

STATE OF RHODE ISLAND

PROVIDENCE, SC.

SUPERIOR COURT

ST. JOSEPH'S HEALTH SERVICES)
OF RHODE ISLAND)

VS.)

) C.A. NO: PC-2017-3856

ST. JOSEPH'S HEALTH SERVICES)
OF RHODE ISLAND RETIREMENT PLAN)

HEARD BEFORE

THE HONORABLE BRIAN P. STERN, ASSOCIATE JUSTICE,

REMOTELY ON JULY 21, 2021

APPEARANCES:

STEPHEN DEL SESTO, ESQUIRE.....RECEIVER
MAX WISTOW, ESQUIRE.....FOR THE RECEIVER
JEFFREY KASLE, ESQUIRE.....FOR ST. JOSEPH'S

GINA GIANFRANCESCO GOMES
COURT REPORTER

C E R T I F I C A T I O N

I, Gina Gianfrancesco Gomes, hereby certify that the succeeding pages 1 through 9, inclusive, are a true and accurate transcript of my stenographic notes.

GINA GIANFRANCESCO GOMES
COURT REPORTER

1 WEDNESDAY, JULY 21, 2021

2 MORNING SESSION

3 THE COURT: Goods morning, everyone. Madam Clerk,
4 if you would call the case, please.

5 THE CLERK: Your Honor, the matter before the Court
6 is Case Number PC-2017-3856, St. Joseph's Health Services
7 of Rhode Island v. St. Joseph's Health Services of Rhode
8 Island Retirement Plan. This is on the Receiver's 19th
9 interim report and 18th interim request for approval of
10 fees. Would the Receiver please identify himself for the
11 record.

12 MR. DEL SESTO: Stephen Del Sesto, your Honor, the
13 Court-appointed Receiver for the St. Joseph's Health
14 Services of Rhode Island Retirement Plan.

15 THE CLERK: Counsel for the Receiver, please.

16 MR. WISTOW: Max Wistow.

17 THE CLERK: And counsel for the interested party.

18 MR. Kasle: Jeffrey Kasle for St. Joseph's.

19 THE COURT: Thank you very much. I have had the
20 opportunity to review the report as well as your request
21 for fees. Attorney Del Sesto, you may proceed,

22 MR. DEL SESTO: Thank you, your Honor. As the
23 clerk indicated, your Honor, we're here on the Receiver's
24 19th interim report and 18th request for fees. We were
25 last before your Honor on April 27th. I will advise the

1 Court that notice has been provided to all participants
2 of the pension plan as well as all other interested
3 parties including the federal agencies such as the PBGC.
4 There is an affidavit of notice to that effect in the
5 file. In addition to providing notice, as we typically
6 do, via mail, your Honor, the federal agencies received
7 an e-mail copy of it directly and the report has also
8 been posted to the dedicated website for the Receiver.

9 Your Honor, I will hit the high points because I
10 know your Honor has read the report already. As of July,
11 2021, benefits paid out for the month of July, 2021, were
12 \$964,179.90. As your Honor can tell from the various
13 reports, that number keeps creeping up and that's a
14 result of a couple things. One, obviously, it's a result
15 of pensioners who become eligible to receive their
16 pension applying for it. That coupled with the fact that
17 even though, unfortunately, some people are no longer
18 collecting for reasons of them passing and not having any
19 death benefits, but the people who are more recently
20 applying really had higher salaries than some of the
21 other ones, so those two -- both applications as well as
22 the amount of the salary that the pension is based on
23 contribute to the creeping up of the monthly amount.

24 As of the filing of the report, your Honor, we had
25 approximately \$66 million in the plan. As your Honor

1 recalls, we started with about \$85 million in the plan,
2 so that's an erosion of \$20 million. Fortunately, we
3 have had settlements that have been approved by this
4 Court. The one that had been approved by this Court and
5 the Federal Court where the funds came in was the one
6 that I'll call the Legacy Hospitals, St. Joseph's and
7 Roger Williams. I am happy to report that just as of
8 yesterday Attorney Wistow, Ledsham, and Sheehan presented
9 to Judge Smith in Federal Court the settlement with
10 Prospect and Angell as well as the request for their fees
11 and both were approved.

12 And in addition, although not related to the
13 approval of that, the Judge ordered the remaining parties
14 to issue memorandum on the summary judgment issues. And
15 once he received them, he would contact the parties to
16 arrange for a conference or a schedule on that matter.
17 Obviously, Attorney Wistow is on this and I would ask
18 that if he has anything to add or supplement what I have
19 just said I would ask that he do it after I have given my
20 full report. In the estate, as I stated, there is about
21 \$66 million in the plan.

22 In the estate account there is \$3.416 million.
23 That's reflected in the report and the schedule of
24 proceeds and disbursements shows the reduction of that
25 money or the reason for the reduction of that money from

1 the \$3.424 million at the last report, which are just
2 basically the general expenses of the estate, which
3 include the hard costs incurred by Attorney Wistow's
4 office.

5 Beyond that, your Honor, unless you have any
6 questions about the report, there hasn't been a whole lot
7 of activity as you can notice, with the most recent
8 activity being yesterday. That's why it was not in the
9 report. It's the most recent and the most relevant
10 because as your Honor is aware, you approved the
11 settlement, that it was a settlement of \$30 million of
12 which Prospect Medical Holdings is contributing slightly
13 more than \$27 million with the remainder coming from
14 Angell. After net of the fees that will result in
15 approximately \$23 million coming into the plan, which
16 will increase that \$66 million to approximately \$89
17 million, which gives us about \$4 million -- if my math is
18 right, about \$4 million more than when we started in
19 August of 2017, as we approach the four-year anniversary
20 in this case.

