STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

PROVIDENCE, SC. SUPERIOR COURT

ST. JOSEPH HEALTH SERVICES OF RHODE ISLAND	)	
VS.	)	C.A. NO. PC-2017-3856
ST. JOSEPH HEALTH SERVICES OF RHODE ISLAND RETIREMENT PLAN	)	

HEARD BEFORE

THE HONORABLE ASSOCIATE JUSTICE BRIAN P. STERN

ON OCTOBER 11, 2017

APPEARANCES:

STEPHEN DELSESTO, ESQUIRE.....RECEIVER

GINA GIANFRANCESCO GOMES
COURT REPORTER

CERTIFICATION

I, Gina Gianfrancesco Gomes, hereby certify that the succeeding pages 1 through 30, inclusive, are a true and accurate transcript of my stenographic notes.

Gina Gomes

GINA GIANFRANCESCO GOMES
COURT REPORTER

WEDNESDAY, OCTOBER 11, 2017

MORNING SESSION

THE COURT: Good morning. Madame clerk, if you'd call the case.

THE CLERK: The matter before the Court is Case Number PC-2017-3856, St. Joseph Health Services of Rhode Island vs. St. Joseph Health Services of Rhode Island Retirement Plan. Counsel, would you each identify yourselves.

MR. DELSESTO: Good morning, your Honor. Stephen DelSesto, temporary receiver for the plan.

THE COURT: Thank you very much. The Court first wants to acknowledge there are a number of attorneys who have entered their appearances at this point or have filed motions including the original petition. And, certainly, if any of those attorneys that have entered wish to be heard on any issues before the Court this morning, just let me know at the appropriate time when we reach the issue. We have an appearance by Steve DelSesto, the temporary receiver. We have an appearance by Christopher Callaci for the United States Nurses and Allied Professionals; Arlene Violet on behalf of certain individual plan members; Rob Senville, also on behalf of certain individual plan members along with Attorney Violet; Richard Land of St. Joseph's Health Services of

Rhode Island, Inc.; Kathryn Enright of the Rhode Island Attorney General's Office; and Jessica Rider also of the Rhode Island Attorney General's Office.

Before the Court today are a number of matters. The first is the status of the appointment of the Receiver. Second, the status of the pending request by Attorney Land on behalf of the petition of St. Joseph's Health Services of Rhode Island, Inc. to reduce retirement benefits. That was continued by this Court at the last hearing. I would like a report of the status of retention of litigation counsel from the Receiver and a status report from the Receiver.

The Court has also received a request to schedule a a motion to stay prior to any reduction of benefits approved by the Court by Attorney Violet and that was put on the calendar solely for the reason of scheduling any motion and if Attorney Violet wishes to be heard. There is also a limited objection of UNAP to the petition for the appointment of the Receiver. The Court has also received this morning from the Receiver two additional petitions, a petition for instructions and an emergency petition to engage special legal counsel. And I'm going to request that the Receiver during his report take us through that as well. That being said, counsel, you may proceed.

MR. DELSESTO: Thank you, your Honor. Good morning, your Honor. As your Honor stated, we are here on several issues. The main issue that this hearing was scheduled for was the petition to appoint me as permanent receiver. Your Honor, for the reasons set forth in my petition for instructions, which I will go over with the Court, I am asking that the Court continue that hearing for approximately two weeks until Thursday, October 27th, if that time is available for the Court.

The reason for my request to postpone my appointment as permanent, your Honor, is over the past two months I, Attorney Wistow, and his office have been doing much reading and research regarding this case. One issue that came up that we noticed was the respondent in this case is the plan. I have some concerns as to whether or not the plan can be the sole respondent. It's well-established that if a trust, which I believe this plan is, is sued, that the trustee must also receive by service of process or appearance, they must also be added as a party to the case.

As a result, your Honor, to cure what may be deficiencies, I'm not saying that they necessarily are, but as a belt and suspenders, I am asking to make these changes. I am asking that the Court authorize me through this petition for instructions to serve via summons both

Bank of America, who is the trustee of the trust, but also the two authorized signatories, who have been indicated to me through Bank of America's documents as being the two parties authorized to direct the trustee at the time of my appointment as temporary receiver.

