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July 26, 2021

Thomas F. Eagleton Courthouse
111 South 10th Street
Room 24.329
St. Louis, MO. 63102

Re: Kelly, et al. v. The Alieria Companies, et al.; Appeals No: 20-3702; Appeal No: 20-3709

Dear Clerk of the Court:

Appellees file this letter in response to the Court’s July 12, 2021, Order. Appeals No. 20-3702 and No. 20-3709 are pending before the Court. No. 20-3702 was filed by Appellant The Alieria Companies, Inc. (Alieria) and No. 20-3709 by Appellant Trinity Healthshare, Inc. (Trinity).

Trinity filed for bankruptcy in early July 2021. The Court then ordered the parties to indicate their respective positions as to “whether both appeals should be stayed if an automatic stay is granted or whether No. 20-3702 should be severed and allowed to proceed.”

Appeal No. 20-3702 should be severed and allowed to proceed if an automatic stay is granted. As explained in Appellants’ concurrently filed Response to Appellant Trinity’s Suggestion of Bankruptcy, the automatic stay provision in 11 U.S.C. § 362 generally only applies to the debtor, in this case, Trinity. *Croyden Assocs. v. Alleco, Inc.*, 969 F.2d 675, 677 (8th Cir. 1992) (“[A] stay is not available to nonbankrupt codefendants, even if they are in a similar legal or factual nexus with the debtor.”); *Fortier v. Dona Anna Plaza Partners*, 747 F.2d 1324, 1330 (10th Cir. 1984) (“[i]t would make no sense to extend the automatic stay protections to solvent co-defendants. They don’t need it, and at the same time it would work a hardship on plaintiffs, by giving an unwarranted immunity from suit to solvent co-defendants. Extending the stay to protect solvent co-defendants would not advance either of the purposes underlying the

automatic stay.”). The Court should not stay Alera’s Appeal, No. 20-3702, because Alera is not bankrupt and continuing with the proceedings will not result in prejudice to any party.

Respectfully,

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CERTIFICATE OF SERVICE

I hereby certify that on July 26, 2021, I filed the foregoing document with the Court's CM/ECF system, which will cause a true and correct copy of the same to be served electronically on all registered counsel of record.

 /s/ Jay Angoff
Jay Angoff
Attorney for Plaintiffs