

Docket #268 Date Filed: 3/27/2023
United States Courts
Southern District of Texas
FILED

Aakash Dalal
SBI# 792652E
215 Burlington Road South
Bridgeton, NJ 08302
Creditor, *pro se*

MAR 27 2023

Nathan Ochsner, Clerk of Court

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS (HOUSTON)**

In re Tehum Care Services, Inc.,

Debtor.

205 Powell Place
Suite 104
Brentwood, TN 37027
Tax ID/EIN: 23-2108853

Bankruptcy Petition No.: 23-90086

**Bankruptcy Judge Christopher M. Lopez
Chapter 11 - Voluntary**

**Objection to Debtor's Motion for Motion to Extend and Enforce the Automatic Stay
(ECF #7 & #172) (11 U.S.C. § 362(d)(1) & (2))**

Creditor Aakash Dalal ("Mr. Dalal") hereby objects to Debtor Tehum Care Services, Inc.'s ("Debtor" or "Tehum") Motion to Extend and Enforce the Automatic Stay (ECF #7 & #172) which is scheduled to be heard on May 17, 2023 before the Hon. Christopher M. Lopez, U.S.B.J.

Mr. Dalal is the plaintiff in a civil rights in the Superior Court of New Jersey against Corizon Health, Inc., which is now known as Tehum Care Services, Inc. Aakash Dalal v. County of Bergen, et al, Superior Court of New Jersey, Passaic County Vicinage, Docket No.: PAS-L-2979-19. Docket Entries Available at New Jersey eCourts. The civil rights action also brings a series of claims against unrelated, non-debtors, including the County of Bergen, and the former Bergen County Sheriff concerning, among other things, Mr. Dalal's five-and-a-half years in



239008623032800000000003

solitary confinement at the Bergen County Jail and over one hundred illegal strip searches Bergen County Sheriff's Office employees conducted of Mr. Dalal.

As noted by Corizon Health, Inc. in its February 3, 2023 Motion for Summary Judgment in the state civil action, only five out of the nineteen claims in Mr. Dalal's Second Amended Complaint concern Corizon Health, Inc.¹. The Debtor has further taken the position in the lawsuit and in its Motion for Summary Judgment that many of the claims against the Sheriff and the county are distinct from the medical malpractice style claims against the Debtor, stating:

"In discovery, Plaintiff provided the Declaration of Dr. Terry A. Kupers, M.D., M.S.P., a psychiatrist, who opined on the psychiatric effects of jail and prison conditions, and in particular, the effect of solitary confinement on Plaintiff and his ability to participate in the defense of the criminal charges against him. Dr. Kuper's report is silent on the standard of care applicable to the provision of medical and dental services to which Corizon should be held and appears to be submitted directed against Corizon's co-defendants in this action."

Debtor's Summary Judgment Brief at 27.

By contrast, in an effort to extend the reach of the automatic stay in this matter to all actions and claims against non-debtor co-defendants, the Debtor has falsely claimed, "there are no distinct direct claims asserted against the Non-Debtor Affiliates in any of the Lawsuits—each claim is derivative, and inextricably relies upon the Debtor's alleged prepetition acts." ECF #7 at 11. In essence, the Debtor argues for a blanket stay covering every single one of its co-defendants and every single claim in every single case in which the Debtor is a defendant on the basis that it is required to indemnify its non-debtor co-defendants against medical malpractice related claims.


It is submitted that the question of whether the stay should be extended to any non-debtor co-defendants should be determined by a case-by-case basis and a claim-by-claim basis. For

¹ This motion and Mr. Dalal's Second Amended Complaint in the state lawsuit are publicly available on New Jersey eCourts.

example, Mr. Dalal's claims regarding illegal strip searches against the former Bergen County Sheriff and the county have nothing to do with the Debtor, and the Debtor is not required to indemnify these non-debtors for any damages arising from such claims. The Debtor is only required to indemnify government officials and entities for the Debtor's own actions and omissions, which are limited to the provision of medical and dental care at corrections facilities.

"By its terms the automatic stay applies only to the debtor, not to co-debtors under Chapter 7 or Chapter 11 of the Bankruptcy Code nor to co-tortfeasors." GATX Aircraft Corp. v. M/V Courtney Leigh, 768 F.2d 711, 716 (5th Cir. 1985). However, in the "unusual situation", where "there is such identity between the debtor and the third-party defendant[s] that the debtor may be said to be the real party defendant and that a judgment against the third-party defendant[s] will in effect be a judgment or finding against the debtor." Reliant Energy Servs., Inc. v. Enron Canada Corp., 349 F.3d 816, 825 (5th Cir. 2003) (quoting A.H. Robins Co. v. Piccinin, 788 F.2d 994, 999 (4th Cir. 1986)).

Under these circumstances, and well-established law in the Fifth Circuit, the Debtor's motion should be denied as it relates to non-debtor co-defendants in Mr. Dalal's state court civil rights action. The vast majority of the claims in Mr. Dalal's lawsuit against non-debtor government officials and entities have nothing to do with Debtor and consequently, the Debtor is not the real party defendant, as it falsely and broadly asserts in its motion.



Aakash Dalal
Creditor, *pro se*

Dated: March 22, 2023

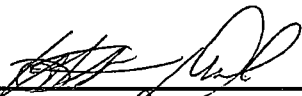
CERTIFICATION OF SERVICE

On March 22, 2023, I mailed copies of the documents herein via first-class United States mail to the following:

Clerk of the Court
United States Bankruptcy Court
P.O. Box 61010
Houston, TX 77208

All counsel of record and all parties of record authorized to receive this objection.

I certify under penalty of perjury that the foregoing statements are true. I am aware that if any of the statements made by me are willfully false, I am subject to punishment.



Aakash Datal,
Plaintiff, *pro se*

Dated: March 22, 2023