

JAMES D. GILSON (5472)
CALLISTER NEBEKER & McCULLOUGH
Zions Bank Building Suite 900
10 East South Temple
Salt Lake City, UT 84133
Telephone: (801) 530-7300
Facsimile: (801) 364-9127

Attorneys for Plaintiff

IN THE THIRD JUDICIAL DISTRICT COURT OF SALT LAKE COUNTY

STATE OF UTAH

R. WAYNE KLEIN,

Receiver,

A. DAVID BARNES, M.D., P.C.,

Plaintiff,

vs.

FFCF INVESTORS, L.L.C., a Utah limited liability company; ASCENDUS CAPITAL MANAGEMENT, L.L.C., a Utah limited liability company; SMITH HOLDINGS, L.L.C, a Utah limited liability company; RICHARD T. SMITH, An individual; ROGER E. TAYLOR, an individual, and John Does I through X,

Defendants.

**REPLY MEMORANDUM IN
SUPPORT OF DR. BARNES'
MOTION FOR
REIMBURSEMENT OF
ATTORNEYS' FEES AND COSTS
PROCURING RECEIVERSHIP**

Civil No. 080922273

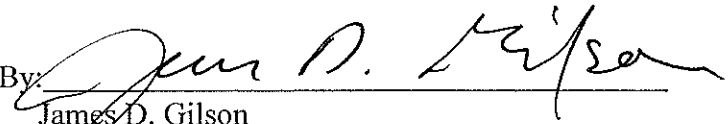
Judge Lindberg

Plaintiff A. David Barnes, M.D., P.C. ("Plaintiff" or "Dr. Barnes"), submits this reply memorandum in support of his October 1, 2009 Motion for Reimbursement of Attorneys' Fees

Relating to Receivership. The only response to Dr. Barnes' Motion was that of the Receiver, who recommends a partial payment at this time to Dr. Barnes in the amount of \$12,000 of the \$44,065.85 total fees and costs claimed, with the balance (\$32,065.85) held for further consideration at a later point in the case. Although Dr. Barnes would prefer to be fully reimbursed now, he agrees to defer to the Receiver's recommendation at this time. Accordingly, submitted herewith is a proposed order consistent with this partial distribution approach for the Court's consideration.

DATED: October 20, 2009.

CALLISTER NEBEKER & McCULLOUGH

By: 
James D. Gilson
Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on the 20th of October, 2009, a true copy of the foregoing **REPLY MEMORANDUM IN SUPPORT OF DR. BARNES' MOTION FOR REIMBURSEMENT OF ATTORNEYS' FEES AND COSTS PROCURING RECEIVERSHIP** was mailed to the following:

Sara J. Pfrommer
2663 Little Kate Road
P.O. Box 3915
Park City, UT 84060

Gerald Millard
Millard Living Trust
4542 Cottage Grove Lane
Murray, UT 84107

James J. Warner
Frederick M. Reich
3233 Third Ave.
San Diego, CA 92103

Russell A. Cline
Crippen & Cline
10 West 100 south, Suite 425
Salt Lake City, UT 84101

Richard T. Smith
443 N. 750 E.
Orem, UT 84097

Craig R. Madsen
1112 North 700 East
Springville, UT 84663

R. Wayne Klein, Receiver
299 South Main, Suite 1300
Salt Lake City, UT 84111

James Michael Usher
8709 South Oakwood Park Circle
Sandy, UT 84094

Jonathan O. Hafen
Parr Brown Gee & Loveless
185 South State Street, Suite 800
Salt Lake City, UT 84111

Anthony W. Schofield
Kirton & McConkie
518 West 800 North, Suite 204
Orem, UT 84057

Steven James
438 North 750 East
Orem, UT 84097

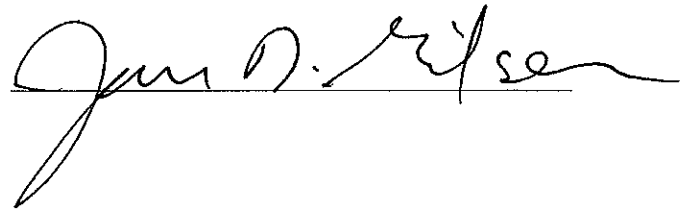
Erik Christiansen
Parsons Behle & Latimer
201 South Main Street, Suite 1800
Salt Lake City, U&T 84111

Bary Jones
157 East 1700 North
Mapleton, UT 84664

David W. Scofield
Peters/Scofield
2455 East Parleys Way, Suite 115
Salt Lake City, UT 84109

Mark W. Pugsley
Ray Quinney & Nebeker
36 South State Street, Suite 1400
Salt Lake City, UT 84111

Bruce L. Dibb
Jensen, Duffin & Dibb, LLP
311 South State Street, Suite 380
Salt Lake City, UT 84111

A handwritten signature in black ink, appearing to read "James D. Jensen", written over a horizontal line. The signature is fluid and cursive.