

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

In re:

LAVIE CARE CENTERS, LLC, et. al.,

Case No.: 24-55507 (PMB)

(Jointly Administered)

Debtor.

LAVIE CARE CENTERS, LLC, et. al.,

Adv. Proc. No. 24-05127 (PMB)

Plaintiffs,

vs.

HEALTHCARE NEGLIGENCE SETTLEMENT
RECOVERY CORP.,

Defendant.

**RECOVERY CORP.’S RESPONSE
IN OPPOSITION TO INJUNCTION MOTION**

Healthcare Negligence Settlement Recovery Corp. (the “Recovery Corp.”), by and through its undersigned counsel, hereby files this response in opposition to “Debtors’ Motion for Entry of Order (I) Extending The Automatic Stay and/or Preliminarily Enjoining Claims and Causes of Action Against Non-Debtor Defendants and (II) Expedition” (the “Injunction Motion”) [Adv. Doc. 2], that was filed on June 30, 2024, by LaVie Care Centers, LLC, along with certain of its affiliates and subsidiaries (collectively, the “Debtors”)¹:

¹ La Vie Care Centers, LLC, 1010 Carpenters Way Operations LLC, 1120 West Donegan Avenue Operations LLC, 11565 Harts Road Operations LLC, 12170 Cortez Boulevard Operations LLC, 1465 Oakfield Drive Operations



I. BACKGROUND RELATING TO RECOVERY CORP.

1. Recovery Corp. was formed as a Florida corporation by a series of ninety-eight (98) claimants (collectively, the “Claimants”²) asserting claims arising from nursing home negligence at a series of skilled nursing facilities (collectively, the “SNFs”) owned and/or operated by some of the debtors who have initiated the above-styled jointly administered bankruptcy cases (collectively, these “Reorganizations”).

2. Each of the Claimants has been represented by one of sixteen (16) law firms (collectively, the “Claimant Firms”) specializing in the representation of nursing home negligence victims with claims arising based upon breach of a duty of care under Florida Statutes §§400.022, 400.023, and other applicable law.

3. In pursuing claims for their respective Claimants, the Claimant Firms brought a series of separate lawsuits and related controversies (collectively, the “Negligence Actions”) that resulted in a series of settlement agreements (collectively, the “Settlements”) with the respective Debtors. The aggregate amount of the Settlements for all Claimants was \$8,938,876.96.

LLC, 15204 West Colonial Drive Operations LLC, 1550 Jess Parrish Court Operations LLC, 1615 Miami Road Operations LLC, 1851 Elcam Boulevard Operations LLC, 216 Santa Barbara Boulevard Operations LLC, 2333 North Brentwood Circle Operations LLC, 2826 Cleveland Avenue Operations LLC, 3001 Palm Coast Parkway Operations LLC, 3101 Ginger Drive Operations LLC, 3735 Evans Avenue Operations LLC, 4200 Washington Street Operations LLC, 4641 Old Canoe Creek Road Operations LLC, 518 West Fletcher Avenue Operations LLC, 5405 Babcock Street Operations LLC, 6305 Cortez Road West Operations LLC, 6414 13th Road South Operations LLC, 6700 NW 10th Place Operations LLC, 702 South Kings Avenue Operations LLC, 710 North Sun Drive Operations LLC, 741 South Beneva Road Operations LLC, 777 Ninth Street North Operations LLC, 7950 Lake Underhill Road Operations LLC, 9311 South Orange Blossom Trail Operations LLC, 9355 San Jose Boulevard Operations LLC, Baya Nursing and Rehabilitation, LLC, Brandon Facility Operations, LLC, Consulate Facility Leasing, LLC, Epsilon Health Care Properties, LLC, Floridian Facility Operations, LLC, Joseira, LLC, Kissimmee Facility Operations, LLC, Lidenskab, LLC, LV CHC Holdings I, LLC, Melbourne Facility Operations, LLC, Miami Facility Operations, LLC, New Port Richey Facility Operations, LLC, North Fort Myers Facility Operations, LLC, Orange Park Facility Operations, LLC, Port Charlotte Facility Operations, LLC, Tallahassee Facility Operations, LLC, Tosturi, LLC, and West Altamonte Facility Operations, LLC.

² At present, the number of Claimants has increased, and may increase further.

4. In all instances, the Settlements provided for payments over time to the Claimants on account of undisputed liabilities of the Debtors. Most if not all the Settlements were reached at a point in time during which the Debtors had already retained bankruptcy counsel, presumably with an eye towards commencement of these Reorganizations.

5. During late 2023 and early 2024, the Claimant Firms witnessed a series of defaults with respect to the Settlements and made further inquiries. They came to learn that many of the operators named as defendants in the Negligence Actions, often associated under the broad name “Consulate,” had been involved in a labyrinth of transfers involving numerous nursing home operations.

6. By March of 2024, the Claimant Firms coalesced to determine why the defaults under the Settlements were occurring, and what steps could be taken to collect. At this point, the total amount of the Settlements that remained outstanding and in a state of default was \$8,938,876.96. Because of the way the Settlements were documented, the relevant Debtors argued that a separate motion or other filing was required to obtain relief for each missed payment, rather than simply accelerating the debt due to the obvious insolvency of the going concern.

7. On March 28, 2024, the Claimant Firms worked on behalf of the Claimants to form the Recovery Corp., to ultimately bring a single action (the “Miami Action”) in the complex business division of the Circuit Court in and for Miami-Dade County, Florida (the “Miami Court”) to recover what are alleged to be avoidable transfers, and for other relief. The Miami Action is styled Healthcare Negligence Settlement Recovery

Corp. v. 5405 Babcock Street Operations, LLC, et al., Case No. 2024-007342-CA-01, and was initiated on April 22, 2024.

8. In the Miami Action, forty-nine (49) of the Debtors are named as defendants. Causes of action alleged in Recovery Corp.’s complaint initiating the Miami Action (the “Miami Complaint”) include (a) intentionally fraudulent transfers under Florida’s codification of the Uniform Fraudulent Transfer Act (the “UFTA”³), (b) constructively fraudulent transfers under UFTA, (c) declaratory relief under Florida’s “mere continuation” doctrine, (d) declaratory relief under “de facto merger” doctrine, (e) declaratory relief under Florida’s “corporate veil piercing” doctrine, (f) damages under Florida’s codification of the Uniform Unfair and Deceptive Fair Practices Act,⁴ (g) damages for civil conspiracy, (h) damages for breach of fiduciary duty, and (i) unjust enrichment. All defendants were served with initial process, and all Debtors named as defendants appeared through counsel pre-petition. A copy of the Miami Complaint is attached hereto as Exhibit “A.”

9. The Miami Complaint was commenced based upon information available as of the date of filing, and additional information and documentation came into the possession of the Claimants, the Claimant Firms, and Recovery Corp. thereafter. Additionally, extensive discovery was served upon all defendants, including relevant Debtors. The universe of claims asserted and assertible in the Miami Action is hereinafter referred to as the “Asserted Claims.”

³ Florida Statutes §726.011, et seq.

⁴ Florida Statutes §501.201, et seq.

II. OVERVIEW OF THE REORGANIZATION AND INJUNCTION MOTION

10. On June 2 and 3, 2024, the Debtors commenced these Reorganizations, and filed a series of requests for relief that remain pending before this Court.

11. On June 13, 2024, the Office of the United States Trustee appointed the Official Committee of Unsecured Creditors in these Reorganizations (the “Creditors’ Committee”), that is now actively involved and represented by counsel.

12. From inception of these Reorganizations, the Debtors have been consistent and continuous in contending that all the Asserted Claims pled pre-petition in the Miami Complaint are property of the estates of the Debtors under Bankruptcy Code §§541(a), 544(b), or other applicable law. The Debtors also contend that any undertaking to advance the Miami Action against any defendants is violative of the automatic stay under Bankruptcy Code §362(a). The Debtors now seek an injunction with respect to the Miami Action under Bankruptcy Code §105(a).

13. Because the Recovery Corp. has been consistent that it will not attempt to prosecute the Miami Action absent good faith conference and related follow up to build consensus or obtain an order of this Court, the Debtors’ attention to the Miami Action leads to the inference that the Asserted Claims genuinely have value. Copies of correspondence evidencing Recovery Corp.’s repeated assurances referenced herein are attached hereto as Composite Exhibit “B.”

14. On June 3, 2024, the Debtors filed their “Debtors’ Emergency Motion for Entry of Interim and Final Orders (I) Authorizing the Debtors to (A) Obtain Postpetition

Financing and (B) Utilize Cash Collateral, (II) Granting Adequate Protection to Prepetition Secured Parties, (III) Modifying the Automatic Stay, (IV) Scheduling a Final Hearing, and (V) Granting Related Relief” [Doc. 15] (the “DIP Financing Motion”).

15. On June 10, 2024, the Debtors filed their “Debtors’ Motion for Entry of an Order (I) Approving Bidding Procedures and Bid Protections, (II) Scheduling Certain Dates and Deadlines with Respect Thereto, (III) Approving the Form and Manner of Notice Thereof, (IV) Establishing Notice and Procedures for the Assumption and Assignment of Contracts and Leases, (V) Authorizing the Assumption and Assignment of Assumed Contracts, and (VI) Authorizing the Sale of Assets” [Doc. 104] (the “Bidding Procedures Motion”).

16. Both the DIP Financing Motion and the Bidding Procedures motion focus on the Debtors’ purported reorganization efforts relating to the current operating entities (collectively, the “Operating Companies”). As noted above, the Debtors previously operated one hundred and fourteen (114) SNFs; however, over the past year, the Debtors made the decision to transfer the assets of seventy-one (71) facilities (collectively, the “DivestCos”) based in large part upon the DivestCos inability to fund amounts owed to the Claimants pursuant to the terms of the Settlements. Accordingly, the DivestCos, which are the only entities involved in the Settlements, transferred all of their assets to the Operating Companies, leaving the DivestCos with no assets and large legacy debt, including litigation claims. In the Miami Action, the Recovery Corp. only seeks causes of action against defendants who are either DivestCos or non-Debtors.

17. Pursuant to the terms of the DIP Financing Motion and the Bidding

Procedures Motion, the Debtors are currently attempting to sell and/or acquire financing for the Operating Companies, while providing broad releases of liability for insider third parties, such as the Debtors' primary landlord Omega Healthcare Investors, Inc., and its affiliates (collectively "Omega"). Bracketing the fact that these releases are verboten⁵, although the Operating Companies are the entities granting releases to the insider third parties, the Operating Companies did not retain any of the liabilities from the DivestCos upon the transfer of the assets. Accordingly, the Operating Companies seek to release third parties from liability (including the liabilities owed in connection with the Settlements) that they themselves claim to have been absolved from.

18. It is undisputed that the Reorganizations were initiated after a portion of the Debtors transferred the operation of their SNFs to new operators. [Doc. 17 at ¶13]. The Operating Companies received all the assets of the DivestCos, without retaining any of the DivestCos liabilities. [Doc. 17 at ¶13]. Moreover, the Debtors also represent that the DivestCos' decision to transfer their assets to the Operating Companies was motivated in part by its inability to fund settlement payments due to litigation claimants, which in turn included those Settlements owed by the Debtors to the Claimants. [Doc. 17 at ¶14]. It is also noteworthy to mention in these regards that the Debtors retained bankruptcy counsel more than one (1) year prior to initiating the Reorganizations but failed to notify the Claimants of the bankruptcy that the Debtors intended to initiate, indicating that the transfers were thoughtfully calculated to avoid creditors such as the Recovery Corp. Accordingly, the DivestCos were left with no assets, an insurmountable amount of legacy

⁵ See Harrington v. Purdue Pharma L. P., 144 S. Ct. 2071, 2071 (2024).

debt (including the outstanding amounts due from the Settlements), and the Debtors now appear to have no intention of pursuing causes of action against the Operating Companies for the transfers.

19. On June 30, 2024, the Debtors filed the “Complaint” (the “Complaint”) [Adv. Doc. 1] and commenced this above-captioned adversary proceeding (this “Adversary Proceeding”). In the Complaint, the Debtors seek to extend the automatic stay pursuant to Bankruptcy Code §362 and/or enjoin the Recovery Corp from pursuing the Miami Action pursuant to Bankruptcy Code §105(a).

20. On June 30, 2024, the Debtors also filed the Injunction Motion requesting relief with regards to the following non-Debtor defendants in the Miami Action: 9400 SW 137th Avenue Operations, LLC (“9400 SW 137th Avenue Operations”), Daniel E. Dias, Esquire (“Dias”), NSPRMC, LLC, d/b/a NSPIRE Healthcare (“NSPIRE”), Aspire Healthcare, LLC (“Aspire”) and Pourlessoins, LLCs, d/b/a Synergy Healthcare Services (“Synergy”), all of whom are collectively referred to herein as the “Non-Debtor Defendants.” In the Injunction Motion, the Debtors claim that the Non-Debtor Defendants are entitled to relief due to the Debtors’ alleged obligation to indemnify the Non-Debtor Defendants based upon the terms of four (4) agreements (collectively, the “Agreements”), which are as follows: “The Second Amended and Restated Limited Liability Company Operating Agreement of LaVie Care Centers, LLC” (the “Operating Agreement”), the “Support Services Agreement” (collectively, the “Support Agreements”), the “Administrative Services Agreement” (collectively, the “Administrative Agreements”), and the “Operations Transfer Agreements” (collectively,

the “OTAs”).

21. The relevant portions of the Agreements (collectively, the “Indemnification Provisions”), are as follows:

- a. **The Operating Agreement:** Section 17 of the Operating Agreement outlines the indemnification obligation that the Debtors claim is allegedly owed to Dias, Synergy, and NSPIRE. See [Adv. Doc. 1 at Ex. 2]. However, Section 17(b) and (c) note the qualifications in order for any covered representative to receive indemnification and Section 17(e) provides the mechanisms that LaVie Care Centers, LLC may take to fund any amounts due for reimbursement for indemnification obligations, which include maintaining insurance, create a reserve, or enter into indemnification agreements.
- b. **Support Agreements:** The Debtors claim that nineteen (19) of the Debtors owe indemnification obligations to NSPIRE pursuant to the terms of their respective Support Agreement. The indemnification obligations are outlined in Article VIII of the Support Agreement; however, these obligations are limited and do not extend to “any gross negligence, willful misconduct, or fraud of [NSPIRE].” See [Adv. Doc. 1 at Ex. 2.]
- c. **Administrative Agreements:** The Debtors claim that two (2) of the Debtors owe indemnification obligations to Synergy pursuant to the terms of their respective Administrative Agreement. See [Adv. Doc. 1

at Ex. 3.] Pursuant to Article VIII of the Administrative Agreement, certain Debtors may be obligated to indemnify Synergy in connection with a breach of the obligations in the Administrative Agreement. Section 8.2 also specifically provides the conditions precedent that must be satisfied to receive payment.

- d. **OTAs**: The Debtors claim that multiple Debtors owe indemnification obligations to Aspire pursuant to the terms of their respective OTA. Article IX of the OTA outlines the indemnification obligations and contains certain provisions limiting the indemnification obligations of any Debtor to Aspire. See [Adv. Doc. 1 at Ex. 5.]

22. Each of the Indemnification Provisions contain limitations on the Debtors' indemnification obligations, fail to include the source of payment, and include certain conditions precedent that must be satisfied before the Debtors may be obligated to indemnify the Non-Debtor Defendants. However, in the Injunction Motion the Debtors rely upon conclusory blanket statements that the Debtors have obligations to indemnify the Non-Debtor Defendants without providing any explanation as to the amount owed and the source of funds for the payments. Accordingly, the Injunction Motion should be denied.

III. ARGUMENT AND MEMORANDUM OF LAW

A. The Recovery Corp. Has Standing To Bring The Asserted Claims.

23. Bracketing the issues stemming from the Debtors request for injunctive relief, the Debtors contend that they are reserving their rights to challenge the Recovery

Corp.'s standing to bring the Asserted Claims. [Adv. Doc. 1 at p. 9, n.2]. The Recovery Corp. notes and acknowledges the standing issues that are at play by pursuing the Asserted Claims. As noted above, in the Miami Complaint, the Recovery Corp. asserts causes of action stemming from the fraudulent misconduct of the DivestCos. Although standing to assert these causes of action is typically afforded only to the trustee or the debtor-in-possession, there are narrow exceptions where creditors, such as the Recovery Corp., acquire standing and may pursue these causes of action.

24. Bankruptcy courts may confer derivative standing to initiate litigation on behalf of the estate. See In re iPCS, Inc., 297 B.R. 283, 289 (Bankr. N.D. Ga. 2003). To determine whether a creditor has standing to avoid fraudulent transfers, the creditor must (a) allege a colorable claim for fraudulent transfers that would be beneficial to the bankruptcy estate, (b) the creditor must have made a demand upon the debtor-in-possession to file an avoidance proceeding, (c) the creditor's demand must have been refused, and (d) the refusal by the debtor-in-possession is unjustified. See In re Gibson Group, Inc., 66 F.3d 1436 (6th Cir. 1995); see also In re Louisiana World Exposition, Inc., 832 F.2d 1391, 1397-98 (5th Cir. 1987) (granting a creditor committee standing when a debtor or trustee fails to pursue a claim because of conflict of interests between the debtors and the defendants based upon potential indemnification payments from the debtor). Where the trustee or debtor-in-possession lacks the funds necessary to pursue these actions, a creditor may acquire standing to assert these causes of action. Id. at 1443 (citing In re Automated Bus. Sys., Inc., 642 F.2d 200, 201 (6th Cir. 1981)). In determining whether a debtor-in-possession's refusal to pursue these causes of action was

“unjustifiable”, courts “must look to whether the interests of creditors were left unprotected as a result.” See Louisiana World Exposition v. Fed. Ins. Co., 858 F.2d 233, 252-53, n.20 (5th Cir. 1988).

25. It is obvious that the Debtors, as debtors-in-possession, do not intend to pursue these causes of action against the Transferees due to the presently conflict of interests stemming from the Debtors purported obligation to indemnify the Non-Debtor Defendants. Bracketing the Debtors alleged indemnification obligations, which are disputed as more fully outlined below, the Debtors’ attempt to secure broad releases from liability, including the liabilities stemming from the litigation claims such as the outstanding amounts owed pursuant to the terms of the Settlements, further indicate that the Debtors have no intent of pursuing causes of action against the Operating Companies. Moreover, the fact that the Debtors are seeking authority to provide releases for these fraudulent transfer type claims serves as an admission that the Asserted Claims brought by the Recovery Corp. are colorable: The releases would not be necessary if the Asserted Claims were meritless. Therefore, seeking approval by the Debtors to pursue the Asserted Claims would be futile.⁶

26. The relief sought by the Recovery Corp. against the Non-Debtor Defendants would also be beneficial to the estate because it would provide a recovery for a large portion of the Debtors’ unsecured creditors that would otherwise not be achieved. Although Recovery Corp.’s standing to bring the Asserted Claims is not presently at

⁶ In re Dur Jac Ltd., 254 B.R. 279, 286 (Bankr. M.D. Ala. 2000) (“Technically, it may have been preferable to require SouthTrust to make a formal demand prior to seeking leave to bring suit. However, in this case the Court finds that it would have been a futile gesture.”).

issue, and the Committee is still evaluating all courses of action, in the event that the Debtors fail to pursue the Asserted Claims brought by the Recovery Corp. in the Miami Action, either the Committee or the Recovery Corp. will presumably have standing assert these causes of action.

B. The Automatic Stay Is Limited To Debtors.

27. The “clear language of section 362(a) stays actions only against a ‘debtor,’” as repeatedly recognized. Lanard Toys Ltd. v. Toys “R” Us-Delaware, Inc., 2017 WL 5256870, at *4 (M.D. Fla. Nov. 13, 2017) (citing Chi. Title Ins. Co. v. Lerner, 435 B.R. 732, 735 (S.D. Fla. 2010) (quoting McCartney v. Integra Nat’l Bank N., 106 F.3d 506, 509 (3d Cir. 1997)); Brent v. Source Interlink Distribution, LLC, 2014 WL 4162770, at *1 (M.D. Fla. Aug. 21, 2014) (same); Jerome v. Hertz Corp., 2013 WL 6815907, at *1 (M.D. Fla. Dec. 24, 2013) (same). In other words, the “automatic stay provision does not apply to nondebtors,” such as the Non-Debtor Defendants. In re Mack, 2007 WL 1222575, at *3 (M.D. Fla. Apr. 4, 2007). “[T]he automatic stay ... was designed only to protect a debtor who seeks relief under any operating chapter of the Bankruptcy Code.” In fact, the lack of stay as to non-debtors is a fact which is “universally acknowledged” and which may not be invoked against guarantors, co-obligors, or other parties with a similar legal or factual nexus to the debtor. See In re Sunbeam Sec. Litig., 261 B.R. 534, 536 (S.D. Fla. 2011).

28. “Unusual circumstances” may exist, where (i) the non-debtors show that they have the financial wherewithal and the willingness to contribute their funds, credits, or property to fund a plan of reorganization, and such participation is necessary, or (ii) a

sole principal in charge is entitled to protection because he will not be able to devote his time to the affairs of the debtor absent a stay from other litigation. See In re Minnelusa Company, 169 B.R. 225, 226 (Bankr. M.D. Fla. 1994); In re Regency Realty Assoc., 179 B.R. 717, 719-20 (Bankr. M.D. Fla. 1995). However, none of these unusual circumstances presently exist.

C. The Debtors Have Not Established “Unusual Circumstances” To Justify Extending The Automatic Stay.

29. The Debtors erroneously claim that any judgment against the Non-Debtor Defendants in the Miami Action would in effect result in a judgment against the Debtors pursuant to the terms of the Indemnification Provisions. The Debtors mistake the obligation to indemnify the Non-Debtor Defendants with the Debtors’ obligation to reimburse the Non-Debtor Defendants using assets of the estate; however, there is a clear distinction that cannot be overlooked. The Debtors’ reliance upon the Indemnification Provisions is misplaced and the Debtors fail to state with specificity the source of funds for any payments made to the Non-Debtors pursuant to the terms of the Indemnification Agreements. Furthermore, the Indemnification Provisions themselves, and the amounts referenced therein, are not automatically considered property of the estate. See In re Twist Cap, Inc., 1 B.R. 284 (Bankr. M.D. Fla. 1979).

30. To the extent that the Debtors hold no interest in these amounts, payments made to the Non-Debtor Defendants would not implicate property of the estate. In re CHS Elecs., Inc., 261 B.R. 538 541-42 (Bankr. S.D. Fla. 2001) (“Specifically, where the debtor owns the policies but has no interest in the proceeds, the proceeds are not property

of the estate”). Moreover, each of the Indemnification Provisions provides limitations to indemnification as well as conditions precedents that must be satisfied to trigger any right to indemnification from the Debtors. See e.g., [Adv. Doc. 1, Exh 4-A at p. 16]. It remains unclear from the Injunction Motion whether the Non-Debtor Defendants have satisfied these conditions, whether there is any limitation to the indemnification rights, and the overall specifics as to each alleged duty to indemnify the Non-Debtor Defendants. The Injunction Motion is also completely devoid of any claims made by the Non-Debtor Defendants for payment from the Debtors pursuant to the purported Indemnification Provisions.

31. Furthermore, to the extent that the Non-Debtor Defendants want the benefits of a stay, they can seek bankruptcy relief and submit fully to the jurisdiction of this Court. Accordingly, any judgment reached in the Miami Action against the Non-Debtor Defendants would not affect the estate and the Injunction Motion should be denied.

