

THE KING'S BENCH
WINNIPEG CENTRE

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT
OF MANITOBA CLINIC MEDICAL CORPORATION AND THE MANITOBA
CLINIC HOLDING CO. LTD.**

(the "Applicants")

**APPLICATION UNDER: THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C., c. C-36, AS AMENDED**

**NOTICE OF MOTION
(STAY EXTENSION AND OTHER RELIEF)
DATE OF HEARING: FRIDAY, NOVEMBER 24, 2023 at 9:00 AM
THE HONOURABLE MR. JUSTICE CHARTIER**

TAYLOR McCaffrey LLP
Barristers and Solicitors
2200 – 201 Portage Avenue
Winnipeg, Manitoba
R3B 3L3

Douglas E. Finkbeiner, K.C./Ph. 204-988-0414
David R.M. Jackson/Ph. 204-988-0375
Charles Roy/Ph. 204-988-0472
Fax No. 204-957-0945

Client File No. 1102-154

THE KING'S BENCH
WINNIPEG CENTRE

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF MANITOBA CLINIC MEDICAL CORPORATION AND THE MANITOBA CLINIC HOLDING CO. LTD.

(the "Applicants")

APPLICATION UNDER: THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C., c. C-36, AS AMENDED

NOTICE OF MOTION
(STAY EXTENSION)

The Applicants will make a motion before the Honourable Mr. Justice Chartier on Friday, the 24th day of November, 2023 at 10:00 o'clock in the morning or so soon after that time as the motion can be heard at the Law Courts, 408 York Avenue, in the City of Winnipeg, in Manitoba.

THE MOTION IS FOR:

1. An Order substantially in the form attached hereto as Schedule 1 to this Notice of Motion which provides, *inter alia*:

- a) An Order that this matter be heard on short notice;
- b) An Order abridging the time for service and/or otherwise validating service of the Notice of Motion such that the motion is properly returnable Wednesday, November 24, 2023 and dispensing with further service thereof;

- c) An Order extending the stay period ("**Stay Period**") as defined in paragraph 10 of the Amended and Restated Initial Order of the Honourable Mr. Justice Kroft dated December 2, 2022 ("**Initial Order**") until February 9, 2024;
- d) An Order that the Confidential Supplement to the Sixth Report provided by Alvarez & Marsal Canada Inc. in its capacity as monitor of the Applicants ("**Monitor**") and the appendices thereto be filed under seal, kept confidential and not form part of the public record until these restructuring proceedings have been completed or further Order of the Court;
- e) An Order that the Confidential Supplement to the Fifth Report of the Monitor shall be unsealed and form part of the public record;
- f) An Order that, notwithstanding the sealing of the Confidential Supplement to the Sixth Report of the Monitor, the updated cash flow forecast appended to the Confidential Supplement as an Appendix shall be unsealed and form part of the public record following the unsealing of the Confidential Supplement to the Fifth Report;
- g) An Order approving the Sixth Report of the Monitor ("**Sixth Report**"), the Confidential Supplement to the Sixth Report and the Monitor's activities, actions, and conduct as described therein;
- h) An Order approving the professional fees and disbursements of the Monitor and the Applicants' legal counsel, as set out in the Sixth Report; and
- i) Such further and other relief as to this Honourable Court may deem just.

THE GROUNDS FOR THE MOTION ARE:

1. *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended ("**CCAA**"), ss. 11 and 11.02.
2. King's Bench Rules 1.04, 2.01, 2.03, 3.02(1), 16.04, 16.08, and 37.08(2).
3. On November 30, 2022 this Court granted an Initial Order under the CCAA which included a stay of proceedings against the Applicants (as defined in the Initial Order) until December 9, 2022, the appointment of a Monitor and collateral initial relief.

4. On December 1, 2022 this Court amended and restated the Initial Order which, *inter alia*:

- a) extended the Stay Period until February 24, 2023;
- b) provided the balance of the restructuring tools contemplated under the Model Order;
- c) provided Debtor in Possession Financing ("**DIP Financing**"), enhanced the Monitor's powers, authorized a Key Employee Retention Program and provided authorization to the Applicants with the approval of the Monitor to make certain True-Up Payments.

