




CLERK, U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

ENTERED

THE DATE OF ENTRY IS ON
THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

Signed December 19, 2019


United States Bankruptcy Judge

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

In re:

Senior Care Centers, LLC, *et al.*,¹

Debtors.

Senior Care Centers, LLC, a Delaware limited liability company, and PM Management - Frisco NC, LLC dba Victoria Gardens of Frisco, a Texas limited liability company,

Debtor/Plaintiff,

v.

Alex M. Azar II, in his official capacity as Secretary, United States Department of Health and Human Services; and Seema Verma, in her official capacity as Administrator, Centers for Medicare and Medicaid Services,

Defendants.

Chapter 11

Case No. 18-33967 (BJH)

(Jointly Administered)

Adv. No. 19-03240 (BJH)

¹ The Debtors in the Chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are set forth in the *Order (I) Directing Joint Administration of Chapter 11 Cases, and (II) Granting Related Relief* [Bankr. Docket No. 569] and may also be found on the Debtors' claims agent's website at <https://omningt.com/SeniorCareCenters>. The location of the Debtors' service address is 600 North Pearl Street, Suite 1100, Dallas, Texas 75201.

**ORDER CONVERTING DEBTORS' APPLICATION FOR TEMPORARY
RESTRAINING ORDER TO A PRELIMINARY INJUNCTION MOTION
AND BRIEFING AND HEARING SCHEDULE ON THAT MOTION**

The United States of America, on behalf of the U.S. Department of Health and Human Services' Centers for Medicare & Medicaid Services (“**CMS**”) and Senior Care Centers, LLC (“**Senior Care Centers**”), and PM Management – Frisco NC, LLC (“**Frisco**”) (collectively, the “**Debtors**” or the “**Plaintiffs**”) hereby stipulate and agree to the following order to convert the *Plaintiffs' Application for Temporary Restraining Order* [Adv. Docket No. 3] (filed on December 19, 2019 to a preliminary injunction motion the “**Motion**”) and to set a briefing and argument schedule for the Motion.

1. Debtors agree the Motion will be converted from an application for a temporary restraining order staying the termination of Frisco's Medicare provider agreement (the “**Frisco Provider Agreement**”) to a motion for a preliminary injunction seeking the same relief.

2. The United States' response (the “**Response**”) to the Motion shall be filed and served by electronic mail on counsel to the Debtors no later than 4:00 p.m. Central Time on January 30, 2020.

3. Debtors' reply (the “**Reply**”) to the Response shall be filed and served by electronic mail on counsel to the United States no later than 4:00 p.m. Central Time on February 6, 2020.

4. Debtors and CMS agree to make available their respective Rule 30(b)(6) witnesses for depositions on or before January 21, 2020. Debtors and CMS agree to serve electronically no more than ten (10) requests for production on or before January 6, 2016. Debtors and CMS agree to respond electronically to requests for production, including actual delivery of electronic copies of documents, on or before January 13, 2016. Debtors and CMS agree that Rule 26(f) does not apply.

5. The Court shall conduct a hearing on the Motion at the previously scheduled omnibus hearing date on February 11, 2020 at 2:00 p.m. Central Time.

6. In exchange for Debtors' agreement not to seek a temporary restraining order and to conduct discovery and proceed to a preliminary injunction hearing as set forth herein, the United States, on behalf of CMS agrees that it will not terminate the Frisco Provider Agreement, as described in CMS's December 10, 2019 letter to Victoria Gardens of Frisco, until the Court has ruled on the merits of the Motion.

7. Subject to the United States' agreement not to take action as set forth in paragraph 6, nothing contained in this Stipulated Order impairs, affects, waives, prohibits, or otherwise limits the claims, causes of action, rights, powers, and authority of the United States or Debtors with respect to any action in this adversary proceeding, the above captioned bankruptcy cases, or any other action or proceeding, including any rights to appeal or move to reconsider any ruling by the Court as it relates to the termination of the Frisco Provider Agreement.

End of Order

Order submitted by:

/s/ Leah V. Lerman

Leah Lerman
U.S. Department of Justice-Civil Division
Commercial Litigation Branch
1100 L Street NW
Washington, DC 20005
Voice: (202) 307-0356
Fax: (202) 514-9163
Email: Leah.lerman@usdoj.gov

/s/ Trey A. Monsour

Trey A. Monsour
Polsinelli PC
State Bar No. 14277200
2950 N. Harwood, Suite 2100
Dallas, Texas 75201
Telephone: (214) 397-0030
Facsimile: (214) 397-0033
tmonsour@polsinelli.com

-and-

Jeremy R. Johnson (Admitted *Pro Hac Vice*)
Polsinelli PC
600 3rd Avenue, 42nd Floor
New York, New York 10016
Telephone: (212) 684-0199
Facsimile: (212) 684-0197
jeremy.johnson@polsinelli.com

Counsel for the United States of America

Counsel to the Debtors and Debtors in Possession