D. The Equities Do Not Favor Entry Of An Injunction.

32. A preliminary injunction is an extraordinary and drastic remedy which should not be routinely granted except upon a clear showing that the movant has carried its heavy burden. United States v. Jefferson County, 720 F.2d 1511, 1519 (11th Cir. 1983); In re A&B Assocs., L.P., at *7-8 (reciting the same statement of law, specifically in the context of a party’s attempt to enjoin action against a non-debtor under 11 U.S.C. §105); see also In re Philadelphia Newspapers, LLC, 407 B.R. 606, 616 (E.D. Pa. 2009) (discussing that a preliminary injunction ““is an extraordinary and drastic remedy, one

that should not be granted unless the movant, by a clear showing, carries the burden of persuasion” (quoting Mazurek v. Armstrong, 520 U.S. 968, 972 (1997)).

33. In order to obtain the injunctive relief requested by the Debtors, the Debtors must show, by clear and convincing evidence: (i) a substantial likelihood of success on the merits; (ii) that the movant will suffer irreparable injury unless the bankruptcy court enjoins the state court proceeding; (iii) that the threatened injury to the movant outweighs any damage that the injunction might cause to the opposing party; and (iv) that the injunction would not harm the public interest.” Nelson v. General Electric Capital Corp., 140 B.R. 814, 816 (Bankr. M.D. Fla. 1992) (citing In re Costa and Head Land Company, 68 B.R. 296, 304 (N.D. Ala. 1986); Zardui-Quintana v. Richard, 768 F.2d 1213, 1216 (11th Cir. 1985)). And while the “bankruptcy court has broad equitable power under §105, this power does not include relieving a party of his burden of proving an essential requisite for injunctive relief.” Costa, 68 B.R. at 300. Nor is the bankruptcy court permitted to give the debtor the benefit of the doubt as to any element of the test. Id. at 300-303 (finding an abuse of discretion where the bankruptcy court enjoined a state court proceeding in reliance on the debtor’s vague promises of a successful reorganization and conclusory assertions of irreparable harm). In this instance, the Debtors have failed to satisfy their burden of proof on each of the four requisite grounds.

34. The Debtors bear the burden of proving likelihood of a successful reorganization under Bankruptcy Code §105, and they cannot discharge this obligation by invoking buzzwords tracking the elements of an injunction claim as if they were talismanic incantations. Moreover, the Debtors’ claims that pursuing the Miami Action

against the Non-Debtor Defendants would adversely affect the Debtors' chances of a successful reorganization are without merit. Pursuant to the terms of the Bidding Procedures Motion, the Debtors are marketing their assets for sale and providing purchasers with the option of which liabilities to assume. See [Doc. 104]. Furthermore, the DIP Financing Motion also provides releases to the lenders in connection with a potential lender liability claim and grants lenders a priority interest in the collateral. See [Doc. 15.] Accordingly, the Debtors claims that a reorganization will be hindered if any injunction is not entered without merit and must be rejected.

35. In the Adversary Complaint and the Injunction Motion, the Debtors have failed to identify any causal nexus between the Miami Action against the Non-Debtor Defendants and their own ability to reorganize. The Debtors are insinuating that the Non-Debtor Defendants would be entitled to property of the estate to fund indemnification obligations owed by the Debtors. But there is nothing definitive to support such a conclusion. Not only does the prosecution of the Miami Action create no irreparable harm for the estate, but it rebounds to the benefit of the estate. A large recovery against the Non-Debtor Defendants may reduce the debt in these Reorganizations.

36. The Debtors insinuate that the Non-Debtor Defendants will contribute to the success of these Reorganizations but does not disclose the extent to which any injunction in favor of the Non-Debtor Defendants will aid in the sale and marketing of the assets, which the Debtors allege is necessary for a successful reorganization. A vague and precatory allusion to some altruistic intent on the part of the Non-Debtor Defendants

is insufficient to discharge this element of injunctive relief, especially because Recovery Corp. will be required to litigate in two fora regardless. Moreover, Recovery Corp. views askance even the most solemn promises of the Debtors and Non-Debtor Defendants after both repudiated their promises to repay the Claimants.

37. There is nothing extraordinary about these Reorganizations which would require the equivalent of a co-debtor stay in favor of the Non-Debtor Defendants, and the Debtors' alleged public policy in favor of a stay is belied by the statutory framework of the Bankruptcy Code.

38. Accordingly, the Debtors request for injunctive relief pursuant to Bankruptcy Code §105(a) should be denied.

IV. CONCLUSION

39. For all the foregoing reasons, this Court should deny the Debtors' request for injunctive relief pertaining to Recovery Corp.'s pending claims against the Non-Debtor Defendants before the Miami Court in the Miami Action. The Debtors have failed to establish that pursuit of the Miami Action will result in a judgment that is effectively against the Debtors. As a result, the automatic stay pursuant to Bankrupt Code §362 should not be extended to the Non-Debtor Defendants in the Miami Action. The Debtors have also failed to satisfy their burden of proof and therefore injunctive relief pursuant to Bankrupt Code §105(a) should not be awarded. Accordingly, the Injunction Motion should be denied.

WHEREFORE, Recovery Corp. requests entry of an order from this Court that (a) denies the Injunction Motion, (b) permits Recovery Corp. to proceed against the Non-

Debtor Defendants in the Miami Action, and (c) provides for all other appropriate relief.

Dated this 19th day of July, 2024.

/s/ John A. Anthony
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished on July 19, 2024, by either the Court's electronic noticing system or by U.S. mail to all parties receiving electronic noticing, all creditors, and the Local Rule 1007-2

Parties in Interest List.:

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/s/ John A. Anthony
ATTORNEY

Exhibit “A”

**IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT
IN AND FOR MIAMI-DADE COUNTY, FLORIDA
CIVIL DIVISION**

HEALTHCARE NEGLIGENCE SETTLEMENT RECOVERY
CORP.,

Plaintiff,

v.

Case No.:

5405 BABCOCK STREET OPERATIONS, LLC, EPSILON HEALTH CARE PROPERTIES, LLC, CMC II, LLC, LAVIE CARE CENTERS, LLC, 6700 N.W. 10TH PLACE OPERATIONS, LLC, 4200 WASHINGTON STREET OPERATIONS, LLC, 2826 CLEVELAND AVENUE OPERATIONS, LLC, BAYA NURSING AND REHABILITATION, LLC, 1465 OAKFIELD DRIVE OPERATIONS, LLC, 777 NINTH STREET NORTH OPERATIONS, LLC, 3101 GINGER DRIVE OPERATIONS, LLC, TALLAHASSEE FACILITY OPERATIONS, LLC, JOSERA, LLC; TOSTURI, LLC, MELBOURNE FACILITY OPERATIONS, LLC, NORTH FORT MYERS FACILITY OPERATIONS, LLC, CONSULATE FACILITY LEASING, LLC, 1010 CARPENTERS WAY OPERATIONS, LLC, MIAMI FACILITY OPERATIONS, LLC, 741 SOUTH BENEVA ROAD OPERATIONS, LLC, 3735 EVANS AVENUE OPERATIONS, LLC, 7950 LAKE UNDERHILL ROAD OPERATIONS, LLC, 518 WEST FLETCHER AVENUE OPERATIONS, LLC, LIDENSKAB LLC, JACKSONVILLE FACILITY OPERATIONS, LLC, 3001 PALM COAST PARKWAY OPERATIONS, LLC, KISSIMMEE FACILITY OPERATIONS, LLC, 9311 SOUTH ORANGE BLOSSOM TRAIL OPERATIONS, LLC, 4641 OLD CANOE CREEK ROAD OPERATIONS, LLC, 2333 NORTH BRENTWOOD CIRCLE OPERATIONS, LLC, 710 NORTH SUN DRIVE OPERATIONS, LLC, 1851 ELKCAM BOULEVARD OPERATIONS, LLC, 6414 13TH ROAD SOUTH OPERATIONS, LLC, 1120 WEST DONEGAN AVENUE OPERATIONS, LLC, 12170 CORTEZ BOULEVARD OPERATIONS, LLC, 9400 SW 137TH AVENUE OPERATIONS LLC, NSPRMC, LLC, 1550 JESS PARRISH COURT OPERATIONS, LLC, LV CHC HOLDINGS I, LLC, CONCOURSE PARTNERS, LLC, CONCURRENT PARTNERS, LLLP, PORT CHARLOTTE FACILITY OPERATIONS, LLC, WEST ALTAMONTE FACILITY OPERATIONS, LLC, 216 SANTA BARBARA

BOULEVARD OPERATIONS, LLC, FLORIDIAN FACILITY OPERATIONS, LLC, 1615 MIAMI ROAD OPERATIONS, LLC, 6305 CORTEZ ROAD WEST OPERATIONS, LLC, 15204 WEST COLONIAL DRIVE OPERATIONS, LLC, NEW PORT RICHEY FACILITY OPERATIONS, LLC, 11565 HARTS ROAD OPERATIONS, LLC, BRANDON FACILITY OPERATIONS, LLC, 9355 SAN JOSE BOULEVARD OPERATIONS, LLC, 702 SOUTH KINGS AVENUE OPERATIONS, LLC, ORANGE PARK FACILITY OPERATIONS, LLC, SYNERGY HEALTHCARE SERVICES, INC., NSPIRE HEALTHCARE INC., ASPIRE HEALTHCARE, LLC, and DANIEL E. DIAS, ESQUIRE,

Defendants.

COMPLAINT

Healthcare Negligence Settlement Recovery Corp. (the “Recovery Corp.”), by and through its undersigned counsel, hereby sues 5405 Babcock Street Operations, LLC, Epsilon Health Care Properties, LLC, CMC II, LLC, Lavie Care Centers, LLC, 6700 N.W. 10th Place Operations, LLC, 4200 Washington Street Operations, LLC, 2826 Cleveland Avenue Operations, LLC, Baya Nursing and Rehabilitation, LLC, 1465 Oakfield Drive Operations, LLC, 777 Ninth Street North Operations, LLC, 3101 Ginger Drive Operations, LLC, Tallahassee Facility Operations, LLC, Joseira, LLC, Tosturi, LLC, Melbourne Facility Operations, LLC, North Fort Myers Facility Operations, LLC, Consulate Facility Leasing, LLC, 1010 Carpenters Way Operations, LLC, Miami Facility Operations, LLC, 741 South Beneva Road Operations, LLC, 3735 Evans Avenue Operations, LLC, 7950 Lake Underhill Road Operations, LLC, 518 West Fletcher Avenue Operations, LLC, Lidenskab LLC, Jacksonville Facility Operations, LLC, 3001 Palm Coast Parkway Operations, LLC, Kissimmee Facility Operations, LLC, 9311 South Orange Blossom Trail Operations, LLC, 4641 Old Canoe Creek Road Operations, LLC, 2333 North Brentwood Circle Operations, LLC, 710 North Sun Drive Operations, LLC, 1851 Elkcam Boulevard

Operations, LLC, 6414 13th Road South Operations, LLC, 1120 West Donegan Avenue Operations, LLC, 12170 Cortez Boulevard Operations, LLC, 9400 SW 137th Avenue Operations LLC, NSPRMC, LLC, 1550 Jess Parrish Court Operations, LLC, LV CHC Holdings I, LLC, Concourse Partners, LLC, Concurrent Partners, LLLP, Port Charlotte Facility Operations, LLC, West Altamonte Facility Operations, LLC, 216 Santa Barbara Boulevard Operations, LLC, Floridian Facility Operations, LLC, 1615 Miami Road Operations, LLC, 6305 Cortez Road West Operations, LLC, 15204 West Colonial Drive Operations, LLC, New Port Richey Facility Operations, LLC, 11565 Harts Road Operations, LLC, Brandon Facility Operations, LLC, 9355 San Jose Boulevard Operations, LLC, 702 South Kings Avenue Operations, LLC, Orange Park Facility Operations, LLC, (collectively, the “Consulate Entities”), Synergy Healthcare Services, Inc., NSPIRE Healthcare Inc., and Aspire Healthcare, LLC (collectively, the “Transferees”), and Daniel E. Dias, Esquire (the “Control Individual”), all of which are collectively referred to herein as the “Defendants,” and alleges:

A. PRELIMINARY ALLEGATIONS

1. The Recovery Corp. is a Florida corporation, doing business in Hillsborough County, Florida.
2. Each of the Consulate Entities is a business entity, doing business in Miami-Dade County, Florida, or elsewhere in the State of Florida.
3. Each of the Transferees is a business entity, doing business in Miami-Dade County, Florida, or elsewhere in the State of Florida.
4. The Control Individual is an individual, sui juris, doing business in Miami-Dade County, Florida that has subjected himself to the jurisdiction of this Court.
5. Pursuant to Florida Statutes §26.012(2)(a), and other applicable law, jurisdiction

for each count alleged in this complaint (this “Complaint”) lies with this Court because this Complaint seeks damages in excess of \$50,000, exclusive of attorneys’ fees, court costs, and related expenses arising from acts that occurred or had impact in Miami-Dade County, Florida.

6. Pursuant to Florida Statutes §47.011, and other applicable law, venue is proper in Miami-Dade County, Florida.

7. All requirements and conditions precedent to the bringing of this action have been satisfied, performed by the Recovery Corp. or its predecessors-in-interest, or waived by the applicable Defendants.

8. The Recovery Corp. has retained the undersigned law firm as counsel of record herein and has agreed to compensate and reimburse it for services rendered and costs incurred in connection with enforcement of the rights and remedies more fully set forth below.

B. THE CONTRACTUAL BASIS FOR THE CLAIMS

9. The Consulate Entities have owned and operated a series of skilled nursing facilities (the “SNFs”) throughout the State of Florida and beyond. The Consulate Entities have been the frequent targets of claims for nursing home abuse and related causes of action.

10. With respect to each of the SNFs, and all residents including the Claimants, the Consulate Entities owed a duty to exercise reasonable care in the operation pursuant to Florida Statutes §400.023. Moreover, each of the Consulate Entities was subject to the provisions of 42 Code of Federal Regulations, Part 483, Chapter 400, Florida Statutes, and Chapter 59 A-4, Florida Administrative Code.

11. On March 28, 2024, the Recovery Corp. was formed by a set of claimants (collectively, the “Claimants”), all of whom had a set of undisputed claims (the “Claims”) against one or more of the Consulate Entities.

12. In all instances, the Claimants originally asserted Claims based upon failure to maintain the required level of care for residents is imposed pursuant to Florida Statutes §400.022. Each of the Claims arose on the date that injuries were experienced by the residents in question.

13. The Claims were all reduced to Settlement Documents evidenced by release documents that were substantially identical to one another (collectively, the “Settlement Documents”). An exemplar of a Settlement Document is attached hereto as Exhibit “A,” and the Settlement Documents are so voluminous that it would be inappropriate to include the same as exhibits to this Complaint, as provided under Florida Rule of Civil Procedure 1.130.

14. In connection with the formation of the Recovery Corp., the Claimants executed an assignment (collectively, the “Assignments”) that assigned the Claims to the Recovery Corp. in exchange for equity ownership interests commensurate with their respective Claims. An exemplar of an Assignment is attached hereto as Exhibit “B,” and the Assignments are so voluminous that it would be inappropriate to include the same as exhibits to this Complaint, as provided under Florida Rule of Civil Procedure 1.130.

15. A schedule of ninety-seven (97) Claimants, and their Claims amounting to \$8,678,877 (collectively, the “Aggregate Outstanding Balance”), is attached hereto as Exhibit “C.” The Aggregate Outstanding Balance is calculated as the sum of settlement payments promised but not made under the Settlement Documents, exclusive of interest, attorneys’ fees, costs, punitive damages, or other claim components that may be due based upon the underlying nucleus of operative facts.

16. All the Settlement Documents provided for the payment by applicable Consulate Entities of settlement payments over time to the Claimants on account of their respective Claims. Many but not all of the Claims have been the subject of nursing home negligence actions

(collectively, the “Negligence Actions”), with Courts presiding over the Negligence Actions each reserving jurisdiction to enforce the underlying settlements.

17. At least three (3) Courts presiding over Negligence Actions brought by Claimants have entered judgments in favor of the applicable Claimants and against the applicable Consulate Entity (collectively, the “Final Judgments”), for failure to make payments as agreed. Copies of the Final Judgments are attached as Composite Exhibit “D.”

18. The Final Judgments remain due and owing to the Recovery Corp., as successor to all Claimants. The judgment amounts set forth therein are subject to adjustment upward to include statutory interest, attorneys’ fees, and costs. Pursuant to Florida Statutes §57.111 and other applicable law, attorneys’ fees and costs incurred in connection with the collection of a judgment are properly awarded as an additional form of relief.

19. Because the Final Judgments are final, the Recovery Corp. as assignee is now entitled as a matter of law to assert his rights and remedies against the Consulate Entities. Because the Consulate Entities have operated as a single unit, and because numerous payment obligations previously due to the Claimants are in a state of uncured default, it is undisputable that the Consulate Entities are insolvent in that they are not paying their debts as they come due and owing in the ordinary course. It is also clear that the Consulate Entities are unable or unwilling to pay the Aggregate Outstanding Balance, and all sums due and owing under the Settlement Documents are therefore properly accelerated.

20. As of the date that the Claims arose that were asserted against the Consulate Entities in the events leading up to the execution of the various Settlement Documents, the Claimants each became a “creditor” of the Consulate Entities, for purposes of obtaining relief under Florida’s codification of the Uniform Fraudulent Transfer Act, codified at Florida Statutes §726.101 et seq.

(“FUFTA”) and other applicable law. The Recovery Corp. now stands in the Claimants shoes as successor.

C. DEFENDANTS’ PLANNED DEFAULTS UNDER SETTLEMENT DOCUMENTS

21. The defaults of the Consulate Entities under the Settlement Documents were not accidental or unexpected, they were engineered.

22. As noted above, the Claimants are part of a larger universe of nursing home negligence victims who were nursing home residents, or survivors of residents, who suffered serious neglect, injuries, and/or death at SNFs operated by the constituent Consulate Entities.

23. The Claims and other similar claims by victims, were analyzed by the Control Individual, who is both an executive for some of the Defendants and a defense attorney who worked as counsel of record opposite a set of fifteen (15) law firms throughout the State of Florida (collectively, the “Plaintiffs Firms”), for purposes of negotiating the settlements in question.

24. Although the Consulate Entities attributed payment defaults under under the Settlement Documents to cash flow problems, neither the Claimants nor the Plaintiffs Firms were aware that the Consulate Entities were experiencing cash flow difficulties was because they were transferring SNFs and other valuable assets (collectively, the “Assets”) as part of corporate restructurings. For purposes of this Complaint, the actions of transferring Assets from the Consulate Entities to the Transferees are collectively referred to herein as the “Transfers.” The Transfers had the effect of enabling the Consulate Entities to avoid liabilities they knew of at the time that the Transfers were occurring.

25. When payments fell into arrears under the Settlement Documents, it became obvious to the Plaintiffs Firms and the Claimants that the Consulate Entities had adopted a business plan intended to maximize profits by (a) skimping on the expenses normally associated with the

quality level of care required under Florida law for licensed skilled nursing home facilities, (b) failing to carry appropriate insurance coverage on any of the SNFs, and (c) utilizing a shifting shell game of business entities to place core business assets beyond the reach of anticipated tort claimants, the victims of negligent care. The gravamen of this Complaint focuses upon the third element of this business plan.

26. The Claimants clearly fall within the universe of creditors that the Consulate Entities were intending to avoid paying by migrating Assets from the Consulate Entities to the Transferees. Other such victims include those who never brought a lawsuit, brought a lawsuit but did not reach a conclusion, or who have a settlement that has been breached but are not parties to this action. However, because the Claimants fall within a unique set of creditors with acknowledged claims based upon statutory violations of care referenced above, with liquidated sums owed, their Claims were all very similar.

27. As defense counsel and corporate executive for the Consulate Entities, the Control Individual is upon information and belief most responsible for the calculated decision to negotiate settlements with the Plaintiffs Firms while simultaneously effectuating the Transfers in order to avoid the liabilities memorialized thereunder. He (a) represented the Consulate Entities as counsel in dealings with Plaintiffs Firms and other similarly situated law firms representing other nursing home negligence victims, (b) migrated to management of the Consulate Entities for purposes of planning a specific strategy of transferring assets such as SNFs to the Transferees, and (c) formulated and implemented the transfers pursuant to which Assets were transferred to the Transferees leading to payment defaults under the Settlement Documents.

28. The existence of the Transfers, and the strategy of the Consulate Entities in placing the Assets beyond the reach of creditors such as the Claimants, can hardly be considered a secret.

The Tampa Bay Times recently reported that “In the wake of a bankruptcy filing and a slew of bad press over the last few years, the privately held chain — the sixth-largest nursing home company in the nation — has quietly divided its Florida facilities into three separate companies. All three appear to still be affiliated with Consulate.” A copy of the referenced article is provided as Exhibit “E.” And yet the corporate machinations are very difficult to trace, and deliberately so.

29. In connection with any change of ownership of the Consulate Entities responsible to the various Claimants under the corresponding Settlement Documents, the Claimants and the Plaintiffs Firms were entitled to notice. Florida Nursing Home Residents Rights statutes were recently amended to require nursing homeowner/operators and licensees to provide proper written notice of any proposed change or ownership or change of operator before any such transactions could be approved. See Florida Statutes §400.024, Florida Agency for Health Care Administration (“ACHA”).

30. Notwithstanding the mandatory notice provisions set forth above, none of the Consulate Entities provided any notice to any of the Claimants or any of the Plaintiffs Firms that changes of ownership were contemplated, even though the purpose of the change of ownership was quite obviously to make it impossible for the Claimants to recover on their Settlement Documents.

31. Separately, each of the Claimants were virtually powerless to face the corporate behemoth that had perpetrated this cruel trick on victims and families of nursing home abuse that has tacitly been acknowledged in Settlement Documents amounting to \$10,763,500 in original settlement liability. However, as a group, the Claimants have formed the Recovery Corp. were to pursue (a) all the Consulate Entities for the Aggregate Outstanding Balance, (b) all Claims against the Transferees who appear to be operating the SNFs and holding the Assets beyond the reach of

the Claimants, and (c) the Control Individual for all claims arising from his role in orchestrating the Consulate Entities' defaults under the Settlement Documents that he personally negotiated with the Claimants and the Plaintiffs Firms while signing on with the Transferees.

COUNT I: INTENTIONALLY FRAUDULENT TRANSFERS

32. This is an action by the Recovery Corp., as successor-in-interest to the Claimants, against the Consulate Entities and the Transferees (collectively, the "UFTA Defendants"), for damages pursuant to Florida Statutes §§726.105(1)(a) and (b), 726.108, and 726.109(2) and (3) and other applicable law.

33. The Recovery Corp. realleges and incorporates by reference paragraphs 1 through 30 of this Complaint as fully set forth herein.

34. With respect to the Transfers:

- a. the Transfers were made with the actual intent to hinder, delay, and defraud creditors of the Consulate Entities, and specifically the Claimants;
- b. the Transfers were made for less than reasonably equivalent value of the assets transferred, primarily the going concern value of the Consulate Entities;
- c. the Transfers were concealed, as evidenced by the failure to give required statutory notice to the Claimants and the Plaintiffs Firms;
- d. the Transferees are insiders of the Consulate Entities;
- e. the Consulate Entities were insolvent, undercapitalized, or became insolvent shortly after the Transfers were made; and
- f. the Transfers occurred in connection with changes in the status of significant debt of the Consulate Entities, including a veritable "litigation pandemic" against the Consulate Entities for their incorrigible nursing home negligence

violations of Florida Statutes §400.022, 400.023, and Chapter 59 A-4 of the Florida Administrative Code.

