

UNITED STATE 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-WES-LDA

**Notice of Proposed Order**

Pursuant to the Court’s direction at the September 10, 2019 hearing, attached at  
Tab 1 is Plaintiffs’ proposed order concerning limited discovery.

Respectfully submitted,

All Plaintiffs,  
By their Attorney,

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Dated: October 8, 2019

**CERTIFICATE OF SERVICE**

I hereby certify that an exact copy of the within document was electronically filed on the 8th day of October, 2019 using the Electronic Case Filing system of the United States District Court and is available for viewing and downloading from the Electronic Case Filing system. The Electronic Case Filing system will automatically generate and send a Notice of Electronic Filing to the following Filing Users or registered users of record:

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**TAB 1**

**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-WES/LDA

**PROPOSED ORDER CONCERNING LIMITED DISCOVERY AND RELATED  
SUMMARY JUDGMENT MOTIONS**

The Court having determined to defer decision on the pending motions to dismiss, and having directed Plaintiff Stephen Del Sesto (the “Receiver”) and the individual named plaintiffs (individually and as putative class representatives) (with the Receiver, “Plaintiffs”) and Defendants Prospect Medical Holdings, Inc., Prospect East Holdings, Inc., Prospect Chartercare, LLC, Prospect Chartercare SJHSRI, LLC, Prospect Chartercare RWMC, LLC, Angell Pension Group, Inc., Roman Catholic Bishop of Providence, a corporation sole, Diocesan Administration Corporation, and Diocesan Service Corporation (collectively “Non-Settling Defendants,” and with Plaintiffs, the “Parties”) to attempt to agree upon a proposed plan for limited discovery and related motions for summary judgment, and the Parties through counsel having advised the Court that they were unable to reach such agreement, it is hereby

**ORDERED**

1. The Parties may conduct discovery as provided herein, limited to Count IV of the Plaintiffs’ First Amended Complaint, concerning when, if at any time, the St. Joseph

Health Services of Rhode Island Retirement Plan (the “Plan”) ceased to be a church plan exempt from ERISA, with the expectation that Plaintiffs and/or Non-Settling Defendants will thereafter file motions for summary judgment as further described below, limited to that issue.

2. The schedule for such limited discovery shall be as follows:
  - a. Within thirty (30) days of the entry of this Order, the Receiver will produce to the Non-Settling Defendants all documents on which the Receiver relies for the contention that the Plan did not qualify as a non-electing church plan at any time prior to the effective date of the Receiver’s election on April 15, 2019, and the Non-Settling Defendants will produce to Plaintiffs all documents on which they rely for the contention that the Plan qualified as a church plan throughout or at any time during the period from January 1, 2009 through said effective date.
  - b. At any time the Parties may serve requests for admission concerning when, if at any time, the Plan ceased to be a church plan exempt from ERISA.
  - c. At any time the Parties may notice depositions and serve deposition subpoenas on non-parties, provided, however, that any depositions pursuant to such notices or subpoenas shall be limited to issues concerning when, if at any time, the Plan ceased to be a church plan exempt from ERISA, and shall not take place until after the time provided for the production of documents referred to in paragraph a.

- d. Within thirty (30) days after the time provided for the production of documents referred to in paragraph a, any party may file a motion for summary judgment concerning when, if at any time, the Plan ceased to be a church plan exempt from ERISA.
- e. The Parties shall file their responses to any motions for summary judgment within thirty (30) days after being served with the motion; and each party shall thereafter have fourteen (14) days to file a reply memorandum.
- f. No discovery shall take place except as provided for herein, except that the Parties may seek additional discovery pursuant to Fed. R. Civ. P. 56(d) upon a showing satisfactory to the Court that a motion for summary judgment concerning when, if at any time, the Plan ceased to be a church plan exempt from ERISA, raised factual issues that the non-movants did not reasonably anticipate.
- g. Within thirty (30) days of the entry of this Order, the Parties shall meet and confer and jointly propose to the Court a stipulation and order concerning the treatment of confidential information submitted in connection with motions for summary judgment concerning when, if at any time, the Plan ceased to be a church plan exempt from ERISA, provided, however, that if the parties are unable to agree on a joint proposal, each party seeking confidentiality shall within forty (40) days of the Court's approving this stipulation submit a motion and a proposed order therefor, and any party's failure to do so will constitute

a waiver of that party's right to request confidentiality for any information submitted by any party in connection with the motions for summary judgment.

3. Upon resolution of these motions for summary judgment, the Court will hold a status conference to discuss next steps.

IT IS SO ORDERED

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Hon. William E. Smith  
Chief United States District Judge

Dated: October , 2019

Presented by:

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Dated: October 8, 2019

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