

**STATE OF RHODE ISLAND  
PROVIDENCE, SC**

**SUPERIOR COURT**

**CHARTERCARE COMMUNITY BOARD :  
(through Thomas S. Hemmendinger, as Permanent :  
Liquidating Receiver), individually and derivatively, as :  
Member of PROSPECT CHARTERCARE, LLC and :  
As trustee of the beneficial interest of its membership :  
Interest in PROSPECT CHARTERCARE, LLC; and :  
STEPHEN DEL SESTO, as receiver and administrator :  
Of St. Joseph’s Health Services of Rhode Island :  
Retirement Plan and as holder of the beneficial interest :  
Of CHARTERCARE COMMUNITY BOARD’s :  
Membership interest in PROSPECT :  
CHARTERCARE, LLC , :  
Plaintiffs, :**

**C.A. No.: PC-2019-3654**

**v. :**

**SAMUEL LEE; :  
DAVID TOPPER; :  
THOMAS REARDON; :  
VON CROCKETT; :  
EDWIN SANTOS; :  
EDWARD QUINLAN; :  
JOSEPH DISTEFANO; :  
ANDREA DOYLE; :  
PROSPECT EAST HOSPITAL ADVISORY :  
SERVICES, LLC; :  
PROSPECT CHARTERCARE, LLC :  
PROSPECT EAST HOLDINGS, INC.; :  
PROSPECT MEDICAL HOLDINGS, INC.; :  
IVY HOLDINGS INC.; :  
INVY INTERMEDIATE HOLDINGS INC.; :  
DAVID & ALEXA TOPPER FAMILY TRUST; :  
GREEN EQUITY INVESTORS V, LP; :  
GREEN EQUITY INVESTORS SIDE V, LP: :  
JP MORGAN CHASE BANK, N.A. as administrative :  
Agent and collateral agent for certain lenders; :  
ABC CORPS 1-10; JOHN DOE 1-10; and :  
JANE DOE 1-10, :  
Defendants. :**

**DEFENDANTS' ANSWER TO THE PLAINTIFFS' VERIFIED FIRST AMENDED AND  
SUPPLEMENTAL COMPLAINT**

NOW COMES, the Defendants, Samuel Lee, David Topper, Thomas Reardon, Von Crockett, Edwin Santos, Edward Quinlan, Joseph Distefano, Andrea Doyle (hereinafter collectively referred to as the "Defendants"), and hereby responds to the Plaintiff, THOMAS S. HEMMENDINGER as Permanent Liquidating Receiver of CharterCARE Community Board's (hereinafter referred to as "Plaintiff") Verified First Amended and Supplemental Complaint as follows:

**PARTIES**

**A. THE PLAINTIFFS**

1. Defendants are without sufficient knowledge to admit or deny the allegations contained in paragraph 1 of Plaintiffs' Complaint and therefore denies the allegations and leaves the Plaintiffs to their proof.
2. Admitted.
3. Admitted.
4. Admitted.
5. Admitted to on December 18, 2019, Thomas S. Hemmendinger was appointed Temporary Liquidating Receiver of CCB, St. Joseph Health Services of Rhode Island, and Defendants are without sufficient knowledge to admit or deny the remaining allegations contained in paragraph 5 of the Plaintiffs' Complaint and therefore denies the allegations and leave the Plaintiffs to their proof.
6. Defendants are without sufficient knowledge to admit or deny the remaining allegations contained in paragraph 6 of the Plaintiffs' Complaint and therefore denies the allegations and leave the Plaintiffs to their proof.

**B. THE DEFENDANTS**

7. Denied.

8. Denied.

9. Denied.

10. Denied.

11. Denied.

12. Admitted.

13. Admitted.

14. Admitted.

15. Defendants are without sufficient knowledge to admit or deny the remaining allegations contained in paragraph 15 of the Plaintiffs' Complaint and therefore denies the allegations and leave the Plaintiffs to their proof.

