



IT IS ORDERED as set forth below:

Date: October 25, 2024

Paul Baisier

**Paul Baisier
U.S. Bankruptcy Court Judge**

**IN THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

)	
In re:)	Chapter 11
LAVIE CARE CENTERS, LLC, <i>et al.</i> ¹)	Case No. 24-55507 (PMB)
)	
Debtors.)	(Jointly Administered)
)	
)	Related to Docket No. 518
)	

**ORDER DENYING MOTION TO ALLOW
REMOTE TESTIMONY AT CONFIRMATION HEARING**

This matter is before the Court on Recovery Corp.’s *Motion to Allow Remote Testimony at Confirmation Hearing* (the “Motion”) filed by Healthcare Negligence Settlement Recovery Corp.

¹The last four digits of LaVie Care Centers, LLC’s federal tax identification number are 5592. There are 282 Debtors in these chapter 11 cases, which are being jointly administered for procedural purposes only. A complete list of the Debtors and the last four digits of their federal tax identification numbers are not provided herein. A complete list of such information may be obtained on the website of the Debtors’ claims and noticing agent at <https://www.veritaglobal.net/lavie>. The location of LaVie Care Centers, LLC’s corporate headquarters and the Debtors’ service address is 1040 Crown Pointe Parkway, Suite 600, Atlanta, GA 30338.



245550724102700000000002

(“Recovery Corp.”)² on October 7, 2024, at Docket No. 518, seeking permission to permit seven (7) attorneys (the “Attorneys”) and one (1) expert witness (the “Expert”) to appear and testify remotely at the confirmation hearing in this case presently scheduled for November 14, 2024 (the “Confirmation Hearing”). Recovery Corp. makes this request under Federal Rule of Civil Procedure (“FRCP”) 43, made applicable to this bankruptcy case by Federal Rule of Bankruptcy Procedure (“FRBP”) 9017.

In the Motion, Recovery Corp. asserts that the Attorneys are trial attorneys who practice in Florida and are members of law firms that represented personal injury victims that hold claims against the Debtors. It further asserts that the Attorneys “have professional and personal commitments that make it difficult, or in some instances, impossible for them to travel to Atlanta, Georgia to provide live testimony at a trial that was scheduled on forty-five (45) days’ notice.” As to the Expert, Recovery Corp. asserts that she is expected to testify about the value of certain of the Debtors at a point of time in the past. It further asserts that she is in Tampa, Florida and has “a range of professional commitments that make it difficult for her to travel to Atlanta, Georgia to provide live testimony at the Confirmation Hearing.” Finally, Recovery Corp. asserts that it will incur “significant expense” if the Expert “is required to travel to Atlanta to provide live testimony at the Confirmation Hearing.”

² In its *Order Granting In Part Debtors’ (I) Motion to Strike and Denying (II) Cross-Motion to Compel Discovery Responses* (Docket No. 541) (the “Strike Order”), this Court found that Recovery Corp. does not have standing to file pleadings or otherwise participate in this case. The Court allowed certain other parties twenty (20) days to seek to intervene in the various matters filed by Recovery Corp. A motion seeking to do that has been filed (Docket No. 566) but has not yet been addressed, as the Court has been advised that the Debtors and counsel for the moving parties are discussing the matter. The Court addresses this Motion now notwithstanding the lack of standing of Recovery Corp. so as to permit the Attorneys and the Expert to make arrangements to be at the Confirmation Hearing in person. *Also, see* fn. 3.

The Court has presided over these cases since their inception. Based on its familiarity with the case and the parties involved, the Court presently anticipates that Recovery Corp., or the claimants that hold the claims that were purportedly assigned to Recovery Corp., will be the primary party opposing confirmation of the Debtors' Chapter 11 plan *in toto* and will be the only party to put on evidence in opposition to confirmation of the Debtors' plan. Consequently, the presentation of Recovery Corp., the credibility of its witnesses, and the reliability of their testimony may be critical to the determination of whether the plan will be confirmed. In those circumstances, it is important to the Court that the witnesses appear in person so that their credibility and demeanor can be adequately assessed, and the reliability of their testimony and the circumstances under which it is given assured.

FRCP 43(a) permits live testimony to be contemporaneously transmitted from another location only "for good cause and in compelling circumstances." The reasons for remote testimony proffered by Recovery Corp. in the Motion are both extremely general and entirely unconvincing. As the Court advised counsel for Recovery Corp. previously, the reasons proffered in the Motion are generally that the witnesses are just "really busy."³ If a particular witness has a particular problem that might rise to the level of being compelling, it is not at all apparent from the generalities put forth in the Motion.

The Court, having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; and the matter being a core proceeding within the meaning of 28 U.S.C. § 157(b)(2); and venue of this proceeding and the Motion in this District being proper pursuant to 28 U.S.C. §§ 1408 and 1409;

³ At a hearing in these cases held on October 8, 2024, the day after the Motion was filed, counsel for Recovery Corp. was advised by the Court that this remote testimony would likely not be permitted due to his clients' critical position in this case *vis a vis* confirmation and the vague bases for doing so set forth in the Motion. He was also advised that it may be possible to provide a second day for the continuation of the Confirmation Hearing at which his witnesses might testify. Hr'g Tr. 57-59 (Oct. 8, 2024). Any second day, if permitted on an adequate showing and otherwise necessary, must not, of course, materially delay the conclusion of the Confirmation Hearing.

and the Court being able to issue a final order consistent with Article III of the United States Constitution; and it appearing that no hearing is necessary; and it appearing that the relief requested in the Motion should be denied without prejudice for the reasons set forth above; and after due deliberation thereon; and good and sufficient cause appearing therefor; pursuant to FRCP 43 made applicable herein pursuant to FRBP 9017, it is hereby

ORDERED, ADJUDGED, AND DECREED that the Motion is **DENIED**.

END OF ORDER

Distribution List

LaVie Care Centers, LLC
c/o Ankura Consulting Group, LLC,
485 Lexington Avenue, 10th Floor,
New York, NY 10017
Attn: M. Benjamin Jones

Daniel M. Simon
McDermott Will & Emery LLP
1180 Peachtree Street NE, Suite 3350A
Atlanta, GA 30309

Emily C. Keil
McDermott Will & Emery LLP
444 West Lake Street, Suite 4000
Chicago, IL 60606

Kurtzman Carson Consultants LLC d/b/a Verita Global
222 N. Pacific Coast Highway, 3rd Floor
El Segundo, CA 90245

Jonathan S. Adams
Office of the United States Trustee
362 Richard Russell Federal Building
75 Ted Turner Drive, SW
Atlanta, GA 30303

Health Negligence Settlement Recovery Corp.
c/o John Anthony
Anthony & Partners, LLC
100 S. Ashley Drive, Suite 1600
Tampa, Florida 33602

United States Bankruptcy Court
Northern District of Georgia

In re:
LaVie Care Centers, LLC
Debtor

Case No. 24-55507-pmb
Chapter 11

CERTIFICATE OF NOTICE

District/off: 113E-9
Date Rcvd: Oct 25, 2024

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The following symbols are used throughout this certificate:

Symbol Definition

+ Addresses marked '+' were corrected by inserting the ZIP, adding the last four digits to complete the zip +4, or replacing an incorrect ZIP. USPS regulations require that automation-compatible mail display the correct ZIP.

Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on Oct 27, 2024:

Recip ID	Recipient Name and Address
db	+ LaVie Care Centers, LLC, 1040 Crown Pointe Pkwy, Suite 600, Atlanta, GA 30338-4741
aty	+ Timothy C Cramton, McDermott Will & Emery LLP, One Vanderbilt Avenue, New York, NY 10017-3978
	+ Daniel M. Simon, McDermott Will & Emery LLP, 1180 Peachtree Street NE, Suite 3350A, Atlanta, GA 30309-3531
	+ Emily C. Keil, McDermott Will & Emery LLP, 444 West Lake Street, Suite 4000, Chicago, IL 60606-0029
	+ Health Negligence Settlement Rec, Corp. c/o John Anthony Anthony & Partner, 100 S. Ashley Drive, Tampa, FL 33602-5304
	+ Kurtzman Carson Consultants LLC, d/b/a Verita Global, 3rd Floor, 222 N. Pacific Coast Highway, El Segundo, CA 90245-5648
	+ LaVie Care Centers, LLC, Attn: M. Benjamin Jones, c/o Ankura Consulting Group, LLC, 485 Lexington Avenue, 10th Floor, New York, NY 10017-2619

TOTAL: 7

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.

