

**IN THE UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF NORTH CAROLINA
GREENSBORO DIVISION**

In Re:

RANDOLPH HOSPITAL, INC. D/B/A
RANDOLPH HEALTH,

Debtors¹

CASE NO. 20-10247
CHAPTER 11

**DECLARATION OF DISINTERESTEDNESS
BY MELANIE L. CYGANOWSKI**

I, Melanie L. Cyganowski, pursuant to 28 U.S.C. § 1746, hereby declare that the following is true to the best of my knowledge, information and belief:

1. I am a member of the law firm of Otterbourg P.C. (“Otterbourg”). Between March 1, 1993 and February 28, 2007, I served as a United States Bankruptcy Judge in the Eastern District of New York, and as Chief Judge between November 25, 2005 and February 28, 2007, at which time I retired from the Court at the end of my full term.

2. Unless otherwise stated in this Declaration, I have personal knowledge of the facts set forth herein.

3. I am a person eligible and competent to perform the duties as patient care ombudsman (“PCO”) in the above-captioned case pursuant to 11 U.S.C. § 333 and Rule 2007.2 of the Federal Rules of Bankruptcy Procedure. My qualifications to perform the required functions of a PCO in this case is evidenced by my Curriculum Vitae, attached hereto as **Exhibit A**.

¹ The Debtors in this case, along with each Debtor’s case number, are: Randolph Hospital, Inc. d/b/a Randolph Health, Case No. 20-10247; Randolph Specialty Group Practice, Case No. 20-10248; and MRI of Asheboro, LLC d/b/a Randolph MRI Center, Case No. 20-10249.

My Qualifications to Serve as Patient Care Ombudsman

4. As noted in my Curriculum Vitae, I have served as the Patient Care Ombudsman in several cases. These include serving as the Patient Care Ombudsman in *Promise Healthcare Group, LLC, et al.*, Case No. 18-12491-CSS (Bankr. D. Del. 2018) (appointed November 27, 2018) which operated fourteen (14) long term acute care hospitals, two (2) short term acute care hospitals, and two (2) skilled nursing facilities, located in nine (9) states with about 1,500 beds.

5. I previously served as the Patient Care Ombudsman in *4 West Holdings, Inc. et al.*, Case No. 18-30777-HDH (Bankr. N.D. Texas 2018) (appointed on March 29, 2018), which operated skilled nursing facilities in seven states with approximately 4,500 beds and 5,000 employees.

6. I also previously served as the Patient Care Ombudsman in *21st Century Oncology Holdings, Inc., et al.* (“21st Century”), Case No. 17-22770-RDD (Bankr. S.D.N.Y. 2017) (appointed on June 20, 2017), which was the world’s largest network of physician-led integrated cancer care services based in Fort Myers, Florida. At the time of its filing, 21st Century operated 179 cancer treatment centers in the U.S. (17 states) and Latin America (7 countries), and employed some 3,600 people.

7. Similarly, I previously served as the Patient Care Ombudsman in *California Proton Treatment Center* (“California Proton”), Case No. 17-10477-LSS (Bankr. D. Del. 2017) (appointed on March 27, 2017), a cancer treatment center based in San Diego, California. California Proton provided proton therapy, which is an advanced form of radiation therapy that uses a beam of protons to attack cancerous cells in a more concentrated manner than traditional radiation. California Proton’s facility housed proton therapy equipment, as well as diagnostic, planning and treatment equipment. My engagements in all of these cases have concluded.

8. In addition to serving as a PCO in various healthcare cases, I have extensive experience in operating and overseeing the management of health care facilities. In 2015, I was appointed to serve as the Chief Restructuring Officer and then as the Temporary Operator of Interfaith Medical Center (“IMC”), a major operating community hospital in Central Brooklyn, positions which I held for over 15 months. *See In re Interfaith Medical Center*, Case No. 12-48226-CEC (Bankr. E.D.N.Y.). As Temporary Operator, I served as the equivalent of the Board of Directors, which had resigned voluntarily immediately prior to my appointment. I was the first person appointed by the Commissioner of the New York State Department of Health to serve as Temporary Operator of a major operating hospital.

9. At the time of my appointment as Temporary Operator, IMC was a 287-bed acute care facility, with multiple ambulatory out-patient sites, which provided general medical care as well as specialized services, including psychiatric care and dentistry. As Temporary Operator, I was responsible for all aspects of the operation of IMC, including regulatory compliance, staffing, patient care issues, departmental provision of care, engineering, food and oversight of the medical staff which was comprised of doctors, nurses and medical residents. I interfaced with leadership of the unions, community groups, patient advocates, neighborhood leaders and political representatives.

10. I also have particular expertise in the management of nursing homes and custodial care centers. I was appointed to serve as (i) the Chapter 11 Trustee and subsequently the Chapter 7 Trustee for Mill River Foundation, Inc., which filed in the Bankruptcy Court for the District of Connecticut (Case No. 12-50306); and (ii) the Chapter 11 Trustee for Batavia Nursing Home, LLC and Geriatric Realty Corp., which filed in the Bankruptcy Court for the Western District of New York (Case Nos. 11-13223 and 11-13225).

11. In the case of Batavia Nursing Home, I was also appointed as the Receiver of the facility by the Commissioner of Health of the State of New York (the first to receive this dual appointment as Receiver and Chapter 11 Trustee) that authorized me to operate and be fully responsible for the operations of the nursing home. Together with the staff, I increased the number of residents from less than half to almost full capacity and was then able to successfully sell the nursing home as a going concern, which enabled the facility to continue to serve the residents of upstate New York. Of critical importance during the sale process was maintaining uninterrupted care to the residents during the transition period.

