

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

In re:

GULF COAST HEALTH
CARE, LLC, *et al.*,¹

Debtors.

Chapter 11

Case No. 21-11336 (KBO)

Jointly Administered

Hearing Date: Dec. 2, 2021, at 10:00 a.m. (ET)

Objection Deadline: Nov. 24, 2021

**APPLICATION OF GORDON FOOD SERVICE, INC. FOR ALLOWANCE AND
PAYMENT OF ADMINISTRATIVE PRIORITY CLAIM**

Gordon Food Service, Inc. (“GFS”), by its undersigned counsel, hereby submits the following Application for Allowance and Payment of Administrative Priority Claim pursuant to 11 U.S.C. § 503(b)(9) (the “Application”). In support of its Application, GFS respectfully states as follows:

JURISDICTION, VENUE AND RELATED MATTERS

1. This Court has jurisdiction to consider this matter 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 as of February 29, 2012. Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2).

2. The statutory bases for the relief requested herein are sections 105 and 503 of Title 11 of the United States Code (as amended, the “Bankruptcy Code”).

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. 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 9511 Holsberry Lane, Suite B11, Pensacola, FL 32534.

3. Pursuant to Rule 9013-1(f) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware, GFS consents to the entry of a final order by the Court in connection with this Application to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments consistent with Article III of the United States Constitution.

BACKGROUND

4. On October 14, 2021 (the “Petition Date”), Gulf Coast Health Care, LLC (“Gulf Coast”) and sixty-one affiliated companies (collectively, the “Debtors”) filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code. The Debtors are currently operating as debtors-in-possession.

5. Gulf Coast jointly operates with certain other Debtors various skilled nursing, assisted living, and long-term care centers throughout Florida, Georgia, and Mississippi.

6. Before the Petition Date, Gulf Coast (with certain of the Debtors) ordered from GFS and GFS shipped to Gulf Coast (and those certain Debtors) various foodservice goods. Within the 20-day period preceding the Petition Date, Gulf Coast and the following Debtors (collectively with Gulf Coast, the “20-Day Debtors”) received goods from GFS (the “20-Day Goods”) totaling the following amounts:

Debtor	Location	Amount
MS Singing LLC	Singing River Health and Rehabilitation Center	\$41,018.58
MS HUD Boyington LLC	The Boyington Health and Rehabilitation Center	\$92,002.54
NF Escambia LLC	Olive Branch Health and Rehabilitation Center	\$77,258.40
Brevard Oaks Center LLC	Viera del Mar Health and Rehabilitation Center	\$35,514.11
SF Brevard, LLC	The Rehabilitation Center of Lake City	\$27,825.06
SC-GA2018 Cobblestone Rehabilitation and Healthcare Center, LLC	Cobblestone Rehabilitation and Health Center	\$20,170.41
NF Nine Mile, LLC	De Luna Health and Rehabilitation Center	\$35,343.51
Total		\$329,132.61

Pursuant to section 503(b)(9), GFS is entitled to an administrative priority claim against the estate of Gulf Coast an administrative claim totaling \$329,132.61, and an administrative priority claim against each of the other 20-Day Debtors in the amounts listed above (the “503(b)(9) Claims”).

REQUEST FOR ALLOWANCE AND PAYMENT

7. By this Application, GFS seeks an Order from the Court allowing GFS administrative claims against the 20-Day Debtors’ estates for the value of the 20-Day Goods delivered to the 20-Day Debtors. A summary of the invoices for the goods received by the 20-Day Debtors are attached hereto as **Exhibit A**.²

8. Section 503(b)(9) of the Bankruptcy Code states “after notice and a hearing, there shall be allowed administrative expenses” for “the value of any goods received by the debtor within 20 days before the date of commencement of a case under this title in which the goods have been sold to the debtor in the ordinary course of such debtor’s business.” 11 U.S.C. § 503(b)(9).

9. The 20-Day Debtors received the 20-Day Goods within 20 days of the Petition Date. The 20-Day Goods were sold to the 20-Day Debtors by GFS in the ordinary course of the Debtors’ business. In addition, GFS has not received payment for the 20-Day Goods. Accordingly, pursuant to section 503(b)(9), GFS is entitled to administrative claims for the value of the 20-Day Goods provided to each of the 20-Day Debtors.

10. As administrative claims, the 503(b)(9) Claims are entitled to priority in any distribution from assets of the 20-Day Debtors’ estates. 11 U.S.C. § 507(a)(2). This priority is secondary only to domestic support claims. 11 U.S.C. § 507(a)(1). The 503(b)(9) Claims must be paid in full and in cash in order for the Court to confirm any plan of reorganization. 11 U.S.C. § 1129(a)(9)(A). Additionally, as Section 503 does not specifically address when

² The invoices are too voluminous to attach but can be made available to the Court upon request and to other parties in interest upon reasonable request.

administrative claims will be paid in a Chapter 11 case, most courts interpreting these provisions have held that the bankruptcy court has discretion to order that such claims be paid at any time during the pendency of the case, but no later than confirmation. *See, e.g., In re Global Home Products, LLC*, Case No. 06-10340 (KG), 2006 WL 3791955 at *3 (Bankr. D. Del. Dec. 21, 2006); *In re Garden Ridge Corp.*, 323 B.R. 136, 143 (Bankr. D. Del. 2005) (citations omitted). Accordingly, GFS requests that its 503(b)(9) Claims be paid at the earliest date and at the same percentage as any other allowed administrative claims of equal priority against the Debtors' estates.

11. This Application is made without prejudice to, and GFS reserves, all other rights, claims, demands, and remedies available to GFS, at law or in equity. In addition, GFS reserves the right to seek payment of further amounts under section 503(b)(9) if it later discovers information that additional goods were received by the Debtors within 20 days of the Petition Date. By seeking recovery from Gulf Coast and each of the other Debtors it jointly conducts business with, GFS is not seeking a double recovery. For sake of clarity, GFS only seeks a single satisfaction for the amounts it is due, even though it is entitled to administrative priority claims jointly against Gulf Coast with each of the other Debtor operating entities Gulf Cost conducted business with.

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WHEREFORE, having satisfied the requirements of section 503(b)(9), GFS requests that this Court enter an order: (1) allowing the 503(b)(9) Claims; (2) directing that distributions on the 503(b)(9) Claims be made at the earliest date and at the same percentage as any other allowed administrative claims of equal priority against the 20-Day Debtors' estates; and (3) for such other and further relief as this Court deems just and proper.

Dated: November 17, 2021
Wilmington, Delaware

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