35. Other “badges of fraud” are also present in this fact scenario including:
- a. The Control Individual has retained control of the Assets through the Transferees;
 - b. before the Transfers were made, the Consulate Entities had been sued by the Claimants, among others, and serious liability was evident; and
 - c. the Transfers occurred shortly before or shortly after a substantial debt to the Recovery Corp. was identified in connection with the Settlement Documents placing payment requirements on the applicable Consulate Entities.

36. Based upon the foregoing, the Transfers constitute fraudulent transfers to the Transferees and unjustly inured to the benefit of the Transferees in that the Transfers were made, as a matter of law, with actual intent to hinder, delay, and defraud the Recovery Corp. and others having claims or interests in the Transfers.

WHEREFORE, the Recovery Corp. requests relief in her favor and against the UFTA Defendants that shall provide for:

- a. entry of a judgment for damages against the UFTA Defendants for the full value of the Assets, including the going concern value of the operating businesses that has been transferred without a day of operations having been interrupted, subject to appropriate adjustment as the equities may require as set forth pursuant to Florida Statutes §§726.109(2) and (3), which equities should specifically include the recognition of any appreciation or other income generated from the Assets since the time of the Transfers;

- b. the recovery of all of the Recovery Corp.'s attorneys' fees, court costs, and related expenses incurred as a result of the Transfers, to the extent recoverable under applicable law; and
- c. such other or additional relief as is necessary and appropriate.

COUNT II: CONSTRUCTIVELY FRAUDULENT TRANSFERS

37. This is an action by the Recovery Corp. for damages against the UFTA Defendants pursuant to Florida Statutes §§726.105(1)(b), 726.108(1)(a) and (2), and 726.109(2) and (3) and other applicable law.

38. The Recovery Corp. realleges and incorporates by reference paragraphs 1 through 30 of this Complaint as fully set forth herein.

39. With respect to the Transfers:

- a. the relevant Consulate Entities made the Transfers to the Transferees and the Transferees were the recipients of the Transfers;
- b. the value of the consideration received by the Consulate Entities in exchange for the Transfers was not reasonably equivalent to the value of the Assets; and
- a. the Transfers constituted a transfer of all the meaningful assets of the Consulate Entities at the time of the Transfers.

40. At the time of the Transfers, because the Consulate Entities transferred to the Transferees all Assets and the ability to continue operating the SNFs:

- a. the Consulate Entities were engaged or were about to engage in a business and in a transaction for which their remaining assets were unreasonably small in relation to the Transfers; and/or
- b. the Consulate Entities intended to incur, believed, or reasonably should have

believed that they would incur debts beyond their ability to repay them as they came due.

41. Based upon the foregoing, the Transfers constitute constructively fraudulent transfer and unjustly inured to the benefit of the Transferees in that the Transfers were made, as a matter of law, for less than reasonably equivalent value and are constructively fraudulent as to the Recovery Corp., as successor-in-interest to the Claimants.

WHEREFORE, the Recovery Corp. requests relief in his favor and against the Defendants that shall provide for:

- a. entry of a judgment for damages against the UFTA Defendants for the full value of the Transfers, subject to appropriate adjustment as the equities may require as set forth pursuant to Florida Statutes §726.109(2) and (3), which equities should specifically include the recognition of any appreciation or other income generated from the Transfers since the time of the Transfers;
- b. the recovery of all the Recovery Corp.'s attorneys' fees, court costs, and related expenses incurred as a result of the Transfers, to the extent recoverable under applicable law; and
- c. such other and additional relief as is necessary and appropriate.

**COUNT III: DECLARATORY RELIEF REGARDING
CONTINUATION OF BUSINESS LIABILITY AGAINST TRANSFEREES**

42. This is an action by the Recovery Corp. against the Transferees for declaratory relief, based upon a controversy pertaining to the Transferees' liability under a continuation of business theory based upon their continuation of the respective business of the respective Consulate Entities (the "Transferees Liability Controversy").

43. The Recovery Corp. realleges and incorporates by reference paragraphs 1 through

30 of this Complaint as fully set forth herein.

44. The Recovery Corp. asserts, as successor-in-interest to the Claimants, that the threshold liability of the Transferees is established in the preceding paragraphs as a threshold for adjudicating the merits of the Transferees Liability Controversy.

45. Under Florida law, the pattern of business activity as between the Consulate Entities and the corresponding Transferees leaves no doubt that in substance and in form, by intent and in effect, the Transferees represent nothing more than a continuation of the business SNFs, without any change to any business dynamic or attribute whatsoever. Without any defining moment separating the extinguishment of the Consulate Entities and the emergence of the corresponding Transferees, (a) the same name of the business remains unchanged, (b) the same website, phone number, domain names, and other intellectual property associated with the business remain the same, (c) all executory contracts and going concern assets remained intact, and (d) profit margins, financial governance, and fraudulent intent continued uninterrupted.

46. The relief requested herein relates to the Transferees Liability Controversy, that must be adjudicated pursuant to Florida Statutes §86.011 et seq. By way of background, it is noted that successor liability is imposed when there is a continuity of the successor entity evidenced by such things as the same management, personnel, assets, location, and ownership.

47. The rationale for successor liability is rooted in the notion that no business entity should be permitted to commit a tort or breach a contract and avoid liability through corporate transformation in form only. Here, as much as the Transferees may claim otherwise, all of the elements of a mere continuation are present.

48. There is a bona fide, actual, present practical need for a declaration of the rights and duties of the Recovery Corp. and the Transferees (collectively, the “Parties”) with respect to

the Transferees Liability Controversy.

49. The facts surrounding the Transferees Liability Controversy are readily ascertainable and can be readily established. The Parties require timely adjudication of the Transferees Liability Controversy as the status of current business, financial, and legal affairs continue to create an unacceptable situation for all involved.

50. The Recovery Corp. seeks declaratory relief regarding the Transferees Liability Controversy.

51. The rights of the Parties, and other interested parties, are dependent upon the adjudication of the Transferees Liability Controversy.

52. The Parties are all before this Court, and thus this is the correct forum in which to determine the rights of the Parties.

53. A range of equitable considerations, including a weighing of the relative burdens on the Parties to this proceeding, and the equitable nature and authority of this Court, dictate that declaratory relief regarding the Transferees Liability Controversy is appropriate currently.

54. The Transferees Liability Controversy presented in this Court is ripe. The Parties are unsure as to their relative rights and remedies as to the Transferees Liability Controversy. The Parties require this Court's declaratory relief to proceed.

55. Against the foregoing alleged facts, the Transferees refuse to take responsibility for the pattern of conduct perpetrated at the expense of the Recovery Corp., as successor-in-interest to the Claimants. Accordingly, all the Transferees should be deemed liable for the Aggregate Outstanding Balance, as if each executed the underlying Settlement Documents from the outset.

WHEREFORE, the Recovery Corp. requests declaratory judgment regarding all aspects of the Transferees Liability Controversy, in its favor and against the Transferees, finding the

Transferees to be liable for all the same liabilities of the Consulate Entities as set forth above, and finding that the Aggregate Outstanding Balance is owed by the Transferees, on a continuation of business theory, and all other appropriate relief.

**COUNT IV: DECLARATORY RELIEF REGARDING
DE FACTO MERGER LIABILITY AGAINST TRANSFEREES**

56. This is an action by the Recovery Corp. against the Transferees for declaratory relief, based upon a controversy pertaining to the Transferees liability under a de facto merger theory based upon their continuation and absorption of the respective business of the respective Consulate Entities (the “Transferees Merger Controversy”).

57. The Recovery Corp. realleges and incorporates by reference paragraphs 1 through 30 of this Complaint as fully set forth herein.

58. The Recovery Corp., as successor-in-interest to the Claimants, asserts that the threshold liability of the Transferees is established in the preceding paragraphs as a threshold for adjudicating the merits of the Transferees Merger Controversy.

59. Under Florida law, the pattern of business activity as between the respective Consulate Entities and the corresponding Transferees leaves no doubt that in substance and in form, by intent and in effect, the Transferees represent nothing more than a dissolution and merger of the Business into that of the Transferees, without any change to any business dynamic or attribute whatsoever.

60. Without any defining moment separating the extinguishment of the each of the Consulate Entities and the emergence of the corresponding Transferees, (a) the same name of the business remains unchanged, (b) the same website, phone number, domain names, and other intellectual property associated with the business remain the same, (c) the Control Individual fully controls and maintains all Assets, (d) the business essentially ceases to operate as it previously did

under the control of each of the Consulate Entities, and (e) profit margins, financial governance, and fraudulent intent have continued uninterrupted.

61. The relief requested herein relates to the Transferees Merger Controversy, that must be adjudicated pursuant to Florida Statutes §86.011 et seq. By way of background, it is noted that de facto merger liability is imposed when one corporation is absorbed by another, i.e., there is a continuity of the selling corporation evidenced by such things as the same management, personnel, assets, location, and stockholders.

62. There is a bona fide, actual, present practical need for a declaration of the rights and duties of the Parties with respect to the Transferees Merger Controversy.

63. The facts surrounding the Transferees Merger Controversy are readily ascertainable and can be readily established.

64. The Parties require timely adjudication of the Transferees Merger Controversy as the status of current business, financial, and legal affairs continue to create an unacceptable situation for all involved.

65. The Recovery Corp. seeks declaratory relief regarding the Transferees Merger Controversy.

66. The rights of the Parties, and other interested parties, are dependent upon the adjudication of the Transferees Merger Controversy.

67. The Parties are all before this Court, and thus this is the correct forum in which to determine the rights of the Parties.

68. A range of equitable considerations, including a weighing of the relative burdens on the Parties to this proceeding, and the equitable nature and authority of this Court, dictate that declaratory relief regarding the Transferees Merger Controversy is appropriate currently.

69. The Transferees Merger Controversy presented in this Count is ripe. The Parties are unsure as to their relative rights and remedies as to the Transferees Merger Controversy. The Parties require this Court's declaratory relief to proceed.

70. Against the foregoing alleged facts, the Transferees refuse to take responsibility for the pattern of conduct perpetrated at the expense of the Recovery Corp.

WHEREFORE, the Recovery Corp. requests declaratory judgment regarding all aspects of the Transferees Merger Controversy, in its favor and against the Transferees, finding the Transferees to be liable for all the same liabilities of each of the Consulate Entities as set forth above, and finding that the Aggregate Outstanding Balance is owed by the Transferees, on a de facto merger theory, and all other appropriate relief.

**COUNT V: DECLARATORY RELIEF REGARDING
CORPORATE VEIL PIERCING AGAINST TRANSFEREES**

71. This is an action for declaratory relief by the Recovery Corp. against the Transferees, based upon a controversy as to whether the Control Individual's improper use and manipulation of the Consulate Entities has occurred in a context that justifies piercing the corporate veil so as to hold the Transferees accountable for the liabilities of the respective Consulate Entities (the "Veil Piercing Controversy").

72. The Recovery Corp. realleges and incorporates by reference paragraphs 1 through 30 of this Complaint as fully set forth herein.

73. The Recovery Corp. asserts that the threshold liability of the Consulate Entities is established in the preceding paragraphs as a threshold for adjudicating the merits of the Veil Piercing Controversy.

74. The Recovery Corp. has described how the Control Individual deliberately structured the Transfers as part of the standard operating procedure to prevent any scenario in

which the ongoing business activities of the Transferees' enterprise would be held financially accountable for tort liability reduced to the Settlement Documents.

75. The Control Individual, first through the Consulate Entities and then through the Transferees, (a) maintain a set of nursing home businesses, including the SNFs, that are deliberately operated in a manner that would cause one to expect tort claims like those of the Claimants, (b) carry insufficient insurance coverage on the SNFs, (c) employ a shifting shell game strategy to place the Assets beyond the reach of creditors, and (d) maintain a structure that purports to shield the Control Individual from personal liability because their own management practices and corporate structure, and that of the Consulate Entities.

76. Relevant licensure and corresponding notice requirements to the Claimants and other prejudiced creditors were disregarded to effectuate the Transfers so as to place the Assets out of the reach of the Claimants and other creditors. Then, the Transferees took their places in continuing any obligations that the Control Individual deemed necessary to maintain profitability while evading the practical consequences of tort liability.

77. As part of the Consulate Entities standard operating procedure throughout the business matrix, the Control Individual deliberately orchestrated a scenario in which (a) residents of each of the SNFs receive substandard care, (b) the Control Individual acted to place Assets in the name of the Transferees, (c) the Transferees became the new owners of the SNFs and Assets, beyond the reach of the Claimants, and (d) the negligent operation of the SNFs will continue without economic ramifications proportionate to the negligence committed. None of this is acceptable, as a matter of law.

78. The relief requested herein relates to the Veil Piercing Controversy, that must be adjudicated pursuant to Florida Statutes §86.011 et seq. By way of background, it is noted that

justification for piercing the corporate veil requires proof that (a) there was a lack of separateness between a business entity and its true owner, (b) improper conduct occurred in the use and manipulation of the business entity directed by its true owner, and (c) the improper conduct conducted through the business entity was the proximate cause of the alleged loss. These circumstances are present as relating to the Transferees, and justify the relief requested by the Recovery Corp.

79. There is a bona fide, actual, present practical need for a declaration of the rights and duties of the Parties with respect to the Veil Piercing Controversy.

80. The facts surrounding the Veil Piercing Controversy are readily ascertainable and can be readily established. The Parties require timely adjudication of the Veil Piercing Controversy as the status of current business, financial, and legal affairs continue to create an unacceptable situation for all involved.

81. The Recovery Corp. seeks declaratory relief regarding the Veil Piercing Controversy, piercing the veils of all of the Consulate Entities, such that the corporate separateness of the Consulate Entities should be ignored, and the Transferees held liable for the same liabilities of the Consulate Entities. Accordingly, the Recovery Corp. seeks to pierce the veils of the Transferees both vertically and horizontally as appropriate within the Control Individual's business matrix.

82. The rights of the Parties, and other interested parties, are dependent upon the adjudication of the Veil Piercing Controversy.

83. The Parties are all before this Court, and thus this is the correct forum in which to determine the rights of the Parties.

84. A range of equitable considerations, including a weighing of the relative burdens

on the Parties to this proceeding, and the equitable nature and authority of this Court, dictate that declaratory relief regarding the Veil Piercing Controversy is appropriate currently.

85. The Veil Piercing Controversy presented in this Count is ripe. The Parties are unsure as to their relative rights and remedies as to the Veil Piercing Controversy. The Parties require this Court's declaratory relief to proceed.

86. Against the foregoing alleged facts, the Transferees will not accept financial responsibility for the corporate artifice that the Control Individual has created.

WHEREFORE, the Recovery Corp. requests declaratory judgment regarding all aspects of the Veil Piercing Controversy, in its favor and against the Transferees, finding that the Aggregate Outstanding Balance is owed by the Transferees, on a veil piercing theory, and all other appropriate relief.

COUNT VI: UNFAIR AND DECEPTIVE TRADE PRACTICES

87. This is an action for damages by the Recovery Corp. against all of the Defendants, pursuant to the Florida Deceptive and Unfair Trade Practices Act ("FDUTPA"), as amended, codified at Florida Statutes §501.201, et. seq.

88. The Recovery Corp. realleges and incorporates by reference paragraphs 1 through 88 of this Complaint as fully set forth herein.

89. The Recovery Corp. is a successor to the Claimants, who are "consumers" as defined by Florida Statutes §501.203.

90. The Defendants are actively engaged in trade and commerce in the State of Florida, and specifically in the Middle District of Florida.

91. The Defendants have engaged in unfair, deceptive, and unconscionable acts or trade practices in their trade and commerce.

92. Such acts and practices offend public policy and are immoral, unethical, oppressive, and unscrupulous. The facts accurately described above reflect that the Defendants' conduct is unconscionable.

93. The conduct of the Defendants has been materially injurious to the Claimants.

94. The conduct of the Defendants was the actual and proximate cause of the damages sustained by the Claimants.

95. The Defendants' unfair and deceptive acts have caused the Claimants to sustain damages.

WHEREFORE, the Recovery Corp. demand judgment in its favor and against the Defendants for damages for its unfair and deceptive trade practices, plus attorneys' fees and costs pursuant to Florida Statutes §501.211(2), and all additional relief that is just and proper.

COUNT VII: DAMAGES FOR CIVIL CONSPIRACY

96. This is an action by the Recovery Corp. against the Control Individual and the Transferees for damages as a result of the civil conspiracy to interfere with the Settlement Documents.

97. The Recovery Corp. reincorporates by reference the allegations contained in paragraphs 30 above as though fully set forth herein.

98. The Claimants and the Consulate Entities were parties to a set of Settlement Documents, and the Consulate Entities were due to perform by paying the Aggregate Outstanding Balance.

99. The Control Individual and the Transferees collectively committed fraudulent and otherwise avoidable transfers as described above, for their own lucre, at the expense of the Claimants, the predecessors-in-interest to the Recovery Corp.

100. As a result of the foregoing overt acts, among others perpetrated in collusion by the Control Individual and the Transferees, the Recovery Corp. has sustained damages because the Aggregate Outstanding Balance remains outstanding and the Assets and SNFs are owned and controlled by the Transferees.

WHEREFORE, the Recovery Corp. requests judgment in its favor and against the Control Individual and the Transferees, jointly and severally, for the Aggregate Outstanding Balance, together with such other and further relief deemed just, equitable, and proper.

**COUNT VIII: BREACH OF FIDUCIARY
DUTY AGAINST THE CONTROL INDIVIDUAL**

101. This is an action by the Recovery Corp. against the Control Individual for damages relating to his breach of fiduciary duty post-closing with respect to the operations of the Consulate Entities following negotiation and execution of the Settlement Documents.

102. The Recovery Corp. realleges paragraphs 1 through 30 of this Complaint as though fully set forth herein.

103. As noted above, it cannot be reasonably disputed that the Control Individual, in his own right and on behalf of Consulate Entities, deliberately caused the Claimants to repose trust in him, in achieving each of the Settlement Documents.

104. The Control Individual knowingly accepted the Claimants' trust, only to betray it while mismanaging the Consulate Entities. Specifically, by orchestrating the Transfers, the Control Individual ensured that the Consulate Entities would be unable to meet their commitments and pay the Aggregate Outstanding Balance.

105. In addition to the foregoing, upon information and belief, the Control Individual held corporate positions in one or more of the Consulate Entities at times during which the Consulate Entities were insolvent. Under applicable law, officers and directors of a solvent

business entity have a statutory fiduciary duty to equity; however, officers and directors of an insolvent business entity have a duty to creditors: Engineering fraudulent transfers is inconsistent with the fiduciary duty owed to creditors of an insolvent enterprise.

106. The Recovery Corp.'s interest in the Consulate Entities has been substantially diminished as a result of the aforementioned actionable misconduct, including reduction commensurate with the value of the Assets as transferred.

107. The Recovery Corp. has been harmed as a result of all the foregoing aforementioned actionable misconduct.

WHEREFORE, the Recovery Corp. requests judgment for damages against the Control Individual, together with costs, and granting such other and further relief deemed just, equitable, and proper.

COUNT IX: UNJUST ENRICHMENT

108. This is an action for damages by the Recovery Corp. against the Control Individual and the Transferees for unjust enrichment.

109. The Recovery Corp. realleges and incorporates by reference paragraphs 1 through 30 of this Complaint as fully set forth herein.

110. The Consulate Entities transferred the Assets to the Transferees and the Transferees are now controlled by the Control Individual, who negotiated the Settlement Documents and then orchestrated the Transfers to make it impossible for the Consulate Entities to pay the Aggregate Outstanding Balance.

111. The Control Individual and the Transferees were aware of and appreciated the fact that the Assets were transferred clandestinely, for insufficient value, in an insolvency scenario, and with other circumstances indicative of bad faith and fraudulent intent.

112. The totality of the circumstances makes it inequitable for the Transferees to retain the Assets without paying the value thereof.

113. The Control Individual and the Transferees fully knew that the value received was inequitable under the totality of the circumstances.

WHEREFORE, the Recovery Corp. demands judgment against the Control Individual and the Transferees, for the aggregate value of the Aggregate Outstanding Balance, together with interest, costs and such other relief as this Court deems appropriate.

D. JURY TRIAL DEMANDED

114. The Recovery Corp. demands a trial by jury on all issues so triable.

Dated this 22nd day of April 2024.

/s/ John A. Anthony

JOHN A. ANTHONY, ESQUIRE

Florida Bar Number: 0731013

janthony@anthonyandpartners.com

CAMERYN R. LACKEY, ESQUIRE

Florida Bar Number: 1038915

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ANTHONY & PARTNERS, LLC

100 S. Ashley Drive, Suite 1600

Tampa, Florida 33602

Tel: 813-273-5616 | Telecopier: 813-221-4113

Attorneys for the Recovery Corp.

Exhibit “A”

GENERAL RELEASE

BE IT KNOWN that I, [REDACTED], as **Personal Representative of the Estate of [REDACTED]**, Releasor, for and in consideration of the sum of [REDACTED] or other valuable considerations, *to be made payable by December 31, 2024*, do, for myself, and my respective heirs, representatives, executors, administrators and assigns, hereby fully release and forever discharge [REDACTED], hereinafter "Releasees", from any and all manner of actions, claims for relief and damages, suits, debts, obligations, judgments, and demands whatsoever, in law or in equity, whether known or unknown, direct or indirect, not existing, which Releasor ever had, now has, or which any personal representative, successor, heir or assign of said Releasor, hereafter can, shall or may have against said Releasee, for, upon or by reason of any matter, cause or thing whatsoever, from the beginning of the world to the day of these presents, including, without limitation, all claims or actions arising out or related in any way to the PRESUIT matter of: [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] including any and all claims for attorneys fees and costs.

It is understood and agreed that this release shall also apply to the Releasees past, present and future employees, managers, operators, parents, affiliates, subsidiaries, shareholders, officers and directors, predecessors and successors in interest and assigns, and all other persons, firms, corporations, or companies with whom any of the former have been, are now or may hereafter be affiliated, any language in this release to the contrary notwithstanding.

The Releasor hereby agrees to indemnify and hold harmless the Releasee from any and all claims and/or liens and/or subrogated interests herein for which these funds are intended to cover.

Releasor warrants and expressly agrees to satisfy any and all existing encumbrances or liens, including but not limited to governmental or third party payor sources such as Medicare, Medicaid or Social Security liens which are in existence, and agree to satisfy any encumbrances or liens which may hereinafter be filed, levied, asserted, or placed upon any proceeds identified with this Release.

Releasor acknowledges and understands that information concerning Releasor, the settlement, and other circumstances are subject to the mandatory reporting requirements of Section 111 of the Medicare, Medicaid & SCHIP Extension Act of 2007 (MMSEA). Releasor agrees that this General Release is final and binding, no matter what act, position, assertion, recovery effort, or enforcement action may be made against Releasor or the settlement.

In consideration of the payment of [REDACTED] which sum is included in the total amount of the settlement as stated above in this document and is not in addition to it, Releasor and Releasee agree that the terms of this agreement are absolutely

GENERAL RELEASE

Page 2 of 3

confidential and shall not be disclosed to anyone else, including any publisher, representative of the media, journal and/or periodical in the absence of a court order, except as may be necessary to effectuate its terms. This agreement is intended to be binding on the Plaintiff/Releasor and his/her agents and representatives. Any disclosure in violation of this section shall be deemed a material breach of this agreement.

It is further understood and agreed that this release does not, and is not intended to, release or discharge any claim or potential claim against any other person or entity not identified herein, including, but not limited to, any claim or any potential claim against any other nursing home, any surgeon or doctor, or their professional association, nurses, or independent contractors, any therapy company or pharmaceutical company, consultants, or any hospital except those specifically provided herein.

