

**UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF FLORIDA  
JACKSONVILLE DIVISION**

**In Re:**

**Orange Park Dental Professionals P.A.**

**Case No. 3:17-bk-02849  
Chapter 11**

**Debtor.**

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**DEBTOR-IN-POSSESSION'S EMERGENCY MOTION FOR ENTRY OF  
ORDER AUTHORIZING THE USE OF CASH COLLATERAL**

Orange Park Dental Professionals, P.A., as Debtor and Debtor-In-Possession (“Debtor”), pursuant to 11 U.S.C. §363(c)(2) and Rules 4001(b) and 9014 of the Federal Rules of Bankruptcy Procedure (“Bankruptcy Rules”), requests Court authority to use cash collateral, and hereby provides notice of the same to all parties in interest and says:

**Jurisdiction**

1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. Venue of this case and this Motion in this District is proper pursuant to 28 U.S.C. §§ 1408 and 1409. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).
2. Venue of this proceeding and this Motion in this District is proper under 28 U.S.C. §§ 1408 and 1409.
3. The statutory basis for the relief requested herein are sections 105, 361, 362, and 363 of title 11 of the United States Code (the “Bankruptcy Code”), Rules 4001 and 9014 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”).

**Relief Requested**

4. By this Motion, the Debtor seeks entry of the Cash Collateral Orders granting the following relief, without limitations:

- a. Authorizing the Debtor to use Cash Collateral pursuant to sections 361 and 363 of the Bankruptcy Code;
- b. Approving the form of adequate protection provided to the lender pursuant to 361, 362, and 363 of the Bankruptcy Code;
- c. Scheduling a Final Hearing on the Motion to consider entry of the Final Cash Collateral Order; and
- d. Any other relief deemed appropriate by the Court.

**Background**

5. On August 3, 2017, the Debtor filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code. The Debtor continues to manage the property and operate its business as debtor-in-possession pursuant to Bankruptcy Code §§ 1107 and 1108. No trustee, examiner, or official committee has been appointed in this case.
6. The Debtor business operations involve owning and operating a dental practice in Orange Park, Florida.
7. Prior to the Petition Date, the Debtor entered into a Note and Business Loan Agreement with First-Citizens Bank & Trust Company.
8. First-Citizens Bank & Trust Company perfected its security interest by filing a State of Florida Uniform Commercial Code Financing Statement Form (“UCC-1”) on May 2, 2014.
9. Pursuant to the UCC-1, First-Citizens Bank & Trust Company has liens on the Debtor’s personal property (“Prepetition Collateral”), including inventory and the proceeds thereof.

10. The Debtor will prepare a detailed budget and intends on offering replacements liens to First-Citizens Bank & Trust Company in order to protect the creditor's interest as well as monthly payments.
11. The Debtor will work with First-Citizens Bank & Trust Company in order to get an agreed order on this Motion.

**Basis for Relief**

12. The Debtor's use of property of their estates is governed by section 363 of the Bankruptcy Code, which provides in pertinent part that:

If the business of the debtor is authorized to be operated under section...1108...of this title and unless the court orders otherwise, the [debtor] may enter into transactions, including the sale or lease of property of the estate, in the ordinary course of business, without notice or a hearing, and may use property of the estate in the ordinary course of business without notice or a hearing. 11 U.S.C. §363(c)(1).

13. Section 363(c)(2)(A) of the Bankruptcy Code permits a debtor-in-possession to use cash collateral with the consent of the secured party. Section 363(e) of the Bankruptcy Code requires that the debtor adequately protect the secured creditors' interest in the property to be used by a debtor against any diminution in value of such interest resulting from the debtor's use of the property during the chapter 11 case.
14. What constitutes sufficient adequate protection is decided on a case-by-case basis. See In re George Ruggiere Chrysler-Plymoth, 727 F.2d 1017 (11<sup>th</sup> Cir. 1984). Adequate Protection can come in various forms, including payment of adequate protection fees, payment of interest, granting of replacement liens and administrative claims.
15. In addition to replacement liens the Debtor-In-Possession is offering to a monthly interest only payment of \$2,295.75. This payment is based upon \$550,981.71, at 5% interest.

16. The Debtor believes that the proposed Adequate Protection for the benefit of the lender is necessary and appropriate to ensure that the Debtor can continue to use the cash collateral. Accordingly, the adequate protection proposed herein is fair and reasonable and sufficient to satisfy the requirements of sections 363(c)(2) and (e) of the Bankruptcy Code.

**CERTIFICATE OF NECESSITY AND REQUEST FOR EMERGENCY HEARING**

17. Orange Park Dental Professional, P.A., requests that the Court hold an emergency hearing on Debtor's Emergency Motion to Use Cash Collateral. An emergency hearing is necessary to avoid immediate and irreparable harm to the estate.

