

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

In re:

WELLPATH HOLDINGS, INC., *et al.*,
Debtors.¹

Chapter 11

Case No. 24-90533 (ARP)

(Jointly Administered)

**THE STATUTORY UNSECURED CLAIMHOLDERS' COMMITTEE'S EMERGENCY
MOTION TO EXTEND THE DEADLINES FOR (I) THE *BID PROCEDURES ORDER*
AND (II) THE *SOLICITATION PROCEDURES MOTION***

**EMERGENCY RELIEF HAS BEEN REQUESTED. RELIEF IS
REQUESTED NOT LATER THAN MONDAY, JANUARY 27, 2025 AT
9:00 AM (PREVAILING CENTRAL TIME).**

**IF YOU OBJECT TO THE RELIEF REQUESTED OR YOU BELIEVE
THAT EMERGENCY CONSIDERATION IS NOT WARRANTED,
YOU MUST APPEAR AT THE HEARING IF ONE IS SET, OR FILE
A WRITTEN RESPONSE PRIOR TO THE DATE THAT RELIEF IS
REQUESTED IN THE PRECEDING PARAGRAPH. OTHERWISE,
THE COURT MAY TREAT THE PLEADING AS UNOPPOSED AND
GRANT THE RELIEF REQUESTED.**

The Statutory Unsecured Claimholders' Committee (the "Committee") of Wellpath Holdings, Inc., *et al.* (the "Debtors"), by and through its undersigned counsel, hereby submits this *Emergency Motion* (the "Motion") to extend the deadlines in the *Stipulated and Agreed Amended Order (I) Approving the Bidding Procedures for the Sale of the Debtors' Assets, (II) Approving Entry Into a Stalking Horse Purchase Agreement for the Recovery Solutions Assets, (III) Authorizing the Recovery Solutions Expense Reimbursement, (IV) Authorizing Potential Selection*

¹ A complete list of the Debtors (as defined below) in these chapter 11 cases may be obtained on the website of the Debtors' claims and noticing agent at <https://dm.epiq11.com/Wellpath>. The Debtors' service address for these chapter 11 cases is 3340 Perimeter Hill Drive, Nashville, Tennessee 37211.

of Stalking Horse Bidders for the Corrections Assets and Approving Related Correction Asset(s) Bid Protections, (V) Establishing Related Dates and Deadlines, (VI) Approving the Form and Manner of Notice Thereof, (VII) Approving the Assumption and Assignment of Procedures, and (VIII) Granting Related Relief [Docket No. 384] (the “Bidding Procedures Order”), the Bidding Procedures (as defined in the Bidding Procedures Order), and the Motion for Entry of An Order (I) Approving the Adequacy of the Disclosure Statement, (II) Approving the Solicitation and Notice Procedures with Respect to Confirmation of the Debtors’ Proposed Joint Plan of Reorganization, (III) Approving the Forms of Ballots and Notices in Connection Therewith, (IV) Scheduling Certain Dates with Respect Thereto, and (V) Granting Related Relief [Docket No. 567] (the “Solicitation Procedures Motion”) on an expedited basis. In support of this Motion, the Committee states as follows:²

PRELIMINARY STATEMENT

As the Committee has made clear from the outset, this case is not a run-of-the-mill bankruptcy case. The creditor body here includes hundreds of tort claimants, many of whom have been pursuing the Debtors for years on claims involving serious bodily harm, even the death of beloved family members. Many of these creditors receive notices sporadically, often after the hearing being noticed has already occurred. Yet the Debtors’ proposed path forward would effectively zero out these creditors while the Debtors give directors, officers, and affiliates broad releases of valuable estate causes of action that could provide these creditors meaningful recoveries, and would do so with shortened notice, expedited deadlines and little to no disclosure of the Debtors’ investigation, prosecution or resolution of those causes of action. It is a complex,

² In further support of this Motion, the Committee is submitting the *Declaration of William Wicker in Support of the Statutory Unsecured Claimholders’ Committee’s Emergency Motion to Extend the Deadlines for (I) the Bid Procedures Order and (II) the Solicitation Procedures Motion* (the “Wicker Declaration”) concurrently herewith.

uphill battle to protect the rights and recoveries for these and all unsecured creditors while the Debtors' sophisticated lenders work to soak up all value and Debtors' management pushes to exit bankruptcy at lightspeed while securing attractive management incentive packages and retention bonuses from their new owners.

The Committee has work to do. Maximizing the value of assets, limiting the inappropriate extension of the automatic stay, pursuing any possible insurance proceeds, and investigating estate causes of action require a great deal of time and attention, and each is essential to fulfilling the Committee's responsibility to maximize recoveries for unsecured creditors. The Committee needs time to do these things. But the Debtors have offered next to none. Instead, the Debtors' unwavering determination to do lenders' bidding rather than what is in the best interests of the Estate has forced the Committee to fight this battle simply to get the time it should have been provided in the first place.

The deadlines the Debtors insist upon are unreasonable, unfair, and inconsistent with the Bankruptcy Code. Due process concerns alone, particularly as to the incarcerated population that comprises much of the Debtors' creditor body, require the Debtors to resist the pressure to prioritize lenders' deadlines over unsecured creditors' notice needs. The Debtors' refusal to budge on these dates is made all the more frustrating given that the Committee's proposed timeline would not prejudice the Debtors or the Estate in any way, and, in fact, would be value accretive to all parties both substantively and procedurally. There are no DIP milestones at issue, [REDACTED], meaning the short extension would not impact ongoing business. At the same time, more time would benefit the Corrections³ sale significantly and allow serious deficiencies in the Disclosure Statement, Plan, and proposed solicitation

³ Capitalized terms used herein but not otherwise defined shall have the meanings ascribed to them in the Bidding Procedures Order or the Solicitation Procedures Motion.

procedures to be adequately addressed.⁴ Additional time would ensure that all parties receive adequate notice of the Debtors' actions. Finally, additional time is essential for the Committee to continue its investigation into estate causes of action that the Debtors have failed to fully investigate and propose to release for zero consideration, the availability of insurance proceeds, and other critical matters for recoveries.

