

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

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In re: : Chapter 11  
MODIVCARE INC., *et al.*, : Case No. 25-90309 (ARP)  
Debtors. <sup>1</sup> : (Jointly Administered)  
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**STATEMENT OF THE CONSENTING CREDITORS IN SUPPORT OF  
CONFIRMATION OF THE FIRST AMENDED JOINT CHAPTER 11 PLAN OF  
REORGANIZATION OF MODIVCARE INC. AND ITS DEBTOR AFFILIATES AND  
JOINDER IN DEBTORS’ REPLY BRIEF**

The parties represented by Paul Hastings LLP set forth on **Exhibit A** to that certain *Verified Statement Pursuant to Bankruptcy Rule 2019* [Docket No. 791] (the “Consenting Creditors”), by and through their counsel, respectfully submit this (a) reply to the objection [Docket No. 820] (the “Objection”) of the Official Committee of Unsecured Creditors (the “Committee”) to confirmation of the *First Amended Joint Chapter 11 Plan of Reorganization of ModivCare Inc. and its Debtor Affiliates* [Docket No. 445] (the “Plan”)<sup>2</sup> filed by ModivCare Inc. and its debtor affiliates in the above-captioned cases, as debtors and debtors in possession (collectively, the “Debtors”), (b) statement in further support of confirmation of the Plan (together, this “Reply”)<sup>3</sup>, and (c) *Debtors’ Memorandum of Law in Support of Confirmation of First Amended Joint Chapter 11 Plan of*

<sup>1</sup> A complete list of each of the Debtors in these chapter 11 cases (the “Chapter 11 Cases”) and the last four digits of each Debtor’s taxpayer identification number (if applicable) may be obtained on the website of the Debtors’ proposed claims and noticing agent at <https://www.veritaglobal.net/ModivCare>. Debtor ModivCare Inc.’s principal place of business and the Debtors’ service address in these Chapter 11 Cases is 6900 E. Layton Avenue, Suite 1100 & 1200, Denver, Colorado 80237.

<sup>2</sup> Capitalized terms used but not defined herein have the meanings given to them in the Plan.

<sup>3</sup> Filed concurrently herewith is the *Declaration of Matthew Warren in Support the Omnibus Responses and Statement of the Consenting Creditors in Support of Confirmation of the First Amended Joint Chapter 11 Plan of Reorganization of ModivCare Inc. and Its Debtor Affiliates* (the “Warren Declaration”).



*Reorganization of ModivCare Inc. And its Debtor Affiliates* (filed concurrently herewith, the “Debtors’ Reply Brief”), and respectfully state as follows:

**PRELIMINARY STATEMENT**

1. The Committee posits essentially three untenable theories that must be stacked one upon the other in order to attempt to overcome confirmation of the Plan: (a) the Debtors’ midpoint valuation of \$837.5 million is artificially depressed and the Committee’s doubled midpoint valuation of \$1.66 billion is correct, resulting in a Plan that does not allocate value properly to the various classes of creditors under the Plan (including providing more than a 100% recovery to the First Lien Lenders); (b) section 552 of the Bankruptcy Code cuts off the liens of the First Lien Lenders to the Debtors’ post-petition “value” and thus reduces the First Lien Lender secured claim to the amount of the pre-petition liquidation value of the Debtors’ assets, resulting in a recovery for the First Lien Lenders of more than 100% under either the Debtors’ or the Committee’s valuation; and (c) the Uptier Transaction (as defined below) is challengeable on numerous legal theories that make the releases in the Plan incapable of being granted and, when taking into account the Committee’s enormously upsized valuation and the drastically reduced First Lien Lender claim, will result in markedly different distributions under the Plan, especially for the Subordinated Unsecured Notes, who, under the Committee’s theory would be freed of their structural and contractual subordination to rank equally with the lien-stripped Second Lien Loans and the General Unsecured Creditors. Unfortunately for the Committee, however, its arguments are unsupported by law or fact and, with respect to its section 552 argument, have been foreclosed by the Final DIP Order.<sup>4</sup> As will be shown at the confirmation hearing and as discussed more fully below, the

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<sup>4</sup> *Final Order (A) Authorizing the Debtors to Obtain Postpetition Financing, (B) Granting Liens and Providing Claims With Superpriority Administrative Expense Status, (C) Authorizing the Use of Cash Collateral, (D) Modifying the Automatic Stay, And (E) Granting Related Relief* [Docket No. 465] (the “DIP Order”).

Committee's Objection is a tortured and manufactured set of patchwork arguments and theories that should be soundly rejected along with the Committee's separate requests for standing.<sup>5</sup> Instead, the Plan should be confirmed and the Debtors should be permitted to exit chapter 11 swiftly for the benefit of their customers, employees and creditors.

2. The Consenting Creditors, along with over 88% of Holders of General Unsecured Claims, support confirmation of the Plan. As it has done throughout these Chapter 11 Cases, the Committee submits its Objection in blind opposition to the Debtors' business judgment, having conducted numerous and intensive investigations, compelling production of tens of thousands of documents by the Debtors and the Consenting Creditors and undertaking depositions of nine separate witnesses from the Debtors and a deposition of the Consenting Creditors. Yet the Committee, as also explained in the Consenting Creditors' *Omnibus Response to the Standing Motions* filed concurrently herewith (the "Response"), has done little more than rinse and repeat the same false narratives it has made (without support) since the beginning of these Chapter 11 Cases.

3. With the votes on the Plan having been cast, it is obvious that the Committee is now acting in direct opposition to one of its main constituencies, as holders of Class 4 General Unsecured Claims voted to support the Plan, rather than reject it as the Committee wrongly predicted.<sup>6</sup> As it seems to have been doing since the outset of these Chapter 11 Cases, the Committee is effectively acting as counsel to an ad hoc group of Subordinated Unsecured Notes in arguing solely for their benefit. To highlight this point, the Committee asserts that the Uptier

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<sup>5</sup> The motion filed by the Committee [Docket No. 728] (the "Uptier Standing Motion") and the motion [Docket No. 729] and supplemental motion [Docket No. 806] (the "Supplemental Motion") filed by the Committee (together, the "Lien Perfection Standing Motion" and together with the Uptier Standing Motion, the "Standing Motions").

<sup>6</sup> "[G]iven the paltry recovery offered to General Unsecured Creditors, the Committee assumes that Classes 4 and 5 will vote to reject the Plan." Objection, ¶ 37.

Transaction is an actual or constructive fraudulent transfer, which would result in the unwinding of any transfers made by the Debtors to the recipients of those transfers. Here, the Committee asserts that the liens granted to the Second Lien Loans should be unwound such that the Second Lien Loans would be treated as unsecured. However, the Plan already treats the Second Lien Loans as unsecured and distributes the recovery to them *pro rata* with the General Unsecured Claims. The Committee, however, goes on to assert that the corporate action taken by the indenture trustee for the Subordinated Unsecured Notes upon the direction by a requisite majority thereof in agreeing to eliminate the guarantors thereunder and enter into a subordination agreement should also be eliminated as part of a fraudulent transfer remedy. But, as pointed out in the objection of the Consenting Creditors to the Standing Motions, there is no basis in the law for such a remedy. Not only is there is no transfer of an interest by the Debtors in connection with these actions to be unwound, but there has also never been a challenge by any Subordinated Unsecured Noteholder to the corporate action undertaken by the indenture trustee for the Subordinated Unsecured Notes either before or after the filing of these Chapter 11 Cases. In addition, the Committee's effort to free Subordinated Unsecured Noteholders from their position results in a dilution to the recovery of the General Unsecured Creditors, which is why the Committee also has to assert a dramatically higher valuation theory and a theory that the First Lien Claims should be arbitrarily capped. Indeed, without those arguments, it is obvious that the Committee is simply doing its work for the Subordinated Unsecured Notes and ignoring the rights and interests of the rest of the General Unsecured Creditors.

