

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF ARIZONA**

Minute Entry

Hearing Information:

Debtor: REGIONAL CARE SERVICES CORPORATION
Case Number: 4:14-BK-01383-BMW **Chapter:** 11
Date / Time / Room: WEDNESDAY, JUNE 22, 2016 10:15 AM COURTROOM 446
Bankruptcy Judge: BRENDA M. WHINERY
Courtroom Clerk: REBECCA VOLZ
Reporter / ECR: RHIANNA DOMINGUEZ

Matter:

CREDITOR TRUSTEE'S MOTION FOR RECONSIDERATION
R / M #: 547 / 0

Appearances:

ISAAC D. ROTHSCHILD REPRESENTING THE CREDITOR TRUSTEE AND APPEARING IN PERSON
MICHAEL J. PANKOW REPRESENTING THE CREDITOR TRUSTEE AND APPEARING IN PERSON
SCOTT DAVIS, CREDITOR TRUSTEE, APPEARING IN PERSON
KYLE SHELTON REPRESENTING ARMANDO BELLOC AND APPEARING BY VIDEO

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(continue)... 4:14-BK-01383-BMW

WEDNESDAY, JUNE 22, 2016 10:15 AM

Proceedings:

Mr. Pankow summarizes the circumstances of the case. The approved claims agent, Epiq Bankruptcy Solutions, LLC, received a couple hundred timely filed claims. Mr. Belloc's claim was not timely filed and he alleged through counsel that he had not received notice of the bankruptcy filing or claims bar date. Mr. Belloc did not file a Declaration to that effect. Mr. Belloc previously received stay relief to proceed with state court litigation and permission to file his claim late.

The Court states that what was submitted to this Court the night before the ruling was issued did not show service upon Mr. Belloc.

Mr. Pankow states the original Affidavit was redacted to protect patient privacy per HIPAA so it did not reflect service upon Mr. Belloc. He states that counsel erroneously believed that an unredacted version had been provided to Judge Hollowell.

The Court states the basis for the ruling was that the document provided to this Court contained no indication that Mr. Belloc had been served. The Court asks how an error made by the creditor trustee can be the basis for a Motion for Reconsideration.

Mr. Pankow states there was flawed evidence in the record. The Declaration of Ms. Tran indicates that Mr. Belloc was served. There was an absence of evidence from Mr. Belloc supporting his claim that he did not receive notice and flawed evidence from the creditor trustee supporting the creditor trustee's claim that Mr. Belloc did receive notice. The matter required an evidentiary hearing.

****10:38 AM****

The Court states that an evidentiary hearing was not requested.

Mr. Pankow believes an evidentiary hearing was requested during the hearing.

The Court states that what was provided to this Court the night before the hearing did not indicate that Mr. Belloc had received service. The error was made. The information was in the control of Epiq and the creditor trustee. The Court asks on what basis under Rule 59 can this Court grant this motion.

Mr. Pankow directs the Court to paragraph 5 of the Affidavit of Ms. Tran which provides the name and address of Mr. Belloc and states there was no evidence of returned mail etc. Mr. Pankow argues that Mr. Belloc commenced litigation for the personal injury at issue and did not name the debtor entities as defendants which implies he may have had knowledge of the bankruptcy stay. He requests the motion be granted and an evidentiary hearing conducted.

Mr. Shelton summarizes the status of the current litigation. The litigation has proceeded for 2 years and this motion is not timely. He argues there is no new information. Previous counsel made the decision not to name the debtor entities in the prior litigation for whatever reason. That strategic decision does not imply Mr. Belloc knew of the pending bankruptcy.

Mr. Pankow states that discovery in the state litigation does not close until 03/01/2017. He argues that the order which was previously entered did not have the evidentiary support needed. The Motion for Reconsideration was timely filed.

The Court concurs this motion was timely filed.

COURT: THIS MATTER WILL BE TAKEN UNDER ADVISEMENT.