Docket #2551 Date Filed: 12/08/2025

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

In re:	**Chapter 11**
TEHUM CARE SERVICES, INC.,	**Case No. 23-90086 (CML)**
Debtor.	

APPELLEE RILWAN AKINOLA'S ADDITIONAL DESIGNATION OF RECORD

Appellee Rilwan Akinola, by counsel, submits this Additional Designation of the Record on Appeal pursuant to Rule 8009(a)(2) of the Federal Rules of Bankruptcy Procedure.

In addition to the items designated in *Appellant YesCare's Designation of Record and Statement of Issues on Appeal* filed by Appellant CHS TX, Inc., d/b/a YesCare ("YesCare"), ECF No. 2541, the Appellees specifically designate the following docket entries, including all exhibits, addenda, or other attachments thereto:

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Dated: December 08, 2025

Respectfully submitted,

/s/ Martin S. Himeles, Jr.
Martin S. Himeles, Jr.
Md. Bar No. 9001080001
Admitted *pro hac vice*
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Counsel for Rilwan Akinola in Rilwan Akinola v. Amy Stafford-Schroyer, et al., Case No. 1:22-cv-00657 (D. Md.)

CERTIFICATE OF SERVICE

I certify that on December 08, 2025, I caused a true and correct copy of the foregoing document to be served by the Court's CM/ECF notification system, which will send notice of electronic filing to all counsel of record.

/s/ Martin S. Himeles, Jr.
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Counsel for Rilwan Akinola in Rilwan Akinola v. Amy Stafford-Schroyer, et al., Case No. 1:22-cv-00657 (D. Md.)

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EXHIBIT A

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

RILWAN AKINOLA,#477515 *
ROXBURY CORR. INST.
18701 ROXBURY ROAD
HAGERSTOWN, MD 21746

Plaintiff *

v. * CIVIL ACTION No.

CORIZON HEALTH SOURCES *
SUITE 400, BERKSHIRE BUILDING
6801 KENILWORTH AVE.,
RIVERDALE PARK, MD 20737-1365 * DATE FILED: 3-11-22

NURSE AMY
WESTERN CORR. INSTITUTION *
13800 McMULLEN HIGHWAY
CUMBERLAND, MD 21502-0000

-AND- *

OFFICER LAVIN, CO II
WESTERN CORR. INSTITUTION *
(ADDRESS ABOVE)

Defendants *

* * * * * * *

CIVIL RIGHTS COMPLAINT WITH A JURY DEMAND

Now comes the Plaintiff pursuant to 42 U.S.C. §1983, filing this Civil Rights Complaint with a Jury Demand seeking $1,000.000 in compensatory and punitive damages, and injunctive relief with a jury demand, and states;

1. FOR THE YEAR 2021: On Sept. 23, 2021, Plaintiff

was confined at the Western Correctional Institution, in Cumberland, MD. On that date at approx. 8:35 A.M., Officer Lavin, COII, escorted both Michael Wilson (Plaintiff's then cell-buddy), and Plaintiff to B-tier shower, by himself. At approximately 8:50 Lavin came by himself, again, to escort Plaintiff and Mr. Wilson, back to their cell on A-tier. Plaintiff and his cell-buddy were both handcuffed, and Plaintiff stepped out of the shower. There was no officer there to support me. Lavin told me to go, telling me to proceed, even though no other officer was there. Part of the significance of having another Officer there, was to help support the prisoner, to prevent him from falling. The escorting Officer actually physically holds, and supports the prisoner. Plaintiff slipped and fell, while restrained in a fashion that prevented him from bracing for the fall, while restrained in a fashion that prevented him from protecting himself. As a result of the fall, injuries were sustained to the lower back, left arm, left side of hip, left leg and to the ankle, which was sprained causing excruiating pain. Plaintiff remained in constant excrutiating pain for hours. Plaintiff complained of pain and multiple serious injuries, without receiving even the slightest medical

attention. While in extreme pain, discomfort, and concern for permanant injury, Plaintiff was told by Nurse Amy that she prescribed muscle rub, tylenol. Amy further indicated not to worry because she was scheduling Plaintiff for a consultation or doctor's appointment for the injuries. Plaintiff never received any of the treatment Amy promised. Plaintiff attempted to show Amy the injured areas, injury, abrasions and contusions, but Amy refused to examine the Plaintiff. No physical examination was conducted by Amy, or any other fellow medical staff-person. Time passed. Expecting to be seen the next day, Plaintiff attempting to be seen in medical for the injuries, and based upon Amy's claims that she scheduled the treatment. Days of requesting medical treatment resulted in no treatment provided. Plaintiff resortedto a barrage of sick-call requests, and Plaintiff was never called to medical even one time! Nurse Amy works for Corizon Health Sources. Corizon is contracted by the State of Maryland to provide constitutional minimums of medical treatment to Maryland prisoners within the Division of Correction. The contract explains the quality of treatment Corizon is to provide.

2. JURISDICTION & VENUE:

Plaintiff claims Jurisdiction under 28 U.S.C. §1331, and Venue under 28 U.S.C.§1391.

3. PREVIOUS PROCEEDINGS

Since different stages within the Administrative Remedy Procedure claims medical complaints can be raised through an "ARP" (Admin. Remedy Procedure,) a formal complaint was filed to no avail, and the ARP Coordinator for WCI failed to process the complaint. A "Small-Claim-Tort Claimh as been filed along with this Complaint, with respect to the same facts, which was rejected by the District Court for Allegeny County. That action was based upon "negligence", while this suit is based upon deliberate medical indifference to my serious medical needs, and gross negligence on part of Officer Lavin, ("inter-alia.")

4. STATEMENT OF FACT : (See #1, supra);

5. STATEMENT OF CLAIMS:

A) Plaintiff's Due Process rights were violated when defendants deprived me of rights without due process of law;

B) Plaintiff's First, Fourth, Sixth and Eighth amendment rights were violated; as all are incorporated into the 14th amendment to the U.S. Constitution;

C) Defendants deprived Plaintiff of "Procedural Due Process, means the procedures required by the U.S. Constitution, before the defendants can deprive me of my rights;

D) Substantive due process was violated by virtue of the Cruel and Unusual Punishments Clause of the 8th Amendment;

E) All defendants are sued in their individual and official capacities;

(F) Corporations, such as Corizon operating "private persons, such as Nurse Amy, under contract, act under color of State law, just like employees of governmental operated jails, like Ofc. Lavin;

CLAIMS, cont.

G) Lavin blatantly violated his own rules, policies and regulations when escorting two restrained and hancuffed convicts to and from the shower;

H) Lavin committed Gross-Negligence when knowing, or when he should have known that his attempts to escort two prisoners in restraints, under the condition he did so- placed Plaintiff's health and safety in imminent danger of serious physical injury;

I) Lavin's action placed Plaintiff in imminent danger of receiving permanant injuries, or those that would be deemed permanant in nature;

J) Lavin acted with callous disregard for Plaintiff's health and safety;

K) Nurse Amy and Lavin's actions constitute "state action" shown to be in violation of the Fourteenth Amendment because (1) Amy's company was contrated to provide Plaintiff with constitutional minimums of medical treatment for the State, and for the Plaintiff, (who is a third-party beneficiary to the same contract, for the State); -and- Ofc. Lavin acted as an agent for the State;

L) The objective component of "Cruel Conditions" is added, because the prison conditions referred to are so restrictive and harsh because the Supreme Court listed such basic needs as food, clothing, medical care and reasonable safety;

M) The "state of mind" of Lavin, who was responsible for those conditions, and exercised blatant disregard for Plaintiff's safety;

N) Lavin's actions amounted to the "wanton and truly unnecessary infliction of pain;

O) Defendants cannot claim legitimate security concerns or routine automatic security concerns, or pragmatic interests of lesser significance;

P) Unsafe conditions, slippery conditions, as well as escort policy not followed contributed to pain and suffering, as well as injuries to aforementioned areas that Plaintiff still suffers from;

Q) The escort policy not adhered to- created the serious identifiable human need being deprived.. safety, and protection from serious injury;

R) Plaintiff is unable to go get his own medical treatment, yet the U.S. Constitution requires prison authorities, Contracted medical providers to provide convicts like Plaintiff- reasonably adequate medical services, or "services at a level reasonably commensurate with modern medical science;

S) Pecuniary interests are not an excuse for refusal to provide to Plaintiff- needed medical treatment for his injuries;

T) An aggravating factor is that not simply that Amy duped Plaintiff into the false hopes he would be treated by a doctor or P.A. due to Amy's filing a consultation or papers to have a doctor examine him, but also because Amy falsified medical records which reflected the injuries sustained, Plaintiff falsely refusing medical care, and that he was fine and did not need treatment.

U) The seriousness and urgency of the medical need was deliberate medical indifference, because no qualified medical personnel was provided, (only low-level non-physician staff);

V. Deliberate medical indifference existed from staff failing to investigate facts sufficient to make a judgement; (i.e. no exam by medical, no action taken by Lavin to secure treatment, as he knew the extent of the injuries sustained by seeing it occur;

W. Nurse Amy was guilty of gross-negligence, because the nurse intentionally failed to perform manifest duties in reckless disregard of the consequences as they affected my life, health and safety;

X) Officer Lavin was guilty of gross-negligence by securing Plaintiff in restraints, suggesting and encouraging movement without required escort to comply with safety and security concerns.

RELIEF SOUGHT

Plaintiff seeks $1,000,000.00 individually, and collectively;

Punitive damages as appropriate; -and-

Injunctive relief to Order compliance with escort policy, and to provide constitutional minimums of medical treatment.

RESPECTFULLY Robert Arnold # 477575

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

RILWAN AKINOLA,#477515 *
ROXBURY CORR. INST.
18701 ROXBURY ROAD
HAGERSTOWN, MD 21746

Plaintiff *

v. * CIVIL ACTION No.

CORIZON HEALTH SOURCES *
SUITE 400, BERKSHIRE BUILDING
6801 KENILWORTH AVE.,
RIVERDALE PARK, MD 20737-1365 * DATE FILED: 3-11-22

NURSE AMY
WESTERN CORR. INSTITUTION *
13800 McMULLEN HIGHWAY
CUMBERLAND, MD 21502-0000

-AND- *

OFFICER LAVIN, CO II
WESTERN CORR. INSTITUTION *
(ADDRESS ABOVE)

Defendants *

* * * * * * *

CIVIL RIGHTS COMPLAINT WITH A JURY DEMAND

Now comes the Plaintiff pursuant to 42 U.S.C. §1983, filing this Civil Rights Complaint with a Jury Demand seeking $1,000.000 in compensatory and punitive damages, and injunctive relief with a jury demand, and states;

1. FOR THE YEAR 2021: On Sept. 23, 2021, Plaintiff

was confined at the Western Correctional Institution, in Cumberland, MD. On that date at approx. 8:35 A.M., Officer Lavin, COII, escorted both Michael Wilson (Plaintiff's then cell-buddy), and Plaintiff to B-tier shower, by himself. At approximately 8:50 Lavin came by himself, again, to escort Plaintiff and Mr. Wilson, back to their cell on A-tier. Plaintiff and his cell-buddy were both handcuffed, and Plaintiff stepped out of the shower. There was no officer there to support me. Lavin told me to go, telling me to proceed, even though no other officer was there. Part of the significance of having another Officer there, was to help support the prisoner, to prevent him from falling. The escorting Officer actually physically holds, and supports the prisoner. Plaintiff slipped and fell, while restrained in a fashion that prevented him from bracing for the fall, while restrained in a fashion that prevented him from protecting himself. As a result of the fall, injuries were sustained to the lower back, left arm, left side of hip, left leg and to the ankle, which was sprained causing excruiating pain. Plaintiff remained in constant excrutiating pain for hours. Plaintiff complained of pain and multiple serious injuries, without receiving even the slightest medical

attention. While in extreme pain, discomfort, and concern for permanant injury, Plaintiff was told by Nurse Amy that she prescribed muscle rub, tylenol. Amy further indicated not to worry because she was scheduling Plaintiff for a consultation or doctor's appointment for the injuries. Plaintiff never received any of the treatment Amy promised. Plaintiff attempted to show Amy the injured areas, injury, abrasions and contusions, but Amy refused to examine the Plaintiff. No physical examination was conducted by Amy, or any other fellow medical staff-person. Time passed. Expecting to be seen the next day, Plaintiff attempting to be seen in medical for the injuries, and based upon Amy's claims that she scheduled the treatment. Days of requesting medical treatment resulted in no treatment provided. Plaintiff resortedto a barrage of sick-call requests, and Plaintiff was never called to medical even one time! Nurse Amy works for Corizon Health Sources. Corizon is contracted by the State of Maryland to provide constitutional minimums of medical treatment to Maryland prisoners within the Division of Correction. The contract explains the quality of treatment Corizon is to provide.