The Committee understands the Debtors' desire to move quickly through the bankruptcy process and it has accommodated that goal where doing so has not come at the expense of unsecured creditors' rights and recoveries. The timeline proposed by the Debtors and their secured lenders upends that balancing of priorities. The revised timeline proposed by the Committee seeks only a 24-day sale extension and 51-day extension of relevant plan and disclosure deadlines. With these changes, the case would still be on an expedited schedule, particularly considering their magnitude and complexity, and neither the Estate nor the secured lenders would be prejudiced. The Court should grant the Motion, move the deadlines, and direct the Debtors to allow and assist the Committee's work and to devote more focus to their own obligations in the process.

FACTUAL BACKGROUND

1. On November 11, 2024 (the "Petition Date"), the Debtors filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code.⁵

2. In support of its first day pleadings and its chapter 11 petition, the Debtors filed the *Declaration of Timothy J. Dragelin as Chief Restructuring Officer and Chief Financial Officer of*

⁴ Those deficiencies will be outlined in additional detail in the Committee's forthcoming objection to the Disclosure Statement.

⁵ Unless otherwise indicated, all statutory references indicate provisions of Title 11 of the United States Code (the "Bankruptcy Code").

Wellpath Holdings, Inc. and Certain of Its Affiliates and Subsidiaries in Support of the Debtors' Chapter 11 Proceedings and First Day Pleadings [Docket No. 20] (the “Dragelin Declaration”).

3. Attached as Exhibit B to the Dragelin Declaration is the Restructuring Support Agreement, dated November 11, 2024 (the “RSA”). The RSA is executed by and between certain Debtors and various prepetition lenders to support restructuring, sale, and recapitalization transactions within the Debtors’ bankruptcy.

4. On November 12, 2024, the Debtors filed their *Amended Emergency Motion for Entry of Interim and Final Orders (I) Authorizing the Debtors to (A) Obtain Postpetition Financing and (B) Use Cash Collateral, (II) Granting Liens and Superpriority Administrative Expense Claims, (III) Granting Adequate Protection to the Prepetition Secured Parties, (IV) Modifying the Automatic Stay, (V) Scheduling a Final Hearing, and (VI) Granting Related Relief* [Docket No. 58].

5. On December 11, 2024, the Court entered its *Final Order (I) Authorizing the Debtors to (A) Obtain Postpetition Financing and (B) Use Cash Collateral; (II) Granting Liens and Superpriority Administrative Expense Claims; (III) Granting Adequate Protection to the Prepetition Secured Parties; (IV) Modifying the Automatic Stay; and (VI) Granting Related Relief* [Docket No. 388] (the “DIP Order”).

6. Also on November 12, 2024, the Debtors filed their *Emergency Motion for Entry of Orders (I)(A) Approving the Bidding Procedures for the Sale of the Debtors’ Assets, (B) Approving Entry into a Stalking Horse Purchase Agreement for the Recovery Solutions Assets, (C) Authorizing the Recovery Solutions Expense Reimbursement, (D) Authorizing Potential Selection of Stalking Horse Bidders for the Corrections Assets and Approving Related Corrections Asset(s) Bid Protections, (E) Establishing Related Dates and Deadlines, (F) Approving the Form and*

Manner of Notice Thereof, and (G) Approving the Assumption and Assignment Procedures, (II)(A) Approving the Sale of the Debtors' Assets Free and Clear of Liens, Claims, Interests, and Encumbrances, (B) Authorizing the Assumption and Assignment of Executory Contracts and Unexpired Leases, and (III) Granting Related Relief [Docket No. 21].

7. On November 19, 2024, the Court entered the *Order (I) Approving the Bidding Procedures for the Sale of the Debtors' Assets, (II) Approving Entry Into a Stalking Horse Purchase Agreement for the Recovery Solutions Assets (III) Authorizing the Recovery Solutions Expense Reimbursement, (IV) Authorizing Potential Selection of Stalking Horse Bidders for the Corrections Assets and Approving Related Corrections Asset(s) Bid Protections, (V) Establishing Related Dates and Deadlines, (VI) Approving the Form and Manner of Notice Thereof, (VII) Approving the Assumption and Assignment Procedures, and (VIII) Granting Related Relief* [Docket No. 111] ("Original Bidding Procedures Order"), approving the original bidding procedures as requested by the Debtors and establishing a Correction Asset(s) Bid Deadline of January 20, 2025 at 4:00 p.m.

8. On December 3, 2024, the Committee filed its *Emergency Motion for Relief from or, in the Alternative, for Alteration or Amendment of the Court's Order Approving Bidding Procedures for the Sale of Debtors' Assets* [Docket No. 275] (the "Motion for Relief").

9. As a result of filing the Motion for Relief, the Committee and the Debtors engaged in extensive negotiations regarding the bidding procedures. A revised set of bidding procedures were agreed and stipulated to by the parties and the Bidding Procedures Order was entered by the Court on December 11, 2024.