5. On January 25, 2023, this Court granted an Order which, *inter alia*:

- a) extended the Stay Period until April 28, 2023; and
- b) authorized and empowered the Monitor, with the consent of CIBC, to convey, transfer, lease or assign any part or parts of the Property (as defined in the Initial Order) out of the ordinary course of business without further approval of this Court in respect of any transaction not exceeding \$50,000 and provided that the aggregate consideration for all such transactions does not exceed \$350,000.

6. On April 21, 2023, this Court granted two Orders which, *inter alia*:

- a) extended the Stay Period until August 31, 2023;
- b) approved the Physicians Retention Payment Plan as detailed in the Monitor's Second Report dated April 18, 2023 and authorized and directed the Applicants to make payments in accordance with the terms thereof;
- c) authorized and empowered the Applicants to sign an Amendment to the Commitment Letter incorporating a Revised Budget to be agreed to by the Applicants, CIBC and Monitor;
- d) approved the Sale and Investment Solicitation Process (the "**SISP**"); and
- e) authorized and directed the Monitor and the Marketing Agent to implement the SISP and do all things as are reasonably necessary to conduct and give full effect to the SISP.

7. On August 2, 2023, this Court granted an Order which, *inter alia*:
 - a) extended the Stay Period until and including October 2, 2023;
 - b) approved the Third Report of the Monitor dated July 31, 2023 and the activities, actions, and conduct as described therein;
 - c) approved the professional fees and disbursements of the Monitor, its legal counsel, and the Applicants' legal counsel; and
 - d) approved the extension of the maturity date of the Interim Financing Facility and authorized the Applicants to execute the Second Amendment to the Commitment Letter.
8. On September 26, 2023, this Court granted an Order which, *inter alia*:
 - a) extended the Stay Period until and including December 15, 2023;
 - b) approved the Fourth Report of the Monitor dated September 22, 2023 and the activities, actions, and conduct as described therein;
 - c) approved the professional fees and disbursements of the Monitor, its legal counsel, and the Applicants' legal counsel; and
 - d) ordered that the Order of Justice Kroft signed on August 9, 2023 be amended to strike "Affidavit of Service of Michelle Loftus affirmed August 2, 2023", and replace it with "Affidavit of Service of Craig Frith affirmed August 4, 2023".
9. On October 31, 2023, this Court granted an Order which, *inter alia*:
 - a) ordered that the Confidential Supplement to the Fifth Report of the Monitor dated September 22, 2023 and appendices be filed under seal, kept confidential, and not form part of the public record, and shall only be made available or form part of the public record after these restructuring proceedings have been completed or further Order of this Court.
 - b) approved the sale agreement for the shares in Gamma-Dynacare Central Medical Laboratory Limited Partnership, by its general partner, Gamma-Dynacare Central medical Laboratories GP Inc. ("Dynacare") and granted an order vesting right, title and interest of said shares in the purchaser, Dynacare;

- c) approved the Fifth Report of the Monitor dated October 27, 2023, the Confidential Supplement to the Fifth Report and the activities, actions, and conduct as described therein; and
- d) approved the professional fees and disbursements of the Monitor, its legal counsel, and the Applicants' legal counsel.

10. The Applicants have acted in good faith and with due diligence since the granting of the Initial Order. With the Monitor's assistance, the Applicants have stabilized their business operations and implemented a restructuring plan to allow for the implementation of the SISP, which is now nearly completed.

Extension of the Stay Period

11. At this time, the Applicants are returning to Court with the Monitor to provide an update on their restructuring efforts and seek an extension of the Stay Period until February 9, 2024. An extension of the Stay Period until that date is necessary and appropriate in the circumstances, in particular, to allow the Monitor to close the transactions for which the Monitor is seeking approval and authorization in its motion.

12. Such further and other grounds as counsel may advise and this Honourable Court may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE WILL BE USED AT
THE HEARING OF THE MOTION:

- 1. The Affidavit of Keith McConnell sworn November 28, 2022;
- 2. The Pre-Filing Report of Alvarez & Marsal Canada Inc. dated November 29, 2022;

3. The First Report of the Monitor, dated January 20, 2023;
4. The Amended and Restated Initial Order signed December 2, 2022;
5. The Second Report of the Monitor, dated April 18, 2023;
6. The Third Report of the Monitor, dated July 31, 2023;
7. The Fourth Report of the Monitor, dated September 22, 2023;
8. The Fifth Report of the Monitor, dated October 27, 2023;
9. The Sixth Report of the Monitor, to be filed; and
10. Such further and other documentation as counsel may advise and this Honourable Court may permit.

