

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

)	Chapter 7
In re:)	
INTEGRAMED HOLDING CORP., <i>et al.</i> , ¹)	Case No. 20-11169 (LSS)
)	
Debtors.)	(Jointly Administered)
)	
)	RE: Docket Item 346

**ORDER APPROVING: (I) PROCESS FOR DISPOSITION OF
CRYOPRESERVED TISSUE STORED WITH CT FERTILITY, P.C.;
(II) REJECTION OF UNEXPIRED LEASE OF NONRESIDENTIAL REAL
PROPERTY; AND (III) ABANDONMENT OF PERSONAL PROPERTY**

Upon consideration of the *Motion for Order Approving: (I) Process for Disposition of Cryopreserved Tissue Stored with CT Fertility, P.C.; (II) Rejection of Unexpired Lease of Nonresidential Real Property; and (III) Abandonment of Personal Property* (the “Motion”);² the Court finding that: (i) the Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; (ii) this is a core proceeding pursuant to 28 U.S.C. § 157(b); (iii) notice of the Motion was sufficient under the circumstances and that no further notice need be provided; (iv) the protocol and procedures proposed by the Trustee for the disposition of the Cryopreserved Tissue are reasonable and appropriate under the facts and circumstances of these cases; and (v) the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefore and opportunity for a hearing,

¹ The Debtors in these cases are the following entities (the respective case numbers for each estate follows in parentheses): IntegraMed Holding Corp. (20-11169 LSS), IntegraMed America, Inc. (20-11170 LSS), Trellis Health, LLC (20-11171 LSS), IntegraMed Fertility Holding Corp. (20-11172 LSS), Reproductive Partners, Inc. (20-11173 LSS), IntegraMed Management of Bridgeport, LLC (20-11175 LSS), IntegraMed Florida Holdings, LLC (20-11176 LSS), IntegraMed Management of Mobile, LLC (20-11179 LSS), IntegraMed Management, LLC (20-11181 LSS), and IntegraMed Medical Missouri, LLC (20-11184 LSS).

² Capitalized terms not otherwise defined in this Order shall have the meanings given in the Motion.

IT IS HEREBY ORDERED THAT

1. The Motion is **GRANTED**.
2. Pursuant to section 365(a) of the Bankruptcy Code, the rejection of that certain Lease Agreement dated July 17, 2014 between Eldorado Holdings, LLC and Debtor IntegraMed America, Inc. is hereby approved, with such rejection being effective as of October 31, 2020.
3. Pursuant to section 554 of the Bankruptcy Code, the Trustee is authorized to abandon any or all personal property that may be located on the Premises. The counterparty to the Lease may utilize or dispose of such personal property in its sole and absolute discretion without further notice or liability to any party (including the Trustee) claiming an interest in such abandoned property. The automatic stay, to the extent applicable, is modified to allow for such utilization or disposition.
4. Pursuant to sections 105(a) and 363(b) of the Bankruptcy Code, the Trustee is authorized to enter into and perform according to the terms of the CryoGam Agreement, the terms of which are incorporated herein and specifically made a part of this order, including the following:
 - a. As compensation for taking possession, storage, and disposal of the Cryopreserved Tissue as provided herein, including, but not limited to, all costs of transportation, CryoGam will be paid the sum of \$350,000.00, all of which was paid to and received by CryoGam prior to the Petition Date.
 - b. CryoGam shall retain the Cryopreserved Tissue samples for not less than two (2) years from the date on which it takes possession, and shall be, and hereby is, authorized to dispose of such samples at the expiration of such two (2) year period.
 - c. During the two year period after the date on which CryoGam takes possession of the Cryopreserved Tissue, CryoGam shall continue to undertake those efforts that it, in its sole discretion, considers to be reasonably calculated to advise the CTF Cryo Tissue Patients of the disposition of their respective Cryopreserved Tissue samples, and of steps that might be taken to have such samples transferred to a facility

of their choice. CryoGam shall have no liability for its good-faith choices in determining reasonable efforts to provide notice to CTF Cryo Tissue Patients under this provision.

