of the Debtors in these Chapter 11 Cases, along with the last four digits of each Debtor’s federal tax identification number, is attached hereto as Exhibit A.

and, together with the Proposed Interim Order, the “Proposed Orders”), pursuant to sections 105(a), 363, 503(b)(1), 507(a), 1107(a), and 1108 of title 11 of the United States Code (the “Bankruptcy Code”), Rules 6003 and 6004 of the Federal Rules of Bankruptcy Procedures (the “Bankruptcy Rules”), (a) authorizing the Debtors (i) to maintain, administer, modify, their Refund Program (as defined herein) and make payments to residents and Third-Party Payors (as defined herein) or to otherwise honor accrued prepetition obligations owed under their Refund Program (collectively, and as identified herein, the “Refund Program Obligations”) and (ii) to continue, replace, modify, or terminate any Refund Program in the ordinary course of business, and (b) granting certain related relief. In support of the Motion, the Debtors rely upon, and incorporate by reference, the *Declaration of Louis E. Robichaux IV in Support of Chapter 11 Petitions and First Day Pleadings* (the “First Day Declaration”),<sup>2</sup> filed with the Court contemporaneously herewith. In further support of the Motion, the Debtors respectfully represent as follows:

### **JURISDICTION AND VENUE**

1. The Court has jurisdiction over the Debtors, their estates, and this matter under 28 U.S.C. §§ 157 and 1334. This is a core proceeding under 28 U.S.C. § 157(b)(2).
2. Venue is proper before this Court under 28 U.S.C. §§ 1408 and 1409.

### **BACKGROUND**

3. On the date hereof (the “Petition Date”), each Debtor filed with this Court a voluntary petition under the Bankruptcy Code.
4. The Debtors continue to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee,

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<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the meaning ascribed to them in the First Day Declaration.

examiner, or official committee of unsecured creditors has been appointed in the Debtors' chapter 11 cases (the "Chapter 11 Cases").

5. Additional information regarding the Debtors and these Chapter 11 Cases, including the Debtors' business operations, capital structure, financial condition, and the reasons for and objectives of these Chapter 11 Cases, is set forth in the First Day Declaration.

### **RELIEF REQUESTED**

6. By this Motion, the Debtors respectfully request entry of the Proposed Orders, pursuant to sections 105(a), 363, 503(b)(1), 507(a), 1107(a), and 1108 of the Bankruptcy Code and Bankruptcy Rules 6003 and 6004, (a) authorizing the Debtors (i) to maintain, administer, and modify their Refund Program and make payments thereunder to residents and Third-Party Payors or to otherwise honor Refund Program Obligations, and (ii) to continue, replace, modify, or terminate any Refund Program in the ordinary course of business, and (b) granting certain related relief.

### **THE DEBTORS' REFUND PROGRAM AND PRACTICES**

7. In the ordinary course of business, the Debtors are required to make refunds to residents and third-party payors, including healthcare insurers, private pay sources ("Private Third Party Payors"), Medicare, and Medicaid and other governmental and quasi-governmental agencies (and together with Private Third Party Payors, the "Third-Party Payors"), when overpayments are identified.<sup>3</sup> The Debtors routinely issue refunds for reimbursement of overpayments made by or on behalf of residents resulting from the interaction between the

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<sup>3</sup> Furthermore, the terms in the standard Admission Agreement signed by every resident entering a facility provides that: "All refunds that are payable to the Resident or the Resident's estate shall be confirmed by an audit performed by the Facility's central accounting service. All refunds: (a) [s]hall be made regardless of the reason for the Resident leaving the Facility; (b) [s]hall be remitted with a full accounting if and when so requested; and (c) [s]hall be made payable to the Resident, his/her assigned representative or governmental or legal agency as directed by law. Where Medicare, Medicaid or other third-party coverage is involved, refunds may be delayed until formal determination and documentation of the Resident's eligibility is received by the Facility from the appropriate third-party payor."

Debtors' billing procedures, resident medical insurance deductibles, and third-party payments, including payments made in connection with extended repayment plans with the applicable federal or state agencies overseeing Medicare and Medicaid (the "Refund Program").

8. The case-by-case nature of the myriad of services provided to the residents of the Debtors' skilled nursing facilities makes the process of determining each resident's insurance coverage particularly complex. As a result, whether due to data input errors during claims processing, or overpayments arising from coordination-of-benefits issues among multiple insurers, resident accounts—once fully processed and reconciled—may contain credit balances. Once the Debtors receive payments from residents or insurers, the Debtors review accounts that have credit balances and refund any surplus to the resident or the Third-Party Payor who is due a refund based on an overpayment. Depending on the magnitude of such overpayments, the Debtors sometimes enter into an extended repayment plan with the applicable federal or state agencies overseeing Medicare and Medicaid.