Date: November 20, 2023

TAYLOR McCaffrey LLP
2200 – 201 Portage Avenue
Winnipeg, Manitoba
R3B 3L3

Douglas E. Finkbeiner/Ph. (204) 988-0414
David R.M. Jackson/Ph. (204) 988-0375
Charles Roy/Ph. (204) 988-0472

TO: SERVICE LIST ATTACHED

Tab 1

THE KING'S BENCH
WINNIPEG CENTRE

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C.
1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
MANITOBA CLINIC MEDICAL CORPORATION AND THE MANITOBA CLINIC
HOLDING CO. LTD.

(the "**Applicants**")

APPLICATION UNDER: THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C., c. C-36, AS AMENDED

ORDER
(STAY EXTENSION AND OTHER RELIEF)
DATE OF HEARING: FRIDAY, NOVEMBER 24, 2023 AT 10:00 A.M.
THE HONOURABLE MR. JUSTICE CHARTIER

McDougall Gauley LLP
500 616 Main Street
Saskatoon SK S7J 0H6

IAN A. SUTHERLAND, K.C. / CRAIG FRITH
PHONE: (306) 665-5417 / (306) 665-5432
FAX: (306) 664-4431
CLIENT FILE NO. 568954.1

THE KING'S BENCH WINNIPEG CENTRE

THE HONOURABLE)
) Friday, the 24th day of November, 2023
MR. JUSTICE CHARTIER)

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C.
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AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
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APPLICATION UNDER: THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C., c. C-36, AS AMENDED

ORDER
(STAY EXTENSION AND OTHER RELIEF)

THIS MOTION, made by Alvarez & Marsal Canada Inc. in its capacity as the court-appointed monitor (the "**Monitor**") of Manitoba Clinic Medical Corporation and The Manitoba Clinic Holding Co. Ltd. (collectively, the "**Applicants**") for an order (i) extending the stay of proceedings, (ii) sealing the Confidential Supplement to the Sixth Report of the Monitor dated November 20, 2023 (the "**Confidential Supplement**"), (iii) unsealing the Confidential Supplement to the Fifth Report of the Monitor dated September 22, 2023 (the "**Confidential Supplement to the Fifth Report**"), (iv) approving the Sixth Report of the Monitor dated November 20, 2023 (the "**Sixth Report**"), the Confidential Supplement, and the professional fees and disbursements of the Monitor, the Monitor's legal counsel, and the Applicants' legal counsel, was heard this day at the Law Courts Building at 408 York Avenue, in the City of Winnipeg, Manitoba.

ON READING the Sixth Report and the Confidential Supplement, and on hearing the submissions of counsel for the Monitor, the Applicants, and Canadian Imperial Bank of Commerce ("**CIBC**"), no one else appearing for any other person on the service list,

although properly served as appears from the affidavit of service of Shelby Braun sworn November __, 2023; all filed:

SERVICE

1. THE COURT ORDERS that the time for service of the Monitor's notice of motion and supporting materials is hereby abridged and validated so that the motion is properly returnable today and hereby dispenses with further service thereof.

INTERPRETATION

2. THE COURT ORDERS that, unless otherwise defined herein, capitalized terms appearing in this Order shall have the meanings given to them in the Amended and Restated Initial Order of the Honourable Mr. Justice Kroft dated December 1, 2022 (the "**ARIO**").

STAY EXTENSION

3. THIS COURT ORDERS that the Stay Period is hereby extended until and including February 9, 2023.

SEALING OF THE CONFIDENTIAL SUPPLEMENT

4. THIS COURT ORDERS that the Confidential Supplement and the appendices thereto be filed under seal, kept confidential, and not form part of the public record. The Confidential Supplement shall be kept separate and apart from the other contents of the Court file in a sealed envelope which sets out the style of cause of these proceedings and a statement that the contents thereof are subject to a Sealing Order, and shall not be opened except by the Registrar of this Court and the Honourable Mr. Justice Chartier (or another Justice of the Court of King's Bench) until:

- (a) further order of the Court; or

- (b) the Monitor has filed both of the Monitor's Certificates (as that term is defined in each of the Approval and Vesting Orders of the Honourable Mr. Justice Chartier dated November 24, 2023);

whichever shall first occur, at which time the Confidential Supplement shall be unsealed and thereafter form part of the public record.