2. JURISDICTION & VENUE:

Plaintiff claims Jurisdiction under 28 U.S.C. §1331, and Venue under 28 U.S.C.§1391.

3. PREVIOUS PROCEEDINGS

Since different stages within the Administrative Remedy Procedure claims medical complaints can be raised through an "ARP" (Admin. Remedy Procedure,) a formal complaint was filed to no avail, and the ARP Coordinator for WCI failed to process the complaint. A "Small-Claim-Tort Claimh as been filed along with this Complaint, with respect to the same facts, which was rejected by the District Court for Allegeny County. That action was based upon "negligence", while this suit is based upon deliberate medical indifference to my serious medical needs, and gross negligence on part of Officer Lavin, ("inter-alia.")

4. STATEMENT OF FACT : (See #1, supra);

5. STATEMENT OF CLAIMS:

A) Plaintiff's Due Process rights were violated when defendants deprived me of rights without due process of law;

B) Plaintiff's First, Fourth, Sixth and Eighth amendment rights were violated; as all are incorporated into the 14th amendment to the U.S. Constitution;

C) Defendants deprived Plaintiff of "Procedural Due Process, means the procedures required by the U.S. Constitution, before the defendants can deprive me of my rights;

D) Substantive due process was violated by virtue of the Cruel and Unusual Punishments Clause of the 8th Amendment;

E) All defendants are sued in their individual and official capacities;

(F) Corporations, such as Corizon operating "private persons, such as Nurse Amy, under contract, act under color of State law, just like employees of governmental operated jails, like Ofc. Lavin;

CLAIMS, cont.

G) Lavin blatantly violated his own rules, policies and regulations when escorting two restrained and hancuffed convicts to and from the shower;

H) Lavin committed Gross-Negligence when knowing, or when he should have known that his attempts to escort two prisoners in restraints, under the condition he did so- placed Plaintiff's health and safety in imminent danger of serious physical injury;

I) Lavin's action placed Plaintiff in imminent danger of receiving permanant injuries, or those that would be deemed permanant in nature;

J) Lavin acted with callous disregard for Plaintiff's health and safety;

K) Nurse Amy and Lavin's actions constitute "state action" shown to be in violation of the Fourteenth Amendment because (1) Amy's company was contrated to provide Plaintiff with constitutional minimums of medical treatment for the State, and for the Plaintiff, (who is a third-party beneficiary to the same contract, for the State); -and- Ofc. Lavin acted as an agent for the State;

L) The objective component of "Cruel Conditions" is added, because the prison conditions referred to are so restrictive and harsh because the Supreme Court listed such basic needs as food, clothing, medical care and reasonable safety;

M) The "state of mind" of Lavin, who was responsible for those conditions, and exercised blatant disregard for Plaintiff's safety;

N) Lavin's actions amounted to the "wanton and truly unnecessary infliction of pain;

O) Defendants cannot claim legitimate security concerns or routine automatic security concerns, or pragmatic interests of lesser significance;

P) Unsafe conditions, slippery conditions, as well as escort policy not followed contributed to pain and suffering, as well as injuries to aforementioned areas that Plaintiff still suffers from;

Q) The escort policy not adhered to- created the serious identifiable human need being deprived.. safety, and protection from serious injury;

R) Plaintiff is unable to go get his own medical treatment, yet the U.S. Constitution requires prison authorities, Contracted medical providers to provide convicts like Plaintiff- reasonably adequate medical services, or "services at a level reasonably commensurate with modern medical science;

S) Pecuniary interests are not an excuse for refusal to provide to Plaintiff- needed medical treatment for his injuries;

T) An aggravating factor is that not simply that Amy duped Plaintiff into the false hopes he would be treated by a doctor or P.A. due to Amy's filing a consultation or papers to have a doctor examine him, but also because Amy falsified medical records which reflected the injuries sustained, Plaintiff falsely refusing medical care, and that he was fine and did not need treatment.

U) The seriousness and urgency of the medical need was deliberate medical indifference, because no qualified medical personnel was provided, (only low-level non-physician staff);

V. Deliberate medical indifference existed from staff failing to investigate facts sufficient to make a judgement; (i.e. no exam by medical, no action taken by Lavin to secure treatment, as he knew the extent of the injuries sustained by seeing it occur;

W. Nurse Amy was guilty of gross-negligence, because the nurse intentionally failed to perform manifest duties in reckless disregard of the consequences as they affected my life, health and safety;

X) Officer Lavin was guilty of gross-negligence by securing Plaintiff in restraints, suggesting and encouraging movement without required escort to comply with safety and security concerns.

RELIEF SOUGHT

Plaintiff seeks $1,000,000.00 individually, and collectively;

Punitive damages as appropriate; -and-

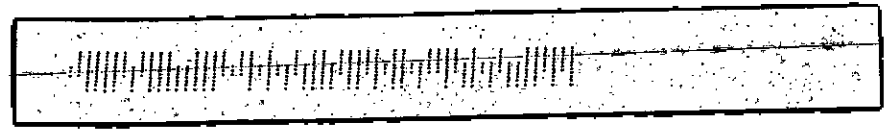
Injunctive relief to Order compliance with escort policy, and to provide constitutional minimums of medical treatment.

RESPECTFULLY Robert Arnold # 477575

Rilwan Akinola #477515
R.C.I
18701 Roxbury Road
Hagerstown MD 21746

The United States District Court
for the District of Maryland
101 W. Lombard Street
Baltimore MD 21201

...Propylene
...Diazolidinyl Urea
...Carbomer · Parfum
...Tocopheryl Acetate
...Seed Butter · Sodium
...Tetrasodium EDTA



RCI
INMATE
MAIL

03/15/2022

EXHIBIT B

In the United States District Court
For the District of Maryland

Rilwan Akinola, #477515, #2838828
Roxbury Corr. Inst.
18701 Roxbury Rd
Hagerstown MD 21746

Plantiff

VS

Civil Action No. DKC-22-657

Corizon Health Sources/
Yes Care
Suite 400, Berkshire Building
6801 Kenilworth Ave
Riverdale Park, MD 20737-1365

103 Powell Court
Brentwood TN 37027

Date 6.14.22

- Office of Inmate Health & Clinical Sources
6776 Reisterstown Rd # 314
Baltimore MD 2115

- Nurse Amy M. Booth
Western Corr Inst.
13800 McMullen Hwy, SW
Cumberland MD 21502

-And-

Officer Lavin CO II
Western Corr Inst.
13800 McMullen Hwy, SW
Cumberland MD 21502

Defendants

Dear Clerk,

I seek assistance and help with courts. I already filed a civil lawsuit with these 3 individual defendants.

1. Corizon Health Sources, changes their name to Yes Care.
2. Nurse Amy, I did not know her full name, so I just put Nurse Amy. But I have her full name now w/is Amy M. Booth RN...
3. Also officer Lavin Co II his information is the same.

My question is do I need to refill my lawsuit claim being as though I didn't have Nurse Amy full name at first and that Corizon Health services change their company name. I just want to make sure all my T's are crossed and i are dotted. Also, I see I've been granted leave to proceed in forma pauperis under the Prison Litigation Reform Act has been granted, so the remainder $350.00 filing fee when will it be taking/withdrawn from my account? Or can I just have my family pay the remainder $350.00 balance? If theirs anything else I need to have done please feel free to write me back

Respectfully
Rilwan Akinola #47751
Rilwan Akinola

Bilwan [illegible]
RCI
18701 Roxbury Rd
Hagerstown MD 21746

BALTIMORE MD 212
16 JUN 2022 PM 6 L

FILED
LOGGED
ENTERED
RECEIVED

JUN 21 2022

AT GREENBELT
CLERK, U.S. DISTRICT COURT
DISTRICT OF MARYLAND
BY DEPUTY

Clerk of the Court in Greenbelt MD.
The United States District ~~of MD~~ Court
~~for the District~~ for the District of MD
6500 Cherrywood LN
Greenbleff MD 20770
20770-129499

06/16/2022

EXHIBIT C

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

RILWAN AKINOLA, Plaintiff v. CORIZON HEALTH SERVICES, et al. Defendant	Case No. 1:22-CV-00657-DKC

ENTRY OF APPEARANCE AND WAIVER OF SERVICE

COMES NOW, Megan T. Mantzavinos of Marks, O'Neill, O'Brien Doherty & Kelly, P.C., and hereby enters her appearance in this matter on behalf of Defendant Corizon Health, Inc. Defendant Corizon Health, Inc. further notifies the Court that it agrees to waive service of process and will file an Answer or other responsive pleading in accordance with Federal Rule of Civil Procedure 12(a) and In re State Prisoner Litigation, Misc. No. 00-308, Administrative Order 2012-01 (D. Md. 2012).

Respectfully submitted, this 11th day of August 2022.

MARKS, O'NEILL, O'BRIEN, DOHERTY & KELLY, P.C.

By: */s/ Megan T. Mantzavinos*

Megan T. Mantzavinos
Bar Number: 16416
mmantzavinos@moodklaw.com
600 Baltimore Avenue, #305
Towson, Maryland 21204
(410) 339-6880
(410) 339-6881 (Fax)
Attorneys for Defendants Corizon Health, Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 11th day of August 2022, a copy of the foregoing document was electronically transmitted to this court and mailed first class, postage pre-paid to:

Rilwan Akinola #477515
Roxbury Corr. Inst
18701 Roxbury Road
Hagerstown, MD 21746
Pro Se Plaintiff

/s/*Megan T. Mantzavinos*
Megan T. Mantzavinos

954189v.1

EXHIBIT D

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

RILWAN AKINOLA, Plaintiff v. CORIZON HEALTH SERVICES, et al. Defendant	Case No. 1:22-CV-00657-DKC

ENTRY OF APPEARANCE AND WAIVER OF SERVICE

COMES NOW, Megan T. Mantzavinos of Marks, O'Neill, O'Brien Doherty & Kelly, P.C., and hereby enters her appearance in this matter on behalf of Defendant Amy Stafford-Shroyer. Defendant Amy Stafford-Shroyer further notifies the Court that she agrees to waive service of process and will file an Answer or other responsive pleading in accordance with Federal Rule of Civil Procedure 12(a) and In re State Prisoner Litigation, Misc. No. 00-308, Administrative Order 2012-01 (D. Md. 2012).

Respectfully submitted, this 3rd day of October, 2022.

MARKS, O'NEILL, O'BRIEN, DOHERTY & KELLY, P.C.