It is further understood and agreed that this settlement is the compromise of disputed claims and that the payment made is not to be construed as an admission of liability on the part of any Releasees, all of whom expressly deny any liability for this action.

It is further understood and agreed that no promise or agreement not herein expressed has been made to Releasor and that this Release contains the entire agreement between the parties to it and that the terms of this Release are contractual and not a mere recital.

It is further, the Releasor waives and agrees to hold harmless, Releasee from any and all claims that may exist on behalf of all natural and/or adopted children of [REDACTED].

Releasor has had the benefit of counsel and of his/her own attorney; that Releasor fully understands the terms of this Release; and that Releasor is making full and final settlement of all claims of every nature and character against persons hereby released.



[NOTARY PAGE TO FOLLOW]

GENERAL RELEASE

[REDACTED]

Page 3 of 3

STATE OF [REDACTED]

COUNTY OF [REDACTED]

The foregoing instrument was acknowledged before me this [REDACTED] day of [REDACTED], 2022 by [REDACTED], who is personally known to me or has produced [REDACTED] as identification and who did not (did) take an oath.

(S E A L)

[REDACTED]

[REDACTED]
Notary Public, State of [REDACTED]
(Signature of Notary taking Acknowledgment)

[REDACTED]
Name of Notary Typed,
Printed or Stamped

My Commission Expires: [REDACTED]

[REDACTED]
Commission Number

THIS INSTRUMENT PREPARED BY:

ANTONIO CIFUENTES, ESQ.
Florida Bar No.: 043605
DIAS & ASSOCIATES, P.A.
5102 W. Laurel Street, Suite 700
Tampa, Florida 33607
Telephone: (813) 769-6280
Facsimile: (813) 769-6281
Attorneys for DEFENDANTS

Exhibit “B”

ASSIGNMENT OF CLAIM AND CORPORATE PROXY

This Assignment of Claim and Corporate Proxy (this “Assignment”) pertains to all claims (collectively, the “Assigned Claims”) that the undersigned claimant (the “Assignor”) possesses or may possess against Consulate Healthcare, its affiliates, subsidiaries, transferees, alter egos, related entities, and management individuals (collectively, the “Consulate Targets”). In connection with the Assignor’s assignment of the Assigned Claims to Healthcare Negligence Settlement Recovery Corp. (the “Recovery Corp.”), reference is made to the following:

1. The Assignor is among numerous claimants (collectively, the “Claimants”) who are parties to a series of settlement agreements (collectively, the “Settlement Agreements”) with one or more of the Consulate Targets, based upon nursing home negligence, medical malpractice, wrongful death, or other tort claims that were settled. In all instances, the Claimants have been represented by a series of law firms specializing in the prosecution of civil claims pertaining to nursing home negligence, medical malpractice, wrongful death, or other tort claims (collectively, the “Plaintiffs Firms”).

2. Consistently with the foregoing, the Assignor retained one of the Plaintiffs Firms for representation, culminating in execution of one of the Settlement Agreements (the “Assigned Settlement Agreement”), a copy of which is attached as Exhibit “A.” The Assignor’s counsel of record is indicated on the Assigned Settlement Agreement, and counsel (the “Assignor Plaintiffs Counsel”) continues to represent the Assignor.

3. Through no fault of the Assignor, there is good cause to believe that payments due or coming due under the Assigned Settlement Agreement will not be paid. Moreover, it has become apparent to all the Plaintiffs Firms that future payments under all the Settlement Agreements is highly unlikely. The reason for existing defaults and anticipatory repudiation under the Settlement Agreements is the transfer of assets away from the business entities obligated for payment under the Settlement Agreements.

4. The Assignor seeks to assign the Assigned Settlement Agreement, and all rights arising thereunder, including rights to recover against transferees, management, and any other parties responsible for causing defaults under the Assigned Settlement Agreement, to the Recovery Corp. In consideration for this Assignment, the Assignor is receiving an equity interest in the Recovery Corp. (the “Equity Interest”). The amount of the Assignor’s Equity Interest is commensurate with the amount due under the Assigned Settlement Agreement in relation to the aggregate face value of unpaid settlement obligations arising under all the Settlement Agreements.

5. As a shareholder of the Recovery Corp., effective as of the date of its formation, the Assignor hereby consents to the appointment of the board of directors of Recovery Corp. (the “Board”), consisting of lead trial counsel for each of the Plaintiffs Firms, including the Assignor Plaintiffs Counsel as indicated above. The Board shall have authority for representing the interests of all Claimants, to the extent that such Claimants become shareholders of Recovery Corp. in connection with execution of assignment documents matching this Assignment in

substance and form. The Assignor irrevocably assigns its voting rights to Assignor Plaintiffs Counsel, as a broad proxy regarding governance of Recovery Corp.

6. The Assignor recognizes that Recovery Corp. is retaining Anthony & Partners, LLC (“A&P”) as counsel of record to commence collection-related activities against the Consulate Targets, with the goal of recovering the full aggregate balance of sums due under the Settlement Agreements. A&P contemplates filing an initial lawsuit against the Consulate Targets (the “Consolidated Recovery Action”), as soon as conveniently possible. To initiate the engagement of A&P, the Plaintiffs Firms have commenced the engagement as a group, with the understanding that A&P’s client will be the Recovery Corp. when all assignment documents of all participating Claimants have been received. Just as the Assignor’s equity position in Recovery Corp. is commensurate with the amount due under its Assigned Settlement Agreement in relation to all others, so too are the Assignor’s rights to recover from any recovery achieved through litigation or alternative dispute resolution.

7. For purposes of this Assignment, the term “Assigned Claims” shall include not only contract rights arising under the Assigned Settlement Agreement, but also claims against third parties facilitating or causing the insolvency of the Consulate Targets, including claims for intentionally fraudulent transfers, constructively fraudulent transfers, alter ego/veil piercing liability, mere continuation liability, de facto merger, aiding and abetting fraud, breach of fiduciary duty, unjust enrichment, and other theories of recovery. Some or all of these Assigned Claims are commonly held by other Claimants, and will be pursued in the context of the Consolidated Recovery Action.

8. The Assignor recognizes that any litigation expense incurred by Assignor Plaintiffs Counsel in connection with the pursuit of collection efforts such as the Consolidated Recovery Action will produce a pro rata reduction of any distribution realized against the Consulate Targets. However, other than litigation expense, Recovery Corp. will act as a “pass-through entity” for the benefit of all participating Claimants. Notwithstanding the fact that there will be no additional deductions from the Assignor’s ultimate distribution, the Assignor hereby reaffirms the terms and conditions of the Assignor’s engagement agreement with Assignor Plaintiffs Counsel. Assignor Plaintiffs Counsel will be compensated and reimbursed for litigation expense at the same time that disbursements are made to all Claimants.

9. Although this Assignment is absolute and irrevocable, certain caveats are recognized. First, there have been no representations as to the likelihood of success on the merits as to claims that will be asserted against the Consulate Targets, in the context of the Consolidated Recovery Action or otherwise. Second, without attenuating the first caveat, the Assignor recognizes that the Board and its selection of counsel A&P will have fiduciary duties to the Assignor and other Claimants regarding the governance of Recovery Corp. Third, to the extent that a Court of competent jurisdiction determines that any claims asserted hereunder are not assignable under the law, then the Assignor shall exercise best efforts to cure any defect necessary to achieve the benefit of the bargain. Failing that, the Assigned Claims shall revert back to the Assignor as provided by law, though the proceeds may be separately addressed or

assigned elsewhere.

10. By executing this Assignment where indicated below, the Assignor represents and affirms that the Assignor has authority to execute this Assignment, and is the sole owner of all rights arising pursuant to the Assigned Settlement Agreement. There are no other terms and conditions of this Assignment, written or oral. This Assignment is irrevocable, in the absence of express written consent by all Claimants, all Plaintiffs Firms, and Recovery Corp., because all such parties are identifiable third-party beneficiaries with respect to the same. Any dispute regarding the negotiation, execution, performance, or breach of this Assignment shall be adjudicated, under Florida law, in the Thirteenth Judicial Circuit, in and for Hillsborough County, Florida. **All rights to jury trial regarding any such litigation are expressly waived, whatever they may be, as a material condition of this Assignment and the events and circumstances contemplated above.**

NOW, THEREFORE, for value received, the sufficiency of which is hereby acknowledged and conceded, the Assignor hereby assigns, transfers, and sets over unto Recovery Corp. all the Assigned Claims, and all other consideration referenced above, with the express proviso that this Assignment is conditioned upon Recovery Corp. confirming the percentage equity position of the Assignor within five (5) business days after receipt of all assignment documents from the Claimants.

ASSIGNOR:

Date: April __, 2024

Signature: _____

Printed Name: _____

Address: _____

E-mail Address: _____

Telephone: _____

Title (if applicable): _____

Company (if applicable): _____

Exhibit “C”

CLAIMANT REGISTER

	Claimant/Plaintiff Name	Claimant PR/PoA/Releasor	Defendant Entity	Settlement Date	Settlement Amount	Outstanding Amount
1	Stacey Abel , as Personal Representative of the Estate of Bebee Abel	Abel, PR	5405 Babcock Street Operations, LLC; Epsilon Health Care Properties, LLC; CMC II, LLC; Lavie Care Centers, LLC	09/21/22	\$ 125,000	\$ 32,875
2	Sharon Acevedo	Acevedo, Releasor	1120 West Donegan Avenue Operations, LLC	07/09/22	\$140,000	\$ 81,667
3	Jacqueline D. Aker , as Personal Representative of the Estate of Kevin R. Aker	Aker, PR	6700 N.W. 10th Place Operations, LLC	03/02/23	\$ 75,000	\$ 75,000
4	Marie Cherisier , as Personal Representative of the Estate of Philomene A. Antoine	Cherisier, PR	4200 Washington Street Operations, LLC	02/14/23	\$ 75,000	\$ 75,000
5	Nancy Roarck , as Personal Representative of the Estate of Mary Ashley	Roarck, PR	777 Ninth Street North Operations, LLC	06/23/22	\$ 150,000	\$ 150,000
6	Harry Barrett	Barrett, Releasor	11565 Harts Road Operations, LLC	07/06/22	\$ 140,000	\$ 81,667
7	Norma Barry , as Power of Attorney for John Barry	Barry, PoA	2826 Cleveland Avenue Operations, LLC	07/09/21	\$ 50,000	\$ 50,000
8	Jechiel Bershadski , as Power of Attorney for Nelia Bershadski	Bershadski, PoA	777 Ninth Street North Operations, LLC	11/21/23	\$ 85,000	\$ 85,000
9	Connie Blair as Personal Representative of the Estate of Bobby Blair	Blair, PR	3001 Palm Coast Parkway Operations, LLC	05/31/22	\$ 140,000	\$ 81,667
10	Corrado Burdieri , as Personal Representative of the Estate of Theresa Mary Burdieri	Burdieri, PR	North Fort Myers Facility Operations, LLC; Consulate Facility Leasing, LLC	09/07/21	\$ 250,000	\$ 250,000
11	Gerard Celestin , as Personal Representative of the Estate of Sylvia Celestin	Celestin, PR	Miami Facility Operations, LLC	11/08/22	\$ 175,000	\$ 175,000
12	Michelle Stawicki , as Personal Representative of the Estate of Nancy A. Cherba	Stawicki, PR	710 North Sun Drive Operations, LLC; Care Centers, LLC	09/12/23	\$ 85,000	\$ 85,000

	Claimant/Plaintiff Name	Claimant PR/PoA/Releasor	Defendant Entity	Settlement Date	Settlement Amount	Outstanding Amount
13	Jennifer Varela, a Personal Representative of the Estate of Rosenda Clavijo	Varela	Kissimmee Facility Operations, LLC	04/18/24	\$ 150,000	\$ 150,000
14	Gwendolyn Cage , as Personal Representative of the Estate of Doneatha Cobb	Cage, PR	1010 Carpenters Way Operations, LLC	05/18/22	\$ 140,000	\$ 81,667
15	Joseph Cunningham , as Power of Attorney for Jeffrey J. Cunningham	Cunningham, PoA	741 South Beneva Road Operations, LLC	09/21/23	\$ 75,000	\$ 75,000
16	Jill R. Davis , as Personal Representative of the Estate of Larry R. Davis	Davis, PR	777 Ninth Street North Operations, LLC	06/29/23	\$ 65,000	\$ 65,000
17	Jill R. Davis , as Personal Representative of the Estate of Larry R. Davis	Davis, PR	North Fort Myers Facility Operations, LLC	04/13/23	\$ 85,000	\$ 85,000
18	Jose R. Diaz , as Personal Representative of the Estate of Jose Rafael Diaz	Diaz, PR	518 West Fletcher Avenue Operations, LLC; Epsilon Health Care Properties, LLC; Lidenskab LLC	07/26/23	\$ 100,000	\$ 100,000
19	Quenita L. Donald , as Personal Representative or the Estate of Charles Donald	Donald, PR	Jacksonville Facility Operations, LLC	04/05/24	\$ 75,000	\$ 75,000
20	Tracy Lynn Druelle , as Power of Attorney for Catherine Druelle	Druelle, PoA	6305 Cortez Road West Operations, LLC	07/13/22	\$ 140,000	\$ 81,667
21	Linda Solash-Reed , as Personal Representative of the Estate of Billy Joe Early	Solash-Reed, PR	710 North Sun Drive Operations, LLC; Epsilon Health Care Properties, LLC	11/24/20	\$ 125,000	\$ 125,000
22	Lesia A. Rucker , as Personal Representative of the Estate of Mildred G. Fiuellen	Rucker, PR	3735 Evans Avenue Operations, LLC	03/09/23	\$ 50,000	\$ 50,000
23	Pamela Foster , as Personal Representative of the Estate of Mary Foster	Foster, PR	3001 Palm Coast Parkway Operations, LLC	03/01/23	\$ 75,000	\$ 75,000
24	Nola Gager , as Personal Representative of the Estate of Ehud Gager	Gager, PR	Kissimmee Facility Operations, LLC	07/13/22	\$ 140,000	\$ 81,667
25	Donald Garrett	Garrett [Releasor]	6700 N.W. 10th Place Operations, LLC	09/29/23	\$ 75,000	\$ 75,000

	Claimant/Plaintiff Name	Claimant PR/PoA/ Releasor	Defendant Entity	Settlement Date	Settlement Amount	Outstanding Amount
26	Albert J. Gates , III, as Personal Representative of the Estate of Shirley Gates	Gates, PR	9311 South Orange Blossom Trail Operations, LLC	02/03/23	\$ 75,000	\$ 75,000
27	Benny Gibson	Gibson [Releasor]	4641 Old Canoe Creek Road Operations, LLC	08/12/23	\$ 75,000	\$ 75,000
28	Thomas Graham , as Personal Representative of the Estate of Madeline Graham	Graham	Jacksonville Facility Operations, LLC	09/27/22	\$ 150,000	\$ 150,000
29	Mindy Stoltz , as Power of Attorney for John M. Griffin	Stoltz, PoA	3920 Rosewood Way Operations, LLC	04/03/23	\$ 75,000	\$ 75,000
30	Janelle J. Guelich , as Personal Representative of the Estate of Judy Guelich	Guelich, PR	2333 North Brentwood Circle Operations, LLC; Joseira, LLC; Tosturi, LLC; Epsilon Health Care Properties, LLC	07/24/23	\$ 100,000	\$ 100,000
31	Tyler Hall Eagleson , as Personal Representative of the Estate of James Edward Hall	Eagleson, PR	Jacksonville Facility Operations, LLC	09/22/23	\$ 75,000	\$ 75,000
32	Constance A.M. Brandt , as Power of Attorney for Mary J. Hause	Brandt, PoA	Melbourne Facility Operations, LLC	07/11/22	\$ 140,000	\$ 81,667
33	Cheryl Waggoner , as Personal Representative of the Estate of Joan Kay Higgins	Waggoner, PR	777 Ninth Street North Operations, LLC	04/08/24	\$ 75,000	\$ 75,000
34	Geraldine Hill , as Personal Representative of the Estate of Roosevelt Hill	Hill, PR	518 West Fletcher Avenue Operations, LLC	04/11/22	\$ 140,000	\$ 81,667
35	Teresa Margraf , as Personal Representative of the Estate of Mary Holt	Margraf, PR	6305 Cortez Road West Operations, LLC	10/13/20	\$ 225,000	\$ 225,000
36	Don Howard , Jr., as Personal Representative of the Estate of Don Howard [Case Style: Luthenia Hayes, PR . . .]	Howard, Jr., PR	710 North Sun Drive Operations, LLC	08/24/21	\$ 175,000	\$ 25,000
37	Johnnie Mae Jones Smith , as Personal Representative of the Estate of Juanita Jones	Smith, PR	Port Charlotte Facility Operations, LLC	07/27/23	\$ 75,000	\$ 75,000

	Claimant/Plaintiff Name	Claimant PR/PoA/Releasor	Defendant Entity	Settlement Date	Settlement Amount	Outstanding Amount
38	Danielle Anglade , as Personal Representative of the Estate of Maria Joseph	Anglade, PR	4200 Washington Street Operations, LLC; CMC II, LLC		\$ 100,000	\$ 100,000
39	Laura Knicley , as Personal Representative of the Estate of Peggy Knicley	Knicley, PR	195 Mattie M. Kelly Boulevard Operations, LLC; Epsilon Health Care Properties, LLC	10/18/22	\$ 140,000	\$ 14,000
40	Angela Pinkney , as Personal Representative of the Estate of Mae Liza Knight	Pinkney, PR	1615 Miami Road Operations, LLC	04/11/23	\$ 75,000	\$ 75,000
41	Yvonne Kolbe , as Personal Representative of the Estate of Richard Kolbe	Kolbe, PR	1851 Elkcam Boulevard Operations, LLC; Epsilon Health Care Properties, LLC; Lavie Care Centers, LLC	10/07/22	\$ 100,000	\$ 37,500
42	Kendra Mae Mize , as Personal Representative of the Estate of Ingrid K. Lane	Mize	1550 Jess Parrish Court Operations, LLC; Epsilon Health Care Properties, LLC; LV CHC Holdings I, LLC; Concourse Partners, LLC; Lavie Care Centers, LLC; Concurrent Partners, LLLP	04/18/24	\$ 100,000	\$ 100,000
43	Gloria Mackey	Mackey [Releasor]	1120 West Donegan Avenue Operations, LLC	04/11/22	\$ 140,000	\$ 81,667
44	Diane Malcomb , as Personal Representative of the Estate of Buddy R. Malcomb	Malcomb, PR	3735 Evans Avenue Operations, LLC	03/07/22	\$ 100,000	\$ 100,000
45	Billy Manuel , as Personal Representative of the Estate of Anthony Manuel	Manuel, PR	4200 Washington Street Operations, LLC	10/12/23	\$ 75,000	\$ 75,000
46	Lydia Martinez , as Personal Representative of the Estate of Luz M. Martinez	Martinez, PR	New Port Richey Facility Operations, LLC	06/06/23	\$ 75,000	\$ 75,000
47	Charles Mazza , as Personal Representative of the Estate of Alfonso Mazza	Mazza, PR	12170 Cortez Boulevard Operations, LLC; Epsilon Health Care Properties, LLC; Tosturi, LLC	09/01/23	\$ 100,000	\$ 100,000
48	Alberta Walls , as Personal Representative of the Estate of Gwendolyn McCray	Walls, PR	6700 N.W. 10th Place Operations, LLC	04/07/24	\$ 75,000	\$ 75,000

	Claimant/Plaintiff Name	Claimant PR/PoA/ Releasor	Defendant Entity	Settlement Date	Settlement Amount	Outstanding Amount
49	Darlene Yvette Cuves , as Personal Representative of the Estate of David McGhee	Cuves, PR	3735 Evans Avenue Operations, LLC	06/23/23	\$ 65,000	\$ 65,000
50	Vickie McHenry	McHenry, Releasor	11565 Harts Road Operations, LLC	04/16/24	\$ 35,000	\$ 35,000
51	Donald McKenzie , as Personal Representative of the Estate of Stanley McKenzie	McKenzie, PR	9311 South Orange Blossom Trail Operations, LLC	05/10/22	\$ 140,000	\$ 81,667
52	Melissa Smith , as Personal Representative of the Estate of Nettie P. McKinnon-Murphy	Smith, PR	1120 West Donegan Avenue Operations, LLC	05/23/22	\$ 140,000	\$ 81,667
53	Shannon Castro , as Power of Attorney for Vernon Lee Meyer	Castro, PoA	Baya Nursing and Rehabilitation, LLC	07/14/23	\$ 75,000	\$ 75,000
54	Eileen Miller	Miller [Releasor]	9400 SW 137th Avenue Operations LLC; NSPRMC, LLC	08/30/23	\$ 62,500	\$ 62,500
55	Carmen Millsap , as Personal Representative of the Estate of James Millsap	Millsap, PR	3001 Palm Coast Parkway Operations, LLC; CMC II, LLC	12/01/20	\$ 200,000	\$ 200,000
56	Anna Hollins , as Personal Representative of the Estate of Doris Mitchell	Hollins, PR	Brandon Facility Operations, LLC	06/23/22	\$ 140,000	\$ 81,667
57	Julienne Joseph , as Power of Attorney for Juliette Mompoin	Joseph, PoA	4200 Washington Street Operations, LLC	09/26/23	\$ 75,000	\$ 75,000
58	Donald Moran , as Power of Attorney for Doris Moran	Moran, PoA	3735 Evans Avenue Operations, LLC	05/19/22	\$ 140,000	\$ 81,667
59	Darlene L. Murison , as Personal Representative of the Estate of David G. Murison	Murison, PR	Port Charlotte Facility Operations, LLC	01/11/21	\$ 75,000	\$ 75,000
60	Howard Williams , as Personal Representative of the Estate of Nessa	Williams, PR	9311 South Orange Blossom Trail Operations, LLC	08/01/22	\$ 150,000	\$ 60,000
61	Joshua R. Nielsen , as Personal Representative of the Estate of Martin Nielsen	Nielsen, PR	West Altamonte Facility Operations, LLC	04/06/24	\$ 75,000	\$ 75,000
62	Margaret Jones-Frison , as Personal Representative of the Estate of Dorothy Johnson Norris	Jones-Frison, PR	710 North Sun Drive Operations, LLC; Lidenskab, LLC	06/20/23	\$ 125,000	\$ 125,000

