

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

In re:	)	Case No.:
	)	Honorable Bonnie L. Clair
,	)	Chapter 11
)	
Debtor.	)	Hearing Date:
	)	Hearing Time:
	)	Hearing Location:
)	
	)	Robert E. Eggmann, Esq.
	)	Thomas H. Riske, Esq.
	)	Dormie Yu Heng Ko, Esq.
	)	Carmody MacDonald, P.C.
	)	120 South Central Ave., Ste. 1800
	)	St. Louis, Missouri 63105
	)	(314) 854-8600
	)	ree@carmodymacdonald.com
	)	thr@carmodymacdonald.com
	)	dko@carmodymacdonald.com

**EMERGENCY MOTION FOR ENTRY OF
INTERIM AND FINAL ORDERS AUTHORIZING DEBTOR’S USE
OF CASH COLLATERAL PURSUANT TO § 363 OF THE BANKRUPTCY CODE**

COMES NOW Debtor and Debtor in Possession _____ (“**Debtor**”) by and through its undersigned counsel and moves the Court, pursuant to section 363 of title 11 of the United States Code (the “**Bankruptcy Code**”) and Rules 4001 and 9014 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), for the entry of interim and final orders authorizing Debtor to use Cash Collateral (as such term is defined in section 363(a) of the Bankruptcy Code). In support of this motion (the “**Motion**”), Debtor respectfully states and alleges as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334. Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b).

BACKGROUND

2. On November 24, 2021 (the “**Petition Date**”), Debtor filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the Eastern District of Missouri.

3. Debtor is a Missouri limited liability company that operates a law firm in Clayton, Missouri. Additional information regarding Debtor’s business and the circumstances leading to the commencement of the chapter 11 case (the “**Chapter 11 Case**”) is set forth in the *Declaration of _____ in Support of Debtor’s Chapter 11 Petition and First Day Relief*, which has been filed with the Court contemporaneously herewith and is incorporated by reference herein.

4. Debtor continues to operate its business and manage its affairs as a debtor in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee or examiner has been appointed in this case, and no official committee of creditors or equity interest holders has been established in the Chapter 11 Case.

DEBTOR’S PRE-PETITION RELATIONSHIPS

5. As of the Petition Date, Debtor owed _____ (“**XXX**”) a disputed and unknown sum.

6. Further, as of the Petition Date, Debtor owed _____ (“**XXX**”) a disputed and unknown sum.

7. While it is not entirely clear whether **XXX** and **XXX** properly perfected their security interests in Debtors’ assets (the “**Cash Collateral**”) by filing the appropriate UCC financing statements, Debtor believes **XXX** and **XXX** may claim to be secured creditors in this Chapter 11 Case.

8. As such, out of an abundance of caution, Debtor brings this Motion to put XXX and XXX on notice to the extent necessary.

DEBTOR'S NEED FOR USE OF CASH COLLATERAL

9. Debtor requires the use of the Cash Collateral to continue its business operations and to pay its regular daily expenses, including employees' wages, utilities, and other costs of doing business.

10. A Proposed Budget, showing the amount of funds needed to maintain Debtor's operations until the entry of a final order (the "**Final Order**") permitting use of the Cash Collateral, is attached hereto as **Exhibit A** and incorporated herein by reference.

11. Debtor cannot carry on the operation of its business without the use of the Cash Collateral. In the absence of the use of the Cash Collateral, serious and irreparable harm to Debtor and its estate would occur. The preservation and maintenance relations with clients, the preservation of the going concern value of Debtor, and the reduction of claims against Debtor are of utmost significance and importance to a successful reorganization of Debtor under chapter 11 of the Bankruptcy Code.

12. Debtor's abilities to continue in business, remain a viable entity, and to have any prospect to propose a plan of reorganization under chapter 11 of the Bankruptcy Code depend upon obtaining such authority to immediately use the Cash Collateral.

13. Pursuant to section 363(c)(2) of the Bankruptcy Code, if XXX and XXX interests in the Cash Collateral are valid, Debtor may use the Cash Collateral only with the consent of XXX and XXX or with the Court's approval.

14. XXX and XXX purported interests in the Cash Collateral are adequately protected. To the extent XXX and XXX have valid security interests in the Cash Collateral,

adequate protection will be provided to XXX and XXX though the granting of replacement liens in any pre-petition assets which were subject to their liens. Further, Debtor will grant XXX and XXX new liens in all of Debtor's post-petition assets from and after the Petition Date to the same extent, validity, priority, perfection, and enforceability as their interests in any pre-petition assets.

15. Approval of an interim order (the "**Interim Order**") is in the best interest of Debtor's estate and Debtor believes that other creditors will not be prejudiced by the entry of the Interim Order.

16. Debtor requests that it be immediately authorized, pursuant to section 363(c) of the Bankruptcy Code, to use the Cash Collateral according to the terms of the Interim Order.

REQUEST FOR INTERIM RELIEF

17. Use of the Cash Collateral represents Debtor's sole source of operating funds and working capital. Without the right to use the Cash Collateral, Debtor would be forced to cease operations. Debtor seeks, therefore, after a preliminary hearing, immediate use of the Cash Collateral to avoid immediate and irreparable harm to Debtor and its estate. A copy of the proposed Interim Order is attached hereto as **Exhibit B** and incorporated herein by reference.

NOTICE

18. No creditors' committee has been appointed in this Chapter 11 Case. Notice of this Motion has been given to the following parties or, in lieu thereof, to their counsel, if known: (a) the United States Trustee; (b) Debtor's 20 largest unsecured creditors as identified in its Chapter 11 petition; and (c) any party with an interest in the Cash Collateral. In light of the nature of the relief requested herein, Debtor submits that no other or further notice is required.

19. Debtor further requests that the Court deem service of this Motion, pursuant to Bankruptcy Rules 4001(b)(1) and 4001(c)(1) and service of the Interim Order, good and sufficient notice of the final hearing.

NO PRIOR REQUEST

20. No prior request for the relief sought in this Motion has been made to this or any other court.

WHEREFORE, Debtor _____ respectfully requests that the Court enter an Interim Order after a preliminary hearing:

- A. authorizing Debtor's immediate use of the Cash Collateral in an amount sufficient to avoid immediate and irreparable harm to Debtor and its estate;
- B. after a final hearing, enter a Final Order authorizing Debtor's use of the Cash Collateral in the ordinary course of Debtor's business; and
- C. such other and further relief as this Court may deem just and proper.

Respectfully submitted,

CARMODY MACDONALD P.C.

By: /s/ Robert E. Eggmann
ROBERT E. EGGMANN #37374MO
THOMAS H. RISKE #61838MO
DORMIE YU HENG KO #72509MO
120 S. Central Avenue, Suite 1800
St. Louis, Missouri 63105
(314) 854-8600
(314) 854-8660 – FAX
ree@carmodymacdonald.com
thr@carmodymacdonald.com
dko@carmodymacdonald.com

PROPOSED ATTORNEYS FOR DEBTOR