By: */s/ Megan T. Mantzavinos*

Megan T. Mantzavinos
Bar Number: 16416
mmantzavinos@moodklaw.com
600 Baltimore Avenue, #305
Towson, Maryland 21204
(410) 339-6880
(410) 339-6881 (Fax)
Attorneys for Defendants Corizon Health, Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 3rd day of October 2022, a copy of the foregoing document was electronically transmitted to this court and mailed first class, postage pre-paid to:

Rilwan Akinola #477515
Roxbury Corr. Inst
18701 Roxbury Road
Hagerstown, MD 21746
Pro Se Plaintiff

/s/*Megan T. Mantzavinos*
Megan T. Mantzavinos

954189v.1

EXHIBIT E

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

RILWAN AKINOLA, Plaintiff v. CORIZON HEALTH SERVICES, et al. Defendant	Case No. 1:22-CV-00657-DKC

DEFENDANT CORIZON HEALTH, INC. AND AMY STAFFORD SHROYER'S MOTION TO DISMISS

Defendants Corizon Health, Inc. ("Corizon") and Amy Stafford Shroyer ("Shoryer"), through undersigned counsel, moves for dismissal pursuant to Federal Rule of Civil Procedure 12(b)(6), on the following grounds:

1. Plaintiff's Complaint fails to state a claim upon which relief may be granted.
2. The grounds for this Motion are stated fully in the Memorandum of Law submitted herewith.

WHEREFORE, Defendants respectfully request that the Court dismiss the Complaint.

Respectfully submitted,

MARKS, O'NEILL, O'BRIEN, DOHERTY & KELLY, P.C.

/s/ Megan T. Mantzavinos
Megan T. Mantzavinos
Bar Number: 16416
mmantzavinos@moodklaw.com
600 Baltimore Avenue, Suite 305
Towson, MD 21204
(410) 339-6880
Attorneys for Defendant Corizon Health, Inc. and Amy Stafford Shroyer

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 2nd day of December, 2022, a copy of the foregoing was filed via the court's CM/ECF system and a copy was mailed first-class, postage pre-paid, to:

Rilwan Akinola #477515
Roxbury Corr. Inst
18701 Roxbury Road
Hagerstown, MD 21746
Pro Se Plaintiff

/s/ Megan T. Mantzavinos
Megan T. Mantzavinos

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

RILWAN AKINOLA, Plaintiff v. CORIZON HEALTH SERVICES, et al. Defendant	Case No. 1:22-CV-00657-DKC

MEMORANDUM OF LAW IN SUPPORT OF CORIZON HEALTH, INC. AND AMY STAFFORD-SHROYER'S MOTION TO DISMISS COMPLAINT

Defendants Corizon Health, Inc. and Amy Stafford-Shroyer, by undersigned counsel, pursuant to Federal Rule of Civil Procedure 12(b)(6), hereby submits this Memorandum of Law in Support of its Motion to Dismiss the Complaint, and states as follows:

I. PROCEDURAL HISTORY

Plaintiff Rilwan Akinola (hereinafter "Plaintiff"), a prisoner at Roxbury Correctional Institute (Hereinafter "RCI"), filed a Complaint in the District Court of Maryland for Allegany County on March 1, 2022, alleging Negligence against Corizon Health Services, Inc. (hereinafter "Corizon") and Amy Stafford Shroyer, R.N. (hereinafter "Shroyer"). On March 17, 2022, Plaintiff filed the instant Complaint in the United States District Court for the District of Maryland, alleging deliberate indifference to his serious medical needs based on the same facts. The State Court matter proceeded to trial on 7/13/2022, after which the Court entered judgment in favor of the Defendants. (See attached Notice of Judgment). Plaintiff has since appealed that Judgment and a record appeal hearing is scheduled for February 24, 2023 in the Circuit Court for Allegany County. Defendants now file this Motion to Dismiss and Memorandum of Law in response to Plaintiff's instant Complaint.

II. PLAINTIFF'S ALLEGATIONS

Plaintiff alleges that "[o]n Sept. 23, 2021, Plaintiff was confined at the Western Correctional Institution in Cumberland, MD." Compl., ¶1. Plaintiff states that on this date, he and his cellmate were being transferred from the shower back to their cells by Officer Lavin. Plaintiff claims that Officer Lavin was responsible for his cellmate, however, and no officer was present to assist Plaintiff. He claims that "Lavin told me to go, telling me to proceed, even though no other officer was there. Plaintiff subsequently slipped and fell, while restrained in a fashion that prevented him from protecting himself." *Id*. Plaintiff claims that as a result of this fall, he suffered injuries to his lower back, left arm, left side of hip, left leg and to the ankle which was sprained causing excruciating pain.

He alleges that he made multiple requests for medical treatment due to the pain but that he received no attention. Plaintiff states that "Nurse Amy" (Amy Stafford-Shroyer) prescribed muscle rub and Tylenol, however he claims that he never received these medications. He further claims that he "[a]ttempted to show Amy the injured areas, injuries, abrasions and contusions, but Amy refused to examine the Plaintiff." *Id*. He further alleges that he never received a medical examination despite filing numerous sick call requests. Plaintiff seeks $1,000,000 in damages as a result of this alleged negligence.

II. STANDARD OF REVIEW

Defendant's motion to dismiss is brought pursuant to Fed. R. Civ. P. 12(b)(6), which provides for the dismissal of a complaint, in whole or in part, if a party fails to state a claim upon which relief can be granted. A plaintiff fails to state a claim when the complaint does not contain factual allegations that, even accepted as true, fails to state a claim to relief that is plausible on its face. *Bell Atl. Corp. v. Twombly*, 550 US. 544, 570 (2007).

The purpose of Rule 12(b)(6) is to "allow the court to eliminate actions that are fatally flawed in their legal premises and destined to fail, and thus spare litigants the burdens of unnecessary pretrial and trial activity." *Advanced Cardiovascular Sys. v. SciMed Life Sys., Inc.*, 988 F.2d 1157, 1160 (1993) (citing *Neitzke v. Williams*, 490 U.S. 319, 326-27 (1989)). This Court is not required to accept as true bald assertions and legal conclusions, nor is the Court required to draw unwarranted inferences to aid the plaintiff. *Vitol, S.A. v. Primerose Shipping Co.*, 708 F.3d 527, 547 (2013); *Randall v. United States*, 30 F.3d 518, 522 (1994), *cert. denied*, 514 U.S. 1107 (1995).

For a 12(b)(6) motion, the court is limited to considering only the facts alleged in the complaint, any documents attached to or incorporated in the complaint, and matters of which the court may take judicial notice. *EEOC v. St. Francis Xavier Parochial Sch.*, 117 F.3d 621, 624 (1997).

Plaintiff must allege facts sufficient to state all the elements of his claim. The Fourth Circuit has stated that factual allegations supporting the legal elements or grounds of a claim should be the focus of the Court's attention on a motion to dismiss, not the plaintiff's legal conclusions. *Bass v. E.I. DuPont De Nemours & Co.*, 324 F.3d 761, 765 (2003). '"The presence [ ] of a few conclusory legal terms does not insulate a complaint from dismissal under Rule 12(b)(6) when the facts alleged in the complaint' cannot support the legal conclusion." *Gladden v. Winston Salem State Univ.*, 495 F. Supp. 2d 517, 520-21 (2007).

Applying these rules of interpretation to Plaintiff's Complaint leads to the conclusion that Plaintiff has not met his obligation to state the plausibility of a claim against Defendant Corizon, and therefore his Complaint must be dismissed.

IV. ARGUMENT

A. Plaintiff's instant claim is barred by the Doctrine of Res Judicata

First, in determining which jurisdictions laws apply when analyzing a claim of Res Judicata, the Court of Appeals in Maryland stated that "[I]n determining the preclusive effect to be given to the judgment of a State Court, the claim . . . preclusion rules of the State that rendered the judgment must govern." *Rourke v. Amchem Prods., Inc.*, 384, Md. 329 (2004). In *Smalls v. Md. Dept. of Educ.*, the Maryland Court of Special Appeals, in relying on Section 1 of the Restatement of Judgments, stated that "Where a reasonable opportunity has been afforded to the parties to litigate a claim before a court which has jurisdiction over the parties and the cause of action, and the court has finally decided the controversy, the interests of the State and of the parties require that the validity of the claim and any issue actually litigated in the action shall not be litigated by them again." *Smalls v. Md. Dept. of Educ.*, 226 Md. App. 224, (2015).

Under Maryland law, in order to posit an argument of claim preclusion, a litigant is required to show (1) that the parties in the present litigation are the same or in privity with the parties to the earlier dispute, (2) that the claim presented in the current action is identical to the one determined in the prior adjudication, and (3) that there was a valid, final judgment on the merits. *Cassidy v. Board of Education*, 316 Md. 50 (1989). The doctrine of Res Judicata is underpinned by strong policy considerations. As stated by the Court of Appeals of Maryland in *Anne Arundel County Bd. Of Educ. v. Norville*, "Res judicata restrains a party from litigating the same claim repeatedly and ensures that courts do not waste time adjudicating maters which have been decided." *Anne Arundel County Bd. Of Educ. v. Norville*, 390 Md. 93 (2005). The Court further stated that "Res judicata protects the courts, as well as the parties, from the attendant burdens of relitigation. This doctrine avoids the expense and vexation attending multiple lawsuits, conserves the judicial resources, and fosters reliance on judicial action by minimizing the possibilities of inconsistent decisions." *Id.*

For the reasons set forth below, this instant claim is undoubtedly subject to the Doctrine of Claim Preclusion, as "When a prior court has entered final judgment as to the matter sought to be litigated in a second court, the claim analysis is usually uncomplicated." *Id*. at 109.

i. The parties in the instant action - Plaintiff Rilwan Akinola and Defendants Corizon Health Sources and Amy Stafford-Shroyer are the same parties from the State Court action.

In both the State Court Complaint and the instant Complaint, Plaintiff names "Corizon Health Sources" and "Nurse Amy" as the Defendants. These parties are named incorrectly however, and are properly named "Corizon Health Services, Inc." and "Amy Stafford Shroyer". Nevertheless, these are the same parties named in both actions and therefore satisfies the same parties prong of Res Judicata.

ii. Plaintiff's claim in the instant action is identical to his claim in the adjudicated State Court matter as he alleges the same factual allegations.

Plaintiff's instant claims mirror the claim he made in State Court. In successfully positing a claim of Res Judicata, there is no requirement that the theories of liability in both actions are completely identical. As stated by the Federal District Court of Maryland in *Lockett v. West*, "That a number of different legal theories casting liability on an actor may apply to a given episode does not create . . . multiple claims." *Lockett v. West*, 914 F.Supp. 1229 (1995). The Court further stated that "this remains true although the several legal theories depend on different shadings of the facts, or would emphasize different elements of the facts." Id. This is further supported in *Gertz v. Anne Arundel County*, where the Court of Appeals of Maryland held that "Once a set of facts has been litigated, res judicata generally prevents the application of a different legal theory to that same set

of facts, assuming that the second theory of liability existed when the first action was litigated." *Gertz v. Anne Arundel County*, 390 Md. 93, (2005).

Here, Plaintiff proceeds under the theory of Deliberate Indifference as required for this type of Federal claim; whereas in State Court, he proceeded under a theory of negligence. Despite this difference, as discussed by the Court in *Gertz*, res judicata prevents the application of a different legal theory to the same set of facts. Therefore, Plaintiff's claim should be deemed identical to the adjudicated State Court claim.

iii. The July 13, 2022 State Court trial judgment against Plaintiff constituted a valid and final judgment on the merits

The Judgment against Plaintiff by the District Court for Allegany County constitutes a valid and final judgment on the merits. The Court of Appeals of Maryland in *Colandrea*, citing Section 19 of the Restatement of Judgment, stated that "[A] valid and final personal judgment rendered in favor of the Defendant bars another action by the Plaintiff on the same claim." *Colandrea v. Wilde Lake Community Ass'n*, 361 Md. 371 (2000). Further, "final judgment on the merits means . . . [a] valid final judgment by a court of competent jurisdiction." *Green v. Ford Motor Credit Co.*, 152 Md. App. 32 (2003) (quoting *FWB Bank v. Richman*, 354 Md. 472 (1999)). As stated, the Court's Judgment issued against Plaintiff following trial on July 13, 2022 constituted a valid final judgment on the merits by a court of competent jurisdiction and, therefore, Plaintiff's Complaint should be dismissed on the basis of res judicata.