16. Defendants are without sufficient knowledge to admit or deny the remaining allegations contained in paragraph 16 of the Plaintiffs' Complaint and therefore denies the allegations and leave the Plaintiffs to their proof.

17. Defendants are without sufficient knowledge to admit or deny the remaining allegations contained in paragraph 17 of the Plaintiffs' Complaint and therefore denies the allegations and leave the Plaintiffs to their proof.

18. Defendants are without sufficient knowledge to admit or deny the remaining allegations contained in paragraph 18 of the Plaintiffs' Complaint and therefore denies the allegations and leave the Plaintiffs to their proof.

19. Defendants are without sufficient knowledge to admit or deny the remaining allegations contained in paragraph 19 of the Plaintiffs' Complaint and therefore denies the allegations and leave the Plaintiffs to their proof.

20. Defendants are without sufficient knowledge to admit or deny the remaining allegations contained in paragraph 20 of the Plaintiffs' Complaint and therefore denies the allegations and leave the Plaintiffs to their proof.

21. Defendants are without sufficient knowledge to admit or deny the remaining allegations contained in paragraph 21 of the Plaintiffs' Complaint and therefore denies the allegations and leave the Plaintiffs to their proof.

22. Defendants are without sufficient knowledge to admit or deny the remaining allegations contained in paragraph 22 of the Plaintiffs' Complaint and therefore denies the allegations and leave the Plaintiffs to their proof.

23. Defendants are without sufficient knowledge to admit or deny the remaining allegations contained in paragraph 23 of the Plaintiffs' Complaint and therefore denies the allegations and leave the Plaintiffs to their proof.

24. Defendants are without sufficient knowledge to admit or deny the remaining allegations contained in paragraph 24 of the Plaintiffs' Complaint and therefore denies the allegations and leave the Plaintiffs to their proof.

25. Defendants are without sufficient knowledge to admit or deny the remaining allegations contained in paragraph 25 of the Plaintiffs' Complaint and therefore denies the allegations and leave the Plaintiffs to their proof.

26. Defendants are without sufficient knowledge to admit or deny the remaining allegations contained in paragraph 26 of the Plaintiffs' Complaint and therefore denies the allegations and leave the Plaintiffs to their proof.

27. Defendants are without sufficient knowledge to admit or deny the remaining allegations contained in paragraph 27 of the Plaintiffs' Complaint and therefore denies the allegations and leave the Plaintiffs to their proof.

**JURISDICTION AND VENUE**

28. Admitted.

29. Defendants are without sufficient knowledge to admit or deny the remaining allegations contained in paragraph 29 of the Plaintiffs' Complaint and therefore denies the allegations and leave the Plaintiffs to their proof.

30. Defendants are without sufficient knowledge to admit or deny the remaining allegations contained in paragraph 30 of the Plaintiffs' Complaint and therefore denies the allegations and leave the Plaintiffs to their proof.

31. Admitted.

32. Defendants are without sufficient knowledge to admit or deny the remaining allegations contained in paragraph 32 of the Plaintiffs' Complaint and therefore denies the allegations and leave the Plaintiffs to their proof.

**SUPER. R. CIV.P. 23.1 ALLEGATIONS**

33. Defendants are without sufficient knowledge to admit or deny the allegations contained in paragraph 33 of Plaintiffs' Complaint and therefore denies the allegations and leaves the Plaintiffs to their proof.

34. Defendants are without sufficient knowledge to admit or deny the allegations contained in paragraph 34 of Plaintiffs' Complaint and therefore denies the allegations and leaves the Plaintiffs to their proof.

35. Denied as to 35 a-f.

**FACTS**

**A. ALLOWING PROSPECT EAST AND PROSPECT MEDICAL HOLDINGS TO FAIL TO FUND THE \$50 MILLION LONG-TERM CAPITAL COMMITMENT**

36. Defendants are without sufficient knowledge to admit or deny the allegations contained in paragraph 36 of Plaintiffs' Complaint and therefore denies the allegations and leaves the Plaintiffs to their proof.

