

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

In re:

TEHUM CARE SERVICES, INC.,

Debtor.

Chapter 11

Case No: 23-90086 (CML)

**DECLARATION OF ANNE D. FOSTER IN SUPPORT OF
MOTION BY CREDITOR LEONA MIOTKE
TO CORRECT SUBMITTED OPT-OUT RELEASE FORM**

I, Anne D. Foster, hereby declare and state as follows:

1. I am a partner in the law firm of Smith Foster King LLP, located in Portland, Oregon. I am the attorney of record for Leona Miotke, the plaintiff in an employment retaliation lawsuit against Corizon Health, Inc., n/k/a Tehum Care Services, Inc, filed in the Circuit Court of the State of Oregon for the County of Multnomah on October 29, 2019. On March 3, 2023, I was admitted pro hac vice to this bankruptcy as counsel for Creditor Leona Miotke (“Creditor”). The matters set forth herein are true to the best of my knowledge, information, and belief. I am submitting this declaration in support of the Motion by Creditor Leona Miotke to Correct Submitted Opt-Out Release Form previously submitted to this Court on February 21, 2025.

2. On February 21, 2025, the day that Creditor submitted her opt-out release form to this Court, I was in trial on an unrelated case. Prior to trial, I spoke with Creditor Miotke and confirmed she wished to opt out of the Consensual Claimant Release in Chapter 11 of the plan (“Release”) so that she could pursue her claims against successor corporations to Debtor Corizon Health, Inc., n/k/a Tehum Care Services, Inc. (“Debtor”). Specifically, Ms. Miotke told me that she would not consent to the proposed Release. After confirming she had decided to opt out of the Release, Creditor understood we would submit the opt-out release form on her behalf. In



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addition, our Office Administrator Cynthia Mercado also spoke with Ms. Miotke regarding the process.

3. Because I was in trial, my partner, Jaimee King, along with our Office Administrator, Cynthia Mercado, completed the opt-out release form online through the Verita website portal. Once the opt-out release form was submitted, our office understood that Ms. Miotke had successfully opted out of the Release.

4. Creditor understood that she did not need to submit the opt-out release form if she was accepting the proposal, and that she should only submit the opt-out release form if she was opting out of the relief. Our office also understood that Creditor did not need to submit the opt-out release form unless Creditor wanted to opt out of the Release. Counsel would not have submitted the opt-out release form unless Creditor was not consenting to the Release and instead wanted to opt out of the Release.

5. After filing the opt out form, I tasked my associate, Matthew Clarkson, with drafting a motion to reinstate the pleadings in Creditor's underlying Oregon lawsuit against Debtor and other parties. In approximately late May, 2025, Mr. Clarkson discovered that Creditor was not in fact listed as an opt-out party in Exhibit A to this Court's March 3, 2025, Order Confirming the First Modified Joint Chapter 11 Plan of Reorganization of the Tort Claimants' Committee, Official Committee of Unsecured Creditors, and Debtor. Counsel immediately began investigating whether a clerical mistake had been made by the Court or this office.

6. Upon further review, our office discovered that Item 3 on the opt-out release form had been left blank. In the online form, Item 3 consisted of a drop-down menu which presented several choices to Creditor. Ms. King and Ms. Mercado understood that they had marked the form as "Opt Out." None of us understands why Item 3 in the final form was left blank. We believe this was simply a scrivener's error that did not accurately reflect your intentions.

7. After being unable to correct this error with Verita, I spoke with other counsel and my client. We are therefore asking the Court to order that the opt-out form submitted by Creditor be deemed to correctly state that Creditor Miotke is opting out of the Release.

I HEREBY DECLARE THAT THE ABOVE STATEMENT IS TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF, AND THAT I UNDERSTAND IT IS MADE FOR USE AS EVIDENCE IN COURT AND IS SUBJECT TO PENALTY FOR PERJURY.

DATED: July 15, 2025.

SMITH FOSTER KING LLP



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Certificate of Service

I do hereby certify that on July 17, 2025, a true and correct copy of the foregoing was electronically filed with the Clerk of Court and served using the CM/ECF system.



Anne D. Foster