Electronic transmission includes sending notices via email (Email/text and Email/PDF), and electronic data interchange (EDI).

NONE

BYPASSED RECIPIENTS

The following addresses were not sent this bankruptcy notice due to an undeliverable address, *duplicate of an address listed above, *P duplicate of a preferred address, or ## out of date forwarding orders with USPS.

NONE

NOTICE CERTIFICATION

I, Gustava Winters, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.

Meeting of Creditor Notices only (Official Form 309): Pursuant to Fed .R. Bank. P.2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.

Date: Oct 27, 2024

Signature: /s/Gustava Winters

CM/ECF NOTICE OF ELECTRONIC FILING

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on October 25, 2024 at the address(es) listed below:

Name	Email Address
Aaron L. Hammer	on behalf of Creditor LEAF Capital Funding LLC ahammer@ktslaw.com
Andrew S. Koelz	on behalf of Creditor Cigna Health and Life Insurance Company akoelz@huntonak.com
Ashley Champion	on behalf of Creditor Welltower NNN Group LLC achampion@polsinelli.com, ggodfrey@polsinelli.com

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Benjamin R Keck
on behalf of Creditor Respiratory Health Services LLC bkeck@kecklegal.com,
2411851420@filings.docketbird.com,9222034420@filings.docketbird.com

Benjamin R Keck
on behalf of Creditor Powerback Rehabilitation LLC bkeck@kecklegal.com,
2411851420@filings.docketbird.com,9222034420@filings.docketbird.com

Bruce Z. Walker
on behalf of Creditor Davies Claims Solutions LLC bwalker@cpmtlaw.com, jpenston@cpmtlaw.com

Bryan E. Bates
on behalf of Creditor MidCap Funding IV Trust bbates@phrd.com

Carl H. Anderson, Jr.
on behalf of Interested Party BrandonHealth Opco LLC canderson@hpylaw.com, ttran@hptylaw.com

Carl H. Anderson, Jr.
on behalf of Interested Party Bayonet Opco LLC canderson@hpylaw.com, ttran@hptylaw.com

Carl H. Anderson, Jr.
on behalf of Interested Party Pensacola Opco LLC canderson@hpylaw.com, ttran@hptylaw.com

Carl H. Anderson, Jr.
on behalf of Interested Party Sarasota Opco LLC canderson@hpylaw.com, ttran@hptylaw.com

Carl H. Anderson, Jr.
on behalf of Interested Party Kissimmee Opco LLC canderson@hpylaw.com, ttran@hptylaw.com

Carl H. Anderson, Jr.
on behalf of Interested Party New Port Richey Opco LLC canderson@hpylaw.com, ttran@hptylaw.com

Carl H. Anderson, Jr.
on behalf of Interested Party Port Charlotte OpCo LLC canderson@hpylaw.com, ttran@hptylaw.com

Carl H. Anderson, Jr.
on behalf of Interested Party West Altamonte Opco LLC canderson@hpylaw.com, ttran@hptylaw.com

Carl H. Anderson, Jr.
on behalf of Interested Party Melbourne Opco LLC canderson@hpylaw.com ttran@hptylaw.com

Caryn E. Wang
on behalf of Creditor Welltower NNN Group LLC cewang@polsinelli.com

Catherine T. Lee
on behalf of Debtor LaVie Care Centers LLC clee@mwe.com

Daniel M. Simon
on behalf of Debtor Swan Pointe Facility Operations LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Debtor FLLVMT LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Debtor Centennial HealthCare Properties Corporation dmsimon@mwe.com dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Debtor 741 South Beneva Road Operations LLC dmsimon@mwe.com dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Debtor Perry Village Facility Operations LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Debtor 611 South 13th Street Operations LLC dmsimon@mwe.com dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Debtor 3110 Oakbridge Boulevard Operations LLC dmsimon@mwe.com dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Debtor Envoy Management Company LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Debtor 6305 Cortez Road West Operations LLC dmsimon@mwe.com dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Debtor 1507 South Tuttle Avenue Operations LLC dmsimon@mwe.com dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Debtor 9311 South Orange Blossom Trail Operations LLC dmsimon@mwe.com
dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Debtor 12170 Cortez Boulevard Operations LLC dmsimon@mwe.com dnorthrop@mwe.com;ekeil@mwe.com

District/off: 113E-9
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User: bncadmin
Form ID: pdf428

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Daniel M. Simon on behalf of Debtor Chenal HealthCare LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Plaintiff Kissimmee Facility Operations LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Envoy of Pikesville LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Envoy of Fork Union LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Envoy of Denton LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Envoy of Williamsburg LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Whitehall of Ann Arbor Healthcare LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Green Cove Facility Operations LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Augusta Health Care Properties LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Wellston Facility Operations LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Reeders Facility Operations LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Centennial HealthCare Management Corporation dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Libby HealthCare LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor 650 Reed Canal Road Operations LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor CHPC Holding Company LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Lidenskab LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor 2826 Cleveland Avenue Operations LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Milton HealthCare LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Plaintiff Miami Facility Operations LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor LVE Master Tenant 4 LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Cypress Manor Health Care Associates LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Centennial Master Tenant LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor 1120 West Donegan Avenue Operations LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Ridgewood Facility Operations LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Parkwell HealthCare LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Plaintiff Melbourne Facility Operations LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor 702 South Kings Avenue Operations LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon

District/off: 113E-9
Date Rcvd: Oct 25, 2024

User: bncadmin
Form ID: pdf428

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on behalf of Debtor 15204 West Colonial Drive Operations LLC dmsimon@mwe.com dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Debtor Kissimmee Facility Operations LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Debtor Level Up Staffing LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Debtor Capital Health Care Associates LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Debtor 3735 Evans Avenue Operations LLC dmsimon@mwe.com dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Debtor Winona Manor HealthCare LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Debtor Wayne HealthCare LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Debtor Consulate MZHBS Leaseholdings LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Plaintiff North Fort Myers Facility Operations LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Plaintiff 12170 Cortez Boulevard Operations LLC dmsimon@mwe.com dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Plaintiff 11565 Harts Road Operations LLC dmsimon@mwe.com dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Debtor Envoy of Lawrenceville LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Debtor Luther Ridge Facility Operations LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Debtor Woodbine HealthCare LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Plaintiff 702 South Kings Avenue Operations LLC dmsimon@mwe.com dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Debtor Melbourne Facility Operations LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Debtor Crestline Facility Operations LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Debtor NENC HealthCare Holding Company LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Debtor Envoy of Norfolk LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Debtor 1615 Miami Road Operations LLC dmsimon@mwe.com dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Debtor Pinewood HealthCare LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Debtor Genoa Healthcare Consulting LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Debtor Mount Royal Facility Operations LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Debtor Parkside Facility Operations LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Plaintiff 1120 West Donegan Avenue Operations LLC dmsimon@mwe.com dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Debtor Paloma Blanca Health Care Associates LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Debtor Centennial Acquisition Corporation dmsimon@mwe.com dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Debtor Centennial HealthCare Properties LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

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User: bncadmin
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Daniel M. Simon on behalf of Debtor Montclair HealthCare LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Plaintiff 3735 Evans Avenue Operations LLC dmsimon@mwe.com dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Kings Daughters Facility Operations LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Plaintiff Tallahassee Facility Operations LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Plaintiff 9311 South Orange Blossom Trail Operations LLC dmsimon@mwe.com dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Consulate Facility Leasing LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Canonsburg Property Investors LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Riverview of Ann Arbor HealthCare LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor LVE Master Tenant 3 LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Ashland Facility Operations LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Whispering Hills Facility Operations LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Plaintiff 518 West Fletcher Avenue Operations LLC dmsimon@mwe.com dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Rispetto LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Grayson Facility Operations LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Plaintiff 2826 Cleveland Avenue Operations LLC dmsimon@mwe.com dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Orange Park Facility Operations LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Catalina Gardens Health Care Associates LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Envoy of Richmond LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Penn Village Facility Operations LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Plaintiff 6305 Cortez Road West Operations LLC dmsimon@mwe.com dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Frostburg Facility Operations LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Newport News Facility Operations LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Consulate EV Acquisition LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Southpoint Health Care Associates LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Centennial Professional Therapy Services Corporation dmsimon@mwe.com dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor HFLVMT LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Envoy Health Care LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