9. When the Debtors discover or otherwise verify an overpayment from a resident or Private Third-Party Payor, the amount of the overpayment is entered into the Debtors' billing system, which then administers refunds to the resident or Private Third-Party Payor, as appropriate. There is typically a significant lag between when the resident is treated, when the overpayment is recognized or determined, and when the overpayment is entered into the Debtors' billing system. After the overpayment amount is entered into the billing system, the Debtors issue a check or other form of payment to the resident or Private Third-Party Payor in the amount of the overpayment.

10. At any given time, it is difficult to determine the amount of outstanding overpayments that have been made and identified, but for which a refund check has not yet been

issued. Moreover, some refund checks issued to residents or Third-Party Payors before the Petition Date may not have been presented for payment or may not have cleared the Debtors' banking system and, accordingly, have not been honored and paid as of the Petition Date. Nonetheless, the Debtors are required, under the laws of various states, to reimburse residents and Third-Party Payors as overpayments are identified. The Debtors request authority to continue to issue and pay the Refund Program Obligations to residents and Third-Party Payors, including refunds for overpayments made prepetition or resulting from prepetition services in the ordinary course of business, on a postpetition basis.

11. In addition to penalties and damages if refunds are not paid, the failure to honor the Refund Program could erode the Debtors' hard-earned reputation and brand loyalty, adversely affecting the Debtors' prospects for a successful reorganization.

#### **BASIS FOR RELIEF**

**A. Payment of the Refund Program Obligations Is Appropriate Under Sections 363(b) and 105(a) of the Bankruptcy Code and Under the Necessary of Payment Doctrine.**

12. This Court may grant the relief requested herein pursuant to sections 363(b) and 105(a) of the Bankruptcy Code. Section 363(b)(1) authorizes the trustee to use property of the estate other than in the ordinary course of business after notice and a hearing. *See* 11 U.S.C. § 363(b)(1). Further, pursuant to section 105(a) of the Bankruptcy Code, "the court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of [title 11 of the Bankruptcy Code]." 11 U.S.C. § 105(a).

13. Courts have authorized payment of prepetition obligations under section 363(b) of the Bankruptcy Code where a sound business purpose exists for doing so. *See, e.g., In re Ionosphere Clubs, Inc.*, 98 B.R. 174, 175 (Bankr. S.D.N.Y. 1989) (finding that a sound business justification existed to justify payment of certain claims); *see also Armstrong World Indus., Inc.*

*v. James A. Phillips, Inc., (In re James A. Phillips, Inc.)*, 29 B.R. 391, 397 (S.D.N.Y. 1983) (relying on section 363 to allow contractor to pay prepetition claims); *In re Tropical Sportswear Int'l Corp.*, 320 B.R. 15, 20 (Bankr. M.D. Fla. 2005) (“Bankruptcy courts recognize that section 363 is a source for authority to make critical vendor payments, and section 105 is used to fill in the blanks.”).

14. Courts have also authorized payment of prepetition obligations under the doctrine of necessity when payment of certain creditors’ prepetition claims is necessary or appropriate to preserve or enhance the value of a debtor’s estate for the benefit of all creditors. *See In re CoServ, LLC*, 273 B.R. 487, 497 (Bankr. N.D. Tex. 2002) (noting that “it is only logical that the bankruptcy court be able to use section 105(a) of the Code to authorize satisfaction of the prepetition claim in aid of preservation or enhancement of the estate”); *Mich. Bureau of Workers’ Disability Comp. v. Chateaugay Corp. (In re Chateaugay Corp.)*, 80 B.R. 279 (S.D.N.Y. 1987) (approving lower court order authorizing debtor prior to plan stage of case to pay pre-petition wages, salaries, business expenses, and benefits). Although the “necessity of payment” doctrine has not been codified in the Bankruptcy Code, “courts have used their equitable power under section 105(a) of the Code to authorize the payment of pre-petition claims when such payment is deemed necessary to the survival of a debtor in a chapter 11 reorganization.” *In re Just for Feet*, 242 B.R. 821, 824 (Bankr. D. Del. 1994); *Czyzewski v. Jevic Holding Corp.*, 137 S. Ct. 973, 985 (2017) (noting that courts have approved orders that allow payment of prepetition debt when necessary for the debtors to reorganize, restructure their debts and maximize the value of the bankruptcy estate).