B. Plaintiff has failed to state of claim upon which relief can be granted for deliberate indifference as to Shroyer because he was not intentionally denied access to medical care and there was no intentional delay or interference with his treatment once prescribed.

With regard to deliberate indifference, Maryland courts have concluded that deliberate indifference to serious medical needs of prisoners constitutes the "unnecessary and wanton

infliction of pain" . . . proscribed by the Eighth Amendment. *State v. Johnson*, 108 Md. App. 54, 67, 670 A.2d 1012, 1018 (1996). The Court has explained that this is true whether the indifference is manifested by prison doctors in their response to the prisoner's needs or by prison guards in intentionally denying or delaying access to medical care or intentionally interfering with the treatment once prescribed." *Id*. (Emphasis added). To sustain a cause of action for a § 1983 claim based on improper medical care, Plaintiff must allege sufficient facts for the trier of fact to find that Defendant's acts, or failures to act, amounted to deliberate indifference to a serious medical need. *Estelle v. Gamble*, 429 U.S. 97, 106 (1976).

There are two components to this test - an objective, serious medical need component and a subjective, deliberate indifference component. See, e.g., *Johnson v. Quinones*, 145 F.3d 164, 167 (4th Cir. 1998); *Brice v. Virginia Beach Med. Ctr*., 58 F.3d 101, 104 (4th Cir. 1995). To establish deliberate indifference, the medical need must be apparent and serious, and the denial of medical attention must be deliberate and without legitimate penological objective. *Grayson v. Peed*, 195 F.2d 692 (4th Cir. 1999). For the claims against each individual provider to succeed, Plaintiff's condition must have been a serious medical need, and each individual Defendant must have willfully ignored a substantial risk of serious harm to him. *Id*.

Plaintiff has failed to put forth any facts in his Complaint to support his claim that Shroyer willfully ignored a substantial risk of harm to him. Instead, the records show that Shroyer did provide Plaintiff the necessary and her care provided to Plaintiff in no way constituted a deliberate indifference to his medical needs. For example, on 9/23/2021, the day of the alleged fall, Shroyer was contacted by staff to examine Plaintiff after the fall. Shroyer examined Plaintiff and prescribed him muscle rub and Tylenol for pain relief. (See Exhibit A). Then, on October 7, 2021, two weeks after the fall, Plaintiff was again examined by Shroyer for lingering pain from the alleged fall.

Shroyer examined Plaintiff and made a referral to the provider for a refill of the muscle rub. *Id*. Plaintiff's claims that Shroyer was deliberately indifferent to his medical needs are entirely unfounded and baseless. As a result, Plaintiff's Complaint should be dismissed for failure to state a claim upon which relief may be granted.

C. Plaintiff has failed to state of claim upon which relief can be granted for deliberate indifference as to Corizon because he has failed to assert any policy or custom of Corizon's that led to any deliberate indifference.

42 U.S.C. § 1983 provides "[e]very person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law…" 42 U.S.C. § 1983. To prevail on a § 1983 claim, the plaintiff must establish he was deprived of a constitutional right and that the alleged deprivation was committed under color of state law. *Austin v. Paramount Parks, Inc.*, 195 F.3d 715, 727 (4th Cir. 1999). The U.S. Supreme Court has held that municipalities and other local governmental bodies constitute "persons" within the meaning of § 1983. *Monell v. Dep't of Soc. Servs.*, 436 U.S. 658, 690 (1978). The court cannot impose § 1983 liability solely upon a theory of *respondeat superior*. *Austin* at 727. A municipality is only subject to § 1983 liability when it causes such a deprivation through an official policy or custom. *Id.* Municipal policy may be found in written ordinances and regulation, in certain affirmative decisions of individual policymaking officials, or in certain omissions on the part of policymaking officials that manifest deliberate indifference to the rights of citizens. *Id.* Municipal custom may arise when a particular practice is so persistent and widespread and so permanent and widespread and so permanent and well settled as to constitute a custom or usage with the force of law. *Id.*

The principles of § 1983 liability apply equally to private corporations. *Id.* at 728. A private corporation is liable under § 1983 only when an official policy or custom causes the alleged deprivation of federal rights. *Id.; See Also Powell v. Shopco Laurel Co.*, 678 F.2d 504, 506 (4th Cir. 1982) (judgment on the pleadings granted when plaintiff based defendant's liability on *respondeat superior* alone); *Milligan v. Newport News*, 743 F.2d 227, 230-31 (4th Cir. 1984) (motion to dismiss granted because there was no allegation of the existence of a policy, practice, or custom upon which municipal liability for the constitutional deprivations allegedly suffered by plaintiff could be based; nor was there any factual allegation to support the conclusion that such a policy was the "moving force" in causing the deprivation of plaintiff's constitutional rights); *Chin v. City of Baltimore*, 241 F. Supp. 2d 546, 549 (D. Md. 2003) (motion to dismiss granted because the plaintiffs did not allege sufficient facts to establish that the search of their restaurant was the result of a custom or policy of the police department, plaintiffs alleged no other incidents other than the search of their restaurant).

Here, Plaintiff makes no such allegation whatsoever. Like in *Milligan*, Plaintiff has not made any allegations to support his baseless legal conclusion that any of Corizon's policies led to the deprivation of his constitutional rights. Like in *Chin*, Plaintiff does not allege any other incidents where Corizon allegedly violated another person's constitutional rights except for the alleged violation of his constitutional rights. Plaintiff makes no allegations anywhere in the Complaint that any of Corizon's policies caused Corizon to be deliberately indifferent to Skinner's medical needs.

V. CONCLUSION

For the reasons stated above, Defendants Corizon Health, Inc. and Amy Stafford-Shroyer respectfully requests that this Court dismiss the Complaint against them.

Respectfully submitted,

MARKS, O'NEILL, O'BRIEN, DOHERTY & KELLY, P.C.

/s/ Megan T. Mantzavinos

Megan T. Mantzavinos
Bar Number: 16416
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Towson, MD 21204
(410) 339-6880
Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on this 2nd day of December, 2022, the attached Memorandum of Law in Support of Defendant Corizon Health, Inc. and Amy Stafford Shroyer's Motion to Dismiss was electronically filed via the court's CM/ECF system and a copy was mailed via first class, postage pre-paid to:

Rilwan Akinola #477515
Roxbury Corr. Inst
18701 Roxbury Road
Hagerstown, MD 21746
Pro Se Plaintiff

/s/ Megan T. Mantzavinos
Megan T. Mantzavinos

EXHIBIT A

SITE: WCI
COMPLETED BY: Amy M. Booth, RN 09/23/2021 2:20 PM
Patient Name: RILWAN AKINOLA
IDOC#: 477515
DOB: 09/23/1982

Patient presenting with chief complaint(s)of: fall.

Vital Signs:

Date	Time	Temp	Pulse	Pattern	Resp	Pattern	BP	Sp O2	Peak Flow
09/23/2021	2:20 PM	97.3	80	regular	15		130/76	98	

MISCELLANEOUS AND OTHER COMPLAINTS

Subjective:
Date of Onset: 09/28/2021.
Associated symptoms: fall

Objective:
Physical Examination Findings
HU 4 called this RN and requested that this patient be evaluated by medical because he fell down the tier stairs headed back to his cell from the shower.He was being escorted, cuffed behind back, by an officer that was working his tier. Pt states his feet were wet and he had shower sandles on, denies hitting the back of his head when he fell. does complain of LFA pain and L hip pain, no bruising or swelling noted.

Assessment:
alteration in comfort

Plan: muscle rub and tylenol given for pain relief.
educated that if needed to place another sick call when to do so.
pt verbalized understanding.

MEDICATIONS

Brand Name	Dose	Sig Codes	Start Date	Stop Date
Muscle Rub	15 %-10 %	***See desc	09/23/2021	10/23/2021
Pain Relief	325 Mg	Per Package	09/23/2021	09/29/2021
Claritin	10 Mg	1 PO QD PRN	07/30/2021	09/30/2021

ORDERS

completed	(Miscellaneous) Patient education provided. Patient voiced understanding.
completed	Sick call if signs and symptoms of infection develop or symptoms do not subside
completed	Medication allergies and other contraindications reviewed and pregnancy ruled out prior to treatmen

Provider: Asresahegn Getachew, MD
Document generated by: Amy M. Booth, RN 09/28/2021 2:27 PM

SITE: WCI
COMPLETED BY: Amy M. Booth, RN 10/07/2021 1:57 PM
Patient Name: RILWAN AKINOLA
IDOC#: 477515
DOB: 09/23/1982

Patient presenting with chief complaint(s)of: pain from fall, nasal spray needs new order.

MISCELLANEOUS AND OTHER COMPLAINTS

Subjective:
Date of Onset: 10/07/2021.
Associated symptoms: 1. pain from fall - 2 weeks ago
2. refill of nasocort

Objective:
Physical Examination Findings
1. pt request xray of tailbone because he feel down the steps 2 weeks ago - See EPHR 09/23/21, the pt has steady gait, no BM complaints.
2. Pt requesting refill of nasacort. will refer to provider to complete

Plan: referral to provider made for medication refill

MEDICATIONS

Brand Name	Dose	Sig Codes	Start Date	Stop Date
Muscle Rub	15 %-10 %	***See desc	09/23/2021	10/23/2021

ORDERS

ordered	Referral to Provider Eval and Treat	10/07/2021

Provider: Asresahegn Getachew, MD
Document generated by: Amy M. Booth, RN 10/07/2021 2:03 PM

Facility Name: WESTERN CORR (105) — PAGE: 1 of 1

EVERY ORDER MUST INCLUDE PRESCRIBER — Month/Year: September, 2021

DRUG – DOSE – MODE – INTERVAL – PRESCRIBER	HOUR 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31
LORATADINE (CLARITIN) 10MG TAB TAKE ONE BY MOUTH EVERY DAY Rx:30352716 PRESCRIBER: ASRESAHEGN GETACHEW, MD START DATE: 7/30/2021 STOP DATE: 9/30/2021 Initial: PC	S T O P
Patient Name: AKINOLA, RILWAN METHYL SALICYLATE/MENTHOL (MUSCLE RUB) (NF) apply to affected area PRN BID — 15 %-10 % / CREAM Diagnosis: 477515 PRESCRIBER: Asresahegn Getachew START DATE: 9/23/2021 1 STOP DATE: 10/23/2021 RN INIT: RB	
Patient Name: AKINOLA, RILWAN PAIN RELIEF - Do Not Substitute (NF) Follow directions on package — 325 mg / TABLET Diagnosis: 477515 PRESCRIBER: Asresahegn Getachew START DATE: 9/23/2021 1 STOP DATE: 9/29/2021 RN INIT: RB	
PRESCRIBER START DATE STOP DATE Initial	
PRESCRIBER START DATE STOP DATE Initial	
PRESCRIBER START DATE STOP DATE Initial	
PRESCRIBER START DATE STOP DATE Initial	
PRESCRIBER START DATE STOP DATE Initial	

ALLERGY: NO KNOWN DRUG ALLERGY

DIAGNOSIS: 4A12

PATIENT NAME: AKINOLA, RILWAN | ID: 477515 | D.O.B: 09/23/1982

DOCUMENTATION CODES = Reason Required on Back of MAR

DH - Dose Held	R - Refused	O - Other
OS - Off Site	LD - Lock Down	
P - Patient Unavailable	S - Self Administered	

