

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:) Chapter 11
)
) Case No. 21-11336 (KBO)
GULF COAST HEALTH CARE, LLC, *et al.*,¹)
) Jointly Administered
Debtors.)
) **Related Docket No. 166**
)

**MOTION OF DEBTORS FOR ENTRY OF ORDER (I) SHORTENING NOTICE
PERIOD FOR MOTA APPROVAL MOTION AND (II) GRANTING RELATED RELIEF**

Gulf Coast Health Care, LLC (“**Gulf Coast**”) and certain of its affiliates and subsidiaries, as debtors and debtors-in-possession in the above-captioned chapter 11 cases (collectively, the “**Debtors**”), hereby move (the “**Motion**”) for entry of an order substantially in the form attached hereto as **Exhibit A** (the “**Proposed Order**”), granting the relief described below. In support of the Motion, the Debtors respectfully represent as follows:

RELIEF REQUESTED

1. By the Motion, the Debtors respectfully request entry of the Proposed Order (i) shortening by one day the 21-day period for notice with respect to the hearing on the MOTA Approval Motion (as defined herein); (ii) setting November 23, 2021 at 10:00 a.m. (ET) as the hearing to consider the relief requested in the MOTA Approval Motion; and (iii) setting November 17, 2021 at 4:00 p.m. (ET) as the deadline to file responses and objections, if any, to the MOTA Approval Motion.

¹ The last four digits of Gulf Coast Health Care, LLC's federal tax identification number are 9281. There are 62 Debtors in these chapter 11 cases, which cases are being jointly administered for procedural purposes only. A complete list of the Debtors and the last four digits of their federal tax identification numbers are not provided herein. A complete list of such information may be obtained on the website of the Debtors' claims and noticing agent at <https://dm.epiq11.com/GulfCoastHealthCare>. The location of Gulf Coast Health Care, LLC's corporate headquarters and the Debtors' service address is 40 South Palafox Place, Suite 400, Pensacola, FL 32502.

JURISDICTION AND VENUE

2. The Court has jurisdiction to consider the Motion pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012. This is a core proceeding under 28 U.S.C. § 157(b). Venue of these cases and the Motion in this District is proper under 28 U.S.C. §§ 1408 and 1409.

3. The legal predicates for the relief requested herein are section 105(a) of title 11 of the United States Code (the “**Bankruptcy Code**”), Rule 9006(c)(1) of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), and Rule 9006-1(e) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the “**Local Rules**”).

4. The Debtors confirm their consent, pursuant to Local Rule 9013-1(f), to the entry of a final order by the Court in connection with the Motion in the event that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution.

BACKGROUND

I. The Chapter 11 Cases

5. On October 14, 2021 (the “**Petition Date**”), each Debtor commenced a case by filing a petition for relief under chapter 11 of the Bankruptcy Code (collectively, the “**Chapter 11 Cases**”). The Chapter 11 Cases are being jointly administered for procedural purposes only.

6. The Debtors continue to operate their businesses and manage their properties as debtors and debtors-in-possession pursuant to Bankruptcy Code sections 1107(a) and 1108.

7. On October 25, 2021, the Office of the United States Trustee for the District of Delaware (the “**U.S. Trustee**”) appointed an Official Committee of Unsecured Creditors in the Chapter 11 Cases (the “**Committee**”) pursuant to Bankruptcy Code section 1102(a) [Docket No. 111]. No trustee or examiner has been appointed in the Chapter 11 Cases.

8. Additional information regarding the Debtors and these Chapter 11 Cases, including the Debtors’ business operations, capital structure, financial condition, and the reasons for and objectives of these Chapter 11 Cases, is set forth in the *Declaration of M. Benjamin Jones in Support of Chapter 11 Petitions and First Day Pleadings* (the “**First Day Declaration**”) [Docket No. 16].

9. On November 3, 2021, the Debtors filed the *Motion of Debtors for Entry of an Order (I) Authorizing Transfer of the Management, Operations, and Related Assets of the Omega Facilities Free and Clear of All Liens, Claims, Encumbrances, and Interests; (II) Approving Procedures for the Debtors’ Future Assumption and Assignment of Certain Executory Contracts and Unexpired Leases; (III) Approving Rejection and Termination of the Master Lease, and the Allowance of the Omega Rejection Damages Claim in Connection Therewith; (IV) Approving Form of Management and Operations Transfer Agreement; and (V) Granting Related Relief* [Docket No. 166] (the “**MOTA Approval Motion**”).²