10. Following attempts at negotiations between the Committee and the Debtors, as discussed below, the Debtors filed a *Notice of Amended Timeline for Corrections Asset(s) Sale*

Transactions [Docket No. 1020] (the “Notice of Amended Timeline”) on January 20, 2025. The Notice of Amended Timeline provides the following schedule for the Corrections Asset(s) Sale Transaction:

Date and Time (all times in Central Time)	Event or Deadline
January 27, 2025 at 4:00 p.m.	Corrections Asset(s) Bid Deadline
January 29, 2025 at 9:00 a.m.	Corrections Asset(s) Auction (if required)
January 31, 2025 at 4:00 p.m.	Deadline for objections to the approval of any Corrections Asset(s) Sale Transaction(s) contemplated by any designated Successful Bid(s) (or Alternate Bid(s), as applicable)
February 4, 2025 at 9:00 a.m.	Sale Hearing as to any Corrections Asset(s) Sale Transaction(s) contemplated by any designated Successful Bid(s) (or Alternate Bid(s), as applicable)

Notice of Amended Timeline, at 2.

11. Additionally, on December 20, 2024, the Debtors filed their *Joint Chapter 11 Plan of Reorganization of Wellpath Holdings, Inc. and Certain of its Debtor Affiliates* [Docket No. 564] (the “Plan”), *Disclosure Statement for the Joint Chapter 11 Plan of Reorganization of Wellpath Holdings, Inc. and Certain of its Debtor Affiliates* [Docket No. 566] (the “Disclosure Statement”), and the Solicitation Procedures Motion.

12. The Solicitation Procedures Motion provides for the following deadlines and schedule:

Event	Proposed Date and Time (if any)
Deadline to file objections to the approval of the Disclosure Statement (the “ <u>Disclosure Statement Objection Deadline</u> ”).	January 17, 2025 at 4:00 p.m. (prevailing Central Time)

Date for determining (i) which holders of Claims in Voting Classes are entitled to vote to accept or reject the Plan and (ii) whether Claims have been properly assigned or transferred to an assignee under Bankruptcy Rule 3001(e) such that the assignee or transferee, as applicable, can vote to accept or reject the Plan as the holder of a Claim (the “ <u>Voting Record Date</u> ”).	January 23, 2025
Date and time of the hearing at which the Court will consider the relief requested in this Motion.	January 28, 2025 at 9:00 a.m. (prevailing Central Time)
Date by which the Debtors will distribute and serve the Confirmation Hearing Notice and publish in a format modified for publication (the “ <u>Publication Notice</u> ,” and such date, the “ <u>Publication Deadline</u> ”).	Three (3) business days after entry of the Order (or as soon as reasonably practicable thereafter)
Deadline for the Debtors to distribute and serve (i) Solicitation Packages, including the Ballots, to holders of Claims entitled to vote to accept or reject the Plan and (ii) Non-Voting Status Notices (the “ <u>Solicitation Deadline</u> ”).	Five (5) business days after entry of the Order (or as soon as reasonably practicable thereafter)
Deadline to file Rule 3018 Motions in accordance with the Solicitation and Voting Procedures.	4:00 p.m. (prevailing Central Time) on the later of (a) February 20, 2025 or (b) the fifth day after such Claim became a Disputed Claim (each as defined in the Solicitation and Voting Procedures)
Targeted date for filing the Plan Supplement.	February 25, 2025
Deadline for holders of Claims to vote to accept or reject the Plan pursuant to Bankruptcy Rule 3017(c) and to as specified in the Solicitation and Voting Procedures (the “ <u>Voting Deadline</u> ”).	March 4, 2025 at 4:00 p.m. (prevailing Central Time)
Deadline to file objections to confirmation of the Plan (the “ <u>Plan Objection Deadline</u> ”).	March 4, 2025 at 4:00 p.m. (prevailing Central Time)
Targeted date for filing the report tabulating votes on the Plan (the “ <u>Voting Report</u> ”).	March 10, 2025 (or as soon as reasonably practicable thereafter)
Date and time for the Confirmation Hearing.	March 11, 2025 at 9:00 a.m. (prevailing Central Time)

Solicitation Procedures Motion, at 4-5.

13. In light of the condensed schedule and various deadlines scheduled for the same day under the Bid Procedures Order and the Solicitation Procedures Motion, the Committee contacted the Debtors beginning January 13, 2024, requesting extended deadlines and a new schedule, substantially in the form below:

Event/Deadline	Debtors' Schedule	Committee Proposed Schedule	Committee Notes
Corrections Asset(s) Bid Deadline	Monday, January 20, 2025 at 4:00 p.m. (prevailing Central Time) ⁶	Thursday, February 13, 2025 at 4:00 p.m. (prevailing Central Time)	Additional 24 days to align with 24 day extension of RS bid deadlines
Corrections Asset(s) Sale Transaction Auction	Tuesday, January 28, 2025 at 9:00 a.m. (prevailing Central Time) ⁷	Tuesday, February 18, 2025 at 4:00 p.m. (prevailing Central Time)	
Objections to Corrections Asset(s) Sale Transaction Deadline	Friday, January 31, 2025 at 4:00 p.m. (prevailing Central Time)	Friday, February 21, 2025 at 4:00 p.m. (prevailing Central Time)	
Sale Hearing as to the Correction Asset(s) Sale Transaction(s)	Tuesday, February 4, 2025	Tuesday, February 25, 2025	Only 21 days additional to a sale hearing.
Disclosure Statement Objection Deadline	Friday, January 17, 2025 at 4:00 p.m. (prevailing Central Time)	Wednesday, March 5, 2025 at 4:00 p.m. (prevailing Central Time)	Disclosure Statement and Plan should disclose results of Corrections Sale process.
Voting Record Date	Thursday, January 23, 2025 at 11:59 p.m. (prevailing Central Time)	Tuesday, March 11, 2025 at 11:59 p.m. (prevailing Central Time)	
Disclosure Statement Hearing	Tuesday, January 28, 2025 at 9:00 a.m. (prevailing Central Time)	Wednesday, March 12, 2025 at 9:00 a.m. (prevailing Central Time)	Depending on Court availability.
Plan Supplement Deadline	Tuesday, February 25, 2025 at 11:59 p.m.	Wednesday, March 5, 2025 at 9:00 a.m. (prevailing Central Time)	1 week before Disclosure Statement

⁶ Moved to January 27, 2025 at 4:00 p.m. (prevailing Central Time) pursuant to the Notice of Amended Timeline.

