

STATE OF RHODE ISLAND
PROVIDENCE, SC.

SUPERIOR COURT

ST. JOSEPH HEALTH SERVICES OF :
RHODE ISLAND, INC. :

vs. :

C.A. No: PC-2017-3856

ST. JOSEPHS HEALTH SERVICES OF :
RHODE ISLAND RETIREMENT PLAN, :
as amended :

**RESPONDENT’S MEMORANDUM IN SUPPORT OF ITS MOTION TO COMPEL
DOCUMENTS FROM ST. JOSEPH HEALTH SERVICES OF RHODE ISLAND
AND FOR MONETARY SANCTIONS**

Enough is enough.

Once again, Special Counsel must come before the Court and ask that the Court order that dilatory tactics cease and order that production of documents be made to Special Counsel, this time by St. Joseph Health Services of Rhode Island (“SJHSRI”).

Ironically, SJHSRI itself initiated this proceeding. It insisted in its petition that a 40% cut to all plan participants effective October 2017 was the proper remedy for the loyal employees who relied on the promises SJHSRI had made. However, instead of adopting this “remedy” the Court deferred consideration of any cuts until the Court could be better informed of the facts, appointed the Receiver, and approved retention of Special Counsel to investigate those facts. SJHSRI would prefer not to be bothered by all the work involved in responding to Special Counsel’s subpoenae. SJHSRI should not be surprised that the cuts it requested were not automatically imposed, enabling SJSHRI to wash its hands of the pension plan. Through its petition SJHSRI is seriously

injuring thousands of people. Through its dilatory response to the subpoenae it continues to do so.

Special Counsel believes that the Court itself must be frustrated with the vague representations regarding compliance with the various subpoenae. The Court, Special Counsel, and thousands of people affected by this massive failure are entitled to know with specificity why we are encountering such difficulty. Accordingly, as discussed below, Special Counsel is also seeking documents concerning SJHSRI's efforts (or lack of effort) to produce documents. Such requests may well issue to other parties in the next few days. SJHSRI's failure to produce even those documents which would disclose whether it is making a good faith effort to comply with the subpoena is strong indication that SJHSRI has much to hide, not only on the merits, but also on the issue of whether or not it is proceeding in good faith in the very case it initiated.

As the Court knows, Special Counsel is diligently attempting to quickly investigate the facts to try and determine whether they may be sources of funds to increase the assets of the pension plan. This would assist the Receiver and the Court on the issue of whether cuts in pension benefits will be required (and if so, how much and when) at the hearing in February, a mere two months from now. Those efforts are being met, however, with foot-dragging and bad faith by SJHSRI, that both increase the legal fees chargeable to the Receivership Estate (to the possible ultimate detriment of the retirees), and divert Special Counsel from reviewing the thousands of pages of documents already obtained pursuant to subpoenas and other sources.

Special Counsel has served two subpoenas on SJHSRI for documents. As to both subpoenas, SJHSRI has already waived all objections by failing to assert them on a timely basis, and the objections it has belatedly asserted are utterly baseless. In

response to the first subpoena, SJHSRI has produced woefully few documents. In response to the second subpoena, SJHSRI has produced nothing. Full compliance and sanctions should be now ordered.

PROCEDURAL TRAVEL

St. Joseph Health Services of Rhode Island (“SJHSRI”) petitioned the Retirement Plan into receivership on August 18, 2017.

On September 13, 2017, the Court entered an Order expanding the Receiver’s powers to issue subpoenas to any and all individuals or entities in his sole discretion:

Until further Order of this Court, the Temporary Receiver’s powers and authority shall be expanded to include the power and authority to issue subpoenas as he, in his sole discretion deems necessary and appropriate to compel the production of documents and/or records and/or testimony under oath and/or to serve interrogatories to be answered under oath to any and all individuals or entities that the Receiver believes will assist his investigation of possible claims on behalf of the Receivership Estate and/or the Plan participants.

September 13, 2017 Order (Exhibit 1 hereto).

On October 18, 2017, Special Counsel issued its first subpoena to SJHSRI. That subpoena (the “First Subpoena”, attached hereto as Exhibit 2) sought 61 categories of documents and was returnable November 8, 2017 at 10:00 a.m.¹

On October 27, 2017, the Court entered an Order appointing the Receiver as Permanent Receiver. That order, which was served on counsel for SJHSRI, also ordered that:

6. The past and/or present officers, directors, agents, managers, trustees, attorneys, actuaries, accountants, investment advisors and investment managers of the Respondent, as well as those acting in their place, are hereby ordered and directed to preserve and turn over to the

¹ Richard Land, attorney and registered agent for service for SJHSRI, received the subpoena by email on October 18, 2017 and returned an acknowledgment of service on October 19, 2017.

Receiver forthwith all paper and electronic information of, and/or relating to, the Respondent and/or all Respondent's assets or property; such information shall include but not be limited to books, records, documents, accounts and all other instruments and papers.

Exhibit 3 (October 27, 2017 Order). Notwithstanding this Order of the Court, which encompassed most or all of the same documents sought by the First Subpoena, SJHSRI has failed to produce such documents in response to the Order or the First Subpoena.

On November 2, 2017, after receiving the Attorney General's objection to Special Counsel's subpoena of documents including the so-called "confidential" Health Care Conversion application documents jointly submitted by SJHSRI and Prospect in connection with the 2013-2014 purchase and sale of SJHSRI's hospital assets, Special Counsel emailed SJHSRI's counsel:

We received the Attorney General's filing today (attached). We expect compliance with the subpoena, absent relief granted by the court.

We also direct your attention to paragraph 6 of the Order Appointing Permanent Receiver (attached), which requires such documents to be produced.

Exhibit 4. SJSHRI's counsel replied on November 2, 2017 at 4:39 p.m., requesting additional time to respond to the subpoena and requesting, for the first time, "confirmation" that "no formal objection is required" to the subpoena. Exhibit 5. Special Counsel did not grant that latter indulgence. Instead, on November 6, 2017, Special Counsel responded:

Of course, we intend to cooperate with you in terms of timing of compliance. Nevertheless, I would point out the following:

- a) You are already in arrears on your promise of giving us:
 - (1) the accounting of the application of the assets subject to the Cy-Pres. This was promised to us without regard to the subpoena. Because insuring the proper distribution of these assets was your

responsibility from at least early 2015, we must insist you tell us when you intend to comply; and

(2) an itemization of assets currently in the hands of SJHSRI.

(b) We expect at least partial compliance with the subpoena by November 8, 2017, i.e. the date of its return.

(c) As to additional time that you may need, tell us what items require such and an estimate of when we can get full compliance as to each such item.

I want to extend you every courtesy, but I need to remind you that there are over 2,700 people being adversely affected by the pension shortfall (some in potentially life changing ways).

Please, let's try to work this out. But I cannot accept general assurances.

Exhibit 6.

SJHSRI already had not served any timely objection to the First Subpoena.²

SJHSRI served an untimely objection on November 8, 2017,³ and subsequently produced some documents on November 9 and November 10, 2017.⁴

On November 21, 2017, Special Counsel wrote to SJHSRI's counsel:

Since your partial productions of documents on November 9 and 10, we have not heard from you. Mr. Digou [counsel for SJHSRI] indicated in his email of November 9, 2017 that forty boxes of documents were being scanned and bates stamped for production. When can we have them?

When will your document production be complete? You are in arrears both as to the subpoena and the Court's order of October 27, 2017.

* * *

² Under R.I. R. Civ. P. 45(c)(2)(B), SJHSRI's objections (if any) were due by November 2, 2017. SJHSRI did serve an untimely objection on November 8, 2017 at 6:00 pm, almost a week late, and eight hours after the time for compliance with the subpoena.

³ SJHSRI's response with belated objections to the First Subpoena ("SJHSRI's First Objection") is attached hereto as Exhibit 7. SJHSRI's supplemental responses, served on November 9, 2017 and December 12, 2017 and incorporating the same waived objections, are also attached hereto as Exhibits 8 and 9.

⁴ SJHSRI also later produced an additional twenty (20) pages on December 12, 2017. See Exhibit 9 (second supplemental response).

Exhibit 10.⁵

On November 27, 2017, Special Counsel inquired of SJHSRI's counsel regarding SJHSRI's failure to produce additional documents. SJHSRI's counsel sought to explain that failure with reference to what he characterized as difficulties gaining access to SJHSRI's papers and records, which were sold to Prospect in connection with the 2013-2014 transaction. The next day, Special Counsel emailed SJHSRI's counsel:

Regarding access to records in possession of Prospect; please see paragraph 13.7 (page 62) of Asset Purchase Agreement.

Exhibit 11.⁶ The referenced provision of the Asset Purchase Agreement in section 13.7 gives SJHSRI the right of access to all records in the possession of Prospect "concerning the Purchased Assets, Facilities, or Assumed Liabilities."⁷

On November 28, 2017, SJHSRI's counsel responded:

Below is in follow up to our phone conversation yesterday when you requested (1) a status update on SJHSRI's response to the subpoena, and (2) to know SJHSRI's position regarding the Attorney General's objection to the motion to compel responses to the subpoena.

SJHSRI continues to collect, review and process potentially responsive documents. SJHSRI has requested access to documents owned by Prospect that may be responsive. Prospect continues to provide access to physical files, subject to Prospect review of the documents for attorney client privilege, work product or other applicable privilege/objection. With respect to Prospect's electronic data, we have discussed with Prospect collection of electronic data, and while we anticipate some difficulty in retrieving and searching the electronic data due to the broad scope of the subpoena requests, Prospect intends to provide access consistent with SJHSRI's access to physical files subject to Prospect's review of the documents for attorney client privilege, work product or other applicable privilege/objection. We view this process as facilitating a rolling delivery of responsive documents as you previously agreed.

⁵ November 21, 2017 letter from attorney Max Wistow to attorney Richard Land.

⁶ November 28, 2017 email of Mary Ann Kesson on behalf of attorney Max Wistow to attorney Richard Land.

⁷ Attached as Exhibit 12.

* * *

Exhibit 13.⁸

Because of SJHSRI's failure to comply diligently with the First Subpoena or the October 27, 2017 Order, Special Counsel issued a second subpoena to SJHSRI on December 1, 2017 (the "Second Subpoena").⁹ The Second Subpoena was returnable December 15, 2017 at 11:00 a.m. and sought three very narrow categories of documents relating to the efforts of SJHSRI and others to comply with prior subpoenas in this action. Those documents by definition are in the current files of SJHSRI. Indeed, they cover only the last two month, since October 19, 2017 when the first subpoena was served. The Second Subpoena attached a copy of the November 28, 2017 letter from attorney Richard Land to attorney Max Wistow regarding difficulties SJHSRI claimed it was having with working with Prospect to comply with the First Subpoena, and sought:

1. In relation to the statements contained in or subject matter of the **November 28 Letter**:
 - a. All documents relating to communications with **Prospect, RWH, CHARTERCARE**, or their officers, agents, directors, or attorneys, relating to subpoenas or compliance with subpoenas issued in connection with *St. Joseph Health Services of Rhode Island, Inc. v. St. Josephs Health Services of Rhode Island Retirement Plan* (PC 2017-3856);
 - b. All documents relating to **SJHSRI's** efforts to comply with subpoenas issued in connection with *St. Joseph Health Services of Rhode Island, Inc. v. St. Josephs Health Services of Rhode Island Retirement Plan* (PC 2017-3856);
 - c. All documents relating to **Prospect's** efforts to comply with subpoenas issued in connection with *St. Joseph Health Services of Rhode Island, Inc. v. St. Josephs Health Services of Rhode Island Retirement Plan* (PC 2017-3856);

⁸ November 28, 2017 letter from attorney Richard Land to attorney Max Wistow.

⁹ Attorney Richard Land received the subpoena by email on December 1, 2017 and returned an acknowledgment of service on December 3, 2017.

Exhibit 14.

As with the First Subpoena, SJHSRI did not serve any timely objection to the Second Subpoena: under R.I. R. Civ. P. 45(c)(2)(B), SJHSRI's objection (if any) to the Second Subpoena was due by December 15, 2017, at 11:00 a.m. On December 15, 2017 at 11:52 a.m., SJHSRI served an untimely objection to the Second Subpoena ("SJHSRI's Second Objection"). SJHSRI's Objection is riddled with defects, asserting boilerplate objections of the sort the Court has already admonished parties not to assert, at the hearing on December 5, 2017 attended by counsel for SJHSRI.¹⁰ Worse yet, SJHSRI's Second Objection asserted numerous frivolous objections on the basis of privilege and Orwellian doublespeak, including the remarkable assertion that SJHSRI both had no documents and was in the process of searching for such documents:

SJHSRI is not in possession, custody or control of any documents "relating to communications" with the identified entities, however, without waiving any of SJHSRI's objections, SJHSRI is in the process undertaking a reasonable investigation to identify and produce non-privileged communications responsive to this request.

SJHSRI's Second Objection (Exhibit 15) at 3.

At the December 18, 2017 hearing regarding other subpoenas to other entities, Special Counsel remarked that SJHSRI had not served any timely objections to the Second Subpoena. On December 19, 2017, SJHSRI's attorney George Lieberman emailed Special Counsel and incorrectly insisted that the response had been timely.¹¹ Special Counsel replied:

I tried reaching you earlier today. Your objection was untimely in that it was filed after the subpoena was returnable. Substantively, the objections are without merit. Please call me to see if we can work something out. If I

¹⁰ See December 5, 2017 Hearing Transcript at 20-22.

¹¹ See Exhibit 16 (e-mail chain between attorney George Lieberman and Max Wistow).

don't hear from you by noon tomorrow I will have no alternative but to file a motion to compel and ask for monetary sanctions.

Exhibit 16. SJHSRI's counsel replied, suggesting that the sides speak around 2:00 p.m. on Wednesday, December 20, 2017. Id. Then SJHSRI's counsel immediately replied to himself and asked that the sides instead speak on Friday, December 22, 2017. Id. Finally, SJHSRI's counsel later replied a third time and suggested that the sides speak on Thursday, December 21, 2017. Id. Special Counsel called the morning of December 20, 2017 and was told that Mr. Lieberman was not in. We emailed a request that he call before 2:00 pm.¹² He called at 1:45 pm but was unable to say when he would deliver the documents covered by the Second Subpoena. Consequently, Special Counsel has filed this motion. We have tried to accommodate Mr. Lieberman, and now invite him to comply before the hearing date on this motion, but feel that we cannot continue this dance of delay.

ARGUMENT

I. All of SJHSRI's objections to the First Subpoena and Second Subpoena should be stricken as untimely

Super. R. Civ. P. 45(c)(2)(B) provides:

Subject to paragraph (d)(2)[¹³] of this rule, a person commanded to produce and permit inspection and copying may, within fourteen (14) days after service of the subpoena **or before the time specified for compliance if such time is less than fourteen (14) days after service, serve upon the self-represented litigant or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials** or of the premises. If objection is made, the

¹² Exhibit 17.

¹³ Super. R. Civ. P. 45(d)(2) provides: "When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim."

party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

Super. R. Civ. P. 45(c)(2)(B) (emphasis supplied).

The time for SJHSRI to assert any objections to the First Subpoena expired on November 2, 2017, and the time for SJHSRI to assert any objections to the Second Subpoena expired on December 15, 2017 at 11:00 am. By failing to serve any timely objections, SJHSRI waived all objections. See McCoy v. Sw. Airlines Co., 211 F.R.D. 381, 385 (C.D. Cal. 2002) (“Failure to serve timely objections waives all grounds for objection, including privilege. . . .”) (citing In re DG Acquisition Corp., 151 F.3d 75, 81 (2d Cir. 1998)); Bailey Indus., Inc. v. CLJP, Inc., 270 F.R.D. 662, 667–68 (N.D. Fla. 2010) (“Moreover, by July 19, the time for asserting an objection had passed. Thus, the undersigned concludes that any objection to Bailey's invoice request on the basis of ‘proprietary information’ or ‘trade secret’ is deemed waived by CLJP.”); Schweizer v. Mulvehill, 93 F. Supp. 2d 376, 412 (S.D.N.Y. 2000) (“Objections to a non-party subpoena are waived if not made within the time specified by Rule 45(c)(2)(B)...”).

