

United States Courts
Southern District of Texas
FILED

JUN 10 2024

In re: Edward Smith #659715

Nathan Ochsner, Clerk of Court

Plaintiff - Petitioner, Civil Action No. 4:24-cv-070
Bankruptcy Case No. 23bk-90086

Tehum Care Services, Inc. et al,

Debtor - Appellant | Mail from Prison

DECLARATION OF A PRISONER, AND
PROOF OF SERVICE, Pages 1 thru 3 Enclosed.

Prisoner Frazier hereby declares:

I have been incarcerated long-term and due to medical conditions Edward Smith declares with my help he don't remember when he became incarcerated, and many other things he can't remember as evidence from our daily contact. Mr Smith is currently in another unit, and have been at (SMT) prison for a few years. I swear, declare, verify under penalty of perjury and (28 U.S.C. § 1746) that in these filing papers said is true.

I notice Mr. Smith daily, he is afraid to see medical providers in the Department of Corrections due to his past Three open Chest Surgeries that went bad. He rather die than chance another surgery he tells me daily how he feels. He gets moves were he is not understanding, remembering things or situations cause fears. Mediation Papers Returned Closed in. Last Print Back front 18 pages.

NOTARY'S/

Petitioner: /s/ Edward Smith
659715

Subscribed and sworn to before me a Notary Public
on this 13th day of May 2024

Executed:



In re: Edward Smith, Jr. # 23-9715
Parnall Correctional Facility (SMT) Prison
1780 East Parnall Road
Jackson, MI 49201

To: Christopher S. Sontchi

Court Appointed Mediator - Eyes Only

Former Chief Judge of the U.S. Bankruptcy Court
for the District of Delaware, now for
the Southern District of Texas,

P.O. Box 61010

Houston, Texas 77208

Mediation Stipulation Attachment

Debtor(s): Tehum Care Services, Inc. et al, and
Tehum Care Services, Inc. et al, Appellant
Civil Action No. 4:24-cv-01607, and
Bankruptcy Case No. 23bk90086

Dear Sir or Madame:

This is to advise the Court: I only have one set
of medical records copied consisting of 512 pages as
I am the person in this letter caption. However, for we
can do mediation it has to be set up to be done by
Zoom electronically with the Parnall Correctional
Facility (SMT) Prison litigation coordinator, Ad. Losinski.

The designation of record is in process of being
copied from 1/14/2021 through 9/18/2021, as I got your
notice only five days before deadline of 14 days. In
the In re: sections of "mediation notice" pages, [Signature
Pages to Mediation Stipulation to Agree order] all been signed.

S/Edward Smith

Dated: 5/13/2024

1059715

In re: Edward Smith #659715)

Plaintiff - Petitioner, (Civil Action No. 4:24-cv-01607
Bankruptcy Case No. 23bk 90086

Tehum Care Services, Inc. et al

Debtor - Appellant)

Statement of the Issue
With the Third Mediation

The Court had discretion under Fed. R. Bankr. P. 8009 to strike items from a party's designation of the records; Plaintiff have no knowledge if the Debtor's basis for striking items the debtor's designated as confidential as part of the record from instant filings, hearings, or an appeals as he had no access to "mediation proceeding made - had to attend mediations due to extraordinary circumstances. The Court erred on the side of inclusion were it had contained evidence, or had ~~no~~ record of petitioner-Plaintiff Edward Smith serious medical conditions, as many Health Care records was ordered, received, by Smith's family support contained evidence as they were all pleadings filed and kept in the contracted Medical provider's electronic files for the State of Michigan from 1/14/2021 through 9/18/2021, of prison (MDO) records.

/s/ Edward Smith

Dated: 5-13, 2024

TO: Edward Smith
Requestor Name and Address

Smith, Edward
Prisoner Name Number TA-34
659715 Lock

FROM: Kathleen Pulford, RHIT
Name Health Information Dept.: JCF Institution

SUBJECT: Request for Health Record Information DATE: 12/2/2021

Your request for copies review of your health record has been received.

This request is not being processed under the Freedom of Information Act (MCL 15.231 et seq.) because health records are not public documents. It is being processed under the Medical Records Access Act (MCL 333.26261 et seq.).

