

Office of the United States Trustee
1100 Commerce Street, Room 976
Dallas, Texas 75242
(214) 767-8967

Meredyth A. Kippes
for the United States Trustee
meredyth.kippes@usdoj.gov

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

In re:	§	Case No. 25-80185-SGJ-11
	§	
GENESIS HEALTHCARE, INC., et al.,	§	(Jointly Administered)
	§	
<i>Debtors-in-Possession.</i>	§	Chapter 11
	§	

**U.S. TRUSTEE’S OBJECTION TO THE DEBTORS’ MOTION FOR ENTRY OF AN
ORDER (I) APPROVING BIDDING PROCEDURES AND EXPENSE
REIMBURSEMENT, (II) APPROVING THE DEBTORS’ ENTRY INTO THE
STALKING HORSE APA, (III) SCHEDULING CERTAIN DATES AND DEADLINES,
(IV) APPROVING THE FORM AND MANNER OF NOTICE THEREOF, (V)
ESTABLISHING NOTICE AND PROCEDURES FOR THE ASSUMPTION AND
ASSIGNMENT OF ASSUMED CONTRACTS, (VI) AUTHORIZING THE
ASSUMPTION AND ASSIGNMENT OF ASSUMED CONTRACTS, AND (VII)
AUTHORIZING THE SALE OF ASSETS
[related to dkt. no. 117]**

**TO THE HONORABLE CHIEF JUDGE STACEY G.C. JERNIGAN,
UNITED STATES BANKRUPTCY JUDGE:**

Lisa L. Lambert, the United States Trustee for Region 6, files this Objection (the “Objection”) to the Debtors’ Motion for Entry of an Order (i) Approving Bidding Procedures and Expense Reimbursement, (II) Approving the Debtors’ Entry into the Stalking Horse APA, (iii) Scheduling Certain Dates and Deadlines, (IV) Approving the Form and Manner of Notice Thereof, (V) Establishing Notice and Procedures for the Assumption and Assignment of Assumed

Contracts, (vi) Authorizing the Assumption and Assignment of Assumed Contract, and (VII) Authorizing the Sale of Assets (the “Sale Motion,” dkt. no 117) and represents as follows:

Factual Background

1. On July 15, 2025, the Debtors filed the Sale Motion seeking to market, auction and sell substantially all of its assets and seeking approval of bidding procedures (the “Bidding Procedures”).
2. The proposed stalking horse bidder under the Bidding Procedures was CPE 88988, LLC (the “Stalking Horse”). Upon information and belief, Joel Landau, an insider of the Debtor indirectly owns an entity, which, in turn, controls the Stalking Horse.
3. Among the assets to be sold under the Stalking Horse bid were all estate causes of action, including against Mr. Landau and his related entities (the “Insider Claims”).
4. After many objections to the Sale Motion, negotiations regarding the Sale Motion, and evidentiary hearings on the approval of the Sale Motion, the Court entered a revised order approving the Bidding Procedures on August 28, 2025 (the “Bid Procedures Order,” dkt. no. 685).
5. The Bid Procedures Order established dates and deadlines by which certain actions must be accomplished, among them the auction date of November 13, 2025.
6. Upon information and belief, the Bidding Procedures produced a large number of bids, of which some were for purchase of parts of the Debtors’ operations and some were for the purchase of the Debtors’ entire enterprise.
7. The auction was delayed five days to November 18, 2025. *See* Notice of Rescheduled Auction to November 18, 2025 (dkt. no. 1569).

8. On November 20, 2025, the Debtors filed the Notice of Current Auction Status (the “Auction Status Notice,” dkt. no. 1646), stating that the auction commenced on November 18, 2025 and continued until approximately 1:00 am Central Time on November 19, 2025, when it was adjourned. The auction recommenced on November 19, 2025 at approximately 12:30 pm and continued to 6:00 pm, when all bidders submitted their best and final bids in sealed envelopes. The Auction Status Notice also provided that the post-auction objection deadline was extended to the date that is seven days following the filing of the notice of Successful Bidder.