II. SJHSRI's belated objections, if considered by the Court notwithstanding their untimeliness, should be overruled

A. SJHSRI's objection to having been served with a subpoena instead of a Rule 34 request for production of documents should be overruled

In a egregious effort to delay and stonewall its production of documents, SJHSRI insists that it should be immune from subpoena, inasmuch as SJHSRI, having petitioned the Retirement Plan into receivership, is a formal party to this proceeding:

SJHSRI also objects to the Second Subpoena¹⁴ because it violates the Superior Court Rules of Civil Procedure. SJHSRI is a party in the above-captioned action. Wistow cannot serve a subpoena on a party. Wistow must serve a request for production of documents under Super. R. Civ. P. 34.

SJHSRI's Second Objection at 2.

This objection by SJHSRI is frivolous in light of the Court's September 13, 2017 Order, authorizing the Receiver to issue subpoenas to "any and all individuals or entities" in his "sole discretion". See supra at 3 (quoting the Order). SJHSRI cannot seriously contend that that Order exceeded the Court's authority. In any event, unlike the Federal Rules, the Superior Court Rules of Civil Procedure specifically permit subpoenas *duces tecum* to be issued to parties. See Super. R. Civ. P. 30(b)(5). Accordingly this objection should be overruled.

Moreover, the objection completely disregards the Order of October 27, 2017 (nearly two months ago) which is binding on Mr. Land personally, as well as on SJHSRI. The Order of September 13, 2017 (quoted at 3-4, *supra*) could not be more clear: the receiver is empowered to subpoena "any and all individuals and entities."

¹⁴ SJHSRI did not assert this objection in response to the First Subpoena.

B. SJHSRI's hypothetically stated objections should be overruled

As the Court admonished parties during the December 5, 2017 hearing, hypothetically phrased objections to subpoenas are categorically improper, because they fail to inform the requesting party whether the objections apply or whether documents are being withheld. See, e.g., Smith v. Bayer Material Science, LLC, Civ. No. 5:12-cv-171., 2013 WL 3153467 (N.D. W.Va. 2013); Cipriani v. Migliori, No. PC 2002-6206, 2005 WL 668368, at *6 n.14 (R.I. Super. Mar. 4, 2005) Sonnino v. Univ. of Kansas Hosp. Auth., 221 F.R.D. 661, 666-667 (D. Kan. 2004).

Notwithstanding this admonition by the Court, SJHSRI has persisted in asserting boilerplate objections to the Second Subpoena that object to requests "to the extent" that they call for privileged documents or are objectionable on other un-particularized grounds:

SJHSRI objects to each and every request that seeks information, communications, or documents that are privileged or protected from disclosure by the work-product doctrine, attorney-client privilege, or any other applicable privilege. SJHSRI objects to each request, instruction and definition to the extent that it attempts to impose burdens on it in excess of those imposed by the Rhode Island Superior Court Rules of Civil Procedure. SJHSRI objects to each request that subjects SJHSRI to undue burden or undue expense. SJHSRI objects to each request that is unreasonably duplicative, seeks information or documents that are obtainable from some other source that is more convenient, less burdensome or less expensive. . . .

The above objections are incorporated in each of the following responses without waiver.

Exhibit 15. Likewise, in SJHSRI's First Objection, SJHSRI asserted the following boilerplate objections:

SJHSRI objects to each and every request that seeks information, communications, or documents that are privileged or protected from disclosure by the work-product doctrine, attorney-client privilege, or any other applicable privilege. SJHSRI objects to each and every request,

instruction and definition to the extent that it attempts to impose burdens on it in excess of those imposed by the Rhode Island Superior Court Rules of Civil Procedure. SJHSRI objects to each and every request that subjects SJHSRI to undue burden. SJHSRI objects to each and every request that is unreasonably duplicative, seeks information or documents that are obtainable from some other source that is more convenient, less burdensome or less expensive. The above objections are incorporated in each of the following responses without waiver.

Exhibit 7. All of these boilerplate hypothetical objections, as well as others discussed below, should be overruled.

C. SJHSRI's remaining blunderbuss objections to the Second Subpoena should be overruled

1. Regarding SJHSRI's communications with third parties regarding subpoena compliance

As to the request for "All documents relating to communications with Prospect, RWH, CHARTERCARE, or their officers, agents, directors, or attorneys, relating to subpoenas or compliance with subpoenas issued in connection with" the instant receivership proceeding, SJHSRI responds:

Response: Objection. This request seeks material that is protected by the attorney client privilege, common interest privilege, and work-product doctrine. Specifically, the request seeks communications from SJHSRI's attorneys to SJHSRI that include legal advice and/or legal analysis. It also seeks communications of SJHSRI to or from parties with which SJHSRI may have a common interest. The request also seeks SJHSRI's work product, including but not limited to, the mental impressions of SJHSRI's legal counsel who made legal determinations as to who, how and when to communicate with parties and where to gather potentially responsive documents. Furthermore, this request seeks documents that are not reasonably calculated to lead to the discovery of admissible evidence in the above-captioned action because the documents sought do not relate to the receivership action and there is no case or controversy involving the "potential liability or obligation of any persons or entities to pay damages or funds to the Plan." This request seeks documents that are not relevant to the subject matter involved in the pending action, or a claim or defense of any party.

SJHSRI objects to the production of any material that is deemed confidential by the Transition Services Agreement between SJHSRI and Prospect CharterCare, LLC, dated July 1, 2015.

SJHSRI is not in possession, custody or control of any documents “relating to communications” with the identified entities, however, without waiving any of SJHSRI’s objections, SJHSRI is in the process undertaking a reasonable investigation to identify and produce non-privileged communications responsive to this request.

Exhibit 15 (SJHSRI’s Second Objection) at 2-3.

All of the above objections are absurd:

- SJHSRI’s communications with third parties are not protected by attorney-client privilege.
- SJHSRI’s hypothetical invocation of “common interest”^[15] privilege that “may” exist is dubious on its face and in any event is unsupported by reference to any applicable joint defense agreement.
- SJHSRI’s communications with third parties are not protected work product. The possibility that communications to third parties may cast some light on an attorney’s thoughts does not transmogrify those communications into privileged work product. To the extent communications with third parties reveal an attorney’s mental impressions, any privilege is waived. If SJHSRI’s argument were accepted, even the Court itself would be prohibited from inquiring of SJHSRI and its counsel about the SJHSRI’s woeful efforts to comply with any subpoena.
- SJHSRI’s communications regarding efforts to comply with subpoenas in this receivership proceeding obviously do relate to this receivership proceeding. In any event, that is not a valid basis for objection.
- SJHSRI’s quotation “potential liability or obligation of any persons or entities to pay damages or funds to the Plan” is a non-sequitur since that is not part of the request.
- SJHSRI’s statement that “This request seeks documents that are not relevant to the subject matter involved in the pending action, or a claim or defense of any party” is both a non-sequitur and false. This is a Court-ordered investigation into numerous matters, being conducted by (*inter alia*) subpoena.

¹⁵ At this point, the only “common interest” that SJSHRI shares with others is the common desire to block any inquiry into the facts surrounding this debacle. SJHSRI obviously seeks to suppress anything that might frustrate SJHSRI’s stated goal of inflicting the cuts they requested.

- SJHSRI's objection to "the production of any material that is deemed confidential by the Transition Services Agreement between SJHSRI and Prospect CharterCare, LLC, dated July 1, 2015" is both hypothetically stated and directly contradicts SJHSRI's prior representations to the Court that it would not object to production of documents on "confidentiality" grounds. In addition, SJHSRI has failed to produce a copy of the referenced Transition Services Agreement, notwithstanding that it is itself responsive to the First Subpoena.

All of these objections should be overruled. In addition, as noted *supra* at 8, SJHSRI is engaging in preposterous doublespeak when it responds that it both has no responsive documents and is still searching for responsive documents.

2. Regarding SJHSRI's own efforts to comply with subpoenas

As to the request for "All documents relating to SJHSRI's efforts to comply with subpoenas issued in connection with" the instant receivership proceeding, SJHSRI asserts most of the same blunderbuss objections discussed above, including, remarkably, "common interest privilege." (Apparently SJHSRI believes it shares a common interest with itself!). All of these objections should again be overruled.

After asserting reiterating these objections, SJHSRI again states:

Without waiving any of SJHSRI's objections, SJHSRI is in the process undertaking a reasonable investigation to identify and produce non-privileged documents responsive to this request.

Exhibit 15 (SJHSRI's Second Objection) at 3-4. In other words, instead of having at least some documents at its fingertips relating to SJHSRI's own efforts to comply with the First Subpoena, SJHSRI insists it is still looking.

3. Regarding Prospect's efforts to comply with subpoenas

In response to the request for "All documents relating to Prospect's efforts to comply with subpoenas issued in connection with" the instant receivership proceeding,

SJHSRI asserts the same blunderbuss objections discussed above. These should again be overruled.

In addition, as with the request for documents relating to SJHSRI's efforts to comply with subpoenas, SJHSRI states:

Without waiving any of SJHSRI's objections, SJHSRI is in the process undertaking a reasonable investigation to identify and produce non-privileged communications responsive to this request.

Exhibit 15 (SJHSRI's Second Objection) at 4. This assertion is incredible, especially inasmuch as the November 28, 2017 letter from SJHSRI's counsel to Special Counsel expressly stated:

. . . SJHSRI has requested access to documents owned by Prospect that may be responsive. Prospect continues to provide access to physical files. . . .

Exhibit 13 (quoted more fully *supra* at 6). Are we to assume that all such "requests" were solely oral, and, if so, that there are no documents (such as emails or internal memoranda identifying what was said and by whom, and what was requested) referring to such requests?

III. Sanctions, including monetary sanctions, should be imposed for SJHSRI's bad-faith failure to comply with the Second Subpoena

The *raison d'être* of this receivership proceeding is to preserve assets for the retirees and provide a speedy and fair outcome. SJHSRI's response to the Special Counsel's subpoena strikes at the heart of this purpose by delaying and imposing additional costs on this proceeding. It is only just to require that SJHSRI pay Special

Counsel's fees in connection with these discovery disputes.¹⁶ That will also give full notice to other parties from whom Special Counsel seeks documents that such activities will not be countenanced by the Court.

CONCLUSION

For all the foregoing reasons, an order should issue (1) compelling SJHSRI to produce all documents responsive to the First and Second Subpoenas, and (2) scheduling a hearing to determine whether SJHSRI should pay Special Counsel's fees for these unnecessary discovery disputes.

Respondent,
The Receivership Estate
By its Attorneys,

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Dated: December 20, 2017

¹⁶ If it is later determined that such payment has the effect of reducing funds that ultimately should be turned over to the pension plan, Respondent will seek to have such fees charged to the directors, officers, agents, and attorneys of SJHSRI who have authorized the foot-dragging we are witnessing.

CERTIFICATE OF SERVICE

I hereby certify that, on the 20th day of December, 2017, 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

EXHIBIT 1

**STATE OF RHODE ISLAND
PROVIDENCE, SC.**

SUPERIOR COURT

St. Joseph Health Services of Rhode Island,
Inc.

Vs.

PC 2017-3856

St. Josephs Health Services of Rhode Island
Retirement Plan, as amended

ORDER

This matter came on for an emergency status hearing before the Court on September 8, 2017. During the course of the Receiver's status report, he orally requested that his powers and authority as Temporary Receiver include the power to issue subpoenas to compel the production of documents and/or records and/or testimony under oath and/or to serve interrogatories to be answered under oath. The Court finds that such request is reasonable and appropriate. Upon consideration of that request, it is hereby:

ORDERED, ADJUDGED AND DECREED

Until further Order of this Court, the Temporary Receiver's powers and authority shall be expanded to include the power and authority to issue subpoenas as he, in his sole discretion, deems necessary and appropriate to compel the production of documents and/or records and/or testimony under oath and/or to serve interrogatories to be answered under oath to any and all individuals or entities that the Receiver believes will assist his investigation of possible claims on behalf of the Receivership Estate and/or the Plan participants.

ENTER:


Brian P. Stern
Associate Justice

BY ORDER:

/s/ Carin Miley

Hon. Brian P. Stern
Associate Justice/Business Calendar
Date: September 13, 2017

Clerk, Superior Court

Date: September 13, 2017

EXHIBIT 2

STATE OF RHODE ISLAND AND



PROVIDENCE PLANTATIONS

SUPERIOR COURT

SUBPOENA - CIVIL

Plaintiff/Petitioner St. Joseph Health Services of Rhode Island, Inc.	Civil Action File Number PC-2017-3856
Defendant/Respondent St. Josephs Health Services of Rhode Island Retirement Plan	

<input type="checkbox"/> Murray Judicial Complex Newport County 45 Washington Square Newport, Rhode Island 02840-2913 *(401) 841-8330	<input type="checkbox"/> Noel Judicial Complex Kent County 222 Quaker Lane Warwick, Rhode Island 02886-0107 *(401) 822-6900
<input type="checkbox"/> McGrath Judicial Complex Washington County 4800 Tower Hill Road Wakefield, Rhode Island 02879-2239 *(401) 782-4121	<input checked="" type="checkbox"/> Licht Judicial Complex Providence/Bristol County 250 Benefit Street Providence, Rhode Island 02903-2719 *(401) 222-3230

TO: St. Joseph Health Services of Rhode Island
of C/O ONE PARK ROW, SUITE 300 Providence, RI 02903

YOU ARE HEREBY COMMANDED to appear in the Superior Court listed above at the date, time, and courtroom specified below to testify in the above-entitled case and bring with you:

Courtroom	Date	Time

If you need language assistance, please contact the Office of Court Interpreters at (401) 222-8710 or by email at interpreterfeedback@courts.ri.gov before your court appearance.

* If an accommodation for a disability is necessary, please contact the Superior Court Clerk's Office at the telephone number listed above as soon as possible. TTY users can contact the Superior Court through Rhode Island Relay at 7-1-1 or 1-800-745-5555 (TTY) to voice number.

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS



SUPERIOR COURT

YOU ARE HEREBY COMMANDED to appear at the location, date, and time specified below to testify at the taking of a deposition in the above-entitled case.

Location of Deposition	Date	Time

YOU ARE HEREBY COMMANDED to produce and permit inspection and copying of the following documents or objects at location, date, and time specified below (list documents or objects):

See Schedule A hereto for requests for documents.

Location	Date	Time
61 Weybosset St, Providence, RI 02903	November 8, 2017	10:00 a.m.

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf and may set forth, for each person designated, the matters on which the person will testify. (Rule 30(b)(6) of the Superior Court Rule of Civil Procedure).

/s/ Max Wistow Attorney for the <input type="checkbox"/> Plaintiff/Petitioner <input checked="" type="checkbox"/> Defendant/Respondent or <input type="checkbox"/> Plaintiff/Petitioner <input type="checkbox"/> Defendant/Respondent	Rhode Island Bar Number: 0330 Date: 10/18/2017
Telephone Number: (401) 831-2700	

Issued by <input type="checkbox"/> Clerk, <input checked="" type="checkbox"/> Notary, or <input type="checkbox"/> Issuing Official pursuant to G.L. 1956 § 9-17-3	Date: 10/18/2017
---	---------------------

/s/ _____
Clerk

Benjamin Ledsham
 Name of Notary
 Signature of Notary
 Notary commission expires: 11/9/2019
 Notary identification number: 753498

 Name of Issuing Official
 Signature of Issuing Official

STATE OF RHODE ISLAND AND



PROVIDENCE PLANTATIONS

SUPERIOR COURT

The following information is being provided pursuant to Rule 45(c), (d), and (e) of the Superior Court Rules of Civil Procedure.

(c) Protection of Persons Subject to Subpoenas.

- (1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.
- (2) (A) A person commanded to produce and permit inspection and copying of designated books, papers, documents, or tangible things or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing, or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within fourteen (14) days after service of the subpoena or before the time specified for compliance if such time is less than fourteen (14) days after service, serve upon the self-represented litigant or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.
- (3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it:
 - (i) Fails to allow reasonable time for compliance;
 - (ii) Requires disclosure of privileged or other protected matter and no exception or waiver applies; or
 - (iii) Subjects a person to undue burden.
(B) If a subpoena
 - (i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or
 - (ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party,the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) Duties in Responding to Subpoena.

- (1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.
 - (2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.
- (e) Contempt. Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court in which the action is pending.