15. Furthermore, courts have long recognized that paying some categories of prepetition obligations outside a plan of reorganization is often necessary to realize the

paramount purpose of chapter 11, which is to prevent the forced liquidation of the debtor and preserve its potential for financial rehabilitation. *See In re Lehigh & New England Ry. Co.*, 657 F.2d 570, 581 (3d Cir. 1981) (noting that the doctrine of necessity permits “immediate payment of claims of creditors where those creditors will not supply services or material essential to the conduct of the business until their pre-reorganization claims shall have been paid”); *In re Boston & Me. Corp.*, 634 F.2d 1359, 1382 (1st Cir. 1980) (recognizing the existence of a judicial power to authorize trustees to pay claims for goods and services that are indispensably necessary to the debtor’s continued operation); *In re CoServ*, 273 B.R. at 497 (applying a form of the doctrine of necessity in noting that payment of unsecured prepetition claims is appropriate where such payment is the “only means to effect a substantial enhancement of the estate”). As one court noted, “a *per se* rule proscribing the payment of pre-petition indebtedness may well be too inflexible to permit the effectuation of the rehabilitative purposes of the Code.” *In re Structurlite Plastics Corp.*, 86 B.R. 922, 932 (Bankr. S.D. Ohio 1988).

16. The Debtors have a strong business purpose for paying the Refund Program Obligations. If the Refund Program Obligations are not honored, the Debtors may face legal sanctions or be liable for fines in the jurisdictions in which they operate. For instance, in 2010, the Patient Protection and Affordable Care Act (“ACA”) enacted new rules governing overpayments made by Medicare and Medicaid. Pursuant to the ACA, a person has “60 days after the date on which the overpayment was identified” to report and return such overpayment. 42 U.S.C. § 18001. Under the ACA, any overpayment retained after the 60-day deadline is an “obligation” subject to liability under the False Claims Act (“FCA”). *Id.* The FCA states in relevant part that “any person who . . . knowingly makes, uses, or causes to be made or used, a false record or statement material to an obligation to pay or transmit money or

property to the Government . . . is liable to the United States Government for a civil penalty . . . *plus 3 times the amount of damages which Government sustains because of the act of that person.*” 31 U.S.C. § 3729 (a)(1)(G) (emphasis added); *see also* 31 U.S.C. § 3279(b)(3) (the term “obligation” means an “established duty, whether or not fixed, arising from an express or implied contractual, grantor-grantee, or licensor-licensee relationship, from a fee-based or similar relationship, from statute or regulation, or from the retention of any overpayment”). Accordingly, if the Debtors fail to obtain the relief sought by this Motion, and are unable to “report and return” any overpayments by the 60-day deadline set forth by the ACA, the Debtors may be subject to penalties and treble damages under the FCA.

17. The necessity of the Refund Program in the healthcare services industry cannot be overstated. In addition to the incurrence of penalties and treble damages described above, failure to honor the Refund Program Obligations would likely cause the Debtors to lose a significant number of payors and residents, which would damage their reputation for reliability, thereby resulting in a long-term decline in business. Third Party Payors may also seek to exercise setoff or recoupment against future amounts they would owe the Debtors, leading to undue accounting reconciliations or wasteful litigation. The failure to honor the Refund Program could erode the Debtors’ hard-earned reputation and brand loyalty, adversely affecting the Debtors’ prospects for a successful reorganization. Thus, the Refund Program is necessary for the Debtors to remain competitive and maintain their residents base at this critical juncture.

**B. Cause Exists to Authorize and Direct the Debtors’ Financial Institutions to Honor Checks and Electronic Fund Transfers.**

18. The Debtors also request that all applicable banks and other financial institutions be authorized to receive, process, honor, and pay all checks presented for payment, and to honor all electronic payment requests made by the Debtors, related to the obligations described herein,

whether such checks were presented or electronic requests were submitted prior to or after the Petition Date. The Debtors further request that all such banks and financial institutions be authorized to rely on the Debtors' designation of any particular check or electronic payment request as approved pursuant to this Motion. The Debtors represent that they have sufficient availability of funds to pay any amounts described herein.

19. Also, the Debtors represent that checks or wire transfer requests will be readily identified as relating to an authorized payment made with respect to the Refund Program Obligations. Accordingly, the Debtors believe that checks or wire transfer requests, other than those relating to authorized payments, will not be honored inadvertently and that all applicable financial institutions should be authorized and directed, when requested by the Debtors, to receive, process, honor, and pay any and all checks or wire transfer requests with respect to the Refund Program Obligations.

#### **RESERVATION OF RIGHTS**

20. Nothing contained herein is intended or shall be construed as (i) an admission as to the validity of any claim against the Debtors, (ii) a waiver of any of the Debtors' or any appropriate party in interest's rights to dispute the amount of, basis for, or validity of any claim against the Debtors, (iii) a waiver of any claims or causes of action which may exist against any creditor or interest holder, or (iv) an approval, assumption, adoption, or rejection of any agreement, contract, lease, program, or policy between any Debtor and any third party under section 365 of the Bankruptcy Code. Likewise, if the Court grants the relief sought herein, any payment made pursuant to the Court's order is not intended to be and should not be construed as an admission to the validity of any claim or a waiver of any of the Debtors' rights to dispute such claim.