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User: bncadmin
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Daniel M. Simon on behalf of Debtor Clearwater HealthCare LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor THS Partners II Inc. dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Plaintiff Consulate Facility Leasing LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Ambassador Rehabilitative Services LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Down East HealthCare LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Royal Terrace HealthCare LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Pennknoll Village Facility Operations LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Parkview HealthCare LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Envoy of Forest Hills LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Plaintiff Tosturi LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Plaintiff 4641 Old Canoe Creek Road Operations LLC dmsimon@mwe.com dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Picketon Facility Operations LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Brentwood Meadow Health Care Associates LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Assisted Living at Frostburg Village Facility Operations LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor 195 Mattie M. Kelly Boulevard Operations LLC dmsimon@mwe.com dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Plaintiff Josera LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor VAPAMT LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor LVE Master Tenant 1 LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor 3101 Ginger Drive Operations LLC dmsimon@mwe.com dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Kannapolis HealthCare LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor 9035 Bryan Dairy Road Operations LLC dmsimon@mwe.com dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Envoy of Alexandria LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Valley View HealthCare LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Glenburney HealthCare LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor 5065 Wallis Road Operations LLC dmsimon@mwe.com dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Wellington HealthCare LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Tosturi LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

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Daniel M. Simon on behalf of Debtor CHIC Holding Company LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor 1465 Oakfield Drive Operations LLC dmsimon@mwe.com dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Whitehall of Novi HealthCare LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Plaintiff 710 North Sun Drive Operations LLC dmsimon@mwe.com dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Lucasville II Facility Operations LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor 518 West Fletcher Avenue Operations LLC dmsimon@mwe.com dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor North Fort Myers Facility Operations LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Pinelake HealthCare LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Plaintiff Epsilon Health Care Properties LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Consulate NHCG Leaseholdings LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Sea Crest Management Investment LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor 125 Alma Boulevard Operations LLC dmsimon@mwe.com dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor 1937 Jenks Avenue Operations LLC dmsimon@mwe.com dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor D.C. Medical Investors Limited Partnership dmsimon@mwe.com dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Oaks at Sweeten Creek HealthCare LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor 1851 Elckam Boulevard Operations LLC dmsimon@mwe.com dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Plaintiff 6414 13th Road South Operations LLC dmsimon@mwe.com dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor 2939 South Haverhill Road Operations LLC dmsimon@mwe.com dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor 11565 Harts Road Operations LLC dmsimon@mwe.com dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor 1061 Virginia Street Operations LLC dmsimon@mwe.com dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Bossier HealthCare LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Onetete LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Locust Grove Facility Operations LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor LV Operations II LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Plaintiff Brandon Facility Operations LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor St. Petersburg Facility Operations LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Plaintiff 777 Ninth Street North Operations LLC dmsimon@mwe.com dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Briley Facility Operations LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

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User: bncadmin
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Daniel M. Simon on behalf of Debtor Transitional Health Partners dmsimon@mwe.com dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor 6700 NW 10th Place Operations LLC dmsimon@mwe.com dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Epsilon Health Care Properties LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Lake Parker Facility Operations LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Norfolk Facility Operations LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Centennial Newco Holding Company LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Plaintiff 1010 Carpenters Way Operations LLC dmsimon@mwe.com dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Plaintiff New Port Richey Facility Operations LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Plaintiff 4200 Washington Street Operations LLC dmsimon@mwe.com dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Centennial HealthCare Holding Company LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor VNTG HD Master Tenant LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor 626 North Tyndall Parkway Operations LLC dmsimon@mwe.com dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Skyline Facility Operations LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Wilora Lake HealthCare LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Plaintiff 1615 Miami Road Operations LLC dmsimon@mwe.com dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Florida Health Care Properties LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Grant Park Nursing Home Limited Partnership dmsimon@mwe.com dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Plaintiff 1851 Elkcam Boulevard Operations LLC dmsimon@mwe.com dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Cardinal North Carolina HealthCare LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Hilltopper Holding Corp. dmsimon@mwe.com dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Sarasota Facility Operations LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Genoa Healthcare Group LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor North Strabane Facility Operations LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor 3920 Rosewood Way Operations LLC dmsimon@mwe.com dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Plaintiff West Altamonte Facility Operations LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Catalina Health Care Associates LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Walnut Cove HealthCare LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon

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User: bncadmin
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on behalf of Debtor Pheasant Ridge Facility Operations LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Debtor Centennial Management Investment LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Plaintiff 216 Santa Barbara Boulevard Operations LLC dmsimon@mwe.com dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Debtor 1550 Jess Parrish Court Operations LLC dmsimon@mwe.com dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Debtor Coastal Administrative Services LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Debtor QCPMT LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Debtor Josera LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Debtor Pavilion at St. Luke Village Facility Operations LLC dmsimon@mwe.com,
dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Debtor Envoy of Staunton LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Plaintiff 2333 North Brentwood Circle Operations LLC dmsimon@mwe.com
dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Debtor Retirement Village of North Strabane Facility Operations LLC dmsimon@mwe.com,
dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Debtor 2333 North Brentwood Circle Operations LLC dmsimon@mwe.com dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Debtor Transitional Health Services Inc. dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Debtor Augusta Facility Operations LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Debtor Oak Grove HealthCare LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Debtor LVE Holdco LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Debtor Consulate Management Company III LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Debtor Brownsboro Hills HealthCare LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Debtor Starkville Manor HealthCare LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Debtor Alpha Health Care Properties LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Plaintiff 3101 Ginger Drive Operations LLC dmsimon@mwe.com dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Debtor LTC Insurance Associates LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Debtor RAC Insurance Investors LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Debtor 1111 Drury Lane Operations LLC dmsimon@mwe.com dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Debtor 1026 Albee Farm Road Operations LLC dmsimon@mwe.com dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Debtor Hurstbourne HealthCare LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Debtor Cheswick Facility Operations LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

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User: bncadmin
Form ID: pdf428

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Daniel M. Simon on behalf of Debtor McComb HealthCare LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Parkview Facility Operations LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor New Harmonie HealthCare LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Susquehanna Village Facility Operations LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Franklinton HealthCare LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Summit Facility Operations LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor CHMC Holding Company LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Williamsburg Facility Operations LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Kenton Facility Operations LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Ambassador Ancillary Services LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor 3001 Palm Coast Parkway Operations LLC dmsimon@mwe.com dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Consulate EV Operations I LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Centennial HealthCare Investment Corporation dmsimon@mwe.com dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Hunter Woods HealthCare LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Plaintiff 15204 West Colonial Drive Operations LLC dmsimon@mwe.com dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Centennial SEHC Master Tenant LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Plaintiff 5405 Babcock Street Operations LLC dmsimon@mwe.com dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor 9355 San Jose Boulevard Operations LLC dmsimon@mwe.com dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Ashton Court HealthCare LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Legends Facility Operations LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Plaintiff Baya Nursing and Rehabilitation LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Tallahassee Facility Operations LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Plaintiff LaVie Care Centers LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Vero Beach Facility Operations LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Westwood HealthCare LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Manor at St. Luke Village Facility Operations LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Shoreline Healthcare Management LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon

District/off: 113E-9
Date Rcvd: Oct 25, 2024

User: bncadmin
Form ID: pdf428

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Total Noticed: 7

on behalf of Plaintiff Port Charlotte Facility Operations LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Debtor Brandon Facility Operations LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Plaintiff 7950 Lake Underhill Road Operations LLC dmsimon@mwe.com dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Debtor New Port Richey Facility Operations LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Debtor Stratford Facility Operations LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Debtor Port Charlotte Facility Operations LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Debtor 3825 Countryside Boulevard Operations LLC dmsimon@mwe.com dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Debtor Safety Harbor Facility Operations LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Debtor Charlwell HealthCare LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Debtor 1445 Howell Avenue Operations LLC dmsimon@mwe.com dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Debtor Willowbrook HealthCare LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Debtor Kimwell HealthCare LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Plaintiff Lidenskab LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Debtor Pine River HealthCare LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Debtor Centennial Service Corporation - Grant Park dmsimon@mwe.com dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Debtor Osprey Nursing and Rehabilitation LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Debtor Omro HealthCare LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Debtor Envoy of Goochland LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Debtor Gateway HealthCare LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Debtor Parkview Manor HealthCare LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Debtor Tarpon Health Care Associates LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Plaintiff 741 South Beneva Road Operations LLC dmsimon@mwe.com dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Debtor 6414 13th Road South Operations LLC dmsimon@mwe.com dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Debtor Carey Facility Operations LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Debtor LVLUPH LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Debtor 10040 Hillview Road Operations LLC dmsimon@mwe.com dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Plaintiff Floridian Facility Operations LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Debtor 777 Ninth Street North Operations LLC dmsimon@mwe.com dnorthrop@mwe.com;ekeil@mwe.com