37. Defendants are without sufficient knowledge to admit or deny the allegations contained in paragraph 37 of Plaintiffs' Complaint and therefore denies the allegations and leaves the Plaintiffs to their proof.

38. Defendants are without sufficient knowledge to admit or deny the allegations contained in paragraph 38 of Plaintiffs' Complaint and therefore denies the allegations and leaves the Plaintiffs to their proof.

39. Denied.

40. Defendants are without sufficient knowledge to admit or deny the allegations contained in paragraph 40 of Plaintiffs' Complaint and therefore denies the allegations and leaves the Plaintiffs to their proof.

41. Defendants are without sufficient knowledge to admit or deny the allegations contained in paragraph 41 of Plaintiffs' Complaint and therefore denies the allegations and leaves the Plaintiffs to their proof.

42. Defendants are without sufficient knowledge to admit or deny the allegations contained in paragraph 42 of Plaintiffs' Complaint and therefore denies the allegations and leaves the Plaintiffs to their proof.

43. Defendants are without sufficient knowledge to admit or deny the allegations contained in paragraph 43 of Plaintiffs' Complaint and therefore denies the allegations and leaves the Plaintiffs to their proof.

44. Defendants are without sufficient knowledge to admit or deny the allegations contained in paragraph 44 of Plaintiffs' Complaint and therefore denies the allegations and leaves the Plaintiffs to their proof.

45. Defendants are without sufficient knowledge to admit or deny the allegations contained in paragraph 45 of Plaintiffs' Complaint and therefore denies the allegations and leaves the Plaintiffs to their proof.

46. Defendants are without sufficient knowledge to admit or deny the allegations contained in paragraph 46 of Plaintiffs' Complaint and therefore denies the allegations and leaves the Plaintiffs to their proof.

47. Defendants are without sufficient knowledge to admit or deny the allegations contained in paragraph 47 of Plaintiffs' Complaint and therefore denies the allegations and leaves the Plaintiffs to their proof.

48. Defendants are without sufficient knowledge to admit or deny the allegations contained in paragraph 48 of Plaintiffs' Complaint and therefore denies the allegations and leaves the Plaintiffs to their proof.

49. Defendants are without sufficient knowledge to admit or deny the allegations contained in paragraph 49 of Plaintiffs' Complaint and therefore denies the allegations and leaves the Plaintiffs to their proof.

50. Denied.

51. Defendants are without sufficient knowledge to admit or deny the allegations contained in paragraph 51 of Plaintiffs' Complaint and therefore denies the allegations and leaves the Plaintiffs to their proof.

52. Denied.

53. Denied.

54. Denied.

**B. PERMITTING REFUSALS TO PROVIDE INFORMATION ABOUT THE LONG TERM CAPITAL COMMITMENT AND ACCOUNTS RECEIVABLE**

55. Defendants are without sufficient knowledge to admit or deny the allegations contained in paragraph 55 of Plaintiffs' Complaint and therefore denies the allegations and leaves the Plaintiffs to their proof.

56. Denied.

57. Denied.

58. Denied.

59. Denied.

60. Denied.

61. Denied.

62. Denied.

63. Denied.

**B. EXPOSING PROSPECT CHARTERCARE TO LIABILITY IN CONNECTION WITH MUNICIPAL TAX STABILIZATION AGREEMENTS**

**1. With the City of Providence**

64. Defendants are without sufficient knowledge to admit or deny the allegations contained in paragraph 64 of Plaintiffs' Complaint and therefore denies the allegations and leaves the Plaintiffs to their proof.

65. Defendants are without sufficient knowledge to admit or deny the allegations contained in paragraph 65 of Plaintiffs' Complaint and therefore denies the allegations and leaves the Plaintiffs to their proof.



