

JAN 29 2026

Nathan Ochsner, Clerk of Court

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

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|-------------------------|---|-------------------------|
| ----- | X | |
| In re: | : | Chapter 11 |
| MODIVCARE INC., et al., | : | Case No. 25-90309 (ARP) |
| | : | |
| Debtors. ¹ | : | (Jointly Administered) |
| ----- | X | |

**MOTION TO COMPEL DEBTORS TO PROSECUTE OR RESOLVE CLAIM
OBJECTION**

Creditor Alea Kennedy ("Creditor"), appearing pro se in the interest of Claims No. 1678 and 1679, respectfully moves this Court for entry of an order compelling the Debtors to timely prosecute or resolve the allowance of Creditor's claim and, in support, asserts as follows:

I. JURISDICTION AND VENUE

1. This Court has jurisdiction pursuant to 28 U.S.C. §§ 157 and 1334.
2. This matter is a core proceeding under 28 U.S.C. § 157(b)(2)(B).
3. Venue is proper under 28 U.S.C. §§ 1408 and 1409.

II. FACTUAL BACKGROUND

4. Creditor timely filed Proof of Claim No. 1678 and Reply for Claim Nos. 1678 and 1679.



5. The Debtors filed an omnibus objection to claims on or about November 6, 2025.
6. The Debtors affirmatively removed Creditor's Claim from that omnibus objection, stating that it was excluded from consideration at that time.
7. Since removing the Claim, the Debtors have not filed an amended objection; the Debtors have not sought estimation of the Claim; and the Debtors have not allowed the Claim.
8. The Debtors have proceeded to plan confirmation and have proceeded to plan confirmation and have begun, or are imminently preparing to begin, distributions to other creditors pursuant to the confirmed plan.
9. As a result, Creditor's Claim remains unresolved and in procedural limbo.

III. LEGAL ARGUMENT

A creditor's claim is deemed allowed absent a timely prosecuted objection. A properly filed proof of claim is deemed allowed unless a party in interest objects. 11 U.S.C. § 502(a). In the Fifth Circuit, the filing of a Proof of Claim constitutes prima facie evidence of the claim's validity and amount, and the burden shifts to the Debtor to prosecute any objection. "A proof of claim executed and filed in accordance with the Bankruptcy Rules constitutes prima facie evidence of the validity and amount of the claim." *In re Simmons*, 765 F.2d 547, 552 (5th Cir. 1985).

Claim 1678 is characterized by the debtor as being a Priority claim, secured by \$217,150. A claim that lists a priority amount is asserting rights under 11 U.S.C. § 507. The fact of its duplication in later filings by Debtors is further substantiation of the claim's validity. *In re*

Padilla, 379 B.R. 643. Bankruptcy courts treat debtor schedules as evidentiary admissions. *In re Gertsch*, 237 B.R. 160, 170 (B.A.P. 9th Cir. 1999). The Debtor has made prima facie admission to the validity of these claims, and has indicated their characterization of those claims as being worthy of a priority payment. The debts are sufficiently concrete in the Debtors' own schedules and filings that they have elected to not only attach a priority amount, but to double the original claim. Rather than providing any objection to their payment, the Debtor has presented a willingness to accept terms of payment of these debts that are amenable to the Creditor; and has demonstrated their conscientious intention to prioritize the claims' payment.

While a Debtor may object to claims, it may not do so selectively or indefinitely. Once a Debtor initiates, or affirmatively withdraws from the objection process, it bears the responsibility to bring the matter to resolution within a reasonable frame of time. The Debtors may not use delay as a tactical device in the claims allowance process—not as such delay concerns claims 1678 and 1679. *In re PC Liquidation Corp.*, 383 B.R. 856, 864 (E.D.N.Y. 2008)

Bankruptcy courts possess both statutory and inherent authority to prevent abusive delay and to manage the orderly administration of claims. 11 U.S.C. § 105(a) authorizes the Court to issue any order necessary or appropriate to carry out the provisions of the Bankruptcy Code. Claims allowance is a core proceeding under 28 U.S.C. § 157(b)(2)(B). The Fifth Circuit has recognized that § 105(a) empowers bankruptcy courts to curb procedural manipulation and enforce compliance with the Code.

"Section 105(a) grants the bankruptcy court broad authority to take necessary or appropriate action to prevent an abuse of process." *In re Southmark Corp.*, 88 F.3d 311, 315 (5th Cir. 1996). Removing a claim from an omnibus objection and then taking no further action, while advancing toward consummation, effectively freezes the creditor's rights and constitutes an improper use of

delay as a case-management tactic. Bankruptcy courts are courts of equity and may not permit procedures that unfairly skew the claims-allowance process. *In re Kmart Corp.*, 381 F.3d 709, 713 (7th Cir. 2004). Strategic delay in the adjudication of claims undermines the integrity of the bankruptcy process and will not be sanctioned. *In re WorldCom, Inc.*, 308 B.R. 157, 166 (Bankr. S.D.N.Y. 2004).

Indefinite post-confirmation delay is prejudicial and contrary to Chapter 11's purpose. One of the central purposes of Chapter 11 is to achieve finality and predictability in the treatment of claims. "The bankruptcy process is intended to provide finality to claims and enable distributions to be made in an orderly and equitable fashion." *In re Chateaugay Corp.*, 944 F.2d 997, 1003 (2d Cir. 1991). Courts, including those in Texas, recognize that prolonged inaction in resolving claims after confirmation is inherently prejudicial. "Post-confirmation delay in resolving claims frustrates the administration of the estate and may warrant court intervention." *In re Kahn*, 114 B.R. 40, 44 (Bankr. S.D. Tex. 1990). Should the Debtor not contest Claims No. 1678 and 1679, the Claimant suggests that they be paid.