	Claimant/Plaintiff Name	Claimant PR/PoA/Releasor	Defendant Entity	Settlement Date	Settlement Amount	Outstanding Amount
63	David O'Berry , as Personal Representative of the Estate of Barbara O'Berry	O'Berry, PR	7950 Lake Underhill Road Operations, LLC	04/18/24	\$ 175,000	\$ 175,000
64	Avram S. Oegar , as Personal Representative of the Estate of Avram Oegar	Oegar, PR	4200 Washington Street Operations, LLC	02/23/23	\$ 75,000	\$ 75,000
65	Orlando Ortiz , as Personal Representative of the Estate of Crispin D. Ortiz	Ortiz, PR	216 Santa Barbara Boulevard Operations, LLC	10/10/23	\$ 65,000	\$ 65,000
66	Jerri Owens , as Power of Attorney for Lular Owens	Owens, PoA	Kissimmee Facility Operations, LLC; Laive Care Centers, LLC	09/19/22	\$ 100,000	\$ 37,500
67	Gonzalo Padron , as Personal Representative of the Estate of Marina Padron	Padron, PR	Floridian Facility Operations, LLC	04/19/23	\$ 75,000	\$ 75,000
68	John Paul , as Personal Representative of the Estate of Karen Paul-Bennett	Paul, PR	Baya Nursing and Rehabilitation, LLC	05/18/22	\$ 140,000	\$ 81,667
69	Karel S. Bennett , as Personal Representative of the Estate of Suzanne Perez	Bennett, PR	1465 Oakfield Drive Operations, LLC	01/11/24	\$ 75,000	\$ 75,000
70	Elizenda Pina Torres , as Personal Representative of the Estate of Mirelle Pina	Torres, PR	4200 Washington Street Operations, LLC	08/04/23	\$ 75,000	\$ 75,000
71	Tiffany Bivins , as Personal Representative of the Estate of Tereather Powell	Bivins, PR	3101 Ginger Drive Operations, LLC; Tallahassee Facility Operations, LLC; Josera, LLC; Tosturi, LLC; Epsilon Health Care Properties, LLC	03/26/24	\$ 75,000	\$ 75,000
72	Brett Rigas , as Personal Representative of the Estate of Gail Rigas	Rigas, PR	7950 Lake Underhill Road Operations, LLC	10/19/22	\$ 160,000	\$ 16,000
73	Laura Reyes , as Power of Attorney for Delia Rodriguez	Reyes, PoA	6414 13th Road South Operations, LLC	11/06/23	\$ 75,000	\$ 75,000
74	Maria Herrera , as Personal Representative of the Estate of Aldemaro Rojas	Herrera, PR	Miami Facility Operations, LLC	07/28/23	\$ 75,000	\$ 75,000
75	Annabelle Rios , as Power of Attorney for Gloria Rojas	Rios, PoA	7950 Lake Underhill Road Operations, LLC	10/21/22	\$ 125,000	\$ 12,500
76	Daniel Rousseau , as Personal Representative of the Estate of Gertrude Rousseau	Rousseau, PR	West Altamonte Facility Operations, LLC	10/06/20	\$ 145,000	\$ 145,000

	Claimant/Plaintiff Name	Claimant PR/PoA/Releasor	Defendant Entity	Settlement Date	Settlement Amount	Outstanding Amount
77	Dennis Sampson, as Personal Representative of the Estate of Marguerite Sampson	Sampson, PR	710 North Sun Drive Operations, LLC; Florida Health Care Properties, LLC; Genoa Healthcare Group, LLC	04/10/21	\$ 210,000	\$ 210,000
78	Sharon Scott, as Personal Representative of the Estate of Moses Scott, III	Scott, PR	9355 San Jose Boulevard Operations, LLC	05/13/22	\$ 140,000	\$ 81,667
79	Rita Baar, as Power of Attorney for Delano Skow	Baar, PoA	2826 Cleveland Avenue Operations, LLC	04/03/23	\$ 90,000	\$ 90,000
80	Qiana Watson, as Personal Representative of the Estate of Anna Marie Brown Smith	Watson, PR	Miami Facility Operations, LLC	04/07/23	\$ 75,000	\$ 75,000
81	Alilla Stover, as Personal Representative of the Estate of Machrell Stover	Stover, PR	9311 South Orange Blossom Trail Operations, LLC	03/06/23	\$ 75,000	\$ 75,000
82	Lashell Taylor, as Personal Representative of the Estate of Catherine Taylor	Taylor, PR	West Altamonte Facility Operations, LLC	08/11/23	\$ 125,000	\$ 125,000
83	Emma Foster, as Plenary Guardian of the Ward Levi Foster	Foster, Plenary Guardian	15204 West Colonial Drive Operations, LLC	10/27/22	\$ 140,000	\$ 81,667
84	Marie C. Louine, as Personal Representative of the Estate of Rosita Thenor	Louine, PR	6414 13th Road South Operations, LLC	09/26/23	\$ 75,000	\$ 75,000
85	Erin Poarch, Individually and as Personal Representative of the Estate of William A. Thompson	Poarch, PR	1851 Elkcam Boulevard Operations, LLC	05/20/21	\$ 125,000	\$ 125,000
86	Michael D. Thompson, as Personal Representative of the Estate of Christine Thompson	Thompson, PR	North Fort Myers Facility Operations, LLC	08/03/23	\$ 206,000	\$ 206,000
87	Linda Tillman, as Personal Representative of the Estate of Bertha Tillman	Tillman, PR	4200 Washington Street Operations, LLC	02/17/23	\$ 100,000	\$ 100,000
88	Jennie Zayas, as Personal Representative of the Estate of Edwin A. Zayas Torres	Zayas, PR	7950 Lake Underhill Road Operations, LLC	01/09/23	\$ 75,000	\$ 75,000
89	Rodney Christopher Vargas, as Personal Representative of the Estate of Gerardo Vargas	Vargas, PR	4200 Washington Street Operations, LLC	09/21/23	\$ 75,000	\$ 75,000
90	Juanita Davila, as Power of Attorney for Rafael Vega	Davila, PoA	7950 Lake Underhill Road Operations, LLC	04/14/22	\$ 140,000	\$ 81,667
91	James Walker, as Personal Representative of the Estate of Louise Walker	Walker, PR	Miami Facility Operations, LLC	06/21/22	\$ 140,000	\$ 81,667

	Claimant/Plaintiff Name	Claimant PR/PoA/Releasor	Defendant Entity	Settlement Date	Settlement Amount	Outstanding Amount
92	Dennis W. Walker, Jr., as Personal Representative of the Estate of Lula Mae Walker	Walker, Jr., PR	1615 Miami Road Operations, LLC	05/18/22	\$ 140,000	\$ 81,667
93	Rebecca Barrow, as Personal Representative of the Estate of Carolyn Wayt	Barrow, PR	Baya Nursing and Rehabilitation, LLC	12/16/21	\$ 250,000	\$ 250,000
94	Susan Whitcomb	Whitcomb	702 South Kings Avenue Operations, LLC	07/08/22	\$ 140,000	\$ 81,667
95	Stephanie Redding, as Personal Representative of the Estate of Jessie White	Redding, PR	Orange Park Facility Operations, LLC	06/22/22	\$ 140,000	\$ 81,667
96	Anna Wendolyn Wilkie, as Personal Representative of the Estate of Barbara Wilkie	Wilkie, PR	6700 N.W. 10th Place Operations, LLC	07/06/23	\$ 75,000	\$ 75,000
97	Teresa R. Woodard, as Power of Attorney for Chester L. Woodard, Jr.	Woodard, PoA	2826 Cleveland Avenue Operations, LLC	07/10/20	\$ 50,000	\$ 30,000
			TOTALS:		\$ 10,763,500	\$ 8,678,877

Composite Exhibit “D”

**IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT
IN AND FOR MANATEE COUNTY
FLORIDA CIVIL DIVISION**

MARY HOLT, Deceased, by and through
TERESA MARGRAF, as Personal
Representative of the Estate,

Plaintiff,

CASE NO.: 41-2017-CA004423AX
DIVISION: B

v.

6305 CORTEZ ROAD WEST PERATIONS
LLC d/b/a BRADENTON HEALTH CARE
and CMC II, LLC,

Defendants.

_____ /

FINAL JUDGMENT

THIS CAUSE came on to be heard before the Court on “Motion to Enforce Settlement” (the “Motion”), filed by Mary Holt, Deceased, by and through Teresa Margraf, as Personal Representative of the Estate (the “Plaintiff”), on March 26, 2024, whose address is 1112 Channelside Drive, Suite 5, Tampa Florida 33602. The Motion seeks relief against defendants, 6305 Cortez Road West Operations LLC, 1040 Crown Pointe Pkwy Ste 600 Atlanta, Ga 30338-4741 in the amount of \$168,750.00 (the “Judgment Amount”), based upon the undisputed failure to make certain payments under a settlement agreement (the “Settlement Agreement”), that this Court has jurisdiction to enforce.

For reasons stated orally on the record in open Court, that shall constitute the findings of fact, conclusions of law, and holding of this Court, this Court has determined that the Motion has merit, to the extent set forth in this Judgment. Accordingly, it is:

ORDERED, ADJUDGED, and DECREED as follows:

1. Judgment is entered in favor of the Plaintiff and against the Defendant 6305 Cortez Road West Operations LLC in the Judgment Amount, for which let execution issue.
2. Interest on the Judgment Amount shall accrue at the rate set forth in Florida Statute §55.03, from the date of entry hereof, said rate currently being 9.34% per annum. This Court reserves jurisdiction to adjudicate any motion for recovery of costs filed in connection herewith.
3. The Defendant is hereby directed to complete, execute before a notary, and transmit to the Plaintiff, within forty-five (45) days from the date of entry hereof, a "Fact Information Sheet" that is complete, accurate, and truthful, in a manner consistent with Florida Rule of Civil Procedure Form 1.977.
4. This Court reserves jurisdiction to enforce this Judgment, including replevin, garnishment, charging orders, orders on proceedings supplementary, writs of execution, discovery in aid of execution, and all other means of execution and levy permitted by law and in equity. Pursuant to Florida Statutes §57.115, the Plaintiff may be entitled to recovery of attorneys' fees and costs in connection with the collection of this Judgment.

DONE AND ORDERED in Chambers in Manatee County, Florida.



eSigned by D. RYAN FELIX, Circuit Judge 04/05/2024 13:41:41 PpuANJe2

**HONORABLE D. RYAN FELIX
CIRCUIT COURT JUDGE**

**Conformed copies to:
Scott Distasio, Esquire
Antonio Cifuentes, Esquire**

Return to:

William A. Dean, Esquire
Ford, Dean & Rotundo, P.A.
3323 N.E. 163rd Street, Suite 605
North Miami Beach, FL 33160

IN THE CIRCUIT COURT OF THE
6TH JUDICIAL CIRCUIT, IN AND FOR
PASCO COUNTY, FLORIDA

CIVIL DIVISION

CASE NO.: 2019-CA-003349 CA

LYDIA MARTINEZ, as Personal
Representative of the Estate of
LUZ M. MARTINEZ, Deceased,

Plaintiff,

vs.

NEW PORT RICHEY FACILITY
OPERATIONS, LLC. d/b/a CONSULATE
HEALTH CARE OF NEW PORT RICHEY,

Defendant.

FINAL JUDGMENT

THIS CAUSE, having come on for hearing before the Court on Plaintiff's Motion to Enforce Settlement on January 4, 2024, after the Parties executed a binding Settlement Release, and the Defendant nursing home has not paid the settlement funds as required by the Settlement Release. Therefore the court finding that the Defendant, NEW PORT RICHEY FACILITY OPERATIONS, LLC. d/b/a CONSULATE HEALTH CARE OF NEW PORT RICHEY, is indebted to the Plaintiff, LYDIA MARTINEZ, as Personal Representative of the Estate of LUZ M. MARTINEZ, Deceased, for damages in the amount of \$75,000.00, and the Court being otherwise duly advised in the premises, it is thereupon,

CONSIDERED, ORDERED and ADJUDGED:

1. Plaintiff, LYDIA MARTINEZ, as Personal Representative of the Estate of LUZ M. MARTINEZ, Deceased, 7034 Fairfax Drive, Port Richey, FL 34668, do have and recover of and from Defendant, NEW PORT RICHEY FACILITY OPERATIONS, LLC. d/b/a CONSULATE HEALTH CARE OF NEW PORT RICHEY, an Florida corporation, Florida Document No. M06000003835, FEI NO. 20-5112212, whose principal address is 850 Concourse Parkway S, Suite 250, Maitland, FL 32751, and mailing address is 1040 Crown Pointe Parkway, Suite 600, Atlanta, GA 30338, the sum of Seventy-Five Thousand Dollars, (\$75,000.00) as principal damages, making a total due Plaintiff from Defendant of \$75,000.00, that shall bear interest at the statutorily mandated rate per year until satisfied, and for all of which let execution issue.

2. It is further ordered and adjudged that the judgment Defendant/Debtor, NEW PORT RICHEY FACILITY OPERATIONS, LLC. d/b/a CONSULATE HEALTH CARE OF NEW PORT RICHEY shall complete, under oath, Florida Rule of Civil Procedure Form 1.977 (Fact Information Sheet), including all required attachments, and serve it on the Plaintiff's attorney, William A. Dean, Esq. at his address listed below within 45 days from the date of this Final Judgment, unless the Final Judgment is satisfied or post-judgment discovery is stayed. The Judgment Defendant/Debtor shall also timely file a Notice with the Clerk of the Court, with a copy being sent to the Judgment Creditor Plaintiff's Attorney, certifying compliance with having timely completed and mailed the Fact Information Sheet.

Jurisdiction of this case is retained to enter any further Orders including orders on Motions to Compel, Motions For Contempt, Motions to Tax Prevailing Party Costs or any other Motion seeking appropriate relief, in the event it is necessary to compel and order the judgment Defendant/Debtor, NEW PORT RICHEY FACILITY OPERATIONS, LLC. d/b/a

CONSULATE HEALTH CARE OF NEW PORT RICHEY, a Florida corporation to complete form 1.977, including the submission of all required attachments, and have it mailed and served on the judgment creditor's/Plaintiff's attorney.

NOTICE AND WARNING is hereby given to the Judgement Defendant/Debtor that the failure to comply with the foregoing shall be grounds for the Court to hold the Judgment Defendant/Debtor in contempt of Court. The original of said Fact Information Sheet is hereby being mailed to the Defendant, NEW PORT RICHEY FACILITY OPERATIONS, LLC. d/b/a CONSULATE HEALTH CARE OF NEW PORT RICHEY, an Florida corporation at the address listed below, in conjunction with the mailing of the copy of this Final Judgment.

3. The Court hereby specifically reserves and retains jurisdiction of this case to enter all appropriate Orders and/or Judgments to determine and award attorney's fees and the taxing of costs in favor of the Plaintiff, as allowed by law, based upon proper timely motion and notice of hearing thereon.

NPR, Pasco
DONE AND ORDERED at ~~Miami~~ Pasco, Pasco County, Florida, on _____, 2024.

Electronically Conformed 4/11/2024
Kimberly Sharpe Byrd

CIRCUIT COURT JUDGE

Copies furnished to:

William A. Dean, Esquire
Ford, Dean & Rotundo, P.A.
Attorneys for Plaintiff
3323 N.E. 163rd Street, Suite 605
North Miami Beach, FL 33160

Antonio Cifuentes, Esquire
Dias & Associates, P.A.
Attorneys for Defendant
5110 Sunforest Drive, Suite 160
Tampa, FL 33634

IN THE CIRCUIT COURT OF THE
6TH JUDICIAL CIRCUIT, IN AND FOR
PASCO COUNTY, FLORIDA

CIVIL DIVISION

CASE NO.: 2019-CA-003349 CA

LYDIA MARTINEZ, as Personal
Representative of the Estate of
LUZ M. MARTINEZ, Deceased,

Plaintiff,

vs.

NEW PORT RICHEY FACILITY
OPERATIONS, LLC. d/b/a CONSULATE
HEALTH CARE OF NEW PORT RICHEY,

Defendant.

_____ /

FACT INFORMATION SHEET

Name of Entity: NEW PORT RICHEY FACILITY OPERATIONS, LLC. d/b/a CONSULATE
HEALTH CARE OF NEW PORT RICHEY

Name and title of person filling out this form:

Telephone number:

Mailing address (if different):

Gross/taxable income reported for federal income tax purposes last three years:

\$ _____ /\$ _____ \$ _____ /\$ _____ \$ _____ /\$ _____

Taxpayer identification number:

Is this entity an S corporation for federal income tax purposes? _____ Yes _____ No

Average number of employees per month _____

Name of each shareholder, member, or partner owing 5% or more of the entity's common stock,
preferred stock, or other equity interest:

Names of officers, directors, members, or partners:

Checking account at: _____ Account # _____

Savings account at: _____ Account # _____

Does the entity own any vehicles? _____ Yes _____ No

For each vehicle please state:

Year/Make/Model: _____ Color: _____

Vehicle ID No.: _____ Tag No. _____ Mileage: _____

Names on Title: _____ Present Value: _____

Loan Owed to:

Balance on Loan: \$

Monthly Payment: \$

Does the entity own any real property? _____ Yes _____ No

If yes, please state the address(es):

Please check if the entity owns the following:

_____ Boat

_____ Camper

_____ Stocks/bonds

_____ Other real property

_____ Other personal property

Please attach copies of the following:

Copies of state and federal income tax returns for the past 3 years.

1. All bank, savings and loan, and other account books and statements for accounts in institutions in which the entity had any legal or equitable interest for the past 3 years.

2. All cancelled checks for the 12 months immediately preceding the service date of this Fact Information Sheet for accounts in which the entity held any legal or equitable interest.
3. All deeds, leases, mortgages, or other written instruments evidencing any interest in ownership of real property at any time within the 12 months immediately preceding the date this lawsuit was filed.
4. Bills of sale or other written evidence of the gift, sale, purchase, or other transfer of any personal or real property to or from the entity to or from the entity within the 12 months immediately preceding the date this lawsuit was filed.
5. Motor vehicle or vessel documents, including titles and registrations relating to any motor vehicles or vessels owned by the entity alone or with others.
6. Financial statements as to the entity's assets, liabilities, and owner's equity prepared within the 12 months immediately preceding the service date of this Fact Information Sheet.
7. Minutes of all meetings of the entity's members, partners, shareholders, or board of directors held within 2 years of the service date of this Fact Information Sheet.
8. Resolutions of the entity's members, partners, shareholders, or board of directors passed within 2 years of the service date of this Fact Information Sheet.

UNDER PENALTY OF PERJURY, I SWEAR OR AFFIRM THAT THE FOREGOING ANSWERS ARE TRUE AND COMPLETE.

Judgment Debtor's Designated
Representative/Title

STATE OF FLORIDA

COUNT OF _____

The foregoing instrument was acknowledged before me on _____, by _____, who is personally known to me or has produced _____ as identification and who _____ did/did not _____ take an oath.

WITNESS my hand and official seal, this _____ day of _____, _____.

Notary Public

State of Florida

My Commission Expires:

THE JUDGMENT DEBTOR SHALL FILE WITH THE CLERK OF THE COURT A NOTICE OF COMPLIANCE AFTER THE ORIGINAL FACT INFORMATION SHEET, TOGETHER WITH ALL ATTACHMENTS, HAS BEEN DELIVERED TO THE JUDGMENT CREDITOR'S ATTORNEY, OR TO THE JUDGMENT CREDITOR IF THE JUDGMENT CREDITOR IS NOT REPRESENTED BY AN ATTORNEY.

**IN THE CIRCUIT COURT OF THE 9TH JUDICIAL
CIRCUIT IN AND FOR ORANGE COUNTY, FLORIDA**

CASE NO.: 2020-CA-011946-O

**HOWARD WILLIAMS, as Personal Representative of
the Estate of NESSA WILLIAMS, deceased,**

Plaintiff,

v.

**9311 SOUTH ORANGE BLOSSOM TRAIL OPERATIONS
LLC d/b/a PARKS HEALTHCARE AND
REHABILITATION CENTER; and CMC II, LLC,**

Defendants.

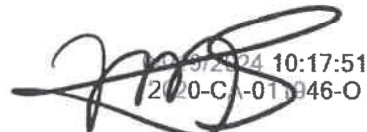
FINAL JUDGMENT

Pursuant to the Order Granting Plaintiff's Motion to Enforce Settlement entered on March 29, 2024, in this action, it is:

ADJUDGED that Plaintiff HOWARD WILLIAMS, recover from Defendant 9311 SOUTH ORANGE BLOSSOM TRAIL OPERATIONS LLC d/b/a PARKS HEALTHCARE AND REHABILITATION CENTER, the sum of \$60,000, that shall bear interest at 9.09% per annum for the remainder of 2024, and thereafter at a legal rate fixed by the Comptroller for the State of Florida pursuant to Chapter 55, Florida Statutes, for which let execution issue.

This Court reserves ruling on sanctions.

DONE and Ordered in Orange County, Florida on the date shown on the electronic signature.



04/19/2024 10:17:51
2020-CA-011946-O

eSigned by Margaret H. Schreiber 04/19/2024 10:17:51 tpT4osNr

Margaret H. Schreiber

Circuit Judge

If there are parties not receiving service through the Florida Courts e-filing Portal, counsel will serve a copy of the order via U.S. Mail to the non-e-filing parties and file a certificate of service in the court file no later than three days from the date of this order.

Electronic Service List

Antonio A Cifuentes <efile@mdlegal.net>, <nrodriguez@mdlegal.net>, <tcifuentes@mdlegal.net>

Michael Kohl <mkohl@kohlpa.com>

Civil Circuit Case Managers <CivilCM@ocnjcc.org>

Jason A Paul <mmoran@paulandperkins.com>, <jpaul@paulandperkins.com>

Jonathan D Shistle <orlandopipgeico@geico.com>, <JShistle@geico.com>

Jonathan David Shistle <tcifuentes@mdlegal.net>, <efile@mdlegal.net>, <ypinion@mdlegal.net>

Maureen Sellers <msellers@mdlegal.net>

Michael J. Kohl <mkohl@kohlpa.com>

Ninth Judicial Circuit <judicial9@ocnjcc.org>

Exhibit “E”

Consulate nursing homes are changing names. Are they changing ownership?

Florida's largest chain still seems to be tied to the homes that now carry new branding.



Exterior photo of Radiant Health Care of Brandon, formerly Consulate Health pictured on Wednesday, Jan. 19, 2022 in Brandon. [LUIS SANTANA | Times]

By

- **Hannah Critchfield** *Times staff*

Published Jan. 19, 2022|Updated Jan. 22, 2022

The largest nursing home chain in Florida is rebranding.

On its website, Consulate Health Care Services no longer lists any long-term care facilities in the state.

In the wake of a bankruptcy filing and a slew of bad press over the last few years, the privately held chain — the sixth-largest nursing home company in the nation — has quietly divided its Florida facilities into three separate companies. All three appear to still be affiliated with Consulate.

Neither Consulate or the new companies responded to multiple requests for comment. On calls made to Consulate's corporate headquarters to reach a spokesperson,

employees directed the *Tampa Bay Times* to a person who denied working for the company.

“Consulate broke into four different companies,” said a receptionist at Consulate Health Care’s office in Georgia. “Anything that’s outside of the state of Florida is still considered Consulate. Anything inside the state of Florida has been divvied up among Radiant, Independence and NSPIRE. But we are still the corporate office for any of those companies.”

Many of Consulate’s Florida nursing homes have begun to change their individual names as well, erasing any affiliation with the chain.

Such reorganization leaves consumers in the dark, critics say.

“If you Google Consulate, you’ve got 20 years of bad press,” said Bill Dean, a former Miami-Dade prosecutor who now specializes in suing nursing homes. “But no one is ever going to know that the new ‘Happy Nursing Home LLC’ is actually the same exact people as Consulate. It’s the same employees, the same leadership — but it’s now under a new, rebranded fancy name.”

With new company names and opaque relationships, he said, consumers searching for a nursing home in Florida may have a hard time knowing a facility’s prior history or current ownership.

A household name

Consulate was well known in Florida even before the pandemic struck. By 2018, the for-profit company controlled one out of every nine nursing homes in Florida, the *Naples Daily News* [reported](#), including 13 in Tampa Bay.

Its facilities have been no stranger to controversy.

In January 2018, the state Agency for Health Care Administration threatened to [revoke](#) 53 of Consulate’s 77 Florida nursing homes’ licenses over poor patient care and safety violations. The agency instead reached a [settlement](#) that put eight of Consulate’s homes on a [two-year improvement plan](#), including three in the Tampa Bay area.

The giant chain was one of five nursing home companies that were investigated by Congress over their handling of coronavirus in 2020.