⁷ Moved January 29, 2025 at 9:00 a.m. (prevailing Central Time) pursuant to the Notice of Amended Timeline.

Event/Deadline	Debtors' Schedule	Committee Proposed Schedule	Committee Notes
	(prevailing Central Time)		Hearing. Certain schedules such as Liquidating Trust Causes of Action are necessary disclosures to vote on plan.
General Bar Date	Monday, April 7, 2025 at 4:00 p.m. (prevailing Central Time)	Monday, April 7, 2025 at 4:00 p.m. (prevailing Central Time)	No change.
Voting Deadline	Tuesday, March 4, 2025 at 4:00 p.m. (prevailing Central Time)	Monday, April 14, 2025 at 4:00 p.m. (prevailing Central Time)	Voting deadline should occur after General Bar Date to ensure Debtors' solicitation of all claimants
Voting Report	Monday, March 10, 2025 at 11:59 p.m. (prevailing Central Time)	Monday, April 21, 2025 at 11:59 p.m. (prevailing Central Time)	
Plan Objection Deadline	Tuesday, March 4, 2025 at 4:00 p.m. (prevailing Central Time)	Wednesday, April 23, 2025 at 4:00 p.m. (prevailing Central Time)	Plan objection deadline should occur after Voting Report as objections may depend on voting results
Confirmation Hearing	Tuesday, March 11, 2025 at 9:00 a.m. (prevailing Central Time)	Wednesday, April 30, 2025 at 9:00 a.m. (prevailing Central Time)	Depending on Court availability. 51 days overall extension

14. After receiving the Committee's proposed changes to the timeline, the sole changes the Debtors made were to extend the Committee's objection deadline to the Disclosure Statement to January 21, 2025 at 4:00 p.m. (prevailing Central Time), extend the Correction Asset(s) Bid Deadline by seven (7) days to January 27, 2025 at 4:00 p.m. (prevailing Central Time), and to extend the date for the Correction Asset(s) Auction by a single day, to January 29, 2025. The Debtors rejected the Committee Proposed Schedule outline above in its entirety.

JURISDICTION AND VENUE

15. The United States Bankruptcy Court for the Southern District of Texas (the “Court”) has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Order of Reference to Bankruptcy Judges*, General Order 2012-6 (S.D. Tex. May 24, 2012) (Hinojosa, C.J.).

16. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b) and venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

17. Relief is sought pursuant to Rule 9006(b)(1)(A) of the Federal Rules of Bankruptcy Procedure.

ARGUMENT AND AUTHORITIES

I. THE DEADLINES PROPOSED BY THE DEBTORS ARE UNREASONABLE BECAUSE THEY FAIL TO MAXIMIZE THE VALUE OF THE ESTATE AND DEPRIVE UNSECURED CREDITORS OF STATUTORY RIGHTS

A. Debtors’ Deadlines Prevent the Estate from Maximizing the Value of its Remaining Assets.

18. The Debtors have already completed a sale process that fulfilled their secured lenders’ top priority in this case: a transfer of Debtors’ most profitable assets to a group of favored pre-petition lenders. As outlined in the Committee’s Objection to that sale, that transfer occurred via a dramatically expedited process and unnecessarily convoluted deal structure which failed to adequately encourage and incentivize third-party bidding. Now, the Debtors are seeking to mirror that process – a process the Committee believes could cement a similar, effectively pre-determined outcome – via unyielding adherence to a process that contemplates a similar transfer of the Debtors’ remaining assets to those same lenders via a failed sale and favorable equity offering.

19. Because the sale of the Debtors’ crown jewel has been completed and unsecured creditors are still out of the money, it is all the more essential that the Debtors’ process and timing for the sale of the Corrections Assets maximizes the value of those assets. Yet the Debtors continue to prioritize an unduly rapid exit from bankruptcy. The Corrections Sale process thus far has

exhibited at least three serious issues, each of which would alone justify the minimal 24 day extension of time that the Debtors refuse to entertain: (1) lack of time and attention to devote to marketing Corrections assets as a result of an RS Sale process that has made it unclear what assets Corrections bidders would be purchasing; (2) restricted access to key data requiring extensive engagement on nondisclosure agreements before diligence can begin; and (3) a bid deadline and sale date set to occur shortly after the holiday season and during a period of industry uncertainty given the transition to a new presidential administration.

20. First, there has not been sufficient time to devote to marketing Corrections assets separate and apart from the RS Assets because prior to the RS Sale approximately 10 days ago, any potential bidder on Corrections assets would not be able to understand the assets available for purchase. This lack of clarity came as a result of the convoluted, bifurcated asset sale process the Debtors implemented at the behest of their lenders. To date, as part of that process, the Debtors focused their efforts thus far largely on the \$400 million-plus RS Sale, and have not had time to devote similar energy to marketing the Corrections assets.

