

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.	:	C.A. No:1:18-CV-00328-WES-LDA
PROSPECT CHARTERCARE, LLC, ET AL.	:	
	:	
Defendants.	:	

**PLAINTIFFS' REPLY TO THE OBJECTION OF NON-SETTLING
DEFENDANTS PROSPECT MEDICAL HOLDINGS, INC., PROSPECT
EAST HOLDINGS, INC., PROSPECT CHARTERCARE, LLC,
PROSPECT CHARTERCARE SJHSRI, LLC, AND PROSPECT
CHARTERCARE RWMC, LLC TO THE JOINT MOTION FOR
SETTLEMENT CLASS CERTIFICATION, APPOINTMENT OF CLASS
COUNSEL, AND PRELIMINARY SETTLEMENT APPROVAL, BY
PLAINTIFFS AND DEFENDANTS CHARTERCARE FOUNDATION, ST.
JOSEPH HEALTH SERVICES OF RHODE ISLAND, ROGER WILLIAMS
HOSPITAL, AND CHARTERCARE COMMUNITY BOARD**

The Prospect Defendants¹ and Diocesan Defendants² have filed two objections to the Joint Motion for settlement approval of the second settlement, and Plaintiffs hereby reply to the Prospect Defendants' objection. Both sets of Defendants wholesale incorporate various prior arguments they asserted in objection to the first settlement,

¹ The Prospect Defendants are: Prospect Medical Holdings, Inc., Prospect East Holdings, Inc., Prospect Chartercare, LLC, Prospect Chartercare SJHSRI, LLC, and Prospect Chartercare RWMC, LLC.

² The Diocesan Defendants are: Roman Catholic Bishop of Providence, Diocesan Administration Corporation, and Diocesan Service Corporation.

which are fully addressed in Plaintiffs' prior replies.³ Plaintiffs therefore incorporate those replies by reference.

None of the non-settling Defendants object to any substantive terms of the instant settlement. Nor do they suggest it is in any way collusive or anything other than a "good faith" settlement. Instead, they reiterate various arguments that (1) would equally apply to any settlement that the settling parties could reach; or (2) have nothing to do with settlements and instead are a naked collateral attack on the Superior Court.

The Prospect Defendants also assert that there "has been no showing that the amount of the settlement is a fair amount," because under Rhode Island law, "the Prospect Entities may be precluded from seeking indemnity or contribution from CCF as a result" and "CCF will, under the terms of the proposed settlement, retain in excess of \$4 million in assets, which would not be available to any of the non-settling defendants." Prospect's Objection at 2.

That conclusion does not follow from the premise as a matter of logic. It appears that the Prospect Defendants are arguing that the instant settlement is not a good faith settlement because it will unfairly affect their rights to indemnity or contribution based upon the Settling Defendants' fault. If so, that argument would be wrong, for at least two reasons.

First, the Prospect Defendants do not explain what conceivable claim for indemnity they would have against CCF. Nor do they indicate how Rhode Island law

³ See Dkt ## 82 (replying to the Diocesan Defendants' objection to the first settlement) & 83 (replying to the Prospect Defendants' objection to the first settlement).

would operate to preclude any such claim for indemnity. R.I. Gen. Laws § 23-17.14-35 on its face only eliminates claims for contribution, not indemnity.

Second, the Prospect Defendants' right to contribution (if any) depends on the Settling Defendants' proportionate fault compared to the Prospect Defendants' proportionate fault. In other words, the Court cannot determine whether the instant settlement deprives the Prospect Defendants of funds they could obtain in seeking contribution, unless the Court determines the parties' relative proportionate fault. R.I. Gen. Laws § 23-17.14-35 expressly provides that that is not a relevant consideration, since a settlement is a "good faith" settlement if it "does not exhibit collusion, fraud, dishonesty, or other wrongful or tortious conduct intended to prejudice the non-settling tortfeasor(s), **irrespective of the settling or non-settling tortfeasors' proportionate share of liability.**" R.I. Gen. Laws § 23-17.14-35 (emphasis supplied).

In any event, all of these issues regarding R.I. Gen. Laws § 23-17.14-35, including its purpose, effect, constitutionality, etc., as well as all these issues regarding Prospect's contribution rights (*vel non*), were addressed *in extenso* in the briefing on the first settlement.

Wherefore, the Court should grant the Joint Motion.

Respectfully submitted,

Plaintiffs,
By their Attorney,

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Dated: January 25, 2019

REQUEST FOR ORAL ARGUMENT

Pursuant to LR Cv 7(c), Plaintiffs request oral argument and estimate that approximately 15 minutes will be required to address the Prospect Defendants' objection. Plaintiffs note that Prospect has requested "at least one and a half hours" of oral argument, which appears excessive in light of the nearly complete overlap between their objection to the instant settlement and their objection to the first settlement, for which oral argument has already been separately requested and scheduled. Nevertheless, Plaintiffs respectfully request that Plaintiffs receive whatever additional time for argument the Prospect Defendants may be permitted.

CERTIFICATE OF SERVICE

I hereby certify that an exact copy of the within document was electronically filed on the 25th day of January, 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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