A. Your request can be processed after completion of the following steps:

- 1. Complete the attached authorization form, stating specifically what information you are requesting.
- 2. Forward a completed disbursement voucher, in the amount of \$ _____ (_____ pages x \$.25*per page).
- 3. Submit a check or money order for the amount of \$ _____ (_____ pages)
*An initial fee of \$25.64 per request for a copy of the record.
 One dollar twenty-eight cents (\$1.28) per page for the first 20 pages.
 Sixty-four cents (\$.64) per page for pages 21 through 50.
 Twenty-six cents (\$.26) per page for pages 51 and over.*

Make check or money order payable to STATE OF MICHIGAN. Send payment to:

_____, Attn: Medical Records
Facility Name

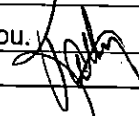
B. Your request cannot be processed for the following reason(s):

- 1. Review of health records is not permitted. You may obtain copies of your health record by submitting a health care request stating specifically what records you are requesting.
- 2. The information you have requested is not contained within your health record.
- 3. A more precise description of the information you are requesting is needed. Please describe the information you want in greater detail.
- 4. Other: _____

C. Your request has been forwarded to Duane L. Waters Hospital, 3857 Cooper St., Jackson, MI 49201.

D. Enclosed are the health record copies you requested (_____ pages enclosed).

E. Other: Mr. Smith, Enclosed please a copy of your Medical Records from 1/14/2021 through 9/18/2021 per your request.

Thank you. 

RESPONSE TO REQUEST FOR HEALTH RECORD INFORMATION

The information is correct
Patient Identification
Name: SMITH, EDWARD
Number: 659715
D.O.B.: 02/26/1968
151

MICHIGAN DEPARTMENT OF CORRECTIONS
DISBURSEMENT AUTHORIZATION/CATALOG ORDER FORM

CAR-100
4835-1100
10/08

Prisoners write clearly-illegible/incomplete forms will not be processed.

Date: 12-1-2021

Prisoner Number: 659715 Prisoner's Last Name: SMITH Institution: Cotton (JCF) Lock Number: TA-34

Pay To: State MI

Address: _____

Cost/Amount

\$12.00

Reason/Description: (If to relative, identify relationship) To get Medical record
Copies, 512 / Pages.

COMPLETE THIS PORTION FOR CATALOG ORDERS ONLY

Page No.	Description of Item	Unit	Catalog Number	Color	Size	Qty	Unit Price	Total Price
							\$	\$

Sub-Total \$ 12.00
 Delivery Costs \$ 0
 Tax (if applicable) \$ 0
 Total Amount Enclosed \$ 12.00

Edward Smith 12-1-21
 Prisoner's Signature Date
[Signature] 12/2/2021
 R.U.M. of Authorized Agent Date

 Deputy Warden or Authorized Agent Date

 Warden or Authorized Agent Date

Code	Actual Expense	Batch Number



UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS

In re: *Edward Smith #659715* §

Civil Action No 4:24-cv-01607

Tehum Care Services, Inc. et al §

Debtor §

Bankruptcy Case No. 23bk90086

Tehum Care Services, Inc. et al §

Appellant §

Notice of Filing of an Appeal

1. A notice of appeal to the district court was filed before the bankruptcy court on April 24, 2024
2. This appeal has been assigned to United States District Judge Kenneth M Hoyt.
3. The appeal has been docketed as 4:24-cv-01607
4. Motions affecting this appeal, or the judgment or order from which this appeal is taken must be filed in accordance with Fed. R. Bankr. P. 8006, 8007, 8008 and 8009(e).
5. Within 14 days after the notice of appeal was filed, the appellant must file a designation of the record. *See* Fed. R. Bankr. P. 8009. Within 14 days after being served with the appellant's designation, appellees may file additional designations.
6. Designations of the record must be filed with the bankruptcy court. Do not file copies of designated items that are already on file with the bankruptcy court. Parties must electronically file copies of admitted trial exhibits they designate for inclusion in the record.

Date April 30, 2024

Nathan Ochsner, Clerk of Court

H. Lerma

Deputy Clerk



ENTERED

May 01, 2024

Nathan Ochsner, Clerk

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

In re: *Edward Smith #659715*

) Chapter 11

TEHUM CARE SERVICES, INC.,¹

) Case No. 23-90086 (CML)

) Debtor.