SCHEDULE A

Definitions

- a. The word "documents" as used herein is meant in the broad and liberal sense and includes hand-written, typed, recorded, electronically stored, or graphic material of any kind and description, and whether a draft, copy, original, or master, including, but not limited to, e-mails, electronic versions of documents, accounts, advertisements, letters, memoranda, prospectuses, resolutions, legislation, notes of conversations, contracts, agreements, drawings, tape recordings, inter-office and intra-office memoranda, studies, working papers, corporate records, minutes of meetings, checks, diaries, diary entries, appointment books, desk calendars, photographs, transcriptions or sound recordings or any type, and documents stored on data storage modules, databases, servers, computers, tapes, discs or other memory devices, or other information retrievable from storage systems. If any document has been prepared in multiple copies which are not identical, each modified copy or non-identical copy is a separate "document." The word "document" also includes data compilations from which information can be obtained and translated, if necessary, by the requesting party in a reasonably usable form.
- b. The term "any" and the term "all" are intended to mean "any and all."
- c. Any word in the singular also includes the plural and vice versa.
- d. The term "Verified Petition" refers to the Petition for the Appointment of a Receiver filed in *St. Joseph Health Services of Rhode Island, Inc. v. St. Josephs Health Services of Rhode Island Retirement Plan* (PC 2017-3856).
- e. The term "Plan" refers to the St. Joseph Health Services of Rhode Island Retirement Plan and any of its versions or amendments.
- f. The term "SJHSRI" refers to St. Joseph Health Services of Rhode Island and each of its predecessors or successors.
- g. The term "CHARTERCARE" refers to CharterCARE Health Partners and CharterCARE Community Board, and each of their predecessors or successors.
- h. The term "RWH" refers to Roger Williams Medical Center and Roger Williams Hospital, and each of their predecessors or successors.
- i. The term "Prospect" refers to Prospect CharterCARE, LLC, Prospect CharterCare SJHSRI, LLC, Prospect CharterCare RWMC, LLC, Prospect East Holdings, Inc., Prospect Medical Holdings, Inc., and Prospect East Hospital Advisory Services, LLC, and each of their predecessors or successors.

- j. The term "Diocese" refers to the Diocese of Providence and any other diocese or archdiocese or component of the Catholic Church having any connection of any nature with the Plan, and each of their bishops, clergy, officers, executives, employees, agents, and designees;
- k. The term "Mercer" means Mercer Investment Consulting LLC and any of its parents, subsidiaries, affiliates, as well as any parents, subsidiaries, affiliates, or components of Marsh & McLennan Companies;

Documents Requested

1. All documents concerning the status or qualification *vel non* of the Plan as a church plan, including but not limited to all legal opinion letters that may be referenced in paragraph 7 of the Verified Petition;
2. All documents concerning the Plan, including any plan documents, reports, and actuarial valuations;
3. All trust agreements, or modifications of trust agreements, relating to the Plan;
4. All documents relating to authorizations regarding purchases or sales for accounts held by or relating to the Plan;
5. All documents relating to investments or recommendations concerning the assets of the Plan;
6. All records of transactions since January 1, 2003 for assets or accounts referenced in Request #4 above;
7. All documents relating to identification or enumeration of trustees, or their appointments, tenures, resignations, or terminations, and all authorizations of trustees relating to assets or accounts referenced in Request #4 above;
8. All documents relating to the establishment, functions, or conduct of any board, committee, or subcommittee that administers or administered the Plan, including any board or committee or subcommittee resolutions and any appointments to such board, committee, or subcommittee;
9. All documents relating to minutes of the boards of directors of SJHSRI, the Plan, RWH, or CHARTERCARE, and all documents relating to minutes of any committee or subcommittee thereof;
10. All documents relating to identification or enumeration of the directors of SJHSRI, the Plan, RWH, or CHARTERCARE, or their appointments, tenures, resignations, or terminations, including resumes or curricula vitae;

11. All documents relating to identification or enumeration of the officers of SJHSRI, the Plan, RWH, or CHARTERCARE, or their appointments, tenures, resignations, or terminations, including resumes or curricula vitae;
12. All documents relating to identification or enumeration of human resources employees of SJHSRI, the Plan, RWH, or CHARTERCARE, or their appointments, tenures, resignations, or terminations, including resumes or curricula vitae;
13. All documents relating to payroll or expense records for employees of SJHSRI, the Plan, RWH, or CHARTERCARE, after May 2014;
14. All documents relating to communications (including correspondence and notes of conversations) to or from Bank of America, Fleet Bank, Mercer, the Angell Pension Group, or the Office of the Rhode Island Attorney General, in relation to the Plan;
15. All documents relating to communications (including correspondence and notes of conversations) to or from the U.S. Internal Revenue Service and/or the U.S. Department of Labor and/or the Rhode Island Division of Taxation relating to the Plan, including any opinion letters and letter rulings and any correspondence relating to opinion letters or letter rulings or requests for same;
16. All documents relating to communications (including correspondence, notes of conversations, and directives) to or from the Bishop of Providence (or his designees or agents) or the Diocese (or its designees or agents) concerning the management, administration, governance, finances, or Catholicity of SJHSRI or the Plan;
17. All documents relating to communications (including correspondence and notes of conversations) to or from the Rhode Island Department of Health or the Health Planning and Accountability Advisory Council regarding hospital mergers or conversions;
18. All contracts with any of Bank of America, Fleet Bank, Mercer, and/or the Angell Pension Group, or any of their predecessors or successors;
19. All documents submitted (inclusive of supplemental submissions and exhibits) to the Attorney General's office, the Rhode Island Department of Health, or any other agency of state or federal government, regarding the Plan or hospital conversions or mergers, including without limitation the conversion transactions approved in 2009 and 2014;
20. All documents concerning financial assistance, payments, or loans from the Diocese, or the Inter-Parish Loan Fund, Inc., or any other entity, to SJHSRI, the Plan, RWH, or CHARTERCARE;

21. All documents concerning financial assistance, payments, or loans to the Diocese or the Inter-Parish Loan Fund, Inc., or any other entity, from SJHSRI, the Plan, RWH, or CHARTERCARE;
22. All articles of incorporation, bylaws, limited liability company agreements, and operating agreements, including any amendments or revisions thereto, of the Plan, SJHSRI, RWH, or CHARTERCARE;
23. All documents concerning denominational requirements or statements of faith for employees, directors, officers, agents, managers, fiduciaries, members, physicians, nurses, or patients of SJHSRI or the Plan;
24. All documents concerning any ERISA fidelity bonds;
25. All insurance policies (including umbrella and excess policies) under which SJHSRI or the Plan has been or was provided with insurance coverage during the period from January 1, 2003 through the present, inclusive (whether or not SJHSRI contends or denies there is coverage that may be relevant to the Plan);
26. All insurance documents relating to self-insurance funds or trusts under which SJHSRI or the Plan has been or was provided with insurance coverage during the period from January 1, 2003 through the present, inclusive (whether or not SJHSRI contends or denies there is coverage that may be relevant to the Plan);
27. All audited or unaudited financial statements relating to SJHSRI or the Plan;
28. All federal and state tax returns, including all Form 990 filings or amendments, all Form 990-PF filings or amendments, and all Form 5500 or Form 5500-SF filings and amendments, for SJHSRI, the Plan, RWH, or CHARTERCARE;
29. All applications and submissions to the U.S. Conference of Catholic Bishops relating to taxation or tax exemption (and any related correspondence or responses), including all Form 0928A forms and attachments;
30. All documents produced or obtained in discovery in *Gmuer, M.D. v. St. Joseph Health Services of Rhode Island*, 09-cv-00628 (D.R.I.), including responses to subpoenas *duces tecum* or requests for production of documents, answers to interrogatories, and deposition transcripts;
31. All other documents relating to *Gmuer, M.D. v. St. Joseph Health Services of Rhode Island*, 09-cv-00628 (D.R.I.), including all correspondence to or from plaintiff's counsel and all settlement documents;
32. All documents produced or obtained in discovery in *Moniz v. St. Joseph Hospital*, 95-cv-00102 (D.R.I.), including responses to subpoenas *duces tecum* or requests for production of documents, answers to interrogatories, and deposition transcripts;

33. All other documents relating to *Moniz v. St. Joseph Hospital*, 95-cv-00102 (D.R.I.), including all correspondence to or from plaintiff's counsel and all settlement documents;
34. All documents (including disks of documents) relating to any *cy pres* petition or matter, including *In re: CharterCARE Health Partners Foundation, Roger Williams Hospital, and St. Joseph Health Services of Rhode Island* (KM-2015-0035), *In re CharterCARE Health Partners* (PB-2011-6822), *Saint Joseph Health Services and Saint Joseph Health Services Foundation v. Patrick C. Lynch* (PB-2009-6693), *Roger Williams Hospital v. Patrick C. Lynch* (PB-2009-6694), and *Roger Williams Medical Center v. Patrick Lynch* (PB-2009-6695), including any reports or disclosures submitted to the Attorney General's office relating to *cy pres* matters;
35. All documents (including accounting records) relating to transfers or dispositions of assets that are or were the subject of any *cy pres* petition;
36. All documents relating to reporting and/or accounting of profits from Prospect;
37. All documents relating to the assets of SJHSRI (as distinguished from those of its affiliated entities) since 2003;
38. All documents relating to the assets of SJHSRI (as consolidated with its affiliated entities) since 2003;
39. All documents relating to any consideration given or obtained by CHARTERCARE in connection with the sale transaction concerning the Asset Purchase Agreement dated as of September 24, 2013, other than the transfer of assets by any of CHARTERCARE's subsidiaries;
40. All QuickBooks files (or files for similar accounting software) for the Plan, SJHSRI, RWH, and CHARTERCARE, since 2003;
41. All documents given or transmitted to employees or prospective employees referring to the Plan or any employee benefits, including without limitation employee handbooks, manuals, summaries and the like, from the inception of the Plan to the present time;
42. All documents relating to recruitment advertisements for employees or positions to whom the Plan was or could be applicable, from the inception of the Plan to the present time;
43. All documents relating to document retention policies;
44. All documents relating to the purchase price or valuations of assets for the transaction referred to in paragraph 5 of the Verified Petition;

45. All documents relating to the "elect[ion] to contribute \$14,000,000 to the Plan" referred to in paragraph 5 of the Verified Petition;
46. All documents relating to the continuation of "affiliation during and after the sale" referred to in paragraph 6 of the Verified Petition;
47. All documents relating to the different "concept[s] of 'funding'" referred to in footnote 3 of the Verified Petition;
48. All documents relating to "all of the long-term issues affecting the Plan" that were not "consider[ed]", referred to in footnote 3 of the Verified Petition;
49. All documents relating to the statement in paragraph 7 of the Verified Petition that "Petitioner is advised and believes that the Plan will lose 'church plan' status on or before December 31, 2018";
50. All documents relating to or supporting the assertion that "Petitioner does not have the financial resources to make such payments, or to comply with the other financial and regulatory requirements of ERISA" in paragraph 8 of the Verified Petition;
51. All documents concerning the derivation of or rationale for the request in the Verified Petition to reduce pension benefits in the specific amount of 40%, including by whom, when, and how the 40% figure was derived;
52. All documents relating to the "request[] that Angell perform an analysis of the Plan based upon a uniform reduction of 40%" in paragraph 13 of the Verified Petition;
53. All documents relating to or supporting the assertion that "Petitioner believes that a uniform reduction of 40% of pension benefits is likely the most reasonable approach to achieving an equitable resolution for all beneficiaries" in paragraph 15 of the Verified Petition;
54. All documents relating to or supporting the statement that "the net assets of Petitioner, RWH and CCB may become available to assist with the Plan" in paragraph 16 of the Verified Petition, or to the possible or actual disposition of such net assets;
55. All documents relating to why the "potential for additional Plan funds is not contemplated by the Benefit Adjustment Analysis" as stated in paragraph 16 of the Verified Petition;
56. All documents relating to why "Petitioner believes that the Plan should not be terminated immediately" as stated in paragraph 17 of the Verified Petition;
57. All documents relating to the "opportunity to benefit from the contribution of additional funds" referred to in paragraph 18(b) of the Verified Petition, including

any documents identifying such additional funds and any projections of additional funds;

58. All documents relating to or supporting the statement in paragraph 21 of the Verified Petition that "Petitioner further believes that the current administrators and actuaries of the Plan should remain in place for administrative purposes and to continue to render services to the Plan consistent with past practice";
59. All documents relating to how or why "administrative expenses of the Plan, other than investment management and custodian fees, have been paid for with non-Plan assets" as referred to in footnote 9 of the Verified Petition, including documents relating to whom and when such payments have been made;
60. All documents relating to the distinction between "administrative expenses" and "investment management and custodian fees" referred to in footnote 9 of the Verified Petition; and
61. All documents relating to the "impairment of participant claims" referred to in footnote 9 of the Verified Petition.

EXHIBIT 3

**STATE OF RHODE ISLAND
PROVIDENCE, SC.**

SUPERIOR COURT

St. Joseph Health Services of Rhode Island,
Inc.

Petitioner

vs.

St. Josephs Health Services of Rhode Island
Retirement Plan, as amended

Respondent

Bank of America, in its capacity as Trustee of
Respondent

Nominal Respondent

PC 2017-3856

SUPERIOR COURT
FILED
HENRY S. KINCH, JR.
17 OCT 27 AM 10:51

ORDER APPOINTING PERMANENT RECEIVER

This cause came to be heard on October 27, 2017, on the Appointment of Permanent Receiver for the Respondent, and it appearing that the notice provided by the Order of this Court previously entered herein has been given, and upon consideration thereof, it is hereby

ORDERED, ADJUDGED AND DECREED:

1. That Stephen F. Del Sesto, Esq., of Providence, Rhode Island, be and hereby is appointed Permanent Receiver (the "Receiver") of the Respondent, and of all the estate, assets, effects, property and business of Respondent of every name, kind, nature and description, with all the powers conferred upon the Receiver by the Rhode Island General Laws, by this order, or otherwise, and with all powers incidental to the Receiver's said Office.

2. That said Receiver shall, no later than five (5) days from the date hereof, file herein a bond in the amount of \$1,000,000.00 with any surety thereon authorized to do business in the State of Rhode Island conditioned that the Receiver will well and truly perform the duties of said office.

3. The Receiver shall have all powers, authorities, rights and privileges heretofore possessed by the Respondent's plan administrator, officers, directors and managers under applicable state and federal law, the Plan, as amended, the Trust Agreement, as may have been amended and/or other agreements in addition to all powers and authority of a receiver at equity, and all powers conferred upon a receiver by the provisions of RI Rules of Civil Procedure, Rule 66.

4. The directors, officers, managers, investment advisors, accountants, actuaries, attorneys and other agents of the Respondent shall have no authority with respect to the Respondent, its administration or assets, except to the extent as may hereafter be expressly granted by the Receiver. The Receiver shall assume and control the administration of the Respondent and shall pursue and preserve all of its claims. The Receiver be and hereby is authorized to take any and all actions or expressly delegate the same which, prior to the entry of this Order, could have been taken by the officers, directors, administrators, managers, and agents of the Respondent.

5. That said Receiver be and hereby is authorized, empowered and directed to take control, possession and charge of said Respondent and its assets, wherever located, and manage and continue the administration and oversee the Respondent and to reasonably preserve the same, and is hereby vested with title to the same; to collect and receive the debts, property and other assets and effects of said Respondent, with full power to prosecute, defend, adjust and compromise all claims and suits of, by, against or on behalf of said Respondent and to appear, intervene or become a party in all suits, actions or proceedings relating to said estate, assets, effects and property as may in the judgment of the Receiver be necessary or desirable for the protection, maintenance and preservation of the assets of said Respondent.

6. The past and/or present officers, directors, agents, managers, trustees, attorneys, actuaries, accountants, investment advisors and investment managers of the Respondent, as well as those acting in their place, are hereby ordered and directed to preserve and turn over to the Receiver forthwith all paper and electronic information of, and/or relating to, the Respondent and/or all Respondent's assets or property; such information shall include but not be limited to books, records, documents, accounts and all other instruments and papers.

7. That this appointment is made in succession to the appointment of Temporary Receiver heretofore made by order of this Court, and the Receiver shall take and be vested with the title to all assets, property and choses-in-action which have heretofore accrued to the Temporary Receiver with power to reject or confirm and ratify in writing such agreements as are entered into by such Temporary Receiver and to carry out and perform the same.