**THE DEBTORS SATISFY BANKRUPTCY RULE 6003(b)**

21. Bankruptcy Rule 6003(b) provides that, if relief is necessary to avoid immediate and irreparable harm, a bankruptcy court may approve a motion to “pay all or part of a claim that arose before the filing of the petition” prior to twenty-one (21) days after the Petition Date. Fed. R. Bankr. P. 6003(b). Immediate and irreparable harm exists where the absence of relief would impair a debtor’s ability to reorganize or threaten the debtor’s future as a going concern. Specifically, the Fifth Circuit has interpreted the language “immediate and irreparable harm” in the context of preliminary injunctions. In that context, courts in this Circuit have explained that irreparable harm requires proof that “(1) the harm to Plaintiffs is imminent (2) the injury would be irreparable and (3) that Plaintiffs have no other adequate legal remedy.” *See, e.g., GoNannies, Inc. v. GoAuPair.Com, Inc.*, 464 F. Supp. 2d 603, 608 (N.D. Tex. 2006) (citing *Chacon v. Granata*, 515 F.2d 922, 925 (5th Cir. 1975)).

22. Based on the foregoing, the Debtors submit that the relief requested herein is necessary to avoid immediate and irreparable harm, and therefore, Bankruptcy Rule 6003 is satisfied.

**REQUEST FOR WAIVER OF BANKRUPTCY RULES 6004(a) AND (h)**

23. To implement the foregoing successfully, the Debtors seek a waiver of the notice requirements under Bankruptcy Rule 6004(a) and the fourteen (14) day stay of an order authorizing the use, sale, or lease of property under Bankruptcy Rule 6004(h). As explained above and in the First Day Declaration, the relief requested herein is necessary to avoid immediate and irreparable harm to the Debtors. Accordingly, ample cause exists to justify the waiver of the notice requirements under Bankruptcy Rule 6004(a) and the fourteen-day (14) stay imposed by Bankruptcy Rule 6004(h), to the extent such notice requirements and such stay apply.

**NOTICE**

24. Notice of this Motion shall be provided to: (a) U.S. Trustee; (b) the Office of the Attorney General of the states in which the Debtors operate Facilities; (c) the Debtors' forty (40) largest unsecured creditors on a consolidated basis; (d) counsel for Sterling National Bank; (e) counsel for OHI Assets RO, LLC and the DIP Lender; (f) the Internal Revenue Service; and (g) the Department of Medicaid, Department of Health, and Division of Health Services Regulation in each state in which the Debtors operate Facilities. The Debtors respectfully submit that such notice is sufficient and that no further notice of this Motion is required.

*[remainder of page left intentionally blank]*

**CONCLUSION**

**WHEREFORE**, the Debtors respectfully request that the Court enter the Proposed Orders granting the relief requested herein and such other and further relief as the Court may deem just and appropriate.

Dated: March 6, 2018  
Dallas, Texas

Respectfully submitted,

**DLA PIPER LLP (US)**

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-and-

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*Proposed Counsel for the Debtors*

**EXHIBIT A****(Sorted Alphabetically)**

	<b>Debtor Name</b>	<b>EIN</b>
1.	4 West Holdings, Inc.	9732
2.	4 West Investors, LLC	6021
3.	Aiken RE, LLC	1814
4.	Ambassador Rehabilitation and Healthcare Center, LLC	1636
5.	Anchor Rehabilitation and Healthcare Center of Aiken, LLC	9448
6.	Anderson RE TX, LLC	3630
7.	Anderson RE, LLC	1806
8.	Ark II Real Estate, LLC	3628
9.	Ark III Real Estate, LLC	0121
10.	Ark Mississippi Holding Company, LLC	3765
11.	Ark Real Estate, LLC	6014
12.	Ark South Carolina Holding Company, LLC	0002
13.	Ark Texas Holding Company, LLC	3739
14.	Battle Ground RE, LLC	1818
15.	Brushy Creek Rehabilitation and Healthcare Center, LLC	3292
16.	Bryan RE, LLC	3633
17.	Burleson RE, LLC	1777
18.	Capstone Rehabilitation and Healthcare Center, LLC	7871
19.	Charlottesville Pointe Rehabilitation and Healthcare Center, LLC	4467
20.	Charlottesville RE, LLC	0836
21.	Cleveland RE, LLC	6013
22.	Clinton RE, LLC	8109
23.	Cobblestone Rehabilitation and Healthcare Center, LLC	1612
24.	Collierville RE, LLC	8845
25.	Columbia RE, LLC	8838
26.	Columbia Rehabilitation and Healthcare Center, LLC	6772
27.	Comfort RE, LLC	1902
28.	Connersville RE, LLC	9824
29.	Corinth RE, LLC	1777
30.	Cornerstone Rehabilitation and Healthcare Center, LLC	8841
31.	Crystal Rehabilitation and Healthcare Center, LLC	8842
32.	Delta Rehabilitation and Healthcare Center of Cleveland, LLC	7212
33.	Descending Dove, LLC	8081
34.	Diboll RE, LLC	1939
35.	Easley RE II, LLC	1819
36.	Easley RE, LLC	1817
37.	Edgefield RE, LLC	3574
38.	Farmville RE, LLC	3442
39.	Farmville Rehabilitation and Healthcare Center, LLC	4464
40.	Fleetwood Rehabilitation and Healthcare Center, LLC	9615
41.	Fortress Health & Rehab of Rock Prairie, LLC	1314
42.	Granbury RE, LLC	1999
43.	Great Oaks RE, LLC	1731