4. Similarly, the Committee takes an unfounded approach to attacking the Debtors valuation and positing its own. Despite comprehensive discovery of all means, the Committee cannot point to a shred of evidence to support its theory that the Consenting Creditors applied any

pressure on the Debtors to arrive at a valuation below the amount of the DIP and First Lien Debt. In fact, the Consenting Creditors believe the Debtors projections are too optimistic, especially in light of the continued loss of contracts facing the Debtors. Rather than a scheme to steal the Debtors' equity at an artificial trough valuation, the record is crystal clear that a subset of the Consenting Creditors provided rescue financing on little diligence to the Debtors in order to avoid a more immediate free-fall bankruptcy because the Debtors approached them in a state of emergency. The hope at the time of that financing was that the Debtors would stabilize and find a way to repay the First Lien Loans via a sale or otherwise and, eventually, refinance the rest of their capital structure. Unfortunately, as evidenced by these Chapter 11 Cases, the period following the rescue financing was tumultuous and included United Healthcare's ("UHC") decision to negotiate an exit to one of the Debtors' key relationships and necessitated the filing of these Chapter 11 Cases – and the continued need for additional financing from the Consenting Creditors to run them, plus additional third-party financing to exit which is being obtained on a priming basis to the remaining debt of the First Lien Lenders.

5. Standing in stark contrast to the lack of evidence of lender manipulation of the Debtors' valuation, is the Committee's valuation, which, at best, can be summarized as ignoring the entirety of the Debtors operational challenges and the circumstances both before and during these Chapter 11 Cases in a "return to the past" and which, at worst, appears wholly manufactured as an end to justify the means of its other specious arguments. As will be shown during the hearing on confirmation, the Committee's valuation is prepared on flawed assumptions of what the Debtors could, in a perfect world, someday achieve if the Debtors could (i) both get back lost customers, who have stated that they are not returning, and stop losing more customers, (ii) pivot to an artificial intelligence driven model requiring significant capital expenditure investments in excess

of what the Debtors historically have made and have that must prove successful virtually immediately upon emergence, (iii) successfully cut significant operational costs without sacrificing service, again almost immediately upon emergence, and (iv) retain or increase profit margins in customer contract renegotiations.

6. The primary source of these “business plan” initiatives that form the basis of the Committee’s valuation appear to largely be the viewpoints of the Debtors’ former insider-board member and activist shareholder, Mr. Mounts Gonzales.<sup>7</sup> However, as the Debtors’ investment banker testified, Mr. Mounts Gonzales, much like the Committee “ [REDACTED]

[REDACTED] and “ [REDACTED] [REDACTED]

[REDACTED]<sup>8</sup> Indeed, Mr. Mounts Gonzales made his disagreements with FTI and the Debtors’ advisors known to the Debtors’ board months in advance of these Chapter 11 Cases, but ultimately as described by the chairwoman of the Debtors’ board for the past decade, he was alone in his position and never defended his theories with the capital necessary to realize on his thesis.<sup>9</sup>

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<sup>7</sup> See, e.g., Objection, FN 52. Mr. Mounts-Gonzalez resigned from the board on November 9, 2025. Warren Decl., Exh. GG (ModivCare Inc., SEC Filing Form 8-K, November 9, 2025). On November 10, 2025, Olshan Law, counsel for Mr. Mounts-Gonzalez’s fund, AI Catalyst, reached out to counsel to the Consenting Creditors and requested a call. Counsel to the Consenting Creditors included the Debtors’ counsel on this call, during which Olshan Law stated that it intended to file a motion to appoint an examiner, which Olshan Law believed would delay the Debtors ability to emerge from bankruptcy by at least 60-90 days and cost the Consenting Creditors additional costs associated with the delay. Olshan Law then stated that they would stand down if the Consenting Creditors paid AI Catalyst approximately 50 cents on the dollar of the price paid by AI Catalyst for the Debtors’ public equity shares – equating to approximately \$8 million plus attorneys’ fees. The Consenting Creditors did not respond to this inappropriate proposal and the Debtors have submitted this matter to the US Trustee pursuant to a letter on November 12, 2025. See Warren Decl., Exh. S (Letter, dated as of November 12, 2025, from Latham & Watkins LLP to the Office of the United States Trustee).

<sup>8</sup> Warren Decl. as Exh. B (Zul Jamal Deposition, November 20, 2025 (the “Jamal Nov. Dep. Tr.”), 370:3-11)..

<sup>9</sup> Warren Decl. Exh. K (Leslie Norwalk Deposition Volume II, November 17, 2025 (the “Norwalk Dep. Tr. Vol II.”), 187:23-188:18): “[REDACTED]

7. As noted above, the reality is that the Debtors [REDACTED]

[REDACTED],<sup>10</sup> [REDACTED]

[REDACTED],<sup>11</sup> [REDACTED]

[REDACTED]

[REDACTED]<sup>12</sup> Notwithstanding these realities, the Committee’s expert puts

unfounded confidence in the ability of the Debtors to materially improve their projections, while also incorporating arbitrary comparable companies into its valuation analysis to nearly double the Debtors’ valuation. As noted above and as will be shown at the confirmation hearing, the Committee’s valuation methodology and conclusion are just not credible.

8. For the Committee, however, advancing impossible arguments on the Uptier Transaction and an unsupportable valuation is not enough. In order for it to arrive at a place where any of it matters, the Committee also attempts to decrease the secured portion of the First Lien Claim on an interpretation of Section 552 of the Bankruptcy Code that rewrites the law and would result in a paradigm shift for chapter 11 and the global secured lending markets.<sup>13</sup> Under the

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[REDACTED] ”

<sup>10</sup> Warren Decl. Exh. C (Heath Sampson Deposition, November 11, 2025 (the “Sampson Dep. Tr.”), 166:14-17):  
“ [REDACTED] ”

<sup>11</sup> Warren Decl. Exh. E (Barbara Gutierrez Deposition, November 5, 2025 (the “Gutierrez Dep. Tr.”), 166:14-16):  
“ [REDACTED] ”

<sup>12</sup> Sampson Dep. Tr. 60:12-14: [REDACTED] ”

<sup>13</sup> The Committee also raises the “Matrix JV” interest for the first time in its Objection, and Avoidance Actions, which by definition are unencumbered by prepetition liens. MovidCare Inc. has pledged 100% of its equity in non-Debtor Prometheus Holdco LLC (“Prometheus”) as collateral to the First Lien Agent and Second Lien Notes Trustee. *See* Schedules of Assets and Liabilities for ModivCare Inc. (Case No. 25-90309) [Docket No. 277] (Schedule A/B) Part 4, line 15.6. Pursuant to Section 6.03(d) of the First Lien Credit Agreement, ModivCare, Inc.’s ownership of Prometheus is subject to a holdings covenant limiting its operations solely to the ownership of the equity interests in the “Matrix JV” and the incurrence of debt up to cap of \$1 million. Notwithstanding the de minimis debt cap, the Consenting Creditors are not aware of, and the Committee has not asserted, the existence

Committee’s theory, Section 552 should cut off the blanket liens of pre-petition secured creditors where a debtor creates post-petition value on the basis of the actions of its employees. Interpreted literally, the Committee theory would create a *per se* bar to the extension of a pre-petition lien on all post-petition value of any service provider debtor. Were this the law, the secured lending market would literally seize as lenders would have no ability to rely on their blanket liens to capture post-bankruptcy value, notwithstanding that there would be no change in the assets subject to the liens from a pre- and post-petition perspective. The reality is that Section 552(a), which states that a pre-petition lien doesn’t extend to property acquired by a debtor on a post-petition basis, is expressly subject to Section 552(b). Section 552(b) is also clear that where a security interest extends to proceeds, products, offspring or profits of the assets subject to the security interest, then such security interest extends to such proceeds, products, offspring or profits acquired by a debtor post-petition. The only exception to the carrying over of the lien as provided in Section 552(b) is where a court orders otherwise based on the equities of the case and that option was eliminated in these Chapter 11 Cases when the Court enforced the waiver of the equities of the case under the Final DIP Order. The Committee is well aware of this and the cases it cites are primarily “equities of the case” decisions in factually inapposite situations, but it completely ignores the point in arguing that the First Lien Claim should be limited to an incredible \$582,000,000, which is the midpoint of the Debtors’ liquidation value – something itself that has no basis in the law. This bizarre argument also leaves unstated what happens to the residual First Lien Claim amount and entirely ignores the very clear law that First Lien Lenders are entitled to credit bid the full face amount of their claims on all of the Debtors’ assets other than postpetition revenues, Vehicles (as

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of any creditors with claims against Prometheus, so the Consenting Creditors’ claims, secured by a pledge of Prometheus’ equity, would remain structurally senior on the value of the “Matrix JV”.

defined in the Lien Perfection Standing Motion, the “Vehicles”), commercial tort claims and approximately \$402,000 of cash. The Committee’s “claim reduction theory” also ignores the DIP Liens and the Adequate Protection Liens (as each is defined in the DIP Order) that the First Lien Lenders would have on account of the significant diminution in value of the First Lien Lenders’ collateral. And the diminution of the First Lien Lenders’ collateral has been very real in these Chapter 11 Cases. Not only were their liens primed by the \$100 million DIP financing, but also the Debtors have been losing contracts during chapter 11 and the Consenting Creditors believe the value of the Debtors – over which the First Lien Lenders have a blanket lien – has been in decline. In sum, the Committee’s Section 552 arguments and the conclusions based on them should be categorically rejected.

