

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS**

LISA RANIERI and MEGAN CORNELIUS,
individually and on behalf of a class of similarly
situated persons,

Plaintiffs,

vs.

ADVOCARE INTERNATIONAL, L.P.,
DANIEL MCDANIEL, JENNY DONNELLY,
CRYSTAL THURBER, WES BEWLEY,
DAWN FUNK, and TYLER DEBERRY,

Defendants.

Case NO. 3:17-cv-00691-B

**PLAINTIFFS' UNOPPOSED MOTION TO REOPEN CASE, LIFT STAY,
AND SET A SCHEDULING ORDER ON PENDING MOTIONS,
AND NOTICE OF DECISION ON ARBITRABILITY**

Plaintiffs Lisa Ranieri and Megan Cornelius (“**Plaintiffs**”) respectfully herein move the Court to administratively re-open this case, lift the stay previously imposed, and set a briefing schedule on the pending dispositive motions. Defendants AdvoCare International, L.P., Daniel McDaniel, Jenny Donnelly, Crystal Thurber, Wes Bewley, Dawn Funk, and Tyler DeBerry (collectively, “**Defendants**,” and with Plaintiffs, the “**Parties**”) do not oppose this relief. Plaintiffs’ also provide notice to the Court of the outcome of the arbitrator’s December 27, 2017, decision on arbitrability.

BACKGROUND

Plaintiffs filed this action on March 9, 2017. On May 15, 2017, Defendants filed motions to compel arbitration [Dkt. Nos. 18, 20] (the “**Motions to Compel Arbitration**”). Also on May 15, 2017, the Defendants filed motions to dismiss [Dkt. Nos. 19, 22] (the “**Motions to Dismiss**”).

On June 30, 2017, the Parties filed a Stipulation and Joint Motion to Stay Proceedings Pending Arbitration [Dkt. No. 29], wherein the Parties noted their agreement that the question of arbitrability would be determined by an arbitrator. On July 5, 2017, the Court entered the Parties' proposed order [Dkt. No. 30], staying the proceedings in the case pending an arbitrator's determination of the arbitrability question and directing the Plaintiffs to update the Court within twenty-one days of the entry of a decision on arbitrability. On November 6, 2017, the Court ordered this case administratively closed pending the outcome of the arbitration, which the Clerk of the Court did on the same day.

On December 27, 2017, an arbitrator appointed by the Parties, after receiving extensive legal briefing and hearing oral argument from the Parties, determined that Plaintiff Ranieri's claims against Defendants were not arbitrable. The decision was forwarded to the Parties on December 28, 2017. The Parties had previously agreed that whatever decision the arbitrator reached as to Plaintiff Ranieri's claims would apply equally to Plaintiff Cornelius' claims. Thus, this case is non-arbitrable.

Since the decision on arbitrability, the Parties have discussed scheduling on the Motions to Dismiss. Defendants would like the opportunity to re-brief the Motions to Dismiss, given the passage of time since originally filing them. Plaintiffs do not object to this request.

REQUEST

In light of the foregoing background, Plaintiffs move the Court as follows:

1. To direct the Clerk to administratively re-open the case;
2. To lift the stay in this case; and
3. To enter the following briefing schedule on the pending Motions to Dismiss:
 - Deadline for Defendants to submit revised briefs in support of their Motions to Dismiss: February 8, 2017;

- Deadline for Plaintiffs to oppose the Motions to Dismiss: March 13, 2018; and
- Deadline for Defendants to reply in further support of the Motions to Dismiss: March 30, 2018.

Plaintiffs and Defendants have conferred, and Defendants do not oppose the relief requested herein.

CONCLUSION

Plaintiffs respectfully request that the Court grant the relief requested above and enter the proposed order submitted herewith.

Dated: January 17, 2018

By: J. Benjamin King
J. Benjamin King (SBN 24046217)
REID COLLINS & TSAI LLP
1601 Elm St., Suite 4250
Dallas, Texas 75201
Tel.: 214-420-8900
bking@rctlegal.com

R. Adam Swick (SBN 24051794)
REID COLLINS & TSAI LLP
1301 S. Capital of Texas Hwy.
Bldg. C, Suite 300
Austin, Texas 78746
Tel.: 512-647-6100
aswick@rctlegal.com

Counsel for Plaintiffs

CERTIFICATE OF CONFERENCE

The undersigned, counsel for Plaintiffs in this matter, hereby certify that he conferred with counsel for all Defendants in this matter, and they confirmed that the relief requested in the foregoing motion is unopposed.

J. Benjamin King
J. Benjamin King

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ORDER

The Court, having considered the Plaintiffs' Unopposed Motion to Reopen Case, Lift Stay, and Set a Scheduling Order on Pending Motions, and Notice of Decision on Arbitrability, has determined that the motion should be **GRANTED**.

IT IS ACCORDINGLY ORDERED that:

1. The Clerk of the Court is directed to administratively re-open the case;
2. The stay imposed by the Court on July 5, 2017, is lifted; and
3. The following schedule will govern the briefing on the Defendants' pending Motions to Dismiss [Dkt. Nos. 19, 22]:
 - Deadline for Defendants to submit revised briefs in support of their Motions to Dismiss: February 8, 2017;
 - Deadline for Plaintiffs to oppose the Motions to Dismiss: March 13, 2018; and
 - Deadline for Defendants to reply in further support of the Motions to Dismiss: March 30, 2018.

IT IS SO ORDERED:

Date: _____, 2017

PRESIDING JUDGE