The same year, the U.S. Court of Appeals upheld a \$256 million civil fraud judgment against Consulate, ruling that nursing homes currently owned by the company had defrauded taxpayers by inflating bills for residents’ treatments.

Entities operating under Consulate filed for bankruptcy in March 2021. The chain, which at the time owned 140 facilities across the country, said that it did not have the funds to pay the judgment.

“Many large skilled nursing organizations, including Consulate, have encountered increased financial stress as a direct result (of the pandemic),” wrote Paul Rundell, the company’s bankruptcy restructuring officer, in a September 2021 [court filing](#). “And the State of Florida, where many of Consulate’s skilled nursing facilities are located, is among the hardest hit.”

The Justice Department and the whistleblower filing the claim eventually [agreed to settle](#) for far less, leaving Consulate responsible for only \$4.5 million in light of the company declaring bankruptcy.

This bankruptcy filing, and the fanfare accompanying a high-profile federal lawsuit, may have contributed to the divvying up of Consulate Health Care’s nursing homes in Florida. But licensing documents and corporate filings suggest the new owners of these facilities are related to the company.

New companies

Using Florida’s Agency for Health Care Administration data, the *Tampa Bay Times* analyzed all of the state’s long-term care facilities with licenses linked to Consulate Health Care’s official website in 2021.

The *Times* found that out of 77 senior homes with active licenses, 76 were owned by limited liability companies that still listed a Consulate office in Georgia as their mailing address. This was true even for facilities that had recently changed names to remove “Consulate Health Care” from their titles.

Mailing addresses are considered an industry shorthand for determining a facility’s corporate ownership, according to Dean.

“When it has that address in Georgia, I know it’s a Consulate facility,” he said.

Seven of these facilities no longer appear to be listed on any company website; the rest have been divvied up.

Consulate Health Care facilities in Florida now are listed as being operated by one of three companies:

- **Raydiant Health Care Services**
 - [Raydiant Health Care Services’ website says](#) the company has led the way in rehabilitative care in Florida since “opening their doors to the Sunshine State in 2021.”

- The application to create the name “Raydiant Health Care” was submitted to the Florida Department of State’s Division of Corporations in September 2021 by Charlene G. Johnson, attorney and director of licensing and certification at Consulate Health Care. Johnson used her official Consulate company email address.
- Many Consulate nursing homes have been renamed using the Raydiant moniker. Consulate Health Care of Brandon, one of its Tampa Bay facilities, is now Raydiant Health Care of Brandon. The nursing home experienced an early, deadly coronavirus outbreak at the same time that Congress was [investigating](#) Consulate Health Care for its handling of the pandemic. Twenty-two of its residents had [died](#) of COVID-19 by the time the state [stopped publishing](#) nursing home data in June 2021.
- **Independence Living Centers**
 - Independence Living Centers’ website appears to [have launched](#) in early January.
 - The name “Independence Living Centers” was registered with the Division of Corporations in September 2021, the same month as Raydiant Health Care. John Silliter, a former Consulate employee, is the chief executive officer of Independence Living Centers, according to his voicemail. Silliter signed the registration form. The limited liability company that owns the name, Josera LLC, was created in July, with Johnson of Consulate again signing off as the authorized representative.
 - Its facilities were all previously advertised as Consulate-operated homes. Several have been renamed.
 - Locations include Tallahassee Living Center, formerly named Consulate Health Care of Tallahassee, which has a one-star rating on the federal database Care Compare. The facility is one of four Florida Consulate homes that are currently listed as candidates for the Centers for Medicare & Medicaid Services program for “special focus facilities,” a designation reserved only for nursing homes that face possible forced closure due to a history of serious quality of care problems.
 - Independence Living Centers is actively hiring for positions in Florida facilities, including 92 jobs in Tampa Bay. Its application portal redirects candidates to a page that says, “Consulate Health Care Job Listings.”
- **NSPIRE Healthcare**
 - NSPIRE Healthcare has operated five facilities in south Florida for several years. These appear not to be directly owned by Consulate. Its current website was created in early 2021. In April, it [advertised](#) its five nursing homes. But today, the company [lists](#) 27 facilities, 22 of which were previously marketed as Consulate-owned homes.
 - The *Times* called several area NSPIRE facilities in an attempt to reach a media contact for the company. A front desk staffer at NSPIRE Health Care Sarasota — formerly Consulate Health Care of Sarasota — said that these Consulate facilities had not been sold to a new company, but that Consulate had instead “rebranded.” Any of the Florida locations are under different names, she said — either Independence, Raydiant or NSPIRE.

- Like Independent Living Centers, the webpage that displays all open jobs at NSPIRE facilities is labeled, “Consulate Health Care Job Listings.”

‘Synergy Health Care Services’

A new business related to Consulate has recently emerged.

Calls to the number for the company office in Atlanta or for the in-state office in Maitland now redirect to an automated message that begins with, “Thank you for calling Synergy HCS.”

Synergy Health Care Services advertises itself as a consulting company to senior care operators, working “behind-the-scenes to deliver solutions that allow providers to focus on what they do best, patient and resident care.” The company’s LinkedIn page was created in 2021.

All of its current listed employees — 20 in total — began their positions in December 2021 after a long run working at Consulate.

Chris Bryson, former [chief executive officer](#) at Consulate Health Care, has the [same role](#) at Synergy.

Synergy is actively hiring. All the open positions are [based](#) at the longtime Consulate operations address in Maitland.

At first, though, it wasn’t clear if there was a website for Synergy.

“There’s been a recent reorganization within the company, and I just don’t believe the website has been switched over yet so that it’s up and running and operational,” said Sarah Catherine Whalen, corporate counsel at Synergy HCS and [former](#) attorney at Consulate Health Care, on a phone call in which the *Times* requested a communications person for Synergy.

She directed the *Times* to Jennifer Trapp, vice president of brand management for Synergy HCS and the former spokesperson for Consulate.

Trapp said that Synergy is a separate company that contracts with Consulate to provide “back-office” support.

“The buildings in Florida were acquired by other operating management companies,” she said. “The company that I work for, we contract with several different providers, including Consulate, who operates outside of the state of Florida.”

Trapp declined to name the company’s other clients, citing privacy reasons.

She said the *Times* would have to contact Consulate's press person for questions about its Florida facilities or company structure.

On a call back to the Consulate office in Atlanta to request contact information for a Consulate-specific spokesperson, the receptionist said the *Times* should contact Trapp. "We just split into four different companies and it's just kind of a little confusing," said the front desk receptionist. "So I thought Jen Trapp would still take care of that."

She said as far as she knew, she was still answering the phone for Consulate.

Composite Exhibit “B”

From: John Anthony
To: Cameron Lackey
Subject: FW: Healthcare Negligence Settlement Recovery Corp. v. 5405 Babcock Street Operations, LLC, et al.:
Date: Monday, July 1, 2024 10:18:46 AM
Importance: High

From: John Anthony
Sent: Thursday, June 20, 2024 8:36 PM
To: Bull, Nathan <Nbull@mwe.com>; Simon, Daniel <dsimon@mwe.com>
Cc: Jon M. Herskowitz Esquire (jon@bhfloridalaw.com) <jon@bhfloridalaw.com>; Kovsky-Apap, Deborah <Deborah.Kovsky@troutman.com>; Lawall, Francis <Francis.Lawall@troutman.com>
Subject: RE: Healthcare Negligence Settlement Recovery Corp. v. 5405 Babcock Street Operations, LLC, et al.:
Importance: High

Yes, I sent it to you earlier this evening, and I responded quite rapidly yesterday to Mr. Cifuentes.

On the claims that you are contending to be property of the estate, is it your intention to pursue them for the benefit of creditors or release them immediately under the pending DIP Loan proposal and/or Bidding Procedures Motion? It would be helpful to me if I knew the Debtors' intentions, so that I could relay that to my colleagues in Florida.

From: Bull, Nathan <Nbull@mwe.com>
Sent: Thursday, June 20, 2024 8:30 PM
To: John Anthony <janthon@anthonyandpartners.com>; Simon, Daniel <dsimon@mwe.com>
Cc: Jon M. Herskowitz Esquire (jon@bhfloridalaw.com) <jon@bhfloridalaw.com>; Kovsky-Apap, Deborah <Deborah.Kovsky@troutman.com>; Lawall, Francis <Francis.Lawall@troutman.com>
Subject: RE: Healthcare Negligence Settlement Recovery Corp. v. 5405 Babcock Street Operations, LLC, et al.:

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

John,

Is there another email in which you agreed to adjourn the response deadline for the non-Debtors? I read the email chain below with Mr. Cifuentes and I didn't see that.

Thanks,
Nathan

NATHAN BULL
Partner
McDermott Will & Emery LLP 333 SE 2nd Avenue, Suite 4500, Miami, FL 33131-2184
Tel +1 305 347 6506 Email nbull@mwe.com

McDermott Will & Emery LLP One Vanderbilt Avenue, New York, NY 10017-3852
Tel 212 547 5768 Email nbull@mwe.com
Website | vCard | Twitter | LinkedIn

From: John Anthony <janthon@anthonyandpartners.com>
Sent: Thursday, June 20, 2024 8:07 PM
To: Simon, Daniel <dsimon@mwe.com>; Bull, Nathan <Nbull@mwe.com>
Cc: Jon M. Herskowitz Esquire (jon@bhfloridalaw.com) <jon@bhfloridalaw.com>; Kovsky-Apap, Deborah <Deborah.Kovsky@troutman.com>; Lawall, Francis <Francis.Lawall@troutman.com>
Subject: FW: Healthcare Negligence Settlement Recovery Corp. v. 5405 Babcock Street Operations, LLC, et al.:
Importance: High

External Email

Dand and Nathan:

By way of brief follow up, I wanted to share with you the string that starts pre-petition and goes through yesterday with Mr. Cifuentes. Shouldn't the Debtors be spending more time vetting potential purchasers at this point, analyzing the prepetition transaction, or investigating claims against Omega?

From: John Anthony
Sent: Wednesday, June 19, 2024 12:01 PM
To: Cifuentes, Antonio <cifuentes@mdlegal.net>
Cc: Ellen Uzonwanne <euzonwanne@anthonyandpartners.com>
Subject: RE: Healthcare Negligence Settlement Recovery Corp. v. 5405 Babcock Street Operations, LLC, et al.:
Importance: High

There is no scenario under which I will seek a default against any defendant in the Miami lawsuit without taking up the situation again with the Creditors Committee and the Debtors. Whether we, you, Dan, or Troutman go to the Bankruptcy Court for further direction, we would anticipate circling back with you in advance of a material movement. I am not conceding that a claim against your clients is property of the estate, or that doing so is a stay violation. But there is a multitude of reasons that we do not intend to develop the case for foreseeable future. This is not at all to say we are ignoring these matters: To the contrary, we are very busy and are focusing on the best way to advance our clients' interests during these vernal weeks of chapter 11.

p.s. I would be copying various counsel now, but for some reason names are no auto populating this morning.

From: Cifuentes, Antonio <cifuentes@mdlegal.net>
Sent: Wednesday, June 19, 2024 11:42 AM
To: John Anthony <janthon@anthonyandpartners.com>
Subject: RE: Healthcare Negligence Settlement Recovery Corp. v. 5405 Babcock Street Operations, LLC, et al.:

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello John,
Some developments since our last email exchange. I hope you were able to at least get some R and R. I certainly need to decompress. I read the email you sent to Dan Simon regarding your position on the non-debtors as it relates to the applicability of the bankruptcy stay. Are you okay to extending the June 30 deadline with respect to my clients an additional 60 days to allow time to sort out the applicability issue in bankruptcy court? It sounds like there might be some motion practice in the future on this issue. 60 days sounds like a reasonable number to me but frankly I have no idea how long this could take in bankruptcy court. Thanks,
Tony

From: John Anthony <janthony@anthonyandpartners.com>
Sent: Thursday, May 23, 2024 2:38 PM
To: Cifuentes, Antonio <tcifuentes@mdlegal.net>
Subject: Re: Healthcare Negligence Settlement Recovery Corp. v. 5405 Babcock Street Operations, LLC, et al.:

**** This is an External Email - Please DO NOT open attachments or click links from unknown senders or unexpected email. ****

I'll call when I get back

Sent from my iPad

On May 23, 2024, at 2:30 PM, Cifuentes, Antonio <tcifuentes@mdlegal.net> wrote:

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Agreed.

Sent from my Verizon, Samsung Galaxy smartphone
Get [Outlook for Android \[aka.ms\]](#)

From: John Anthony <janthony@anthonyandpartners.com>
Sent: Thursday, May 23, 2024 2:13:36 PM
To: Cifuentes, Antonio <tcifuentes@mdlegal.net>
Subject: Re: Healthcare Negligence Settlement Recovery Corp. v. 5405 Babcock Street Operations, LLC, et al.:

**** This is an External Email - Please DO NOT open attachments or click links from unknown senders or unexpected email. ****

I would be delighted to talk with you about case management. At some point of mutual convenience. Sometimes people sitting down and talking with each other is more effective than email communication.

John A. Anthony
Sent from my iPhone 813-833-5066
In the interest of promptness, please excuse brevity, autocorrect, and voice dictate errors.
This email is never intended as the basis for a contract or implied contract for a client.

On May 23, 2024, at 2:05 PM, Cifuentes, Antonio <tcifuentes@mdlegal.net> wrote:

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Understood. Thanks for the heads up.

From: John Anthony <janthony@anthonyandpartners.com>
Sent: Thursday, May 23, 2024 2:02 PM
To: Cifuentes, Antonio <tcifuentes@mdlegal.net>
Cc: Nicholas Lafalce <nlafalce@anthonyandpartners.com>; Andrew Ghekas <AGhekas@anthonyandpartners.com>; Patrick DeSalvo <pdesalvo@anthonyandpartners.com>; Stacy Dorsey <sdorsey@anthonyandpartners.com>; Carissa Fosdick <cfosdick@anthonyandpartners.com>; Simon, Daniel <dsimon@mwe.com>; Bull, Nathan <Nbull@mwe.com>
Subject: Re: Healthcare Negligence Settlement Recovery Corp. v. 5405 Babcock Street Operations, LLC, et al.:

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I am going to default anyone who doesn't appear through a lawyer by the time a response is due. So I'm just hoping that one of the two law firms that has appeared will appear for the stragglers.

Sent from my iPad

On May 23, 2024, at 2:00 PM, Cifuentes, Antonio <tcifuentes@mdlegal.net> wrote:

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

I have nothing to add at this time with respect to the unrepresented entities other than to refer you to Dan Simon's previous comments on the subject. Thanks again.

From: John Anthony <janthony@anthonyandpartners.com>
Sent: Thursday, May 23, 2024 1:50 PM
To: Cifuentes, Antonio <tcifuentes@mdlegal.net>
Cc: Nicholas Lafalce <nlafalce@anthonyandpartners.com>; Andrew Ghekas <AGhekas@anthonyandpartners.com>; Patrick DeSalvo <pdesalvo@anthonyandpartners.com>; Stacy Dorsey <sdorsey@anthonyandpartners.com>; Carissa Fosdick <cfosdick@anthonyandpartners.com>; Simon, Daniel <dsimon@mwe.com>; Bull, Nathan <Nbull@mwe.com>
Subject: Re: Healthcare Negligence Settlement Recovery Corp. v. 5405 Babcock Street Operations, LLC, et al.:

**** This is an External Email - Please DO NOT open attachments or click links from unknown senders or unexpected email. ****

June 30 is fine. What about these few remaining business entities?

John A. Anthony

Sent from my iPhone 813-833-5066

In the interest of promptness, please excuse brevity, autocorrect, and voice dictate errors.

This email is never intended as the basis for a contract or implied contract for a client.

On May 23, 2024, at 1:43 PM, Cifuentes, Antonio <tcifuentes@mdlegal.net> wrote:

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Thank you for your courtesy.

This is also to confirm my filing of a Notice of Appearance in this matter on behalf of Aspire Healthcare, LLC. In keeping with my understanding of the agreement that an extension of time to respond to the Complaint will be granted to those Defendants represented by counsel, Aspire will file a responsive pleading in this matter by no later June 30, 2024.

Thanks,

TC

From: John Anthony <janthony@anthonyandpartners.com>

Sent: Monday, May 20, 2024 8:29 PM

To: Cifuentes, Antonio <tcifuentes@mdlegal.net>

Cc: Simon, Daniel <dsimon@mwe.com>; Nicholas Lafalce <nlafalce@anthonyandpartners.com>; Andrew Ghekas <AGhekas@anthonyandpartners.com>; Patrick DeSalvo <pdesalvo@anthonyandpartners.com>; Stacy Dorsey <sdorsey@anthonyandpartners.com>; Carissa Fosdick <cfosdick@anthonyandpartners.com>; Bull, Nathan <Nbull@mwe.com>

Subject: Re: Healthcare Negligence Settlement Recovery Corp. v. 5405 Babcock Street Operations, LLC, et al.:

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For the parties that you have appeared for, that will be fine. For the ones that nobody has appeared for, they don't have a lawyer. There are not many that are outstanding. Maybe you can discuss that with my law partners, while I am out.

John A. Anthony

Sent from my iPhone 813-833-5066

In the interest of promptness, please excuse brevity, autocorrect, and voice dictate errors.

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On May 20, 2024, at 8:20 PM, Cifuentes, Antonio <tcifuentes@mdlegal.net> wrote:

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello Mr. Anthony,

This confirms my request to join you and Mr. Simon in the agreement made to extend the time to file responsive pleadings.

Should you allow me this courtesy, I understand my clients will have until June 30, 2024 to file a response to your Complaint.

Thanks,

Tony Cifuentes

Sent from my Verizon, Samsung Galaxy smartphone

Get [Outlook for Android \[aka.ms\]](#)

From: Simon, Daniel <dsimon@mwe.com>

Sent: Monday, May 20, 2024 7:02:45 PM

To: John Anthony <janthony@anthonyandpartners.com>

Cc: Nicholas Lafalce <nlafalce@anthonyandpartners.com>; Andrew Ghekas <AGhekas@anthonyandpartners.com>; Patrick DeSalvo <pdesalvo@anthonyandpartners.com>; Stacy Dorsey <sdorsey@anthonyandpartners.com>; Carissa Fosdick <cfosdick@anthonyandpartners.com>; Bull, Nathan <Nbull@mwe.com>; Cifuentes, Antonio <tcifuentes@mdlegal.net>

Subject: RE: Healthcare Negligence Settlement Recovery Corp. v. 5405 Babcock Street Operations, LLC, et al.:

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Again, I'm setting aside the unproductive emails for the time being, so we can focus on the task at hand. I'm copying in Tony Cifuentes who filed his Notice of Appearance today too. Will you be extending the same deadlines to the defendants that he filed his NoA on behalf of today as well?

DAN SIMON
Partner, Restructuring
McDermott Will & Emery LLP 1180 Peachtree St. NE, Suite 3350, Atlanta, GA 30309
Tel +1 404 260 8554 Mobile +1 440 666 1970 Email dsimon@mwe.com
Website mwe.com | [vCard](https://vCard.dynasend.com) dynamasend.com | [Twitter](https://twitter.com/dsimon) [LinkedIn](https://www.linkedin.com/in/dsimon) [LinkedIn](https://www.linkedin.com)

From: John Anthony <janthony@anthonyandpartners.com>
Sent: Monday, May 20, 2024 6:56 PM
To: Simon, Daniel <dsimon@mwe.com>
Cc: Nicholas Lafalce <nlafalce@anthonyandpartners.com>; Andrew Ghekas <AGhekas@anthonyandpartners.com>; Patrick DeSalvo <pdesalvo@anthonyandpartners.com>; Stacy Dorsey <sdorsey@anthonyandpartners.com>; Carissa Fosdick <cfosdick@anthonyandpartners.com>; Bull, Nathan <Nbull@mwe.com>
Subject: Re: Healthcare Negligence Settlement Recovery Corp. v. 5405 Babcock Street Operations, LLC, et al.:

[External Email]

We didn't cut a deal last week because you didn't do what you said you would do. Are the other defendants planning on having counsel appear or will they be defaulted? You don't really have authority to speak for anybody until you appear in the case that you're talking about, so should we also loop in Mr. Diaz and Cifuentes on this?

John A. Anthony

Sent from my iPhone 813-833-5066

In the interest of promptness, please excuse brevity, autocorrect, and voice dictate errors.
This email is never intended as the basis for a contract or implied contract for a client.

On May 20, 2024, at 6:33 PM, Simon, Daniel <dsimon@mwe.com> wrote:

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Thank you. We arranged for a notice of appearance by the Dias & Associates firm for additional defendants. The deal that we cut last week was for all defendants on accepting service and worked with on their appearance. Are you saying you are extending the deadline as to some defendants but not others?

DAN SIMON
Partner, Restructuring
McDermott Will & Emery LLP 1180 Peachtree St. NE, Suite 3350, Atlanta, GA 30309
Tel +1 404 260 8554 Mobile +1 440 666 1970 Email dsimon@mwe.com
Website mwe.com | [vCard](https://vCard.dynasend.com) dynamasend.com | [Twitter](https://twitter.com/dsimon) [LinkedIn](https://www.linkedin.com/in/dsimon) [LinkedIn](https://www.linkedin.com)

From: Nicholas Lafalce <nlafalce@anthonyandpartners.com>
Sent: Monday, May 20, 2024 6:31 PM
To: Simon, Daniel <dsimon@mwe.com>; John Anthony <janthony@anthonyandpartners.com>
Cc: Andrew Ghekas <AGhekas@anthonyandpartners.com>; Patrick DeSalvo <pdesalvo@anthonyandpartners.com>; Stacy Dorsey <sdorsey@anthonyandpartners.com>; Carissa Fosdick <cfosdick@anthonyandpartners.com>; Bull, Nathan <Nbull@mwe.com>
Subject: RE: Healthcare Negligence Settlement Recovery Corp. v. 5405 Babcock Street Operations, LLC, et al.:

[External Email]

Daniel,

Following up on our call earlier this evening, as to the defendants that your firm appeared for as reflected by the attached notice of appearance, plaintiff agrees to an extension of until June 30, 2024, to file a response to the complaint.

Thank you,

Nicholas Lafalce, Esq.
ANTHONY & PARTNERS, LLC
100 South Ashley Drive, Suite 1600
Tampa, Florida 33602
Office: 813.273.5616
Fax: 813.221.4113
nlafalce@anthonyandpartners.com

From: Simon, Daniel <dsimon@mwe.com>
Sent: Monday, May 20, 2024 4:54 PM
To: John Anthony <janthony@anthonyandpartners.com>
Cc: Nicholas Lafalce <nlafalce@anthonyandpartners.com>; Andrew Ghekas <AGhekas@anthonyandpartners.com>; Patrick DeSalvo <pdesalvo@anthonyandpartners.com>; Stacy Dorsey <sdorsey@anthonyandpartners.com>; Carissa Fosdick <cfosdick@anthonyandpartners.com>; Bull, Nathan <Nbull@mwe.com>
Subject: Re: Healthcare Negligence Settlement Recovery Corp. v. 5405 Babcock Street Operations, LLC, et al.:

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No one called me. If you were waiting for us to file the relevant Notices of Appearance, those are

now filed. I would like someone on your team to please call me to discuss next steps to help streamline this proceeding. We presume that all defendants ought to have the same response deadline, consistent with our prior discussions.