5. THIS COURT ORDERS that, notwithstanding paragraph 4 of this Order, the Updated Forecast appended to the Confidential Supplement as Appendix ____ shall be unsealed and form part of the public record following the unsealing of the Confidential Supplement to the Fifth Report as set out below.

UNSEALING THE CONFIDENTIAL SUPPLEMENT TO THE FIFTH REPORT

6. THIS COURT ORDERS that the Sealing Order granted by paragraphs 1 and 2 of the Order (Sealing and Other Relief) of the Honourable Mr. Justice Chartier dated October 31, 2023 is hereby lifted. The Confidential Supplement to the Fifth Report shall be unsealed and form part of the public record.

APPROVALS

7. THIS COURT ORDERS that the Sixth Report, the Confidential Supplement, and the activities, actions, and conduct of the Monitor described therein are hereby approved.

8. THIS COURT ORDERS that the fees and disbursements of the Monitor, its legal counsel, McDougall Gauley LLP, and the Applicants' legal counsel, Taylor McCaffrey LLP, as set out in the Sixth Report are hereby approved.

MISCELLANEOUS MATTERS

9. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the Applicants, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicants and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Applicants and the Monitor and their respective agents in carrying out the terms of this Order.

November ____, 2023

CHARTIER, J.

I, Craig Frith, of the firm of McDougall Gauley LLP, hereby certify that I have received the consents as to form of the following parties:

J.J. Burnell of MLT Aikins LLP, counsel for Canadian Imperial Bank of Commerce
David R.M. Jackson of Taylory McCaffrey LLP, counsel for Manitoba

Tab 2

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**SERVICE LIST
AS AT NOVEMBER 20, 2023**

TAYLOR McCAFFREY LLP

Barristers & Solicitors
2200 – 201 Main Street
Winnipeg, Manitoba
R3B 3L3

Douglas E. Finkbeiner, K.C./Ph. 204-988-0414
David R.M. Jackson/Ph. 204-988-0275
Charles Roy/Ph. 204-988-0472
Fax No. 204-957-0945
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R.S.C., c. C-36, AS AMENDED

SERVICE LIST

Party/Counsel	Telephone	Facsimile	Party Represented
THE MANITOBA CLINIC MEDICAL CORPORATION THE MANITOBA CLINIC HOLDING CO. LTD. 790 Sherbrook Street Winnipeg, Manitoba, R3A 1M3 Keith McConnell E-Mail: kmccconnell@manitobaclinic.ca	204-788-5525		Applicants
TAYLOR MCCAFFREY LLP 2200-201 Portage Avenue Winnipeg, Manitoba, R3B 3L3 David R.M. Jackson E-Mail: djackson@tmlawyers.com Douglas E. Finkbeiner, K.C. E-Mail: dfinkbeiner@tmlawyers.com Charles Roy E-Mail: croy@tmlawyers.com	(204) 988-0475 (204) 988-0414 (204) 988-0472	204-957-0945	Solicitors for the Applicants

Party/Counsel	Telephone	Facsimile	Party Represented
MLT AIKINS LLP 30 th Floor – 360 Main Street Winnipeg, Manitoba, R3C 4G1 J.J. Burnell E-Mail: jburnell@mltaikins.com Anjali Sandhu E-Mail: asandhu@mltaikins.com	204-957-4663	204-957-4285	Solicitors for Canadian Imperial Bank of Commerce
ALVAREZ & MARSAL CANADA INC. Suite 1110, 250 6 th Avenue S.W. Calgary, Alberta, T2P 3H7 Orest Konowalchuk E-Mail: okonowalchuk@alvarezandmarsal.com Jill Strueby E-Mail: jstrueby@alvarezandmarsal.com Cassie Riglin E-Mail: criglin@alvarezandmarsal.com	(403)470-7478		Proposed Monitor
McDOUGALL GAULEY 500 – 616 Main Street Saskatoon, Saskatchewan S7H 0J6 Ian A.Sutherland E-Mail: isutherland@mcdougallgauley.com Craig Frith E-Mail: cfrith@mcdougallgauley.com	306-665-5417	306-652-1323	Counsel for Proposed Monitor
MANITOBA JUSTICE Civil Legal Services 301 – 310 Broadway Avenue Winnipeg, Manitoba R3C 3L6 Shelley Haner E-Mail: shelley.haner@gov.mb.ca	204-792-6471	204-948-2826	Counsel for the Minister of Finance
DEPARTMENT OF JUSTICE CANADA 601 – 400 St. Mary Avenue Winnipeg, Manitoba, R3C 4K5 Timothy Doyle E-Mail: timothy.doyle@justice.gc.ca			Counsel for Her Majesty