12. The Mill River Nursing Home was a 130 bed skilled and intermediate care nursing facility located in Stamford, Connecticut, which employed approximately 130 people. I quickly learned after my appointment as Chapter 11 Trustee that reorganization was not viable and the facility was administratively insolvent. After conversion of the case and the appointment of a receiver, I worked with the receiver to facilitate an orderly closure of the nursing home and placement of the residents remaining in the home at the time of the bankruptcy filing. These appointments provided me with extensive experience with the day to day operations of nursing homes and what is required to maintain the highest degree of patient care even while the facilities may be undergoing significant and potentially disruptive changes.

13. I have also been appointed to serve in other non-health care fiduciary capacities, including, among others, as (i) the Court-appointed receiver in *Securities and Exchange Commission v. Platinum Management (NY) LLC, et al.*, Case No. 16-6848-BMC-VMS (E.D.N.Y.); (ii) the Court-appointed auditor (*Phoebe Morse v. Capital One Bank (USA), N.A.*, Adv. Pro. No. 08-1272-JNF, in *In re Galley*, Case No. 06-12142-JNF (Bankr. E.D. MA.); (iii) the Chapter 11 and, thereafter, the Chapter 7 Trustee for *In re Biolitec, Inc.*, Case No. 13-11157-DHS (Bankr. N.J.); (iv) the Referee

for the Stuyvesant Town/Peter Cooper Village foreclosure (*Bank of America, N.A., et al., v. PCV ST Owner LP, et al.*, 10 Civ. 1178-AKH (S.D.N.Y.)); (v) the Receiver in the Stanley Thomas Receivership (*Joel Ross, et al., v. Stanley E. Thomas, et al.*, 09 Civ. 5631-SAS (S.D.N.Y.)), where I recovered \$14 million in less than one month from the defendants; and (vi) the Special Master in *In re Vivendi Universal, S.A. Sec. Litig.*, 02 Civ. 5571-SAS (S.D.N.Y.).

Serving as PCO in Randolph Hospital Inc.

14. By this Declaration, I accept the appointment to serve as the PCO in this case and agree to comply with the provisions and requirements of 11 U.S.C. § 333 and Rule 2007.2 of the Federal Rules of Bankruptcy Procedure.

15. At the present time, my standard hourly rate is \$1,315.00. Any request for payment from the Debtors' estate for compensation and reimbursement of expenses incurred in the performance of my services as PCO will be subject to approval of the Court, and will be made in accordance with the applicable provisions of the United States Bankruptcy Code, including but not limited to 11 U.S.C. § 330, the Federal Rules of Bankruptcy Procedure, the Local Bankruptcy Rules of the United States Bankruptcy Court for the Middle District of North Carolina, and pursuant to any orders of this Court establishing interim compensation and reimbursement of expenses for Chapter 11 professionals.

16. To assist me in the performance of my duties as PCO, I may seek to retain Otterbourg as my counsel. Any retention of Otterbourg will be pursuant to an application to this Court.

17. Any bills rendered by me and/or Otterbourg will be subject to a ten percent (10%) accommodation on the fees. All non-working travel time (if there is any) will be billed at fifty percent (50%).

18. To the best of my knowledge, I am a disinterested person as defined in 11 U.S.C. § 101(14), and I do not hold, nor do I represent any material interest adverse to this bankruptcy estate.

19. With respect to my “disinterestedness” under Section 101(14) of the Bankruptcy Code, I provide the following information:

(a) I am not, and have not been during the pendency of this chapter 11 case, a creditor, equity security holder or insider of the Debtor.

(b) I am not, and have not been, a director, officer or employee of the Debtor.

(c) I do not have an interest materially adverse to the interests of this bankruptcy estate or any class of creditors or equity security holders by reason of any direct or indirect relationship to, connection with or interest in the Debtors, or for any other reason.

(d) I am not a relative of any Bankruptcy Judge of the United States Bankruptcy Court for the Middle District of North Carolina.

20. In connection with my proposed appointment as PCO, I have asked Otterbourg to perform a computerized search of its records for the Debtors, their professionals, and other parties in interest based upon a review of the Docket and pleadings filed in these cases to determine if any conflicts of interest would result from my appointment. **Exhibit B** contains a list of the parties searched by Otterbourg.

21. Based upon this review, I respectfully represent that to the best of my knowledge, I do not personally have any connection with any interested party in these cases, except that Otterbourg and I may have worked or are working with other professionals involved in the Debtors’ cases in other cases in which Otterbourg or I were or are involved (as a professional to a client, co-counsel, as a retained expert, as an adversary, or as a retained professional). I do not believe that any of these professional connections will in any way affect or compromise my disinterestedness as PCO in this

case. In addition, my firm Otterbourg represents Bank of America in certain other matters, but not in connection with the Debtor or this case.

22. I do not believe that any of these connections of Otterbourg will in any way affect or compromise my disinterestedness as PCO in this case. If I discover any information that is contrary to or pertinent to the statements made herein, I will promptly disclose such information to the Court by filing and serving a supplemental declaration on the Bankruptcy Administrator, counsel to the Debtors and all parties who have filed a notice of appearance in this case.

23. To ensure that as PCO I will remain disinterested throughout the term of this appointment, I represent that Otterbourg also agrees that it will not represent any client other than me as PCO in connection with this case.

24. As required by Section 504 of the Bankruptcy Code, neither Otterbourg nor I have agreed to share any compensation or reimbursement received in connection with this case with another person except pursuant to the corporate documents of Otterbourg.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 23rd day of April, 2020, at New York, NY.

/s/ Melanie L. Cyganowski
Melanie L. Cyganowski

EXHIBIT A

MELANIE L. CYGANOWSKI
Member of the Firm
Otterbourg P.C.

Direct No. 212.905.3677
Cell No. 917.496.3670

Fax No. 212.682.6104
MCyganowski@Otterbourg.com

Otterbourg P.C., 230 Park Avenue, New York, NY 10169-0075. Member of the Firm. June 16, 2008 to present. Chair of Bankruptcy & Restructuring practice area. Bankruptcy law and Bankruptcy litigation; counsel to Official Committees of Unsecured Creditors; fiduciary appointments; mediation; arbitration; general commercial, federal court and complex litigation; expert witness; legal ethics.