DAN SIMON
Partner, Restructuring
McDermott Will & Emery LLP 1180 Peachtree St. NE, Suite 3350, Atlanta, GA 30309
Tel +1 404 260 8554 Mobile +1 440 666 1970 Email dsimon@mwe.com
Website mwe.com | vCard [dynamend.com](mailto:dsimon@mwe.com) | Twitter [twitter.com](https://twitter.com/dsimon) | LinkedIn [linkedin.com](https://www.linkedin.com/in/dsimon)

From: Simon, Daniel
Sent: Monday, May 20, 2024 10:21:29 AM
To: John Anthony <janthony@anthonyandpartners.com>
Cc: Nicholas Lafalce <nlafalce@anthonyandpartners.com>; Andrew Ghekas <AGhekas@anthonyandpartners.com>; Patrick DeSalvo <pdesalvo@anthonyandpartners.com>; Stacy Dorsey <sdorsey@anthonyandpartners.com>; Carissa Fosdick <cfosdick@anthonyandpartners.com>; Bull, Nathan <Nbull@mwe.com>
Subject: RE: Healthcare Negligence Settlement Recovery Corp. v. 5405 Babcock Street Operations, LLC, et al.:

Have one of your partners call me please, assuming you can't find 5 minutes to call me from Miami (which is all I was asking for).

DAN SIMON
Partner, Restructuring
McDermott Will & Emery LLP 1180 Peachtree St. NE, Suite 3350, Atlanta, GA 30309
Tel +1 404 260 8554 Mobile +1 440 666 1970 Email dsimon@mwe.com
Website mwe.com | vCard [dynamend.com](mailto:dsimon@mwe.com) | Twitter [twitter.com](https://twitter.com/dsimon) | LinkedIn [linkedin.com](https://www.linkedin.com/in/dsimon)

From: John Anthony <janthony@anthonyandpartners.com>
Sent: Monday, May 20, 2024 10:18 AM
To: Simon, Daniel <dsimon@mwe.com>
Cc: Nicholas Lafalce <nlafalce@anthonyandpartners.com>; Andrew Ghekas <AGhekas@anthonyandpartners.com>; Patrick DeSalvo <pdesalvo@anthonyandpartners.com>; Stacy Dorsey <sdorsey@anthonyandpartners.com>; Carissa Fosdick <cfosdick@anthonyandpartners.com>; Bull, Nathan <Nbull@mwe.com>
Subject: Re: Healthcare Negligence Settlement Recovery Corp. v. 5405 Babcock Street Operations, LLC, et al.:

[External Email]

As you know, I am in Miami here for three days and then going straight to Ireland. Please don't send self-serving email traffic. I definitely suggested somebody file a notice of appearance, because we got tired of waiting for a very simple notice of appearance to be filed for each one of these defendants, and we had to go ahead and get all these defendants served. Honestly, I am just about ready to start another hearing and then I need to go out with our client friends and talk about how the next two days are unfolding on another matter. I am copying my partners. Best wishes.

John A. Anthony
Sent from my iPhone 813-833-5066

In the interest of promptness, please excuse brevity, autocorrect, and voice dictate errors. This email is never intended as the basis for a contract or implied contract for a client.

On May 20, 2024, at 8:38 AM, Simon, Daniel <dsimon@mwe.com> wrote:

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John:

As promised, we are in the process of arranging for Notices of Appearances to be filed today on behalf of the relevant Defendants. Of the 58 Defendants you named, there are a handful of entities that are either not within our organizational structure, or to our knowledge, do not exist. In addition, one of the entities filed for bankruptcy in 2021, has since been dissolved pursuant to that proceeding, and remains subject to the injunctive provisions from that prior bankruptcy.

Needless to say, I would like to have a quick call with you to address these issues today, so there are no surprises when we do file our NoAs. Now that I've spent some time digging through the organizational chart, I'm happy to help sort your mistakes out, but of course, our assistance will be tied with agreement on the extension that we previously discussed.

I think we can resolve this with a 5 minute phone call, and all of this is an effort to be constructive with your side and move this matter forward, so I would appreciate your professional courtesy to do the same.

Let me know when works for you.

DAN SIMON
Partner, Restructuring
McDermott Will & Emery LLP 1180 Peachtree St. NE, Suite 3350, Atlanta, GA 30309
Tel +1 404 260 8554 Mobile +1 440 666 1970 Email dsimon@mwe.com
Website mwe.com | vCard [dynamend.com](mailto:dsimon@mwe.com) | Twitter [twitter.com](https://twitter.com/dsimon) | LinkedIn [linkedin.com](https://www.linkedin.com/in/dsimon)

From: John Anthony <janthony@anthonyandpartners.com>
Sent: Sunday, May 19, 2024 4:55 PM

To: Simon, Daniel <dsimon@mwe.com>
Cc: Nicholas Lafalce <nlafalce@anthonyandpartners.com>; Andrew Ghekas <AGhekas@anthonyandpartners.com>; Patrick DeSalvo <pdesalvo@anthonyandpartners.com>; Stacy Dorsey <sdorsey@anthonyandpartners.com>; Carissa Fosdick <cfosdick@anthonyandpartners.com>
Subject: Re: Healthcare Negligence Settlement Recovery Corp. v. 5405 Babcock Street Operations, LLC, et al.:

[External Email]

OK that's fine. If you want to talk with Andrew and Nicholas, if they are happy with what you're proposing, then it can be confirmed in some way. But the basic reality is that you file a notice of appearance to avoid being defaulted. And it has never been my policy to give extensions of time to respond to a lawyer, who has not yet appeared in a case. There are a lot of very obvious reasons why that must always be the case.

John A. Anthony

Sent from my iPhone 813-833-5066

In the interest of promptness, please excuse brevity, autocorrect, and voice dictate errors. This email is never intended as the basis for a contract or implied contract for a client.

On May 19, 2024, at 4:17 PM, Simon, Daniel <dsimon@mwe.com> wrote:

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Please have him call me tomorrow. We are trying to be practical, not difficult.

DAN SIMON
Partner, Restructuring
[McDermott Willi & Emery LLP](http://McDermottWilli&EmeryLLP) 1180 Peachtree St. NE, Suite 3350, Atlanta, GA 30309
Tel +1 404 260 8554 Mobile +1 440 666 1970 Email dsimon@mwe.com
[Website \(mwe.com\)](http://Website(mwe.com)) | [vCard \(dynasend.com\)](http://vCard(dynasend.com)) | [Twitter \(twitter.com\)](https://twitter.com/twitter.com) | [LinkedIn \(linkedin.com\)](https://linkedin.com/linkedin.com)

From: Nicholas Lafalce <nlafalce@anthonyandpartners.com>
Sent: Sunday, May 19, 2024 3:52:41 PM
To: Simon, Daniel <dsimon@mwe.com>; John Anthony <janthony@anthonyandpartners.com>
Cc: Andrew Ghekas <AGhekas@anthonyandpartners.com>; Patrick DeSalvo <pdesalvo@anthonyandpartners.com>; Stacy Dorsey <sdorsey@anthonyandpartners.com>; Carissa Fosdick <cfosdick@anthonyandpartners.com>
Subject: RE: Healthcare Negligence Settlement Recovery Corp. v. 5405 Babcock Street Operations, LLC, et al.:

[External Email]

Mr. Anthony has been on the telephone with me since shortly after his e-mail to you and we are going to be unable to circle back to you for the remainder of day. In the meantime, do what you need to do.

From: Simon, Daniel <dsimon@mwe.com>
Sent: Sunday, May 19, 2024 3:47 PM
To: John Anthony <janthony@anthonyandpartners.com>
Cc: Andrew Ghekas <AGhekas@anthonyandpartners.com>; Nicholas Lafalce <nlafalce@anthonyandpartners.com>; Patrick DeSalvo <pdesalvo@anthonyandpartners.com>; Stacy Dorsey <sdorsey@anthonyandpartners.com>; Carissa Fosdick <cfosdick@anthonyandpartners.com>
Subject: Re: Healthcare Negligence Settlement Recovery Corp. v. 5405 Babcock Street Operations, LLC, et al.:

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John I just tried your cell. Give me a ring please, I'm sure we can work this out without the need for further back and forth.

DAN SIMON
Partner, Restructuring
[McDermott Willi & Emery LLP](http://McDermottWilli&EmeryLLP) 1180 Peachtree St. NE, Suite 3350, Atlanta, GA 30309
Tel +1 404 260 8554 Mobile +1 440 666 1970 Email dsimon@mwe.com
[Website \(mwe.com\)](http://Website(mwe.com)) | [vCard \(dynasend.com\)](http://vCard(dynasend.com)) | [Twitter \(twitter.com\)](https://twitter.com/twitter.com) | [LinkedIn \(linkedin.com\)](https://linkedin.com/linkedin.com)

From: John Anthony <janthony@anthonyandpartners.com>
Sent: Sunday, May 19, 2024 3:39:30 PM
To: Simon, Daniel <dsimon@mwe.com>
Cc: Andrew Ghekas <AGhekas@anthonyandpartners.com>; Nicholas Lafalce <nlafalce@anthonyandpartners.com>; Patrick DeSalvo <pdesalvo@anthonyandpartners.com>; Stacy Dorsey <sdorsey@anthonyandpartners.com>; Carissa Fosdick <cfosdick@anthonyandpartners.com>
Subject: Re: Healthcare Negligence Settlement Recovery Corp. v. 5405 Babcock Street Operations, LLC, et al.:

External Email

Dan, I am headed to Miami for court tomorrow and Tuesday, but I've about had it with Mr. Bull. I will be back on Wednesday morning, and in the meantime, I think you and he know how Rule 1.500 works. I cannot actually read your email because I'm driving, and I don't know how badly this transcription will come out. But I had to hire a process server to serve two or three dozen summonses so far, and still the trade-off is pretty much cooked as I covered in emails and calls over the last three weeks. I don't OU that explanation, but I gave it to you from the first moment we spoke. So once you are authorized to represent somebody and appear in the case, we can pick it up. Until then I don't think we have much to talk about, unless of course, some or all of these defendants files for chapter 11 or 7.

John A. Anthony

Sent from my iPhone 813-833-5066

In the interest of promptness, please excuse brevity, autocorrect, and voice dictate errors.

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On May 19, 2024, at 3:32 PM, Simon, Daniel

<dsimon@mwe.com> wrote:

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John,

Not sure I understand the concern, but happy to discuss further with you. When works?

DAN SIMON
Partner, Restructuring
[McDermott Will & Emery LLP](http://McDermottWill&EmeryLLP.com) 1180 Peachtree St. NE, Suite
3350, Atlanta, GA 30309
Tel +1 404 260 8554 Mobile +1 440 666 1970 Email dsimon@mwe.com
[Website](http://Website.mwe.com) [vCard](http://vCard.dynasend.com) [Twitter](https://twitter.com/dsimon) [LinkedIn](https://www.linkedin.com/in/dsimon)

From: John Anthony <janthony@anthonyandpartners.com>

Sent: Sunday, May 19, 2024 3:07:08 PM

To: Bull, Nathan <Nbull@mwe.com>

Cc: Simon, Daniel <dsimon@mwe.com>; Carissa Fosdick <cfosdick@anthonyandpartners.com>; Patrick DeSalvo <pdesalvo@anthonyandpartners.com>; Stacy Dorsey <sdorsey@anthonyandpartners.com>

Subject: Re: Healthcare Negligence Settlement Recovery Corp. v. 5405 Babcock Street Operations, LLC, et al.:

External Email

I have been very clear with your partner that he will need to appear, or someone will need to appear, in the case. If not, we will seek a default against any party that has not appeared in the case. That is how most jurisdictions handled this sort of thing. It's how I invariably handle this sort of thing and there are 11 lawyers at this firm, who will be very clear on point. Nothing about self-serving emails will change the rules in this jurisdiction, and our communications with you are at an end. I would be pleased to speak with Mr. Simon, who actually knows the facts of the communications, but you will be blocked in the morning.

John A. Anthony

Sent from my iPhone 813-833-5066

In the interest of promptness, please excuse brevity, autocorrect, and voice dictate errors.

This email is never intended as the basis for a contract or implied contract for a client.

On May 19, 2024, at 3:04 PM, Bull, Nathan

<Nbull@mwe.com> wrote:

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

We're not playing games and I don't understand what your issue is. I'll ask again, do you confirm the June 30 response date upon all defendants filing notices tomorrow by lawyers with Florida bar numbers (which includes defendants that you haven't served).

On May 19, 2024, at 2:45 PM, John

Anthony

<janthony@anthonyandpartners.com

> wrote:

[External Email]

I'm not going to play a bunch of games with you or your law firm. My e-mail was very clear that you don't get an extension if a lawyer with a Florida bar number doesn't appear in the case. If you want to communicate any further with me, then please refrain from insulting behavior. The dialogue with your firm began several weeks ago and you have not appeared as discussed, so the dialogue is no longer helpful.

From: Bull, Nathan <Nbull@mwe.com>

Sent: Sunday, May 19, 2024 2:39 PM

To: John Anthony

<janthony@anthonyandpartners.com>

Cc: Simon, Daniel <djsimon@mwe.com>; Carissa Fosdick

<<cfosdick@anthonyandpartners.com>;

Patrick DeSalvo

<pdesalvo@anthonyandpartners.com>;

Stacy Dorsey

<sdorsey@anthonyandpartners.com>

Subject: Re: Healthcare Negligence Settlement Recovery Corp. v. 5405 Babcock Street Operations, LLC, et al.:

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

John,

I don't understand your issue with NOAs, and the email chain speaks for itself: in exchange for all defendants accepting response service, you agreed to extend the response date to June 30. In any event, we have sorted our representation and all defendants are prepared to file notices tomorrow. To move things forward productively, and avoid a situation where different defendants have different response deadlines, please confirm that with the filing of notices, all defendants have until June 30 to respond.

Thanks,

Nathan

On May 17, 2024, at 2:48 PM,

John Anthony

<janthony@anthonyandpartners.com> wrote:

[External Email]

We agreed on nothing. I said if you appear that day, fine. You didn't. That is what the email traffic shows, and in the meantime, I had to get 30 summonses served. I need to move the file along. I am not waiting for the installment payment dates to come and go. My clients are over

waiting. Please hear me, I am a good listener, I try to think outside the box, but I will not just stop for 3 weeks for the heck of it. I like what I do, and I like happy clients. I also like money. I need to move this forward. Think about it and lets talk next week.

From: Simon, Daniel <dsimon@mwe.com>
Sent: Friday, May 17, 2024 2:42 PM
To: John Anthony <janthony@anthonyandpartners.com>
Cc: Carissa Fosdick <cfosdick@anthonyandpartners.com>; Patrick DeSalvo <pdesalvo@anthonyandpartners.com>; Stacy Dorsey <sdorsey@anthonyandpartners.com>; Bull, Nathan <Nbull@mwe.com>
Subject: RE: Healthcare Negligence Settlement Recovery Corp. v. 5405 Babcock Street Operations, LLC, et al.:

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

John,

As I think I mentioned when we spoke, I've been in trial and traveling the past two days so I have been unable to respond to you immediately. We agreed on 45 days for the response time, so I don't understand what you mean by your comments below about "resolving something today." In any event, MWE serves as restructuring counsel and has authority to accept service for all Defendants, but the Defendants are in the process of lining up local litigation counsel that will appear in the case. That will take some time, for obvious reasons.

Best,
Dan

DAN SIMON
Partner, Restructuring
[McDermott Will & Emery LLP](https://www.mcdermottwillandemery.com) 1180 Peachtree St. NE, Suite 3350, Atlanta, GA 30309
Tel +1 404 260 8554 Mobile +1 440 666 1970 Email dsimon@mwe.com
[Website \[mwe.com\]](https://www.mwe.com) | [vCard \[idvnaasend.com\]](https://vcard.idvnaasend.com) | [Twitter \[twitter.com\]](https://twitter.com/dsimon) | [LinkedIn \[linkedin.com\]](https://www.linkedin.com/in/dsimon)

From: John Anthony <janthony@anthonyandpartners.com>
Sent: Friday, May 17, 2024 10:49 AM
To: Simon, Daniel <dsimon@mwe.com>
Cc: Carissa Fosdick <cfosdick@anthonyandpartners.com>; Patrick DeSalvo <pdesalvo@anthonyandpartners.com>; Stacy Dorsey <sdorsey@anthonyandpartners.com>
Subject: RE: Healthcare

Negligence Settlement
Recovery Corp. v. 5405
Babcock Street Operations,
LLC, et al.:

Importance: High

[External Email]

Dan:

Do you have time for a call because I don't see any notice of appearance and we have now served more than half of your clients. Unless we can resolve something today I might just as soon look for the responsive filings in a couple of weeks? But I'm in all day if you'd like to talk.

From: John Anthony
Sent: Thursday, May 16, 2024 8:52 PM
To: 'Simon, Daniel' <dsimon@mwe.com>; Carissa Fosdick <cfosdick@anthonyandpartners.com>
Cc: 'Bull, Nathan' <Nbull@mwe.com>
Subject: RE: Healthcare Negligence Settlement Recovery Corp. v. 5405 Babcock Street Operations, LLC, et al.:

Dan, have you decided not to appear? Half of your entities are due to respond to the complaint in 20 days or less.

From: John Anthony
Sent: Wednesday, May 15, 2024 7:15 PM
To: Simon, Daniel <dsimon@mwe.com>; Carissa Fosdick <cfosdick@anthonyandpartners.com>
Cc: Bull, Nathan <Nbull@mwe.com>
Subject: RE: Healthcare Negligence Settlement Recovery Corp. v. 5405 Babcock Street Operations, LLC, et al.:

Dan:

To move things along, please see below the case style and defendant group, that I have pasted to help you expedite your NOA. The 45 days from today is approved, but we have lost 3 weeks in this dialogue, so the NOA should be filed tomorrow. We have already served about 20, so its more convenient for all involved if you just appear and agree that the defendants will respond to the complaint without seeking further extensions as part of the appearance. So hopefully that works. Call and let me know, as we have weekly meetings on my end normally Wednesdays at 6 p.m., and I'd like to update my colleagues. Thanks.

IN THE CIRCUIT
COURT OF THE
ELEVENTH JUDICIAL
CIRCUIT
IN AND FOR MIAMI-
DADE COUNTY,

**FLORIDA
CIVIL DIVISION**

HEALTHCARE NEGLIGENCE SETTLEMENT RECOVERY
CORP.,

Plaintiff,

Case No.:

v.

5405 BABCOCK STREET OPERATIONS, LLC, EPSILON HEALTH CARE PROPERTIES, LLC, CMC II, LLC, LAVIE CARE CENTERS, LLC, 6700 N.W. 10TH PLACE OPERATIONS, LLC, 4200 WASHINGTON STREET OPERATIONS, LLC, 2826 CLEVELAND AVENUE OPERATIONS, LLC, BAYA NURSING AND REHABILITATION, LLC, 1465 OAKFIELD DRIVE OPERATIONS, LLC, 777 NINTH STREET NORTH OPERATIONS, LLC, 3101 GINGER DRIVE OPERATIONS, LLC, TALLAHASSEE FACILITY OPERATIONS, LLC, JOSERA, LLC; TOSTURI, LLC, MELBOURNE FACILITY OPERATIONS, LLC, NORTH FORT MYERS FACILITY OPERATIONS, LLC, CONSULATE FACILITY LEASING, LLC, 1010 CARPENTERS WAY OPERATIONS, LLC, MIAMI FACILITY OPERATIONS, LLC, 741 SOUTH BENEVA ROAD OPERATIONS, LLC, 3735 EVANS AVENUE OPERATIONS, LLC, 7950 LAKE UNDERHILL ROAD OPERATIONS, LLC, 518 WEST FLETCHER AVENUE OPERATIONS, LLC, LIDENSKAB LLC, JACKSONVILLE FACILITY OPERATIONS, LLC, 3001 PALM COAST PARKWAY OPERATIONS, LLC, KISSIMMEE FACILITY OPERATIONS, LLC, 9311 SOUTH ORANGE BLOSSOM TRAIL OPERATIONS, LLC, 4641 OLD CANOE CREEK ROAD OPERATIONS, LLC, 2333 NORTH BRENTWOOD CIRCLE OPERATIONS, LLC, 710 NORTH SUN DRIVE OPERATIONS, LLC, 1851 ELKCAM BOULEVARD OPERATIONS, LLC, 6414 13TH ROAD SOUTH OPERATIONS, LLC, 1120 WEST DONEGAN AVENUE OPERATIONS, LLC, 12170 CORTEZ BOULEVARD OPERATIONS, LLC, 9400 SW 137TH AVENUE OPERATIONS LLC, NSPRMC, LLC, 1550 JESS PARRISH COURT OPERATIONS, LLC, LV CHC HOLDINGS I, LLC, CONCOURSE PARTNERS, LLC, CONCURRENT PARTNERS, LLLP, PORT CHARLOTTE FACILITY OPERATIONS, LLC, WEST ALTAMONTE FACILITY OPERATIONS, LLC, 216 SANTA BARBARA BOULEVARD OPERATIONS, LLC, FLORIDIAN FACILITY OPERATIONS, LLC, 1615 MIAMI ROAD OPERATIONS, LLC, 6305 CORTEZ ROAD WEST OPERATIONS, LLC, 15204 WEST COLONIAL DRIVE OPERATIONS, LLC, NEW PORT RICHEY FACILITY OPERATIONS, LLC, 11565 HARTS ROAD OPERATIONS, LLC, BRANDON FACILITY OPERATIONS, LLC, 9355 SAN JOSE BOULEVARD OPERATIONS, LLC, 702 SOUTH KINGS AVENUE OPERATIONS, LLC, ORANGE PARK FACILITY OPERATIONS, LLC, SYNERGY HEALTHCARE SERVICES, INC., NSPIRE HEALTHCARE INC., ASPIRE HEALTHCARE, LLC, and DANIEL E. DIAS, ESQUIRE,

Defendants.

5405 Babcock Street
Operations, LLC, Epsilon
Health Care Properties,
LLC, CMC II, LLC, Lavie
Care Centers, LLC, 6700
N.W. 10th Place Operations,
LLC, 4200 Washington
Street Operations, LLC,
2826 Cleveland Avenue
Operations, LLC, Baya
Nursing and Rehabilitation,
LLC, 1465 Oakfield Drive
Operations, LLC, 777 Ninth
Street North Operations,
LLC, 3101 Ginger Drive
Operations, LLC,
Tallahassee Facility
Operations, LLC, Josera,
LLC, Tosturi, LLC,
Melbourne Facility
Operations, LLC, North
Fort Myers Facility
Operations, LLC, Consulate
Facility Leasing, LLC, 1010
Carpenters Way Operations,
LLC, Miami Facility
Operations, LLC, 741 South
Beneva Road Operations,
LLC, 3735 Evans Avenue
Operations, LLC, 7950
Lake Underhill Road
Operations, LLC, 518 West

Fletcher Avenue
Operations, LLC, Lidenskab
LLC, Jacksonville Facility
Operations, LLC, 3001
Palm Coast Parkway
Operations, LLC,
Kissimmee Facility
Operations, LLC, 9311
South Orange Blossom Trail
Operations, LLC, 4641 Old
Canoe Creek Road
Operations, LLC, 2333
North Brentwood Circle
Operations, LLC, 710 North
Sun Drive Operations, LLC,
1851 Elkcam Boulevard
Operations, LLC, 6414 13th
Road South Operations,
LLC, 1120 West Donegan
Avenue Operations, LLC,
12170 Cortez Boulevard
Operations, LLC, 9400 SW
137th Avenue Operations
LLC, NSPRMC, LLC, 1550
Jess Parrish Court
Operations, LLC, LV CHC
Holdings I, LLC, Concourse
Partners, LLC, Concurrent
Partners, LLLP, Port
Charlotte Facility
Operations, LLC, West
Altamonte Facility
Operations, LLC, 216 Santa
Barbara Boulevard
Operations, LLC, Floridian
Facility Operations, LLC,
1615 Miami Road
Operations, LLC, 6305
Cortez Road West
Operations, LLC, 15204
West Colonial Drive
Operations, LLC, New Port
Richey Facility Operations,
LLC, 11565 Harts Road
Operations, LLC, Brandon
Facility Operations, LLC,
9355 San Jose Boulevard
Operations, LLC, 702 South
Kings Avenue Operations,
LLC, Orange Park Facility
Operations, LLC,
(collectively, the "Consulate
Entities"), Synergy
Healthcare Services, Inc.,
NSPIRE Healthcare Inc.,
and Aspire Healthcare, LLC
(collectively, the
"Transferees"), and Daniel
E. Dias, Esquire (the
"Control Individual"),

From: Simon, Daniel
<dsimon@mwe.com>
Sent: Wednesday, May 15,
2024 5:45 PM
To: John Anthony
<janthony@anthonyandpartners.com>; Carissa Fosdick
<cfosdick@anthonyandpartners.com>
Cc: Bull, Nathan
<Nbull@mwe.com>
Subject: RE: Healthcare
Negligence Settlement
Recovery Corp. v. 5405
Babcock Street Operations,
LLC, et al. - Correspondence
from John Anthony

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John:

In furtherance of our discussion just now, I am authorized to accept service

on behalf of all defendants,
and my ask is that the
response deadline for all
defendants, including
defendants already served, be
set for 45 days from today, on
or about June 30.