21. Worse, the RS Asset Sale was timed and structured in a way that interferes with and impedes the sale of Corrections assets. As outlined in the Committee's Objection to that sale, the Debtors and their lenders did not negotiate or disclose what assets and liabilities were being purchased in the RS Asset Sale until the eleventh hour. *See the Statutory Unsecured Claimholders' Committee's Limited Objection to Debtors' Sale of Recovery Solutions Assets Pursuant to Stalking Horse Agreement* [Docket No. 835], at 15.⁸ Additionally, as part of the RS Sale process, the Debtors were to entertain bids for the entire company. That timing meant that the marketing of

⁸ For example, two days before the RS Sale completion, [REDACTED] Dragelin Depo. (defined below) 82:17-85:19. Attached hereto as **Exhibit 1** is a true and correct copy of excerpts from the transcript of the deposition of Tim Dragelin, held on January 6, 2025 (the "Dragelin Depo.").

Corrections Assets could not even *begin* with any certainty until the RS Sale was completed on January 8th, and any efforts to solicit bidders were limited because prior to the completion of the sale, there was no way to tell the bidders for Corrections what they might be buying. It is likely this lack of clarity could cause buyers to have refrained from extensive diligence. Wicker Declaration at ¶ 11. While the Committee's advisors have identified additional buyers with genuine interest in the Corrections Assets thus far, those efforts suggest that additional time will ensure a robust process more likely to result in competitive bidding and higher purchase price. *Id.*

22. Second, the Debtors' administrative procedures as to the sale process have likely contributed to delays in potential buyers gaining access to diligence materials, necessitating additional time. Potential buyers have been met with onerous NDA and other restrictive demands before gaining access to key information. Wicker Declaration at ¶ 11. The Committee understands the Debtors' desire to protect sensitive information from competitors; however, there is no dispute these additional hoops, which require drafting of agreements and in many instances, engagement of and involvement of counsel and/or financial advisors prior to a buyer's diligence, operate to draw out the process and require additional time for its completion. *Id.*

23. Third, the Debtors' timeline could operate to depress value because it forces the sale to occur during a period of tremendous uncertainty for Debtors' industry. The Debtors' timeline planned for the sale to occur the same day as President Trump's inauguration, which means that all companies in the corrections industry will be awaiting expected changes in the administrative and regulatory landscape that are anticipated to generate additional revenue.⁹ Wicker Declaration at ¶ 14. This unfortunate timing follows a prior marketing period that occurred during the holidays, a period where transaction work is often limited. *Id.* at ¶ 13. Indeed, that

⁹ On January 20, 2025, the Debtors' moved that deadline to January 27, 2025, a last-minute seven-day change which fails to obviate this issue.

prior timing may have contributed to the Debtors' inability to obtain a single offer for the RS Assets. The Court should prevent Debtors from engaging in another poorly-timed sale that risks a similarly value-defeating result. Moving the sale date back 24 days as the Committee proposes would give potential buyers the benefit of evaluating those changes and their positive impact on the value of the Corrections assets. *Id* at ¶ 14.

B. Because Debtors' Disclosure Statement and Solicitation Procedures Are Woefully Inadequate, the Existing Deadlines Harm Unsecured Creditors and Deprive Them of Rights Afforded Them Under the Code.

24. In addition to taking value away from the Estate, the breakneck pace the deadlines dictate would deprive unsecured creditors of their statutory voting rights and force the creditors who are able to assert those rights to vote on a vague, half-completed plan that appears to offer them *zero* recoveries from the hundreds of millions of dollars in the Debtors' Estate.

i. The Debtors' Solicitation Procedures Are Inadequate in Light of the Creditor Pool in This Case, and the Debtors' Refusal to Reflect Those Concerns Is Inconsistent with the Bankruptcy Code.

25. The Debtors filed this case November 11, 2024 and seek to impose a Voting Record Date of January 23, 2025, approximately two months from the date of filing. This proposal might be a reasonable timeline in a smaller case or one involving experienced, institutional unsecured creditors, but as the Court and Debtors well know, **this is not that case**. At each hearing, unsecured creditors, including persons who are incarcerated or subject to civil commitment, tell the Court of delays and issues with delivery of notices that cause creditors to receive essential case information long after the time period for which it is relevant, and the briefing filed by experienced, well-known advocacy groups makes clear that these issues are the rule, not the exception for many unsecured creditors in this case.¹⁰ Both the Committee and the U.S. Trustee have emphasized and

¹⁰ See, e.g., *Amici Curiae's Objections to Debtors' Motion for Entry of an Order Establishing Deadlines and Procedures for Filing Proofs of Claim* [Dkt. No. 109] [Docket No. 323-1] filed by Center for Constitutional

amplified these concerns in hearings, in filings and in discussions with the Debtors, and Debtors' counsel have both acknowledged the issue exists and expressed a commitment to addressing it to the Court.

26. The Committee understands that this is an issue to some extent outside of the Debtors' control and does not take issue with the Debtors' statements in the Stay Extension Hearing on January 14th noting that the Debtors' claims agent can only send out the notices and is not able to ensure prompt delivery following receipt. But those facts do not excuse the Debtors' fiduciary obligation to ensure that unsecured creditors are given appropriate notice and opportunity to participate in this case. More time would facilitate that goal. The Debtors' solicitation procedures and timeline do not provide either for unsecured creditors. Worse, despite their statements to the Court, the Debtors have been unwilling to engage with the Committee or the United States Trustee to address these concerns. As this Court has noted in similar cases (*i.e.*, where the challenges associated with providing notice to incarcerated individuals delay delivery of key case documents), the appropriate solution is to extend deadlines for unsecured creditors, not to pay lip service to the challenge while making no adjustments to reflect it. *In re Tehum Care Services, Inc.*, Case No. 23-90086 (CML) (Bankr. S.D. Tex.), *Transcript of Joint Emergency Motion of the Debtor and the Official Committee of Unsecured Creditors for Entry of an Order (I) Conditionally Approving the Adequacy of the Disclosure Statement, (II) Approving the Solicitation and Notice Procedures with Respect to Confirmation of the Joint Chapter 11 Plan, (III) Approving the Forms of Ballots and Notices in Connection Therewith, (IV) Scheduling Certain Dates with Respect Thereto, and (V) Granting Related Relief held on 10/17/23 before Judge Christopher M.*