	<b>Debtor Name</b>	<b>EIN</b>
44.	Great Oaks Rehabilitation and Healthcare Center, LLC	4357
45.	Greenville RE II, LLC	1798
46.	Greenville RE, LLC	1797
47.	Greenville Rehabilitation and Healthcare Center, LLC	3920
48.	Greenwood RE, LLC	1654
49.	Greer RE, LLC	1795
50.	Greer Rehabilitation and Healthcare Center, LLC	9462
51.	Grenada RE, LLC	1623
52.	Grenada Rehabilitation and Healthcare Center, LLC	8843
53.	Heritage Park Rehabilitation and Healthcare Center, LLC	9055
54.	Hillsville RE, LLC	2195
55.	Hillsville Rehabilitation and Healthcare Center, LLC	4463
56.	Holly Lane Rehabilitation and Healthcare Center, LLC	9103
57.	Holly RE, LLC	1816
58.	Holly Springs RE, LLC	1559
59.	Holly Springs Rehabilitation and Healthcare Center, LLC	6524
60.	Indianola RE, LLC	6022
61.	Indianola Rehabilitation and Healthcare Center, LLC	7203
62.	Italy RE, LLC	2086
63.	Iva RE, LLC	1801
64.	Iva Rehabilitation and Healthcare Center, LLC	0384
65.	Johns Island Rehabilitation and Healthcare Center, LLC	4898
66.	Joy of Bryan, LLC	4072
67.	Lampstand Health & Rehab of Bryan, LLC	2002
68.	Linley Park Rehabilitation and Healthcare Center, LLC	0525
69.	Macon Rehabilitation and Healthcare Center, LLC	9644
70.	Magnified Health & Rehab of Anderson, LLC	9060
71.	Manna Rehabilitation and Healthcare Center, LLC	9441
72.	Marietta RE, LLC	1809
73.	McCormick RE, LLC	1808
74.	McCormick Rehabilitation and Healthcare Center, LLC	3193
75.	Memphis RE, LLC	8846
76.	Midland RE, LLC	5138
77.	Midland Rehabilitation and Healthcare Center, LLC	9679
78.	Moultrie RE, LLC	9943
79.	Mountain View Rehabilitation and Healthcare Center, LLC	9227
80.	Natchez RE, LLC	6019
81.	Natchez Rehabilitation and Healthcare Center, LLC	6773
82.	New Ark Master Tenant, LLC	7893
83.	New Ark Operator Holdings, LLC	7623
84.	New Redeemer Health & Rehab of Pickens, LLC	5321
85.	Olive Leaf Holding Company, LLC	0129
86.	Olive Leaf, LLC	0001
87.	Omega Health & Rehab of Greenville, LLC	9461
88.	Orianna Health Systems, LLC	5160
89.	Orianna Holding Company, LLC	1323
90.	Orianna Investment, Inc.	1141

	<b>Debtor Name</b>	<b>EIN</b>
91.	Orianna SC Operator Holdings, Inc.	0383
92.	Palladium Hospice and Palliative Care, LLC	1873
93.	Patewood Rehabilitation and Healthcare Center, LLC	9457
94.	Picayune RE, LLC	9749
95.	Picayune Rehabilitation and Healthcare Center, LLC	9183
96.	Pickens RE II, LLC	1823
97.	Pickens RE, LLC	1821
98.	Piedmont RE, LLC	1800
99.	Poinsett Rehabilitation and Healthcare Center, LLC	0713
100.	Poplar Oaks Rehabilitation and Healthcare Center, LLC	4771
101.	Portland RE, LLC	1822
102.	Provo RE, LLC	3568
103.	Rainbow Rehabilitation and Healthcare Center, LLC	4772
104.	River Falls Rehabilitation and Healthcare Center, LLC	9788
105.	Riverside Rehabilitation and Healthcare Center, LLC	3951
106.	Rock Prairie RE, LLC	3636
107.	Rocky Mount RE, LLC	5904
108.	Rocky Mount Rehabilitation and Healthcare Center, LLC	4466
109.	Roy RE, LLC	5142
110.	Scepter Rehabilitation and Healthcare Center, LLC	1630
111.	Scepter Senior Living Center, LLC	1621
112.	Simpsonville RE II, LLC	1804
113.	Simpsonville RE, LLC	1802
114.	Simpsonville Rehabilitation and Healthcare Center, LLC	3564
115.	Snellville RE, LLC	9933
116.	Southern Oaks Rehabilitation and Healthcare Center, LLC	1141
117.	The Bluffs Rehabilitation and Healthcare Center, LLC	9314
118.	The Ridge Rehabilitation and Healthcare Center, LLC	1456
119.	Trinity Mission Health & Rehab of Connersville, LLC	8787
120.	Trinity Mission of Burleson, LLC	2585
121.	Trinity Mission of Comfort, LLC	2573
122.	Trinity Mission of Diboll, LLC	2581
123.	Trinity Mission of Granbury, LLC	2582
124.	Trinity Mission of Italy, LLC	2576
125.	Trinity Mission of Winnsboro, LLC	2583
126.	Utah Valley Rehabilitation and Healthcare Center, LLC	9661
127.	Vicksburg RE, LLC	0150
128.	Victory Rehabilitation and Healthcare Center, LLC	9485
129.	Wadesboro RE, LLC	9929
130.	Wide Horizons RE, LLC	5144
131.	Wide Horizons Residential Care Facility, LLC	9387
132.	Winnsboro RE, LLC	2134
133.	Woodlands Rehabilitation and Healthcare Center, LLC	9127
134.	Yazoo City RE, LLC	8844
135.	Yazoo City Rehabilitation and Healthcare Center, LLC	7216