To give a little background on that, your Honor, Bank of America is, as successor to Fleet National Bank, the trustee of the trust which was established in 1995. While they are the trustee, a reading of the trust document indicates that they have very little discretionary authority with regards to managing the funds in that trust. They actually are directed by several individuals that the trust indicates. I have asked Bank of America to provide me with documentation that they have that provides them with the names and signature specimens as to who can direct them with regard to the assets. As far as investments and benefits are concerned, they provided to me a limited production which indicated at the time that I was appointed, Dan Ryan, who is a former board member -- I think he may have held the position.

THE COURT: Based on these documents, he's a secretary.

MR. DELSESTO: Okay. As well as Richard Land, who is the attorney for the petitioner. Out of an abundance

of caution, I am asking that they also be served via summons just for purposes of notifying them of the petition, the appointment of temporary receiver, and ask them to appear to the extent that they feel it's necessary on the 27th and show cause why a Receiver is not necessary in this case. I believe that to the extent there is a deficiency in the pleading that would cure it. To the extent that your Honor feels it's necessary, it may also be appropriate to serve that summons on the current board members, those who were in place and those were the ones who voted to file the petition with the Court in the first instance, which would include David Hurscht, Polly Daly, and Father Timothy Riley. (Phonetic spellings) Again, this is not because I have determined there is any liability with regard to any of those parties, but under the law they are required or those that direct and have control over the trust and the funds are required to receive notice of the proceedings.

THE COURT: Is there any, correct me if I may be wrong, any issues from the temporary receiver's point of view of holding off for the couple of weeks for the permanency?

MR. DELSESTO: I do not believe so, your Honor. I believe the temporary order gives me, obviously, certain powers. In addition, as your Honor may recall, we did

ask for the Court to expand those powers to include subpoena powers, which the Court granted. With that expanded power in the temporary order, I think a couple of weeks will not serve to hinder or compromise any of my efforts.

In addition, your Honor, my petition for instructions seeks instruction from this Court with regard to whether or not it would be appropriate or necessary to add Bank of America in its capacity as trustee as a respondent in this case or as what I refer to as a nominal respondent. Again, recognizing that there is no allegation of liability or there is no allegation of wrongdoing on their behalf, it's purely to notify that party that is responsible under the trust document for the trust so that the trust is properly before this Court and under the Court's jurisdiction.

That would be something that I would be asking the Court to provide me instruction so we could amend the case caption to include them in addition to providing the summons that I'm requesting for the petition for instructions. I do realize that was filed today and it may be prudent to hold off the entry of an order regarding that while the parties have a chance to read and absorb the request made. I felt it was appropriate to bring it to the Court's attention today especially in

light of my request to postpone the hearing on a permanent for that approximate two-week period.

THE COURT: Okay. So the petition for instruction that was filed today, the Court is going to approve short notice so we don't have to deal with the normal ten-day period. The Court is going to allow any party who wishes to file the papers with respect to the petition until the close of business on Monday. It will be on the court site but also on the Receiver's site as well and the Court will enter the appropriate order.

I have no issue continuing the permanency hearing. I haven't had a chance to look at the substance. I will tell you that certainly we're serving additional parties and there is questions in terms of current members of the board. I don't necessarily see a down side so we don't get back on the same issue again, getting more people served than less at this point. The Court will reserve, however, notice is shortened. Any objections filed by the close of business on Monday.

MR. DELSESTO: Thank you, your Honor. It's important to note and it's mentioned in my papers, your Honor, part of the reason for this measure I'm asking to take is because the order appointing the temporary in paragraph seven indicates that a citation should be issued to the plan. It's my understanding that the clerk

no longer engages in that practice so there is a question as to service at this point.

Unless there are any further questions on that, your Honor, I would like to move to the petitioner's request in the petition to appoint Receiver by which the petitioner request that the Court authorize a reduction of benefits of 40 percent. As your Honor knows from our last hearing, there has been much confusion, and, quite frankly, anxiety among the pension holders around that request. Your Honor mentioned at the last hearing that there was a question as to whether or not with a Receiver now in place whether such a request was even appropriate.

As a result, your Honor, assuming for the moment that it would be appropriate, I am asking that the Court pass that request in light of the fact that the Court has set a timeframe sometime after the first of the year to address reduction of benefits and I am charged with reviewing all available options to determine what may be the most equitable way to address an adjustment of those benefits. So I am asking that the Court pass the petitioner's request and that the next time we are before the Court on the issue of benefits reduction will be on my recommendation, which will occur sometime after, I believe, we had said sometime around the 1st of February.

