

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
FORT LAUDERDALE DIVISION
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In re:

COMPREHENSIVE CLINICAL
DEVELOPMENT, INC.,

Case No.: 13-17273-JKO

COMPREHENSIVE CLINICAL
DEVELOPMENT NW, INC.,

Case No.: 13-17282-JKO

Debtors. _____ /

Chapter 11
(Pending Joint Administration)

**DEBTORS' EMERGENCY MOTION TO APPROVE FORM AND MANNER OF
LIMITED NOTICE AND TO ESTABLISH MASTER SERVICE LIST**

(EMERGENCY HEARING REQUESTED ON TUESDAY, APRIL 2, 2013 AT 2:30 P.M.)

STATEMENT OF EXIGENT CIRCUMSTANCES

The Debtors request an emergency hearing on this matter so that they can limit the incurrence of unnecessary administrative costs and expenses for the benefit of the Debtors' estates and creditors. The Debtors also respectfully request that the Court waive the provisions of Rule 9075-1(B), which require an affirmative statement that the Debtors made a *bona fide* effort to resolve the issues raised in this Motion, as the relief requested herein is urgent in nature and does not lend itself to advance resolution.

Comprehensive Clinical Development, Inc. and Comprehensive Clinical Development NW, Inc. (collectively, the "Debtors"), the above-captioned debtors-in-possession, by and through undersigned counsel, and pursuant to Section 105(a) of Title 11 of the United States Code (the "Bankruptcy Code"), Rule 2002(a) and (m) of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rule(s)"), and Rule 2002-1(H) of the Local Rules for the United States Bankruptcy Court for the Southern District of Florida (the "Local Rule(s)") file the *Debtors' Motion to Approve Form and Manner of Limited Notice* (the "Motion"). The Motion seeks entry of an Order limiting notice in these Chapter 11 cases as more fully described herein. In support of this Motion, the Debtors respectfully represent the following:

Jurisdiction

1. This Court has jurisdiction over these cases pursuant to 28 U.S.C. §§ 157 and 1334.
2. This is a core proceeding pursuant to 28 U.S.C. §157(b)(2)(A).
3. Venue is proper in this district pursuant to 28 U.S.C. §1408.

Background

4. The Debtors filed their respective Chapter 11 bankruptcy petitions on March 29, 2013 [ECF #1].

5. The Debtors are operating their businesses and managing their assets as a debtors-in-possession pursuant to §§ 1107 and 1108 of the Bankruptcy Code.

6. As of the date hereof, no creditors' committee has been appointed in these cases. In addition, no trustee or examiner has been appointed.

7. For a detailed account of the Debtors' organizational background, business operations, and the events precipitating these chapter 11 filings, the Debtors respectfully refer the Court to the *Declaration of James Utterback In Support of First Day Pleadings* [ECF #9], which is incorporated herein by reference.

8. As is reflected on the Debtors' creditor matrices, there are *at least* four hundred and twenty (420) creditors and other parties-in-interest (collectively, the "Creditors") in these Chapter 11 cases. The number of known Creditors will surely increase as the Debtors complete their bankruptcy schedules.

Relief Requested and Basis Therefor

9. By this Motion the Debtors seek to limit the class of recipients they are required to serve notice of pleadings and orders as provided by the Bankruptcy Code, Bankruptcy Rules, and Local Rules.

10. The Bankruptcy Code, Bankruptcy Rules, and Local Rules provide the Debtors with authority to limit notice of filings. In particular, Bankruptcy Rule 2002(a) provides that, unless otherwise ordered by the Court, notice of certain matters must be given to, among others, all of the Debtors' creditors, equity security holders, and other parties-in-interest. The Bankruptcy Rules further provide that "[t]he Court may from time to time enter orders designating the matters in respect to which, the entity to whom, and the form and manner in which notice shall be sent except as otherwise provided by these rules." *See* Bankruptcy Rule 2002(m); *see also* Bankruptcy Rule 9007 ("When notice is to be given under these rules, the Court shall designate, if not otherwise specified herein . . . the time within which, the entities to whom, and the form and manner in which notice shall be given.").

11. In addition, Section 105(a) of the Bankruptcy Code grants the Court broad authority and discretion to enforce the provisions of the Bankruptcy Code either under specific statutory fiat or under equitable common law principles. Specifically, Section 105(a) of the Bankruptcy Code provides that "[t]he Court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title." 11 U.S.C. § 105(a).

12. Additionally, Section 102(1) of the Bankruptcy Code states that where the Bankruptcy Code provides for an action to occur "after notice and a hearing," such action may occur "after such notice as is appropriate in the particular circumstances, and such opportunity for a hearing is appropriate in the particular circumstances . . ." 11 U.S.C. § 102(1)(A).

13. Further, Bankruptcy Rule 1001 requires the Bankruptcy Rules to be “construed to secure the just, speedy, and inexpensive determination for every case and proceeding. Bankruptcy Rule 1001.