66. Defendants are without sufficient knowledge to admit or deny the allegations contained in paragraph 66 of Plaintiffs' Complaint and therefore denies the allegations and leaves the Plaintiffs to their proof.

67. Defendants are without sufficient knowledge to admit or deny the allegations contained in paragraph 67 of Plaintiffs' Complaint and therefore denies the allegations and leaves the Plaintiffs to their proof.

68. Defendants are without sufficient knowledge to admit or deny the allegations contained in paragraph 68 of Plaintiffs' Complaint and therefore denies the allegations and leaves the Plaintiffs to their proof.

69. Defendants are without sufficient knowledge to admit or deny the allegations contained in paragraph 69 of Plaintiffs' Complaint and therefore denies the allegations and leaves the Plaintiffs to their proof.

70. Defendants are without sufficient knowledge to admit or deny the allegations contained in paragraph 70 of Plaintiffs' Complaint and therefore denies the allegations and leaves the Plaintiffs to their proof.

71. Denied.

72. Denied.

73. Denied.

74. Denied.

75. Denied.

## **2. With the Town of North Providence**

76. Defendants are without sufficient knowledge to admit or deny the allegations contained in paragraph 76 of Plaintiffs' Complaint and therefore denies the allegations and leaves the Plaintiffs to their proof.

77. Defendants are without sufficient knowledge to admit or deny the allegations contained in paragraph 77 of Plaintiffs' Complaint and therefore denies the allegations and leaves the Plaintiffs to their proof.

78. Defendants are without sufficient knowledge to admit or deny the allegations contained in paragraph 78 of Plaintiffs' Complaint and therefore denies the allegations and leaves the Plaintiffs to their proof.

79. Defendants are without sufficient knowledge to admit or deny the allegations contained in paragraph 79 of Plaintiffs' Complaint and therefore denies the allegations and leaves the Plaintiffs to their proof.

80. Defendants are without sufficient knowledge to admit or deny the allegations contained in paragraph 80 of Plaintiffs' Complaint and therefore denies the allegations and leaves the Plaintiffs to their proof.

81. Denied.

82. Defendants are without sufficient knowledge to admit or deny the allegations contained in paragraph 82 of Plaintiffs' Complaint and therefore denies the allegations and leaves the Plaintiffs to their proof.

83. Defendants are without sufficient knowledge to admit or deny the allegations contained in paragraph 83 of Plaintiffs' Complaint and therefore denies the allegations and leaves the Plaintiffs to their proof.

84. Defendants are without sufficient knowledge to admit or deny the allegations contained in paragraph 84 of Plaintiffs' Complaint and therefore denies the allegations and leaves the Plaintiffs to their proof.

85. Denied.

86. Denied.

87. Denied.

88. Denied.

**B. THE 2018 DIVIDENDS**

89. Denied.

90. Denied.

91. Denied.

92. Denied.

93. Denied.

94. Denied.

95. Denied.

96. Denied.

97. Denied.

98. Denied.

99. Denied.

100. Defendants are without sufficient knowledge to admit or deny the allegations contained in paragraph 100 of Plaintiffs' Complaint and therefore denies the allegations and leaves the Plaintiffs to their proof.

101. Defendants are without sufficient knowledge to admit or deny the allegations contained in paragraph 101 of Plaintiffs' Complaint and therefore denies the allegations and leaves the Plaintiffs to their proof.

102. Denied.

**B. THE SETTLEMENT BETWEEN CCCB, THE RECEIVER, AND OTHERS**

103. Defendants are without sufficient knowledge to admit or deny the allegations contained in paragraph 103 of Plaintiffs' Complaint and therefore denies the allegations and leaves the Plaintiffs to their proof.

104. Defendants are without sufficient knowledge to admit or deny the allegations contained in paragraph 104 of Plaintiffs' Complaint and therefore denies the allegations and leaves the Plaintiffs to their proof.

