Docket #0111 Date Filed: 8/14/2023

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

IN RE:	§	**CHAPTER 11**
	§	
TEHUM CARE SERVICES, INC.	§	**CASE NO. 23-90086 (CML)**
DEBTOR.	§	
ANANT KUMAR TRIPATI	§	
PLAINTIFF,	§	
	§	
v.	§	**ADVERSARY NO. 23-03072**
	§	
SARAH TIRSCHWELL, ET AL.	§	
DEFENDANTS.		

BEECKEN PETTY O'KEEFE & COMPANY, LLC'S NOTICE OF SPECIAL APPEARANCE, JOINDER IN THE STATE OF ARIZONA DEFENDANTS' MOTION TO SCREEN PLAINTIFF'S PRO SE INMATE ADVERSARY COMPLAINT AND AMENDED ADVERSARY COMPLAINT, OBJECTION TO ENTRY OF DEFAULT, MOTION FOR EXTENSION OF TIME AND RESERVATION OF RIGHTS
[RELATED TO DKT. NOS. 25 & 86]

Beecken Petty O'Keefe & Company, LLC ("BPOC"), subject to its reservation of rights as identified herein, hereby files this Notice of Special Appearance, Joinder, Objection, Motion for Extension, and Reservation of Rights ("Joinder") and respectfully states as follows:

1. Anant Kumar Tripati ("Plaintiff") filed his Verified Adversary Complaint by Anant Kumar Tripati (the "Complaint") on May 1, 2023.

2. On May 4, 2023, the Clerk of this Court issued Summons on various named defendants, including, but not limited, to BPOC.

3. On May 15, 2023, Plaintiff filed an Omnibus Motion to Amend Adversary Complaint and Consolidate ECF 244; 261; 280 and Proofs of Claims (Dkt. No. 4). With this filing, Plaintiff attached his Corrected Verified Adversary Complaint by Ananat Kumar Tripati (Dkt. No. 4-1) ("Amended Complaint"). Plaintiff's Amended Complaint asserted a new claim for relief

against all named Defendants, including BPOC. Plaintiff has since sought leave to further amend his complaint. (Dkt. No. 96).

4. At no time did BPOC receive the Amended Complaint or a new summons from Plaintiff, and Plaintiff has not filed a notice that service was executed against BPOC. Indeed, a new summons has not been issued for BPOC with respect to the Amended Complaint.

5. BPOC was not effectively served with the Amended Complaint pursuant to the strict requirements of Bankruptcy Rule 7004(e) and Rule 5(a)(2) of the Federal Rules of Civil Procedure, under which a new summons must be served with an amended complaint adding a new or additional claim for relief against a defendant.

6. Nor was BPOC properly served with the Complaint under Bankruptcy Rule 7004(b)(3). The mailing addressed to BPOC did not identify an appropriate recipient under Bankruptcy Rule 7004(b)(3), and did not properly effect service.

7. Accordingly, in view of the foregoing service deficiencies and other failings of Plaintiff's substantive claims, and subject to and without waiving effective service of process of the Complaint and/or the Amended Complaint, BPOC files this Joinder out of an abundance of caution.

8. On June 5, 2023, the State of Arizona Defendants filed their Motion to Screen Plaintiff's Pro Se Inmate Adversary Complaint and Request for an Extension of Time to File a Responsive Pleading (Dkt. No. 25).

9. Further, on July 19, 2023, the State of Arizona Defendants filed their Motion to Screen Amended Adversary Complaint (Dkt. No. 86).

10. Upon information and belief, Plaintiff is a known serial litigant attempting to re-litigate long-resolved claims related to his treatment as a prisoner in the custody of the Arizona Department of Corrections.

11. Plaintiff's Complaint and Amended Complaint seeks to revisit his prior litigation that was dismissed by the United States District Court for the Western District of Pennsylvania in *Tripati v Wexford Health Sources, et al.*, Case No. 20-cv-00427 and affirmed on appeal by the Third Circuit Court of Appeals.

12. BPOC hereby incorporates and joins in the arguments made in the Motion to Screen Plaintiff's Pro Se Inmate Adversary Complaint and Request for an Extension of Time to file a Responsive Pleading (Dkt. No. 25) and the Motion to Screen Amended Adversary Complaint (Dkt. No. 86), and adopts those arguments as its own, as though fully stated herein.

13. BPOC further hereby objects to any entry of default or default judgment against it and in favor of Plaintiff based on, among other things, Plaintiff's service failures and the substantive lack of merit of Plaintiff's claims.

14. BPOC further hereby requests a 30-day extension of time to file any responsive pleading following entry of any screening order, subject to proper service of process upon Beecken Petty O'Keefe & Company, LLC, which has not yet been effected.

15. BPOC further hereby reserves any and all of the rights it may have under the Federal Rules of Civil Procedure, Federal Rules of Bankruptcy Procedure, the Bankruptcy Code, Federal or State Law, as applicable, and any other statute or court rule, whether or not specifically set forth herein, including, but not limited to, under Federal Rule of Bankruptcy Procedure 7012.

WHEREFORE, Beecken Petty O'Keefe & Company, LLC respectfully requests that this Court screen Anant Kumar Tripati's Complaint and Amended Complaint pursuant to 28 U.S.C.

1915A, and extend the time for BPOC to answer or otherwise respond to 30 days after the Court issues a screening order, and for such other and further relief as the Court deems proper.

August 14, 2023

Respectfully submitted,

/s/ *Michael C. Whalen*

Michael C. Whalen (admitted *pro hac vice*)
PAUL HASTINGS LLP
71 S. Wacker Drive, 45th Floor
Chicago, IL 60606
(312) 499-6033
michaelcwhalen@paulhastings.com

COUNSEL FOR BEECKEN PETTY O'KEEFE & COMPANY, LLC