**EXHIBIT B**

**Proposed Interim Order**

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

In re:	§	
	§	
	§	Chapter 11
4 West Holdings, Inc. <i>et al.</i> , <sup>1</sup>	§	
	§	Case No. 18-30777
Debtors.	§	
	§	(Jointly Administered)
	§	
	§	

**INTERIM ORDER AUTHORIZING THE DEBTORS TO (I) MAINTAIN, ADMINISTER AND MODIFY THEIR REFUND PROGRAMS AND PRACTICES, AND (II) HONOR OBLIGATIONS RELATED THERETO**

Upon the motion (the “Motion”)<sup>2</sup> of the above-captioned debtors (the “Debtors”) for entry of an interim order (this “Interim Order”), pursuant to sections 105(a), 363, 503(b)(1), 507(a), 1107(a), and 1108 of title 11 of the United States Code (the “Bankruptcy Code”), Rules 6003 and 6004 of the Federal Rules of Bankruptcy Procedures (the “Bankruptcy Rules”), (a) authorizing the Debtors (i) to maintain, administer, modify, their Refund Program and make payments to residents and Third-Party Payors or to otherwise honor the Refund Program Obligations, and (ii) to continue, replace, modify, or terminate any Refund Program in the

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<sup>1</sup> A list of the Debtors in these Chapter 11 Cases, along with the last four digits of each Debtor’s federal tax identification number, is attached to the Motion as Exhibit A.

<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the meaning ascribed to them in the Motion.

ordinary course of business, and (b) granting certain related relief, all as further described in the Motion; and upon consideration of the First Day Declaration; and this Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334; and this Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and this Court having found that venue of this proceeding and the Motion in this District is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the Debtors' notice of the Motion and opportunity for a hearing were adequate and appropriate under the circumstances and no other notice need be provided; and this Court having reviewed the Motion; and this Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and this Court having found and determined that the relief sought in the Motion is in the best interests of the Debtors' estates, their creditors, and other parties in interest; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT:

1. The Motion is granted on an interim basis, as set forth herein.
2. The Debtors are authorized, but not directed, to continue to issue and pay the Refund Program Obligations to residents and Third-Party Payors, including refunds for overpayments made prepetition or resulting from prepetition services in the ordinary course of business, on a postpetition basis. The Debtors are further authorized to modify, on a prospective basis only, any Refund Program in their business judgement; provided, however, that the Debtors must provide no less than five (5) business days' written notice of such modification to counsel to OHI Assets RO, LLC and counsel to any Official Committee appointed in these cases. To the extent OHI Assets RO, LLC or such Official Committee object to any such modification, they

must provide the Debtors with written notice within two (2) business days after receipt of such notice and absent a consensual resolution, the parties may seek appropriate relief in this Court.

3. Notwithstanding anything to the contrary contained in this Interim Order, to the extent any resident has suffered any actual monetary penalty or charge due to the inadvertent dishonor of any check of the Debtors on account of any Refund Program Obligations, the Debtors shall be authorized, but not directed, to reimburse the resident for such amount without further order of this Court.

4. Notwithstanding the relief granted herein and any actions taken hereunder, nothing contained herein shall constitute, nor is it intended to constitute (a) an admission to the validity or priority of any claim against the Debtors; (b) a waiver of the Debtors rights to dispute any claim; or (c) an approval or assumption of any agreement, contract or lease pursuant to section 365 of the Bankruptcy Code.