9. Finally, the Committee broadly objects to the Debtors’ Plan releases without pointing to any actual cause of action other than its unsupportable claims relating to the Uptier Transaction.<sup>14</sup> The Consenting Creditors believe the releases provided for under the Plan are appropriate in light of the significant contributions made by the Released Parties both before and throughout the chapter 11 process. Among other things, the Consenting Creditors (i) supported the Debtors throughout the pre-petition period, as noted above, (ii) invested the time and resources to negotiate the Restructuring Support Agreement with the Debtors, which provided structure to these Chapter 11 Cases that enabled the Debtors to preserve considerable value for the benefit of all creditors, (iii) provided and consented to debtor-in-possession financing and consented to the Debtors’ use of cash collateral, providing the Debtors with the funds necessary to continue operating as a going concern without a costly fight over the terms of any non-consensual use of the cash collateral, and (iv) negotiated and supported the Plan, allowing for a significant

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<sup>14</sup> Objection, ¶ 81.

deleveraging of the Debtors' balance sheet and the continuation of the Debtors as a going concern business, and ensuring the payment in full of all administrative expenses and priority claims.

10. After imposing a costly and burdensome discovery process<sup>15</sup> on the Debtors and Consenting Creditors (undertaken on the Consenting Creditors' dime) and requiring an extended confirmation timeline accommodating this process, the Committee's support for the allegedly extraordinary value of the Debtors' beleaguered businesses remains as unsupported by facts and evidence as it was before the Committee embarked on its all-out litigation path where the Committee has utterly failed to present any legitimate reason that the Plan should not be confirmed.

11. Finally, what the Committee isn't doing is as telling as what it is doing. If the Committee was right on its valuation, for example, Subordinated Unsecured Noteholders should have subscribed to the rights offering available to them under the Plan because it would allow them to buy stock in the reorganized Debtors at a massive discount and the Committee should have encouraged that as a hedge in the event the Plan was confirmed. Similarly, if the Committee's theories were accurate, the Committee should easily have been able to secure alternative DIP financing – if not equity investment opportunities – and likely would have sought to terminate exclusivity to pursue a plan that reinstated the secured debt or sought to approve it on a cram down basis. Yet, the Committee has pursued no such options nor has it sourced a single dollar of capital; indeed, it appears that the holders of the Subordinated Unsecured Notes are content to let the Committee take a scorched earth litigation approach to see if any value falls their way outside of the Plan.

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<sup>15</sup> The Consenting Creditors, the former administrative agent, and Paul Hastings themselves have collectively produced 6,163 documents in response to the Committee counsel's request.

12. For the reasons set forth herein, the Consenting Creditors respectfully state that the Objection should be overruled and the Plan should be confirmed.

### **BACKGROUND**

#### **The Debtors' First Lien Credit Agreement**

13. On February 3, 2022, ModivCare Inc. (as "Borrower") and certain other Debtor-subsiidiaries entered into that certain Credit Agreement (the "First Lien Credit Agreement," the "Lenders" thereunder from time to time, the "First Lien Lenders," and the Loans provided thereunder, the "First Lien Loans"), which at the time provided for a revolving credit facility with up to \$325,000,000 in aggregate revolving commitments.<sup>16</sup>

14. On July 1, 2024, under an Amendment No. 3 to the Credit Agreement,<sup>17</sup> the Debtors incurred for the first time \$525 million of Term Loans under the First Lien Credit Agreement in order to redeem certain of the Borrowers' unsecured notes maturing in 2025 and to pay costs and expenses associated with that transaction. In connection with the Amendment No. 3 to the Credit Agreement, and with the addition of the Term Loan, certain of the covenants were set to be tested solely for purposes of the revolving credit facility.

15. The Debtors' liquidity challenges continued to intensify and in September 2024, according to the Debtors' chief executive officer, Mr. Heath Sampson, the company engaged Jefferies to attempt to raise capital in the equity markets but the market reaction to the liquidity need was an immediate sell off the company's stock that reduced its stock price by 60%.<sup>18</sup> By

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<sup>16</sup> Warren Decl. as Exh. X (First Lien Credit Agreement, dated as of February 3, 2022, by and among ModivCare Inc., as borrower, certain subsidiaries of ModivCare Inc., as guarantors, the lenders party thereto, and JPMorgan Chase Bank, N.A., as administrative agent)

<sup>17</sup> Warren Decl. as Exh. Z (Amendment No. 3 to the Credit Agreement, dated as of July 1, 2024, by and among ModivCare Inc., the lenders party thereto, and JPMorgan Chase Bank, N.A., as administrative agent).

<sup>18</sup> Sampson Dep. Tr. 76:22-77: [REDACTED]

September 30, 2024, the Debtors had to request further relief in connection with meeting the covenants under their First Lien Credit Agreement, and the covenants were loosened with the consent of the Required Revolving Lenders (as defined therein) to provide some flexibility in the Debtors' go-forward compliance with such covenants.<sup>19</sup>

**The Fifth Amendment Loan and Second Lien Notes Exchange**

16. By November 2024, due to operational challenges, including non-renewal of material contracts and mismatched timing of collections and disbursements,<sup>20</sup> the Debtors faced immediate liquidity shortages.<sup>21</sup> Together with its advisors, the Debtors conducted an outreach to investors across their capital structure to solicit interest for further equity or debt investment but ultimately recommended (on November 29, 2024) to the board that the Debtors draw the remaining revolver availability and engage with the First Lien Lenders for an alternative liquidity solution.<sup>22</sup>

17. The Consenting Creditors understand that it was difficult to project liquidity given the unpredictable collection timeline for the state payors, but the Debtors' management and advisors ultimately agreed that an amount between [REDACTED] would be needed to get through 2025 and service existing maturities in early 2026.<sup>23</sup>

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<sup>19</sup> <https://investors.modivcare.com/news-and-media/news-releases/news-details/2024/Modivcare-Announces-Credit-Agreement-Amendment-and-Cash-Collections-Update/default.aspx>

<sup>20</sup> Warren Decl., Exh. A (Zul Jamal Deposition, September 25, 2025, (the "Jamal Sept. Dep. Tr."), 52:2-52:7).

<sup>21</sup> Warren Decl., Exh. J (Leslie Norwalk Deposition Volume I, November 17, 2025 (the "Norwalk Dep. Tr. Vol. I"), 28:10-16): [REDACTED]

<sup>22</sup> Sampson Dep. Tr. 80:5-18 ([REDACTED]); Warren Decl., Exh. D (Sampson Dep. Tr. Exhibit 3, November 11, 2025, (the "Sampson Dep. Tr. Exh. 3")) ([REDACTED]); Gutierrez Dep. Tr., 56:8-12 ([REDACTED]e).

<sup>23</sup> Sampson Dep Tr. 90:12-25 and 91:1-2: [REDACTED]

18. Following challenging arm’s length negotiations and several rounds of back and forth that commenced in mid-December 2024, with only a few weeks of liquidity remaining before the Debtors would be potentially unable to make payroll,<sup>24</sup> certain First Lien Lenders agreed to provide the Debtors with an incremental *pari passu* \$75,000,000 bridge financing (the “Fifth Amendment Loan”) and significant financial covenant relief, including a reduction of the minimum liquidity covenant, under a fifth amendment to the term loan facility that closed on January 9, 2025 (the “Fifth Amended Credit Agreement”).<sup>25</sup> Participation in the \$75,000,000 Fifth Amendment Loan was backstopped by a subset of First Lien Lenders and then offered on a *pro rata* basis to all First Lien Lenders. Not all the First Lien Lenders decided to participate in the Fifth Amendment Loan. Ultimately, the Debtors, certain First Lien Lenders providing the Fifth Amendment Loan, a subset of which held Existing Unsecured Notes (as defined below), and requisite Revolving Lenders closed the Fifth Amended Credit Agreement on January 9, 2025 – only approximately three weeks after the First Lien Lenders had been first made aware of the impending liquidity crisis.