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User: bncadmin
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Daniel M. Simon on behalf of Debtor Centennial Employee Management LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Bayonet Point Facility Operations LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Plaintiff 1550 Jess Parrish Court Operations LLC dmsimon@mwe.com dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Salus Management Investment LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor 5405 Babcock Street Operations LLC dmsimon@mwe.com dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Sheridan Indiana HealthCare LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Plaintiff Jacksonville Facility Operations LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor 4641 Old Canoe Creek Road Operations LLC dmsimon@mwe.com dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Miami Facility Operations LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Plaintiff 1465 Oakfield Drive Operations LLC dmsimon@mwe.com dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Plaintiff 9355 San Jose Boulevard Operations LLC dmsimon@mwe.com dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Ferriday HealthCare LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Plaintiff LV CHC Holdings I LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Centennial Five Star Master Tenant LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Winter Haven Facility Operations LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Floridian Facility Operations LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Harbor Pointe Facility Operations LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Envoy of Woodbridge LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor 7950 Lake Underhill Road Operations LLC dmsimon@mwe.com dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor LVFH Master Tenant LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor THS Partners I Inc. dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Lincoln Center HealthCare LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Baya Nursing and Rehabilitation LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Consulate EV Master Tenant LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor 1820 Shore Drive Operations LLC dmsimon@mwe.com dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Forrest Oakes HealthCare LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Riverbend HealthCare LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Westerville Facility Operations LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

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User: bncadmin
Form ID: pdf428

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Daniel M. Simon on behalf of Debtor Country Meadow Facility Operations LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor KD HealthCare LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor LaVie Care Centers LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor LVE Master Tenant 2 LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Cary HealthCare LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Greenfield Facility Operations LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Hilltop Mississippi HealthCare LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor 2916 Habana Way Operations LLC dmsimon@mwe.com dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Windsor Facility Operations LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor 1010 Carpenters Way Operations LLC dmsimon@mwe.com dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor LV CHC Holdings I LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Perry Facility Operations LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor MA Healthcare Holding Company LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Coastal Management Investment LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Woodstock Facility Operations LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Lucasville I Facility Operations LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor 4200 Washington Street Operations LLC dmsimon@mwe.com dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Centennial HealthCare Corporation dmsimon@mwe.com dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Centennial Master Subtenant LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor 2401 NE 2nd Street Operations LLC dmsimon@mwe.com dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Edinborough Square Health Care Associates LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Donegan Square Health Care Associates LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor 710 North Sun Drive Operations LLC dmsimon@mwe.com dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Envoy of Winchester LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor 500 South Hospital Drive Operations LLC dmsimon@mwe.com dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor North Carolina Master Tenant LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon on behalf of Debtor Envoy of Somerset LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon

District/off: 113E-9
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User: bncadmin
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on behalf of Debtor Lakeland Facility Operations LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Debtor Emerald Ridge HealthCare LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Plaintiff 6700 NW 10th Place Operations LLC dmsimon@mwe.com dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Plaintiff Orange Park Facility Operations LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Debtor Pensacola Facility Operations LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Plaintiff 3001 Palm Coast Parkway Operations LLC dmsimon@mwe.com dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Debtor LV Operations I LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Debtor Riley HealthCare LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Debtor Jacksonville Facility Operations LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Debtor West Palm Beach Facility Operations LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Debtor Hollywell HealthCare LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Debtor Kenwood View HealthCare LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Debtor 216 Santa Barbara Boulevard Operations LLC dmsimon@mwe.com dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Debtor Cypress Square Health Care Associates LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Debtor Garden Court HealthCare LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Debtor Clay County HealthCare LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Debtor West Altamonte Facility Operations LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Daniel M. Simon
on behalf of Debtor Jennings HealthCare LLC dmsimon@mwe.com, dnorthrop@mwe.com;ekeil@mwe.com

Dante Wen
on behalf of Creditor LEAF Capital Funding LLC dwen@ktslaw.com

David A Geiger
on behalf of Creditor William Burnham dgeiger@forthepeople.com

David E. Gordon
on behalf of Creditor Welltower NNN Group LLC dgordon@polsinelli.com,
ATLDocketing@polsinelli.com;rbanks@polsinelli.com

Deborah Kovsky-Apap
on behalf of Creditor Committee Official Committee of Unsecured Creditors deborah.kovsky@troutman.com

Derek Meek
on behalf of Interested Party Empirian Health LLC dmeek@burr.com, mgunnells@burr.com

Elizabeth Barger Rose
on behalf of Creditor UnitedHealthcare Insurance Company Elizabeth@caiolarose.com
amber@caiolarose.com;tina@caiolarose.com

Elizabeth S. Lynch
on behalf of Creditor Office Business Solutions LLC blynch@chinnery.com

Emily Ballard Marshall
on behalf of Creditor TIX 33433 LLC emily.marshall@us.dlapiper.com

Emily C. Keil
on behalf of Debtor LaVie Care Centers LLC ekeil@mwe.com

Erin M. Rose Quinn

District/off: 113E-9
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on behalf of Creditor Estate of Mary Garrett equinn@quinnlegal.com

Francis J. Lawall

on behalf of Creditor Committee Official Committee of Unsecured Creditors francis.lawall@troutman.com
henrys@pepperlaw.com

G. Frank Nason, IV

on behalf of Creditor Estate of Nessa fnason@lcnlaw.com NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV

on behalf of Creditor Catherine Druelle fnason@lcnlaw.com NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV

on behalf of Creditor Jeffrey J Cunningham fnason@lcnlaw.com NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV

on behalf of Creditor John M. Griffin fnason@lcnlaw.com NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV

on behalf of Creditor Estate of Barbara Wilkie fnason@lcnlaw.com
NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV

on behalf of Creditor Benny Gibson fnason@lcnlaw.com NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV

on behalf of Creditor Harry Barrett fnason@lcnlaw.com NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV

on behalf of Creditor Estate of Barbara O'Berry fnason@lcnlaw.com
NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV

on behalf of Creditor Estate of Roosevelt Hill fnason@lcnlaw.com
NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV

on behalf of Creditor Estate of Nettie P. McKinnon-Murphy fnason@lcnlaw.com
NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV

on behalf of Creditor Estate of Avram Oegar fnason@lcnlaw.com NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV

on behalf of Creditor Estate of Mary Foster fnason@lcnlaw.com NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV

on behalf of Creditor Estate of Gwendolyn McCray fnason@lcnlaw.com
NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV

on behalf of Creditor Mary J. Hause fnason@lcnlaw.com NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV

on behalf of Creditor Estate of Judy Guelich fnason@lcnlaw.com NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV

on behalf of Creditor Watson Similien Occilien fnason@lcnlaw.com
NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV

on behalf of Creditor Estate of Louise Walker fnason@lcnlaw.com
NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV

on behalf of Creditor Estate of Larry R. Davis fnason@lcnlaw.com
NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV

on behalf of Creditor Estate of Karen Paul-Bennett fnason@lcnlaw.com
NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV

on behalf of Creditor Juliette Mompoin fnason@lcnlaw.com NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV

on behalf of Creditor Vernon Lee Meyer fnason@lcnlaw.com NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV

on behalf of Creditor Estate of Doris Mitchell fnason@lcnlaw.com
NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV

District/off: 113E-9
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User: bncadmin
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on behalf of Creditor Estate of Mary Holt fnason@lcnlaw.com NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV

on behalf of Creditor Estate of Ingrid K. Lane fnason@lcnlaw.com
NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV

on behalf of Creditor Estate of Rosenda Clavijo fnason@lcnlaw.com
NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV

on behalf of Creditor Estate of James Edward Hall fnason@lcnlaw.com
NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV

on behalf of Creditor Estate of David G. Murison fnason@lcnlaw.com
NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV

on behalf of Creditor Estate of Anthony Manuel fnason@lcnlaw.com
NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV

on behalf of Creditor Estate of Marguerite Sampson fnason@lcnlaw.com
NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV

on behalf of Creditor Estate of Gertrude Rousseau fnason@lcnlaw.com
NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV

on behalf of Creditor Estate of Suzanne Perez fnason@lcnlaw.com
NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV

on behalf of Creditor Emma Foster as Plenary Guardian of the Ward Levi Foster fnason@lcnlaw.com,
NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV

on behalf of Creditor Estate of Aldemaro Rojas fnason@lcnlaw.com
NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV

on behalf of Creditor Sharon Acevedo fnason@lcnlaw.com NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV

on behalf of Creditor Estate of Charles Donald fnason@lcnlaw.com
NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV

on behalf of Creditor Donald Garrett fnason@lcnlaw.com NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV

on behalf of Creditor Estate of Tereather Powell fnason@lcnlaw.com
NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV

on behalf of Creditor Estate of Alfonso Mazza fnason@lcnlaw.com
NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV

on behalf of Creditor Estate of Billy Joe Early fnason@lcnlaw.com
NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV

on behalf of Creditor Delano Skow fnason@lcnlaw.com NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV

on behalf of Creditor Estate of Bertha Tillman fnason@lcnlaw.com
NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV

on behalf of Creditor Estate of Nancy A. Cherba fnason@lcnlaw.com
NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV

on behalf of Creditor Estate of Buddy R. Malcomb fnason@lcnlaw.com
NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV

on behalf of Creditor Bergilise Occilien fnason@lcnlaw.com NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV

District/off: 113E-9
Date Rcvd: Oct 25, 2024

User: bncadmin
Form ID: pdf428

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Total Noticed: 7

on behalf of Creditor Gloria Rojas fnason@lcnlaw.com NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV

on behalf of Creditor Estate of Luz M. Martinez fnason@lcnlaw.com
NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV

on behalf of Creditor Vickie McHenry fnason@lcnlaw.com NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV

on behalf of Creditor Estate of Marina Padron fnason@lcnlaw.com
NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV

on behalf of Creditor Estate of Catherine Taylor fnason@lcnlaw.com
NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV

on behalf of Creditor Estate of William A. Thompson fnason@lcnlaw.com
NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV

on behalf of Creditor Estate of Theresa Mary Burdieri fnason@lcnlaw.com
NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV

on behalf of Creditor Estate of Bobby Blair fnason@lcnlaw.com NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV

on behalf of Creditor Estate of Joan Kay Higgins fnason@lcnlaw.com
NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV

on behalf of Creditor Estate of Lula Mae Walker fnason@lcnlaw.com
NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV

on behalf of Creditor Delia Rodriguez fnason@lcnlaw.com NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV

on behalf of Creditor Chester Woodard Jr fnason@lcnlaw.com, NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV

on behalf of Creditor Estate of Doneatha Cobb fnason@lcnlaw.com
NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV

on behalf of Creditor Estate of Mirelle Pina fnason@lcnlaw.com NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV

on behalf of Creditor Estate of Peggy Knicley fnason@lcnlaw.com
NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV

on behalf of Creditor Estate of Rosita Thenor fnason@lcnlaw.com
NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV

on behalf of Creditor Estate of Sylvia Celestin fnason@lcnlaw.com
NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV

on behalf of Creditor Estate of Anna Marie Brown Smith fnason@lcnlaw.com
NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV

on behalf of Creditor Estate of Crispin D. Ortiz fnason@lcnlaw.com
NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV

on behalf of Creditor Estate of Gail Rigas fnason@lcnlaw.com NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV

on behalf of Creditor Estate of Martin Nielsen fnason@lcnlaw.com
NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV

on behalf of Creditor Estate of Gerardo Vargas fnason@lcnlaw.com
NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV

on behalf of Creditor Nelia Bershanski fnason@lcnlaw.com NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

District/off: 113E-9
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User: bncadmin
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G. Frank Nason, IV
on behalf of Creditor Estate of Ehud Gager fnason@lcnlaw.com NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV
on behalf of Creditor Estate of Stanley McKenzie fnason@lcnlaw.com
NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV
on behalf of Creditor Estate of Don Howard fnason@lcnlaw.com NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV
on behalf of Creditor Estate of Kevin R. Aker fnason@lcnlaw.com
NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV
on behalf of Creditor Estate of Christine Thompson fnason@lcnlaw.com
NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV
on behalf of Creditor Rafael Vega fnason@lcnlaw.com NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV
on behalf of Creditor Estate of James Millsap fnason@lcnlaw.com
NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV
on behalf of Creditor John Barry fnason@lcnlaw.com NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV
on behalf of Creditor Gloria Mackey fnason@lcnlaw.com NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV
on behalf of Creditor Estate of Maria Joseph fnason@lcnlaw.com NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV
on behalf of Creditor Estate of Edwin A. Zayas Torres fnason@lcnlaw.com
NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV
on behalf of Creditor Estate of Moses Scott III fnason@lcnlaw.com,
NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV
on behalf of Creditor Estate of Mildred G. Fluellen fnason@lcnlaw.com
NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV
on behalf of Creditor Estate of Mary Ashley fnason@lcnlaw.com NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV
on behalf of Creditor Estate of Richard Kolbe fnason@lcnlaw.com
NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV
on behalf of Creditor Lular Owens fnason@lcnlaw.com NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV
on behalf of Creditor Estate of Jessie White fnason@lcnlaw.com NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV
on behalf of Creditor Estate of Juanita Jones fnason@lcnlaw.com NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV
on behalf of Creditor Estate of Dorothy Johnson Norris fnason@lcnlaw.com
NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV
on behalf of Creditor Doris Moran fnason@lcnlaw.com NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV
on behalf of Creditor Susan Whitcomb fnason@lcnlaw.com NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV
on behalf of Creditor Ginger Ormond fnason@lcnlaw.com NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV
on behalf of Creditor Estate of Bebee Abel fnason@lcnlaw.com NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV
on behalf of Creditor Estate of Mae Liza Knight fnason@lcnlaw.com
NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV

District/off: 113E-9
Date Rcvd: Oct 25, 2024

User: bncadmin
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on behalf of Creditor Estate of Carolyn Wayt fnason@lcnlaw.com
NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV

on behalf of Creditor Estate of Jose Rafael Diaz fnason@lcnlaw.com
NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV

on behalf of Creditor Estate of Philomene A. Antoine fnason@lcnlaw.com
NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV

on behalf of Creditor Estate of Shirley Gates fnason@lcnlaw.com NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV

on behalf of Creditor Estate of Madeline Graham fnason@lcnlaw.com
NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

G. Frank Nason, IV

on behalf of Creditor Estate of David McGhee fnason@lcnlaw.com
NasonFR86494@notify.bestcase.com;jkortman@lcnlaw.com

Garrett A. Nail

on behalf of Creditor Johnson Controls Fire Protection LP gnail@pgnlaw.com bharrison@pgnlaw.com

Graham H. Stieglitz

on behalf of Creditor Healthcare Services Group Inc. gstiegli@burr.com

Heather Allyn DeGrave

on behalf of Creditor Superior Medical Staffing hdegrave@walterslevine.com jduncan@walterslevine.com

Heather Allyn DeGrave

on behalf of Creditor Gale Healthcare Solutions LLC hdegrave@walterslevine.com, jduncan@walterslevine.com

Jack Gabriel Haake

on behalf of Debtor LaVie Care Centers LLC jhaake@mwe.com

Jeffrey C. Wisler

on behalf of Creditor Cigna Health and Life Insurance Company jwisler@connollygallagher.com

Jennifer Snyder Heis

on behalf of Creditor Lakeview SNF Operations LLC jheis@ulmer.com

Jennifer Snyder Heis

on behalf of Creditor Lake Parker SNF Operations LLC jheis@ulmer.com

Jennifer Snyder Heis

on behalf of Creditor Franco SNF Operations LLC jheis@ulmer.com

Jennifer Snyder Heis

on behalf of Creditor Palm Springs SNF Operations LLC jheis@ulmer.com

Jennifer Snyder Heis

on behalf of Creditor Vero Beach Operations LLC jheis@ulmer.com

Joani F Latimer

Joani.Latimer@dars.virginia.gov

Joanna J. Cline

on behalf of Creditor Committee Official Committee of Unsecured Creditors joanna.cline@troutman.com