Party/Counsel	Telephone	Facsimile	Party Represented
PATTISON SIGN GROUP A Division of Jim Pattison Industries Ltd. 555 Ellesmere Toronto, Ontario, M1R 4E8		1-855-759-9560	
CSI LEASING CANADA LTD. Unit 4, 2400 Winston Park Drive Oakville, Ontario, L6H 0G7	1-855-759-9560	1-905-829-9598	
CANADA REVENUE AGENCY Pacific Insolvency Intake Centre Surrey National Verification and Collection Centre Canada Revenue Agency 9755 King George Boulevard Surrey, British Columbia, V3T 5E1	1-866-891-7403	1-866-219-0311	
BARIK MEDICAL INC. 239 Cree Crescent Winnipeg, Manitoba, R3J 3Y2 Janice Carson E-Mail: sales@barikmedical.com	204-888-2330	204-888-2262	
DOCTORS MANITOBA Andrew Swan E-Mail: aswan@doctorsmanitoba.ca	204-985-5860		General Counsel
FILMORE RILEY LLP 1700-360 Winnipeg, Manitoba, R3C 3Z3 Kalev Anniko E-Mail: kanniko@fillmoreriley.com	204-957-8308	204-954-0308	Counsel for Drs. Jastrzebski, Manusow, Kanjee, and Stockl
DR. DALJIT GILL E-Mail: umgillds@gmail.com	204-510-09990		
THOMAS HARPER 3301-197 Victor Lewis Drive Winnipeg, Manitoba, R3P 2A4 E-Mail: harper6321@gmail.com	204-573-5985		
DR. CARMEN RECKSIDLER 790 Sherbrook Street Winnipeg, Manitoba, R3A 1M3 E-Mail: carmenlane@gmail.com			

Party/Counsel	Telephone	Facsimile	Party Represented
PHILLIPS AIELLO 500 – 5 Donald Street Winnipeg, Manitoba, R3L 2T4 Joe Aiello E-Mail: jaiello@palaw.law	204-949-7708	204-452-0922	Counsel for Dr. Evan Elias
NORTON ROSE FULBRIGHT 1, Place Ville Marie, Bureau 2500 Montreal, QC H3B 1R1 Arad Mojtahedi E-Mail: arad.mojtahedi@nortonrosefulbright.com Paul Prosterman E-Mail: paul.prosterman@nortonrosefulbright.com	Arad - (514) 847-4582 Paul – (514) 847-4481	Arad - (514) 286-5474 Paul -	Counsel for Dale Syndicate Services Ltd.
STIKEMAN ELLIOTT LLP 1155 René-Lévesque Blvd W, FI 40 Montreal, Quebec, H3B 3V2 Joseph Reynaud E-Mail: jreynaud@stikeman.com	1-514-397-3019		
PITBLADO LAW 2500 – 360 Main Street Winnipeg, Manitoba, R3C 4H6 Philip M. Sheps E-Mail: sheps@pitblado.com Michael Puchniak E-Mail: puchniak@pitblado.com	Philip – (204) 956-3501 Michael – (204) 956-3574		Counsel for HSCF Property Inc.
Health Science Centre Foundation Property Inc. PW112 – 700 William Avenue Winnipeg, Manitoba, R3E 4H6 Paul Cadieux E-Mail: PCadieux@hscfoundation.mb.ca	Paul – (204)515-5614		
JENNIFER COOMBS E-Mail: coombs_jenny@hotmail.com			

Party/Counsel	Telephone	Facsimile	Party Represented
Thompson Dorfman Sweatman 1700-242 Hargrave Street Winnipeg, MB R3C 0V1 Ross A. McFayden Email: ram@tdslaw.com	(204) 934-2378		Counsel for LibreMD Corporation, Prefix Computer Services Inc. and MMD Data Corporation