19. As the Debtors thought their ultimate funding need at the time of the Fifth Amended Credit Agreement could potentially be up to \$100,000,000, they simultaneously sought out sources

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[REDACTED]

Gutierrez Dep. Tr. 79:11-25: [REDACTED]

<sup>24</sup> Warren Decl., Exh. N (Daniel B. Silvers Deposition, November 13, 2025 (the “Silvers Dep. Tr.”), 188:22-25 – 189:1-10); [REDACTED]

<sup>25</sup> <https://investors.modivcare.com/news-and-media/news-releases/news-details/2025/Modivcare-Raises-105-Million-in-Incremental-Financing-Backed-by-Stakeholders-Across-the-Capital-Structure-and-Takes-Strategic-Steps-to-Position-Business-for-the-Future/default.aspx>. The Debtors were unable to incur any additional indebtedness under the First Lien Credit Agreement on a priming basis absent the consent of 100% of the First Lien Lenders, which was impractical in light of the liquidity concerns and urgent timing needs.

of additional junior capital. In parallel with the Fifth Amendment Loan, the Debtors also sought to preserve their working capital through a reduction of their unsecured debt service burden under the \$500 million of 5.00% unsecured notes due 2029 (the “Existing Unsecured Notes”).

20. Contemporaneously with the execution of the Fifth Amended Credit Agreement, certain of the Debtors entered into (a) an Exchange Agreement (the “Exchange Agreement”), pursuant to which the Debtors sought to exchange, on a dollar-for-dollar basis, up to \$251,000,000 of newly issued second lien notes (secured by a junior lien on the same collateral pledged to the First Lien Agent (the “Second Priority Lien”) with interest payable at 5.00% if paid in cash and 10.00% if paid-in-kind (the “Second Lien Notes”) to the certain holders of its Existing Unsecured Notes, each of whom were also First Lien Lenders and funded their pro rata portion of the Fifth Amendment Loan (the “Participating Noteholders”), and (b) a purchase and exchange agreement with Coliseum Capital Management, LLC and its affiliates (collectively, “Coliseum”), pursuant to which, Coliseum, a stockholder and holder of Unsecured Notes, purchased \$30,000,000 of Second Lien Notes in exchange for \$30,000,000 of cash and exchanged another \$20,000,000 of its Existing Unsecured Notes at par into Second Lien Notes<sup>26</sup> (clauses (a) and (b), together, the “Second Lien Notes Exchange”, and together with the Fifth Amendment Loan, the “Uptier Transaction”).

21. Under the terms of the Fifth Amended Credit Agreement, the Second Lien Notes Exchange was required to be closed by January 31, 2025 and was conditioned upon holders of a majority of the Existing Unsecured Notes tendering into the Second Lien Notes Exchange and granting exit consents under the Unsecured Notes Indenture to the following: (a) amendment of the indenture to remove substantially all covenants and events of defaults and release the

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<sup>26</sup> Coliseum did not hold First Lien Loans and did not participate in the Fifth Amendment Bridge Loan. The Consenting Creditors understand that the Debtors agreed to allow Coliseum to participate in the Second Lien Notes Exchange on the condition that it purchased \$30,000,000 of Second Lien Notes at par value.

guarantees provided by the subsidiary guarantors party thereto (the “Subsidiary Guarantor Releases”) and (b) entry by the trustee for the Unsecured Notes into a payment subordination agreement (the “Unsecured Notes Subordination Agreement”) whereby repayment of the principal (but not interest) of the Unsecured Notes was subordinated to payment in full of the First Lien Loans and Second Lien Notes (the “Subordinated Unsecured Notes”). The Second Lien Notes were also subordinated in right of payment, and with respect to collateral recoveries, to the payment in full of the First Lien Loans pursuant to an intercreditor agreement.<sup>27</sup>

22. By March 2025, following several required extensions of the January 31 deadline noted above, the Debtors obtained the majority requisite consents, including requisite consents from shareholders constituting 66.67% of the Debtors’ equityholders,<sup>28</sup> to enter into the indenture amendments and the Unsecured Notes Subordination Agreement and consummate the final part of the Second Lien Notes Exchange. As a result, repayment of the \$229,000,000 of non-exchanging Existing Unsecured Notes was subordinated in right of payment to the Second Lien Notes (interest on which the Debtors would be permitted to, and ultimately so elected to, pay in kind rather than cash) and the First Lien Loans. Notably, after the Second Lien Notes Exchange and up to the Petition Date, the holders of the \$229,000,000 of Subordinated Unsecured Notes received \$5,700,000 in cash interest payments while the holders of Second Lien Notes received no cash interest payments.

23. Following the closing of the Fifth Amended Credit Agreement and the Second Lien Notes Exchange, the Borrower published cleansing materials provided to certain of the Consenting Creditors subject to confidentiality agreements and an 8-K that included the definitive transaction

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<sup>27</sup> Warren Decl. as Exh. AA (Intercreditor Agreement, dated as of March 7, 2025, among JPMorgan Chase Bank, N.A., as First Lien Secured Agent, and Ankura Trust Company, LLC as Second Lien Secured Agent).

<sup>28</sup> Warren Decl., Exh. EE (ModivCare Inc., SEC Filing Form 8-K, March 13, 2025).

documents (including the Exchange Agreement) on January 10, 2025.<sup>29</sup> Unfortunately, in an indication of where the market viewed the Debtors' value, in March 2025 when the Second Lien Notes Exchange was consummated on a final basis, the Second Lien Loans traded at 40 cents immediately upon issuance.<sup>30</sup>

**Resignation and Appointment of Independent Directors**

24. Prior to the Fifth Amended Credit Agreement, the chairman of the board and one other director resigned and were replaced by directors chosen by the Debtors' remaining directors.<sup>31</sup> The Debtors' liquidity needs (arising only six months after the original Term Loans (as defined in the Amendment No. 3 to Credit Agreement) were originated) raised serious doubts with the First Lien Lenders that the existing board and management were capable of managing the Debtors' challenging working capital needs and whether customers were migrating to the Debtors' competitors as a result.<sup>32</sup>

25. As a further condition to the funding of the Fifth Amendment Loan, the Debtors and the First Lien Lenders negotiated terms by which the board would include three new independent directors who brought to the board seasoned public company and healthcare experience acceptable to requisite First Lien Lenders. The terms of the Fifth Amended Credit Agreement permitted the First Lien Lenders to deliver a nominee list of no less than five acceptable

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<sup>29</sup> Warren Decl., Exh. DD (ModivCare Inc., SEC Filing Form 8-K, January 9, 2025).

<sup>30</sup> See Annex A, attached to this Reply (demonstrative of trading prices as reported on Bloomberg of the First Lien Loans, Second Lien Notes and Subordinated Unsecured Notes during the relevant time period).

<sup>31</sup> Norwalk Dep. Tr. Vol. I. 30:7-32:19: “

[REDACTED]

”

<sup>32</sup> Norwalk Dep. Tr. Vol. I 29:15-30:6:

[REDACTED]

”

directors to the Debtors that collectively meet the following criteria: (a) all directors must have served on the board of a public company and submitted letters of recommendation, (b) at least one of the directors shall have served on an audit committee of a public company, and (c) at least two directors shall have significant specialized experience in healthcare services or insurance, logistics, information technology, mobility or revenue cycle management.<sup>33</sup> The First Lien Lenders, in direct contrast to the Committee’s assertions, were never in “control” of the board but rather collaborated extensively with the existing board and management<sup>34</sup> to set the Debtors up for go-forward success with an experienced and independent slate of directors.

26. The Debtors and First Lien Lenders worked collaboratively to vet the resumes and experience of multiple candidates, resulting in some candidates being withdrawn from consideration entirely, and over the course of a few months submitted a final slate of six directors from which the Debtors selected three to join its board.<sup>35</sup> The Fifth Amended Credit Agreement further fixed the board size at not more than seven (7) directors and required that the chief executive officer remain on the board at all times. The Debtors’ board of directors initially elected

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<sup>33</sup> Warren Decl., Exh. DD-1 (Fifth Amended Credit Agreement, dated as of January 9, 2025, by and among ModivCare Inc., the lenders party thereto, JPMorgan Chase Bank N.A., as administrative agent).