8. That the Receiver is authorized, in the Receiver's discretion, to monitor, manage and continue the administration of Respondent until further order of this Court, and to engage and employ such persons, including, without limitation, actuaries, investment advisors, investment managers, benefit administrators and any other professionals as may be desirable, in the Receiver's sole discretion, for the foregoing purposes and, in connection therewith, to use such assets of the Respondent and other monies as shall come into the Receiver's hands and possession, as far as the same shall be necessary, for the above purposes and for continuing the administration of the Respondent until further Order of this Court. The Court recognizes and acknowledges that prior to the entry of this Order the Receiver had sought and obtained this Court's authority to engage the Providence, RI law firm of Wistow Sheehan & Loveley, PC ("WSL") to serve as special litigation counsel to the Receiver for the purpose of investigating and, if necessary and appropriate, settling or litigating possible claims against third parties related to the prior management, administration and oversight of the Respondent. To the extent necessary, the Court here confirms and ratifies the Receiver's authority to engage WSL for that purpose.

9. That the Receiver is authorized to incur expenses for goods and services as in the Receiver's discretion may be desirable or necessary for continued management, investment, assessment and administration of the Respondent and its assets. To the extent that the Receiver incurs, directly or indirectly, any hard costs and expenses in furtherance of his obligations and duties hereunder, until further order of this Court, the Receiver shall be authorized to pay or reimburse the pre-payment of such expenses without the need to first obtain prior approval from this Court. Any and all such expenses paid or reimbursed shall be reported to the Court as part of the Receiver's formal reports filed with the Court. The Receiver's authority as set forth in this paragraph 9 shall be *nunc pro tunc* as of August 18, 2017.

10. That said Receiver be and hereby is authorized and empowered to sell, transfer convert, invest, monetize or convey said Receiver's right, title and interest and the right, title and interest of the Respondent in and to any investment, interest or property, tangible or intangible, for such sum or sums of money as to said Receiver appears reasonable and proper, provided, however, that approval is first given by this Court on *ex parte* application by the Receiver, or after such notice as the Court may require.

11. In fulfillment of the reporting requirements set forth in Rule 66 (e) of the Superior Court Rules of Civil Procedure, the Receiver shall file with the Court the Reports referred to in said Rule, as and when the Receiver deems necessary or advisable under the circumstances, or, in any event, as and when required by Order of this Court. In addition, the Receiver shall file with the Court, on or before May 1st and October 1st of each year, a Receivership Control Calendar Report in accordance with Rhode Island Superior Court Administrative Order No. 98-7.

12. That the Receiver shall continue to discharge said Receiver's duties and trusts hereunder until further order of this Court; that the right is reserved to the Receiver and to the parties hereto to apply to this Court for any other or further instructions to said Receiver and that this Court reserves the right, upon such Notice, if any, as it shall deem proper, to make such further orders herein as may be proper, and to modify this Order from time to time.

13. That, pursuant to and in compliance with Rhode Island Supreme Court Executive Order No. 95-01, this Court finds that the designation of the aforescribed person for appointment as Receiver is warranted and required because of said Receiver's specialized expertise and experience.

14. Excluding the vested participants of Respondent, all other creditors or other claimants of Respondent, if any, hereby are ordered to file under oath with the Receiver at 72 Pine Street, 5th Floor, Providence, Rhode Island 02903 on or before the 1st day of March, 2018, a statement setting forth their claims, including, but without limiting the generality of the foregoing, the name and address of the claimant, the nature and amount of such claim, a statement of any security or lien held by the claimant to which such claimant is or claims to be

entitled, and also a statement as to any preference or priority which the claimant claims to be entitled to over the claims of any other or all other claimants or creditors.

15. That the commencement, prosecution, or continuance of the prosecution, of any action, suit, arbitration proceeding, hearing, or any foreclosure, reclamation or repossession proceeding, both judicial and non-judicial, or any other proceeding, in law, or in equity or under any statute, or otherwise, against the Respondent or any of its assets or property, in any Court, agency, tribunal, or elsewhere, or before any arbitrator, or otherwise by any creditor, corporation, partnership or any other entity or person, or the levy of any attachment, execution or other process upon or against any asset or property of the Respondent, or the taking or attempting to take into possession any asset or property in the possession of the Respondent or of which the Respondent has the right to possession, or the cancellation at any time during the Receivership proceeding herein of any insurance policy, lease or other contract with the Respondent, by any of such parties as aforesaid, other than the Receiver designated as aforesaid, without obtaining prior approval thereof from this Honorable Court, in which connection said Receiver shall be entitled to prior notice and an opportunity to be heard, are hereby restrained and enjoined until further Order of this Court.

16. That Notice be given of the entry of this Order by the Clerk of this Court by publication of a copy of this Order in The Providence Journal on or before the 10th day of November, 2017, and by the Receiver mailing on or before the 17th day of November, 2017 a copy of this Order to each of Respondent's vested participants and creditors known as such to the Receiver, or appearing as such on the books or records of the Respondent, addressed to each such vested participant or creditor at his/her/its last known address.

17. This Order is entered by virtue of and pursuant to this Court's equity powers and pursuant to its powers as authorized by the laws and statutes of the State of Rhode Island.

ENTERED as an Order of this Court this 27th day of October, 2017.

ENTERED:

BY ORDER:



Stern, J. **BRIAN P. STERN**
October 27, 2017 **ASSOCIATE JUSTICE**



Clerk, Superior Court **CARIN McLEAY**
October 27, 2017 **DEPUTY CLERK**

EXHIBIT 4

From: [Benjamin Ledsham](#)
To: ["rland@crfilp.com"](mailto:rland@crfilp.com)
Cc: [Max Wistow](#); [Stephen P. Sheehan](#); [Steve DelSesto](#)
Subject: SJHSRI
Date: Thursday, November 02, 2017 4:05:00 PM
Attachments: [2017.11.2 Attorney General's Response to Subpoena.pdf](#)
[2017-10-27 Order appointing permanent receiver.pdf](#)

Rick,

We received the Attorney General's filing today (attached). We expect compliance with the subpoena, absent relief granted by the court.

We also direct your attention to paragraph 6 of the Order Appointing Permanent Receiver (attached), which requires such documents to be produced.

Best regards,

Benjamin

Benjamin Ledsham, Esq.
Wistow, Sheehan & Loveley, PC
61 Weybosset Street
Providence, RI 02903
ph. (401) 831-2700
fax (401) 272-9752
bledsham@wistbar.com

EXHIBIT 5

From: Richard Land
To: [Benjamin Ledsham](#)
Cc: [Max Wistow](#); [Stephen P. Sheehan](#); [Steve DelSesto](#); [Andre Digou](#); [David Hirsch](#)
Subject: Re: SJHSRI
Date: Thursday, November 02, 2017 4:39:35 PM

Ben -

Thanks for forwarding this. I have not had a chance to review and will not likely do so until Monday.

As I have discussed with Max on several occasions, it is likely that we will need additional time to comply with the subpoena, particularly in light of the broad scope and very short time frame for compliance. As I have indicated many times, my client wants to work cooperatively with the Receiver and in that regard, we do not intend to object to the subpoena or otherwise seek to limit the scope of the requests other than through discussion and agreement with Max. However, in light of your email, I would ask that you likewise confirm that no formal objection is required of us and that you share our view of the cooperative approach we are all taking to the timing and scope of our response to the subpoena.

Best regards,

Rick

Richard J. Land
Chace Ruttenberg & Freedman, LLP
One Park Row
Suite 300
Providence, RI 02903
(401) 453-6400
rland@crflp.com
Sent from my iPad

On Nov 2, 2017, at 4:05 PM, Benjamin Ledsham <bledsham@wistbar.com> wrote:

Rick,

We received the Attorney General's filing today (attached). We expect compliance with the subpoena, absent relief granted by the court.

We also direct your attention to paragraph 6 of the Order Appointing Permanent Receiver (attached), which requires such documents to be produced.

Best regards,

Benjamin

Benjamin Ledsham, Esq.
Wistow, Sheehan & Loveley, PC

61 Weybosset Street
Providence, RI 02903
ph. (401) 831-2700
fax (401) 272-9752
bledsham@wistbar.com

<2017.11.2 Attorney General's Response to Subpoena.pdf>

<2017-10-27 Order appointing permanent receiver.pdf>

EXHIBIT 6

WISTOW, SHEEHAN & LOVELEY, PC

ATTORNEYS AT LAW
61 WEYBOSSET STREET
PROVIDENCE, RHODE ISLAND 02903

TELEPHONE
401-831-2700

FAX
401-272-0752

E-MAIL
MAIL@WISTBAR.COM

MAX WISTOW
STEPHEN P. SHEEHAN
A. PETER LOVELEY
MICHAEL J. STEVENSON
BENJAMIN G. LEDSHAM

November 6, 2017

VIA ELECTRONIC MAIL

Richard J. Land, Esq.
Chace Rutenberg & Freedman, LLP
One Park Row, Suite 300
Providence, RI 02903

Re: *St. Joseph Health Services of Rhode Island, Inc. v. St. Josephs Health Services of Rhode Island Retirement Plan, as amended*, Rhode Island Superior Court, C.A. No. PC 17-3856

Dear Rick:

This is in response to your e-mail of November 2, 2017 to Benjamin Ledsham.

Of course, we intend to cooperate with you in terms of timing of compliance. Nevertheless, I would point out the following:

- a) You are already in arrears on your promise of giving us:
 - (1) the accounting of the application of the assets subject to the Cy-Pres. This was promised to us without regard to the subpoena. Because insuring the property distribution of these assets was your responsibility from at least early 2015, we must insist you tell us when you intend to comply; and
 - (2) an itemization of assets currently in the hands of SJHSRI.
- (b) We expect at least partial compliance with the subpoena by November 8, 2017, i.e. the date of its return.
- (c) As to additional time that you may need, tell us what items require such and an estimate of when we can get full compliance as to each such item.

WISTOW, SHEEHAN & LOVELEY, PC
ATTORNEYS AT LAW

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Richard J. Land, Esq
November 6, 2017

I want to extend you every courtesy, but I need to remind you that there are over 2,700 people being adversely affected by the pension shortfall (some in potentially life changing ways).

Please, let's try to work this out. But I cannot accept general assurances.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Max Wistow', with a long horizontal stroke extending to the right.

Max Wistow

MW/dls

cc: Stephen F. Del Sesto, Esq.

EXHIBIT 7

STATE OF RHODE ISLAND
PROVIDENCE, SC.

SUPERIOR COURT

St. Joseph Health Services of Rhode
Island, Inc.

Vs.

PC 2017-3856

St. Josephs Health Services of Rhode
Island
Retirement Plan, as amended

**ST. JOSEPH HEALTH SERVICES OF RHODE ISLAND'S
RESPONSE TO SUBPOENA**

Pursuant to Rule 45 of the Rhode Island Superior Court Rules of Civil Procedure, St. Joseph Health Services of Rhode Island ("SJHSRI"), by and through its undersigned counsel, hereby responds as follows to the Subpoena served on it by Max Wistow, Esq. ("Wistow") as special counsel to the Receiver of the St. Joseph Health Services of Rhode Island Retirement Plan.

SJHSRI objects to each and every request that seeks information, communications, or documents that are privileged or protected from disclosure by the work-product doctrine, attorney-client privilege, or any other applicable privilege. SJHSRI objects to each and every request, instruction and definition to the extent that it attempts to impose burdens on it in excess of those imposed by the Rhode Island Superior Court Rules of Civil Procedure. SJHSRI objects to each and every request that subjects SJHSRI to undue burden. SJHSRI objects to each and every request that is unreasonably duplicative, seeks information or documents that are obtainable from some other source that is more convenient, less burdensome or less

expensive. The above objections are incorporated in each of the following responses without waiver.

SJHSRI will supplement its production of documents when, as, and if further responsive documents are identified, and any supplemental production shall be made upon the terms and objections made in this initial production.

1. All documents concerning the status or qualification *vel non* of the Plan as a church plan, including but not limited to all legal opinion letters that may be referenced in paragraph 7 of the Verified Petition;

Response: See SJHSRI1 to SJHSRI19. Additionally, because SJHSRI was given only 20 days to respond to the subpoena and virtually all of the requests are “any and all documents” requests, SJHSRI is still in the process of locating, retrieving and processing documents potentially responsive to the requests. In further response, SJHSRI refers Wistow to all documents subsequently produced which may be responsive to this request.

2. All documents concerning the Plan, including any plan documents, reports, and actuarial valuations;

Response: See SJHSRI20 to SJHSRI305. Additionally, the actuarial valuations are available from Angell Pension. Because SJHSRI was given only 20 days to respond to the subpoena and virtually all of the requests are “any and all documents” requests, SJHSRI is still in the process of locating, retrieving and processing documents potentially responsive to the requests. In further response, SJHSRI refers Wistow to all documents subsequently produced which may be responsive to this request.

3. All trust agreements, or modifications of trust agreements, relating to the Plan;

Response: See SJHSRI306 to SJHSRI321. Additionally, because SJHSRI was given only 20 days to respond to the subpoena and virtually all of the requests are “any and all documents” requests, SJHSRI is still in the process of locating, retrieving and processing documents potentially responsive to the requests. In further response, SJHSRI refers Wistow to all documents subsequently produced which may be responsive to this request.

4. All documents relating to authorizations regarding purchases or sales for accounts held by or relating to the Plan;

Response: See SJHSRI322 to SJHSRI1602. Additionally, because SJHSRI was given only 20 days to respond to the subpoena and virtually all of the requests are “any and all documents” requests, SJHSRI is still in the process of locating, retrieving and processing documents potentially responsive to the requests. In further response, SJHSRI refers Wistow to all documents subsequently produced which may be responsive to this request.

5. All documents relating to investments or recommendations concerning the assets of the Plan;

Response: See response to Request 4.

6. All records of transactions since January 1, 2003 for assets or accounts referenced in Request #4 above;

Response: See response to Request 4.

7. All documents relating to identification or enumeration of trustees, or their appointments, tenures, resignations, or terminations, and all authorizations of trustees relating to assets or accounts referenced in Request #4 above;

Response: See SJHSRI1603 to SJHSRI1606. Additionally, because SJHSRI was given only 20 days to respond to the subpoena and virtually all of the requests are “any and all documents” requests, SJHSRI is still in the process of locating, retrieving and processing documents potentially responsive to the requests. In further response, SJHSRI refers Wistow to all documents subsequently produced which may be responsive to this request.

8. All documents relating to the establishment, functions, or conduct of any board, committee, or subcommittee that administers or administered the Plan, including any board or committee or subcommittee resolutions and any appointments to such board, committee, or subcommittee;

Response: See SJHSRI1607 to SJHSRI1626. Additionally, because SJHSRI was given only 20 days to respond to the subpoena and virtually all of the requests are “any and all documents” requests, SJHSRI is still in the process of locating, retrieving and processing documents potentially responsive to the requests. In further response, SJHSRI refers Wistow to all documents subsequently produced which may be responsive to this request.

9. All documents relating to minutes of the boards of directors of SJHSRI, the Plan, RWH, or CHARTERCARE, and all documents relating to minutes of any committee or subcommittee thereof;

Response: See SJHSRI1627 to SJHSRI1728. Additionally, because SJHSRI was given only 20 days to respond to the subpoena and virtually all of the requests are “any and all documents” requests, SJHSRI is still in the process of locating, retrieving and processing documents potentially responsive to the requests. In further response, SJHSRI refers Wistow to all documents subsequently produced which may be responsive to this request.

10. All documents relating to identification or enumeration of the directors of SJHSRI, the Plan, RWH, or CHARTERCARE, or their appointments, tenures, resignations, or terminations, including resumes or curricula vitae;

Response: See response to Request 9.

11. All documents relating to identification or enumeration of the officers of SJHSRI, the Plan, RWH, or CHARTERCARE, or their appointments, tenures, resignations, or terminations, including resumes or curricula vitae;

Response: See response to Request 9.

12. All documents relating to identification or enumeration of human resources employees of SJHSRI, the Plan, RWH, or CHARTERCARE, or their appointments, tenures, resignations, or terminations, including resumes or curricula vitae;

Response: SJHSRI does not yet have any documents responsive to this request. Because SJHSRI was given only 20 days to respond to the subpoena and virtually all of the requests are “any and all documents” requests, SJHSRI is still in the process of locating, retrieving and processing documents potentially responsive to the requests. In further response, SJHSRI refers Wistow to all documents subsequently produced which may be responsive to this request.