BASIS FOR RELIEF REQUESTED AND APPLICABLE AUTHORITY

10. Bankruptcy Rule 2002(a)(2) requires twenty-one (21) days’ notice be provided for “a proposed use, sale, or lease of property of the estate other than in the ordinary course of business . . .” Fed. R. Bankr. P. 2002(a)(2). Additionally, Local Rule 9006-1(c)(ii) requires that, “[w]here a motion is filed and served in accordance with Local Rule 9006-1(c)(i) less than

² Capitalized terms used but not otherwise defined in this Motion shall have the meanings ascribed to them in the MOTA Approval Motion.

twenty-one days prior to the hearing date, the deadline for objection(s) shall be seven (7) days before the hearing date” and, “[t]o the extent a motion is filed and served . . . at least twenty-one (21) days prior to the hearing date . . . the movant may establish any objection deadline that is no earlier than fourteen (14) days after the date of service and no later than seven (7) days before the hearing date.” Del. Bankr. L.R. 9006-1(c)(ii). However, Bankruptcy Rule 9006(c)(1) and Local Rule 9006-1(e) provide that the Bankruptcy Court may shorten the time periods established by the Local Rules or the Bankruptcy Rules “for cause shown” or for “exigencies justifying shortened notice.” Fed. R. Bankr. P. 9006(c); Del. Bankr. L.R. 9006-1(e).

11. The Debtors respectfully submit that sufficient cause exists here to shorten the notice period with respect to the MOTA Approval Motion and that shortening such period is in the best interests of the Debtors’ estates, their creditors, and all parties-in-interest. As set forth in the MOTA Approval Motion, the Debtors are seeking to transfer the operations of the Omega Facilities to New Manager through certain management and operations transfer agreements (collectively, the “**MOTA**”) by December 1, 2021 (the “**Management Transfer Date**”), subject to Court approval. The Restructuring Support Agreement (the “**RSA**”),³ by and among the Debtors and certain of their key stakeholders dated October 14, 2021, requires that the Management Transfer Date occur by December 1, 2021, following entry of an order approving the MOTA Approval Motion. *See* RSA, § 6(a)(iv). If the Debtors fail to meet this deadline, the Debtors will default under both the RSA and the DIP Term Sheet, jeopardizing their restructuring efforts, their access to critical funding, and their ability to provide continued care for their residents.

³ The Debtors previously filed a motion seeking the Court’s approval of the Debtors’ assumption of the RSA. *See Motion of Debtors for Entry of Order Approving Assumption of Restructuring Support Agreement* [Docket No. 107].

12. Moreover, even if the RSA Parties and/or DIP Lender were willing to waive the occurrence of such a default, the Debtors' current DIP budget does not provide operational funding for the Omega Facilities after December 1, 2021 because it anticipates that New Manager will have assumed responsibility for Omega Facility operations by that time—and that New Manager will be absorbing such facilities' operational losses going forward. As such, it is critical that the MOTA Approval Motion be considered by the Court prior to December 1, 2021 to ensure (i) compliance with the RSA and DIP Term Sheet, (ii) continued funding for the Omega Facilities, and (iii) continued and uninterrupted resident care at the Omega Facilities.

13. For the foregoing reasons, the Debtors respectfully submit that allowing the MOTA Approval Motion to be considered on shortened notice is reasonable and appropriate under the circumstances.

COMPLIANCE WITH LOCAL RULE 9006-1(e)

14. Consistent with its obligations under Local Rule 9006-1(e), the Debtors have notified the U.S. Trustee and proposed counsel to the Committee via e-mail of the relief requested in the Motion. The U.S. Trustee indicated to the Debtors that it is not taking a position regarding the relief requested in the Motion. Proposed counsel to the Committee indicated to the Debtors that the Committee does not object to the relief requested in the Motion.

NOTICE

15. The Debtors will provide notice of the Motion to: (a) the U.S. Trustee; (b) proposed counsel to the Committee; (c) the Internal Revenue Service; (d) the Securities and Exchange Commission; (e) the United States Attorney for the District of Delaware; (f) the Centers for Medicare & Medicaid Services; (g) counsel for the Omega Entities; (h) counsel for New Ark Capital, LLC; (i) counsel for Barrow Street Capital LLC and its affiliates; (j) counsel

for Eagle Arc Partners LLC (f/k/a BM Eagle Holdings); and (k) all parties entitled to notice pursuant to Local Rule 2002-1(b). The Debtors submit that no other or further notice is required.

NO PRIOR REQUEST

16. No previous request for the relief sought herein has been made to this or any other court.

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WHEREFORE, the Debtors respectfully request that the Court enter the Proposed Order, substantially in the form attached hereto as **Exhibit A**, granting the relief requested herein and such other and further relief as may be just and proper.

Dated: Wilmington, Delaware
November 3, 2021

MCDERMOTT WILL & EMERY LLP

/s/ David R. Hurst

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