**THIRD AMENDED STIPULATION AND AGREED
ORDER REGARDING MEDIATION PROCEDURES**

Tehum Care Services, Inc., the above-captioned debtor and debtor in possession (the "Debtor"), the Official Committee of Unsecured Creditors appointed in this chapter 11 case (the "Creditors' Committee"), the Official Tort Claimants' Committee appointed in this chapter 11 case on November 20, 2023 (the "Tort Committee"), M2 LoanCo, LLC, YesCare Corp., M2 HoldCo, LLC, Perigrove 1018, LLC, and Geneva Consulting, LLC (collectively, the "Parties" and all of the Parties without the Tort Committee being the "Original Parties"), hereby enter into this Stipulation and Agreed Order as follows:

WHEREAS, on February 13, 2023 (the "Petition Date"), the Debtor filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") commencing the above-captioned chapter 11 case (the "Bankruptcy Case");

WHEREAS, pursuant to an agreed order entered on May 22, 2023 [Docket No. 603], a three-day mediation was held on August 21-23, 2023, which was attended by representatives of the Original Parties and mediated by Judge David R. Jones (the "Original Mediation");

¹ The last four digits of the Debtor's federal tax identification number is 8853. The Debtor's service address is: 205 Powell Place, Suite 104, Brentwood, Tennessee 37027.

4894-1451-3080



WHEREAS, the Original Mediation resulted in a settlement (the "August Settlement"), which was incorporated into a joint plan filed by the Debtor and the Creditors' Committee (the "Joint Plan");²

WHEREAS, on November 8, 2023, the Court entered an agreed order appointing Judge Christopher S. Sontchi (ret.), a well-known and respected jurist with no prior connections to this Bankruptcy Case, this district, or the parties involved in this matter, as mediator (the "Mediator") for a second mediation (the "Second Mediation");

WHEREAS, on November 20, 2023, the United States Trustee appointed the Tort Committee;³

WHEREAS, on November 29, 2023, at the request of the Debtor, the Creditors' Committee, and the Tort Committee, the Court entered an amended order rescheduling the Second Mediation to December 14, 2023, and including the Tort Committee in the participants to the Second Mediation;⁴

WHEREAS, the Second Mediation resulted in a new settlement among all Parties except the Tort Committee (the "January Settlement");

WHEREAS, the Debtor and the Creditors' Committee filed a joint motion to approve the January Settlement (the "9019 Motion"),⁵ and the Tort Committee filed a motion to dismiss the Bankruptcy Case (the "Dismissal Motion")⁶ and, together with the 9019 Motion, the "Motions";

² Docket No. 985, as amended at Docket Nos. 1043 and 1072.

³ Docket No. 1095.

⁴ Docket No. 1158.

⁵ Docket No. 1259.

⁶ Docket No. 1260.



WHEREAS, following a four-day evidentiary hearing, the Bankruptcy Court denied both Motions;⁷

WHEREAS, the Parties seek authority for Judge Sontchi to mediate the issues raised by the Court in its rulings on the Motions, as well as any other issues necessary to bring this Bankruptcy Case to an effective resolution, as the Mediator deems appropriate, including considering any submissions the Parties or the Mediator deem appropriate, reviewing the results of the Original Mediation, the Second Mediation, the evidentiary record from the hearing on the Motions, and conducting a third mediation with the Parties on May 6, 2024, and continuing on such other dates as the Parties and the Mediator may agree (the "Third Mediation").

NOW, THEREFORE, IT IS HEREBY STIPULATED, AGREED, AND ORDERED AS FOLLOWS:

1. Christopher S. Sontchi, former Chief Judge of the U.S. Bankruptcy Court for the District of Delaware, is appointed as Mediator. Except as expressly set forth herein, the Third Mediation will be governed by Paragraph S of the *Procedures for Complex Cases in the Southern District of Texas (Effective October 18, 2023)*, which provides as follows:

- a. Time and Place of Mediation. The Mediator will schedule a time and place for the Second Mediation and any pre-mediation conferences.
- b. Submission Materials. Each Party must submit directly to the Mediator such materials (the "Submission") in form and content as the Mediator directs. Prior to the Third Mediation, the Mediator may talk with the participants to determine what materials would be helpful. The Submission must not be filed with the Court.
- c. Cost of Mediation. Unless otherwise ordered by the Court, or agreed by the Parties, the non-estate Parties shall bear the fees and costs of the Mediator, whether there is a settlement reached at the Third Mediation or not; *provided, however*, that to the extent that the estate is required to pay the Mediator's fees and costs following the

⁷ Docket Nos. 1505, 1506, 1508, 1509, and 1513.



Third Mediation, the Debtor or the Mediator, as applicable, will file a fee application with this Court.