- d. CryoGam shall only be required to continue to store any specimen beyond the initial two year period after the date on which CryoGam received such specimen if the CTF Cryo Tissue Patient with rights to such specimen enters into a separate agreement directly with CryoGam. In the absence of such agreement, CryoGam may dispose of the specimen at the end of the two year period. Upon entry into any such agreement, the terms of such shall supersede the terms of the CryoGam Agreement.
- e. CryoGam shall not be deemed to warrant that the quality or quantity of the Cryopreserved Tissue in its possession will be fit for any particular purpose, and shall have no responsibility for any handling or storage of such tissue prior to receiving it at the CryoGam storage facility. CryoGam shall have no liability for loss or damage in transporting specimens to the CryoGam facility, except to the extent arising from willful or intentional misconduct.
- f. CryoGam shall release any Cryopreserved Tissue specimen only to the CTF Cryo Tissue Patient with rights therein. If such patient is deceased, CryoGam may release the specimens only to the individual specifically named in patient's duly probated will in a specific bequest of the patient's specimens after his/her death. Should the patient's will not contain a specific bequest of his/her specimens, the specimens shall be destroyed and each CTF Cryo Tissue Patient shall be deemed to have directed destruction under such circumstances, and, for him/herself, his/her heirs, executors, and assigns to hold CryoGam harmless for such destruction.
- g. If a CTF Cryo Tissue Patient is legally incapacitated, power to direct what is to be done with that patient's specimens will pass to the individual named in the patient's durable medical power of attorney, if such document exists and specifically references the power to utilize or destroy the patient's specimens. If no such document exists, CryoGam shall keep and maintain the patient's specimens only so long as a separate agreement is reached for the storage of the patient's specimens. Neither the execution of such agreement nor payment for storage shall grant any party any rights to designate what is to be done with any specimens.

- h. All of CryoGam's responsibilities and liabilities with respect to any Cryopreserved Tissue specimen, including its responsibility for storage, shall cease upon the occurrence of any one or more of the following events:
 - i. Release or destruction of the specimen as provided above.
 - ii. The direction or authorization of the CTF Cryo Tissue Patient with rights to such specimen for the destruction of that patient's specimens.
 - iii. Failure of the CTF Cryo Tissue Patient with rights to such specimen to enter into a separate storage agreement at the conclusion of the initial two year period during which CryoGam has possession of the specimen.
- j. Each CTF Cryo Tissue Patient shall be deemed to agree to assume the inherent risk in the process of collection, freezing, storage, transport, and thawing of specimens which may render them ineffective or inappropriate for insemination purposes, and to further agree CryoGam cannot be held liable for pregnancy, the health, or condition of any child resulting from the use of the patient's specimens, or the failure of pregnancy to occur in any insemination attempt using any specimens stored by CryoGam.
- k. Each CTF Cryo Tissue Patient shall be deemed to agree that damages would be difficult or impossible to estimate or ascertain should CryoGam breach any obligations under the CryoGam Agreement in any way (including but not limited to, negligence or otherwise), therefore, should CryoGam breach the CryoGam Agreement in any way, CryoGam shall pay to the patient (or to the patient's estate) the sum of \$1,000.00 as compensation for the injuries suffered by the patient, the patient's estate, or any third party, as liquidated damages and not as a penalty; *provided, however*, that such limitation shall not apply to any harm caused by CryoGam's willful or intentional misconduct.
- l. Each CTF Cryo Tissue Patient shall be deemed to agree that CryoGam shall not be liable for damage or destruction to stored specimens from flood, earthquakes, fire, vandalism, theft, riot, war, or act of God.
- m. CryoGam shall not be required to deliver any Cryopreserved

Tissue in a manner that would violate any applicable law.

5. CryoGam shall have access to the CTF Patient Data, including all related records controlled by FNC, for the two year period following the date on which CryoGam takes possession of the Cryopreserved Tissue.

6. The Trustee and FNC are hereby authorized to disclose and provide the CTF Patient Data to CryoGam, and are authorized to take all actions reasonably necessary to do so, including without limitation by delivering to CryoGam a copy of the server located at the Premises on which CTF's "Intergy" database is stored. To the extent that this server contains data other than the CTF Patient Data, including without limitation data related to patients other than the CTF Cryo Tissue Patients, disclosure and provision to CryoGam of any such additional data is also authorized. CryoGam will maintain the privacy of all patient data provided pursuant to this Order in the normal course of its business and in accordance with its ordinary privacy policy.

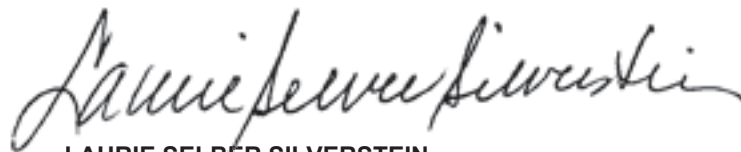
7. Upon CryoGam taking possession of the Cryopreserved Tissue, the Trustee and the estates will be released from all claims, causes of action, and liabilities of any kind arising out of or in any way related to the storage, handling, transport, provision, or disposition of the Cryopreserved Tissue or the CTF Patient Data, including, without limitation, claims that might otherwise be asserted by CryoGam or any CTF Cryo Tissue Patient.

8. Notwithstanding the possible applicability of Bankruptcy Rules 6004(g), 7062, 9014 or otherwise, this Order shall be immediately effective and enforceable upon its entry.

9. The Trustee is authorized and empowered to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Motion.

10. The Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Order.

Dated: October 20th, 2020
Wilmington, Delaware



LAURIE SELBER SILVERSTEIN
UNITED STATES BANKRUPTCY JUDGE