John Anthony

on behalf of Creditor Estate of Mildred G. Fluellen janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony

on behalf of Creditor Estate of Roosevelt Hill janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony

on behalf of Creditor Estate of David McGhee janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony

on behalf of Creditor Estate of Mary Ashley janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony

on behalf of Creditor Estate of Gail Rigas janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony

on behalf of Creditor Estate of Madeline Graham janthony@anthonyandpartners.com

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efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony

on behalf of Creditor Estate of Jose Rafael Diaz janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony

on behalf of Creditor Estate of Luz M. Martinez janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony

on behalf of Creditor Estate of Bebee Abel janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony

on behalf of Creditor Estate of Charles Donald janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony

on behalf of Creditor Benny Gibson janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony

on behalf of Creditor Estate of Karen Paul-Bennett janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony

on behalf of Creditor Susan Whitcomb janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony

on behalf of Creditor Estate of Gerardo Vargas janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony

on behalf of Creditor Estate of Buddy R. Malcomb janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony

on behalf of Creditor Estate of Carolyn Wayt janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony

on behalf of Creditor Estate of Louise Walker janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony

on behalf of Creditor Estate of Martin Nielsen janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony

on behalf of Creditor Estate of Marina Padron janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony

on behalf of Creditor Estate of Rosenda Clavijo janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony

on behalf of Creditor Estate of Larry R. Davis janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony

on behalf of Creditor Estate of Richard Kolbe janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony

on behalf of Creditor Mary Angela Wright janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony

on behalf of Creditor Estate of William A. Thompson janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony

on behalf of Creditor Estate of Doneatha Cobb janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony

on behalf of Creditor Estate of Don Howard janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony

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on behalf of Creditor Delano Skow janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony

on behalf of Creditor Estate of Anna Marie Brown Smith janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony

on behalf of Creditor Miriam Lizardi janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony

on behalf of Creditor Rafael Vega janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony

on behalf of Creditor Estate of Crispin D. Ortiz janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony

on behalf of Creditor Gloria Mackey janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony

on behalf of Creditor Chester Woodard Jr janthony@anthonyandpartners.com,
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony

on behalf of Creditor Florida Limited Liability Company janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony

on behalf of Creditor Lular Owens janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony

on behalf of Creditor Emma Foster as Plenary Guardian of the Ward Levi Foster janthony@anthonyandpartners.com,
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony

on behalf of Creditor Estate of Jessie White janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony

on behalf of Creditor John Barry janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony

on behalf of Creditor Catherine Druelle janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony

on behalf of Creditor Estate of Juanita Jones janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony

on behalf of Creditor Estate of Aldemaro Rojas janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony

on behalf of Creditor Estate of Suzanne Perez janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony

on behalf of Creditor Estate of Gertrude Rousseau janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony

on behalf of Creditor Estate of Maria Joseph janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony

on behalf of Creditor Estate of Philomene A. Antoine janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony

on behalf of Creditor Estate of Kevin R. Aker janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony

on behalf of Creditor Nelia Bershadski janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

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John Anthony
on behalf of Creditor Estate of Machrell Stover janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony
on behalf of Creditor Estate of Ingrid K. Lane janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony
on behalf of Creditor Estate of Billy Joe Early janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony
on behalf of Creditor De son Tort Avery Ash janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony
on behalf of Creditor Estate of Judy Guelich janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony
on behalf of Creditor Donald Garrett janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony
on behalf of Creditor Estate of Tereather Powell janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony
on behalf of Creditor Vernon Lee Meyer janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony
on behalf of Creditor Estate of Shirley Gates janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony
on behalf of Creditor Estate of Stanley McKenzie janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony
on behalf of Creditor Estate of Barbara Wilkie janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony
on behalf of Creditor Estate of Marguerite Sampson janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony
on behalf of Creditor Estate of Nancy A. Cherba janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony
on behalf of Creditor Estate of Mary Foster janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony
on behalf of Creditor Estate of Theresa Mary Burdieri janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony
on behalf of Creditor Estate of Dorothy Johnson Norris janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony
on behalf of Creditor Estate of Lula Mae Walker janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony
on behalf of Creditor Estate of James Edward Hall janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony
on behalf of Defendant Healthcare Negligence Settlement Recovery Corp. janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony
on behalf of Creditor Estate of Rosita Thenor janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony
on behalf of Creditor Gloria Rojas janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

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John Anthony
on behalf of Creditor Mary J. Hause janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony
on behalf of Creditor Estate of Mirelle Pina janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony
on behalf of Creditor Estate of James Millsap janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony
on behalf of Creditor Estate of Joan Kay Higgins janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony
on behalf of Creditor Estate of Catherine Taylor janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony
on behalf of Creditor Estate of David G. Murison janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony
on behalf of Creditor Doris Moran janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony
on behalf of Creditor Estate of Mary Holt janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony
on behalf of Creditor Estate of Bobby Blair janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony
on behalf of Creditor Estate of Bertha Tillman janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony
on behalf of Creditor Estate of Mae Liza Knight janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony
on behalf of Creditor Juliette Mompoin janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony
on behalf of Creditor Estate of Anthony Manuel janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony
on behalf of Creditor Estate of Doris Mitchell janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony
on behalf of Creditor Estate of Sylvia Celestin janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony
on behalf of Creditor Estate of Barbara O'Berry janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony
on behalf of Creditor Estate of Gwendolyn McCray janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony
on behalf of Creditor Estate of Peggy Knicley janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony
on behalf of Creditor Estate of Alfonso Mazza janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony
on behalf of Creditor John M. Griffin janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony
on behalf of Creditor Delia Rodriguez janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

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John Anthony

on behalf of Creditor Estate of Nessa janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony

on behalf of Creditor De son tort Lorene Collins janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony

on behalf of Creditor Jeffrey J Cunningham janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony

on behalf of Creditor Estate of Avram Oegar janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony

on behalf of Creditor Sharon Acevedo janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony

on behalf of Creditor Harry Barrett janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony

on behalf of Creditor Estate of Nettie P. McKinnon-Murphy janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony

on behalf of Creditor Estate of Christine Thompson janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony

on behalf of Creditor Estate of Kathleen Mary Fallaha janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony

on behalf of Creditor Healthcare Negligence Settlement Recovery Corp. LLC janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony

on behalf of Creditor Vickie McHenry janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony

on behalf of Creditor Estate of Moses Scott III janthony@anthonyandpartners.com,
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony

on behalf of Creditor Estate of Edwin A. Zayas Torres janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John Anthony

on behalf of Creditor Estate of Ehud Gager janthony@anthonyandpartners.com
efilings@anthonyandpartners.com;cfosdick@anthonyandpartners.com;euzonwanne@anthonyandpartners.com

John K. Rezac

on behalf of Creditor Estate of Janet Smith jrezac@taylorenghish.com twesley@taylorenghish.com

Jonathan S. Adams

on behalf of U.S. Trustee Office of the United States Trustee jonathan.s.adams@usdoj.gov

Kathleen G. Furr

on behalf of Creditor Jacksonville Nursing Home Ltd. kfurr@bakerdonelson.com,
smeadows@bakerdonelson.com;ali.lowe@bakerdonelson.com

Keisha O. Coleman

on behalf of Creditor Mary Ann Iezzoni as Agent-in-Fact for Angeline Lamana colemank@ballardspahr.com

Kevin J. McEleney

on behalf of Creditor Davies Claims Solutions LLC kmceleney@uks.com

Leighton Aiken

on behalf of Creditor FC Encore Deltona LLC laiken@fbfk.law

Leighton Aiken

on behalf of Creditor OHI Asset (VA) Norfolk 3900 Llewellyn LLC, a Delaware limited liability company laiken@fbfk.law