13. All documents relating to payroll or expense records for employees of SJHSRI, the Plan, RWH, or CHARTERCARE, after May 2014;

Response: See SJHSRI1729 to SJHSRI2252. Additionally, because SJHSRI was given only 20 days to respond to the subpoena and virtually all of the requests are “any and all documents” requests, SJHSRI is still in the process of locating, retrieving and processing documents potentially responsive to the requests. In further response, SJHSRI refers Wistow to all documents subsequently produced which may be responsive to this request.

14. All documents relating to communications (including correspondence and notes of conversations) to or from Bank of America, Fleet Bank, Mercer, the

Angell Pension Group, or the Office of the Rhode Island Attorney General, in relation to the Plan;

Response: SJHSRI does not yet have any documents responsive to this request. Because SJHSRI was given only 20 days to respond to the subpoena and virtually all of the requests are “any and all documents” requests, SJHSRI is still in the process of locating, retrieving and processing documents potentially responsive to the requests. In further response, SJHSRI refers Wistow to all documents subsequently produced which may be responsive to this request.

15. All documents relating to communications (including correspondence and notes of conversations) to or from the U.S. Internal Revenue Service and/or the U.S. Department of Labor and/or the Rhode Island Division of Taxation relating to the Plan, including any opinion letters and letter rulings and any correspondence relating to opinion letters or letter rulings or requests for same;

Response: See SJHSRI2253 to SJHSRI2266. Because SJHSRI was given only 20 days to respond to the subpoena and virtually all of the requests are “any and all documents” requests, SJHSRI is still in the process of locating, retrieving and processing documents potentially responsive to the requests. In further response, SJHSRI refers Wistow to all documents subsequently produced which may be responsive to this request.

16. All documents relating to communications (including correspondence, notes of conversations, and directives) to or from the Bishop of Providence (or his designees or agents) or the Diocese (or its designees or agents) concerning the management, administration, governance, finances, or Catholicity of SJHSRI or the Plan;

Response: See SJHSRI2267. Because SJHSRI was given only 20 days to respond to the subpoena and virtually all of the requests are “any and all documents” requests, SJHSRI is still in the process of locating, retrieving and processing documents potentially responsive to the requests. In further response, SJHSRI refers Wistow to all documents subsequently produced which may be responsive to this request.

17. All documents relating to communications (including correspondence and notes of conversations) to or from the Rhode Island Department of Health or the Health Planning and Accountability Advisory Council regarding hospital mergers or conversions;

Response: SJHSRI does not yet have any documents responsive to this request. Because SJHSRI was given only 20 days to respond to the subpoena and virtually all of the requests are “any and all documents” requests, SJHSRI is

still in the process of locating, retrieving and processing documents potentially responsive to the requests. In further response, SJHSRI refers Wistow to all documents subsequently produced which may be responsive to this request.

18. All contracts with any of Bank of America, Fleet Bank, Mercer, and/or the Angell Pension Group, or any of their predecessors or successors;

Response: SJHSRI does not yet have any documents responsive to this request. Because SJHSRI was given only 20 days to respond to the subpoena and virtually all of the requests are “any and all documents” requests, SJHSRI is still in the process of locating, retrieving and processing documents potentially responsive to the requests. In further response, SJHSRI refers Wistow to all documents subsequently produced which may be responsive to this request.

19. All documents submitted (inclusive of supplemental submissions and exhibits) to the Attorney General’s office, the Rhode Island Department of Health, or any other agency of state or federal government, regarding the Plan or hospital conversions or mergers, including without limitation the conversion transactions approved in 2009 and 2014;

Response: SJHSRI does not yet have any documents responsive to this request. Because SJHSRI was given only 20 days to respond to the subpoena and virtually all of the requests are “any and all documents” requests, SJHSRI is still in the process of locating, retrieving and processing documents potentially responsive to the requests. In further response, SJHSRI refers Wistow to all documents subsequently produced which may be responsive to this request.

20. All documents concerning financial assistance, payments, or loans from the Diocese, or the Inter-Parish Loan Fund, Inc., or any other entity, to SJHSRI, the Plan, RWH, or CHARTERCARE;

Response: SJHSRI does not yet have any documents responsive to this request. Because SJHSRI was given only 20 days to respond to the subpoena and virtually all of the requests are “any and all documents” requests, SJHSRI is still in the process of locating, retrieving and processing documents potentially responsive to the requests. In further response, SJHSRI refers Wistow to all documents subsequently produced which may be responsive to this request.

21. All documents concerning financial assistance, payments, or loans to the Diocese or the Inter-Parish Loan Fund, Inc., or any other entity, from SJHSRI, the Plan, RWH, or CHARTERCARE;

Response: SJHSRI does not yet have any documents responsive to this request. Because SJHSRI was given only 20 days to respond to the subpoena and

virtually all of the requests are “any and all documents” requests, SJHSRI is still in the process of locating, retrieving and processing documents potentially responsive to the requests. In further response, SJHSRI refers Wistow to all documents subsequently produced which may be responsive to this request.

22. All articles of incorporation, bylaws, limited liability company agreements, and operating agreements, including any amendments or revisions thereto, of the Plan, SJHSRI, RWH, or CHARTERCARE;

Response: See SJHSRI2268 to SJHSRI2361. Additionally, because SJHSRI was given only 20 days to respond to the subpoena and virtually all of the requests are “any and all documents” requests, SJHSRI is still in the process of locating, retrieving and processing documents potentially responsive to the requests. In further response, SJHSRI refers Wistow to all documents subsequently produced which may be responsive to this request.

23. All documents concerning denominational requirements or statements of faith for employees, directors, officers, agents, managers, fiduciaries, members, physicians, nurses, or patients of SJHSRI or the Plan;

Response: SJHSRI does not yet have any documents responsive to this request. Because SJHSRI was given only 20 days to respond to the subpoena and virtually all of the requests are “any and all documents” requests, SJHSRI is still in the process of locating, retrieving and processing documents potentially responsive to the requests. In further response, SJHSRI refers Wistow to all documents subsequently produced which may be responsive to this request.

24. All documents concerning any ERISA fidelity bonds;

Response: SJHSRI does not yet have any documents responsive to this request. Because SJHSRI was given only 20 days to respond to the subpoena and virtually all of the requests are “any and all documents” requests, SJHSRI is still in the process of locating, retrieving and processing documents potentially responsive to the requests. In further response, SJHSRI refers Wistow to all documents subsequently produced which may be responsive to this request.

25. All insurance policies (including umbrella and excess policies) under which SJHSRI or the Plan has been or was provided with insurance coverage during the period from January 1, 2003 through the present, inclusive (whether or not SJHSRI contends or denies there is coverage that may be relevant to the Plan);

Response: SJHSRI does not yet have any documents responsive to this request. Because SJHSRI was given only 20 days to respond to the subpoena and virtually all of the requests are “any and all documents” requests, SJHSRI is

still in the process of locating, retrieving and processing documents potentially responsive to the requests. In further response, SJHSRI refers Wistow to all documents subsequently produced which may be responsive to this request.

26. All insurance documents relating to self-insurance funds or trusts under which SJHSRI or the Plan has been or was provided with insurance coverage during the period from January 1, 2003 through the present, inclusive (whether or not SJHSRI contends or denies there is coverage that may be relevant to the Plan);

Response: SJHSRI has not yet identified any documents responsive to this request. Because SJHSRI was given only 20 days to respond to the subpoena and virtually all of the requests are “any and all documents” requests, SJHSRI is still in the process of locating, retrieving and processing documents potentially responsive to the requests. In further response, SJHSRI refers Wistow to all documents subsequently produced which may be responsive to this request.

27. All audited or unaudited financial statements relating to SJHSRI or the Plan;

Response: Because SJHSRI was given only 20 days to respond to the subpoena and virtually all of the requests are “any and all documents” requests, SJHSRI is still in the process of locating, retrieving and processing documents potentially responsive to the requests. In further response, SJHSRI refers Wistow to all documents subsequently produced which may be responsive to this request.

28. All federal and state tax returns, including all Form 990 filings or amendments, all Form 990-PF filings or amendments, and all Form 5500 or Form 5500-SF filings and amendments, for SJHSRI, the Plan, RWH, or CHARTERCARE;

Response: See SJHSRI2362 to SJHSRI4189. Additionally, because SJHSRI was given only 20 days to respond to the subpoena and virtually all of the requests are “any and all documents” requests, SJHSRI is still in the process of locating, retrieving and processing documents potentially responsive to the requests. In further response, SJHSRI refers Wistow to all documents subsequently produced which may be responsive to this request.

29. All applications and submissions to the U.S. Conference of Catholic Bishops relating to taxation or tax exemption (and any related correspondence or responses), including all Form 0928A forms and attachments;

Response: SJHSRI has not yet identified any documents responsive to this request. Because SJHSRI was given only 20 days to respond to the subpoena

and virtually all of the requests are “any and all documents” requests, SJHSRI is still in the process of locating, retrieving and processing documents potentially responsive to the requests. In further response, SJHSRI refers Wistow to all documents subsequently produced which may be responsive to this request.

30. All documents produced or obtained in discovery in *Gmuer, M.D. v. St. Joseph Health Services of Rhode Island*, 09-cv-00628 (D.R.I.), including responses to subpoenas *duces tecum* or requests for production of documents, answers to interrogatories, and deposition transcripts;

Response: SJHSRI has not yet identified any documents responsive to this request. Because SJHSRI was given only 20 days to respond to the subpoena and virtually all of the requests are “any and all documents” requests, SJHSRI is still in the process of locating, retrieving and processing documents potentially responsive to the requests. SJHSRI has sent a request to Littler Mendelson, PC, counsel for SJHSRI in the above-captioned case, seeking a copy of the requested documents. In further response, SJHSRI refers Wistow to all documents subsequently produced which may be responsive to this request.

31. All other documents relating to *Gmuer, M.D. v. St. Joseph Health Services of Rhode Island*, 09-cv-00628 (D.R.I.), including all correspondence to or from plaintiff’s counsel and all settlement documents;

Response: See response to Request 30.

32. All documents produced or obtained in discovery in *Moniz v. St. Joseph Hospital*, 95-cv-00102 (D.R.I.), including responses to subpoenas *duces tecum* or requests for production of documents, answers to interrogatories, and deposition transcripts;

Response: SJHSRI has not yet identified any documents responsive to this request. Because SJHSRI was given only 20 days to respond to the subpoena and virtually all of the requests are “any and all documents” requests, SJHSRI is still in the process of locating, retrieving and processing documents potentially responsive to the requests. SJHSRI has sent a request to Ropes & Gray, counsel for SJHSRI in the above-captioned case, seeking a copy of the requested documents. In further response, SJHSRI refers Wistow to all documents subsequently produced which may be responsive to this request.

33. All other documents relating to *Moniz v. St. Joseph Hospital*, 95-cv-00102 (D.R.I.), including all correspondence to or from plaintiff’s counsel and all settlement documents;

Response: See response to Request 32.

34. All documents (including disks of documents) relating to any *cy pres* petition or matter, including *In re: CharterCARE Health Partners Foundation, Roger Williams Hospital, and St. Joseph Health Services of Rhode Island* (KM-2015-0035), *In re CharterCARE Health Partners* (PB-2011-6822), *Saint Joseph Health Services and Saint Joseph Health Services Foundation v. Patrick C. Lynch* (PB-2009-6693), *Roger Williams Hospital v. Patrick C. Lynch* (PB-2009-6694), and *Roger Williams Medical Center v. Patrick Lynch* (PB-2009-6695), including any reports or disclosures submitted to the Attorney General's office relating to *cy pres* matters;

Response: Because SJHSRI was given only 20 days to respond to the subpoena and virtually all of the requests are "any and all documents" requests, SJHSRI is still in the process of locating, retrieving and processing documents potentially responsive to the requests. In further response, SJHSRI refers Wistow to all documents subsequently produced which may be responsive to this request.

35. All documents (including accounting records) relating to transfers or dispositions of assets that are or were the subject of any *cy pres* petition;

Response: Because SJHSRI was given only 20 days to respond to the subpoena and virtually all of the requests are "any and all documents" requests, SJHSRI is still in the process of locating, retrieving and processing documents potentially responsive to the requests. In further response, SJHSRI refers Wistow to all documents subsequently produced which may be responsive to this request.

36. All documents relating to reporting and/or accounting of profits from Prospect;

Response: SJHSRI has not yet identified any documents responsive to this request. Because SJHSRI was given only 20 days to respond to the subpoena and virtually all of the requests are "any and all documents" requests, SJHSRI is still in the process of locating, retrieving and processing documents potentially responsive to the requests. In further response, SJHSRI refers Wistow to all documents subsequently produced which may be responsive to this request.

37. All documents relating to the assets of SJHSRI (as distinguished from those of its affiliated entities) since 2003;

Response: See SJHSRI4190 to SJHSRI4298. Additionally, because SJHSRI was given only 20 days to respond to the subpoena and virtually all of the

requests are “any and all documents” requests, SJHSRI is still in the process of locating, retrieving and processing documents potentially responsive to the requests. In further response, SJHSRI refers Wistow to all documents subsequently produced which may be responsive to this request.

38. All documents relating to the assets of SJHSRI (as consolidated with its affiliated entities) since 2003;

Response: See response to Request 37.

39. All documents relating to any consideration given or obtained by CHARTERCARE in connection with the sale transaction concerning the Asset Purchase Agreement dated as of September 24, 2013, other than the transfer of assets by any of CHARTERCARE’s subsidiaries;

Response: SJHSRI has not yet identified any documents responsive to this request. Because SJHSRI was given only 20 days to respond to the subpoena and virtually all of the requests are “any and all documents” requests, SJHSRI is still in the process of locating, retrieving and processing documents potentially responsive to the requests. In further response, SJHSRI refers Wistow to all documents subsequently produced which may be responsive to this request.

40. All QuickBooks files (or files for similar accounting software) for the Plan, SJHSRI, RWH, and CHARTERCARE, since 2003;

Response: Because SJHSRI was given only 20 days to respond to the subpoena and virtually all of the requests are “any and all documents” requests, SJHSRI is still in the process of locating, retrieving and processing documents potentially responsive to the requests. In further response, SJHSRI refers Wistow to all documents subsequently produced which may be responsive to this request.

41. All documents given or transmitted to employees or prospective employees referring to the Plan or any employee benefits, including without limitation employee handbooks, manuals, summaries and the like, from the inception of the Plan to the present time;

Response: SJHSRI has not yet identified any documents responsive to this request. Because SJHSRI was given only 20 days to respond to the subpoena and virtually all of the requests are “any and all documents” requests, SJHSRI is still in the process of locating, retrieving and processing documents potentially responsive to the requests. In further response, SJHSRI refers

Wistow to all documents subsequently produced which may be responsive to this request.

42. All documents relating to recruitment advertisements for employees or positions to whom the Plan was or could be applicable, from the inception of the Plan to the present time;

Response: SJHSRI has not yet identified any documents responsive to this request. Because SJHSRI was given only 20 days to respond to the subpoena and virtually all of the requests are “any and all documents” requests, SJHSRI is still in the process of locating, retrieving and processing documents potentially responsive to the requests. In further response, SJHSRI refers Wistow to all documents subsequently produced which may be responsive to this request.

43. All documents relating to document retention policies;

Response: Since December 2014, SJHSRI did not adopted any written document retention policy. SJHSRI has not yet identified any documents responsive to this request for the time period prior to December 2014. Because SJHSRI was given only 20 days to respond to the subpoena and virtually all of the requests are “any and all documents” requests, SJHSRI is still in the process of locating, retrieving and processing documents potentially responsive to the requests. In further response, SJHSRI refers Wistow to all documents subsequently produced which may be responsive to this request.

44. All documents relating to the purchase price or valuations of assets for the transaction referred to in paragraph 5 of the Verified Petition;

Response: Because SJHSRI was given only 20 days to respond to the subpoena and virtually all of the requests are “any and all documents” requests, SJHSRI is still in the process of locating, retrieving and processing documents potentially responsive to the requests. In further response, SJHSRI refers Wistow to all documents subsequently produced which may be responsive to this request.

45. All documents relating to the “elect[ion] to contribute \$14,000,000 to the Plan” referred to in paragraph 5 of the Verified Petition;

Response: See SJHSRI4299 to SJHSRI4421. Additionally, because SJHSRI was given only 20 days to respond to the subpoena and virtually all of the requests are “any and all documents” requests, SJHSRI is still in the process of locating, retrieving and processing documents potentially responsive to the

requests. In further response, SJHSRI refers Wistow to all documents subsequently produced which may be responsive to this request.