18. The undersigned attorney certifies that this request is being made in good faith and is based solely upon the factual circumstances existing at the time of the filing of the motion.

**Request for Final Hearing**

19. Pursuant to Bankruptcy Rules 4001(b)(2) and 4001(c)(2), the Debtor requests that the Court set a date for the Final Hearing that is as soon as practicable, but in no event later than 45 days following the entry of the Interim Cash Collateral Order, and fix the time and date prior to the Final Hearing for parties to file objections to the Motion.

WHEREFORE, for the reasons set forth herein, the Debtor respectfully requests that the Court enter an order granting the relief requested herein and granting such other and further relief as the Court deems appropriate.

Dated: August 4, 2017

Submitted by: /s/ Jason A. Burgess  
Jason A. Burgess  
1855 Mayport Road  
Atlantic Beach, Florida 32233  
(904) 354-5065  
jason@jasonaburgess.com  
*Counsel for Debtor-In-Possession*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the foregoing was furnished electronically to the US Trustee via the CM/ECF system on the 4th day of August 2017 in accordance with Rules 2014 and 2016 of the Federal Rules of Bankruptcy Procedure and by Electronic Mail to all other parties on the attached matrix.

/s/ Jason A. Burgess  
Jason A. Burgess

**Attachment A**  
**(Matrix)**

Label Matrix for local noticing  
113A-3  
Case 3:17-bk-02849-PMG  
Middle District of Florida  
Jacksonville  
Fri Aug 4 08:34:59 EDT 2017

Orange Park Dental Professionals, P.A.  
1409 Kingsley Avenue, Ste. 7A  
Orange Park, FL 32073-4559

American Express  
6985 Union Park Center  
Midvale, UT 84047-4177

American Express  
World Financial Center  
New York, NY 10285-0001

Ascentium Capital LLC  
23970 Hwy 59 N.  
Kingwood, TX 77339-1535

Clay County Tax Collector  
477 Houston Street  
Green Cove Springs, FL 32043-2401

Clay County Tax Collector  
Post Office Box 218  
Green Cove Springs FL 32043-0218

(p)FIRST CITIZENS BANK TRUST COMPANY  
P O BOX 25187  
RALEIGH NC 27611-5187

First Citizens Bank & Trust  
9293 Glades Road  
Boca Raton, FL 33434-3905

Florida Dept. of Revenue  
5050 West Tennessee Street  
Tallahassee, FL 32399-0100

Florida Dept. of Revenue  
Bankruptcy Unit  
P.O. Box 6668  
Tallahassee, FL 32314-6668

(p)INTERNAL REVENUE SERVICE  
CENTRALIZED INSOLVENCY OPERATIONS  
PO BOX 7346  
PHILADELPHIA PA 19101-7346

Internal Revenue Service  
PO Box 7346  
Philadelphia, PA 19101-7346

MTM Property Mngt. Group LLC  
1409 Kingsley Avenue, Ste. 7A  
Orange Park, FL 32073-4559

Michael T. McClure  
738 Cypress Crossing Trail  
Saint Augustine, FL 32095-6807

NCMIC Group, Inc.  
14001 University Ave.  
Clive, IA 50325-8273

Secretary of the Treasury  
15th & Pennsylvania Ave., NW  
Washington, DC 20220-0001

Stearns Bank, N.A.  
500 13th Street  
Albany, MN 56307-6401

The Leasing Experts, Inc.  
9710 East Indigo Street  
Ste. 203  
Miami, FL 33157-5613

U.S. Securities & Exchange Commission  
Office of Reorganization  
950 East Paces Ferry Road, N.E.  
Suite 900  
Atlanta, GA 30326-1382

United States Attorney  
300 North Hogan St Suite 700  
Jacksonville, FL 32202-4204

United States Trustee - JAX 11 +  
Office of the United States Trustee  
George C Young Federal Building  
400 West Washington Street, Suite 1100  
Orlando, FL 32801-2210

Jason A Burgess +  
The Law Offices of Jason A. Burgess, LLC  
1855 Mayport Road  
Atlantic Beach, FL 32233-1919

The preferred mailing address (p) above has been substituted for the following entity/entities as so specified by said entity/entities in a Notice of Address filed pursuant to 11 U.S.C. 342(f) and Fed.R.Bank.P. 2002 (g)(4).

First Citizens Bank  
P.O. Box 26592  
Raleigh, NC 27611

Internal Revenue Service  
400 West Bay Street  
Jacksonville, FL 32202

End of Label Matrix  
Mailable recipients 22  
Bypassed recipients 0  
Total 22