Leighton Aiken

on behalf of Creditor FC Encore Winona LLC, a Delaware, Florida, Louisiana, Mississippi or North Carolina limited liability company laiken@fbfk.law

Leighton Aiken

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on behalf of Creditor FC Encore Bossier City II LLC laiken@fbfk.law

Leighton Aiken
on behalf of Creditor FC Encore S. Daytona LLC laiken@fbfk.law

Leighton Aiken
on behalf of Creditor FC Encore Brooksville II LLC laiken@fbfk.law

Leighton Aiken
on behalf of Creditor CSE Woodfin LP a Delaware limited partnership laiken@fbfk.law

Leighton Aiken
on behalf of Creditor FC Encore Ferriday LLC laiken@fbfk.law

Leighton Aiken
on behalf of Creditor CSE Knightdale LP a Delaware limited partnership laiken@fbfk.law

Leighton Aiken
on behalf of Creditor FC Encore Merritt Island LLC laiken@fbfk.law

Leighton Aiken
on behalf of Creditor FC Encore Meridian LLC, a Delaware, Florida, Louisiana, Mississippi or North Carolina limited liability company laiken@fbfk.law

Leighton Aiken
on behalf of Creditor FC Encore Archdale LLC, a Delaware, Florida, Louisiana, Mississippi or North Carolina limited liability company laiken@fbfk.law

Leighton Aiken
on behalf of Creditor FC Encore Hollywood LLC laiken@fbfk.law

Leighton Aiken
on behalf of Creditor Pottsville RE Owner LLC a Delaware limited liability company laiken@fbfk.law

Leighton Aiken
on behalf of Creditor FC Encore Naples LLC, a Delaware, Florida, Louisiana, Mississippi or North Carolina limited liability company laiken@fbfk.law

Leighton Aiken
on behalf of Creditor FC Encore Callaway LLC laiken@fbfk.law

Leighton Aiken
on behalf of Creditor FC Encore Brooksville I LLC laiken@fbfk.law

Leighton Aiken
on behalf of Creditor FC Encore Rutherfordton LLC laiken@fbfk.law

Leighton Aiken
on behalf of Creditor FC Encore St. Cloud LLC laiken@fbfk.law

Leighton Aiken
on behalf of Creditor FC Encore Titusville LLC laiken@fbfk.law

Leighton Aiken
on behalf of Creditor Everett RE Owner LLC a Delaware limited liability company laiken@fbfk.law

Leighton Aiken
on behalf of Creditor FC Encore Orlando LLC laiken@fbfk.law

Leighton Aiken
on behalf of Creditor FC Encore Starkville LLC, a Delaware, Florida, Louisiana, Mississippi or North Carolina limited liability company laiken@fbfk.law

Leighton Aiken
on behalf of Creditor FC Encore Cape Coral LLC laiken@fbfk.law

Leighton Aiken
on behalf of Creditor OHI DIP Lender LLC laiken@fbfk.law

Leighton Aiken
on behalf of Creditor OHI Asset (VA) Ashland LLC, a Delaware limited liability company laiken@fbfk.law

Leighton Aiken
on behalf of Creditor FC Encore Lake Mary LLC laiken@fbfk.law

Leighton Aiken
on behalf of Creditor FC Encore Rutherfordton LLC, a Delaware, Florida, Louisiana, Mississippi or North Carolina limited liability company laiken@fbfk.law

Leighton Aiken
on behalf of Creditor FC Encore Union LLC laiken@fbfk.law

Leighton Aiken

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on behalf of Creditor FC Encore Destin LLC laiken@fbfk.law

Leighton Aiken
on behalf of Creditor FC Encore Palm Coast LLC laiken@fbfk.law

Leighton Aiken
on behalf of Creditor FC Encore Andrews LLC, a Delaware, Florida, Louisiana, Mississippi or North Carolina limited liability company laiken@fbfk.law

Leighton Aiken
on behalf of Creditor FC Encore Bradenton LLC laiken@fbfk.law

Leighton Aiken
on behalf of Creditor FC Encore Lecanto LLC laiken@fbfk.law

Leighton Aiken
on behalf of Creditor FC Encore Winter Garden LLC laiken@fbfk.law

Leighton Aiken
on behalf of Creditor FC Encore McComb LLC, a Delaware, Florida, Louisiana, Mississippi or North Carolina limited liability company laiken@fbfk.law

Leighton Aiken
on behalf of Creditor FC Encore Kannapolis LLC, a Delaware, Florida, Louisiana, Mississippi or North Carolina limited liability company laiken@fbfk.law

Leighton Aiken
on behalf of Creditor FC Encore Starkville LLC laiken@fbfk.law

Leighton Aiken
on behalf of Creditor FC Encore W. Palm Beach LLC laiken@fbfk.law

Leighton Aiken
on behalf of Creditor FC Encore Tampa LLC laiken@fbfk.law

Leighton Aiken
on behalf of Creditor Selinsgrove RE Owner LLC a Delaware limited liability company laiken@fbfk.law

Leighton Aiken
on behalf of Creditor CSE Walnut Cove LLC a Delaware limited liability company laiken@fbfk.law

Leighton Aiken
on behalf of Creditor FC Encore Andrews LLC laiken@fbfk.law

Leighton Aiken
on behalf of Creditor FC Encore Pompano Beach LLC laiken@fbfk.law

Leighton Aiken
on behalf of Creditor FC Encore Naples LLC laiken@fbfk.law

Leighton Aiken
on behalf of Creditor FC Encore Brandon LLC laiken@fbfk.law

Leighton Aiken
on behalf of Creditor FC Encore Pensacola LLC laiken@fbfk.law

Leighton Aiken
on behalf of Creditor FC Encore Albemarle LLC laiken@fbfk.law

Leighton Aiken
on behalf of Creditor FC Encore Dunedin LLC laiken@fbfk.law

Leighton Aiken
on behalf of Creditor FC Encore Yadkinville LLC laiken@fbfk.law

Leighton Aiken
on behalf of Creditor Hazleton RE Owner LLC a Delaware limited liability company laiken@fbfk.law

Leighton Aiken
on behalf of Creditor FC Encore Lakeland LLC laiken@fbfk.law

Leighton Aiken
on behalf of Creditor FC Encore Cary LLC, a Delaware, Florida, Louisiana, Mississippi or North Carolina limited liability company laiken@fbfk.law

Leighton Aiken
on behalf of Creditor CSE Arden LP a Delaware limited partnership laiken@fbfk.law

Leighton Aiken
on behalf of Creditor FC Encore Charlotte LLC, a Delaware, Florida, Louisiana, Mississippi or North Carolina limited liability company laiken@fbfk.law

Leighton Aiken

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on behalf of Creditor FC Encore Properties B Holdco LLC, a Delaware, Florida, Louisiana, Mississippi or North Carolina limited liability company laiken@fbfk.law

Leighton Aiken
on behalf of Creditor FC Encore Natchez LLC laiken@fbfk.law

Leighton Aiken
on behalf of Creditor FC Encore Venice LLC laiken@fbfk.law

Leighton Aiken
on behalf of Creditor FC Encore Natchez LLC, a Delaware, Florida, Louisiana, Mississippi or North Carolina limited liability company laiken@fbfk.law

Leighton Aiken
on behalf of Creditor CSE Lenoir LP a Delaware limited partnership laiken@fbfk.law

Leighton Aiken
on behalf of Creditor FC Encore Winona LLC laiken@fbfk.law

Leighton Aiken
on behalf of Creditor FC Encore Tallahassee I LLC laiken@fbfk.law

Leighton Aiken
on behalf of Creditor FC Encore Palm Bay LLC laiken@fbfk.law

Leighton Aiken
on behalf of Creditor FC Encore Meridian LLC laiken@fbfk.law

Leighton Aiken
on behalf of Creditor FC Encore Yadkinville LLC, a Delaware, Florida, Louisiana, Mississippi or North Carolina limited liability company laiken@fbfk.law

Leighton Aiken
on behalf of Creditor FC Encore Albemarle LLC, a Delaware, Florida, Louisiana, Mississippi or North Carolina limited liability company laiken@fbfk.law