Greenberg Traurig, LLP, The MetLife Building, 200 Park Avenue, New York, NY 10166. Shareholder and Chair of the New York Office Bankruptcy Litigation Practice. March 1, 2007 to June 2, 2008. Bankruptcy law and Bankruptcy litigation; mediation; legal ethics.

United States Bankruptcy Judge, Eastern District of New York, United States Bankruptcy Court, The Long Island Federal Courthouse, 290 Federal Plaza, Central Islip, NY 11722. Appointed on March 1, 1993 through February 28, 2007. Appointed as Chief Judge of the Bankruptcy Court on November 29, 2005. Presided over thousands of commercial and individual bankruptcy cases and published numerous opinions; mediations.

St. John's University, School of Law, 8000 Utopia Parkway, Jamaica, NY 11439. Adjunct Professor (part-time), LL.M. Program in Bankruptcy. January 2001 to present. Bankruptcy Ethics, Fraud & Malpractice; Chapter 11 Corporate Reorganization; Interrelationship of Domestic Relations & Bankruptcy; Bankruptcy Litigation.

Milbank, Tweed, Hadley & McCloy, 1 Chase Manhattan Plaza, New York, NY 10005. Senior Attorney, Litigation. May, 1989 to February, 1993. General commercial law; contract, partnership and business law disputes; federal court and complex litigation; Bankruptcy law and lender liability litigation.

Sullivan & Cromwell, 125 Broad, New York, NY 10004. Litigation Associate. 1982 to May, 1989. Federal court and complex litigation; general commercial, insurance and contract law disputes; mergers & acquisition litigation; securities regulatory compliance and securities litigation.

United States District Court, Southern District of New York, Foley Square, New York, NY 10007. Law Clerk, Honorable Charles L. Brieant; 1981 to 1982.

Hodgson, Russ, Andrews, Wood & Goodyear, Buffalo, NY. Summer Associate, 1980.

Broadway-Fillmore Area Council, Inc., Buffalo, NY. Director, Individual Referral Program funded by CETA Title I; 1978 to 1979. Procured and administered grants exceeding \$800,000 annually.

City of Buffalo, Departments of Community Development and Human Resources, Buffalo, NY. Program Planning Coordinator, Planner & Consultant, 1974 to 1978. Coordinated East Buffalo's comprehensive development plan and its designation as the first nationally recognized SBA loan program area and the implementation of \$1 million EDA commercial beautification program.

EDUCATION

Faculty of Law & Jurisprudence, State University of New York at Buffalo. J.D., *magna cum laude*, May, 1981. Sea Grant Fellow, 1979. Award of Distinction in Law and Public Education, 1981. **Buffalo Law Review:** Senior Editor, 1980-81; Associate, 1979-80. Co-author, *Survey: The Buffalo Polish-American Legal Experience*, **Buffalo Law Review**, Vol. 30, No. 1 (1981). **Buffalo Law Journal**, Abstract Writer, 1979-80.

Cornell University, Department of Anthropology, Ithaca, NY Graduate studies in Ph.D. program in urban development, 1975.

Grinnell College, Grinnell, Iowa. A.B., with Honors in Anthropology, May 1974. Grinnell Honor Scholar.

AWARDS/HONORS

New York Law Journal: Distinguished Leaders (November 2019)

New York Institute of Credit, Women's Division: The Honorable Cecelia Goetz Award, 2019 Recipient (February 2019)

Crain's New York inaugural "Leading Women Lawyers in New York" list (2018)

National Law Journal: Top 75 Outstanding Women Lawyers in US (2015)

New York Institute of Credit, Future Leaders Division: The Honorable Burton R. Lifland Mentor of the Year Award, 2016 Recipient (2016)

Super Lawyers: Top 50 Women Attorneys in New York Metro Area (2012--)

Super Lawyers: Top 100 Attorneys in New York Metro Area (2016--)

Super Lawyers, Bankruptcy (2007--)

The Best Lawyers in America in Business Reorganization and Commercial Litigation (2012--)

Fellow, American College of Bankruptcy (2014--)

Fellow, Litigation Counsel of America (2016--)

Fellow, American Bar Foundation (2004--)

Fellow, New York State Bar Foundation (2004--)

Turnaround Award Healthcare: Interfaith Medical Center (2015)

United States Marshal Special Recognition Award, Crest Hollow Country Club, Westbury, NY (2007)

New York Institute of Credit, Trustee's Award, Hilton Hotel, New York, NY (2007)

New York State Bar Association, Commercial & Federal Litigation Section, "Hail to the Chiefs" Award, Lincoln Center, New York, NY (2006)

Turnaround Management Association Award, Melville, NY (2006)

Alumni Wall of Fame, East Leyden High School, Franklin Park, IL (1998)

Citizen of the Year Award in Law, Am-Pol Eagle, Buffalo, NY (1994)

ADMISSIONS

Admitted to Practice: Supreme Court of the United States; United States Court of Appeals for the Second Circuit and Third Circuit; United States District Courts for the Eastern, Southern and Western Districts of New York; United States District Court for the District of Columbia; United States District Court for the District of Connecticut; United States District Court for the District of New Jersey; United States Court of Federal Claims; Courts of the State of New York

Appointed to the Mediation Registers of the United States Bankruptcy Courts for the Southern District of New York, New Jersey and Delaware

Appointed by the Chief Judge of the Southern District of New York as Member of the Grievance Committee (2016-) January 2020

ASSOCIATIONS & MEMBERSHIPS

American Bankruptcy Institute

American Bar Association

Bar Association of the City of New York: Alternative Dispute Committee (2011-2015) and Secretary (2012-2015); **Judiciary Committee** (2008-2010); **Bankruptcy Committee** (2009-2010) (2016--)

Federal Bar Council: Board of Trustees (2015--) and Secretary (2017--)