THE COURT: That issue in terms of passing and

trying to stay away from the legal terms basically means do away with that motion like it doesn't exist. It means the Receiver may bring a motion down the road. That was pending and there was a motion to stay by Attorney Violet and also a limited objection by UNAP which seemed to involve some of these issues. Attorney Violet, would you like to be heard with respect to that?

MS. VIOLET: Yes, your Honor. Your Honor quite correctly noticed that we put this motion for stay in just so we could get a further date to have it heard. As the Court knows from I'm sure reviewing the motion, we have made requests on behalf of the 300 plus people that Attorney Senville and I represent pro bono for certain information. I only made that yesterday afternoon. So I am sure the Receiver has not a chance to look over information and data that we, in fact, are looking for relative to the underpinning of this motion.

In addition, your Honor, I also sent over a couple of cases, one of which is a United States Supreme Court case, Califano vs. Yamasaki and Matern vs. Matthews, the case my co-counsel Robert Senville successfully argued to the United States Court of Appeals Third Circuit that requires, we believe, notice to every retirement plan member as well as the mechanism where there is a proposed reduction of benefits that they have an opportunity to be

heard on undue hardships.

I understand, of course, with the continuation of this matter and that there, in fact, is not going to be any cut, at this point I don't feel I have to argue that point. It's going to happen just by the passage of time, but when the point comes on this issue, I want to just make sure that proper notice was sent to each retirement plan member of the proposed reduction of benefits and the opportunity to be heard because I think that the governing principles of the case, which is against equity in good conscious, is the case law that forms those types of decisions. So given that the continuation anyway is going on, I think until February or so, at this point we don't want to press the motion. So we would ask you to continue it to another date. Thank you, your Honor.

THE COURT: Thank you very much. So, basically, because the Receiver has now withdrawn any motion to reduce benefits subject to him making a further one down the road, the motion to stay that was filed by Attorney Violet dealt with what the process and procedure and the steps would be in terms of how that motion would be heard. So while the Court will continue that motion without assigning a date right now, because we do anticipate that at some point the Receiver may be filing a motion and certainly that would be the appropriate

time. So without prejudice to any of the 300 people that filed the motion, we will have an opportunity to have that formally heard by the Court should the Receiver file a formal motion, and I would ask the Receiver to just keep Attorney Violet in the loop so she is aware of when that motion may be coming and we can schedule that.

MS. VIOLET: Thank you, your Honor.

THE COURT: Attorney Callaci, you have a limited objection for dealing with the same issues. Does counsel wish to be heard on that?

MR. CALLACI: Yes, your Honor, briefly. The Court has decided to pass on the matter, I'm inclined not to speak on the objection unless you would like me to.

THE COURT: No, no. I just wanted to give you the the opportunity. The motion was passed. Certainly,it's without prejudice to you filing any papers you feel are appropriate.

MR. CALACI: Thank you.

THE COURT: If the Receiver would please move on.

MR. DELSESTO: Thank you, your Honor. Your Honor, the next issue I wanted to address involves the engagement of Wistow & Loveley. Attorney Max Wistow, Steve Sheehan, and Benjamin Ledsham from that office to assist the Receiver with regard to identifying potential claims and then assessing the prudence of pursuing those

claims, and then if that is determined to be a prudent step, to actually pursue those claims. I have filed, your Honor, what is captioned as an emergency petition to engage special legal counsel in that regard. I have in that petition asked that the Court authorize me to engage Wistow & Loveley for the purposes I just stated, which are more specifically outlined in that petition as well as in the engagement that is attached as Exhibit A to that petition.

I will break down quickly for the Court the terms of that engagement. It's basically a three-step process or three-stage process, your Honor. The first stage is, as I just stated, identify claims, whether or not there are claims that can be brought on behalf of the Receiver or the plan against any individual or groups. At that stage, your Honor, Wistow Sheehan & Loveley will be paid a blended breakup of $375 an hour, which notably is the same breakup charged by the Receiver in this case.

Beyond that stage, your Honor, stage two, if claims are identified and it is determined that it's prudent to pursue those claims, then it is a stage where I am referring to it as a settlement in lieu of litigation, so Wistow Sheehan & Loveley will endeavor to try to settle those claims without having to file a lawsuit and bring those claims either via demand letter or something of the

like. If they are able it recover any moneys at that stage, they will receive ten percent of the gross recovery at that stage. Obviously, your Honor, if I state anything or do not include something, I ask that Attorney Wistow supplement whatever I'm saying to your Honor.