Rights, Human Rights Defense Center, Public Justice, and Rights Behind Bars, at 8 (multiple advocacy organizations noting that delays in delivery of mail are "standard" in correctional facilities and that the *amici* have encountered *months* of delay in some instances).

Lopez [Docket No. 1057], 21:8-11 (Court denying conditional approval of disclosure statement in case involving incarcerated individuals in part due to concerns over due process and noting that “the end user is someone potentially sitting somewhere where mail’s going to get tricky to get to” and that as a result the Court “[doesn’t] know if they had enough notice of [the disclosure statement approval] hearing”).¹¹

- ii. *To the Extent Unsecured Creditors Timely Receive Solicitation Materials, Neither the Timeline nor the Deficient Disclosure Statement Provide Sufficient Information for Creditors to Evaluate the Plan.*

27. Even if an unsecured creditor receives solicitation materials soon enough to meet the Debtors’ onerous deadlines, that creditor will nevertheless be deprived of their ability to adequately participate in this bankruptcy process because Debtors’ Disclosure Statement fails to provide unsecured creditors with *any* information about what they might actually receive in the proposed Plan. The sole assets the Plan provides for unsecured creditors are assets Debtors have failed to even attempt to evaluate or pursue, and Debtors suggest they may still decline to use even *those* for the benefit of unsecured creditors.

28. As outlined in the proposed Disclosure Statement, any distributions to unsecured creditors would come from a trust created pursuant to the Plan, and the sole assets of that trust would be estate avoidance claims and causes of action. Disclosure Statement, Section IV.D; Plan, Article I.A(116). But the Plan also makes clear that unsecured creditors should not assume the trust will actually receive those assets by including language that would allow the Corrections

¹¹ The Court in *Tehum* later approved a plan solicitation process with a 90-day time period for solicitation to address these same concerns. See, e.g., *In re Tehum Care Services, Inc.*, Case No. 23-90086 (CML) (Bankr. S.D. Tex.), *Order (I) Approving Disclosure Statement and Form and Manner of Notice of Hearing Thereon, (II) Establishing Solicitation Procedures, (III) Approving Form and Manner of Notice to Claim Holders (IV) Approving Form of Ballots, (V) Approving Form, Manner, and Scope of Confirmation Notices, (VI) Establishing Certain Deadlines in Connection with Approval of Disclosure Statement and Confirmation of Plan, and (VII) Granting Related Relief* [Docket No. 1813] (ordering 90-day solicitation period to reflect Court and Committees’ concerns about delivery and timing of solicitation materials).

business to retain those assets rather than transferring them to the trust. Plan, Article I.A(164), Article IV.B(10).¹² At the same time, the Plan provides for broad, wholesale releases of the majority of persons and entities who would be the defendants in those very causes of action, for no consideration. *Id.* at Article IX.C.

29. The lack of clarity around these assets is not an issue of drafting, but an issue of the Debtors' failure to comply with their obligations under the Bankruptcy Code, and the deadlines must be revised in order to force the Debtors to do so and allow the Committee to take on the investigation that the Debtors and their financial advisors continue to avoid. The Debtors have a fiduciary obligation to investigate avoidance actions and other estate causes of action as with any assets of the Estate, and because the Plan contains releases for Debtors' affiliates, directors and officers, and other related parties, that obligation is particularly key as to those parties. Yet by their own admission, [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

¹² This is yet another example of why it makes sense to push the schedule so the process would occur after the Correction sale is concluded, or at least the bid from the one of the potential bidders is accepted.

See Dragelin Depo. 73:24-75:9.^{13 14}

30. The Debtors' failure to adequately investigate these claims is clear in the Disclosure Statement. That document describes a process which purports to transfer the claims to a trust for the unsecured creditors in exchange for these broad releases but is entirely devoid of any information about what those claims are or their value. The Debtors and the Committee must be given time to investigate and assess the value of this consideration and why it is being offered to the parties being released.

II. GRANTING THE RELIEF REQUESTED WOULD NOT PREJUDICE DEBTORS

31. Under Bankruptcy Rule 9006(b)(1), a motion requesting to extend a deadline or date pursuant to a court order may be granted by the court "for cause." Generally, when considering a request for extension of time, the court may consider the "danger of prejudice to the debtor" when making a determination to extend time.¹⁵

32. Crucially, the adjusted deadlines the Committee has proposed would not prejudice the Debtors' Estate. Based on discussions thus far and as to previous timing issues, the Committee

¹³ [REDACTED] cited repeatedly by Debtors in explaining why collecting and providing information on insurance, contracts, and the nature and status of pending lawsuits against the company has been an onerous, lengthy process. For example, at the January 14, 2025 Stay Relief hearing, Debtors' counsel explained that claim-specific information was not maintained by the Debtors' legal department and that gathering such information to properly define the stay would impose an unreasonable burden on the Estate.

