

STATE OF RHODE ISLAND
PROVIDENCE, SC.

SUPERIOR COURT

In re: CHARTERCARE HEALTH PARTNERS :
FOUNDATION; ROGER WILLIAMS :
HOSPITAL; and ST. JOSEPH HEALTH :
SERVICES OF RHODE ISLAND, INC., :
Petitioners :

C.A. NO: KM-2015-0035

v. :

STEPHEN DEL SESTO, AS RECEIVER AND :
ADMINISTRATOR OF THE ST. JOSEPH :
HEALTH SERVICES OF RHODE ISLAND :
RETIREMENT PLAN; GAIL J. MAJOR; :
NANCY ZOMPA; RALPH BRYDEN; :
DOROTHY WILLNER; CAROLL SHORT; :
DONNA BOUTELLE; and EUGENIA :
LEVESQUE, :

Respondents and Third
Party Petitioners

v. :

RHODE ISLAND COMMUNITY :
FOUNDATION, d/b/a RHODE ISLAND :
FOUNDATION, :

Third Party Respondent :

**STATEMENT OF RESPONDENTS AND THIRD PARTY PETITIONERS
REGARDING PARAGRAPH 18 OF OCTOBER 15, 2019 JOINT PETITION**

For the reasons discussed by CharterCARE Foundation (“CCF”) in its Statement of CharterCARE Foundation Regarding Paragraph 18 of October 15, 2019 Joint Petition, the Respondents and Third Party Petitioners submit that the discrepancy concerning Paragraph 18 of the Joint Petition is immaterial to the Court’s action on the Joint Petition.

As the Court is already aware, this settlement represents the compromise of disputed claims. The Respondents and Third Party Petitioners' claims against CCF assert that, as creditors of dissolving non-profit corporations (St. Joseph Health Services of Rhode Island and Roger Williams Hospital), R.I. Gen. Laws § 7-6-51 afforded the Plan and/or its beneficiaries a priority claim to all the Heritage Hospitals' charitable assets before any portion of such assets, restricted or otherwise, could be transferred to another nonprofit corporation such as CCF under the doctrine of *cy pres*. The Respondents and Third Party Petitioners claim that approval of the original 2015 Cy Pres Petition was obtained through misrepresentations of fact (including misrepresentations of fact concerning the ability of St. Joseph Health Services of Rhode Island and Roger Williams Hospital's availability of other assets to fund the Plan), and without proper notice to or the necessary participation of the Respondents and Third Party Petitioners. The Respondents and Third Party Petitioners also contend that CCF has been operated by persons without valid corporate authority. CCF disputes all of the Respondents and Third Party Petitioners' claims, some of which present novel and unsettled issues of Rhode Island law.

Absent settlement, if Respondents and Third Party Petitioners fail to prevail on one or more of their claims, they might recover less than what is being tendered in this settlement, perhaps even nothing at all.

The Settling Parties would have made the same settlement in any event, based on all of the factors of the case. Accordingly, the Respondents and Third Party Petitioners submit this Court should indeed issue an order granting the Joint Petition for all the reasons set forth in paragraph 1-17 of the Joint Petition.

Presented by
Stephen Del Sesto, as Permanent Receiver for
the St. Joseph's Health Services of Rhode
Island Retirement Plan, Gail J. Major, Nancy
Zompa, Ralph Bryden, Dorothy Willner, Carol
Short, Donna Boutelle, and Eugenia Levesque,

By their Counsel,

/s/ Max Wistow

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Dated: November 18, 2019

CERTIFICATE OF SERVICE

I hereby certify that, on the 18th day of November, 2019, I filed and served the foregoing document through the electronic filing system on the following users of record:

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/s/ Max Wistow