RCI 0102

PRINTED NAME	SIGNATURE	DATE	INIT.
Atianjoh, Fidelis	Fidelis Atianjoh, RN		
~~Bascelli, Kaitlyn~~			
~~Bittinger, Sheryl~~			
Booth, Amy	Amy Booth LPN CB		
~~Browning, Ryan~~			
Clark, Jessica	Jessica Clark LPN		
Cobb, Priscilla	Priscilla Cobb PC		
Davis, Trinita	Trinita Davis		
[illegible]son, Stephanie	[illegible] D		
Hixenbaugh, Peggy	Peggy Hixenbaugh LPN		
Keister, Lori			
Lewis, Maria	Maria Lewis LPN		
Mace, Burnice			
Manning, Michelle	Manning, Michelle MM		
Martin, Carly			
Mongold, Blake			
Pryor, Sandra			
Raynor, William			
[illegible]r, Linda			
Thompson, Samantha	Samantha Thompson ST		
Uphole, Shauna			
Yeboah, Jacob	JY LPN		
KOKOE ASSIGNU	KOKOE ASSIGNU LPN		
Wilson, Nikki - N. Wilson	NW		
Beregar, Pamela - P. Beregar	PB LPN		
Lisa Stewart LPN - Lisa Stewart LPN			
Karen Ramsbury, RN - Karen Ramsbury RN			

PRN AND MEDICATIONS ADMINISTERED

DATE	TIME	DRUG/ STRENGTH	REASON	EFFECTIVE	NURSE INIT

MEDICATIONS NOT ADMINISTERED

DATE	TIME	DRUG/ STRENGTH	REASON	NURSE INIT

EXHIBIT F

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

RILWAN AKINOLA, Plaintiff, v. CORIZON HEALTH SERVICES, et al. Defendants.	Case No. 1:22-CV-00657-DKC

SUGGESTION OF BANKRUPTCY AND NOTICE OF AUTOMATIC STAY

Tehum Care Services, Inc. d/b/a Corizon Health, Inc. ("TCS" or the "Debtor"), one of the named defendants herein, files this *Suggestion of Bankruptcy and Notice of Automatic Stay* and would respectfully show as follows:

1. On February 13, 2023 (the "Petition Date"), TCS filed a voluntary petition pursuant to chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the "Bankruptcy Code"). The case is pending in the United States Bankruptcy Court for the Southern District of Texas, Houston Division, under Case No. 23-90086 (CML) (the "Chapter 11 Case").

2. As a result of the commencement of the Chapter 11 Case, section 362 of the Bankruptcy Code operates as a stay, applicable to all entities, of (i) commencement or continuation of a judicial, administrative or other action or proceeding against the Debtor that was or could have been commenced before the commencement of the Chapter 11 Case, or to recover a claim against the Debtor that arose before the commencement of the Chapter 11 Case; (ii) the enforcement, against the Debtor or against the property of their bankruptcy estates, of a judgment obtained before the commencement of the Chapter 11 Case; (iii) any act to obtain possession of property of the estate or of property from the estates or to exercise control over property of the Debtor's estate; and (iv) any act to create, perfect, or enforce a lien against property of the Debtors' estate.

3. The stay set forth in 11 U.S.C. § 362(a) became effective automatically upon the commencement of the Chapter 11 Case. If any party violates the stay, the Debtor may seek to have such actions deemed void, move for sanctions in the Bankruptcy Court and recover actual damages, including costs and attorneys' fees, arising from the violation of the stay.

MARKS, O'NEILL, O'BRIEN, DOHERTY & KELLY, P.C.

By: */s/ Megan T. Mantzavinos*

Megan T. Mantzavinos
Bar Number: 16416
mmantzavinos@moodklaw.com
600 Baltimore Avenue, #305
Towson, Maryland 21204
(410) 339-6880
(410) 339-6881 (Fax)
Attorney for Defendant Corizon Health Sources

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 21st day of February 2023, a copy of the foregoing document was electronically transmitted to this court and mailed first class, postage pre-paid to:

Rilwan Akinola #477515
Roxbury Corr. Inst
18701 Roxbury Road
Hagerstown, MD 21746
Pro Se Plaintiff

Via CM/ECF:
Beverly F. Hughes
Office of the Attorney General
Department of Public Safety and Correctional Services
6776 Reisterstown Road, Suite 311
Baltimore, MD 21215
Phone: 410-585-3916
Email: Beverly.hughes@maryland.gov
Attorney for MDOC Defendants

/s/ Megan T. Mantzavinos
Megan T. Mantzavinos

EXHIBIT G

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

RILWAN AKINOLA, Plaintiff, v. OFFICER LAVIN, CO II, *et al*., Defendants.	Civil Action No. DKC-22-657

ORDER

One of the Defendants, Corizon Health, Inc., has filed bankruptcy proceedings in which an automatic stay has been issued. Accordingly, it is hereby ORDERED that this case BE, and the same hereby IS, STAYED as to Corizon Health, Inc. and no further proceedings will take place concerning that defendant unless the stay is lifted.

Any other defendant that asserts that the bankruptcy stay applies (or has been extended to apply) to it must file a motion to that effect promptly.

/s/
Deborah K. Chasanow
United States District Judge

EXHIBIT H

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

RILWAN AKINOLA,

Plaintiff,

v.

CORIZON HEALTH SOURCES, *et al*.,

Defendants.

Civil Action No.: DKC-22-657

ORDER

This case is currently stayed as to defendant Corizon Health Sources, Inc. ECF No. 34. Prior to the initiation of Corizon's bankruptcy proceedings and the corresponding stay, Plaintiff Rilwan Akinola informed the court that institutional care had changed from Corizon to YesCare, and he attempted to add that entity as a defendant. ECF No. 6. However, the allegations in Mr. Akinola's complaint predate YesCare's provision of institutional medical care.[1] As such, the Clerk will be directed to remove YesCare from the docket. If Mr. Akinola believes he has claims against YesCare, he may pursue them in a separate civil action.

Accordingly, it is this 23rd day of March, 2023, by the United States District Court for the District of Maryland, hereby ORDERED that:

1. The Clerk IS DIRECTED to remove defendant YesCare from the docket; and

2. The Clerk will mail a copy of this Order to Mr. Akinola and transmit a copy to counsel of record.

/s/
DEBORAH K. CHASANOW
United States District Judge

[1] YesCare began providing correctional medical care on May 16, 2022. *See* Leading Healthcare Group Forms YesCare, Debuting New Vision and Leadership at https://www.businesswire.com/news/home/20220516005378/en/Leading-Healthcare-Group-Forms-YesCare-Debuting-New-Vision-and-Leadership#:~:text=About%20YesCare,and%20municipalities%20across%20the %20country (last visited March 22, 2023).

EXHIBIT I

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

RILWAN AKINOLA,

Plaintiff,

v.

OFFICER LAVIN, CO II, *et al*.,

Defendants.

Civil Action No. DKC-22-657

MEMORANDUM OPINION

Plaintiff Rilwan Akinola's complaint, filed pursuant to 42 U.S.C. § 1983, [1] (ECF No. 1-1) centers on an incident in which he slipped and fell, and his subsequent medical treatment for resulting injuries. *Id.* Remaining as defendants,[2] are Nurse Amy Stafford-Shroyer and Corizon Health, Inc.[3] Now pending before the court is a motion to dismiss filed by Corizon Health, Inc. and Nurse Stafford-Shroyer. (ECF No. 23). Mr. Akinola was informed of his right to respond (ECF No. 24), and he did so on February 28, 2023. (ECF No. 33). He has also filed a motion for leave to file medical evidence (ECF No. 26) and a declaration pursuant to Federal Rule of Civil Procedure 56(d) (ECF No. 27).

[1] Mr. Akinola's complaint (ECF No. 1-1) included an attachment (ECF No 1-2) which appears to be a duplicate copy of the complaint. This memorandum will only cite to the original complaint (ECF No. 1-1).

[2] The claims against Defendant Officer Lavin, CO II, were dismissed on February 22, 2023. (ECF No. 32).

[3] Mr. Akinola's complaint initially named "Corizon Health Sources" and "Nurse Amy." (ECF No. 1-1). These defendants were later identified by counsel as Corizon Health, Inc. (ECF No. 15) and Amy Stafford-Shroyer (ECF No. 17).

Corizon Health, Inc. ("Corizon") has filed bankruptcy proceedings in which an automatic stay has been issued. *See In re: Tehum Care Services, Inc*., Case No. 23-90086 (CML) (Bankr. S.D. Tex). Accordingly, the case is stayed as to Corizon and no further proceedings will take place concerning that defendant unless the stay is lifted. (ECF No. 34). The court will not address Corizon's portion of the pending motion to dismiss.

No hearing is deemed necessary as the issues as to Nurse Stafford-Shroyer's portion of the motion to dismiss have been fully briefed. *See* Local Rule 105.6 (D. Md. 2021). For the reasons set forth below, Nurse Stafford-Shroyer's portion of the motion to dismiss will be denied and Mr. Akinola's motion for leave to file medical evidence will be denied without prejudice.

BACKGROUND

On the morning of September 23, 2021, while confined at Western Correctional Institution ("WCI"), Mr. Akinola and his cell mate were escorted to use the showers by Officer Lavin. (ECF No. 1-1 at 1-2).[4] Following the shower, both inmates were escorted by Officer Lavin back to their cell. *Id.* at 2. Both inmates were handcuffed, but Officer Lavin was only physically supporting Mr. Akinola's cell mate. *Id.* Mr. Akinola then slipped and fell "while restrained in a fashion that prevented him from bracing for the fall" or "protecting himself." *Id.* He sustained injuries to his lower back, and left arm, hip, leg, and ankle. *Id.* He "remained in constant excruciating pain for hours." *Id.* Mr. Akinola states that he should have been escorted by an officer to support and prevent him from falling. *Id.*

Relevant to his claims against Nurse Stafford-Shroyer, Mr. Akinola states that he was in "constant excruciating pain" and he "complained of pain and multiple serious injuries, without

[4] Citations refer to the pagination assigned by the court's Case Management and Electronic Case File (CM/ECF) system.

receiving even the slightest medical attention." *Id.* at 2-3. Mr. Akinola states that, despite that allegation, Nurse Stafford-Shroyer "prescribed muscle rub, Tylenol" and "indicated not to worry because she was scheduling Plaintiff for a consultation or doctor's appointment for the injuries." *Id.* at 3. Mr. Akinola alleges that "no physical examination was done by" Nurse Stafford-Shroyer. *Id.* Further, despite a "barrage of sick-call requests," he was "never called to medical even one time!" *Id.* He states that Nurse Stafford-Shroyer works for Corizon Health, Inc., who is "contracted by the State of Maryland to provide constitutional minimums of medical treatment to Maryland prisoners." *Id.*

Mr. Akinola purports to assert claims stemming from this incident, including gross negligence; a violation of his First, Fourth, Sixth, and Eighth Amendment rights; and a violation of his right to procedural and substantive due process. *Id*. at 4-5. As to Nurse Stafford-Shroyer, Mr. Akinola states that she exhibited "deliberate medical indifference" by failing to perform her duties "in reckless disregard of the consequences as they affected [Mr. Akinola's] life, health, and safety." *Id.* The court is not obligated to accept Mr. Akinola's labels. Even if it were, it would be required to dismiss any claims inadequately stated because Mr. Akinola proceeds *in forma pauperis*. *See* 28 U.S.C. § 1915 (e)(2)(B)(ii). Based on the factual background set forth in the complaint and fully outlined above, the court finds that Mr. Akinola has not proffered facts alleging a violation of his rights to procedural or substantive due process, or his First, Fourth, or Sixth Amendment rights. Construing the complaint liberally, Mr. Akinola has, at best, put forth a claim that Nurse Stafford-Shroyer rendered inadequate medical care, violating his right to be free from

cruel and unusual punishment pursuant to the Eighth Amendment and has also raised a state law claim of gross negligence.[5] His complaint is therefore analyzed accordingly.