9. Thereafter, the Debtors, their Special Restructuring Committee, and Consultation Parties, which included the Debtors’ lenders and the Official Unsecured Creditors Committee, evaluated the sealed bids.

10. The auction recommenced on December 1, 2025. At the recommenced auction, the Debtors, over the objection of the Official Committee of Unsecured Creditors, announced that the Stalking Horse’s final bid (the “Stalking Horse Final Bid”) as the successful bid, making the Stalking Horse the Successful Bidder.

11. On December 1, 2025, the Debtors filed the Notice of Results of Auction and Successful Bidder (the “Successful Bidder Notice,” dkt. no. 1692).

12. The Successful Bidder Notice named the Stalking Horse as the Successful Bidder. The Successful Bidder Notice did not name a Backup Bidder.

13. The Successful Bidder Notice also described the additional consideration being given over the original Stalking Horse Bid in the Stalking Horse Final Bid, as well as other material changes to the Stalking Horse Bid.

14. Among other things, the Stalking Horse Final Bid excluded from the assets being sold preference claims valued in the estimated amount of \$24.5 million. The Stalking Horse Final Bid did not exclude the Insider Claims.

15. The Successful Bidder Notice does not allocate the total purchase price to the various categories of assets being purchased, including the Insider Claims.

Argument and Authority

A. The sale of the Insider Claims to insiders should be rigorously scrutinized.

16. The Debtors and the Stalking Horse should put on evidence of the allocation of the purchase price to the categories of asset being purchased, including a showing of how much of the purchase price is allocated to the Insider Claims.

17. “A claim arising from the dealings between a debtor and an insider is to be rigorously scrutinized.” *Fabricators, Inc. v. Technical Fabricators, Inc. (In re Fabricators, Inc.)*, 926 F.2d 1458, 1465 (5th Cir. 1991); *see also Wilson v. Huffman (In re Missionary Baptist Foundation of America)*, 818 F.2d 1135, 1143 (5th Cir. 1987).

18. Without an allocation of the purchase price relating to the purchase of the Insider Claims, the Court and parties in interest cannot evaluate whether the Insider Claims are being purchased for adequate consideration. This evaluation should define which insiders or potential defendants are impacted by releases and should quantify these individuals’ contribution to the allocated purchase of Insider Claims. The assessment should consider whether directors’ and officers’ insurance proceeds are included or excluded, especially if a release is provided.

B. The sale of the Insider Claims to the insider targets is effectively a settlement of the Insider Claims and should be evaluated under applicable Supreme Court and Fifth Circuit authority governing compromises and settlements.

19. The likelihood that a litigation target would purchase causes of action against itself and then sue itself is vanishingly small. Accordingly, sales of litigation claims to litigation targets are effectively settlements of those claims, by way of the purchase price, and should be evaluated under applicable Supreme Court and Fifth Circuit authority concerning settlement standards. The Fifth Circuit has determined that a compromise of a cause of action is a disposition of estate property implicating section 363. *The Cadle Co. v. Mims, et al. (In re Moore)*, 608 F.3d 253, 265 (5th Cir. 2010) (adopting the reasoning of *Goodwin v. Mickey Thompson Entertainment Group, Inc. (In re Mickey Thomson Entertainment Group, Inc.)*, 292 B.R. 415 (9th Cir. BAP 2003)) (“*Moore*”). “A compromise of a claim of the estate is in essence the sale of that claim to the defendant.” *Moore*, 608 F.3d at 264 (quoting 10 Collier on Bankruptcy, ¶ 6004.01 (15th ed. rev.2009)). Accordingly, if a compromise of a claim is in essence the sale of that claim to the defendant, the converse is also true: the sale of a claim to a defendant is in essence a compromise of that claim.

20. A settlement should address those factors necessary for a “full and fair assessment of the wisdom of the proposed compromise.” *Protective Committee for Independent Stockholders of TMT Trailer Ferry, Inc. v. Anderson*, 390 U.S. 414, 424 (1968). “Basic to this process in every instance, of course, is the need to compare the terms of the compromise with the likely rewards of the litigation.” *Id.* at 424-25. But, the “need for expedition . . . is not a justification for abandoning proper standards.” *Id.* at 450.

