

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND**

STEPHEN DEL SESTO, AS RECEIVER
AND ADMINISTRATOR OF THE ST.
JOSEPH HEALTH SERVICES OF RHODE
ISLAND RETIREMENT PLAN; ET AL.,

Plaintiffs,

v.

PROSPECT CHARTERCARE, LLC; ET AL.,

Defendants.

C.A. No. 1:18-CV-00328-S-LDA

**THE DIOCESAN DEFENDANTS' OPPOSITION TO
FINAL SETTLEMENT APPROVAL AND MOTION FOR ATTORNEYS'
FEES CONCERNING SETTLEMENT WITH CHARTERCARE FOUNDATION**

Defendants Roman Catholic Bishop of Providence, a corporation sole, Diocesan Administration Corporation and Diocesan Service Corporation (collectively, the “Diocesan Defendants”) submit this opposition to Plaintiffs and Defendants Chartercare Foundation (“CCF”), St. Joseph Health Services of Rhode Island, Inc. (“SJHSRI”), Roger Williams Hospital (“RWH”), and Chartercare Community Board’s (“CCCB”) request for final settlement approval (the “CCF Settlement Motion”) and the motion by Plaintiffs’ Counsel for an award of attorneys’ fees (the “CCF Fee Motion”).

The CCF Settlement Motion and CCF Fee Motion continue to pose many of the same issues that the Diocesan Defendants raised at the preliminary approval stage and in connection with the motions for approval of the Plaintiffs’ proposed settlement with SJHSRI, RWH, and CCCB. The Diocesan Defendants discussed these problems in detail in earlier briefing. Therefore, in the interests of judicial economy and the preservation of resources for all

parties, the Diocesan Defendants succinctly summarize the grounds for their opposition and incorporate and adopt the arguments previously made in earlier filings.

For the following reasons set forth more fully in the Diocesan Defendants' and/or the Prospect Entities'¹ prior briefing, the CCF Settlement Motion and CCF Fee Motion should be denied.

Issues Concerning The Pension Benefit Guaranty Corporation

1. The Court should deny the CCF Settlement Motion and CCF Fee Motion on account of Plaintiffs' failure to join the Pension Benefit Guaranty Corporation ("PBGC") to these proceedings or, in the alternative, defer resolution of the motions until the PBGC has been joined. Joint Mem. Of Prospect Entities In Opp'n To Joint Mot. For Settlement Class Certification, Appointment of Class Counsel, & Prelim. Settlement Approval Of SJHSRI, RWH, & CCCB 10-12, ECF No. 75-1.

Issues Concerning The Renewed Request For A "Good Faith" Finding

2. Approval of the settlement under R.I. Gen. Laws § 23-17.14-35 should be denied because ERISA preempts § 23-17.14-35. Diocesan Defs.' Resp. In Opp'n To The Joint Mot. For Settlement Class Certification, Appointment Of Class Counsel, & Prelim. Settlement Approval & Mot. For Award Of Att'ys' Fees (hereinafter "Diocesan Defs.' SJHSRI Settlement Opp'n) 4-5, ECF No. 73.

3. Additionally, the Court should decline to approve the settlement under § 23-17.14-35 because § 23-17.14-35 violates the Equal Protection and Due Process Clauses of the United States and Rhode Island Constitutions. *Id.* at 5-13.

¹ "Prospect Entities" refers to Defendants Prospect Medical Holdings, Inc., Prospect East Holdings, Inc., Prospect CharterCARE, LLC, Prospect CharterCARE SJHSRI, LLC, and Prospect CharterCARE RWMC, LLC.

4. The Court, moreover, should resolve these ERISA and constitutional challenges to R.I. Gen. Laws § 23-17.14-35 prior to making a good faith finding. To do otherwise would prejudice the non-settling defendants' defense of this litigation by leaving their contribution rights and the applicable judgment credit regime unclear. Diocesan Defs.' Post-Hr'g Br. Addressing Proposed Orders On Prelim. Settlement Approval & Question Regarding Federal Receivership, 2-3, ECF No. 115.

Issues Concerning The CCF Fee Motion

5. There are also several problems with the CCF Fee Motion, all of which the Diocesan Defendants' addressed in prior briefing and incorporate herein by reference. Diocesan Defs.' Resp. In Opp'n To Joint Mot. For Settlement Class Certification, Appointment Of Class Counsel & Prelim. Settlement Approval & Mot. For Award Of Att'ys' Fees Concerning Chartercare Foundation, 3-4, ECF No. 80.

6. The Diocesan Defendants anticipate that Plaintiffs' Counsel will again challenge the Diocesan Defendants' standing to raise questions about motions for attorneys' fees. The Diocesan Defendants responded to this argument in prior briefing, and will merely refer the Court to that filing, rather than repeat themselves here. *See* Diocesan Defs.' SJHSRI Settlement Opp'n, 17, 20, 24 n.20.

CONCLUSION

For the foregoing reasons, the Court should deny the CCF Settlement Motion and the CCF Fee Motion.

Respectfully Submitted,

ROMAN CATHOLIC BISHOP OF
PROVIDENCE, A CORPORATION SOLE,
DIOCESAN ADMINISTRATION
CORPORATION and DIOCESAN SERVICE
CORPORATION

By Their Attorneys,

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CERTIFICATE OF SERVICE

I hereby certify that on the 15th day of August 2019, the foregoing document has been filed electronically through the Rhode Island ECF system, is available for viewing and downloading, and will be sent electronically to the counsel who are registered participants identified on the Notice of Electronic Filing.

/s/ Howard Merten

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