Leighton Aiken
on behalf of Creditor FC Encore Union LLC, a Delaware, Florida, Louisiana, Mississippi or North Carolina limited liability company laiken@fbfk.law

Leighton Aiken
on behalf of Creditor FC Encore Fort Myers LLC laiken@fbfk.law

Leighton Aiken
on behalf of Creditor FC Encore Englewood LLC laiken@fbfk.law

Leighton Aiken
on behalf of Creditor FC Encore Crestview LLC laiken@fbfk.law

Leighton Aiken
on behalf of Creditor OHI Mezz Lender LLC laiken@fbfk.law

Leighton Aiken
on behalf of Creditor Mifflin RE Owner LLC a Delaware limited liability company laiken@fbfk.law

Lisa Wolgast
on behalf of Creditor Corporate Fleet Services Inc. lisa.wolgast@btlaw.com, talia.wagner@btlaw.com, marisa.howell@btlaw.com, LOFarrell@btlaw.com

Liza L Burton
on behalf of Creditor OHI DIP Lender LLC lburton@goodwinlaw.com

Liza L Burton
on behalf of Creditor OHI Mezz Lender LLC lburton@goodwinlaw.com

Louisa Soulard
on behalf of Interested Party United States of America louisa.soulard@usdoj.gov

Lydia M Hilton
on behalf of Interested Party Floridean SNF Operations LLC lhilton@bvfvlaw.com, mdorsett@bvfvlaw.com

Lydia M Hilton
on behalf of Interested Party Baya Pointe SNF Operations LLC lhilton@bvfvlaw.com, mdorsett@bvfvlaw.com

Lydia M Hilton
on behalf of Interested Party Osprey SNF Operations LLC lhilton@bvfvlaw.com, mdorsett@bvfvlaw.com

Margaret Barajas
jarotz@pa.gov

Mark D. Lefkow
on behalf of Other Prof Fork Union SNF Operations LLC mlefkow@csvg1.law mharris@csvg1.law

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Mark D. Lefkow on behalf of Other Prof Southampton Operator LLC mlefkw@csvl.law, mharris@csvl.law

Mark D. Lefkow on behalf of Other Prof Belmont Bay Operator LLC mlefkw@csvl.law, mharris@csvl.law

Mark D. Lefkow on behalf of Other Prof Staunton SNF Operations LLC mlefkw@csvl.law mharris@csvl.law

Mark D. Lefkow on behalf of Other Prof Alexandria Operator LLC mlefkw@csvl.law, mharris@csvl.law

Mark D. Lefkow on behalf of Other Prof Winchester SNF Operations LLC mlefkw@csvl.law mharris@csvl.law

Mark D. Lefkow on behalf of Other Prof Lawrenceville SNF Operations LLC mlefkw@csvl.law mharris@csvl.law

Mark D. Lefkow on behalf of Other Prof Chelsea Operator LLC mlefkw@csvl.law mharris@csvl.law

Mark D. Lefkow on behalf of Other Prof Westover Hills SNF Operations LLC mlefkw@csvl.law mharris@csvl.law

Mark D. Lefkow on behalf of Other Prof Williamsburg SNF Operations LLC mlefkw@csvl.law mharris@csvl.law

Matthew R. Brooks on behalf of Creditor Committee Official Committee of Unsecured Creditors matthew.brooks@troutman.com

Matthew W. Levin on behalf of Creditor OHI Mezz Lender LLC mlevin@swlawfirm.com, fharris@swlawfirm.com;centralstation@swlawfirm.com;rwilliamson@swlawfirm.com;aray@swlawfirm.com;hkepner@swlawfirm.com

Matthew W. Levin on behalf of Creditor OHI DIP Lender LLC mlevin@swlawfirm.com, fharris@swlawfirm.com;centralstation@swlawfirm.com;rwilliamson@swlawfirm.com;aray@swlawfirm.com;hkepner@swlawfirm.com

Michael F. Holbein on behalf of Creditor Humana Health Plan Inc. mholbein@sgrlaw.com

Michael F. Holbein on behalf of Creditor Humana Inc. mholbein@sgrlaw.com

Michael F. Holbein on behalf of Creditor Humana Government Business Inc. mholbein@sgrlaw.com

Michael F. Holbein on behalf of Creditor Humana Insurance Company mholbein@sgrlaw.com

Michael F. Holbein on behalf of Creditor Health Value Management Inc. DBA Choicecare Network mholbein@sgrlaw.com

Michael G. Farag on behalf of Creditor Welltower NNN Group LLC mfarag@gibsondunn.com

Moe Freedman on behalf of Creditor State of Michigan Department of Treasury freedmanM1@michigan.gov mcdavism@michigan.gov

Nathan M. Bull on behalf of Debtor LaVie Care Centers LLC nbull@mwe.com

Nicolas Stanojevich on behalf of Creditor American Federation of State County & Municipal Employees, AFL-CIO nstanojevich@qcwdr.com, Jpalmer@qcwdr.com

Nicolas Stanojevich on behalf of Creditor United Steelworkers of America nstanojevich@qcwdr.com Jpalmer@qcwdr.com

Nicolas Stanojevich on behalf of Creditor United Steel Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO CLC nstanojevich@qcwdr.com, Jpalmer@qcwdr.com

Nicolette J. Zulli on behalf of Creditor Chubb Companies njzulli@duanemorris.com

Office of the United States Trustee ustpreion21.at.ecf@usdoj.gov

Pamela P. Keenan on behalf of Creditor Carolina Rehabilitation & Surgical Associates P.A. pkeenan@kirschlaw.com

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Paul M. Rosenblatt on behalf of Creditor LEAF Capital Funding LLC prosenblatt@kilpatricktownsend.com, ecfnotices@ktslaw.com

Philip L. Rubin on behalf of Creditor Ana Almonte prubin@lrglaw.com

Pierce Rigney on behalf of Creditor Committee Official Committee of Unsecured Creditors pierce.rigney@troutman.com

R. Jacob Jumbeck on behalf of Debtor LaVie Care Centers LLC jjumbeck@mwe.com

R. Jeneane Treace on behalf of U.S. Trustee Office of the United States Trustee jeneane.treace@usdoj.gov

Ronald A. Levine on behalf of Creditor Carolina Rehabilitation & Surgical Associates P.A. rlevine@levineblock.com, rlevine682@gmail.com

Shane Gibson Ramsey on behalf of Creditor CREA Brandon-C LLC shane.ramsey@nelsonmullins.com jada.prendergast@nelsonmullins.com

Shane Gibson Ramsey on behalf of Creditor Brandon Health OpCo LLC shane.ramsey@nelsonmullins.com, jada.prendergast@nelsonmullins.com

Steven C. Reingold on behalf of Creditor AmeriHealth Caritas Health Plan d/b/a AmeriHealth Caritas Pennsylvania steven.reingold@saul.com

Thomas Richelo on behalf of Creditor Gale Healthcare Solutions LLC trichelo@richelolaw.com

Thomas D. Richardson on behalf of Creditor Entergy Mississippi LLC TRichardson@Brinson-Askew.com, Tdr82454@gmail.com

Thomas D. Richardson on behalf of Creditor Public Service Company of North Carolina Incorporated TRichardson@Brinson-Askew.com Tdr82454@gmail.com

Thomas D. Richardson on behalf of Creditor Virginia Electric and Power Company TRichardson@Brinson-Askew.com Tdr82454@gmail.com

Thomas D. Richardson on behalf of Creditor Entergy Louisiana LLC TRichardson@Brinson-Askew.com, Tdr82454@gmail.com

Thomas D. Richardson on behalf of Creditor American Electric Power TRichardson@Brinson-Askew.com Tdr82454@gmail.com

Thomas R. Walker on behalf of Creditor CDB Services USA LLC d/b/a weCare Staffing Services thomas.walker@pierferd.com

Thomas T. McClendon on behalf of Creditor CAREmasters Healthcare Services LLC tmccclendon@joneswalden.com jwdistribution@joneswalden.com;bdernus@joneswalden.com

Thomas T. McClendon on behalf of Creditor CAREmasters Homehealth LLC tmccclendon@joneswalden.com jwdistribution@joneswalden.com;bdernus@joneswalden.com

Vivieon K Jones on behalf of Creditor United States of America by and through the Internal Revenue Service vivieon.jones@usdoj.gov

TOTAL: 704