<sup>34</sup> Norwalk Dep. Tr. Vol II 122:3-14: [REDACTED]

<sup>35</sup> Warren Decl., Exh. R (Letter dated as of April 4, 2015 from JPMorgan Chase Bank, N.A. to ModivCare Inc.).

two of the First Lien Lenders' candidates, Erin Russell and Alec Cunningham,<sup>36</sup> and then selected Dan Silvers as the third and final candidate.<sup>37 38 39</sup>

27. To evaluate and pursue certain strategic initiatives for the Debtors' businesses, the Debtors also agreed to form a "Strategic Alternatives Committee," which was constituted with Erin Russell, Alec Cunningham and Dan Silvers. These governance changes were negotiated at arm's length with the Debtors in connection with the Fifth Amended Credit Agreement and were intended to strengthen the Debtors' governance foundation after the concerns noted above regarding the emergency liquidity shortfall that led to the Fifth Amended Credit Agreement.

28. The Debtors' shareholders overwhelmingly supported these governance changes, as evident not only by the supermajority approval and consent to the Second Lien Note Exchange but also on June 17, 2025, when the stockholders convened for their 2025 annual meeting of stockholders. The stockholders voted 10,257,557 shares to 378,006 shares (with 1,625,954 shares either abstaining or not voting) in favor of reappointing each of the post-Fifth Amended Credit Agreement independent directors to the Debtors' board.<sup>40</sup> Even Mr. David Mounts Gonzales' affiliated fund AI Catalyst, who himself was a member of the board until recently and a vocal opponent of these Chapter 11 Cases and the proposed Plan, voted in favor of the renomination of

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<sup>36</sup> <https://investors.modivcare.com/news-and-media/news-releases/news-details/2025/Modivcare-Announces-Changes-to-Board-of-Directors/default.aspx>.

<sup>37</sup> Norwalk Dep. Tr. Vol. II 179:15-17.

<sup>38</sup> Norwalk Dep. Tr. Vol. II 179:12-17: [REDACTED]

<sup>39</sup> <https://investors.modivcare.com/news-and-media/news-releases/news-details/2025/Modivcare-Announces-Changes-to-Board-of-Directors-8c74f445d/default.aspx>.

<sup>40</sup> Warren Decl., Exh. FF (ModivCare Inc. SEC Filing Form 8-K, June 17, 2025).

the independent board directors that were selected by the Debtors under the Fifth Amended Credit Agreement.<sup>41</sup>

### **The Chapter 11 Petitions and Chapter 11 Cases**

29. Following the transactions in connection with the Fifth Amended Credit Agreement, the Debtors' business unfortunately continued to struggle and face additional challenges. Although the Consenting Creditors had been optimistic the Debtors would be able to turn around their business trendlines via the capital infusions and interest reduction, and obtain positive response to the contemplated sales processes, the stock price and trading prices of the Debtors' secured debt facilities continued to decline over the course of 2025.<sup>42</sup>

30. During this time, the Consenting Creditors were not signatory to any confidentiality agreement with the Debtors (other than that contained in the First Lien Credit Agreement) until July 2025 when the Borrower once again reached out to the First Lien Agent's advisors noting that they wanted to discuss capital and operational issues ongoing at the company with the First Lien Lenders. The key concern of the Debtors, as relayed by the Debtors' advisors Latham & Watkins LLP and Moelis & Company LLC ("Moelis"), was the termination notices they had received from significant customers, [REDACTED] as well as building liquidity pressures caused by collateralization demands from surety bond providers, and a corresponding need to again raise incremental capital.<sup>43</sup>

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<sup>41</sup> Warren Decl., Exh. F (David Mounts Gonzales Deposition, November 26, 2025, (the "Gonzales Dep. Tr.") 362:21-24).

<sup>42</sup> *See supra* note 30 (Bloomberg historical price chart).

<sup>43</sup> Sampson Dep. Tr., 60:5-11 ([REDACTED]); Warren Decl., Exh. L (Scott A. Kern Deposition, November 6, 2025, (the "Kern Dep. Tr.") 82:15-21): [REDACTED]

31. Given the UHC termination and the concern of a “snowball” effect with other contract counterparties, in addition to the fact that there were no additional sources of capital available (including on account of the baskets under the First Lien Credit Agreement), the Consenting Creditors entered into negotiations with the Debtors on the terms of a consensual restructuring support agreement and debtor-in-possession financing facility.<sup>44</sup> Ultimately, the executed Restructuring Support Agreement provided the framework for the Plan, including the cancellation of up to \$1.3 billion in secured debt.

32. On August 20, 2025 (the “Petition Date”), the Debtors filed these Chapter 11 Cases with the support of the Consenting Creditors. Certain of the Consenting Creditors funded an additional \$100,000,000 in debtor-in-possession financing to support the Debtors’ businesses during the Chapter 11 Cases. The Committee was appointed on September 5, 2025 [Docket No. 124].

33. On September 23, 2025, the Debtors filed their valuation and financial projections [Docket No. 350] in connection with the Plan and Disclosure Statement, presenting a gross midpoint valuation (between \$750 million and \$925 million) of \$837.5 million (the “Debtors’ Valuation”). On October 6, 2025, the Debtors filed their amended Plan [Docket No. 465] and Disclosure Statement [Docket No. 465], reflecting a downwards adjustment in projected enterprise value set forth in the Debtors’ Valuation that meant the Second Lien Notes were “out of the money” and thus were not entitled to a distribution separate from the other General Unsecured Claims. The amended Plan reflected that updated distribution and recovery scheme, treating the Second Lien Notes as General Unsecured Claims.

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<sup>44</sup> Warren Decl., Exh. Q (email dated July 18, 2025 at 4:13 p.m., from Matthew Warren to George Klidonas et al).

34. On October 30, 2025, this Court entered the Debtors' proposed settlement with UHC [Docket No. 615], which provides for the winddown of services in connection with the termination of the UHC contracts and provides that the Debtors' will be able to collect receivables the UHC contracts over the course of the settlement. Despite this settlement, the Debtors' management team has indicated that the UHC termination will not be able to be reversed in the short term, and if the Debtors are able to do business with UHC in the future it will take operational fixes and years of process before any such renewed business relationship exists and generates revenue.<sup>45</sup> In addition to the loss of the UHC contract, since the Debtors' Valuation was filed the Debtors have received contract terminations or notices of non-renewal from the [REDACTED] [REDACTED] representing a materially significant loss of revenue that impacted the valuation of the Debtors' businesses is not reflected in the valuation's projected revenues.<sup>46</sup>

35. As summarized in the Consenting Creditors' statement filed on October 28, 2025 [Docket No. 589] (the "Consenting Creditors' Statement") it appears the Committee's strategy in these Chapter 11 Cases has been to inflict administrative costs on the Debtors' estate through unnecessarily broad discovery tactics in an effort to manufacture leverage that appears primarily for the benefit of the Subordinated Unsecured Notes. The Committee's counsel has deposed Zul Jamal of Moelis & Company LLC, the Debtors' investment banker, two times already, and Chad Shandler of FTI Consulting, Inc, the Debtors' chief transformation officer and financial advisor,

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<sup>45</sup> Sampson Dep. Tr. 159:4-9: [REDACTED]

[REDACTED] ”

*Id.* at 129:11-21: “ [REDACTED]

[REDACTED] ”

<sup>46</sup> See *supra* note 59 ([REDACTED]).

has been the subject of three separate depositions, as well as the Consenting Creditors' investment banker, Kevin Glodowski of Lazard. In addition, the Committee's counsel has conducted no fewer than seven (7) additional depositions of current and former officers and directors of the Debtors, many of whom had limited information germane to the matters that are the subject of the Committee's inquiry, and forced the production of tens of thousands of documents from the Debtors and certain of the Consenting Creditors. As the transcripts from the depositions reveal, the questions asked of many deponents are largely from the same script and the answers given in response are predictably consistent and present a business struggling to maintain contracts and profitability in a new regulatory environment.

### **RESPONSE TO COMMITTEE'S OBJECTION**

#### **I. THE COMMITTEE PUTS FORTH UNSUPPORTABLE THEORIES REGARDING THE FIRST LIEN CLAIMS**

##### **A. The Committee's First Lien Claim "Objection" Fails.**

36. The Committee argues that the Plan cannot be confirmed because the claim objection that it just raised remains outstanding; the Committee further believes the holders of First Lien Claims are receiving more than they are entitled to based on the Committee's incredible legal theory that the First Lien Claims should be reduced to an absurdly low \$299,000,000.

37. Yet, as set forth in further detail in the Response, the Committee has failed to show any evidence that the First Lien Claims and liens are invalid or that there is any significant value to the unencumbered assets. The Committee reaches the "new" First Lien Claims number on the apparently novel theory that the secured portion of the First Lien Claims should be limited to the midpoint of the Debtors' liquidation analysis because all value above such amount is unencumbered under the Committee's novel and sweeping theory of Bankruptcy Code Section 552.