¹⁴ Debtors have also referenced a still-in-progress special committee investigation. However, the Committee has received conflicting information from Debtors about whether that investigation is focused on the Debtors or the sponsor, H.I.G. Capital LLC ("H.I.G."), and based on the information provided believes the investigation is entirely focused on the latter. For example, the Committee's understanding is that H.I.G. has produced documents to the special committee counsel, Debtors have not.

¹⁵ *In re CJ Holding Co.*, 27 F.4th 1105, 1112 (5th Cir. 2022) (Analysis relating to seeking extension of the bar date for filing late proofs of claim by alleging excusable neglect); *see e.g. Blake v. Peake*, Case No. H-04-1068, 2008 WL 5114655, at *1 (S.D. Tex. Dec. 3, 2008) ("Relevant factors include ... the danger of prejudice to the opposing party.").

anticipates the Debtors will rely on four central arguments in favor of the accelerated timeline they seek: (1) Purported concerns with DIP Loan obligations; (2) Supposed obligations under the RSA; (3) Ongoing operating expense concerns; and (4) RFP Schedules relating to ongoing or new contracts. Each of these arguments is contradicted by the requirements of the Bankruptcy Code and the facts in evidence in this case.

33. There is no valid argument that any DIP Loan milestones justify an accelerated schedule because basing any timing on the DIP Loan would mean prioritizing a contract that functionally no longer exists to the detriment of Debtors' remaining assets and unsecured creditors' rights. The sale of the RS Assets to the Debtors' secured lenders is completed, with documents agreed upon and closing a mere formality. Once that closing occurs, all DIP obligations will be repaid, rendering any purported milestones meaningless. Moreover, the Debtors' lenders are unlikely to raise any DIP milestone issue because they now have sole control over when the closing occurs and the DIP obligations are extinguished.

34. The Debtors have also frequently pointed to timing requirements in the RSA to justify adherence to timelines in the case over the Committee's objections. This argument would fail here because (a) the RSA has not been approved by the Court and is not binding on the Debtors or the Estate nor can it override their compliance with their statutory obligations, (b) the RSA includes language that allows the Debtors to terminate the agreement where, as here, adherence to its terms would not be in the best interest of the Estate;¹⁶ and (c) the Debtors have ignored the timing requirements in the RSA on multiple occasions already in this case where it benefits their

¹⁶ See RSA, Section 13.02(d) ("Company Termination Events. The Company may terminate this Agreement as to all Parties by the delivery to counsel to the Consenting Stakeholders prior to the Plan Effective Date of a written notice in accordance with Section 16.11 of this Agreement upon the occurrence of any of the following events: ... (d) the board of directors', board of managers', or any similar governing body of the Company's good faith determination after consulting with external counsel (i) that proceeding with the Restructuring or Sale Transactions would be inconsistent with the exercise of its fiduciary duties or applicable Law or (ii) in the exercise of its fiduciary duties, to pursue an Alternative Restructuring Proposal.").

management or lenders, such as timing of schedules and filing the Plan, rendering the RSA already terminated or its requirements clearly malleable.

35. Nor would the Debtors' lenders be prejudiced by the schedule the Committee proposes. Any purported impact on lenders' interest from the short extensions the Committee seeks could be addressed by routine adequate protection pursuant to the DIP Order of replacement liens and a superpriority lien on any diminution in value of the collateral. DIP Order, ¶¶ 5, 13(a).

36. [REDACTED]

37. Finally, Debtors should not be able to point to upcoming contract RFPs as cause to keep unreasonable deadlines in place. [REDACTED]

Dragelin Depo. 117:9-20; *see also* Schoenholtz Depo. (defined below) 67:4-13.¹⁷ Attached hereto as **Exhibit 2** is a true and correct copy of excerpts from the transcript of the deposition of Jason Schoenholtz, held on January 6, 2025 (the "Schoenholtz Depo.").

III. EXTENDING THE DEADLINES WOULD BENEFIT THE ESTATE, WHILE FAILING TO DO SO WOULD IRREPARABLY HARM THE ESTATE.

38. As outlined herein, the current deadlines fail to maximize the value of Estate assets and negatively impact unsecured creditors' ability to understand and vote on the Plan and

¹⁷ In depositions of the President of the Recovery Solutions division of Wellpath and financial advisors, [REDACTED] *See* Schoenholtz Depo. 54:15–17; Barr Depo. (defined below) 33:20-34:6. Attached hereto as **Exhibit 3** is a true and correct copy of excerpts from the transcript of the deposition of Jeremy Barr, held on January 6, 2025 (the "Barr Depo.").

otherwise participate fully in the bankruptcy cases. These results constitute irreparable harm, particularly given that the Plan appears to provide *zero* tangible recovery to unsecured creditors.

39. Extending the deadlines in accordance with the schedule offered by the Committee would benefit the administration of the cases as they are no longer subject to the time pressures and exigencies that accompany the DIP Loan. It would allow for an effective marketing and sale process that maximizes value rather than depressing it. It would provide necessary time to conduct an investigation into potential claims and causes of action which appear to be the only assets unsecured creditors may receive and assess whether the estate is receiving adequate consideration for the broad releases – including opt-out third-party releases – the Debtors plan to provide and third-party releases the Debtors seek to impose.