STANDARD OF REVIEW

A motion to dismiss pursuant to Rule 12(b)(6) "tests the sufficiency of the claims pled in a complaint." *Paradise Wire & Cable Defined Benefit Pension Plan v. Weil*, 918 F.3d 312, 317 (4th Cir. 2019). To overcome a Rule 12(b)(6) motion, a complaint must allege sufficient facts to state a plausible claim for relief. *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). A claim is plausible when "the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Id*.

In evaluating the sufficiency of the plaintiff's claims, "a court 'must accept as true all of the factual allegations contained in the complaint,' and must 'draw all reasonable inferences [from those facts] in favor of the plaintiff.'" *Retfalvi v. United States*, 930 F.3d 600, 605 (4th Cir. 2019) (alteration in original) (quoting *E.I. du Pont de Nemours & Co. v. Kolon Indus., Inc.*, 637 F.3d 435, 440 (4th Cir. 2011)). However, the complaint must contain more than "legal conclusions, elements of a cause of action, and bare assertions devoid of further factual enhancement[.]" *Nemet Chevrolet, Ltd. v. Consumeraffairs.com, Inc.*, 591 F.3d 250, 255 (4th Cir. 2009). Accordingly, in ruling on a motion brought under Rule 12(b)(6), a court "separat[es] the legal conclusions from the factual allegations, assum[es] the truth of only the factual allegations, and then determin[es] whether those allegations allow the court to reasonably infer that 'the defendant is liable for the

[5] Negligence is a state law tort claim. *See Stracke v. Est. of Butler*, 465 Md. 407, 420-21 (2019) ("simple negligence is 'any conduct, except conduct recklessly disregardful of an interest of others, which falls below the standard established by law for protection of others against unreasonable risk of harm.' On the other hand, this court has explained that 'gross negligence is an intentional failure to perform a manifest duty in reckless disregard of the consequences as affecting the life or property of another, and also implies a thoughtless disregard of the consequences without the exertion of any effort to avoid them.'") (internal citations omitted).

misconduct alleged.'" *A Society Without a Name v. Virginia*, 655 F.3d 342, 346 (4th. Cir. 2011), *cert. denied*, 566 U.S. 937 (2012) (quoting *Iqbal*, 556 U.S. at 1949-50).

When deciding a motion to dismiss under Rule 12(b)(6), a court typically considers only the complaint and any attached documents. *Sec'y of State for Defence v. Trimble Navigation Ltd*., 484 F.3d 700, 705 (4th Cir. 2007). The court may "consider documents . . . attached to the motion to dismiss, so long as they are integral to the complaint and authentic[.]" *Id*. (citation omitted).

Pro se complaints must be construed liberally and must be "held to less stringent standards than formal pleadings drafted by lawyers." *Erickson v. Pardus*, 551 U.S. 89, 94 (2007). "Dismissal of a pro se complaint for failure to state a valid claim is therefore only appropriate when, after applying this liberal construction, it appears '*beyond doubt* that the plaintiff can prove *no set of facts* in support of his claim which would entitle him to relief.'" *Spencer v. Earley*, 278 F. App'x 254, 259-60 (4th Cir. 2008) (emphasis in original) (quoting *Haines v. Kerner*, 404 U.S. 519, 521 (1972)). However, despite this liberal construction requirement, "[p]rinciples requiring generous construction of *pro se* complaints are not … without limits." *Beaudett v. City of Hampton*, 775 F.2d 1274, 1278 (4th Cir. 1985). Courts are not required to "conjure up questions never squarely presented to them" nor "construct full blown claims from sentence fragments." *Id.*

ANALYSIS

A. Res Judicata

Nurse Stafford-Shroyer first asserts that Mr. Akinola's claims are barred by the doctrine of res judicata. *Id.* at 4. She asserts that Mr. Akinola filed a complaint in state court naming the same medical defendants and alleging the same factual predicate. *Id*. at 5-6. She states that "the Court's Judgment issued against Plaintiff following trial on July 13, 2022, constituted a valid final

judgment on the merits by a court of competent jurisdiction and, therefore, Plaintiff's Complaint should be dismissed on the basis of res judicata." *Id.* at 6.

Res judicata is an affirmative defense. Fed. R. Civ. P. 8(c)(1). Affirmative defenses such as res judicata are not typically considered at the motion to dismiss stage, unless the facts sufficient to rule on the defense are alleged in the complaint. *Goodman v. Praxair, Inc*., 494 F.3d 458, 464 (4th Cir. 2007). That is plainly not the case here. Sometimes, a court may take judicial notice of a prior judicial proceeding without converting a motion to dismiss into one for summary judgment. *Andrews v. Daw*, 201 F.3d 521, 524 n.1 (4th Cir. 2000). Again, however, the facts revealed by the judicial notice must not be in dispute. And again, that is not the case here inasmuch as Nurse Stafford-Shroyer has failed to provide even a case number or any factual information about Mr. Akinola's state court case. On the current record, Defendant has not shown the applicability of the affirmative defense of res judicata as a ground to dismiss the complaint.

B. Failure to State a Claim

Further, Nurse Stafford-Shroyer argues that Mr. Akinola has failed to state a claim upon which relief can be granted. *Id.* at 6-8. She includes portions of Mr. Akinola's medical records with the motion to dismiss. (ECF No. 23-2).[6] Nurse Stafford-Shroyer argues that Mr. Akinola's "claims that [she] was deliberately indifferent to his medical needs are entirely unfounded and

[6] The court will not consider Nurse Stafford-Shroyer's proffered documents in reviewing the motion to dismiss as it does not find them integral to the complaint. Moreover, on December 5, 2022, Mr. Akinola filed a motion for leave to file medical evidence. (ECF No. 26). In the motion, he seeks to file physical therapy evaluations from September and October 2022, and medical discharge papers from Sinai Hospital in November 2022. *Id.* at 1-2. Mr. Akinola submits these documents to "continue [to] prove" that he "sustained injuries due to [his] slip and falling down the steps at Western Correctional Institution." *Id.* at 2. The motion will be denied without prejudice as these documents are not relevant to the court's consideration of the currently pending motion to dismiss. As the case progresses, Mr. Akinola may include these exhibits in subsequent filings if he feels that they are relevant and material.

baseless." (ECF 23-1 at 8). Accordingly, she requests that the court dismiss the complaint. *Id.* at 10.

Mr. Akinola was informed of his right to respond to the medical defendants' motion to dismiss (ECF No. 24) and was granted an extension within which to file his response (ECF No. 29). He filed his opposition on February 28, 2023. (ECF No. 33). He styles this opposition as a declaration pursuant to Federal Rule of Civil Procedure 56(d). *Id.* Therein, he avers that summary judgment would be inappropriate because he requires discovery in several areas. *Id.* However, at this point, Nurse Stafford-Shroyer has only moved to dismiss Mr. Akinola's complaint pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, not Rule 56. Thus, the court need not consider the declaration opposing summary judgment pursuant to Rule 56(d) and will instead construe this filing as an opposition to the motion to dismiss.

The Eighth Amendment proscribes "unnecessary and wanton infliction of pain" by virtue of its guarantee against cruel and unusual punishment. U.S. Const, Amend. VIII; *Gregg v. Georgia,* 428 U.S. 153, 173 (1976); *see Estelle v. Gamble*, 429 U.S. 97, 102 (1976); *King v. Rubenstein,* 825 F.3d 206, 218 (4th Cir. 2016). Notably, it "proscribes more than physically barbarous punishments." *Estelle*, 429 U.S. at 103. It also "embodies" the "'concepts of dignity, civilized standards, humanity, and decency …'" *Id.* (citation omitted). Thus, the Eighth Amendment "protects inmates from inhumane treatment and conditions while imprisoned." *Williams v. Benjamin*, 77 F.3d 756, 761 (4th Cir. 1996).

The Fourth Circuit has observed that "not all Eighth Amendment violations are the same: some constitute 'deliberate indifference,' while others constitute 'excessive force.'" *Thompson v. Virginia*, 878 F.3d 89, 97 (4th Cir. 2017) (quoting *Whitley v. Albers*, 475 U.S. 312, 319-20 (1986)). In general, the deliberate indifference standard applies to cases alleging failure to safeguard the

inmate's health and safety, including failing to protect inmates from attack, maintaining inhumane conditions of confinement, and failure to render medical assistance. *See Farmer v. Brennan*, 511 U.S. 825, 834 (1994); *Wilson v. Seiter*, 501 U.S. 294, 303 (1991); *Thompson*, 878 F.3d at 97. Because Mr. Akinola is arguing that Nurse Stafford-Shroyer rendered constitutionally inadequate medical care, only the deliberate indifference standard is applicable here.

In order to state an Eighth Amendment claim for denial of medical care, a plaintiff must demonstrate that the actions of the defendant, or her failure to act, amounted to deliberate indifference to a serious medical need. *See Estelle*, 429 U.S. at 106; *Jackson v. Lightsey*, 775 F.3d 170, 178 (4th Cir. 2014); *Iko v. Shreve*, 535 F. 3d 225, 241 (4th Cir. 2008). The Fourth Circuit has characterized the applicable standard as an "exacting" one. *Lightsey*, 775 F.3d at 178. Deliberate indifference to a serious medical need requires proof that, objectively, the prisoner plaintiff was suffering from a serious medical need and that, subjectively, the prison staff were aware of the need for medical attention but failed either to provide it or to ensure the needed care was available. *See Farmer*, 511 U.S. at 837; *see also Hudson v. McMillian*, 503 U.S. 1, 9 (1992). The Fourth Circuit has said: "True subjective recklessness requires knowledge both of the general risk, and also that the conduct is inappropriate in light of that risk." *Rich v. Bruce*, 129 F.3d 336, 340 n.2 (4th Cir. 1997). "Actual knowledge or awareness on the part of the alleged inflicter . . . becomes essential to proof of deliberate indifference 'because prison officials who lacked knowledge of a risk cannot be said to have inflicted punishment.'" *Brice v. Va. Beach Corr. Center*, 58 F.3d 101, 105 (4th Cir. 1995) (quoting Farmer, 511 U.S. at 844).

Moreover, an inmate's mere disagreement with medical providers as to the proper course of treatment also does not support a claim under the deliberate indifference standard. *See Wright v. Collins*, 766 F.2d 841, 849 (4th Cir. 1985); *Wester v. Jones*, 554 F.2d 1285 (4th Cir. 1977).

Rather, a prisoner-plaintiff must show that the medical provider failed to make a sincere and reasonable effort to care for the inmate's medical problems. *See Startz v. Cullen*, 468 F.2d 560, 561 (2d Cir. 1972); *Smith v. Mathis*, PJM-08-3302, 2012 WL 253438, at * 4 (D. Md. Jan. 26, 2012), aff'd, 475 F. App'x 860 (4th Cir. 2012).