Finally, your Honor, is what I will call the final stage and that's what I am going to term as the litigation stage. If there are claims identified and if the efforts to settle in lieu of litigation are not successful with any party or all parties that are identified and Wistow Sheehan & Loveley is required to commence formal litigation against those parties, it would be a contingency fee based upon the gross recovery of 23 and a third percent. Those are the terms that Wistow Sheehan & Loveley and I had negotiated. I believe they are fair and reasonable. They do take into account the increasing complexity that happens in litigation in the future and I believe the engagement of Wistow Sheehan & Loveley is in the best interest of the estate as well as the pension holders.

While I know that the Court and I are familiar with that firm and its expertise and skill, many in the courtroom may not be. So with your Honor's permission, I would ask that Attorney Wistow, on behalf of that firm,

provide just a few words explaining his law firm and the qualifications that they have. I have spelled it out, but I think it's important for the people in the courtroom to hear.

THE COURT: Thank you.

MR. WISTOW: Good morning, your Honor.

THE COURT: Good morning.

MR. WISTOW: Let me state that I found out about 20 minutes ago that I would be called upon to make this presentation, for which on advance notice I want to thank the Receiver. Having said that, I don't have an opportunity to present a complete resume so let me try to explain what our firm is like. We do general litigation. We don't do criminal work. We don't do collections. We do mostly complex and difficult civil litigation. Our most recent adventure involved the 38 Studios, where our office represented Rhode Island Commerce Corp. and achieved settlements of about $61 million out of a total potential liability of $89 million.

I myself have been practicing, I blush to confess, 48 years. The two other lawyers in the case, who, by the way, worked extensively on 38 Studios and didn't get anywhere near the credit they deserved, Steve Sheehan and Benjamin Ledsham, and they will be working intensively on this case. Steve has been practicing 38 years and

Benjamin ten years.

My office has been involved over the years in rather complex matters -- 38 Studios, obviously, the Station Fire where we were one of the lead counsel on that case. We have been involved in some very unusual actions involving suits against the Palestinian Liberation Organization and the terrorism claims for which we achieved notable settlements, the terms of which are not disclosable. We were involved in the Depco case during the Sundlun administration. We have done many civil rights' cases invariably on the part of injured people, police brutality cases. We've had the pleasure, and I put that in quotes, of being involved in redistricting and reapportioning cases both statewide and in the City of Providence.

We're no strangers to suing hospitals, mostly in medical malpractice cases. We have sued Roger Williams and St. Joseph's Hospital numerable times in the past. We have nothing pending against them at the moment. And, by the way, I don't mean to indicate by that statement that we are planning necessarily to sue Roger Williams or St. Joseph's.

We've represented over the years and continue to represent at the present time lawyers who are being sued and we're suing lawyers for legal malpractice. We have

represented government officials before the Rhode Island Ethics Commission on ethics issues. And, generally, I think we've done pretty much what can be done. People might say we are jack of all trades and master of none, but we have been through it all.

I want to say one thing about the fee arrangement. The period of the so-called investigation is going to be relatively unusual because, as Mr. DelSesto has pointed out, we are going to be able to do extensive discovery during this investigatory stage to prove not only the acquisition of voluminous records but also the deposition of various people. We are going to be able to do that before we bring suit. We are hopeful that if we do come up with something worthwhile the potential of settling before suit will be relatively realistic, in which case the ten percent attorney's fee we believe will be modest.

We talked both to Ms. Violet and her colleague Mr. Senville and to the union about the fee arrangement because believe it or not, your Honor, some lawyers would like to be seen as doing the right thing and I believe that we have the support of both the union and Ms. Violet and Mr. Senville at this point both to our appointment and to the terms of the compensation. If your Honor has no questions.

THE COURT: No. Thank you very much, and I

appreciate that. I just want to point out for the record that I had contacted the Receiver this morning when I saw the emergency motion and had requested if you would address the Court just because I thought it was important on the record for people to understand. So anything credited to the Receiver comes back to me.