National Association of Federal Equity Receivers (NAFER), Full Member (2018--)

National Conference of Bankruptcy Judges: member (1993--)

New York Institute of Credit: Member & Vice President of Executive Committee of the Board of Directors (2015--); Board of Directors (2007--), Vice President, NYIC Women's Division (2007--)

New York State-Federal Judicial Council: Member (2016--)

New York State Bar Association: Commercial & Federal Litigation Section: Chair, Nomination Committee (1993--); Treasurer (1992-1993); Chair, Committee on Federal Judiciary (1990-1992); Member of the Executive Committee (1989--); Member of the ADR Committee (2013--); Member of the Committee on Federal Legislative Priorities (2012-2016)

Norton Journal of Bankruptcy Law & Practice, Member, Editorial Advisory Board (Thomson Reuters) (2015--)

Second Circuit Federal-State Advisory Council: member (2016--)

Tina's Wish Leadership Council Member (2014--) (Foundation for ovarian cancer research)

Turnaround Management Association

FIDUCIARY APPOINTMENTS

Receiverships:

- *Securities and Exchange Commission v. Platinum Management (NY) LLC, et al.*, Case No. 16-6848 (United States District Court for the Eastern District of New York) (Receiver)
- *Ross v. Thomas*, Case No. 09-cv-05631 (SDNY) (Receiver)
- *JPMorgan Chase Bank, N.A. v. Global Capital Services LLC*, 11-cv-01648 (SDNY) (Receiver)
- *Bank of America, N.A., as Trustee, et al., v. PCV St Owner LP, et al.*, 10 Civ. 1178 (SDNY) (Referee) (aka Stuyvesant/Peter Cooper Village foreclosure)

Special Master/Discovery:

- *Neogenix Oncology, Inc. v. Peter Gordon, et al.*, Case No. 14-CV-04427 (EDNY) (Special Master Discovery)
- *In re Vivendi*, Case No. 5571 (SDNY) (Special Master) (Securities class action)
- *In re Orion HealthCorp., Inc., et al.*, Case No. 18-71748 (AST) (Bankr. EDNY) (Court Appointed Expert, Discovery)
- *Picard v. Merkin*, Adv. Pro. No. 09-1182 (Bankr. SDNY) (Arbitrator of e-discovery disputes)

Health Care Appointments:

- *Interfaith Medical Center*, CRO and Temporary Operator (NYS Commissioner of Health Appointment)
- *In re Promise Healthcare Group, LLC, et al.*, Case No. 18-12491 (CSS) (Bankr. Del.) (Patient Care Ombudsman)
- *In re 4 West Holdings LLC (a/k/a Orianna Health Systems, et al.)*, Case No. 18-30777 (Bankr. ND Texas) (Patient Care Ombudsman)
- *In re 21st Century Oncology Holdings, Inc.*, Case No. 17-22770 (Bankr. SDNY) (Patient Care Ombudsman)
- *California Proton Treatment Center, LLC*, Case No. 17-10477 (Bankr. DE) (Patient Care Ombudsman)
- *Place for Achieving Total Health Medical, P.C.*, Case No. 17-13478 (MKV) (Bankr. SDNY) (Chapter 11 Trustee)
- *Mill River Foundation, Inc.*, Case No. 12-50306 (Bankr. D. CT) (Chapter 11 & 7 Trustee)
- *Batavia Nursing Home, LLC*, Case No. 11-13223 (Bankr. WDNV) (Chapter 11 Trustee)
- *Geriatric Realty Corp.*, Case No. 11-13225 (Bankr. WDNV) (Chapter 11 Trustee)

Auditor:

- *U.S. Trustee v. Capital One*, Adv. Pro. No. 08-012720 (Bankr. D. Mass) (Auditor)

Trustee Appointments:

- *Biolitec, Inc.*, Case No. 13-11157 (DHS) (Bankr. NJ) (Chapter 11 & 7 Trustee)
- [Healthcare trustee appointments noted above]