In the context of the distribution of Claims No. 1678 and 1679, Creditor is prejudiced because other creditors are receiving or anticipating distributions, and in anticipation of settlement, the viability of the confirmed plan is lessened on a continuous basis. The Creditor cannot determine allowance, classification, or timing of payment, and deserves finality to administrative and statutory claims that have remained unresolved for more than three years, and during which time have the Debtors retained unilateral control over whether the Claims will ever be addressed. The debtor may not manipulate the timing of claim resolution to gain leverage over a particular creditor. *In re Enron Corp.*, 379 B.R. 425, 434 (S.D.N.Y. 2007). Bankruptcy

procedures may not be used as weapons to coerce or disadvantage individual claimants. *In re A.H. Robins Co.*, 862 F.2d 1092, 1096 (4th Cir. 1988).

Continued delay on payment of Claims No. 1678 and 1679 raises concerns of unequal treatment. The Bankruptcy Code requires that claims within the same class receive the same treatment. 11 U.S.C. § 1123(a)(4). Although Creditor does not seek adjudication of classification at this stage, continued delay in resolving Creditor's Claim while distributions proceed to other creditors raises legitimate concerns regarding unequal treatment. "Selective payment or delay among similarly situated creditors undermines the integrity of the claims allowance process." *In re Journal Register Co.*, 407 B.R. 520, 535 (Bankr. S.D.N.Y. 2009).

Compelling the Debtors to take a position, either by prosecuting an objection or allowing the claim, preserves equality without prejudging the merits.

The relief requested is procedural, narrow, and well-within the Court's authority. Creditor does not request adjudication of the merits of the Claim at this time. Creditor seeks only a procedural order requiring the Debtors to act. Courts routinely grant such relief as an exercise of docket control and case administration.

"Requiring a debtor to take a position on a claim by a date certain is a proper exercise of the Court's authority and does not prejudice substantive rights." *In re Dana Corp.*, 2008 WL 2885901, at *6 (Bankr. S.D.N.Y. July 23, 2008). This Court may, at minimum, require the Debtors to file and prosecute an objection, or allow the Claim as filed, or appear at a status conference to establish a firm timeline.

IV. RELIEF REQUESTED

WHEREFORE, Creditor respectfully requests that the Court enter an order:

A. Requiring the Debtors, within 14 days of entry of the order, to either:

1. File and prosecute an objection to Creditor's Claim, or
2. Allow the Claim as filed;

B. Alternatively, setting a status conference to establish a binding schedule for resolution of the Claim;

C. Granting such other and further relief as the Court deems just and proper.

Respectfully submitted,

Alea Kennedy Creditor, Pro Se

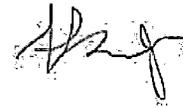


s/ _____
Alea Kennedy, Creditor Pro Se
Claim Nos. 1678 and 1679
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(234) 650-1977

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing document was sent via USPS to the United States Bankruptcy Court for the Southern District of Texas at Clerk of Court, ATTN: 25-90309, 515 Rusk St, Houston, TX 77002 on January 23, 2025, and emailed to those parties registered to receive electronic notices, at taddavidson@hunton.com; catherinerankin@hunton.com; bbell@hunton.com; ray.schrock@lw.com; keith.simon@lw.com; keith.simon@lw.com; george.klidonas@lw.com; and jon.weichselbaum@lw.com.

Respectfully submitted,



/s/ _____

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| Debtors. ¹ | (Jointly Administered) |
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**ORDER GRANTING MOTION TO COMPEL DEBTORS TO PROSECUTE OR
RESOLVE CLAIM OBJECTION**

Upon consideration of the Motion to Compel Debtors to Prosecute or Resolve Claim
Objection (the "Motion") filed by Creditor Alea Kennedy, appearing pro se, with respect to
Proofs of Claim Nos. 1678 and 1679 (the "Claims"), and the Court having jurisdiction pursuant
to 28 U.S.C. §§ 157 and 1334, this being a core proceeding under 28 U.S.C. § 157(b) (2)(B), and
venue being proper in this District, and after due consideration of the record and applicable law,
the Court finds that the relief requested is procedural, appropriate, and within the Court's
authority under 11 U.S.C. § 105(a).

Accordingly, it is hereby ORDERED that:

1. Within fourteen (14) days of entry of this Order, the Debtors shall take one of the
following actions with respect to Proofs of Claim Nos. 1678 and 1679:
 - a. File and prosecute an objection to the Claims in accordance with the
Bankruptcy Code and Rules; or

b. Allow the Claims as filed.

2. In the alternative, if the Debtors elect not to take either action within the time provided above, the Debtors shall appear at a status conference, to be scheduled by the Court, for the purpose of establishing a binding schedule for resolution of the Claims.

3. Nothing in this Order shall be construed as an adjudication of the merits, validity, amount, or classification of the Claims.

4. The Court retains jurisdiction to enforce and interpret this Order and to grant such further relief as may be necessary and appropriate.

IT IS SO ORDERED.

Signed: _____, 2026

ALFREDO R. PEREZ

UNITED STATES BANKRUPTCY JUDGE