MR. DELSESTO: I was going to take credit, your Honor. I wanted to see how Max did on his feet. Your Honor, with regard to Max Wistow Sheehan & Lovely's engagement, again, that was filed today. I do recognize that it would be prudent to, obviously, not rule on that request today. I have filed it. I did file a proposed order. In that order, your Honor, I do want to note this is listed in the petition but it's also in the order, in addition to engaging Wistow Sheehan & Loveley under the terms of the engagement that is attached, recognizing the sensitive nature of the time records that Wistow Sheehan & Loveley will have relative to litigation and potential strategy and things of that nature, I ask that the Court allow when I come in to seek approval of the fees that they are invoicing to the estate, that those fees be allowed to be submitted to the Court in redacted form so as not to reveal any sensitive strategy information regarding litigation and that it be accompanied with a recent recommendation by the Receiver as to those fees,

your Honor. Again, the reason for that is the sensitive nature of the work they will be doing in the investigation and I think it would be imprudent if those were filed publically.

In addition, your Honor, as your Honor is aware, Wistow Sheehan & Loveley, all three attorneys, Wistow, Sheehan, and Ledsham have been working very closely with me since very early on in the case. Not withstanding the fact that the engagement request is coming before your Honor today, they have spent substantial time and have brought what I would consider to be of significant value already to the case in the last two months. The order also makes a request that any time they have incurred prior to today with regard to this case be permitted to be submitted in the first request that I gave to the Court for approval of their fees.

THE COURT: Counsel, certainly I understand the emergent nature of the request. I think everyone wishes the investigation continue so there can be a determination of whether there are claims of the estate against any third parties or not, so we can have the information. I also recognize that the motion was just filed this morning and I have briefly been able to look at it. The Court thinks it's appropriate to certainly wait the ten days for a formal notice. That should be

made available today on the website and also will be on the court portal. If there are any objections or anyone wishes to be heard in writing to file something by the close of business on Monday. After the Court reviews if anything that is filed, the Court will make a determination whether a further hearing is necessary or whether it will enter an order or modify an order if it deems it appropriate. But I appreciate you, Attorney Wistow, and his firm getting to the point whether we get it from potentially having counsel engaged by the Reciever to investigate and take steps with respect to any claims that we have before us today is something that the Court can consider.

MR. DELSESTO: Thank you, your Honor. Unless there are any questions on the engagement of Wistow Sheehan & Loveley, your Honor, I would like to move to the next issue on my list, which I'm going to call the creation of creditors, committees, or groups. There has been a lot of concern raised by pension holders and rightly so. As your Honor knows, we did have a town hall meeting on October 2nd. We had about 600 participants at that meeting and many expressed concern that they didn't have a voice yet in this proceeding. Obviously, Attorneys Violet and Senville have identified a group that they are representing in addition to the union representatives,

union members.

But there is a group, which I believe is encompassing nonunion members, who may or may not be receiving retirement benefits but who are what I would term as still employable. They are not disabled or of the advanced age that they could not seek employment. I will term them because they have used the term, that middle group, I believe needs some voice even at this early stage in the case. Not necessarily regarding what will or won't happen to the benefits, although that is an issue that we are going to be fast approaching over the next few months, just from a point of receiving information, communicating, getting that information and getting their concerns and the issues that they want addressed into the hands of somebody who can bring it to my attention.

While I am not prepared today to ask the Court to designate or assign a creditor committee, but I would ask that the Court allow me to prepare a petition and recommendation essentially which creates those which would be heard on the same day, if your Honor would allow it, as the permanent hearing on the 27th, but also to give me time to identify potential counsel.

I have spoken with Attorneys Violent and Senville, the attorneys in Mr. Wistow's office, as well as the

union to try to identify attorneys that may be able to and willing to step into that role. Obviously, your Honor, Ms. Violet and Senville have said they are doing their representation on a pro bono basis. The union is obviously doing their representation of the union members who pay dues to the union. That middle group because, quite frankly, I do not believe the estate can afford to retain counsel on their behalf, there is a question as to whether or not if we sought counsel that was not willing to do it pro bono, that those parties would need to understand what the fee would be with that attorney and then work it out.

Hopefully, I can identify one or more attorneys that will be willing to do it on a pro bono basis, but I would just ask for that additional time to prepare a reasonable recommendation to the Court, which hopefully will include a recommendation on a counsel that costs, hopefully, the pension holders no additional funds. But if so, they can make a determination for themselves as to whether or not they want to hop into the that group.

