

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

)	
In re)	Chapter 11
)	
LAVIE CARE CENTERS, LLC, <i>et al.</i> ¹)	Case No. 24-55507-PMB
)	
Debtors.)	(Jointly Administered)
)	
)	<u>Re: D.I. 1255, 1267, 1268, 1269, 1270</u>

**THE GUC TRUSTEE’S OMNIBUS REPLY IN SUPPORT OF ITS FIRST OMNIBUS
OBJECTION TO CERTAIN (I) LATE CLAIMS AND (II) DUPLICATE CLAIMS**

Ryniker Consultants, LLC, in its capacity as the trustee (the “GUC Trustee”) for the trust (the “GUC Trust”) established on behalf of the above-captioned debtors and debtors-in-possession (the “Debtors”) pursuant to the *Debtors’ Modified Second Amended Combined Disclosure Statement and Joint Chapter 11 Plan of Reorganization* [D.I. 730-1] (the “Plan”), hereby files this reply (this “Reply”) to address the responses filed by Jeneine Kanupp [D.I. 1267] (the “Kanupp Response”) and The Cochran Firm South Florida [D.I. 1268, 1260, 1270] (the “Cochran Responses”) and in further support of *The GUC Trustee’s First Omnibus Objection to Certain (I) Late Claims and (II) Duplicate Claims* [D.I. 1255] (the “First Omnibus Objection”).² In further support of this Reply and the First Omnibus Objection, the GUC Trustee respectfully states as follows:

¹ The last four digits of LaVie Care Centers, LLC’s federal tax identification number are 5592. There are 282 Debtors in these chapter 11 cases, which are being jointly administered for procedural purposes only. A complete list of the Debtors and the last four digits of their federal tax identification numbers are not provided herein. A complete list of such information may be obtained on the website of the Debtors’ claims and noticing agent at <https://www.kccllc.net/LaVie>. The location of LaVie Care Centers, LLC’s corporate headquarters and the Debtors’ service address is 1040 Crown Pointe Parkway, Suite 600, Atlanta, GA 30338.

² Capitalized terms not defined herein are defined in the First Omnibus Objection.



REPLY

1. The First Omnibus Objection should be sustained. Through the First Omnibus Objection, the GUC Trustee sought to disallow and expunge certain untimely or duplicative claims filed in these Chapter 11 Cases. By disallowing and expunging the claims identified therein, the First Omnibus Objection furthers the purpose of the GUC Trust to reconcile Class 6A and Class 6B claims filed against the Debtors. Though the GUC Trustee received numerous responses to the First Omnibus Objection, the GUC Trustee has resolved all responses received to date through revisions to the proposed form of order, which is being filed contemporaneously herewith, except for the Kanupp Response and the Cochran Responses. As explained herein, both the Kanupp Response and the Cochran Responses should be overruled.

A. The Kanupp Response Should be Overruled.

2. The First Omnibus Objection sought to disallow Proof of Claim 5251 (“Claim 5251”), which was asserted by Ms. Kanupp as a general unsecured claim in the amount of \$100,000.00, as untimely. As set forth therein, notice of the General Bar Date (i.e., August 30, 2024) was served on Ms. Kanupp. Specifically, Ms. Kanupp received notice of the General Bar Date and a proof of claim form on July 10, 2024, at the following address: 2029 Mulberry Creek Road, Lenoir, NC 28645. *See* D.I. 249 (detailing service of the bar date package). This address matches the home address for Ms. Kanupp. *See* Kanupp Response, Ex. A. Thereafter, on July 23, 2024, Ms. Kanupp received notice of the General Bar Date and a proof of claim form at a second address: 10130 Mallard Creed Rd., Suite 300, Charlotte, NC 28262. *See* D.I. 285 (detailing supplemental service of the bar date package). This address matches the address for Ms. Kanupp’s

counsel. *See* Kanupp Response, Ex. A. At either address, Ms. Kanupp received notice of the bar date and a proof of claim form well in advance of the General Bar Date.³

3. The Kanupp Response does not dispute the foregoing. Rather, the Kanupp Response appears to assert that the fact that there was an EEOC investigation pending during the Chapter 11 Cases, together with communications between certain parties during that process, somehow either excused her from filing a proof of claim or constituted an informal but timely proof of claim against the relevant Debtor.

4. Ms. Kanupp is wrong. The Bar Date Order clearly sets forth who is required to file a proof of claim and how and when such claims must be filed, leaving nothing open to interpretation. Debtor Gateway Healthcare, LLC scheduled Ms. Kanupp's claim as contingent, unliquidated, and disputed in its Schedule E/F. *See* Case No. 24-55746, D.I. 9. Accordingly, Ms. Kanupp was required to file a proof of claim on or before the General Bar Date. *See* D.I. 218. The Bar Date Order further states that a claimant will be "forever barred, estopped, and enjoying from asserting the prepetition claim" if the claim is not timely filed in accordance with the Bar Date Order. *Id.*