21 THE COURT: Is there anything with respect to the
22 PBGC or is that still in the holding pattern?

23 MR. DEL SESTO: It's still in the holding pattern,
24 your Honor. Like I said, Jeff Cohen, who is the special
25 counsel that your Honor approved for me to retain

1 communicates with them regularly via e-mail every time
2 something is filed whether it be in this matter or the
3 federal matter. He sends over an e-mail with a copy of
4 it. They have had what I would call at this point, it
5 happens so frequently, routine requests for updated
6 information, but there have been no substantive
7 discussions since the last report with the PBGC regarding
8 anything. Quite frankly, I think, although I can't state
9 it officially from their mouths, but I think they're
10 waiting for the litigation to end before they take any
11 action or waiting for us to ask for them to take action.
12 I don't believe they will actively do anything unless
13 either asked or forced to.

14 THE COURT: I don't know whether this question
15 should be directed to you or Attorney Wistow. Now that
16 Judge Smith has approved the settlement, what needs to
17 happen at this point to get the money into the plan and
18 get the litigation counsel's fees paid? Is that being
19 done by credit or some other way? I just want to
20 understand how this works.

21 MR. WISTOW: Yes, your Honor. The 27 -- \$250,000
22 due by Prospect is representing by two letters of credit
23 by JP Morgan. All that is required to get that money is
24 the certificate by Mr. Del Sesto to certify that the
25 Federal Court has approved and entered an order of the

1 settlement. We anticipate that order will be entered
2 perhaps today hopefully by tomorrow. The minute that's
3 done, that can be drawn upon. The \$2,750,000 that is due
4 from Angell is on deposit in the registry of your court
5 and a similar certificate by Mr. Del Sesto to free up
6 that money. We're talking about hopefully a matter of
7 days.

8 Apropos with that, your Honor, I want to point out I
9 think this is significant. This was, obviously, a very
10 complex case, not only in Federal Court, but all of the
11 collateral proceedings. And what Judge Smith said was
12 that in part based on the extensive analysis your Honor
13 did and the written decision that you wrote, I recall it
14 was over twenty pages, he said he was simply going to
15 enter it. He was not going to write a decision in part
16 because of your extensive analysis. There wasn't a lot
17 more that he could say that you already said. What
18 remains to be done generally is, obviously, we need to go
19 forward with the diocese. We're working with Tom
20 Hemmendinger, who is the Liquidating Receiver because we
21 believe there is significant moneys, in the seven
22 figures, trying to get into the plan receivership once we
23 can get it squarely into the liquidating receivership.
24 So we're hopeful there are two more areas of recovery.

25 THE COURT: Very good. Anything else, Attorney

1 Del Sesto?

2 MR. DEL SESTO: No, your Honor. Attorney Wistow,
3 obviously, I certainly wanted him to speak to it because
4 I'm sure I would have left some detail out. With regard
5 to what he said at the end, we have been working with
6 Attorney Hemmendinger on issues that are related to this
7 receivership to get money into this. Attorney Wistow and
8 his office has really, quite frankly, taken the lead on
9 all of that to make sure it moves along and there has
10 been some very good progress lately, and, hopefully, if
11 not the next report, at least before the end of the year
12 we'll have some good news to report to the Court on his
13 efforts on that.

14 MR. WISTOW: We hope it will be good, your Honor.

15 MR. DEL SESTO: I said hopefully.

16 THE COURT: Okay. Attorney Kasle, do you wish to be
17 heard?

18 MR. KASLE: Other than to commend Mr. Del Sesto and
19 Mr. Wistow for the work they have done both in your court
20 and in Federal Court, as Mr. Del Sesto said, to increase
21 the amount of money in the plan from what it started at,
22 and I remember the early days when we were meeting with
23 Mr. Del Sesto and the contemplation to be at this point
24 now was very farfetched. So I really think that they
25 both have done a tremendous job on behalf of the

1 participants.

2 THE COURT: Thank you very much. I agree. Let me
3 address the report that I've received. As I said, I have
4 reviewed the report and ratified the acts and doings of
5 the Receiver. With respect to the invoice, and I
6 appreciate that your paralegal took the extra step to
7 resend it a couple of days ago, I received it, but belt
8 and suspenders always helps. The Court has reviewed the
9 fees, costs, and expenses and finds those fair,
10 reasonable, and for the benefit of the receivership
11 estate. Those are approved, not only the Receiver's fees
12 but any of the pass-through fees and expenses that go to
13 litigation counsel for the Receiver itself. If there is
14 anything that the Court needs to expedite in terms of
15 getting the settlement finalized or getting certain
16 moneys released from the registry of the court, don't
17 hesitate to contact our clerk and I'll make sure that
18 that gets done at this point. To the Receiver, is there
19 anything else for this morning's hearing?

20 MR. DEL SESTO: No, your Honor. Thank you very
21 much.

22 THE COURT: Okay. Thank you all very much. And as
23 you may have seen yesterday Chief Justice Suttell issued
24 a new administrative order that now allows us basically
25 to go back to in-person hearings. For something like

1 this, since it's life-streamed, we may not need it but
2 just keep it in mind. The Court is willing to hold
3 meetings in person with this change and also the change
4 that if you're vaccinated, you may, but you're not
5 required to wear masks any longer. Thank you very much.
6 Have a good day, everybody.

7 (A D J O U R N E D.)

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