46. All documents relating to the continuation of “affiliation during and after the sale” referred to in paragraph 6 of the Verified Petition;

Response: See response to Request 1

47. All documents relating to the different “concept[s] of ‘funding’” referred to in footnote 3 of the Verified Petition;

Response: SJHSRI does not yet have any documents responsive to this request. Because SJHSRI was given only 20 days to respond to the subpoena and virtually all of the requests are “any and all documents” requests, SJHSRI is still in the process of locating, retrieving and processing documents potentially responsive to the requests. In further response, SJHSRI refers Wistow to all documents subsequently produced which may be responsive to this request.

48. All documents relating to “all of the long-term issues affecting the Plan” that were not “consider[ed]”, referred to in footnote 3 of the Verified Petition;

Response: See SJHSRI4422 to SJHSRI4594. Additionally, because SJHSRI was given only 20 days to respond to the subpoena and virtually all of the requests are “any and all documents” requests, SJHSRI is still in the process of locating, retrieving and processing documents potentially responsive to the requests. In further response, SJHSRI refers Wistow to all documents subsequently produced which may be responsive to this request.

49. All documents relating to the statement in paragraph 7 of the Verified Petition that “Petitioner is advised and believes that the Plan will lose ‘church plan’ status on or before December 31, 2018”;

Response: SJHSRI has not yet identified any documents responsive to this request. Because SJHSRI was given only 20 days to respond to the subpoena and virtually all of the requests are “any and all documents” requests, SJHSRI is still in the process of locating, retrieving and processing documents potentially responsive to the requests. In further response, SJHSRI refers Wistow to all documents subsequently produced which may be responsive to this request.

50. All documents relating to or supporting the assertion that “Petitioner does not have the financial resources to make such payments, or to comply with the other financial and regulatory requirements of ERISA” in paragraph 8 of the Verified Petition;

Response: See response to Requests 2, 4, 27, 28, 37, 48, 55. Additionally, because SJHSRI was given only 20 days to respond to the subpoena and virtually all of the requests are “any and all documents” requests, SJHSRI is still in the process of locating, retrieving and processing documents potentially responsive to the requests. In further response, SJHSRI refers Wistow to all documents subsequently produced which may be responsive to this request.

51. All documents concerning the derivation of or rationale for the request in the Verified Petition to reduce pension benefits in the specific amount of 40%, including by whom, when, and how the 40% figure was derived;

Response: See response to Request 50.

52. All documents relating to the “request[] that Angell perform an analysis of the Plan based upon a uniform reduction of 40%” in paragraph 13 of the Verified Petition;

Response: See response to Request 50.

53. All documents relating to or supporting the assertion that “Petitioner believes that a uniform reduction of 40% of pension benefits is likely the most reasonable approach to achieving an equitable resolution for all beneficiaries” in paragraph 15 of the Verified Petition;

Response: See response to Request 50.

54. All documents relating to or supporting the statement that “the net assets of Petitioner, RWH and CCB may become available to assist with the Plan” in paragraph 16 of the Verified Petition, or to the possible or actual disposition of such net assets;

Response: Because SJHSRI was given only 20 days to respond to the subpoena and virtually all of the requests are “any and all documents” requests, SJHSRI is still in the process of locating, retrieving and processing documents potentially responsive to the requests. In further response, SJHSRI refers Wistow to all documents subsequently produced which may be responsive to this request.

55. All documents relating to why the “potential for additional Plan funds is not contemplated by the Benefit Adjustment Analysis” as stated in paragraph 16 of the Verified Petition;

Response: See SJHSRI4595 to SJHSRI4606. Additionally, because SJHSRI was given only 20 days to respond to the subpoena and virtually all of the requests are “any and all documents” requests, SJHSRI is still in the process of locating, retrieving and processing documents potentially responsive to the requests. In further response, SJHSRI refers Wistow to all documents subsequently produced which may be responsive to this request.

56. All documents relating to why “Petitioner believes that the Plan should not be terminated immediately” as stated in paragraph 17 of the Verified Petition;

Response: See response to Request 55.

57. All documents relating to the “opportunity to benefit from the contribution of additional funds” referred to in paragraph 18(b) of the Verified Petition, including any documents identifying such additional funds and any projections of additional funds;

Response: Because SJHSRI was given only 20 days to respond to the subpoena and virtually all of the requests are “any and all documents” requests, SJHSRI is still in the process of locating, retrieving and processing documents potentially responsive to the requests. In further response, SJHSRI refers Wistow to all documents subsequently produced which may be responsive to this request.

58. All documents relating to or supporting the statement in paragraph 21 of the Verified Petition that “Petitioner further believes that the current administrators and actuaries of the Plan should remain in place for administrative purposes and to continue to render services to the Plan consistent with past practice”;

Response: SJHSRI does not yet have any documents responsive to this request. Because SJHSRI was given only 20 days to respond to the subpoena and virtually all of the requests are “any and all documents” requests, SJHSRI is still in the process of locating, retrieving and processing documents potentially responsive to the requests. In further response, SJHSRI refers Wistow to all documents subsequently produced which may be responsive to this request.

59. All documents relating to how or why “administrative expenses of the Plan, other than investment management and custodian fees, have been paid for with non-Plan assets” as referred to in footnote 9 of the Verified Petition, including documents relating to whom and when such payments have been made;

Response: Because SJHSRI was given only 20 days to respond to the subpoena and virtually all of the requests are “any and all documents” requests, SJHSRI is still in the process of locating, retrieving and processing documents

potentially responsive to the requests. In further response, SJHSRI refers Wistow to all documents subsequently produced which may be responsive to this request.

60. All documents relating to the distinction between “administrative expenses” and “investment management and custodian fees” referred to in footnote 9 of the Verified Petition; and

Response: SJHSRI does not yet have any documents responsive to this request. Because SJHSRI was given only 20 days to respond to the subpoena and virtually all of the requests are “any and all documents” requests, SJHSRI is still in the process of locating, retrieving and processing documents potentially responsive to the requests. In further response, SJHSRI refers Wistow to all documents subsequently produced which may be responsive to this request.

61. All documents relating to the “impairment of participant claims” referred to in footnote 9 of the Verified Petition.

Response: See response to Requests 48 and 55. Additionally, because SJHSRI was given only 20 days to respond to the subpoena and virtually all of the requests are “any and all documents” requests, SJHSRI is still in the process of locating, retrieving and processing documents potentially responsive to the requests. In further response, SJHSRI refers Wistow to all documents subsequently produced which may be responsive to this request.

St. Joseph Health Services of Rhode Island,

By its attorneys,

/s/ Richard J. Land

Richard J. Land
Chace Ruttenberg & Freedman, LLP
One Park Row, Suite 300
Providence, RI 02903
Tel.: 401-453-6400
Email: rland@crflp.com
Dated: November 8, 2017

CERTIFICATE OF SERVICE

I hereby certify that on November 8, 2017, I served a true copy of the within document through the Rhode Island Judiciary's electronic filing system on the following parties. The document electronically filed and served is available for viewing and/or downloading from the Rhode Island Judiciary's Electronic Filing System.

Max Wistow, Esq.
Wistow, Sheehan & Loveley, PC
61 Weybosset Street
Providence, RI 02903

/s/ Richard J. Land

EXHIBIT 8

STATE OF RHODE ISLAND
PROVIDENCE, SC.

SUPERIOR COURT

St. Joseph Health Services of Rhode
Island, Inc.

Vs.

PC 2017-3856

St. Josephs Health Services of Rhode
Island
Retirement Plan, as amended

**ST. JOSEPH HEALTH SERVICES OF RHODE ISLAND'S
FIRST SUPPLEMENTAL RESPONSE TO SUBPOENA**

Pursuant to Rule 45 of the Rhode Island Superior Court Rules of Civil Procedure, St. Joseph Health Services of Rhode Island ("SJHSRI"), by and through its undersigned counsel, hereby responds as follows to the Subpoena served on it by Max Wistow, Esq. ("Wistow") as special counsel to the Receiver of the St. Joseph Health Services of Rhode Island Retirement Plan.

SJHSRI objects to each and every request that seeks information, communications, or documents that are privileged or protected from disclosure by the work-product doctrine, attorney-client privilege, or any other applicable privilege. SJHSRI objects to each and every request, instruction and definition to the extent that it attempts to impose burdens on it in excess of those imposed by the Rhode Island Superior Court Rules of Civil Procedure. SJHSRI objects to each and every request that subjects SJHSRI to undue burden. SJHSRI objects to each and every request that is unreasonably duplicative, seeks information or documents that are obtainable from some other source that is more convenient, less burdensome or less

expensive. The above objections are incorporated in each of the following responses without waiver.

SJHSRI will supplement its production of documents when, as, and if further responsive documents are identified, and any supplemental production shall be made upon the terms and objections made in this initial production.

34. All documents (including disks of documents) relating to any *cy pres* petition or matter, including *In re: CharterCARE Health Partners Foundation, Roger Williams Hospital, and St. Joseph Health Services of Rhode Island* (KM-2015-0035), *In re CharterCARE Health Partners* (PB-2011-6822), *Saint Joseph Health Services and Saint Joseph Health Services Foundation v. Patrick C. Lynch* (PB-2009-6693), *Roger Williams Hospital v. Patrick C. Lynch* (PB-2009-6694), and *Roger Williams Medical Center v. Patrick Lynch* (PB-2009-6695), including any reports or disclosures submitted to the Attorney General's office relating to *cy pres* matters;

Response: See SJHSRI4607 to SJHSRI4674. In further response, SJHSRI refers Wistow to all documents subsequently produced which may be responsive to this request.

35. All documents (including accounting records) relating to transfers or dispositions of assets that are or were the subject of any *cy pres* petition;

Response: See SJHSRI4675 to SJHSRI4688. In further response, SJHSRI refers Wistow to all documents subsequently produced which may be responsive to this request.

37. All documents relating to the assets of SJHSRI (as distinguished from those of its affiliated entities) since 2003;

Response: See SJHSRI4689 to SJHSRI4726. In further response, SJHSRI refers Wistow to all documents subsequently produced which may be responsive to this request.

38. All documents relating to the assets of SJHSRI (as consolidated with its affiliated entities) since 2003;

Response: See response to Request 37.

St. Joseph Health Services of Rhode Island,

By its attorneys,

/s/ Richard J. Land

Richard J. Land
Chace Ruttenberg & Freedman, LLP
One Park Row, Suite 300
Providence, RI 02903
Tel.: 401-453-6400
Email: rland@crflp.com
Dated: November 9, 2017

CERTIFICATE OF SERVICE

I hereby certify that on November 9, 2017, I served a true copy of the within document through the Rhode Island Judiciary's electronic filing system on the following parties. The document electronically filed and served is available for viewing and/or downloading from the Rhode Island Judiciary's Electronic Filing System.

Max Wistow, Esq.
Wistow, Sheehan & Loveley, PC
61 Weybosset Street
Providence, RI 02903

/s/ Richard J. Land

EXHIBIT 9

STATE OF RHODE ISLAND
PROVIDENCE, SC.

SUPERIOR COURT

St. Joseph Health Services of Rhode
Island, Inc.

Vs.

PC 2017-3856

St. Josephs Health Services of Rhode
Island Retirement Plan, as amended

**ST. JOSEPH HEALTH SERVICES OF RHODE ISLAND'S RESPONSE TO MAX
WISTOW'S SECOND SUBPOENA DATED DECEMBER 1, 2017**

Pursuant to the Rhode Island Superior Court Rules of Civil Procedure, St. Joseph Health Services of Rhode Island ("SJHSRI"), by and through its undersigned counsel, hereby responds as follows to the December 1, 2017 Subpoena ("Second Subpoena") served on it by Max Wistow, Esq. ("Wistow") as special counsel to the Receiver of the St. Joseph Health Services of Rhode Island Retirement Plan.

SJHSRI objects¹ to each and every request that seeks information, communications, or documents that are privileged or protected from disclosure by the work-product doctrine, attorney-client privilege, or any other applicable privilege. SJHSRI objects to each request, instruction and definition to the extent that it attempts to impose burdens on it in excess of those imposed by the Rhode Island Superior Court Rules of Civil Procedure. SJHSRI objects to each request that subjects SJHSRI to undue burden or undue expense. SJHSRI objects to each request that is

¹ SJHSRI reserves its objection to the introduction into evidence of any documents obtained by Wistow through this subpoena (or any other subpoena issued by Wistow in the above-captioned case) in any other proceeding.

unreasonably duplicative, seeks information or documents that are obtainable from some other source that is more convenient, less burdensome or less expensive. SJHSRI also objects to the Second Subpoena because it violates the Superior Court Rules of Civil Procedure. SJHSRI is a party in the above-captioned action. Wistow cannot serve a subpoena on a party. Wistow must serve a request for production of documents under Super. R. Civ. P. 34.

The above objections are incorporated in each of the following responses without waiver.

SJHSRI will supplement its production of documents when, as, and if further responsive documents are identified, and any supplemental production shall be made upon the terms and objections made in its initial production.

1. In relation to the statements contained in or subject matter of the November 28, 2017 Letter;

- a) All documents relating to communications with Prospect, RWH, CharterCare, or their officers, agents, directors, or attorneys, relating to subpoenas or compliance with subpoenas issued in connection with *St. Joseph Health Services of Rhode Island Inc., v. St. Josephs Health Services of Rhode Island Retirement Plan* (PC 2017-3856);

Response: Objection. This request seeks material that is protected by the attorney client privilege, common interest privilege, and work-product doctrine. Specifically, the request seeks communications from SJHSRI's attorneys to SJHSRI that include legal advice and/or legal analysis. It also seeks communications of SJHSRI to or from parties with which SJHSRI may have a common interest. The request also seeks SJHSRI's work product, including but not limited to, the mental impressions of SJHSRI's legal counsel who made legal determinations as to who, how and when to communicate with parties and where to gather potentially responsive documents. Furthermore, this request seeks documents that are not reasonably calculated to lead to the discovery of admissible evidence in the above-captioned action because the documents sought do not relate to the receivership action and there is no case or

controversy involving the “potential liability or obligation of any persons or entities to pay damages or funds to the Plan.” This request seeks documents that are not relevant to the subject matter involved in the pending action, or a claim or defense of any party.

SJHSRI objects to the production of any material that is deemed confidential by the Transition Services Agreement between SJHSRI and Prospect CharterCare, LLC, dated July 1, 2015.

SJHSRI is not in possession, custody or control of any documents “relating to communications” with the identified entities, however, without waiving any of SJHSRI’s objections, SJHSRI is in the process undertaking a reasonable investigation to identify and produce non-privileged communications responsive to this request.

b) All documents relating to SJHSRI’s efforts to comply with subpoenas issued in connection with *St. Joseph Health Services of Rhode Island Inc., v. St. Josephs Health Services of Rhode Island Retirement Plan* (PC 2017-3856);

Response: Objection. This request seeks material that is protected by the attorney client privilege, common interest privilege, and work-product doctrine. Specifically, the request seeks communications from SJHSRI’s attorneys to SJHSRI that include legal advice and/or legal analysis. It also seeks communications of SJHSRI to or from parties with which SJHSRI may have a common interest. The request also seeks SJHSRI’s work product, including but not limited to, the mental impressions of SJHSRI’s legal counsel who made legal determinations as to who, how and when to communicate with parties and where to gather potentially responsive documents. Furthermore, this request seeks documents that are not reasonably calculated to lead to the discovery of admissible evidence in the above-captioned action because the documents sought do not relate to the receivership action and there is no case or controversy involving the “potential liability or obligation of any persons or entities to pay damages or funds to the Plan.” This request seeks documents that are not relevant to the subject matter involved in the pending action, or a claim or defense of any party. Wistow has not provided any basis for why documents relating to SJHSRI’s compliance with Wistow’s subpoenas are reasonably calculated to lead to the discovery of admissible evidence in the above-captioned action. This request seeks documents that are not relevant to the subject matter involved in the pending action, or a claim or defense of any party.