- d. Protection of Information Disclosed at Mediation. The Mediator and the participants in the Third Mediation are prohibited from divulging, outside of the Third Mediation, any oral or written information disclosed by the Parties in the course of the Third Mediation. No person may rely on or introduce as evidence in any arbitral, judicial or other proceeding, evidence pertaining to any aspect of the mediation effort, including but not limited to: (A) views expressed or suggestions made by a Party with respect to a possible settlement of the dispute; (B) the fact that another Party had or had not indicated willingness to accept a proposal for settlement made by the Mediator; (C) proposals made or views expressed by the Mediator; (D) statements or admissions made by a Party in the course of the Third Mediation; and (E) documents prepared for the purpose of, in the course of, or pursuant to the Third Mediation. Without limiting the foregoing, the Parties are bound by (i) Fed. R. Evid. 408, and (ii) any applicable federal or state statute, rule, common law or judicial precedent relating to the privileged nature of settlement discussions, mediations, or other alternative dispute resolution procedures. Information otherwise discoverable or admissible in evidence does not become exempt from discovery, or inadmissible in evidence, merely by being used by a Party in the Third Mediation.
- e. Discovery from Mediator. The Mediator may not be compelled to disclose to the Court or to any person any of the records, reports, summaries, notes, communications or other documents received or made by the Mediator while serving in such capacity. The Mediator may not testify or be compelled to testify regarding the Third Mediation in connection with any arbitral, judicial or other proceeding. The Mediator will not be a necessary party in any proceedings relating to the Third Mediation. Nothing contained in this paragraph prevents the Mediator from reporting (i) the status, but not the substance, of the mediation effort to the Court; or (ii) whether a Party failed to participate in good faith in the Third Mediation.
- f. Protection of Proprietary Information. The Parties, the Mediator and all mediation participants shall protect proprietary information.
- g. Preservation of Privileges. The disclosure by a Party of privileged information to the Mediator does not waive or otherwise adversely affect the privileged nature of the information.
- h. Service of Process. No Party may be served with a summons, subpoena, notice or other pleading during the Third Mediation, at the location where the Third Mediation is occurring, or while any Party is traveling to or from the Third Mediation.



2. For the avoidance of doubt, the Mediator shall not be compelled, under any circumstances, to disclose to the Court or to any person outside the Third Mediation any records, reports, summaries, notes, communications, submissions, or other documents received or made by or for the Mediator while serving in such capacity. The Mediator shall not testify, be subpoenaed or compelled to testify regarding the Third Mediation in connection with any arbitral, judicial or proceeding. The Mediator shall not be a necessary party in any proceedings relating to the mediation. Nothing contained in this paragraph shall prevent the Mediator from reporting the status, but not the substance, of the mediation effort to the Court in writing, from filing a certificate of completion, or from otherwise complying with the obligations set forth in this Stipulation and Agreed Order. In the event that some, but not all, Parties to the Third Mediation reach an agreement or agreements as a result of the Third Mediation, no Party may use confidential information shared during the Third Mediation, and no Party may compel discovery from the Mediator or any other Party concerning the confidential information shared during the Third Mediation, to support or oppose such agreement.

3. A representative with full settlement authority for each Party shall attend the Third Mediation, in person or via live video conference.

4. To the extent this Stipulation and Agreed Order conflicts with any provisions of the Court's prior orders (each, a "Prior Order") regarding mediations in this Bankruptcy Case,⁸ the terms of this Stipulation and Agreed Order shall prevail. Notwithstanding any prohibitions set forth in the Prior Order, all Parties are authorized, without waiving any privileges, to disclose to the Mediator any information or documents previously discussed with or disclosed to Judge Jones in connection with the Original Mediation.

⁸ See Docket Nos. 603, 1109, and 1158.



5. The Mediator is authorized to mediate any issues and disputes concerning the Joint Plan, the Original Mediation, the August Settlement, the January Settlement, the Second Mediation, the hearings on the Motions, and any other topics that the Mediator determines to be in the best interests of the Debtor, its estate, and its creditors.

6. Parties may communicate with other Parties and/or the Mediator, and no other Party may compel disclosure of the substance of such settlement communications from the Mediator or Party.

7. The Third Mediation will be conducted on or after May 6, 2024. The specific location(s), time(s), and additional procedures for the Third Mediation and any continuation of the Third Mediation after May 6, 2024, will be determined by the Mediator, following such consultation with the Parties as he deems appropriate. The Parties shall use their good faith best efforts to complete the Third Mediation contemplated herein as soon as reasonably practicable under the circumstances.

8. The Parties are authorized and empowered to take all actions necessary to effectuate the relief granted in this Stipulation and Agreed Order.

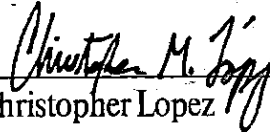
9. The Debtor is authorized to indemnify the Mediator for reasonable attorneys' fees and expenses, if any, that may be incurred in relation to the relief granted under this Stipulation and Agreed Order.

