

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

PROVIDENCE, SC.

SUPERIOR COURT

ST. JOSEPH'S HEALTH SERVICES OF)
RHODE ISLAND)

) C.A: PC-2017-3856

V.)

ST. JOSEPH'S HEALTH SERVICES OF)
RHODE ISLAND RETIREMENT PLAN)

CHARTERCARE COMMUNITY BOARD)

V.)

) C.A: PC-2019-3654

SAMUEL LEE, ET ALS)

HEARD BEFORE

THE HONORABLE ASSOCIATE JUSTICE BRIAN P. STERN

ON OCTOBER 1, 2019

APPEARANCES,

MAX WISTOW, ESQUIRE.....FOR THE RECEIVER
ROBERT FINE, ESQUIRE.....FOR CHARTERCARE
STEPHEN DEL SESTO, ESQUIRE.....RECEIVER
CHRISTOPHER FRAGOMENI, ESQUIRE.....FOR PROSPECT
EDWARD PARE, ESQUIRE.....FOR PROSPECT

GINA GIANFRANCESCO GOMES
COURT REPORTER

C E R T I F I C A T I O N

I, Gina Gianfrancesco Gomes, hereby certify that the succeeding pages 1 through 4, inclusive, are a true and accurate transcript of my stenographic notes.


GINA GIANFRANCESCO GOMES
COURT REPORTER

1 TUESDAY, OCTOBER 1, 2019

2 MORNING SESSION

3 THE COURT: Madam Clerk, if you would call the cases
4 please.

5 THE CLERK: Your Honor, the first matter is Case
6 Number PC-2017-3856, St. Joseph Health Services of Rhode
7 Island vs. St. Joseph Health Services of Rhode Island
8 Retirement Plan, also PC-2019-3654, CharterCare Community
9 Board vs. Samuel Lee, et al. The first matter was on for
10 a motion for authorization to exercise the put option,
11 and the second matter was on for expedited hearing on
12 motion to compel production. Would counsel please
13 identify themselves for the record.

14 MR. WISTOW: Max Wistow for the Plaintiff Receiver.

15 MR. FINE: Robert Fine, Chace Ruttenburg & Freedman
16 for Chartercare Community Board.

17 MR. DEL SESTO: Stephen Del Sesto, Receiver, your
18 Honor.

19 MR. FRAGOMENI: Good afternoon, your Honor. Chris
20 Fragomeni for the Prospect entities.

21 MR. PARE: Good afternoon, your Honor. Edward Pare
22 for the Prospect entities.

23 THE COURT: First starting with the motion to
24 compel, I had a brief chambers conference and it's my
25 understanding there may be an order to enter, if counsel

1 would put that on the record.

2 MR. FINE: Thank you, your Honor. Robert Fine for
3 the Plaintiff. We have conferred with counsel for the
4 Prospect Defendants. And I know the matter has been
5 continued. We reached an agreement as to the production
6 schedule of certain documents requested. Certain
7 documents will be produced by this Friday. The balance
8 by a week from this Friday. I will submit an order after
9 circulating it to the other counsel.

10 THE COURT: Thank you very much. With respect to
11 the second motion, which is for authorization to exercise
12 the put option or if such consideration is made to
13 exercise the put option, the Court has received papers
14 from the Receiver as well as objections and memos of law
15 from Prospect. The Court indicated that it intended to
16 reserve decision on that motion due to a pending decision
17 before Judge Smith in Federal Court that may have an
18 impact on the decision of that matter. However, the
19 Court does not want the motion out there without decision
20 for a long period of time. So the Court will place that
21 motion down for a bench decision in ten days. I also
22 indicated that I would give the opportunity, although
23 they are well briefed, if either side wishes to add
24 anything with respect to their papers, beginning with the
25 Receiver.

1 MR. WISTOW: Yes, there is one further thing, your
2 Honor.

3 THE COURT: Please.

4 MR. WISTOW: Your Honor will recall that there was
5 an agreement to extend the put option. There was an
6 exchange of e-mails, part of which was sent to your
7 Honor, but a final order on that issue has never entered.
8 I sent a proposed order to Prospect's counsel and they
9 indicated in chambers that the last order that I sent to
10 them was acceptable and that I may submit it to the
11 Court.

12 MR. FRAGOMENTI: That's correct, your Honor. No
13 objection.

14 THE COURT: By any chance, is the order with you?

15 MR. WISTOW: No, I will send to to the Court.

16 THE COURT: Very good. If you can also along with
17 the filing just send it to that Stern calendar and I'll
18 get it signed.

19 The Court can coordinate with the parties as far as
20 the day we are going to put down for the bench decision.
21 As I indicated in chambers, I would appreciate it if the
22 parties ask if the Receiver or on the distribution list
23 if anything comes out as part of the decision with Judge
24 Smith with respect to the settlement class that is before
25 him if you can forward it to the Stern calendar.

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MR. DeLSESTO: I will, your Honor.

THE COURT: Thank you very much. The Court is in recess.

(A D J O U R N E D.)