Without waiving any of SJHSRI’s objections, SJHSRI is in the process undertaking a reasonable investigation to identify and produce non-privileged

documents responsive to this request.

c) All documents relating to Prospect's efforts to comply with subpoenas issued in connection with *St. Joseph Health Services of Rhode Island Inc., v. St. Josephs Health Services of Rhode Island Retirement Plan* (PC 2017-3856);

Response: Objection. This request seeks material that is protected by the attorney client privilege, common interest privilege, and work-product doctrine. Specifically, the request seeks communications from SJHSRI's attorneys to SJHSRI that include legal advice and/or legal analysis. It also seeks documents from SJHSRI concerning parties with which SJHSRI may have a common interest. The request also seeks SJHSRI's work product, including but not limited to, the mental impressions of SJHSRI's legal counsel who made legal determinations as to who, how and when to communicate with parties and where to gather potentially responsive documents. Furthermore, this request seeks documents that are not reasonably calculated to lead to the discovery of admissible evidence in the above-captioned action because the documents sought do not relate to the receivership action and there is no case or controversy involving the "potential liability or obligation of any persons or entities to pay damages or funds to the Plan." This request seeks documents that are not relevant to the subject matter involved in the pending action, or a claim or defense of any party.

SJHSRI objects to the production of any material that is deemed confidential by the Transition Services Agreement between SJHSRI and Prospect CharterCare, LLC, dated July 1, 2015.

Without waiving any of SJHSRI's objections, SJHSRI is in the process undertaking a reasonable investigation to identify and produce non-privileged communications responsive to this request.

St. Joseph Health Services of Rhode Island,

By its attorneys,

/s/ George E. Lieberman

George E. Lieberman, Esq. (#3860)

Of Counsel

Gianfrancesco & Friedmann

214 Broadway

Providence, RI 02903

Tel.: 401-270-0070

Email: George@gianfrancescolaw.com

Dated: December 15, 2017

CERTIFICATE OF SERVICE

I hereby certify that on December 15, 2017, I served a true copy of the within document through the Rhode Island Judiciary's electronic filing system on the following parties. The document electronically filed and served is available for viewing and/or downloading from the Rhode Island Judiciary's Electronic Filing System.

Max Wistow, Esq.
Wistow, Sheehan & Loveley, PC
61 Weybosset Street
Providence, RI 02903

/s/ George E. Lieberman

EXHIBIT 10

WISTOW, SHEEHAN & LOVELEY, PC

ATTORNEYS AT LAW
61 WEYBOSSET STREET
PROVIDENCE, RHODE ISLAND 02903

TELEPHONE
401-831-2700

FAX
401-272-9752

E-MAIL
MAIL@WISTBAR.COM

MAX WISTOW
STEPHEN P. SHEEHAN
A. PETER LOVELRY
MICHAEL J. STEVENSON
BENJAMIN G. LEDSHAM

November 21, 2017

VIA ELECTRONIC MAIL

Richard J. Land, Esq.
Chace Ruttenberg & Freedman, LLP
One Park Row, Suite 300
Providence, RI 02903

Re: *St. Joseph Health Services of Rhode Island, Inc. v. St. Josephs Health Services of Rhode Island Retirement Plan, as amended*, Rhode Island Superior Court, C.A. No. PC 17-3856

Dear Rick:

Since your partial productions of documents on November 9 and 10, we have not heard from you. Mr. Digou indicated in his email of November 9, 2017 that forty boxes of documents were being scanned and bates stamped for production. When can we have them?

When will your document production be complete? You are in arrears both as to the subpoena and the Court's order of October 27, 2017.

You still have not provided the accounting of *cy pres* monies that you promised to get us by the week of October 23, nearly a month ago.

I reiterate that I would like to avoid burdening the Court with motion practice, but we need to bring this document production to a head.

Very truly yours,



Max Wistow

MW/dls

EXHIBIT 11

From: [Mary Ann Kesson](#)
To: rland@crfilp.com
Cc: [Benjamin Ledsham](#); [Stephen P. Sheehan](#)
Subject: St. Joseph
Date: Tuesday, November 28, 2017 1:41:01 PM

Mr. Land:

I am sending this email at the request of Max Wistow.

Regarding access to records in possession of Prospect; please see paragraph 13.7 (page 62) of Asset Purchase Agreement.

Mary Ann Kesson, Paralegal
Wistow, Sheehan & Loveley, PC.
61 Weybosset Street
Providence, RI 02903
401-831-2700
401-272-9752 (fax)
maryann@wistbar.com

Confidential: The information contained in this electronic (e-mail) message, including attached documents or files, may contain legally privileged and/or confidential information that is intended for the exclusive use of the individual(s) addressed. Access to, reading, disseminating, distributing or copying this e-mail communication or its contents or attachments by anyone else is unauthorized. If you are not the intended recipient or are in possession of this communication in error, please notify the sender by reply e-mail and delete this message.

Thank you.

EXHIBIT 12

to be deposited in any account other than the A/R Bank Accounts; (ii) pay over, or cause to be paid over, to the Company or a Company Subsidiary, without right of set-off, within three (3) Business Days of receipt (and until so paid, shall hold in trust for the Company or such Company Subsidiary) all amounts received by Sellers and their Affiliates in respect of the Accounts Receivable; (iii) provide the Company or a Company Subsidiary with all information available to permit the Company and such Company Subsidiary to correctly apply such amounts; and (iv) cooperate with the Company or a Company Subsidiary to cause all future payments and reimbursements to be paid directly to the Company or such Company Subsidiary.

(c) Other Assistance. From time to time after Closing, as reasonably requested by Sellers, the Company shall administratively assist Sellers, at no additional cost, in disposing of the Excluded Assets and/or discharging the Excluded Liabilities retained by Sellers subsequent to the Closing.

13.6 Sellers' Cost Reports and RAC Audits.

(a) Sellers shall timely prepare and submit all Cost Reports relating to Sellers for cost report periods ending on or prior to the Closing Date or that are required as a result of the consummation of the Transactions, including terminating Cost Reports for the Government Reimbursement Programs ("Sellers' Cost Reports"). Such Sellers' Cost Reports shall be prepared in accordance with applicable Law. Upon reasonable advance notice, the Company and the Company Subsidiaries shall provide Sellers during normal business hours with the assistance of their respective personnel and access to such documents and information, as reasonably requested by Sellers to enable Sellers to timely prepare and file Sellers' Cost Reports. Neither the Company nor any Company Subsidiary shall be deemed to be the "preparer" of Sellers' Cost Reports as a result of such assistance. Sellers shall furnish to the Company copies of Sellers' Cost Reports, correspondence, work papers and other documents relating to Sellers' Cost Reports.

(b) From and after the Closing Date, the Company shall be responsible for the conduct of any and all RAC audits that may be conducted with respect to the Business, including with respect to the provision of services or the submission of claims by Sellers relating to periods prior to the Closing Date. The Company, either directly or through the pertinent Company Subsidiary: (i) shall timely respond to any and all requests made in connection with any such RAC audit; (ii) shall be responsible for the payment of any amounts to be paid or offset as a result of any such RAC audit; (iii) shall have the right to dispute and appeal any such offsets or amounts alleged to be owed in connection with any such RAC audit; and (iv) shall be entitled to any refunds resulting from any such RAC audit.

13.7 Post-Closing Access to Information. The Parties acknowledge that, after the Closing, the Company and Sellers may each need access to information, documents or computer data in the control or possession of the other concerning the Purchased Assets, Facilities or Assumed Liabilities for purposes of concluding the Transactions and for audits, investigations, compliance with governmental requirements, regulations and requests, and the prosecution or defense of third party claims. Accordingly, the Company and the Company Subsidiaries agree that, at the sole cost and expense of Sellers, at Sellers' request, they will make available to Sellers and their agents, independent auditors and/or Governmental Entities such documents and

information as may be available relating to the Purchased Assets, Facilities and Assumed Liabilities in respect of periods prior to Closing and will permit Sellers to make copies of such documents and information. Sellers agree that, at the sole cost and expense of the Company, Sellers will make available to the Company and the Company Subsidiaries and their agents, independent auditors and/or Governmental Entities such documents and information as may be in the possession of any Sellers or their Affiliates relating to the Purchased Assets, Facilities and Assumed Liabilities in respect of periods prior to the Closing and will permit the Company and the Company Subsidiaries to make copies of such documents and information. After the Closing Date, the Company and the Company Subsidiaries (as applicable) shall retain for a period consistent with the Company's record-retention policies and practices, those records of Sellers delivered to the Company or any Company Subsidiary.

13.8 Sellers' Remedial Actions. If Sellers have failed to fulfill prior to Closing any of their obligations set forth herein, and the Company has elected to close notwithstanding such deficiency or deficiencies, Sellers shall nevertheless use their commercially reasonable efforts to correct such deficiency or deficiencies as promptly as practicable after Closing, and their non-fulfillment shall not be deemed waived by the Company unless specifically so stated in writing by the Company.

13.9 Seller Intellectual Property. Sellers shall take any and all reasonable actions and shall cause their Employees, contractors and consultants, as applicable, to take any and all reasonable actions (including executing documents) necessary to effectuate the transfer of the Seller Intellectual Property to the Company or a Company Subsidiary and, following the Closing, Sellers shall take any and all reasonable actions to allow the Company or such Company Subsidiary to prosecute, maintain and defend the Seller Intellectual Property, other than with respect to the Intellectual Property described in Schedule 4.9(c).

13.10 Use of Controlled Substances Permits. To the extent permitted by applicable law, the Company and the Company Subsidiaries (as applicable) shall have the right, for a period not to exceed one hundred twenty (120) days following the Closing Date, to operate under the licenses and registrations of Sellers relating to controlled substances and the operations of pharmacies and laboratories, until the Company or such Company Subsidiaries are able to obtain such licenses and registrations for themselves, pursuant to an agreement in the form annexed hereto as Exhibit J (the "Limited Power of Attorney"), which Sellers agree to execute and deliver at the Closing.

13.11 Use of Names. On or before the Closing Date, each Seller other than SJHSRI shall (a) amend its certificate of incorporation, bylaws and any other organizational documents and take all other actions necessary to change its name to one sufficiently dissimilar to such Seller's present name, in the Company's judgment, to avoid confusion, and (b) take all actions requested by the Company to enable the Company and the Company Subsidiaries to change their legal names to the present names of Sellers. After the Closing, (x) the Company and the Company Subsidiaries shall continue to operate the Business using, to the extent practicable, the names of the Seller entities (except for SJHSRI), including the present name of CCHP as immediately prior to Closing, and (y) Sellers will not adopt any trademarks or service marks that are confusingly similar to the trademarks and service marks assigned hereunder. After the Closing Date, neither Sellers nor any of their Affiliates will challenge the use of, or the validity

EXHIBIT 13

Chace Ruttenberg & Freedman, LLP
Attorneys at Law

Robert B. Berkelhammer**
Nathan W. Chace
Douglas J. Emanuel*^o
Robert D. Fine*
Carl I. Freedman
Macrina G. Hjerpe**
Bret W. Jedele
Drew P. Kaplan
Richard J. Land*
Allan M. Shine*
Don E. Wineberg*

LuAnn Cserr *^o
Andre S. Digou*
Jared R. Sugerman*

Bruce R. Ruttenberg, *retired*

* Also admitted in Massachusetts
† Also admitted in Connecticut
^o Also admitted in New York
* Also admitted in Washington, D.C.
* Admitted in California
^o Admitted U.S. Patent & Trademark Office

November 28, 2017

Max Wistow, Esq.
Wistow, Sheehan & Lovely, P.C.
61 Weybosett Street
Providence, RI 02903

Re: St. Joseph Health Services of Rhode Island ("SJHSRI")

Dear Max:

Below is in follow up to our phone conversation yesterday when you requested (1) a status update on SJHSRI's response to the subpoena, and (2) to know SJHSRI's position regarding the Attorney General's objection to the motion to compel response to the subpoena.

SJHSRI continues to collect, review and process potentially responsive documents. SJHSRI has requested access to documents owned by Prospect that may be responsive. Prospect continues to provide access to physical files, subject to Prospect's review of the documents for attorney client privilege, work product or other applicable privilege/objection. With respect to Prospect's electronic data, we have discussed with Prospect collection of electronic data, and while we anticipate some difficulty in retrieving and searching the electronic data due to the broad scope of the subpoena requests, Prospect intends to provide access consistent with SJHSRI's access to physical files subject to Prospect's review of the documents for attorney client privilege, work product or other applicable privilege/objection. We view this process as facilitating a rolling delivery of responsive documents as you previously agreed.

CR & F

As for the Attorney General's objection to your motion to compel response to the subpoena, SJHSRI does not intend to object to the Attorney General producing the confidential exhibits, subject to the attorney client privilege and work product being maintained and protected. We have not reviewed the documents referenced on the Attorney General's exhibit, however a quick reading of the document descriptions suggests that there are only a few items that appear to fall into that category.

Sincerely,



Richard J. Land

CR&F

EXHIBIT 14

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS



SUPERIOR COURT
SUBPOENA - CIVIL

Plaintiff/Petitioner St. Joseph Health Services of Rhode Island, Inc.	Civil Action File Number PC-2017-3856
Defendant/Respondent St. Josephs Health Services of Rhode Island Retirement Plan	

<input type="checkbox"/> Murray Judicial Complex Newport County 45 Washington Square Newport, Rhode Island 02840-2913 *(401) 841-8330	<input type="checkbox"/> Noel Judicial Complex Kent County 222 Quaker Lane Warwick, Rhode Island 02886-0107 *(401) 822-6900
<input type="checkbox"/> McGrath Judicial Complex Washington County 4800 Tower Hill Road Wakefield, Rhode Island 02879-2239 *(401) 782-4121	<input checked="" type="checkbox"/> Licht Judicial Complex Providence/Bristol County 250 Benefit Street Providence, Rhode Island 02903-2719 *(401) 222-3230

TO: St. Joseph Health Services of Rhode Island
 of C/O Richard Land, ONE PARK ROW, SUITE 300, Providence, RI 02903.

YOU ARE HEREBY COMMANDED to appear in the Superior Court listed above at the date, time, and courtroom specified below to testify in the above-entitled case and bring with you:

Courtroom	Date	Time

If you need language assistance, please contact the Office of Court Interpreters at (401) 222-8710 or by email at interpreterfeedback@courts.ri.gov before your court appearance.

* If an accommodation for a disability is necessary, please contact the Superior Court Clerk's Office at the telephone number listed above as soon as possible. TTY users can contact the Superior Court through Rhode Island Relay at 7-1-1 or 1-800-745-5555 (TTY) to voice number.

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS



SUPERIOR COURT

YOU ARE HEREBY COMMANDED to appear at the location, date, and time specified below to testify at the taking of a deposition in the above-entitled case.

Location of Deposition	Date	Time

YOU ARE HEREBY COMMANDED to produce and permit inspection and copying of the following documents or objects at location, date, and time specified below (list documents or objects):

See Schedule A hereto for requests for documents.

Location	Date	Time
61 Weybosset St, Providence, RI 02903	December 15, 2017	11:00 a.m.

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf and may set forth, for each person designated, the matters on which the person will testify. (Rule 30(b)(6) of the Superior Court Rule of Civil Procedure).

/s/ Max Wistow Attorney for the <input type="checkbox"/> Plaintiff/Petitioner <input checked="" type="checkbox"/> Defendant/Respondent or <input type="checkbox"/> Plaintiff/Petitioner <input type="checkbox"/> Defendant/Respondent	Rhode Island Bar Number: 0330
	Date: 12/1/2017
Telephone Number: (401) 831-2700	

Issued by <input type="checkbox"/> Clerk, <input checked="" type="checkbox"/> Notary, or <input type="checkbox"/> Issuing Official pursuant to G.L. 1956 § 9-17-3	Date: 12/1/2017
---	--------------------

/s/ _____
 Clerk

Benjamin Ledsham
 Name of Notary
 Signature of Notary
 Notary commission expires: 11/9/2019
 Notary identification number: 753498

 Name of Issuing Official
 Signature of Issuing Official

STATE OF RHODE ISLAND AND



PROVIDENCE PLANTATIONS

SUPERIOR COURT

The following information is being provided pursuant to Rule 45(c), (d), and (e) of the Superior Court Rules of Civil Procedure.

(c) Protection of Persons Subject to Subpoenas.

- (1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.
- (2) (A) A person commanded to produce and permit inspection and copying of designated books, papers, documents, or tangible things or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing, or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within fourteen (14) days after service of the subpoena or before the time specified for compliance if such time is less than fourteen (14) days after service, serve upon the self-represented litigant or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.
- (3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it:
 - (i) Fails to allow reasonable time for compliance;
 - (ii) Requires disclosure of privileged or other protected matter and no exception or waiver applies; or
 - (iii) Subjects a person to undue burden.
(B) If a subpoena
 - (i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or
 - (ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party,the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) Duties in Responding to Subpoena.