THE COURT: Let me see if I can break this down and understand it a little bit. We have basically two paths that are going on. The first is we have counsel investigating claims and determining where there are claims and looking to bring money and to appropriate it

into the estate. I don't necessarily see an issue with all 2,700 plus aside from what we just got this morning in terms of what the arrangements are of not being on the same page in terms of bringing into the estate. Is that what happened?

MR. DELSESTO: I think it's safe to say, your Honor, that all 2,729 pension holders are interested in bringing as much money into the estate to supplement the current plan.

THE COURT: We're talking about something a little different here and I just want to be clear. Those 2,729 members of the plan are in differing positions. You just went through, we have some that are retirees that are currently collecting that may be in a certain situation, we have members of the bargaining unit that are involved, and then we have another group that you started talking about that are no longer covered by the bargaining unit and may not be collecting at this point and there may be some other things that come into play. Maybe it's those kinds of groups or maybe it's something different that the Receiver wants to look at and come up with a committee structure looking at the interest of those different groups, which the Court has done in the past, most recently with Westerly Hospital, so I am all for that.

But I think it's important for everyone to understand there is another reason for that and the reason for that is, as the Receiver said last time, is that after the first of the year there may come a point in time where the Receiver is going to have to ask this Court to make some adjustments in benefits based on the amount of assets that are in the plan. I foresee an issue where there may be different points of view depending on where people are as plan participants in terms of what the Court should do. I would like sooner rather than later to kind of tee up that issue of whether we are going to have groups to make sure that if down the road the Court has to make a decision is getting informed from a different prospective of the groups.

I understand because of different circumstances of different people, there can probably be 25 or 30 different groups. Unfortunately, to manage this we need to have a limited number of groups, and if we have attorneys that are willing to pro bono represent certain portions of the groups or if there are attorneys already representing certain portions of the group, I'm going to leave that to you to make the appropriate recommendations.

But I think that it's critical when we come back on the 27th that you're prepared to make that recommendation

because I really do view for good or bad, unfortunately, there is two parallel paths right now and the Court is going to be in the position where it may have to address that after the first of the year. What do we do in terms of benefits that are going out because of the amount of money in the plan? It's important that the Court be informed from very different perspectives from the people on the plan. So I appreciate you brought it up. As far as I'm concerned, aside from claims it's appropriate and necessary to move forward.

MR. DELSESTO: Thank you, your Honor. And to your point, your Honor, part of the reason why I want that established sooner rather than later it's because my intention to sit down with Attorney Violet, Senville, Callaci and whoever the attorney for that middle group is as quickly as possible to see if we can collectively come to a resolution on benefits. I think it's important for everyone to understand that the work that Wistow Sheehan & Loveley will be doing will take some time. Even if they are able to identify potential claims that are prudent to pursue, that is much further down the road than the February 1st date that we spoke about at the last hearing. So at the very least there would need to be some type of interim adjustment on benefits to make sure the plan sustains in an appropriate way while Wistow

Sheehan & Loveley does the investigation and eventually pursues whatever claims and litigation that is.

THE COURT: I just want to be clear, there is a clean slate. The other motion about the 40 percent no longer exists. It's going to be that that, you know, recommendation and the parties is going to be something that is yet to be determined. I use the word may, but, you know, being quite frank, there is assets in the pension plan at this point that are far less than would be available to make all the payments to the retirees. So it may very well be an issue that we need to address prior to knowing what claims there may be and hopefully resolving some of those claims.

MR. DELSESTO: Exactly.

THE COURT: Is there anything else?

MR. DELSESTO: Unless your Honor has any questions on that, I know everything I just presented to your Honor provides somewhat of a summary of the status of what has been done but I have some additional information that I can provide your Honor in terms of a general status over and above what we've already discussed today.

THE COURT: Why don't we do that. I just want to point out, now that we talked about an emergency petition to engage counsel, something that came up last time and something that Attorney Callaci brought up in his papers.

As I mentioned before Attorney Enright and Rider from the Rhode Island Attorney General's Office that this engagement in no way both regulatory, state, federal, operates a stay in any way of any investigation or anything else that they deem appropriate. The role of the attorney for the Receiver going forward is later focused on claims the estate may have, resolving the issues that may affect the plan, and it doesn't foreclose in any way any of the other agencies from doing what they may or may not do what they feel is appropriate. Why don't we move forward.