21. The Fifth Circuit directs courts to consider three factors to determine whether a settlement is fair and equitable and in the best interests of the estate: (i) probability of success; (ii) complexity and likely duration of the litigation; and (iii) all other factors that may bear on the reasonableness of the compromise, including specifically, interests of creditors and whether the

settlement is the product of arms-length bargaining. *Connecticut Gen. Life Ins. Co. v. United Cos. Fin. Corp. (In re Foster Mortgage Corp.)*, 68 F.3d 914, 917 (5th Cir. 1993) (“*Foster Mortgage*”); *Rivercity v. Herpel (In re Jackson Brewing Co.)*, 624 F.2d 599, 502 (5th Cir. 1980); *In re Cajun Elec. Power Co-op, Inc.*, 119 F.3d 49, 356 (5th Cir. 1997).

22. With regard to probability of success on the merits, the Court need not conduct a mini-trial, but should evaluate the relevant facts and law to make an informed and intelligent decision. *See Foster Mortgage*, 68 F.3d at 917. However, “unsubstantiated, gratuitous declarations regarding an estate’s worth cannot support an approval of a settlement.” *AWECO, Inc. v. United American Car Co., (In re AWECO, Inc.)*, 725 F.2d 293, 299 (5th Cir. 1984).

23. Accordingly, Debtors and the Stalking Horse should put on evidence sufficient to show that the sale of the Insider Claims to the insider targets is a fair and equitable settlement of those claims.

WHEREFORE, the United States Trustee respectfully prays that this Court enter an order denying the Sale Motion and granting such additional and further relief as the Court deems appropriate.

Dated: December 8, 2025

Respectfully submitted,

LISA L. LAMBERT
UNITED STATES TRUSTEE
REGION 6

/s/ Meredyth A. Kippes
Meredyth A. Kippes
Texas State Bar No. 24007882
Office of the United States Trustee
1100 Commerce Street, Room 976
Dallas, Texas 75242
Telephone: 214-767-1079
Fax: 214-767-8971
meredyth.kippes@usdoj.gov

CERTIFICATE OF SERVICE

I certify that on December 8, 2025 that I sent a copy of the forgoing document via ECF to those parties requesting ECF service and to the parties listed below via electronic mail at the electronic mail addresses listed below.

/s/ Meredyth A. Kippes
Meredyth A. Kippes

Marcus Helt
mhelt@mwe.com
Daniel Simon
dsimon@mwe.com
Jack Haake
jhaake@mwe.com
William A. Guerrieri
wguerrieri@mwe.com
Emily C. Keil
ekeil@mwe.com
McDermott Will & Schulte

Jeffrey Finger
Jaspinder Kanwal
James Burgoyne
project.genie.core@jeffries.com
Jefferies, LLC

John T. Cox III
tcox@gibsondunn.com
Jeffrey C. Krause
jkrause@gibsondunn.com
Michael G. Farag
mfarag@gibsondunn.com
Gibson, Dunn & Crutcher, LLP

Robert J. Lemons
rlemons@goodwinlaw.com
Godwin Proctor, LLC

Leighton Aiken
laiken@fbfk.law
Fergusson Braswell Fraser Kubasta PC

Kenneth J. Ottaviano
ken.ottaviano@blankrome.com
Paige Tinkham
paige.tinkham@blankrome.com
Blank Rome LLP

James Muenker
james.muenker@us.dlapiper.com
DLA Piper LLP

Zachary Hemenway
zacharay.hemenway@stinson.com
Nicholas Zluticky
nicholas.zluticky@stinson.com
Miranda Swift
miranda.swift@stinson.com
Stinson LLP

Brian Rosen
brosen@proskauer.com
Ehud Barak
ebarak@proskauer.com
Timothy Q. Karcher
tkarcher@proskauer.com
Daniel Desatnik
ddesatnik@proskauer.com
Paul v. Possinger
ppossinger@proskauer.com
Jordan Sazant
jsazant@proskauer.com
Proksauer Rose, LLP