40. Finally, these deadlines and the Committee's request to extend them must be viewed in the larger context of this case. Throughout the case, when the other demands of the case have taken precedence or challenges in Debtors' recordkeeping have made meeting deadlines difficult, the Debtors have repeatedly asked for more time and universally received it. The Debtors' Schedules and SOFAs were delayed despite the Debtors describing a lengthy process leading up to filing. Just this week, when Debtors were asked to substantiate the overly broad stay they had sought on the first day of the case, Debtors repeatedly told the court "we need more time." The Committee has heard this exact refrain as it has sought key information about insurance, stay relief, and documents and data central to its investigation. The deadlines the Committee seeks to adjust are an issue of fundamental fairness, a tenet that must be front of mind in a case that involves so many plaintiffs who have suffered unspeakable harm, many of whom lack the resources to seek adequate redress. Every time the Debtors have asked for more time, the Court has listened and granted their request. Today, the Committee, speaking on behalf of all unsecured creditors, is

telling the court, “we need more time” due to an artificially expedited timeline of the Debtors’ own making. In addition to the overwhelming legal arguments outlined herein, basic equitable principles demand that the Court grant these creditors the same relief repeatedly afforded the Debtors.

CONCLUSION

WHEREAS, the Committee respectfully requests the Court enter an order immediately changing the deadlines in this case as follows:

Event/Deadline	Current Schedule	Committee Proposed Schedule
Corrections Asset(s) Bid Deadline	Monday, January 27, 2025 at 4:00 p.m. (prevailing Central Time) as amended by the Notice of Amended Timeline	Thursday, February 13, 2025 at 4:00 p.m. (prevailing Central Time)
Corrections Asset(s) Sale Transaction Auction	Tuesday, January 29, 2025 at 9:00 a.m. (prevailing Central Time) as amended by the Notice of Amended Timeline	Tuesday, February 18, 2025 at 4:00 p.m. (prevailing Central Time)
Objections to Corrections Asset(s) Sale Transaction Deadline	Friday, January 31, 2025 at 4:00 p.m. (prevailing Central Time)	Friday, February 21, 2025 at 4:00 p.m. (prevailing Central Time)
Sale Hearing as to the Correction Asset(s) Sale Transaction(s)	Tuesday, February 4, 2025	Tuesday, February 25, 2025
Disclosure Statement Objection Deadline	Friday, January 17, 2025 at 4:00 p.m. (prevailing Central Time)	Wednesday, March 5, 2025 at 4:00 p.m. (prevailing Central Time)
Voting Record Date	Thursday, January 23, 2025 at 11:59 p.m. (prevailing Central Time)	Tuesday, March 11, 2025 at 11:59 p.m. (prevailing Central Time)
Disclosure Statement Hearing	Tuesday, January 28, 2025 at 9:00 a.m. (prevailing Central Time)	Wednesday, March 12, 2025 at 9:00 a.m. (prevailing Central Time)
Plan Supplement Deadline	Tuesday, February 25, 2025 at 11:59 p.m. (prevailing Central Time)	Wednesday, March 5, 2025 at 9:00 a.m. (prevailing Central Time)

Event/Deadline	Current Schedule	Committee Proposed Schedule
General Bar Date	Monday, April 7, 2025 at 4:00 p.m. (prevailing Central Time)	Monday, April 7, 2025 at 4:00 p.m. (prevailing Central Time)
Voting Deadline	Tuesday, March 4, 2025 at 4:00 p.m. (prevailing Central Time)	Monday, April 14, 2025 at 4:00 p.m. (prevailing Central Time)
Voting Report	Monday, March 10, 2025 at 11:59 p.m. (prevailing Central Time)	Monday, April 21, 2025 at 11:59 p.m. (prevailing Central Time)
Plan Objection Deadline	Tuesday, March 4, 2025 at 4:00 p.m. (prevailing Central Time)	Wednesday, April 23, 2025 at 4:00 p.m. (prevailing Central Time)
Confirmation Hearing	Tuesday, March 11, 2025 at 9:00 a.m. (prevailing Central Time)	Wednesday, April 30, 2025 at 9:00 a.m. (prevailing Central Time)

Respectfully submitted,

STINSON LLP

By: /s/ Nicholas Zluticky
 Nicholas Zluticky (SDTX Bar No. 3845893)
 Zachary Hemenway (SDTX Bar No. 3856801)
 1201 Walnut, Suite 2900
 Kansas City, MO 64106
 Telephone: (816) 842-8600
 nicholas.zluticky@stinson.com
 Zachary.hemenway@stinson.com

– and –

Lucas Schneider (admitted *pro hac vice*)
 1144 Fifteenth St., Suite 2400
 Denver, Colorado 80202
 Telephone: (303) 376-8400
 Facsimile: (303) 376-8439
 lucas.schneider@stinson.com

– and –

PROSKAUER ROSE LLP

Brian Rosen (admitted *pro hac vice*)
Ehud Barak (admitted *pro hac vice*)
Daniel Desatnik (admitted *pro hac vice*)
Eleven Times Square
New York, NY 10036-8299
Telephone: (212) 969-3000
Facsimile: (212) 969-2900
Email: brosen@proskauer.com
ebarak@proskauer.com
ddesatnik@proskauer.com

– and –

Paul V. Possinger (admitted *pro hac vice*)
Three First National Plaza
70 West Madison, Suite 3800
Chicago, IL 60602-4342
Telephone: (312) 962-3570
Email: ppossinger@proskauer.com

*Counsel to the Statutory
Unsecured Claimholders' Committee
of Wellpath Holdings, Inc., et al.*

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on January 20, 2025 the foregoing document was electronically filed with the court using the CM/ECF system, which sent notification to all parties of interest participating in the CM/ECF System.

/s/ Nicholas Zluticky

Nicholas Zluticky
Counsel for the Committee

EXHIBIT 1

Dragelin Depo. Excerpts

FILED UNDER SEAL

EXHIBIT 2

Schoenholtz Depo. Excerpts

FILED UNDER SEAL

EXHIBIT 3

Barr Depo. Excerpts

FILED UNDER SEAL