SIGNIFICANT MEDIATIONS

- *In re General Motors Corp.* (Member of Panel Mediators), Case No. 09-50026 (REG) (Bankr. SDNY)
- *In re Lehman Brothers Holding Inc. et al.* (Member of Panel Mediators), Case No. 08-13555 (Bankr. SDNY)
- *In re Intrep National Radio Sales Inc., et al.* (Member of Panel Mediators), Case No. 08-11079 (RDD) (Bankr. SDNY)
- *In re Madoff/BMLIS* (Member of Panel Mediators), Case No. 08-01789 (BRL) (Bankr. SDNY)
- *In re Metaldyne* (Member of Panel Mediators), Case No. 11-02000 (MG) (Bankr. SDNY)
- *In re Quebecor World Litigation Trust* (Member of Panel Mediators) (Bankr. SDNY)
- *In re ADOC Holdings, Inc., et al. (f/k/a Coda Holdings, Inc.)*, Case No. 13-11153 (CSS) (Bankr. DE), *Tony Bulchak, et al., v. ADOC Holdings, Inc., et al.*, Adv. Pro. No. 13-51031 (CSS) (Bankr. DE)
- *Alliance Bancorp Mediations, including First Collateral Services Inc.*, Adv. Pro. No. 09-51408 (Bankr. DE)
- *Charter Communications/Law Debenture Trust Co.*, Adv. Pro. No. 11-01267 (JMP) (Bankr. SDNY)
- *Collavino Construction Company, et al., ads Port Authority of NY/NJ*, Case Nos. 14-12908 and 15-10344 (SCC) (Bankr. SDNY)
- *DTZ Rockwood Mediations*, Adv. Pro. No. 09-1263 (SMB) (Bankr. SDNY)
- *Genergy v. Port Authority of NY/NJ*, Case No. 10-05271 (REG) (Bankr. SDNY)
- *GII Industries, Inc. v. City of New York*, Adv. Pro. No. 08-01045 (Bankr. EDNY)
- *Grace/State of New York Mediations* (Bankr. EDNY)
- *In re FAH Liquidating Corp. (f/k/a Fisker Automotive Holdings, Inc.): Sven Etzelberger v. Fisker Automotive Holdings, Inc., et al.*, Adv. Pro. No. 13-52517 (KG) (Bankr. DE)
- *Lindenwood Associates LLC, as Liquidating Trustee of Lighthouse Global Partners LLC & Lighthouse Financial Group LLC v. Halpern & Associates LLC*, Adv. Pro. 11-02781(SMB) (Bankr. SDNY)
- *In re 2607 Jerome N, LLC, et al.*, Case No. 13-10034 (REG) (Bankr. SDNY)
- *In re 261 E. 78 Realty Corp.*, Case No. 11-15624 (REG), *261 E. 78 Realty Corp. v. MB Financial Corp.*, Adv. Proc. 12-01118, 13-01000 (REG) (Bankr. SDNY)
- *In re 192 N. Main, LLC*, Case No. 806-70368-REG) (Bankr. EDNY)
- *McCord v. Countrywide Financial Corp.*, Adv. Pro. No. 08-01215 (Bankr. EDNY)
- *In re Malese 18 Corp.*, Case No. 02-80586 (DTE) (Bankr. EDNY)
- *In re Metro Fuel Corp., et al.*, Case Nos. 12-46913, et al., (ESS) (Bankr. EDNY)
- *Peter Mochnal v. EOS Airlines, Inc.*, Adv. Pro. No. 08-08279 (Bankr. SDNY)
- *In re Newbury Common Associates, LLC*, Case No. 15-12507 (LSS) (Bankr. DE)
- *In re Quad-C Funding LLC.*, Case No. 13-11725 (ALG) (Bankr. SDNY)
- *In re SageCrest II LLC*, Case No. 08-50754 (Bankr. D. CT)
- *Sheldrake Estates Condominiums, et al. & Sheldrake Lofts LLC v. Village of Mamaroneck*, Adv. Pro. No. 10-08424 (Bankr. SDNY)
- *Sonix Medical Resources, Inc., et al.*, Case No. 09-77781 (DTE), *Joshua Rizack, as the Plan Administrator, et al., v. Soni, et al.*, Adv. Pro. No. 11-09440 (AST)
- *Southside Mediations*, 09-43575 (ESS) (Bankr. EDNY)
- *Wells Fargo Century, Inc. v. Safdeye*, Adv. Pro. No. 05-01417 (Bankr. EDNY)

SIGNIFICANT CLIENT REPRESENTATIONS

- *In re Purdue Pharma LP*, Case No. [19-23649-rdd](#) (Counsel to the Ad Hoc Committee of Governmental Entities)
- *In re: General Motors LLC Ignition Switch Litigation – MDL*, Case No. 1:14-md-0253-JMF (SDNY) (Member of Executive Committee of MDL)
- *In re Blue Dog*, Chapter 11 Case No. 15-10694-mew (SDNY) (Debtor's Counsel)

- *In re Gramercy Group Inc.*, Chapter 11 Case No. 19-73622-las (EDNY) (Debtor's Counsel)
- *In re Navillus Tile, Inc., dba Navillus Contracting*, Chapter 11 Case No. 17-13162 (SHL) (Bankr. SDNY) (Debtors' Special Counsel)
- *In re New York Crane & Equipment Corp., et al.*, Chapter 11 Case No. 16-40043, et. seq. (CEC) (Bankr. EDNY) (Debtors' counsel)
- *In re Quirky, Inc., et al.*, No. 15-12596 (MG) (Bankr. SDNY) (Committee of Unsecured Creditors)
- *In re Simon Posen*, No. 15-12859 (MEW) (Bankr. SDNY) (Debtor's counsel)
- *In re Sammy Eljamal*, No. 15-22872 (RDD) (Bankr. SDNY) (Committee of Unsecured Creditors)
- *In re Downey Financial Corp.*, No. 08-13041 (Bankr. D. Del.) (FDIC)
- *In re DPH Holdings Corp.*, No.10-4170-bk (2d Cir.) (State of Michigan Workers' Compensation Insurance Agency and State of Michigan Funds Administration)
- *In re Escada (USA) Inc.*, Case No. 09-15008 (Bkcty SDNY) (Committee of Unsecured Creditors)
- *In re General Motors Corp.*, Case No. 09-50026 (REG) (Bkcty SDNY) (Ally Financial Corp.)
- *In re Greatwide Logistic Services*, Case No. 08-12430 (Bkcty D. Del.) (Committee of Unsecured Creditors)
- *Guaranty Financial Group Inc. v. FDIC*, 10-cv-00980 (ND Tex.) (FDIC)
- *Claybrook v. United States*, 10-cv-00734 (Court of Federal Claims) (FDIC)

EXPERT TESTIMONY

- *The Federal Mogul Asbestos Personal Injury Trust v. The Federal Mogul Limited (formerly named T&N PLC, et al.*, Claim No. 2012 Folio 1093 (High Court of Justice, Queen's Bench Division, Commercial Division) (United Kingdom)
- *Fairfield Sentry Limited (In Liquidation)*, Claim No: BVIHC (COM) 133/2011 (High Court of Justice, British Virgin Islands, Commercial Division)
- *In re ICP Strategic Credit Income Fund Ltd and In re ICP Strategic Credit Income Master Fund Ltd.*, Cause Nos. FSD 82 & FSD 269 of 2010 (Grand Court of the Cayman Islands, Financial Services Division)
- *In re Inigma Technology Co., Ltd and In re Section 216 of the Companies Ordinance, Cap. 32 of the Laws of Hong Kong Special Administrative Region*, No. 224 of 2013 (High Court of the Hong Kong Special Administrative Region, Court of First Instance, Companies Winding-Up (Hong Kong)
- *In re SphinX Group of Companies*, Cause No. 258 of 2006 (Grand Court of the Cayman Islands, Financial Services Division)
- *In re Vitro, S.A.B. de C.V.*, (Federal District Court for Civil and Labor Matters for the State of Nuevo León, the United Mexican States)
- *Vornado v. Stop 'n Shop*, Index No. 105819/03 (Supreme Court of the State of New York, New York County)
- *Miller v. Kluger, Kaplan, Silverman, Katzen & Levine, et al.*, Case No. 32-194-Y-00500-11 (American Arbitration Association, Miami, FL)
- *Aris Mardirossian and ARL LLC, et al., v. Miller Miller & Canby* (American Arbitration Association, MD)
- *Standard Chartered Bank of New York re Lehman Brothers Holdings, Inc.* (Philippines)
- *US Bank, NA, et al., v. 2150 Joshua's Path PLLC, et al.*, Case No. 13-1598 (GRB) (EDNY)