14. Finally, Local Rule 2002-1(H)(1) provides that in Chapter 11 cases “having more than 75 parties of record” a debtor can limit service of notices, pleadings, and orders, except as provided otherwise in a limited amount of cases pursuant to subsection (3) therein, to

- a. The U.S. Trustee;
- b. The Debtors;
- c. The Debtors’ attorney;
- d. Any indenture trustees
- e. The members and attorney to any official committee established pursuant to 11 U.S.C. §1102 and, before such appointment, the twenty largest unsecured creditors in the Debtors’ Chapter 11 cases;
- f. Creditors holding claims known to be secured by property in which the estate has an interest;
- g. The United States and its agencies pursuant to F.R.B.P. 2002(j);
- h. Those parties and attorneys who have formally requested notice by filing with the Court and serving upon the Debtor’s attorney a notice of appearance or request for service of notices and papers in these Chapter 11 cases;
- i. Any examiner or trustee (and their attorneys) appointed in these Chapter 11 cases; and
- j. Any party and entities (including local governmental units) previously known to the Debtors to have a particularized interest in the subject of the notices required to be served.

(collectively, the “Master Service List”) Local Rule 2002-1(H)(1).

15. Consistent with bankruptcy Rule 2002(a) and Local Rule 2002-1(H)(3), the Debtors propose that notice of the following matters be provided to all Creditors in these cases:

- a. commencement and the meeting of creditors under 11 U.S.C. §§ 341 or 1104(b);
- b. a proposed use, sale or lease of all or substantially all of the property of the estate;
- c. the hearing on approval of compromise or settlement of a controversy other than approval of an agreement pursuant to Rule 4001(d), unless the Court for cause shown directs that notice not be sent.
- d. the hearing on the dismissal or conversion of these cases to another chapter;
- e. the time fixed to accept or reject a proposed modification of a plan;
- f. a hearing on any entity's request for compensation or reimbursement of expenses if the request exceeds \$1,000; and
- g. the time fixed for filing proofs of claim pursuant to Bankruptcy Rule 3003(c).

(collectively, the “Non-limited Notice Matters” and all other matters “Limited Notice Matters”) Rule 2002(a) and Local Rule 2002-1(H)(3).

16. As explained above, the Debtors' Chapter 11 cases are large with many creditors and other parties-in-interest. Many of these parties-in-interest will have multiple concerns. The Debtor anticipates that the Master Service List will ultimately contain hundreds of entities. The costs and burdens associated with copying and mailing or otherwise serving all documents filed with the Court to all such entities will impose an extraordinary and expensive administrative and economic burden on the Debtors' estates, the Court, and the parties-in-interest.

17. Indeed, constant mailings will be extraordinarily costly to the Debtor's estate and will require the Debtor to divert valuable resources to comply with all administrative requirements. For example, the cost of copying and serving a 30-page document on 420 persons by first-class mail would be approximately \$1,718.00. Additionally, the continual drafting and filing of motions to limit notice for each use, sale or lease of the Debtors' property outside of the ordinary course of business and for various compromises and settlements will increase the administrative and economic burden on the Debtors' estates.

18. The Debtors believe that limiting service of all Limited Notice Matters to the Master Service List will substantially reduce administrative burdens and result in substantial cost savings to the Debtors' estates because of the reduction in time and money the Debtors will have to expend on the many documents that would otherwise be filed in these Chapter 11 cases.

19. Limited notice procedures are routinely established by bankruptcy courts in large Chapter 11 cases to reduce the expense of the administration of the estate. *See, e.g., In re Medical Staffing Network Holdings, Inc., et al.*, Case No. 10-29101 (Bankr. S.D. Fla. July 7, 2010); *In re Levitt and Sons, LLC, et al.*, Case No. 07-19845 (RBR) (Bankr. S.D. Fla. Nov. 14, 2007); *In re Puig, Inc., et al.*, Case No. 07-14026 (RAM) (Bankr. S.D. Fla. June 5, 2007); *In re Atlas Air Worldwide Holdings, Inc., et al.*, Case No. 04-10792 (RAM) (Bankr. S.D. Fla. Feb. 9, 2004); *In re Kmart Corp., et al.*, Case No. 02-02474 (SPS) (Bankr. N.D. Ill. Jan. 25, 2002); *In re Comdisco, Inc.*, Case No. 01-24795 (RB) (Bankr. N.D. Ill. July 18, 2001); *see also In re US Airways Group, Inc., et al.*, Case No. 02-83984 (SSM) (Bankr. E.D. Va. Aug. 11, 2002); *In re The Singer Co. NV, et al.*, Case Nos. 99-10578 through 99-10607 (BRL), 99-10613 (BRL), 99-10616 through 99-10629 (BRL) and 00-10423 (BRL) (Bankr. S.D.N.Y. Sept. 15, 1999); and *In re Serv. Merchandise Co.*, Case Nos. 399-02649 - 399-02680 (Bankr. M.D. Tenn. Mar. 27, 1999).