5. In accordance with this Interim Order, each of the financial institutions at which the Debtors maintain their accounts relating to the payment of the obligations described in the Motion are authorized to (a) receive, process, honor, and pay all checks presented for payment and to honor all fund transfer requests made by the Debtors related thereto, to the extent that sufficient funds are on deposit in those accounts and (b) accept and rely on all representations made by the Debtors with respect to which checks, drafts, wires, or automated clearing house transfers should be honored or dishonored in accordance with this or any other order of the Court, whether such checks, drafts, wires, or transfers are dated prior to, on, or subsequent to the Petition Date, without any duty to inquire otherwise.

6. The Debtors are authorized, but not directed, to issue new postpetition checks, or effect new electronic funds transfers, on account of prepetition obligations and claims as set forth

herein, and to replace any prepetition checks or electronic fund transfer requests that may be lost or dishonored or rejected as a result of the commencement of the Debtors' Chapter 11 Cases.

7. Nothing in the Motion or this Interim Order shall impair the ability of the Debtors or any party in interest to contest the validity or amount of any payment made pursuant to this Interim Order.

8. Notwithstanding entry of this Interim Order, nothing herein shall create, nor is intended to create, any rights in favor of or enhance the status of any claim held by, any party.

9. Notwithstanding anything to the contrary contained herein, any payment made or to be made under this Interim Order, any authorization contained in this Interim Order, or any claim for which payment is authorized hereunder, shall be subject to the requirements imposed on the Debtors under any orders of this Court approving any debtor-in-possession financing for, or any use of cash collateral by, the Debtors and any budget in connection therewith.

10. The Debtors are authorized to take all actions they deem necessary to effectuate the relief granted pursuant to this Interim Order in accordance with the Motion.

11. The final hearing (the "Final Hearing") on the Motion shall be held on \_\_\_\_\_, 2018 at \_\_\_:\_\_\_ \_\_.m. (prevailing Central Time). Any objections or responses to entry of a final order on the Motion (each, an "Objection") shall be filed on or before **4:00 p.m. (prevailing Central Time)** on \_\_\_\_\_, 2018, and served on the following parties: (a) proposed counsel for the Debtors, DLA Piper LLP (US), 1251 Avenue of the Americas, New York, NY 10020 (Attn: Thomas R. Califano, Esq. and Dienna Corrado, Esq.), One Atlantic Center, 1201 West Peachtree Street, Suite 2800, Atlanta, GA 30309 (Attn: Daniel Simon, Esq.), 1717 Main Street, Suite 4600, Dallas, TX 75201 (Attn: Andrew Zollinger, Esq.), (b) the Office of the United States Trustee for the Northern District of Texas,

Earle Cabell Federal Building, 1100 Commerce Street, Room 976, Dallas, TX 75242 (Attn: Lisa Lambert), (c) counsel to Sterling National Bank, King & Spalding LLP, 1185 Avenue of the Americas, New York, NY 10036 (Attn: Arthur Steinberg, Esq., and Terry Novetsky, Esq.), (d) counsel to OHI Assets RO, LLC and the DIP Lender, Bryan Cave, LLP, One Atlantic Center, 1201 West Peachtree Street, Suite 1400, Atlanta, GA 30309 (Attn: Mark Duedall, Esq.), JP Morgan Chase Tower, 2200 Ross Avenue, Suite 3300, Dallas, TX 75201 (Attn: Keith Aurzada, Esq.), and One Metropolitan Square, 211 North Broadway, Suite 3600, St. Louis, MO 63102 (Attn: David Unseth, Esq.), and (e) counsel to any official committee of unsecured creditors appointed in these Chapter 11 Cases. In the event no Objections to entry of a final order on the Motion are timely received, this Court may enter such final order without need for the Final Hearing.

12. The requirements of Bankruptcy Rule 6003(b) have been satisfied.

13. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Interim Order shall be immediately effective and enforceable upon its entry.

14. This Court shall retain jurisdiction over any and all matters arising from the interpretation or implementation of this Interim Order.

**### End of Order ###**

Order submitted by:

**DLA PIPER LLP (US)**

/s/ Andrew Zollinger

Andrew Zollinger, State Bar No. 24063944

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*Proposed Counsel for the Debtors*

**EXHIBIT C**

**Proposed Final Order**

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

In re:	§	
	§	
	§	Chapter 11
	§	
4 West Holdings, Inc. <i>et al.</i> , <sup>1</sup>	§	Case No. 18-30777
	§	
Debtors.	§	(Jointly Administered)
	§	
	§	

**FINAL ORDER AUTHORIZING THE DEBTORS TO (I) MAINTAIN,  
ADMINISTER AND MODIFY THEIR REFUND PROGRAMS AND  
PRACTICES, AND (II) HONOR OBLIGATIONS RELATED THERETO**

Upon the motion (the “Motion”)<sup>2</sup> of the above-captioned debtors (the “Debtors”) for entry of a final order (this “Final Order”), pursuant to sections 105(a), 363, 503(b)(1), 507(a), 1107(a), and 1108 of title 11 of the United States Code (the “Bankruptcy Code”), Rules 6003 and 6004 of the Federal Rules of Bankruptcy Procedures (the “Bankruptcy Rules”), (a) authorizing the Debtors (i) to maintain, administer, modify, their Refund Program and make payments to residents and Third-Party Payors or to otherwise honor the Refund Program Obligations, and (ii)

<sup>1</sup> A list of the Debtors in these Chapter 11 Cases, along with the last four digits of each Debtor’s federal tax identification number, is attached to the Motion as Exhibit A.