- (1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.
 - (2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.
- (e) Contempt. Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court in which the action is pending.

SCHEDULE A

Definitions

- a. The word "**documents**" as used herein is meant in the broad and liberal sense and includes hand-written, typed, recorded, electronically stored, or graphic material of any kind and description, and whether a draft, copy, original, or master, including, but not limited to, e-mails, electronic versions of documents, accounts, advertisements, letters, memoranda, prospectuses, resolutions, legislation, notes of conversations, contracts, agreements, drawings, tape recordings, inter-office and intra-office memoranda, studies, working papers, corporate records, minutes of meetings, checks, diaries, diary entries, appointment books, desk calendars, photographs, transcriptions or sound recordings or any type, and documents stored on data storage modules, databases, servers, computers, tapes, discs or other memory devices, or other information retrievable from storage systems. If any document has been prepared in multiple copies which are not identical, each modified copy or non-identical copy is a separate "document." The word "**document**" also includes data compilations from which information can be obtained and translated, if necessary, by the requesting party in a reasonably usable form.
- b. The term "any" and the term "all" are intended to mean "any and all."
- c. Any word in the singular also includes the plural and vice versa.
- d. The term "**SJHSRI**" refers to St. Joseph Health Services of Rhode Island and each of its predecessors or successors.
- e. The term "**CHARTERCARE**" refers to CharterCARE Health Partners and CharterCARE Community Board, and each of their predecessors or successors.
- f. The term "**RWH**" refers to Roger Williams Medical Center and Roger Williams Hospital, and each of their predecessors or successors.
- g. The term "**Prospect**" refers to Prospect CharterCARE, LLC, Prospect CharterCare SJHSRI, LLC, Prospect CharterCare RWMC, LLC, Prospect East Holdings, Inc., Prospect Medical Holdings, Inc., and Prospect East Hospital Advisory Services, LLC, and each of their predecessors or successors.
- h. The term "**November 28 Letter**" refers to the letter dated November 28, 2017 from Richard J. Land to Max Wistow (a copy of which is attached hereto as Exhibit 1), a portion of which states:

SJHSRI continues to collect, review and process potentially responsive documents. SJHSRI has requested access to documents owned by Prospect that may be responsive. Prospect continues to provide access to physical files, subject to Prospect's review of the documents for attorney client privilege, work product or other applicable privilege/objection. With respect to Prospect's electronic data, we have discussed with Prospect collection of electronic data, and while we anticipate some difficulty in retrieving and searching the electronic data due to the broad scope of the subpoena requests, Prospect intends to provide access consistent with SJHSRI's access to physical files subject to Prospect's review of the documents for attorney client privilege, work product or other applicable privilege/objection. We view this process as facilitating a rolling delivery of responsive documents as you previously agreed.

Documents Requested

1. In relation to the statements contained in or subject matter of the **November 28 Letter**:
 - a. All documents relating to communications with **Prospect, RWH, CHARTERCARE**, or their officers, agents, directors, or attorneys, relating to subpoenas or compliance with subpoenas issued in connection with *St. Joseph Health Services of Rhode Island, Inc. v. St. Josephs Health Services of Rhode Island Retirement Plan* (PC 2017-3856);
 - b. All documents relating to **SJHSRI's** efforts to comply with subpoenas issued in connection with *St. Joseph Health Services of Rhode Island, Inc. v. St. Josephs Health Services of Rhode Island Retirement Plan* (PC 2017-3856);
 - c. All documents relating to **Prospect's** efforts to comply with subpoenas issued in connection with *St. Joseph Health Services of Rhode Island, Inc. v. St. Josephs Health Services of Rhode Island Retirement Plan* (PC 2017-3856);

Case Number: PC-2017-3856
Filed in Providence/Bristol County Superior Court
Case Number: PC-2017-3856
Submitted: 12/20/17 2:23:52 PM
Filed in Providence/Bristol County Superior Court
Envelope: Providence
Submitted: 12/20/17 4:57:46 PM
Reviewer: Alexa G
Envelope: 1317347
Reviewer: Carol M.

Exhibit 1

Case Number: PC-2017-3856
Filed in Providence/Bristol County Superior Court
Submitted: 11/20/2017 2:23:55 PM
Envelope: 1317347
Entered: Providence/Bristol County Superior Court
Reviewed: 11/20/2017 4:57:46 PM
Submitted: Alexa G.
Envelope: 1317347
Reviewer: Carol M.

Chace Rутtenberg & Freedman, LLP
Attorneys at Law

Robert B. Berkelhammer¹
Nathan W. Chace
Douglas J. Emanuel²
Robert D. Fine³
Carl I. Freedman
Madrina G. Hjerpe⁴
Bret W. Jedeic
Drew P. Kaplan
Richard J. Land⁵
Allan M. Shire⁶
Don E. Wineberg⁷

LuAnn Cserr⁸
Andre S. Digou⁹
Jared R. Sugerman⁹

Bruce R. Rутtenberg, esq.

¹ Also admitted in Massachusetts
² Also admitted in Connecticut
³ Also admitted in New York
⁴ Also admitted in Washington, D.C.
⁵ Admitted in California
⁶ Registered U.S. Patent & Trademark Office

November 28, 2017

Max Wistow, Esq.
Wistow, Sheehan & Lovely, P.C.
61 Weybosett Street
Providence, RI 02903

Re: St. Joseph Health Services of Rhode Island ("SJHSRI")

Dear Max:

Below is in follow up to our phone conversation yesterday when you requested (1) a status update on SJHSRI's response to the subpoena, and (2) to know SJHSRI's position regarding the Attorney General's objection to the motion to compel response to the subpoena.

SJHSRI continues to collect, review and process potentially responsive documents. SJHSRI has requested access to documents owned by Prospect that may be responsive. Prospect continues to provide access to physical files, subject to Prospect's review of the documents for attorney client privilege, work product or other applicable privilege/objection. With respect to Prospect's electronic data, we have discussed with Prospect collection of electronic data, and while we anticipate some difficulty in retrieving and searching the electronic data due to the broad scope of the subpoena requests, Prospect intends to provide access consistent with SJHSRI's access to physical files subject to Prospect's review of the documents for attorney client privilege, work product or other applicable privilege/objection. We view this process as facilitating a rolling delivery of responsive documents as you previously agreed.

CR & F

Case Number: PC-2017-3856
Filed in Providence/Bristol County Superior Court
Submitted: 12/20/17 2:23:52 PM
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Submitted: 12/20/17 4:57:46 PM
Envelope: 1317347
Reviewer: Carol M.

As for the Attorney General's objection to your motion to compel response to the subpoena, SJHSRI does not intend to object to the Attorney General producing the confidential exhibits, subject to the attorney client privilege and work product being maintained and protected. We have not reviewed the documents referenced on the Attorney General's exhibit, however a quick reading of the document descriptions suggests that there are only a few items that appear to fall into that category.

Sincerely,



Richard J. Land

CR&F

EXHIBIT 15

STATE OF RHODE ISLAND
PROVIDENCE, SC.

SUPERIOR COURT

St. Joseph Health Services of Rhode
Island, Inc.

Vs.

PC 2017-3856

St. Josephs Health Services of Rhode
Island
Retirement Plan, as amended

**ST. JOSEPH HEALTH SERVICES OF RHODE ISLAND'S
SECOND SUPPLEMENTAL RESPONSE TO SUBPOENA**

Pursuant to Rule 45 of the Rhode Island Superior Court Rules of Civil Procedure, St. Joseph Health Services of Rhode Island ("SJHSRI"), by and through its undersigned counsel, hereby responds as follows to the Subpoena served on it by Max Wistow, Esq. ("Wistow") as special counsel to the Receiver of the St. Joseph Health Services of Rhode Island Retirement Plan.

SJHSRI objects to each and every request that seeks information, communications, or documents that are privileged or protected from disclosure by the work-product doctrine, attorney-client privilege, or any other applicable privilege. SJHSRI objects to each and every request, instruction and definition to the extent that it attempts to impose burdens on it in excess of those imposed by the Rhode Island Superior Court Rules of Civil Procedure. SJHSRI objects to each and every request that subjects SJHSRI to undue burden. SJHSRI objects to each and every request that is unreasonably duplicative, seeks information or documents that are obtainable from some other source that is more convenient, less burdensome or less

expensive. The above objections are incorporated in each of the following responses without waiver.

SJHSRI will supplement its production of documents when, as, and if further responsive documents are identified, and any supplemental production shall be made upon the terms and objections made in its initial production.

32. All documents produced or obtained in discovery in *Moniz v. St. Joseph Hospital*, 95-cv-00102 (D.R.I.), including responses to subpoenas *duces tecum* or requests for production of documents, answers to interrogatories, and deposition transcripts;

Response: SJHSRI does not have any documents in its possession, custody or control responsive to this request.

33. All other documents relating to *Moniz v. St. Joseph Hospital*, 95-cv-00102 (D.R.I.), including all correspondence to or from plaintiff's counsel and all settlement documents;

Response: Objection. This request seeks documents that are protected by the attorney-client privilege and the work product doctrine. Without waiving objection, see SJHSRI4727 to SJHSRI4746 and privilege log attached as Exhibit 1. SJHSRI has provided all documents in its possession, custody and control responsive to this request with the exception of the privileged documents identified on Exhibit 1.

St. Joseph Health Services of Rhode Island,

By its attorneys,

/s/ George E. Lieberman
George E. Lieberman, Esq. (#3860)
Of Counsel
Gianfrancesco & Friedmann
214 Broadway
Providence, RI 02903
Tel.: 401-270-0070
Email: george@gianfrancescolaw.com
Dated: December 12, 2017

CERTIFICATE OF SERVICE

I hereby certify that on December 12, 2017, I served a true copy of the within document through the Rhode Island Judiciary's electronic filing system on the following parties. The document electronically filed and served is available for viewing and/or downloading from the Rhode Island Judiciary's Electronic Filing System.

Max Wistow, Esq.
Wistow, Sheehan & Loveley, PC
61 Weybosset Street
Providence, RI 02903

/s/ George E. Lieberman

EXHIBIT 1

Privilege Log - Second Supplemental Response
12/12/2017

Bates # Begin	Bates # End	Document Type	Date of Document	Author	Recipient	Subject Matter	Privilege Category
SJHSRI-PRIV1	SJHSRI-PRIV2	Letter	4/3/1995	Bonnie B. Edwards, Esq.	Alan F. Cathers, MBA JD	Letter from attorney to client regarding draft answer to complaint	Attorney-Client
SJHSRI-PRIV3	SJHSRI-PRIV16	Fax Cover Letter and Draft Answer	4/7/1995	Bonnie B. Edwards, Esq.	Alan F. Cathers, MBA JD	Communication from attorney to client re draft answer prepared by attorney and draft answer sent to client for comments	Attorney-Client, Work Product
SJHSRI-PRIV17	SJHSRI-PRIV17	Letter	4/17/1995	Bonnie B. Edwards, Esq.	Alan F. Cathers, MBA JD	Letter from attorney to client re discovery and settlement discussions	Attorney-Client

EXHIBIT 16

From: George E. Lieberman
To: [Max Wistow](#)
Cc: [Stephen P. Sheehan](#); [Benjamin Ledsham](#); [Richard Land](#); [Andre Digou](#)
Subject: RE: Receivership Proceeding
Date: Tuesday, December 19, 2017 9:02:29 PM

Max: Sorry to be so annoying, but I meant talking to you early Thursday, not Friday.

Appreciate your patience with me.

George E. Lieberman, Esq.
Gianfrancesco & Friedemann, LLP
george@gianfrancescolaw.com

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(401) 270-0073 (Fax)	(857) 272-9907	(857) 272-9907

Please visit our website at www.gianfrancescolaw.com

From: George E. Lieberman
Sent: Tuesday, December 19, 2017 5:19 PM
To: 'Max Wistow' <mw@wistbar.com>
Cc: 'Stephen P. Sheehan' <sps@wistbar.com>; 'Benjamin Ledsham' <bledsham@wistbar.com>; 'Richard Land' <rland@crflp.com>; 'Andre Digou' <adigou@crflp.com>
Subject: RE: Receivership Proceeding

P.S. Max: Sorry, I forgot I need be in Court tomorrow morning. Not sure when Court session will end. Ask, please, we talk very early Friday morning.

Thanks.

George E. Lieberman, Esq.
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From: George E. Lieberman
Sent: Tuesday, December 19, 2017 5:16 PM
To: 'Max Wistow' <mw@wistbar.com>
Cc: Stephen P. Sheehan <sps@wistbar.com>; Benjamin Ledsham <bledsham@wistbar.com>; Richard Land <rland@crfillp.com>; Andre Digou <adigou@crfillp.com>
Subject: RE: Receivership Proceeding

Been out of office all day.

Need some time to review in detail subpoena and response.

Let us talk at about 2 tomorrow.

Thanks.

George E. Lieberman, Esq.
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From: Max Wistow [<mailto:mw@wistbar.com>]
Sent: Tuesday, December 19, 2017 12:52 PM
To: George E. Lieberman <george@gianfrancescolaw.com>
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Subject: RE: Receivership Proceeding

I tried reaching you earlier today. Your objection was untimely in that it was filed after the subpoena was returnable. Substantively, the objections are without merit. Please call me to see if we can work something out. If I don't hear from you by noon tomorrow I will have no alternative but to file a motion to compel and ask for monetary sanctions.

From: George E. Lieberman [<mailto:george@gianfrancescolaw.com>]
Sent: Tuesday, December 19, 2017 10:19 AM
To: Max Wistow
Cc: Stephen P. Sheehan; Benjamin Ledsham; Richard Land; Andre Digou
Subject: Receivership Proceeding

Max: In Court yesterday before the hearing began, you said that SJHSRI had not responded to your second subpoena and also I should not ask for any additional time to have SJHSRI respond to your subpoenas.

As I said I would, I reviewed the Court records and determined that you were incorrect as to SJHSRI not so responding as it did timely respond on Friday.

As to my not asking for additional time, which I note seems inconsistent with your advising the Court that you have not reviewed the documents SJHSRI has already produced, I want to be certain that you do want not to engage in a meet and confer conference as to any discovery timing issues.

Thank you.

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EXHIBIT 17

Max Wistow

From: Max Wistow
Sent: Wednesday, December 20, 2017 10:13 AM
To: 'George E. Lieberman'
Cc: Stephen P. Sheehan; Benjamin Ledsham; Richard Land; Andre Digou
Subject: RE: Receivership Proceeding

This morning I read your e-mail which you sent me last night at 9:02 p.m. I called your office at 9:05 a.m. this morning and asked to speak with you. Dominic Gianfrancesco told me you would not be in today. I asked him to have you call me. I am in the process of preparing a motion regarding SJHSRI's complete non-compliance.

No need to tell me that you appreciate my patience. I have none left. Your objection is bizarre (and untimely, notwithstanding your contention to the contrary). I am tired of going nowhere fast. There is no reason in the world why there cannot be complete and total compliance with at least the second subpoena. If you want to talk about when you can comply, I am willing to discuss a reasonable time table. Frankly, I don't understand why almost 3 weeks from the second subpoena is not more than sufficient time to comply with the very narrow requirements of that subpoena.

If you want to talk, call me. If I don't hear from you by 2:00 today, I will be filing a motion that is near completion and which we have spent many hours preparing, all at the potential costs of the retirees, both as to fees and taking me away from other tasks in the case.

Sorry George, but professional courtesies have a limit, and we are going to put those after the interest of the Plan.

Max

From: George E. Lieberman [mailto:george@gianfrancescolaw.com]
Sent: Tuesday, December 19, 2017 9:02 PM
To: Max Wistow
Cc: Stephen P. Sheehan; Benjamin Ledsham; Richard Land; Andre Digou
Subject: RE: Receivership Proceeding

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From: George E. Lieberman
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Cc: 'Stephen P. Sheehan' <sps@wistbar.com>; 'Benjamin Ledsham' <bledsham@wistbar.com>; 'Richard Land' <rland@crflp.com>; 'Andre Digou' <adigou@crflp.com>
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Sent: Tuesday, December 19, 2017 10:19 AM

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Subject: Receivership Proceeding

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