38. The notion that the Committee is objecting to the First Lien Claims itself is simply wrong and, potentially, a weak attempt at sleight of hand. The First Lien Claims are valid in amount, something the Committee does not appear to dispute. The Committee cannot reduce the amount of the First Lien Claims by the value of purportedly unencumbered assets. The most coherent reading of the Committee's position is that while the First Lien Claim amount may not be objectionable, the portion that is secured under Section 506 is in fact only \$299 million and the equity and debt being distributed on account of the secured portion of the First Lien Claims exceeds \$299 million. Given the Committee's position that the value of the Debtors' assets vastly exceeds not only the First Lien Claims but also the Second Lien Claims, the Committee in effect is taking the position that more than \$582 million of value is not encumbered by the liens on substantially all assets of the Debtors.

39. The Committee justifies this proposed \$582 million reduction in the secured portion of the First Lien Claims via the apparently previously unknown and unharnessed power of Bankruptcy Code Section 552, which, under the Committee's theory, limits secured lenders (even those like the First Lien Claims with liens on substantially all assets, including goodwill, intellectual property, cash, contracts, general intangibles, receivables, and the proceeds of the foregoing) to the liquidation value of such collateral. Under this theory, all remaining future value both during a chapter 11 case and for all time thereafter is rendered unencumbered by Section 552 and if there are humans working for the Debtors and providing services, then any proceeds, products, offspring or profits of such collateral would also be unencumbered pursuant to Section 552(b). This fantastical theory of how the Bankruptcy Code works contradicts nearly every chapter

11 case and would result in a fundamental flaw in secured lending. And as further addressed in the Response, is wholly without merit.<sup>47</sup>

**B. The Committee’s Arguments Regarding Other Unencumbered Asset Value Precluding Confirmation is Meritless.**

40. The Consenting Creditors address the fact that the Committee does not need standing to bring the purported “claims” it asserts with respect to unencumbered value in its Lien Perfection Standing Motion – as the Committee’s assertions lie in purely legal argument or relate to collateral that was never encumbered in the first place. However, given the focus of it in the Committee’s Objection and Standing Motions, the Consenting Creditors feel the need to address the assertion that unencumbered Vehicles, ZBAs, and commercial tort claims have value such that they should preclude confirmation of the Plan, as they do not.

41. For example, the Committee’s assertion regarding the Vehicles ignores that any potential recovery is plainly de minimis and that is why the First Lien Lenders and the Debtors agreed in the Pledge and Security Agreement (as defined in the Fifth Amended Credit Agreement) itself that the Debtors would not be required to undertake the costly process of perfecting on the Vehicles through titular processes. Using a publicly available high-end estimate of \$7,000 per vehicle,<sup>48</sup> the maximum theoretical recovery would be approximately \$ 1,295,000.00.<sup>49</sup> The Vehicles’ limited value—coupled with the fact that the DIP Secured Parties indisputably have liens on such Vehicles and the First Lien Lenders’ have significant claims for adequate protection on

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<sup>47</sup> Objection, ¶ 55.

<sup>48</sup> For example, there are multiple 2015 Ford Fusions in the Debtors’ possession which, even assuming good condition and approximately 100,000 miles, carry a Kelley Blue Book valuation of only \$4,500–\$6,900. Other models of cars that the Debtors possess, such as Nissan Versas, are valued even lower. Schedule 1 to the Lien Perfection Standing Motion lists approximately 185 vehicles comprising mainly Nissans Versas, Ford Fusions, Ford Focus, Toyota Corollas, Chryslers and various other economy class vehicles including minivans. The model years of the vehicles are between 2 and 11 years old but skew to the older end.

<sup>49</sup> Lien Perfection Standing Motion ¶ 33.

account of diminution in value which would further encumber such Vehicles—means that any such proceeds would be absorbed by those senior claims long before unsecured creditors would ever see value. Moreover, even were such assets unencumbered following treatment of such claims, any unencumbered value should be applied to fund the administrative expenses of these Chapter 11 Cases which, thanks in large part to the Committee’s litigation approach, enormously outweigh any potential value. *See In re K & L Lakeland, Inc.*, 128 F.3d 203, 207 (4th Cir. 1997) (“[g]enerally, administrative expenses are paid from the unencumbered assets of a bankruptcy estate rather than from secured collateral”); *In re Molycorp, Inc.*, 562 B.R. 67, 75 (Bankr. D. Del. 2017) (stating that “as a general rule, administrative expenses must be satisfied from assets of the estate not subject to liens. A secured creditor’s interest in its collateral is a substantive property right created by non-bankruptcy law, which may not be substantially impaired when bankruptcy intervenes.”); *In re Westwood Plaza Apartments, Ltd.*, 154 B.R. 916, 921 (Bankr. E.D. Tex. 1993) (same); *In re Matter of CD Elec. Co., Inc.*, 146 B.R. 786, 789 (Bankr. N.D. Ind. 1992) (same).

42. Further, the General Unsecured Creditors have also voted in favor of the Plan, indicating they would prefer their current recoveries over the liquidation value of the Vehicles (or the Vehicles themselves), and the decline in distributable Plan value would have no impact on the Subordinated Unsecured Notes which would remain subordinated to general unsecured creditor recoveries – and for which any recovery would have to be turned over to the holders of the First Lien Claims under the Unsecured Notes Subordination Agreement. As a result, the Vehicles have no meaningful impact on unsecured creditor recoveries and do not justify pursuing these causes of action.

43. Finally, it is simply not credible to claim that \$402,000 in ZBAs as of the Petition Date (that are accounts receivable that flow into encumbered cash collection accounts) can be

worth anything to General Unsecured Creditors let alone merit denial of the Plan that such General Unsecured Creditors voted to support. The Committee, as set forth in further detail in the Response, has also failed to identify a single commercial tort claim (admitting in their pleading that the \$11,200,000 in “value” they identify may not be commercial tort claims, and indeed they are not as was easily ascertained by the schedules themselves which identify them as contract claims).

44. The Committee claims that on account of these unencumbered assets, the Plan distributions are unequal and “that unsecured creditors are not receiving an adequate share of the unencumbered assets.”<sup>50</sup> Yet, even putting aside the required application to administrative expenses, the Committee does not address how the value of the reorganized equity and warrants that the General Unsecured Creditors are receiving under the Plan compare to the “value” of the Vehicles, ZBAs, and commercial tort claims. The Committee does not do this because the General Unsecured Creditors are already receiving significant value above and beyond the unencumbered assets. At a minimum, the Plan provides \$10.31 million of equity value in New Common Interests (as defined in the Plan) based on 2.00% of the midpoint of the purportedly too conservative valuation by the Debtors and the Committee’s Objection is therefore without any merit.

**C. The Committee Cannot Redistribute Plan Value Without Taking into Account the Adequate Protection Liens.**

45. Even if certain assets of the Debtors are not subject to prepetition liens, paragraph 3(i) of the DIP Order grants to the Prepetition First Lien Agent adequate protection liens over all of the Debtors’ assets, including previously unencumbered assets. As the evidence at the confirmation trial will demonstrate, there has been a diminution in value of the Prepetition Collateral on account of, among other things, the debtor-in possession-financing loans and the

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<sup>50</sup> Objection, ¶ 56.

payment of the professional fees in these Chapter 11 Cases, which are far in excess of budgeted amounts due to the Committee's baseless challenges, without any offsetting postpetition increase. Notably, the Debtors started these Chapter 11 Cases with \$63,000,000 of cash on hand and are projected to emerge with \$71,000,000 of cash on hand – *after* having received \$100,000,000 of debtor-in-possession financing. There are an estimated \$99,000,000 of professional fees projected to be expended from the proceeds of the debtor-in-possession financing and proceeds of the collateral that secured the First Lien Claims. The result is a diminution of at least \$92,000,000, not taking into account other factors such as lost contract revenues.

46. For the reasons set forth above and in the Standing Motions, the Committee's purported basis for non-allowance or reduction of the First Lien Claim and that distributions to the First Lien Lenders are in excess of the allowed First Lien Claim under the Plan is not only convoluted but meritless, and do not support any plausible theory by which the Plan should not be confirmed.