WRITTEN OPINIONS & SIGNIFICANT DECISIONS

During the period in which I served as United States Bankruptcy Judge for the Eastern District of New York (1993-2007), I presided over thousands of bankruptcy cases, including the following:

- *In re Telcar Group, Inc.*, 365 B.R. 345 (Bankr. E.D.N.Y. Feb. 13, 2007)
- *In re R.F. Cunningham & Co., Inc.*, 47 Bankr. Ct. Dec. 158, 61 U.C.C. Rep. Serv. 2d (Callaghan) 642 (Bankr. E.D.N.Y., Dec. 21, 2006)
- *In re R.F. Cunningham & Co., Inc.*, 355 B.R. 408 (Bankr. E.D.N.Y. 2006)
- *In re DiGeronimo*, 354 B.R. 625 (Bankr. E.D.N.Y. 2006)
- *In re Total Time Solutions LLC*, 806-71631 (Bankr. E.D.N.Y. 2005)
- *In re Brunswick Hospital Center, Inc.*, 805-88168 (Bankr. E.D.N.Y. 2005)
- *In re The Motorcycle Excellence Group, Inc.*, 805-70089 (Bankr. E.D.N.Y. 2005)

- *In re New Times Securities Services, Inc.*, 318 B.R. 753 (Bankr. E.D.N.Y. 2004)
- *In re Acclaim Entertainment, Inc.*, 804-85595 (Bankr. E.D.N.Y. 2004)
- *In re David Blatt a/k/a Jay Black*, 805-94851 (Bankr. E.D.N.Y. 2005)
- *In re Developmental Disabilities Institute, Inc.*, 801-80920 (Bankr. E.D.N.Y. 2001)
- *In re Bay Harbour Associates LP*, 899-85379 (Bankr. E.D.N.Y. 1999)
- *In re QC Piping Installations, Inc.*, 225 B.R. 553 (Bankr. E.D.N.Y. 1998)
- *In re Sanders-Langsam Tobacco Co.*, 224 B.R. 1 (Bankr. E.D.N.Y. 1998)
- *In re Corporate Food Management, Inc.*, 223 B.R. 635 (Bankr. E.D.N.Y. 1998)
- *In re PG Realty Co.*, 220 B.R. 773 (Bankr. E.D.N.Y. 1998)
- *In re Gurney's Inn Corp. Liquidating Trust*, 215 B.R. 659 (Bankr. E.D.N.Y. 1997)
- *In re Koula Enterprises, Ltd.*, 197 B.R. 753 (Bankr. E.D.N.Y. 1996)
- *In re Braniff International Airlines, Inc.*, 164 B.R. 820 (Bankr. E.D.N.Y. 1994)
- *In re IBI Security Service, Inc.*, 158 B.R. 1 (Bankr. E.D.N.Y. 1993)

ARTICLES & CONFERENCE PRESENTATIONS

“Mediating with a Higher Power: Mediation of Disputes with Governments and Governmental Agencies, to be presented at the ABI Winter Leadership Conference, together with Susan A. Berson, Esq. (Berson Law Group), Ted A. Berkowitz, Esq. (Morritt Hock & Hamroff), David Beress (Hilco Streambank) and Margarita Padilla, Esq. (CA OAG), Rancho Palos Verdes (December 2019).

“Sales,” working lunch program to be presented at the ABI Views from the Bench Conference, together with Paul Basta, Esq. (Paul Weiss), Judge Jeffrey W. Cavender (ND GA), Judge Sean H. Lane (SDNY), Judge Karen Specie (ND FL) and Martin Bienenstock, Esq. (Proskauer), Washington, DC (September 2019).

“Practical Ethics for Government Attorneys, to be presented at the National Association of Attorneys General Conference, together with Gill Geldreic (TN OAG) and Zach Mosner (WA OAG, ret.), Santa Fe (September 2019).

“Let’s Be Clear – Presenting Your Case in Commercial Litigation,” presented at the 23rd Annual Bankruptcy Conference, The Capital Region Bankruptcy Bar Association, together with David Capriotti, Esq. (Harris Beach), Cooperstown (November 2018).

“Interface Between Bankruptcy and Matrimonial Law: Keeping it Together During the Split,” presented at the 23rd Annual Bankruptcy Conference, The Capital Region Bankruptcy Bar Association, together with Hon. Colleen Brown (Chief U.S. Bankruptcy Judge, VT), Cooperstown (November 2018).

“Protecting Your Assets: Advanced Strategies on Sales and Insurance Issues,” presented at the National Association of Federal Equity Receivers (NAFER) 7th Annual Conference, together with Marion A. Hecht (CliftonLarsonAllen LLP), Anne C. McKinley (SEC), Jonathan E. Perlman (Genovese, Joblove & Battista) and Todd Wohl (Braun Company), Chicago (October 2018).

“Thinking Ahead to Get Paid; Financial Assurances, Drafting Protections into Your Documents,” presented at the National Association of Attorneys General Conference, together with Steve Sakamoto-Wengel (MD OAG) and Tracy Essig (Essig Law Firm), Columbus OH (October 2018).