Mr. Akinola states in his complaint that he was left in "constant excruciating pain for hours[,]" and that despite his requests for assistance he did not receive "even the slightest medical attention." (ECF No. 1-1 at 2-3). Mr. Akinola avers that despite his "extreme pain, discomfort, and concern for permanent injury," Nurse Stafford-Shroyer prescribed muscle rub and Tylenol without physically examining him. *Id.* at 3. He states that although Nurse Stafford-Shroyer advised him that she would schedule him for a follow-up consultation with a doctor, no follow-up appointment occurred. *Id.* Despite a "barrage of sick-call requests," Mr. Akinola was "never called to medical even one time!" *Id.*

Accepting all factual allegations as true and drawing all reasonable inferences therefrom in favor of Mr. Akinola, as the court must when evaluating a motion to dismiss, *see Retfalvi v. United States*, 930 F.3d 600, 605 (4th Cir. 2019), Mr. Akinola has put forth facts plausibly alleging that Nurse Stafford-Shroyer violated his constitutional rights. He alleges that additional, and more intensive, medical care was needed that day and this defendant failed to provide such care or schedule the necessary follow-up appointments. From these facts, the court cannot find that Nurse Stafford-Shroyer is entitled to dismissal of all claims against her under Rule 12(b)(6) of the Federal Rules of Civil Procedure. Nurse Stafford Shroyer's motion to dismiss must be denied.[7]

[7] Because Mr. Akinola's federal claim has not been dismissed, the court leaves open the possibility that, if the case proceeds, it may exercise supplemental jurisdiction and consider his state law negligence claims pursuant to 28 U.S.C. § 1367(a).

CONCLUSION

For the foregoing reasons, Nurse Stafford-Shroyer's motion to dismiss will be denied and Mr. Akinola's "motion for leave to file medical evidence" (ECF No. 26) will be denied without prejudice. A separate Order follows.

May 9, 2023

/s/
DEBORAH K. CHASANOW
United States District Judge

EXHIBIT J

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

RILWAN AKINOLA, Plaintiff, v. OFFICER LAVIN, CO II, *et al*., Defendants.	Civil Action No. DKC-22-0657

ORDER

For the reasons stated in the foregoing memorandum opinion, it is this 9th day of May, 2023, by the United States District Court for the District of Maryland, hereby ORDERED that:

1. Defendant Amy Stafford-Shroyer's motion to dismiss (ECF No. 23) IS DENIED;
2. Plaintiff's motion for leave to file medical evidence (ECF No. 26) is DENIED without prejudice; and
3. The Clerk SHALL SEND a copy of this Memorandum Opinion and Order to Plaintiff and to counsel of record.

_____/s/_____
DEBORAH K. CHASANOW
United States District Judge

EXHIBIT K

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

RILWAN AKINOLA, Plaintiff, v. AMY STAFFORD-SHROYER, et al. Defendants.	Case No. 1:22-CV-00657-DKC

ANSWER TO PLAINTIFF'S COMPLAINT

Amy Stafford Shroyer (hereinafter referred to as "Defendant"), by and through her undersigned counsel, answers the Complaint, as follows:

GENERAL DENIAL

Defendant generally DENIES all allegations of negligence, wrongdoing or breach of the standards of care as set forth in the Complaint and further denies any and all liability.

FIRST AFFIRMATIVE DEFENSE

Plaintiff fails to state a claim upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

Defendant at all times complied with the applicable standard of care and in no way was negligent.

THIRD AFFIRMATIVE DEFENSE

The negligence alleged by Plaintiff and denied by Defendant was not the proximate cause of any injuries or damages which are claimed by the Plaintiff.

FOURTH AFFIRMATIVE DEFENSE

Any injuries and/or damages suffered by the Plaintiff are the result of pre-existing medical conditions, circumstances, or actions of others over which Defendant had no prior, actual or apparent, knowledge, authority, and/or control.

FIFTH AFFIRMATIVE DEFENSE

Defendant performed each and every duty owed to the Plaintiff.

SIXTH AFFIRMATIVE DEFENSE

Plaintiff assumed the risk.

SEVENTH AFFIRMATIVE DEFENSE

Plantiff's Claims are barred by Release.

EIGHTH AFFIRMATIVE DEFENSE

Any non-economic damages are capped by the appropriate section of the Courts & Judicial Proceedings Article.

NINTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred due to Plaintiff's contributory negligence.

TENTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred by their failure to mitigate damages.

ELEVENTH AFFIRMATIVE DEFENSE

The Complaint fails to allege a prima facie case of deliberate indifference.

TWELFTH AFFIRMATIVE DEFENSE

Defendant incorporates herein all other affirmative defenses permitted by FRCP Rule 8.

THIRTEENTH AFFIRMATIVE DEFENSE

Defendant hereby reserves the right to raise such other defenses as discovery may disclose.

WHEREFORE, having fully answered, Defendant prays that the Complaint against her be dismissed with prejudice.

Respectfully submitted,

MARKS, O'NEILL, O'BRIEN, DOHERTY & KELLY, P.C.

/s/ Megan T. Mantzavinos
Megan T. Mantzavinos (ID No. 16416)
mmantzavinos@moodklaw.com
Marks, O'Neill, O'Brien, Doherty & Kelly, P.C.
600 Baltimore Avenue, Suite 305
Towson, Maryland 21204
(410) 339-6880 Office
(410) 339-6881 Fax
Attorneys for Defendant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 27th day of June 2023, a copy of the foregoing document was electronically transmitted to this court and mailed first class, postage pre-paid to:

Rilwan Akinola #477515
Roxbury Corr. Inst
18701 Roxbury Road
Hagerstown, MD 21746
Pro Se Plaintiff

By: */s/ Megan T. Mantzavinos*
Megan T. Mantzavinos

EXHIBIT L

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

RILWAN AKINOLA, *

Plaintiff

v. * Civil Action No. DKC-22-0657

*

AMY STAFFORD-SHROYER,

Defendant *

.....

MOTION TO PROCEED AGAINST AMY STAFFORD-SHROYER

Now comes the Plaintiff, Rilwan Akinola, pro se, and in accordance to the Federal Rules of Civil Proc. respectfully requesting permission to proceed against the above Defendant, and in support states;

1. On the 9th day of May, 2033, Honorable Deborah K. Chasanow issued an Order, DENYING Defendant Amy Stafford-Shroyer's Motion to Dismiss;

2. The Court further denied Plaintiff's Motion for Leave to file medical evidence, and did so without prejudice;

3.Plaintiff seeks permission to pursue relief through claims previously raised against the defendant. If it

is necessary that a schedule be issued by the court setting forth the time for filing pleadings, the Plaintiff will follow that schedule.

THEREFORE, Plaintiff asks this Honorable Court to grant relief on the merits.

Respectfully submitted ;

RILWAN AKINOLA,#477515
DCRF
2020 TOULSON RD
JESSUP, MD 20794

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion To proceed against Defendant Amy Stafford-Shroyer, was mailed this 25 day of July ,2023 to:

ATTN: Clerk of the court
United States District Court
District of Maryland

101 W. Lomard Street

Baltimore, MD 21201-2691

RILWAN AKINOLA

MR. RILWAN AKINOLA.#477515
DORSEY RUN CORR. FACILITY
2020 TOULSON ROAD
JESSUP, MD 20794

CAPITAL DISTRICT 208

27 JUL 2023 PM 2 L

ATTN: CLERK OF THE COURT
UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND
101 W. LOMBARD STREET
BALTIMORE, MD 21201-2691

21201-260599

P7

EXHIBIT M

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

Rilwan Akinola,
Plaintiff,
v.
Amy Stafford Shroyer, et al,
Defendants.

Civil Action No.: DKC-22-657

Dear Judge Chasanow,

Im writing to the court that I still want to proceed with this case. I request reconsideration of this motion. Your Honor Chasanow, within 18 months Ive transferred to Baltimore City Correctional Center, to Dorsey Run Correctional and Roxbury Correctional center. Each facility correctional officer with thru my property and missed place alot of my paper work. When asked about it, I get the runarounds. Im currently at Roxbury Correctional institution and its hard to make copies, its hard to get to the library because this facility always on lock down and this facility is on modified lock down because of short staff. Preciously, I was getting assistence from other inmates on writing motions to the courts etc. Its hard because Im always in the cell.

I can't get on the phone to try to obtain an attorney because you can't make 3-way calls. If you do the phone will hang up. I really need an attorney to assist me with this matter.

I was hoping I can get some time to obtain an attorney or if the courts can appoint me one. I thought I was going to be release from confinement but as of today my release date is not til March 17, 2025 but its subject to change. Again, I apologize to the courts for not responding in a timely fashion. I really need some help with this case. I tried my hardest to get the help I need.

Sincerely Yours
Rizwan Afzal

Certificate of Service

I hereby certify that a copy of the foregoing Petition for Judicial Review was mailed first-class mail this 4th Day of March, 2024 TO:

The United States District Court
for the District of Maryland

6500 Cherrywood Lane
Greenbelt, Maryland 20770

Rilwan Akinola
Rilwan Akinola, #477515
Roxbury Correctional Inst.
18701 Roxbury Road
Hagerstown, MD 21746

Rikwan Alcindor #477-665
RCI
18701 Roxbury Road
Hagerstown, MD 21746

BALTIMORE MD 212
5 MAR 2024 PM 2 L

The United States District Court
For the District of Maryland
Greenbelt, MD 20770

FILED
LOGGED
ENTERED
RECEIVED
MAR 07 2024
AT GREENBELT
CLERK, U.S. DISTRICT COURT
DISTRICT OF MARYLAND
BY DEPUTY

03/05/2024
INMATE
RCI
20770-999955

EXHIBIT N

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

RILWAN AKINOLA, Plaintiff, v. AMY STAFFORD SHROYER, *et al,* Defendants.	Civil Action No.: DKC-22-657

ORDER

Upon consideration of the motion for appointment of counsel filed by Plaintiff, Rilwan Akinola, and pursuant to the court's requirement that members of the bar make themselves available from time to time to act as *pro bono* counsel, it is this 4th day of April, 2024, hereby ORDERED that:

1. Martin S. Himeles, Jr., of the firm Zuckerman Spaeder, LLP, 100 E. Pratt Street, Suite 2440, Baltimore, MD 21202, 410-949-1144 IS APPOINTED to represent Plaintiff in the above-captioned civil action without compensation, except as allowed by any applicable statute and except that allowable expenses may be reimbursed in accordance with Appendix C to the Local Rules. ***Expenses are limited to a total of $15,000 per case unless otherwise requested by counsel with advance approval by the presiding judge and the Court's Attorney Admissions Fund Committee*.**

2. Said attorney may file a Motion for Reconsideration of this appointment within fourteen (14) days of this Order and show good cause why he is unable to accept the appointment. Such motion shall be filed electronically with the undersigned judge, but may, at the option of the

attorney, be filed using the "ex parte" function in CM/ECF (see Ex Parte Matters in the Electronic Case Filing Civil Procedures).

3. In order to assist in performing a conflict check, the Clerk shall provide counsel a copy of the docket sheet and the initial complaint, along with the form to Request Reimbursement of Expenses. Insofar as possible, a brief written synopsis of the case may also be provided to counsel.

4. The Clerk will enter the appearance of counsel.

_____/s/_____
DEBORAH K. CHASANOW
United States District Judge

Instructions for Pro Bono Counsel

1. Documents previously filed in this case are available electronically through PACER. Counsel is eligible to obtain an exempt PACER account for use on this case. To register for a PACER account, go to www.pacer.uscourts.gov . A copy of this order must be faxed to PACER at 210-301-6441 to establish fee-exemption.

2. If you are not a CM/ECF user with this court, you must complete an on-line registration form. Go to the Court's website, www.mdd.uscourts.gov , from the **CM/ECF** tab, select **CM.ECF Registration – Attorney Registration Form**, complete the form and **Submit**. Information about electronic filing procedures and requirements is available on the website. Please note that if this case is subject to electronic filing, any documents submitted for filing in paper format may be returned to you. The Court does not mail paper copies of orders and other documents that are filed electronically.

3. Requests for Reimbursement of Expenses - Upon completion of the form, file the request electronically in **CM/ECF** using the **Request by Court-Appointed Counsel for Reimbursement of Expenses Event** under **Other Filings/Other Documents**.