**II. THE COMMITTEE HAS FAILED TO SHOW THAT THE SECOND LIEN CLAIMS SHOULD BE RECLASSIFIED OR THAT THE SUBORDINATED UNSECURED NOTES CLAIMS ARE BEING UNFAIRLY DISCRIMINATED AGAINST.**

47. The Committee also asserts that the Plan unfairly discriminates, and that the classification scheme is improper, because it believes it will succeed in wholly unwinding the Uptier Transaction, including “the extinguishing of the Subordination Agreement.”<sup>51</sup> The Consenting Creditors will not repeat its posture set forth in the Response other than to reiterate that the Committee has put forth no reasoning or legal procedure by which it can “undo” the Uptier Transaction in whole or in part, reimpose validly released guarantees on all Debtor entities and erase the validly authorized and executed Subordination Agreement required to be enforced by

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<sup>51</sup> Objection, ¶ 63.

Section 510 of the Bankruptcy Code. Moreover, the Second Lien Claims are now being treated as General Unsecured Claims due to the Second Lien Claims being out of the money as to the underlying collateral based on the Debtors' Valuation.

48. The Plan does not unfairly discriminate or improperly classify the Second Lien Claims or Subordinated Unsecured Notes Claims.

**III. THE COMMITTEE HAS FAILED TO ESTABLISH THAT THE ENTERPRISE VALUE OF THE DEBTORS EXCEEDS THE AMOUNT OF SECURED DEBT**

49. The Consenting Creditors believe that the Debtors' Valuation, prepared by its investment banker in connection with management in their business judgment, reflects the most optimistic realistic valuation of the Debtors as the businesses exist today. Unfortunately, even since the Debtors' Valuation was prepared and filed with this Court, the Debtors have continued to lose or fail to renew material contracts. As a result, the Debtors' Valuation may in fact be reflective of a historical trend of overoptimism in the Debtors' managerial projections.<sup>52</sup> As will be demonstrated at the confirmation trial, the Committee's valuation is largely detached from reality.

50. The Debtors' Valuation implies, net of the secured debt under the Exit Facilities (comprising a \$300,000,000 Exit Term Loan Facility), a midpoint net equity value of approximately \$537,500,000 (the "Debtor Equity Valuation") upon emergence from these Chapter 11 Cases. This valuation is consistent with the market's value of the (a) First Lien Term Loans, which have traded at a discount to par since January 2025, and are currently trading around 43.7 cents (with the \$75,000,000 of first lien incremental term loans trading at 43.3 cents notwithstanding their payment priority over the initial term loans), and (b) Second Lien Notes, which have traded at a discount to par since issuance, and are currently trading around 1.4 cents.

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<sup>52</sup> Gutierrez Dep. Tr. 136:6-8: [REDACTED]

According to Bloomberg, the Existing Unsecured Notes traded around 30 cents in March 2025 before the Second Lien Notes Exchange was consummated, and immediately after consummation, traded closer to 10 cents.<sup>53</sup> As of October 2025, the First Lien Loans traded down to cents in the mid 40s, the Second Lien Notes traded down to 1.5 cents and the Subordinated Unsecured Notes reached less than 1 cent, in each case indicating that investors understood that the value of the Debtors' businesses had deteriorated to an amount that is less than half of the principal amount of the First Lien Loans. In fact, at no time in the last ten months has the market agreed with the Committee's valuation because none of the Debtors' secured debt instruments have traded at or near par value. Debt trading prices may not alone equate to enterprise value, but they are an important market indicator that the Committee discounts and ignores.<sup>54</sup>

51. The total secured debt amount of not less than \$1.358 billion is greater than the Debtors' Valuation by a margin of \$545.5 million (or 65%). This means the Committee has to show that its own valuation is at least 65% higher than the Debtors' Valuation in order to drive any entitlement to recovery by holders of the unsecured claims. While that seems like a tall task for a business facing the difficulties the Debtors have continued to face, the First Lien Lenders and Debtors are not asking the unsecured creditors to simply "take their word for it" on the Debtors' Valuation. The proposed Plan offers to both the eligible holders of General Unsecured Claims (including all Second Lien Claims) and Subordinated Unsecured Notes Claims the opportunity to subscribe in the equity rights offering for up to \$200,000,000 of common interests in the Reorganized Debtors at a valuation at which only the holders of First Lien Claims are paid in full

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<sup>53</sup> See Supra note 31 (Bloomberg historical price chart).

<sup>54</sup> Jamal Nov. Dep. Tr. 104:24-105:6: " [REDACTED]

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(the “Equity Rights Offering Valuation”). If the unsecured creditors believed the Debtors’ Valuation was too conservative, the Plan already solves for that by providing unsecured creditors the opportunity to put their money where their mouths are by allowing the eligible unsecured creditors the opportunity to invest at the Equity Rights Offering Valuation – a valuation that would put the equity immediately in the money if the Committee’s valuation were true. Further, even though the holders of Subordinated Unsecured Notes are payment subordinated to the Second Lien Notes (all of which are treated as a general unsecured deficiency claim in Class 4), the Subordinated Unsecured Notes received rights under the Plan to participate *pro rata* with the General Unsecured Creditors in the equity rights offering. The deadline to transfer cash to escrow in order to participate in the Equity Rights offering is December 5, 2025, at 5:00 pm Eastern Standard Time, and as of the date hereof, with one day remaining, no party has deposited any cash to escrow participate in the Equity Rights Offering.

52. The Plan also provides the holders of General Unsecured Claims with direct equity (equal to 2%) and three different classes of warrants – each entitled to successive 15% portions of future value and with the first 15% tranche striking at a price *below* a par recovery for the First Lien Claims. To the extent that the Debtors’ Valuation is “conservative” and the Debtors’ enterprise value quickly rebounds, the Plan provides holders of General Unsecured Claims option value above the Debtors’ Valuation to acquire value in the Reorganized Debtors. Here too, the Debtors and Consenting Creditors have stood behind the Debtors’ Valuation and provided unsecured creditors extremely significant participation in the upside if the Debtors’ Valuation proves to be low in the test of time.

53. The Committee’s rebuttal experts seek to undermine the assumptions underlying the financial projections on the theories that (1) the Debtors will “win back” certain business from

UHC and the Debtors' valuation reports have not appropriately provided for these revenues, (2) the Company does not include new customer or contract wins in its projections, and (3) the Debtors could easily achieve cost-savings through SG&A, transition to lower unit costs, transition to differentiating technology, and increased shared services. These assumptions do not align with the reality of the Debtors' businesses.<sup>55</sup> Indeed, the Debtors' management and UHC<sup>56</sup> have made clear that the UHC contract is gone.

54. The Debtors' advisors and management team have also emphasized that the cost of implementing technologies that would allow them to compete with their competitors would require capital expenditures well in excess of its historical averages, and that costs savings identified by the Committee (such as on account of "going private") are over-stated in the Committee's rebuttal reports.<sup>57</sup> The Committee cannot demonstrate why the opinion of its rebuttal experts should overrule the business judgment of the Debtors' advisors, and indeed, the Committee's own valuation rebuttal expert could not remember another time in his extensive experience where a Committee had presented its own view on a Debtors' enterprise value.<sup>58</sup>

55. The Committee's Objection and rebuttal reports make other incorrect assumptions and assertions to support its "pie in the sky" valuation, including:

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<sup>55</sup> Further supporting the view that the Debtors' Valuation is realistic or in some cases optimistic, is the fact that a company with an enterprise value that the Committee is putting forth should have no difficulty in obtaining \$250,000,000 of exit senior revolving financing. Yet, the Debtors have had difficulty finding and identifying a financier prior to exit, as required by the Plan.

<sup>56</sup> At the hearing on approval of the Debtors' entry into the UHC Amendment, counsel to UHC stated "[s]o this was not a bluff. United's position that this termination is real." Warren Decl., Exh. W (Hr'g Tr. 86:18-20, October 30, 2025).

<sup>57</sup> See Warren Decl., Exh. BB (Expert Rebuttal Report of Greg Magrisi, November 10, 2025), p. 59 ([REDACTED]).

<sup>58</sup> Warren Decl., Exh. M (Marc Brown Deposition, November 21, 2025, (the "Brown Dep. Tr.") 31:4-14): [REDACTED]."