MR. DELSESTO: Thank you, your Honor. Since the last time we were before your Honor on September 8th, in addition to all of the discussions and negotiations that resulted in the petition today, I have met, along with Attorney Wistow, many of the state leaders. We have met with President Ruggiero from the senate. We met with Speaker Mattiello. We met with members from the Governor's office as well as with Treasurer Magaziner. I am happy to report, obviously, the feedback on what we are doing and what we're trying to do is positive. Obviously, all state leaders were very upset with the need to do what we're doing but happy with the Court. I and Wistow, Sheehan, & Loveley are pursuing what we are and trying to clear up what has happened and what can be

done to fix it.

I am also happy to let the Court know that Treasurer Magaziner, who, obviously, his office has expertise in dealing with pensions has offered the services of his staff to provide any information that he can to assist in our efforts. I already had several communications with his office in which they provided information that will be helpful. I appreciate that offer and I will continue to utilize it as long as the offer remains open.

In addition to that, your Honor, we have also met with the actuary of the plan, the plan administration, which is Angell Pension, and their counsel. We had a substantial meeting with them and we're going to be following up in e-mail communication with their counsel this morning to set up a set discussion, not in person, but on the phone with them on that issue.

As I indicated earlier in the presentation, we had a town hall meeting on October 2nd at Rhodes on the Pawtuxet. We had approximately 600 pension holders in attendance and after a brief overview of the process and where we were at that point, I opened up the floor to questions and many of the questions that were raised, the obvious ones were what happened, where did the money go, but they were also related to issues that were brought before the Court today in terms of the creditors,

engaging Mr. Sheehan and Loveley, and things of that nature. I continue to receive many, many, many calls and e-mails from pension holders regarding the status of issues. Most are out of state at this point, who are not able to attend hearings like this. I have indicated to them that I have set up the website which has court pleadings as I indicated at the last hearing. Since then I've also setup a website, a companion piece of the website, which has information that I believe is public or should be publically available related to the pension plan with one caveat, your Honor.

Obviously, there are documents that may come into my possession that generally speaking, I believe, might be appropriate for public consumption. However, for the reasons related to Wistow, Sheehan & Lovely's efforts, I don't think it's prudent at this time to make that information public. Whatever I'm making public on that site, it's based on the determination that it is not only appropriate for public consumption, but that it will not in some way compromise the efforts of Mr. Wistow and his firm on what their charge is in this case.

Other than that, your Honor, that pretty much brings us current to today. We will continue to review documents related to the plan. It's a large volume of documents as your Honor is aware and may know. Each time

we review something, it sometimes raises more questions than answers for us. It's a long arduous process. We're going through it. Possibly in the next two weeks when we are back before your Honor on the permanent that will give us another update as to where we are and I will continue to keep people informed as much as I can.

I have done, as I presented to your Honor, a draft of what I will call frequently asked questions. I'm adjusting that from the first one that I had sent to your Honor. I received input from Wistow Sheehan & Loveley on it and I added other issues that pension holders have, quite frankly, raised to me and I will be posting that on the data portion of the website by the week's end and we will supplement that as additional questions come up and as this case proceeds and other frequently asked questions come up at each stage.

THE COURT: I would just ask counsel that the Receiver communicate back to those general office's that offered their help of where we are status wise, including an application to retain, but also just as importantly, so nobody is caught off guard you may be presenting a petition after the first of the year which deals with cuts and certainly those will be appreciated.

MR. DELSESTO: I will, your Honor. Unless your Honor has anything further, that concludes my report for

today.

THE COURT: Attorney Wistow, is there anything else that you wish to bring up that the Receiver hasn't covered?

MR. WISTOW: Only to point out that if indeed we are appointed, we are ready to the same day issue our initial subpoenas. We have been working on those.

THE COURT: Thank you very much. With that, I want to thank the Receiver for the report. 9:30 on October 22nd will be the next hearing to take up the permanent receiver. The emergency motion and the petition for instructions filed with the Court will be made available both by the Receiver, and the Court requests anyone who wishes to be heard in writing to submit something by the close of business on Monday.

MR. DELSESTO: Thank you, your Honor.

THE COURT: Thank you.

MR. DELSESTO: I will submit a proposal order on the petition for instructions as well as one has already been submitted on which is Wistow Sheehan & Loveley.

THE COURT: Thank you all for your patience. The Court is in recess.

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