5. Ms. Kanupp has not demonstrated that her failure to timely file a claim was the result of excusable neglect. *See Pioneer Investment Service Company v. Brunswick Associated Limited Partnership*, 507 U.S. 380 (1993). Under *Pioneer*, a late claim may be allowed where the creditor's neglect of the bar date was "excusable." In determining whether the neglect was excusable, courts consider (1) the danger of prejudice to the debtor, (2) the length of the delay and its potential impact on judicial proceedings, (3) the reason for the delay, including whether it was

³ Critically, the Bar Date Order and materials sent to all claimholders, including Ms. Kanupp and the Cochran Firm, clearly identified (i) how to file a claim, (ii) when a claim must be filed, and (iii) the consequences of failing to file a claim. *See* D.I. 218.

within the reasonable control of the movant, and (4) whether the movant acted in good faith. *Id.* at 395. The third factor—the reason for the delay—is the most important of the *Pioneer* factors. *See, e.g., In re Northern New England Telephone Operations LLC*, 504 B.R. 372, 380 (Bankr. S.D.N.Y. 2014); *In re Kmart Corp.*, 381 F.3d 709, 715 (7th Cir. 2004). “[I]nadvertence, ignorance of the rules, or mistakes construing the rules do not usually constitute ‘excusable’ neglect.” *Pioneer*, 507 U.S. at 392.

6. Here, both Ms. Kanupp and her counsel had ample notice of the General Bar Date. Ms. Kanupp was not prevented from timely filing a claim by circumstances beyond her control. Accordingly, Claim 5251 should be disallowed and expunged in its entirety.

B. The Cochran Responses Should be Overruled.

7. As an initial matter, the Cochran Responses were not filed with the Court by the applicable deadline in violation of the procedures approved by the *Order (I) Approving (A) Omnibus Claims Objection Procedures and (B) Filing of Substantive Claims Objections, (II) Waiving the Requirement of Bankruptcy Rule 3007(e)(6), and (III) Granting Related Relief*. *See* D.I. 1003. The Cochran Firm had timely notice of the First Omnibus Objection, which was appropriately served on The Cochran Firm. *See* D.I. 1256. The Cochran Firm has not identified any extraordinary circumstances that prevented it from timely responding to the First Omnibus Objection and complying with the applicable court order. Accordingly, the Cochran Responses should be disregarded by the Court. However, if the Court is inclined to excuse this disregard of deadlines by The Cochran Firm, the Cochran Responses should be overruled on the merits as discussed below.

8. The First Omnibus Objection sought to disallow Proofs of Claim 5266, 5267, and 5268 (the “Cochran Claims”), which total \$180,000 in unsecured claims filed on behalf of Joann

King, Cynthia Brooks, and Linda Chatmon, as untimely. Notice of the General Bar Date was served on The Cochran Firm South Florida (the “Cochran Firm”) on July 10, 2024, at the last address the Debtors knew: 499 NW 70th Avenue, Suite 116, Plantation, FL 33317. *See* D.I. 249. Joann King, Cynthia Brooks, and Linda Chatmon also received notice of the General Bar Date on July 23, 2024, at the same address. *See* D.I. 285. Based on the foregoing, The Cochran Firm received timely notice of the General Bar Date.

9. Notwithstanding the timely service, the Cochran Responses assert that the untimeliness of the Cochran Claims should be excused because the Cochran Firm moved in July 2024 to Weston, Florida and did not receive notice of the General Bar Date until “well after any deadline as issue.” *E.g.*, D.I. 1268 ¶¶ 5, 8.

10. There are at least two problems with the Cochran Firm’s position. First, as noted above, the Debtors did, in fact, timely provide notice of the General Bar Date. It was The Cochran Firm’s responsibility either to properly arrange for the forwarding of mail from its old address, or to notify the Debtors of its change of address. Second, The Cochran Firm timely filed a separate claim, proof of claim no. 1024, on August 6, 2024.⁴ The inescapable conclusion is that The Cochran Firm did have actual notice of the General Bar Date. It could have filed the Cochran Claims timely, just as it timely filed claim no. 1024, but inexplicably (and inexcusably) chose not to do so. The Cochran Firm’s failure to timely file a claim therefore does not amount to excusable neglect under the *Pioneer* standard.

11. For these reasons, the GUC Trustee believes the Cochran Firm had sufficient notice of the General Bar Date. And the Cochran Firm’s failure to timely file the Cochran Claims by the General Bar Date in accordance with the Bar Date Order is a sufficient basis to disallow the

⁴ The GUC Trustee anticipates introducing Claim 1024 at the hearing on the First Omnibus Objection.

Cochran Claims in their entirety. The GUC Trustee therefore requests that the Court overrule the Cochran Responses.

RESERVATION OF RIGHTS

12. The GUC Trustee reserves the right to supplement this Reply. The GUC Trustee further reserves all rights to address any arguments at any hearing on the First Omnibus Objection.

CONCLUSION

WHEREFORE, the GUC Trustee respectfully requests that the Court overrule the Kanupp Response and the Cochran Responses and enter the revised proposed form of order sustaining the First Omnibus Objection.

Dated: December 16, 2025

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