- *The Debtors’ contracts are “sticky” and contract wins and losses are not properly accounted for in the Debtors’ financial projections.* This is in direct contradiction to the fact that the Debtors have not won new business during the course of these Chapter 11 Cases, and instead have lost numerous contracts during that same time period.<sup>59</sup>
- *The Debtors have not properly taken into account the posting of cash collateral for surety bonds that it should be able to get back upon emergence.* As the Debtors’ management and advisors have testified, recovering cash posted to sureties, while feasible with time, is not ensured or quickly done.
- The Committee reiterates an odd argument it made at the DIP financing stage that *the Debtors’ should not have expended cash to pay critical prepetition trade claims* (who largely are the Committee’s constituents) and that not paying those general unsecured creditors would have better positioned the Debtors from a cash perspective at exit. The Committee asserts that the Debtors did not need to pay these trade claimants to sustain the operations of the Debtors’ businesses and going concern value for the benefit of all stakeholders, without further support, and that somehow not paying those claimants would have had a net positive outcome to the Debtors’ financials.
- The Committee states *that the Debtors are not at substantial risk of liquidation if the Plan is not confirmed in 2025*, despite direct testimony by the Debtors’ advisors to the contrary and budget projections that show significant cash needs in January 2026 if the Plan is not confirmed.<sup>60</sup>

56. In sum, the Committee has failed to rebut the Debtors’ Valuation, and the Objection should be overruled.

## II. THE COMMITTEE’S REMAINING OBJECTIONS ARE WITHOUT MERIT

57. The remainder of the Committee’s Objection largely focuses on reasons why the Debtors’ Plan releases should be denied, although the Committee does not point to any cause of action to pursue other than its meritless attempt to unwind the Uptier Transaction for the benefit

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<sup>59</sup> See Sampson, Dep. Tr. 60:5-11 ( [REDACTED] ), 166:9-23 ( [REDACTED] ); Warren Decl., Exh. I (Kenneth Shepard Deposition, November 11, 2025, (the “Shepard Dep. Tr.”) 217:20-22) ( [REDACTED] ); Warren Decl., Exh. H (Chad Shandler Deposition, November 19, 2025, (the “Shandler Nov. Dep. Tr.”) 250:14-21) ( [REDACTED] ).

<sup>60</sup> Jamal Nov. Dep. Tr. 228:17-229:8: “ [REDACTED] ”

of the Subordinated Notes Claims. The Consenting Creditors believe the releases provided for under the Plan are entirely appropriate in light of the significant contributions made by the Released Parties, including the Consenting Creditors, throughout the chapter 11 process, and that they are fair and reasonable in light of the circumstances.

58. To illustrate, the Consenting Creditors have made numerous contributions to the Chapter 11 Cases, including, without limitation, (i) negotiating the Restructuring Support Agreement with the Debtors, which provided structure to these Chapter 11 Cases that enabled the Debtors to preserve considerable value for the benefit of all creditors, (ii) providing \$100,000,000 of debtor-in-possession financing and consenting to the Debtors' use of cash collateral, providing the Debtors with the funds necessary to continue operating as a going concern, and (iii) supporting the Debtors' Plan, including the forgiveness of over \$1.3 billion in secured debt while allowing for recoveries to the unsecured creditors and ensuring the payment in full of all administrative expenses and priority claims. The Plan releases were an integral part of these contributions and concessions which are supported by the vast majority of the Debtors' creditors, not just the Consenting Creditors, and are fair and reasonable in light of the circumstances.

59. The Committee has not provided any support for its conclusions that the Debtors' Plan releases are inappropriate and has failed to provide colorable causes of action or claims that that would rebut the reasonableness of the Plan releases in its Standing Motions. The Consenting Creditors respectfully submit that the Debtors' Plan releases are fair and reasonable and supported by substantial consideration exchanged in these Chapter 11 Cases.

### **CONCLUSION**

60. The Committee fails to demonstrate that the Plan is unconfirmable, that the Committee's unsupportable valuation based on flawed assumptions should supersede the Debtors'

own valuation, or that the Plan releases are improper. The Committee, through its Objection and Standing Motions, seeks instead to unfairly favor one class of its constituents and to assert holdup arguments that have no justifiable value. The Consenting Creditors request that the Objection be denied in its entirety, and that the Plan be confirmed.

**RESERVATION OF RIGHTS**

61. The Consenting Creditors reserve their rights to amend, modify, or supplement this Reply to the extent that additional issues, or issues which the Consenting Creditors currently believe to be resolved, are raised in connection with the Objection.

*[Remainder of page intentionally left blank.]*

Dated: December 4, 2025  
Chicago, Illinois

Respectfully submitted,

*/s/ Matthew L. Warren*

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**CERTIFICATE OF SERVICE**

I certify that on December 4, 2025, I caused a true and correct copy of the foregoing document to be served by the Electronic Case Filing System for the United States Bankruptcy Court for the Southern District of Texas on those parties registered to receive electronic notices.

/s/ Matthew L. Warren

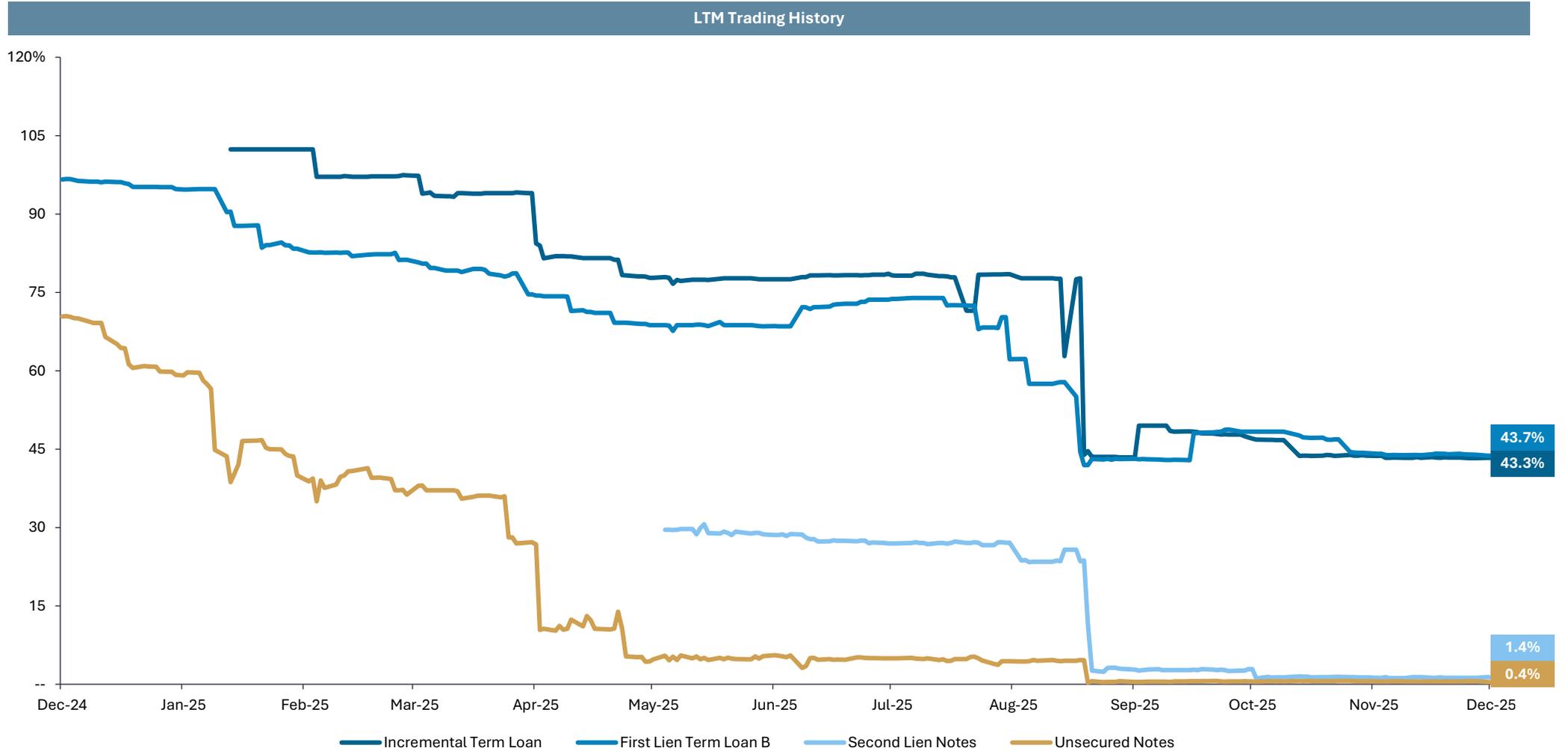
Matthew L. Warren

**ANNEX A**



# Trading History Overview – Debt Securities

The following summarizes the trading history of ModivCare's debt securities over the last twelve months





# Trading History Overview – Equity

The following summarizes the trading history of the Company’s equity over the last twelve months

LTM Trading History

