

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

In re

GULF COAST HEALTH CARE LLC, *et al.*,

Debtors.¹

Chapter 11

Case No. 21-11336 (KBO)

(Jointly Administered)

Re: Docket Nos. 193, 194, 223, 224

Proposed Hearing Date:
November 12, 2021, at 10:00 a.m.

Proposed Objection Deadline:
At the Hearing

**OHI ASSET FUNDING (DE), LLC's JOINDER TO THE MOTION OF DEBTORS TO
QUASH NOTICE OF DEPOSITION AND PRODUCTION REQUESTS SERVED ON
THE DEBTORS**

Pursuant to Federal Rules of Civil Procedure (“FRCP”) 26 and 45 and Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) 7026, 9014, and 9016, OHI Asset Funding (DE), LLC (“Omega”) and the affiliates of Omega, identified as “Landlords” under the Omega Master Lease (the “Omega Landlords”) (collectively the “Omega Entities”)², by and through its undersigned counsel, hereby moves, joins in, adopts, and fully incorporates by reference the *Motion of Debtors to Quash Notice of Deposition and Production Requests Served on the Debtors* [D.I. 223] (the “Motion to Quash”) in response to the *Notice of Deposition of Gulf*

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, for which the Debtors have requested joint administration. 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’ proposed 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.

² References to “Landlords” and the “Omega Master Lease” have the meaning ascribed in the Restructuring Support Agreement and the Debtors’ Joint Plan of Liquidation under Chapter 11 of the Bankruptcy Code.

Coast Health Care, LLC Pursuant to Fed. R. Civ. P. 30(b)(6) and Fed. R. Bankr. P. 7030 [D.I. 193] (the “Deposition Notice”) and the *Noteholder Claimants’ First Set of Requests for Production to the Debtors* (the “Production Requests”) served by REIT Solutions II, LLC (f/k/a REIT Solutions, Inc.), SJB No. 2, LLC, JJT No. 1, LLC, Wet One, LLC and DLF No. 3, LLC (collectively, the “Omega Noteholders”)³ and joins in the request to have the Motion to Quash heard on shortened notice as set forth in *Motion of Debtors for Entry of Order (I) Shortening Notice Period For Motion to Quash And (II) Granting Related Relief* [D.I. 224] (“Motion to Shorten”). In support thereof, the Omega Entities respectfully state as follows:

JOINDER

1. On November 5, 2021, the Omega Noteholders filed their *Objection of the Noteholder Claimants to the Motion of Debtors for Entry of Order Approving Assumption of Restructuring Support Agreement* [D.I. 186] and the *Objection of the Noteholder Claimants to the Motion of the Debtors for Entry of Interim and Final Orders (I) Authorizing the Debtors to (A) Obtain Postpetition Financing and (B) Utilize Cash Collateral, (II) Granting Adequate Protection to Prepetition Secured Parties, (III) Modifying the Automatic Stay, (IV) Scheduling a Final Hearing, and (V) Granting Related Relief* (collectively, the “Omega Noteholder Objections”) [D.I. 187]. The hearing on the Omega Noteholder Objections and the underlying motions are scheduled for November 23, 2021 at 10:00 a.m.

2. On Sunday, November 7, 2021, the Omega Noteholders filed a *Notice of Deposition of OHI Asset Funding (DE), LLC Pursuant to Fed. R. Civ. P. 30(b)(6) and Fed. R. Bankr. P. 7030 and of Intent to Serve a Document Subpoena* [D.I. 194], dated November 7, 2021,

³ References to the Omega Noteholders, herein, has the same meaning ascribed in the Debtors’ Motion to Quash.

and the attached *Subpoenas to Testify at a Deposition and to Produce Documents*, as Exhibits 1 and 2 thereto (collectively, the “Omega Subpoenas”).⁴ As set forth in the Motion to Quash, the Omega Noteholders served substantially similar discovery on the Debtors at the same time.

3. The Omega Subpoenas were served on the Omega Entities under the pretext of seeking discovery in connection with the above referenced Omega Noteholder Objections.

4. On November 10, 2021, the Debtors filed the Motion to Quash, seeking to quash the Deposition Notice and the Production Requests because the Omega Noteholders are not creditors of the Debtors or party to any agreement with the Debtors and thus lack standing to pursue discovery in these Chapter 11 Cases from the Debtors or any third parties (such as the Omega Entities).

5. The Omega Entities join in the Motion to Quash and adopt the relief requested and arguments set forth in the Motion to Quash as if incorporated and repeated herein as they relate to the Omega Subpoenas. The Omega Noteholders do not have standing to seek discovery of the Omega Entities in these Chapter 11 Cases for precisely the same reasons as set forth in the Motion to Quash.

6. Therefore, for the reasons set forth in the Motion to Quash as they relate to the Omega Subpoenas, the Omega Entities respectfully request that this Court grant said motion and quash the Omega Subpoenas and grant such other and further relief as is just and appropriate.

RESERVATION OF RIGHTS

7. The Omega Entities further reserve all rights to object to the Omega Subpoenas or otherwise exercise any rights or remedies afforded under applicable law. To the extent that the Debtors’ Motion to Quash is withdrawn, this Joinder shall stand on its own as a

⁴ True and correct copies of the Omega Subpoenas are attached hereto as **Exhibit A & B.**

separate motion, and hereby adopts and incorporates by reference the relief requested and the arguments set forth in the Motion to Quash as they relate to the Omega Subpoenas. The Omega Entities further reserve the right to clarify and/or expound upon the arguments made in the Motion to Quash in any litigation or otherwise.

CERTIFICATION PURSUANT TO LOCAL RULE 7026-1(c)

8. Counsel for the Omega Entities conferred with counsel for the Noteholder Claimants to attempt in good faith to resolve this discovery dispute on November 9, 2021. Ultimately, the Omega Entities and the Omega Noteholders disagree on the discoverability of the requested materials, necessitating the Omega Entities to file this Joinder.

CONCLUSION

WHEREFORE, the Omega Entities request that the Court enter an order quashing the Omega Subpoenas in the form attached hereto as **Exhibit C** at the hearing scheduled and held pursuant to the Motion to Shorten.

Dated: November 10, 2021

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

/s/ Daniel B. Butz

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