105. Defendants are without sufficient knowledge to admit or deny the allegations contained in paragraph 105 of Plaintiffs' Complaint and therefore denies the allegations and leaves the Plaintiffs to their proof.

106. Defendants are without sufficient knowledge to admit or deny the allegations contained in paragraph 106 of Plaintiffs' Complaint and therefore denies the allegations and leaves the Plaintiffs to their proof.

**B. FORUM SELECTION CLAUSES**

107. Defendants are without sufficient knowledge to admit or deny the allegations contained in paragraph 107 of Plaintiffs' Complaint and therefore denies the allegations and leaves the Plaintiffs to their proof.

108. Defendants are without sufficient knowledge to admit or deny the allegations contained in paragraph 108 of Plaintiffs' Complaint and therefore denies the allegations and leaves the Plaintiffs to their proof.

109. Defendants are without sufficient knowledge to admit or deny the allegations contained in paragraph 109 of Plaintiffs' Complaint and therefore denies the allegations and leaves the Plaintiffs to their proof.

**CAUSES OF ACTION**

**COUNT I (SPECIFIC PERFORMANCE OF CONTRACTUAL OBLIGATIONS, DERIVATIVELY)**

110.-115. The allegations in paragraphs 110-115 are not directed at the Defendants, and therefore require no response. To the extent that a response is required, then all allegations are specifically denied.

**COUNT II (SPECIFIC PERFORMANCE OF CONTRACTUAL OBLIGATIONS, NON-DERIVATIVELY)**

116.-121. The allegations in paragraphs 116-121 are not directed at the Defendants, and therefore require no response. To the extent that a response is required, then all allegations are specifically denied.

**COUNT III (BREACH OF CONTRACT—FAILURE TO PROVIDE REQUESTED INFORMATION)**

122.-128. The allegations in paragraphs 122-128 are not directed at the Defendants, and therefore require no response. To the extent that a response is required, then all allegations are specifically denied.

**COUNT IV (VIOLATION OF STATUTORY DUTY TO PROVIDE REQUESTED INFORMATION)**

129.-134. The allegations in paragraphs 129-134 are not directed at the Defendants, and therefore require no response. To the extent that a response is required, then all allegations are specifically denied.

**COUNT V (BREACH OF FIDUCIARY DUTY, DERIVATIVELY)**

135. The Defendants reincorporates all prior responses to Plaintiffs' allegations contained in paragraphs 1-134 of this Complaint as if fully set forth herein.

136. Denied.

137. Denied.

138. Denied.

139. Denied.

WHEREFORE, Defendants pray that judgment enter in their favor and against the Plaintiffs on this Count V.

**COUNT VI (BREACH OF FIDUCIARY DUTY, NON-DERIVATIVELY)**

140. The Defendants reincorporates all prior responses to Plaintiffs' allegations contained in paragraphs 1-139 of this Complaint as if fully set forth herein.

141. Denied.

142. Denied.

143. Denied.

144. Denied.

WHEREFORE, Defendants pray that judgment enter in their favor and against the Plaintiffs on this Count VI.

**COUNT VII (AIDING AND ABETTING BREACHES OF FIDUCIARY DUTY, DERIVATIVELY)**

145. The Defendants reincorporates all prior responses to the Plaintiffs' allegations contained in paragraphs 1-144 of this Complaint as if fully set forth herein.

146. Denied.

WHEREFORE, Defendants pray that judgment enter in their favor and against the Plaintiffs on this Count VII.

**COUNT VIII (AIDING AND ABETTING BREACHES OF FIDUCIARY DUTY, NON-DERIVATIVELY)**

147. The Defendants reincorporates all prior responses to the Plaintiffs' allegations contained in paragraphs 1-146 of this Complaint as if fully set forth herein.

148. Denied.

WHEREFORE, Defendants pray that judgment enter in their favor and against the Plaintiffs on this Count VIII.