“View from the Bench – Asset Recovery in a Globalized World,” presented at the Asset Recovery Americas Conference with Hon. Ona Wang (Magistrate Judge, SDNY), New York City (September 2018).

“Healthcare - Will It Be The Next Big Meltdown Like Retail?,” presented at the New York Institute of Credit, together with Kenneth A. Rosen (Board Member of RWJ Barnabas Health and Member of Lowenstein Sandler), Mark Cluster (President of Carl Marks & Col, Managing Member of Carl Marks Advisors and Board Chair of Northwell Health), Mark Herbers (Senior Director, Alix Partners) and Suzanne Koenig (President SAK Management Services), New York City (September 2018).

"Physiotherapy: Recent Decision of Interest on the Amount Recoverable for Fraudulent Transfer Avoidance Liability," co-authored with Jennifer S. Feeney and Robert C. Yan, presented at ABI Bankruptcy Conference, NYC (May 2018).

"Expert Q&A on Creditors' Committees in the 2018 Bankruptcy Climate," published in Thomson Reuters Journal (Spring 2018).

"When is a Consignment Not a Consignment," co-authored with Robert C. Yan, published in the ABF Journal (February 2018).

"Recent Retail Bankruptcies: An Overview," co-authored with Robert C. Yan, and presented at the ABI Views from the Bench Conference, panelist together with David Pollack (Ballard Spahr), Judge Sean Lane (SDNY), Judge Wendelin Lipp (MD) and Judge Kevin Carey (Del.), Washington, D.C. (October 2017)

"Just Who Foots the Bill: Section 506(c) and the Secured Lender Surcharge," co-authored with Lloyd M. Green, Norton Journal of Bankruptcy Law & Practice, vol. 26, no. 4 (2017).

"The Involuntary Petition: Is It a Sword or a Shield? Should It be Utilized or Avoided?," panelist together with Scott L. Hazan, Peter Knox (Nestle USA) and Curtis Marshall (Coca Cola), CRF Conference, New Orleans, LA (March 2017).

"Bankruptcy Litigation panel – updates and discussions regarding fraudulent transfers, the split over § 546(e) safe harbors (*Physiotherapy*, *Tribune*, *Madoff*, *Meritt Management*), 10-year reach-back periods (*Kipnis*), the reinstatement of unsecured creditors' intentional fraudulent conveyance claims and the ruling that the intent of the CEO can be imputed to the company (*Lyondell*), the finding that substantive consolidation does not augment the trustee's § 544(b) avoiding powers by allowing the trustee to rely on predicate creditors from another estate (*Petters*), and the ruling that access to a credit line rebuts unreasonably small capital claims (*SemCrude*)," panelist together with Chief Judge Carla E. Craig, Philip Bentley (Kramer Levin) and Mark P. Kronfeld (Tennenbaum Capital Partners), ABI Bankruptcy Conference, New York City (May 2017).

"Collision at the Courthouse: Discussion of parallel/overlapping civil and/or criminal enforcement actions (Ethics)," panelist together with Alistaire Bambach (SEC) and Alex Lipman (Brown Rudnick), Brooklyn, NY (April 2017).

"Views from the Bench: When A Judge Suggests Mediation: Case and Mediator Selection," faculty and keynote luncheon speaker at The ABI/St. John's Bankruptcy Mediation Training Program, which is a collaboration among the American Bankruptcy Institute, St. John's Center for Bankruptcy Studies, and St. John's Hugh L. Carey Center for Dispute Resolution, New York City (December 2016).

"Fluctuating Valuation in Chapter 11: Managing Expectations and Outcomes Amidst Changing Fulcrum Points," panelist together with Jack Butler (Birch Lake Holdings, LP), William Q. Derrough (Moelis & Co.), Randall S. Eisenberg (AlixPartners, LLP) and James P. Seery, Jr. (River Birch Capital, LLC), Beard Group Twenty-Third Annual Distressed Investing 2016 (November 2016).

"Mediation in the Federal Courts," panelist together with John Lundin (Schlam Stone), Rebecca Price (SDNY Mediation), Gary Shaffer (Shaffer Mediation) and Robyn Weinstein (EDNY Mediation), The Bar of the City of New York (June 2016).

"Bankruptcy Litigation Panel, with focus on e-discovery limitations, litigating with common interests and settlements," panelist together with Michael Luskin (Luskin Stern), Dion Hayes (McGuireWoods), David Hillman (Schulte Roth) and Judge Sean H. Lane (USBJ, SDNY), ABI New York City (May 2016).

"Beware the Traps: Ethical and Fiduciary Issues for Committee Members and Professionals," panelist together with Judge Mary Walrath (USBJ, Del), Jeffrey Pomerantz (Pachulski Stang), Brent Weisenberg (Ballard Spahr) and Mark Felger (Cozen), ABI Spring 2016, Washington, DC (April 2016).

"Is Bankruptcy A Game-Changer for Embattled Providers?", panelist together with Judge Nancy H. Lord (USBJ, EDNY), Samuel R. Maizel (Dentons), Karen Cordry (National Ass'n Attorneys General) and Judy W. Strobos (Health & Human Services), Medicare & Medicaid Payment Conference sponsored by the American Health Lawyers Ass'n, Baltimore, MD (April 2016).