<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the meaning ascribed to them in the Motion.

to continue, replace, modify, or terminate any Refund Program in the ordinary course of business, and (b) granting certain related relief, all as further described in the Motion; and upon consideration of the First Day Declaration; and this Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334; and this Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and this Court having found that venue of this proceeding and the Motion in this District is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the Debtors' notice of the Motion and opportunity for a hearing were adequate and appropriate under the circumstances and no other notice need be provided; and this Court having reviewed the Motion; and this Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and this Court having found and determined that the relief sought in the Motion is in the best interests of the Debtors' estates, their creditors, and other parties in interest; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT:

1. The Motion is granted on a final basis, as set forth herein.
2. The Debtors are authorized, but not directed, The Debtors are authorized, but not directed, to continue to issue and pay the Refund Program Obligations to residents and Third-Party Payors, including refunds for overpayments made prepetition or resulting from prepetition services in the ordinary course of business, on a postpetition basis. The Debtors are further authorized to modify, on a prospective basis only, any Refund Program in their business judgement; provided, however, that the Debtors must provide no less than five (5) business days' written notice of such modification to counsel to OHI Assets RO, LLC and counsel to any

Official Committee appointed in these cases. To the extent OHI Assets RO, LLC or such Official Committee object to any such modification, they must provide the Debtors with written notice within two (2) business days after receipt of such notice and absent a consensual resolution, the parties may seek appropriate relief in this Court.

3. Notwithstanding anything to the contrary contained in this Final Order, to the extent any resident has suffered any actual monetary penalty or charge due to the inadvertent dishonor of any check of the Debtors on account of any Refund Program Obligations, the Debtors shall be authorized, but not directed, to reimburse the resident for such amount without further order of this Court.

4. Notwithstanding the relief granted herein and any actions taken hereunder, nothing contained herein shall constitute, nor is it intended to constitute (a) an admission to the validity or priority of any claim against the Debtors; (b) a waiver of the Debtors rights to dispute any claim; or (c) an approval or assumption of any agreement, contract or lease pursuant to section 365 of the Bankruptcy Code.

5. In accordance with this Final Order, each of the financial institutions at which the Debtors maintain their accounts relating to the payment of the obligations described in the Motion are authorized to (a) receive, process, honor, and pay all checks presented for payment and to honor all fund transfer requests made by the Debtors related thereto, to the extent that sufficient funds are on deposit in those accounts and (b) accept and rely on all representations made by the Debtors with respect to which checks, drafts, wires, or automated clearing house transfers should be honored or dishonored in accordance with this or any other order of the Court, whether such checks, drafts, wires, or transfers are dated prior to, on, or subsequent to the Petition Date, without any duty to inquire otherwise.

6. The Debtors are authorized, but not directed, to issue new postpetition checks, or effect new electronic funds transfers, on account of prepetition obligations and claims as set forth herein, and to replace any prepetition checks or electronic fund transfer requests that may be lost or dishonored or rejected as a result of the commencement of the Debtors' Chapter 11 Cases.

7. Nothing in the Motion or this Final Order shall impair the ability of the Debtors or any party in interest to contest the validity or amount of any payment made pursuant to this Final Order.

8. Notwithstanding entry of this Final Order, nothing herein shall create, nor is intended to create, any rights in favor of or enhance the status of any claim held by, any party.

9. Notwithstanding anything to the contrary contained herein, any payment made or to be made under this Final Order, any authorization contained in this Final Order, or any claim for which payment is authorized hereunder, shall be subject to the requirements imposed on the Debtors under any orders of this Court approving any debtor-in-possession financing for, or any use of cash collateral by, the Debtors and any budget in connection therewith.

10. The Debtors are authorized to take all actions they deem necessary to effectuate the relief granted pursuant to this Final Order in accordance with the Motion.

11. The requirements of Bankruptcy Rule 6003(b) have been satisfied.

12. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Final Order shall be immediately effective and enforceable upon its entry.

13. This Court shall retain jurisdiction over any and all matters arising from the interpretation or implementation of this Final Order.

**### End of Order ###**

Order submitted by:

**DLA PIPER LLP (US)**

/s/ Andrew Zollinger

Andrew Zollinger, State Bar No. 24063944

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*Proposed Counsel for the Debtors*