**COUNT IX (FRAUDULENT TRANSFER, § 6-16-4(A)(1))**

149. The Defendants reincorporates all prior responses to the Plaintiffs' allegations contained in paragraphs 1-148 of this Complaint as if fully set forth herein.

150. Denied.

151. Denied.

152. Denied.

153. Denied.

154. Denied.

155. Denied.

156. Denied.

157. Denied.

WHEREFORE, Defendants pray that judgment enter in their favor and against the Plaintiffs on this Count IX.

**COUNT X (FRAUDULENT TRANSFER, § 6-16-4(A)(2) AND/OR 6-16-5(A))**

158. The Defendants reincorporates all prior responses to the Plaintiffs' allegations contained in paragraphs 1-157 of this Complaint as if fully set forth herein.

159. Denied.

160. Denied.

161. Denied.

162. Denied.

163. Denied.

164. Denied.

165. Denied.

WHEREFORE, Defendants pray that judgment enter in their favor and against the Plaintiffs on this Count X.

**COUNT XI (DECLARATORY JUDGMENT)**

166.-169. The allegations in paragraphs 166-169 are not directed at the Defendants, and therefore require no response. To the extent that a response is required, then all allegations are specifically denied.

**AFFIRMATIVE DEFENSES**

The Defendants and each of them assert the following affirmative Defenses:

**FIRST AFFIRMATIVE DEFENSE**

The Defendants hereby assert the affirmative defense of waiver.

**SECOND AFFIRMATIVE DEFENSE**

The Defendants hereby assert the affirmative defense of estoppel.

**THIRD AFFIRMATIVE DEFENSE**

The Defendants hereby assert the affirmative defense of the doctrine of laches.

**FOURTH AFFIRMATIVE DEFENSE**

The Plaintiffs' Complaint is barred by the Statute of Limitations.

**FIFTH AFFIRMATIVE DEFENSE**

The Defendants hereby assert the defense of lack subject matter jurisdiction.

**SIXTH AFFIRMATIVE DEFENSE**

The Defendants hereby assert the affirmative defense that the claims asserted by these Plaintiffs against these Defendants are not justiciable in that they are not ripe for a case in controversy and are otherwise moot.



**SEVENTH AFFIRMATIVE DEFENSE**

The Plaintiffs' Complaint fails to set forth facts upon which relief may be granted.

**EIGHTH AFFIRMATIVE DEFENSE**

The Defendants assert the defense of illegality.

**NINTH AFFIRMATIVE DEFENSE**

The Plaintiffs are barred by the doctrine of unclean hands.

**TENTH AFFIRMATIVE DEFENSE**

The Defendants Lee, Topper, Reardon and Crockett assert the affirmative defense that this Court has no personal jurisdiction over these defendants.

These defendants reserve the right to set forth additional affirmative defenses as they become known through the course and scope of discovery in accordance with the Rhode Island Rules of Civil Procedure.

WHEREFORE, Defendants and each of them pray this Court enters judgement in favor of the Defendants and against the Plaintiffs and award the Defendants all fees, costs, and interest as may be permitted by law.

Samuel Lee, David Topper, Thomas  
Reardon, Von Crocket, Edwin  
Santos, Edward Quinlan, Joseph  
Distefano and Andrea Doyle,  
By their Attorneys,

/s/ Vincent A. Indeglia, Esq.

Vincent A. Indeglia, Esq. (#4140)

Jaclyn A. Cotter, Esq. (#9536)

**INDEGLIA & ASSOCIATES**

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**CERTIFICATE OF SERVICE**

I hereby certify that, on the 15<sup>th</sup> day of June, 2020:

[X] I filed and served this document through the electronic filing system on the following parties:

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I served this document through the electronic filing system on the following parties: The document electronically served is available for viewing and/or downloading from the Rhode Island Judiciary's Electronic Filing System.

I mailed and e-mailed or  hand-delivered this document to the attorney for the opposing party and/or the opposing party if self-represented, whose name is:

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/s/ Catherine Enz