Please confirm ASAP.

DAN SIMON
Partner, Restructuring
[McDermott Will & Emery LLP](#) 1180 Peachtree St. NE, Suite 3350, Atlanta, GA 30309
Tel +1 404 260 8554 Mobile +1 440 666 1970 Email dsimon@mwe.com
Website mwe.com | vCard [idynasend.com](#) | Twitter [twitter.com](#) | LinkedIn [linkedin.com](#)

From: Simon, Daniel
<dsimon@mwe.com>
Sent: Wednesday, May 15,
2024 4:23 PM
To: John Anthony
<janthony@anthonyandpartners.com>; Carissa Fosdick
<cfosdick@anthonyandpartners.com>
Subject: Re: Healthcare
Negligence Settlement
Recovery Corp. v. 5405
Babcock Street Operations,
LLC, et al. - Correspondence
from John Anthony

Yes. Please call my cell. 440-
666-1970

DAN SIMON
Partner, Restructuring
[McDermott Will & Emery LLP](#) 1180 Peachtree St. NE, Suite
3350, Atlanta, GA 30309
Tel +1 404 260 8554 Mobile +1 440 666 1970 Email dsimon@mwe.com
Website mwe.com | vCard [idynasend.com](#) | Twitter [twitter.com](#) | LinkedIn [linkedin.com](#)

From: John Anthony
<janthony@anthonyandpartners.com>
Sent: Wednesday, May 15,
2024 3:55:01 PM
To: Carissa Fosdick
<cfosdick@anthonyandpartners.com>; Simon, Daniel
<dsimon@mwe.com>
Subject: RE: Healthcare
Negligence Settlement
Recovery Corp. v. 5405
Babcock Street Operations,
LLC, et al. - Correspondence
from John Anthony

[External Email]

Just got out, and can we
talk shortly?

From: Carissa Fosdick
<cfosdick@anthonyandpartners.com>
Sent: Wednesday, May 15,
2024 3:25 PM
To: 'Simon, Daniel'
<dsimon@mwe.com>; John
Anthony
<janthony@anthonyandpartners.com>
Subject: RE: Healthcare
Negligence Settlement
Recovery Corp. v. 5405
Babcock Street Operations,
LLC, et al. - Correspondence
from John Anthony

Good afternoon, Mr.
Simon,

Mr. Anthony has been in a

deposition since this morning, and I am not sure when he will be free. Do you have any availability for a call tomorrow?

Carissa

Carissa Fosdick
Paralegal to John A.
Anthony, Esq.

**Anthony & Partners,
LLC**
100 S. Ashley Drive,
Suite 1600
Tampa, FL 33602
Email:
cfosdick@anthonyandpartners.com
Main: (813) 273-5616
Direct: (813) 712-1235
Fax: (813) 221-4113
www.anthonyandpartners.com
[\[anthonyandpartners.com\]](http://anthonyandpartners.com)

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From: Simon, Daniel
<dsimon@mwe.com>
Sent: Wednesday, May 15, 2024 10:45 AM
To: Carissa Fosdick
<cfosdick@anthonyandpartners.com>; John Anthony
<janthony@anthonyandpartners.com>
Subject: RE: Healthcare Negligence Settlement Recovery Corp. v. 5405 Babcock Street Operations, LLC, et al. - Correspondence from John Anthony

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This afternoon or after 8pm
ET

DAN SIMON
Partner, Restructuring
McDermott Will & Emery LLP 1180 Peachtree St. NE, Suite 3350, Atlanta, GA 30309
Tel +1 404 260 8554 Mobile +1 440 666 1970 Email dsimon@mwe.com
Website [\[mwe.com\]](http://mwe.com) | vCard [\[dynamend.com\]](http://dynamend.com) | Twitter [\[twitter.com\]](https://twitter.com) | LinkedIn [\[linkedin.com\]](https://linkedin.com)

From: Carissa Fosdick
<cfosdick@anthonyandpartners.com>
Sent: Wednesday, May 15, 2024 10:28 AM
To: Simon, Daniel
<dsimon@mwe.com>; John Anthony
<janthony@anthonyandpartners.com>
Subject: RE: Healthcare Negligence Settlement Recovery Corp. v. 5405 Babcock Street Operations, LLC, et al. - Correspondence from John Anthony

[External Email]

Good morning, Mr. Simon,

My apologies for the mix up. What is your availability today?

Carissa

Carissa Fosdick
Paralegal to John A. Anthony, Esq.

Anthony & Partners, LLC
100 S. Ashley Drive,
Suite 1600
Tampa, FL 33602
Email:
cfosdick@anthonyandpartners.com
Main: (813) 273-5616
Direct: (813) 712-1235
Fax: (813) 221-4113
www.anthonyandpartners.com
[\[anthonyandpartners.com\]](http://anthonyandpartners.com)

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From: Simon, Daniel

<dsimon@mwe.com>
Sent: Wednesday, May 15,
2024 10:22 AM
To: Carissa Fosdick
<cfosdick@anthonyandpartne
rs.com>; John Anthony
<janthony@anthonyandpartn
ers.com>
Subject: RE: Healthcare
Negligence Settlement
Recovery Corp. v. 5405
Babcock Street Operations,
LLC, et al. - Correspondence
from John Anthony

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John never called me. Can we connect today?

DAN SIMON
Partner, Restructuring
McDermott Will & Emery LLP 1180 Peachtree St. NE, Suite 3350, Atlanta, GA 30309
Tel +1 404 260 8554 **Mobile** +1 440 666 1970 **Email** dsimon@mwe.com
Website [mwe.com] | **vCard** [dynamsend.com] | **Twitter** [twitter.com] | **LinkedIn** [linkedin.com]

From: Carissa Fosdick
<cfosdick@anthonyandpartne
rs.com>
Sent: Monday, May 13, 2024
9:58 AM
To: Simon, Daniel
<dsimon@mwe.com>; John
Anthony
<janthony@anthonyandpartn
ers.com>
Subject: RE: Healthcare
Negligence Settlement
Recovery Corp. v. 5405
Babcock Street Operations,
LLC, et al. - Correspondence
from John Anthony

External Email

Thank you for getting back with me. I'll put the call on the calendar for 8:00pm tomorrow, Tuesday, May 14.
Can Mr. Anthony call your mobile number below at that time?

Carissa

Carissa Fosdick
Paralegal to John A.
Anthony, Esq.

**Anthony & Partners,
LLC**
100 S. Ashley Drive,
Suite 1600
Tampa, FL 33602
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cfosdick@anthonyandpartners.com
Main: (813) 273-5616
Direct: (813) 712-1235
Fax: (813) 221-4113
www.anthonyandpartners.com
[\[anthonyandpartners.com\]](mailto:janthonyandpartners.com)

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From: Simon, Daniel
<dsimon@mwe.com>
Sent: Monday, May 13, 2024 9:54 AM
To: Carissa Fosdick
<cfosdick@anthonyandpartners.com>; John Anthony
<janthony@anthonyandpartners.com>
Subject: RE: Healthcare Negligence Settlement Recovery Corp. v. 5405 Babcock Street Operations, LLC, et al. - Correspondence from John Anthony

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But would prefer 8pm tomorrow or Wednesday.

DAN SIMON
Partner, Restructuring
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Tel +1 404 260 8554 Mobile +1 440 666 1970 Email dsimon@mwe.com
Website [\[mwe.com\]](https://www.mcdermottwillandemery.com) | vCard [\[dvnsend.com\]](mailto:dsimon@mwe.com) | [Twitter \[twitter.com\]](https://twitter.com/dsimon) | [LinkedIn \[linkedin.com\]](https://www.linkedin.com/company/mcdermottwillandemery)

From: Carissa Fosdick
<cfosdick@anthonyandpartners.com>
Sent: Monday, May 13, 2024 9:16 AM
To: Simon, Daniel
<dsimon@mwe.com>; John Anthony
<janthony@anthonyandpartners.com>
Subject: RE: Healthcare Negligence Settlement Recovery Corp. v. 5405 Babcock Street Operations, LLC, et al. - Correspondence from John Anthony

[External Email]

Would 7pm or 8pm work for you this evening?

Carissa

Carissa Fosdick
Paralegal to John A. Anthony, Esq.

**Anthony & Partners,
LLC**

100 S. Ashley Drive,
Suite 1600
Tampa, FL 33602
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cfosdick@anthonyandpartners.com
Main: (813) 273-5616
Direct: (813) 712-1235
Fax: (813) 221-4113
www.anthonyandpartners.com
[\[anthonyandpartners.com\]](http://anthonyandpartners.com)

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From: Simon, Daniel
<dsimon@mwe.com>
Sent: Monday, May 13, 2024 9:05 AM
To: Carissa Fosdick
<cfosdick@anthonyandpartners.com>; John Anthony
<janthony@anthonyandpartners.com>
Subject: RE: Healthcare Negligence Settlement Recovery Corp. v. 5405 Babcock Street Operations, LLC, et al. - Correspondence from John Anthony

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That time does not work for me. Something later in the evening on Wednesday is better.

DAN SIMON
Partner, Restructuring
McDermott Will & Emery LLP 1180 Peachtree St. NE, Suite 3350, Atlanta, GA 30309
Tel +1 404 260 8554 **Mobile** +1 440 666 1970 **Email** dsimon@mwe.com
Website [\[mwe.com\]](http://mwe.com) | **vCard** [\[dynamisend.com\]](http://dynamisend.com) | **Twitter** [\[twitter.com\]](https://twitter.com) | **LinkedIn** [\[linkedin.com\]](https://linkedin.com)

From: Carissa Fosdick
<cfosdick@anthonyandpartners.com>
Sent: Monday, May 13, 2024 8:55 AM

To: Simon, Daniel
<dsimon@mwe.com>; John Anthony
<janthony@anthonyandpartners.com>
Subject: RE: Healthcare Negligence Settlement Recovery Corp. v. 5405 Babcock Street Operations, LLC, et al. - Correspondence from John Anthony

External Email

Good morning, Mr. Simon,

Mr. Anthony is available this evening for a call at 6:00pm. If this works for you, please let me know the best number for him to reach you at that time.

Thank you,
Carissa

Carissa Fosdick
Paralegal to John A. Anthony, Esq.

Anthony & Partners, LLC
100 S. Ashley Drive,
Suite 1600
Tampa, FL 33602
Email:
cfosdick@anthonyandpartners.com
Main: (813) 273-5616
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[\[anthonyandpartners.com\]](mailto:janthonyandpartners.com)

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From: Simon, Daniel
<dsimon@mwe.com>
Sent: Friday, May 10, 2024 8:12 PM
To: John Anthony
<janthony@anthonyandpartners.com>
Cc: Carissa Fosdick
<cfosdick@anthonyandpartners.com>

[rs.com](#)>

Subject: RE: Healthcare
Negligence Settlement
Recovery Corp. v. 5405
Babcock Street Operations,
LLC, et al. - Correspondence
from John Anthony

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Next Monday or Wednesday evening

DAN SIMON
Partner, Restructuring
McDermott Will & Emery LLP 1180 Peachtree St. NE, Suite 3350, Atlanta, GA 30309
Tel +1 404 260 8554 Mobile +1 440 666 1970 Email dsimon@mwe.com
Website mwe.com | vCard dynamisend.com | Twitter twitter.com | LinkedIn linkedin.com

From: John Anthony
<janthony@anthonyandpartners.com>
Sent: Friday, May 10, 2024
3:16 PM
To: Simon, Daniel
<dsimon@mwe.com>
Cc: Carissa Fosdick
<cfosdick@anthonyandpartners.com>
Subject: RE: Healthcare
Negligence Settlement
Recovery Corp. v. 5405
Babcock Street Operations,
LLC, et al. - Correspondence
from John Anthony
Importance: High

[External Email]

Give me a couple of times and I'll make myself available, hopefully after hours, because I don't have hearings during the evening and I don't have staff during the evening either. I generally work until 9:00 PM or later Sunday through Thursday night. Please keep Carissa in my e-mail traffic because she meticulously curates my calendar on a daily basis

From: Simon, Daniel
<dsimon@mwe.com>
Sent: Friday, May 10, 2024
3:01 PM
To: John Anthony
<janthony@anthonyandpartners.com>
Subject: RE: Healthcare
Negligence Settlement
Recovery Corp. v. 5405
Babcock Street Operations,
LLC, et al. - Correspondence
from John Anthony

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John, are you available early next week to discuss further?

DAN SIMON
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Website mwe.com | vCard dynamisend.com | Twitter twitter.com | LinkedIn linkedin.com

From: John Anthony
<janthony@anthonyandpartners.com>
Sent: Wednesday, May 8, 2024 2:50 PM
To: Simon, Daniel
<dsimon@mwe.com>
Cc: cbarnard@handmlaw.net; clancey@boundslawgroup.com; Michael Brevda
<michael@seniorjustice.com>; Nathan P. Carter
<ncarter@yourinsurancetorney.com>; Bill Dean
<bill@forddean.com>; Scott Distasio
<scott.distasio@distasiofirm.com>; lindsey@bbglaw.com;
Jon Herskowitz
<jon@bhffloridalaw.com>; damian@mallardperez.com;
sara@mallardperez.com;
Kenneth McKenna
<kmckenna@dwklaw.com>;
Terry Nelson
<tnelson@terrynelsonlaw.com>;
jpaul@paulandperkins.com;
Spencer Payne
<spayne@forthepeople.com>;
Will Sarubbi
<will@seniorjustice.com>;
brent@boundslawgroup.com;
sw@cokerlaw.com;
bwilson@dwklaw.com;
mwright@thefloridafirm.com;
Cameryn Lackey
<CLackey@anthonyandpartners.com>; Patrick DeSalvo
<pdesalvo@anthonyandpartners.com>; Carissa Fosdick
<cfosdick@anthonyandpartners.com>
Subject: Healthcare
Negligence Settlement
Recovery Corp. v. 5405
Babcock Street Operations,
LLC, et al. - Correspondence
from John Anthony

External Email

Good afternoon,

Please see attached
letter, with enclosure,
from John A. Anthony,
Esquire.

Thank you,
Carissa Fosdick
On behalf of

John A. Anthony, Partner
Anthony & Partners, LLC
100 South Ashley Drive,
Suite 1600
Tampa, Florida 33602
Main: 813-273-5616 | Fax:
813-221-4113
Direct: 813-273-5066 | Cell:
813-833-5066
Toll Free: 1-888-247-8909
<image001.png>
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<image003.png>
<image004.png>

<image005.jpg>
<image006.png>

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From: [John Anthony](#)
To: [Cameryn Lackey](#)
Subject: FW: Recovery Corp/Consulate: Good Faith Conference regarding Miami Lawsuit, Claimant Lawsuits, and Ancillary Lawsuits.
Date: Monday, July 1, 2024 10:09:04 AM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.jpg](#)
[image006.png](#)
Importance: High

From: John Anthony
Sent: Friday, June 14, 2024 11:39 AM
To: Daniel M. Simon (dsimon@mwe.com) <dsimon@mwe.com>; Bull, Nathan <Nbull@mwe.com>
Cc: John Landkammer <jlandkammer@anthonyandpartners.com>; Julia Traina <JTraina@anthonyandpartners.com>; Carissa Fosdick <cfosdick@anthonyandpartners.com>; Patrick DeSalvo <pdesalvo@anthonyandpartners.com>
Subject: Recovery Corp/Consulate: Good Faith Conference regarding Miami Lawsuit, Claimant Lawsuits, and Ancillary Lawsuits.
Importance: High

Dear Dan and Nathan:

John Landkammer and I appreciated the opportunity to confer with you earlier this morning regarding the so-called “Miami Lawsuit” that “Recovery Corp.” initiated in April against 54 of your 282 chapter 11 client “Debtors” in the pending LaVie bankruptcy cases. As you know, Recovery Corp. was formed by 97 tort “Claimants” with claims that had been settled with your clients pre-petition, and your clients were unable to make payments in a manner consistent with those settlement agreements. All of the lawsuits commenced throughout Florida against the Debtors that produced these settlement agreements are commonly referred to as the “Claimant Lawsuits,” and they were all pending at the time of the bankruptcy filings as well. Finally, you are aware that several law firms I am working with in the representation of the Claimants and Recovery Corp. also represent other “Ancillary Claimants” who hold claims that are the subject of ancillary Florida lawsuits, the “Ancillary Lawsuits,” that involve claims that are disputed and unliquidated. During our discussion, we covered all of these topics. And the broader context, relates to a “Potential 105(a) Motion” that the Debtors are considering to prevent the Miami Lawsuit, the Claimant Lawsuits, and the Ancillary Lawsuits from going forward. And after exchanging several emails, our discussion this morning was in the nature of a good faith conference so that you or we would feel free to file an appropriate motion to address the current situation. Without in any way attempting to box in the Debtors or your firm regarding the options available, I wanted to sum up my position, subject only to my continuing duty to update the group of “Plaintiffs Counsel” that direct my affairs on behalf of Recovery Corp:

1. **Miami Lawsuit:** I understand the Debtors emergency position that based upon Bankruptcy Code §§362(a), 544(b), and 541(a), some of the claims asserted are property of the estate, and it could be violative of the automatic stay for Recovery Corp. to prosecute them. The claims are nuanced, and I want to vet each one of the counts further with the Plaintiffs Counsel and the Creditors Committee that is just informed. We believe that the claims asserted have merit,

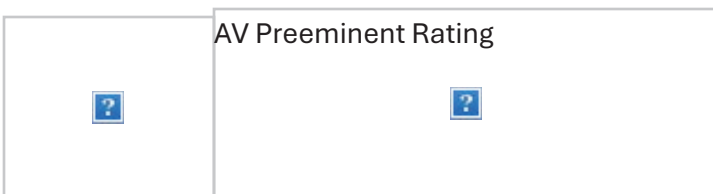
and we are eager to have the claims pursued; however, there is no way that the Miami Lawsuit will proceed until it has been discussed by the Creditors Committee, after which time we will circle back to you. The range of potential options that I see include (a) the Debtors filing the Potential 105(a) Motion and getting relief, (b) Recovery Corp. seeking stay relief with certain limitations to resume, (c) allowing the Debtors or the Creditors Committee to substitute in or intervene, (d) removal to Bankruptcy Court, or (e) defer consideration a bit while more pressing matters such as the liquidation of assets under the Sale Motion press forward. To better assess the situation and understand your position, I would be pleased to receive the proposed draft of your Potential 105(a) Motion if you are at liberty to share it. I also want to take this opportunity to request all policies of insurance that might cover any of the defendants in the Miami Lawsuit, whether or not they are Debtors. If for any reason you cannot provide insurance coverages for all named defendants, I would appreciate your clarification as soon as possible.

2. **Claimant Lawsuits:** You have shared with me your important threshold contention that the Claimant Lawsuits present a problem for the Debtors, and that the impact of suing/collecting against third-parties that are not Debtors nevertheless impacts the Debtors, and could thus violate the stay. I have shared my perspective that this argument tracks Twist Cap, 1 B.R. 284 (Bankr. M.D. Fla. 1979), the only case that Judge Paskay ever got wrong. Notwithstanding, I understand that the Potential 105(a) Motion may be filed, and may moot the novel legal issue. If you file the Potential 105(a) Motion that extends to the Claimant Lawsuits, we will likely file a “Stay Motion” intended to obtain guidance from the Bankruptcy Court as to our ability to proceed in the Claimant Lawsuits in order to proceed against non-Debtors, recover from insurers to the extent of insurance coverage, and take no post-judgment actions against the Debtors or property of the estate. I heard you opine that stay relief should be linked to releasing the bankruptcy estates, but I am not keen on this. If you can provide me with information and documentation confirming all insurance coverages for the Claimants, that might impact my first impression on this topic. As a final point, once again on this topic, I would expect to vet this issue with the Creditors Committee before circling back with you. In the meantime, I will request that Plaintiffs Counsel stand down for a couple of weeks while we sort out which non-Debtors pair with each of the Claimants, and what (if any) insurance coverages pair with each of the Claimants.
3. **Ancillary Lawsuits:** As we have discussed, the Plaintiffs Counsel represent Ancillary Claimants in Ancillary Lawsuits that are clearly stayed as to Debtors, clearly unliquidated, and undisputedly outside the jurisdiction of the Bankruptcy Court under 28 U.S.C. §157(b)(2) (O). Although I am not formally representing the Ancillary Claimants, I am using my good offices with Plaintiffs Counsel to analyze the stay issue because you are indicating that the Potential 105(a) Motion may cover the Ancillary Lawsuits. Once again, my plan is to visit with the Creditors Committee, then report to the Plaintiffs Counsel, before circling back with you or taking any other action in the Ancillary Lawsuits. Insurance coverages for the Ancillary Lawsuits are a real priority, because often times in more mundane bankruptcy cases, debtors routinely consent to stay relief to liquidate the claim and reach insurance. The inapplicability of the stay to non-Debtors, and the question of whether the Debtors will seek

an injunction, gets analyzed differently for claims that have not even been liquidated. I am somewhat more optimistic that third-party defendants and insurance coverages may be available for this set of Ancillary Claimants. But my requests are basically the same.

As you can tell from the tenor of our discussion and this email, I think we have contrasting positions but no actual emergency, because we want your team and the Debtors focusing on sale issues as much as possible during the next couple of weeks. If the Potential 105(a) Motion is filed, I hope that you will ask for ordinary course consideration, so that I can thoughtfully respond to the same, and perhaps file some version of the Stay Motion so that everything will be efficiently before the Bankruptcy Court at the same time...presumably June 27. Obviously nobody expects the Debtors to respond to the Complaint by the 6/30/2024 deadline that was agreed a few days before the bankruptcy filings. We are not going to default the non-Debtors defendants, and you can communicate that as necessary. I anticipate that a 2004 Examination may be sought at some point from one of your affiants regarding the subject matter set forth above, before I file any motion relating to any of these topics. But once again, that is part of a broader dialogue that we will be bringing up with Plaintiffs Counsel and the Creditors Committee. I am happy to follow up further if you have any additional questions relating to the near term status of the situation.

John A. Anthony, Partner
Anthony & Partners, LLC
100 South Ashley Drive, Suite 1600
Tampa, Florida 33602
Main: 813-273-5616 | Fax: 813-221-4113
Direct: 813-273-5066 | Cell: 813-833-5066
Toll Free: 1-888-247-8909



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