10. Each of the Parties represents and warrants that it is duly authorized to enter into and be bound by this Stipulation and Agreed Order.



11. This Court retains jurisdiction to hear and determine all matters arising from or related to the implementation of this Stipulation and Agreed Order.

Signature May 01, 2024



Christopher Lopez
United States Bankruptcy Judge



STIPULATED AND AGREED TO THIS 30th DAY OF APRIL, 2024:

/s/ Jason S. Brookner

GRAY REED

Jason S. Brookner (TX Bar No. 24033684)
Aaron M. Kaufman (TX Bar No. 24060067)
Lydia R. Webb (TX Bar No. 24083758)
Amber M. Carson (TX Bar No. 24075610)
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**Counsel to the Debtor
and Debtor in Possession**

/s/ Nicholas Zluticky (with permission)

STINSON LLP

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zachary.hemenway@stinson.com

Counsel to the Creditors' Committee

-and-

/s/ Kristian Gluck (with permission)

NORTON ROSE FULBRIGHT LLP

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Counsel to M2 LoanCo, LLC

/s/ Melissa S. Hayward (with permission)

HAYWARD PLLC

Melissa S. Hayward (TX Bar No. 24044908)
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**Counsel to M2 HoldCo, LLC, YesCare Corp.,
Perigrove 1018, LLC, and
Geneva Consulting, LLC**

-and-

[Signature Page to Mediation Stipulation and Agreed Order]

4894-1451-3080

(S) Edward [Signature] 6/5/24



/s/ Michael W. Zimmerman (with permission)

BERRY RIDDELL LLC

Michael W. Zimmerman (admitted *pro hac vice*)

Martin A. Aronson (admitted *pro hac vice*)

Jeffrey Gross (admitted *pro hac vice*)

6750 Back Road, Suite 100

Scott 5251

Tele 2727

Fax 757

E: ll.com

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to the Tort Committee

/s/ Eric R. Goodman (with permission)

BROWN RUDNICK LLP

David J. Molton (admitted *pro hac vice*)

Eric R. Goodman (admitted *pro hac vice*)

Gerard T. Cicero (admitted *pro hac vice*)

Seven Times Square

New York, NY 10036

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Facsimile: 212-209-4801

Email: dmolton@brownrudnick.com

egoodman@brownrudnick.com

gcicero@brownrudnick.com

Co-Counsel to the Tort Committee

[Signature Page to Mediation Stipulation and Agreed Order]

4894-1451-3080

/s/ Edward [Signature] 6/5/24

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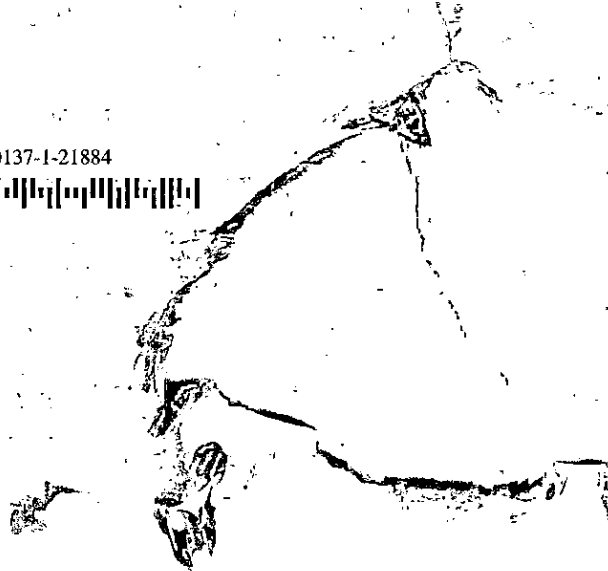
Jason S Brookner
1601 Elm Street
Suite 4600
Dallas, TX 75201



021589 21589 2 AB 0.544 49201 6 4 10137-1-21884



Edward Smith
Parnall Correctional Facility
1780 East Parnall Rd
Jackson, MI 49201-7136



Prisoner Name: Edward Smith

Prisoner Number: 659715

PARNALL CORRECTIONAL FACILITY

1780 E. Parnall Rd
Jackson, MI 49201-7139

METROPLEX MI 480

14 MAY 2024PM 10 L



US POSTAGE



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To: Clerk of the Court
FOR: Christopher S. Sonteki
Texas Southern District
P.O. Box 61010

Metropix, Inc.

United States Courts
Southern District of Texas
FILED

JUN 10 2024

Nathan Ochsner, Clerk of Court