20. The Debtors propose to serve all motions, notices and other requests for relief only on the persons on the Master Service List except matters specified in Local Rule 2002-1(H)(3) i.e. the Non-limited Notice Matters.

Reservation of Rights

21. Nothing herein is intended to constitute a request to assume any contract or agreement under §365 in the Bankruptcy Code, nor is anything herein intended to constitute a request to create any rights in favor of, or to enhance the status of any claim held by, any

personal entity. Moreover, nothing herein is intended to constitute a request to honor every pre-petition contract to which the debtor is a party.

WHEREFORE, the Debtors respectfully requests that this Court enter an Order, in the form attached hereto as **Exhibit “A”**, (a) granting this Motion; (b) establishing a Master Service List pursuant to Bankruptcy Rule 2002(h) and limiting notice as set forth herein; and (c) granting such other relief as the Court deems just and proper.

***I HEREBY CERTIFY** that I am admitted to the Bar of the United States District Court for the Southern District of Florida and I am qualified to practice in this Court as set forth in Local Rule 2090-1(A).*

EHRENSTEIN CHARBONNEAU CALDERIN
Proposed Counsel for the Debtors-In-Possession
501 Brickell Key Drive, Suite 300
Miami, FL 33131
T. 305.722.2002 F. 305.722.2001

By: /s/ Robert P. Charbonneau
ROBERT P. CHARBONNEAU
Florida Bar No: 968234
rpc@ecclegal.com
ELAN A. GERSHONI
Florida Bar No.: 95969
eag@ecclegal.com

EXHIBIT “A”

PROPOSED ORDER

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
FORT LAUDERDALE DIVISION
www.flsb.uscourts.gov**

In re:

**COMPREHENSIVE CLINICAL
DEVELOPMENT, INC.,**

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**COMPREHENSIVE CLINICAL
DEVELOPMENT NW, INC.,**

Case No.: 13-17282-JKO

Debtors.

/

**Chapter 11
(Pending Joint Administration)**

**ORDER GRANTING DEBTORS’ MOTION TO APPROVE FORM AND MANNER OF
LIMITED NOTICE AND ESTABLISH MASTER SERVICE LIST**

THIS CAUSE having come before the Court on Tuesday, April 2, 2013 at 2:30 p.m. (the “Hearing”), upon the *Debtors’ Motion to Approve Form and Manner of Limited Notice* (the “Motion”) [ECF # ___] filed by Comprehensive Clinical Development, Inc. and Comprehensive Clinical Development NW, Inc. (collectively, the “Debtors”) seeking authority to limit notice in these Chapter 11 cases as contemplated by Local Rule 2002-1(h). The Court, upon review of the

record finds that good and sufficient cause exists to grant the relief requested. Accordingly, it is **ORDERED** as follows:

1. The Motion is **GRANTED**.

2. The Debtors are authorized to establish a Master Service List and provide notices in these Chapter 11 cases are limited to:

- a. The U.S. Trustee;
- b. The Debtors;
- c. The Debtors' attorneys;
- d. The members and attorney to any official committee established pursuant to 11 U.S.C. §1102, and, before such appointment, the twenty largest unsecured creditors in the Debtors' Chapter 11 cases;
- e. Creditors holding claims known to be secured by property in which the estates have an interest;
- f. The United States and its agencies as required by Fed. R. Bankr. P. 2002(j);
- g. Those parties and attorneys who have formally requested notice by filing with the Court and serving upon the Debtors' attorney a notice of appearance or request for service of notices and papers in these Chapter 11 cases;
- h. Any examiner or trustee (and their attorneys) appointed in these Chapter 11 cases; and
- i. Any party against whom direct relief is sought by motion, application or otherwise including, without limitation, the non-debtor party to an executor contract being assumed or rejected, parties asserting interest in property being sold and the like.

3. Notwithstanding the foregoing, all creditors and parties in interest in these Chapter 11 cases shall receive the notices of the following:

- a. the meeting of creditors under §341 or §1104(b) of the Code;

- b. proposed use, sale, or lease of property of the estate other than in the ordinary course of business, unless the court for cause shown shortens the time or directs another method of giving notice;
- c. the hearing on approval of the compromise or settlement of a controversy other than approval of an agreement pursuant to Rule 4001(d), unless the court directs that notice not be sent;
- d. the hearing on the dismissal or conversion of these cases to another chapter;
- e. the time fixed to accept or reject a proposed of a plan;
- f. a hearing on any entity's request for compensation or reimbursement of expenses if the request exceeds \$1,000; and
- g. the time fixed for filing proofs of claims pursuant to Bankruptcy Rule 3003(c).

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SUBMITTED BY:

ROBERT P. CHARBONNEAU

Florida Bar No: 968234

rpc@ecclegal.com

EHRENSTEIN CHARBONNEAU CALDERIN

Proposed Counsel for the Debtors

501 Brickell Key Drive, Suite 300

Miami, FL 33131

T. 305.722.2002 F. 305.722.2001

(Copy furnished Attorney Charbonneau who is directed to serve a copy of this Order upon all interested parties)