"The Demise of Equitable Disallowance of Claims," co-authored with Lloyd M. Green, Norton Journal of Bankruptcy Law & Practice, vol. 24, no. 6, page 571 (2015)

"Judicial Voices on Transition: From the Bench to the Bar and Beyond," Moderated judicial panel of thirteen Bankruptcy Judges, New York Institute of Credit Women's Division, Union League Club, New York City (November 2015)

"From the Bench to the Bar and Back," panelist together with Judges Arthur Gonzalez (Ret.), James Peck (Ret.), Allan Gropper (Ret.), James Garrity and Robert Gerber, American College of Bankruptcy, New York City (October 2015)

"Selected Issues in Healthcare and Non-Profit Cases," Moderated judicial panel of Judges Carla E. Craig (USBJ, EDNY), Nancy Lord (USBJ, EDNY), Sean Lane (USBJ, SDNY) and Robert Mayer (USBJ, VA), and facilitator Irving Walker (Cole Schotz), and presented article at ABI Views From the Bench, Washington, DC (October 2015)

"Selected Issues in Healthcare Bankruptcy Cases: Medicare Provider Agreements, Executory Contracts, Regulatory Issues, Interfaith Medical Center Case Study," panelist together with Hal Morris (Office of Texas Attorney General) and Scott Davis (Grant Thornton), and presented article at Annual Meeting of National Association of Attorney Generals, Seattle, WA (October 2015)

"To Mediate or Not, That is the Quest?," panelist together with Mark E. Felger, Dion W. Hayes, Ray T. Lyons and Claudia Z. Springer, and presented article at ABI Mid-Atlantic Bankruptcy Workshop, Hershey, PA (August 2015)

EXHIBIT B

LIST OF SEARCHED PARTIES

Debtors:

- Randolph Hospital, Inc. d/b/a Randolph Health
- Randolph Specialty Group Practice, Inc.
- MRI of Asheboro, LLC

Related Parties:

- Piedmont Integrated Health
- Stay Well Senior Care, Inc.
- Randolph Cancer Center, LLC
- Randolph Hospital Community Health Foundation

Current and Former Officers, Directors, and Corporate Members:

- Louis E. Robichaux
- Tremonteo Crawford
- Charles West
- Angela P. Orth
- Angela Burgess
- Robert Clauser
- Reynolds Lisk, Jr.
- Sam Rankin, Jr.
- Rob Clauser
- Keung Lee
- Mac Pugh
- Patricia Vinocur
- Charles B. West
- Jeffrey Yaste
- Glenn M. Pugh
- Samuel A. Rankin, Jr.
- Michael C. Miller
- Linda Brown
- David Bryant
- D. Cranford Knott
- Elbert J. Lassiter
- Thomas E. Lawrence
- T. Reynolds Lisk
- Chris R. Richardson
- Robert S. Shackleford, Jr.
- Donovan Davis
- Darrell Frye
- Stephen Gainey
- James Gouty

- Christopher Griffen
- Susan Hayes
- W. McDuffy Johnson
- Phyllis Jones
- James B. Kinlaw, Jr.
- Dean F. Lail
- Jerry Moore
- George F. Powell
- Samuel K. Ramsey
- Brooke Schmidly
- David Smith
- Sam Varner
- Terry Worrell
- Loretta Long
- Gary Abode

Debtors' Counsel:

- Nelson Mullins Riley & Scarborough LLP
- Hendren, Redwine & Malone, PLLC

U.S. Bankruptcy Judges Middle District of North Carolina:

- Lena M. James
- Catharine R. Aron
- Benjamin A. Kahn

Bankruptcy Administrator for the Middle District of North Carolina:

- William P. Miller
- Robert Price
- Sarah Bruce

Financial Advisor:

- Ankura Consulting Group, LLC

Investment Banker:

- Houlihan Lokey Capital, LLC

Claims and Noticing Agent:

- Epiq Corporate Restructuring, LLC

Communications Consultant:

- Jarrard Phillips Cate & Hancock, Inc.

Counsel to Committee of Unsecured Creditors:

- Spilman Thomas & Battle, PLLC
- Sills Cummis & Gross, PC

Secured Lenders and Creditors:

- Bank of America, N.A.
- First Horizon Bank
- U.S. Bank, National Association
- First Citizens Bank & Trust Company
- Bank of America Leasing and Capital LLC
- Banc of America Leasing & Capital, LLC

Largest Unsecured Creditors:

- Pension Benefit Guaranty Corporation
- The Moses H. Cone Memorial Hospital
- Branch Banking And Trust Company As Custodian BB&T Institutional Services Trust Operations
- Howmedica Osteonics Corporation Aka Stryker Orthopaedics
- McKesson Corporation
- Medtronic, Inc. Spinal And Biologics Division
- Cardinal Health 200, Inc.
- Trimedx, Inc.
- Stryker Instruments Corporation
- Organogenesis, Inc.
- Arthrex, Inc.
- Canopy Partners, Inc.
- Sanofi Pasteur, Inc.
- Boston Scientific Corporation
- Healogics Wound Care Hyperbaric
- American Red Cross
- Virtual Neurology LLC
- Central Carolina Surgery, PA.
- Depuy Ortho - Johnson & Johnson
- Biomerieux, Inc.
- Accusite Surgical Services, Inc.
- Duke Energy Progress, Inc.
- US Foods, Inc.
- Steris Instrument
- Versalus Health, LLC
- Osiris Therapeutics, Inc.
- Laboratory Corporation Of America
- Jon Barry & Associates, Inc.
- Kemberton Healthcare Services LLC
- Premier, Inc.

Regulatory and Governmental Authorities:

- North Carolina Department of Health and Human Services
- Center for Medicare and Medicaid Services
- Office of the Inspector General
- North Carolina Medical Board
- North Carolina State Board of Dental Examiners
- North Carolina Board of Podiatry Examiners
- North Carolina Board of Nursing
- North Carolina Board of Pharmacy
- North Carolina Hospital Association
- NC Division of Health Service Regulation
- NC Division of Public Health
- US Food and Drug Administration
- American College of Radiology
- College of American Pathologists
- Association for Clinical Oncology
- Randolph County Health Department
- UNC Health Care
- North Carolina's Local Government Commission
- Randolph County Board of Commissioners
- City of Asheboro
- NC Department of Health and Human Services, Division of Health Benefits

Other Parties:

- The Leapfrog Group
- Press Ganey
- Ascendient Healthcare Advisors, Inc.