4. If this appointment is to represent a litigant currently housed in a prison facility, please be sure to include the inmate's identification number on the envelope to ensure any mailings are delivered to the inmate.

EXHIBIT O

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
(Northern Division)

RILWAN AKINOLA, Plaintiff, v. OFFICER DARRELL LAVIN, AMY STAFFORD-SHROYER, R.N, Defendants.	Case No. 1:22-CV-00657-DKC

MOTION TO AMEND OPERATIVE COMPLAINT

Plaintiff Rilwan Akinola, by and through his attorneys, moves pursuant to Fed. R. Civ. P. 15(a)(2) and Local Rule 103.6 for leave for Mr. Akinola to file an Amended Complaint to add additional facts in support of his previously dismissed claims against Defendant Correctional Officer Darrell Lavin. The grounds for this Motion are fully set forth in the accompanying Memorandum of Law.

Respectfully submitted,

/s/ Ben Jernigan
J. Benjamin Jernigan (admitted *pro hac vice*)
Zuckerman Spaeder LLP
1800 M Street, NW, Suite 1000
Washington, DC 20036
Tel.: (202) 778-1800
Fax: (202) 822-8106
E-mail: bjernigan@zuckerman.com

/s/ Martin S. Himeles, Jr.
Martin S. Himeles, Jr.
(D. Md. Bar No. 03430)
ZUCKERMAN SPAEDER LLP
100 East Pratt Street, Suite 2440
Baltimore, MD 21202
Tel: 410-949-1159
Fax: 410-659-0436
E-mail: mhimeles@zuckerman.com

Attorneys for Plaintiff Rilwan Akinola

LOCAL RULE 103.6(D) CERTIFICATION

Pursuant to Local Rule 103.6(d), counsel for Mr. Akinola emailed counsel for the Defendants to determine whether they will consent to Mr. Akinola's filing of an Amended Complaint. Counsel for Defendant Stafford-Shroyer indicated that Defendant Stafford-Shroyer consents to the filing of the proposed Amended Complaint insofar as it relates to the claims against Defendant Stafford-Shroyer. Defendant Lavin does not consent.

CERTIFICATE OF SERVICE

I hereby certify that on this 13th of September 2024, a copy of the foregoing Consent Motion and all attachments was served upon all counsel of record via CM/ECF.

/s/ Ben Jernigan
J. Benjamin Jernigan

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
(Northern Division)

RILWAN AKINOLA, Plaintiff, v. OFFICER DARRELL LAVIN, AMY STAFFORD-SHROYER, R.N, Defendants.	Case No. 1:22-CV-00657-DKC

PLAINTIFF'S MEMORANDUM OF LAW IN
SUPPORT OF MOTION FOR LEAVE TO AMEND

J. Benjamin Jernigan (admitted *pro hac vice*)
Zuckerman Spaeder LLP
1800 M Street, NW, Suite 1000
Washington, DC 20036
Tel.: (202) 778-1800
Fax: (202) 822-8106
E-mail: bjernigan@zuckerman.com

Martin S. Himeles, Jr.
(D. Md. Bar No. 03430)
ZUCKERMAN SPAEDER LLP
100 East Pratt Street, Suite 2440
Baltimore, MD 21202
Tel: 410-949-1159
Fax: 410-659-0436
E-mail: mhimeles@zuckerman.com

Attorneys for Plaintiff Rilwan Akinola

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Plaintiff Rilwan Akinola moves pursuant to Federal Rule of Civil Procedure 15(a)(2) and Local Rule 103.6, and, in the alternative, pursuant to Federal Rule of Civil Procedure 54(b), Federal Rule of Civil Procedure 15(a)(2), and Local Rule 103.6, to amend his Complaint to add additional facts in support of his previously dismissed claims against Defendant Correctional Officer Darrell Lavin.[1]

Like the original Complaint, the proposed Amended Complaint (attached hereto as Exhibit 1) brings a claim pursuant to 42 U.S.C. § 1983 alleging Eighth Amendment violations and a gross negligence claim against Defendant Lavin based on the allegation that Defendant caused Mr. Akinola to fall and sustain serious injuries by ordering Mr. Akinola to walk down a slippery steel staircase, unaccompanied, while Mr. Akinola was handcuffed with his hands behind his back, wet from having taken a shower, and unsupported. Defendant Lavin then delayed procuring timely medical attention for Mr. Akinola.[2] The proposed Amended Complaint adds additional factual allegations in support of these claims. In particular, the new allegations make clear that Mr. Akinola's injury did not result from an unavoidable slip-and-fall accident. Instead, Defendant Lavin understood the risks to Mr. Akinola, and Mr. Akinola and his cell mate pointed them out to him. Rather than taking readily available precautionary measures, Defendant Lavin then affirmatively and intentionally ordered Mr. Akinola to put his personal safety in jeopardy. The Court should grant leave to amend because the proposed amendment is not futile, does not

[1] The attached proposed Amended Complaint (Exhibit 1) also amends Plaintiffs' pending claims against Defendant Stafford-Shroyer. Defendant Stafford-Shroyer consented in writing to the filing of the proposed amendment by way of an email from her counsel, so leave of Court is not required for the amendment insofar as it relates to the claims against Defendant Stafford-Shroyer. Fed. R. Civ. P. 15(a)(2) ("[A] party may amend its pleading only with the opposing party's written consent or the court's leave.").

[2] Consistent with Local Rule 103.6(c), because Mr. Akinola was self-represented when he filed the original Complaint, a redlined copy of the Amended Complaint is not attached and would not be instructive.

prejudice Defendant Lavin, and is not brought in bad faith. In the alternative, the Court should grant limited reconsideration of its order dismissing the original Complaint's claims against Defendant Lavin to specify that this dismissal was without prejudice, and then grant leave to amend.[3]

I. BACKGROUND

A. Factual Background[4]

On the morning of September 23, 2021, Plaintiff Rilwan Akinola was incarcerated at Western Correctional Institution. Defendant Darrell Lavin, a correctional officer, transported Mr. Akinola and his cellmate Michael Wilson to take showers on a separate floor. After showering, and still within the shower area, Mr. Akinola changed from his shower shoes back into his regular shoes, which became wet from the water in the shower area. Defendant Lavin returned to transport both inmates back down the steel staircase to their cells. He handcuffed both inmates with both hands behind their backs and proceeded to transport them. As Defendant Lavin knew, this was a violation of prison policy requiring that each shackled inmate should be escorted by an individual officer during transport. Ex. 1 ¶¶ 11–20.

Nevertheless, without any officer present to escort Mr. Akinola, Defendant Lavin ordered him to "come out" of the shower area gate and walk toward the staircase, roughly five steps away. *Id.* ¶ 23. Mr. Akinola, realizing that a second officer required under policy would help guard him against the safety risks of proceeding down a slick steel staircase, wet from a shower, and unable

[3] Pursuant to Local Rule 103.6(d), counsel for Mr. Akinola requested consent from counsel for Defendant Lavin. Defendant Lavin does not consent.

[4] This section summarizes the allegations in the proposed Amended Complaint as they concern the claims at issue in the instant motion, namely those against Defendant Lavin. As Defendant Stafford-Shroyer has consented to the filing of the Amended Complaint regarding claims against Defendant Stafford-Shroyer, this section does not focus on the allegations relevant to those claims.

to support himself with his hands cuffed behind his back, remarked on the policy violation to Defendant Lavin: "[I]t's only you—where is the other officer at." *Id.* ¶ 21. But Defendant Lavin disregarded this concern, told Mr. Akinola that he would "be fine," and reiterated his order to walk out of the gate and down the stairs: "I'm giving you a direct order," said Defendant Lavin. *Id.* ¶ 23.

Defendant Lavin was rushing and moving very quickly. He repeatedly ordered Mr. Akinola to "go ahead" and walk down the stairs. *Id.* ¶ 25. Defendant Lavin *was* escorting Mr. Wilson, whom he lined up closely behind plaintiff. Defendant Lavin pressed Mr. Wilson forward so quickly that he pushed up against Mr. Akinola's heels—forcing Mr. Akinola onward toward the stairs. Mr. Wilson pleaded with Defendant Lavin to slow down because it was wet. *Id.* But Defendant Lavin refused, and instead pressed quickly ahead. Mr. Akinola, without any choice, but with wet shoes and cuffed hands that prevented him from grabbing hold of the railing, did as he was ordered and walked down the stairs. "Predictably, Mr. Akinola took 3-4 steps, slipped, and fell. With his hands shackled behind his back, he could not break this fall. He fell all the way to the bottom of the stairwell—roughly 20 steps." *Id.* ¶¶ 28–39. Mr. Akinola suffered serious injuries from the fall, including to his left knee, which became severely swollen and caused Mr. Akinola excruciating pain. He could barely walk. *Id.* ¶¶ 30–31.

Mr. Akinola informed Defendant Lavin of his injuries as Defendant Lavin escorted him back to his cell, and told Defendant Lavin he needed immediate medical attention. Defendant Lavin said he would procure medical attention but did not do so quickly enough. Mr. Akinola languished in his cell in pain, so much so that his cell mate banged on the door in an effort to get authorities' attention. Defendant Lavin returned an hour or two after he had first escorted Mr. Akinola to his cell. But Defendant Lavin was not there to escort Mr. Akinola to a medical appointment; he informed Mr. Akinola that he "was working on" medical attention. Finally, a least

three to four hours after he had ordered Mr. Akinola down the stairs, Defendant Lavin returned again and took Mr. Akinola to see Defendant Nurse Amy Stafford-Shroyer. *Id.* ¶¶ 31–32.

B. Procedural Background

After exhausting administrative remedies, Mr. Akinola filed a Complaint in federal court, alleging, among things, 42 U.S.C. § 1983/Eighth Amendment and gross negligence claims against Defendant Lavin. (The Complaint also brought 42 U.S.C. § 1983/Eighth Amendment claims against Defendant Stafford-Shroyer based on deficiencies in the care Mr. Akinola received after his fall). Compl., ECF No. 1-1 (Mar. 17, 2022). The Court granted Defendant Lavin's Motion to Dismiss, or, in the Alternative, Motion for Summary Judgment, which the Court construed as a motion to dismiss for failure to state a claim. Order, ECF No. 32 (Feb. 22, 2023) (hereinafter the "Def. Lavin Dismissal Order"). In its accompanying Memorandum Opinion, the Court concluded that "[m]ost slip and fall cases, particularly in shower areas, present claims of simple negligence" and therefore do not support the higher culpability/state-of-mind element necessary to make out an Eighth Amendment claim, namely the officer's deliberate indifference to a serious risk of harm to an inmate's safety. Memorandum Opinion (Mem. Op.) at 8–10 (Feb. 22, 2023). The Court further concluded that Mr. Akinola had at most alleged negligence, and had not allege deliberate indifference: "Officer Lavin's decision to escort Mr. Akinola's cell mate, and not to call for another officer to assist in escorting Mr. Akinola, at best amounts to an error in judgment . . . ." *Id.* at 9–10. Similarly, the Court held that because Mr. Akinola had eventually received attention from Defendant Stafford-Shroyer, Mr. Akinola had not stated an Eighth Amendment claim based on Defendant Lavin's failure to render timely medical assistance. Having dismissed all federal claims, the Court declined to exercise supplemental jurisdiction over the state-law claims. *Id.* at 4. Accordingly, the Court entered an order dismissing the federal claims for failure to state a claim,

and the state claims without prejudice. Def. Lavin Dismissal Order. The order did not state whether the dismissal of the federal claims was with or without prejudice.

Defendant Stafford-Shroyer also filed a motion to dismiss, which the Court denied. The Court appointed undersigned counsel to represent Mr. Akinola, and, upon consideration of a joint proposal from the then-existing parties (Defendant Stafford-Shroyer and Mr. Akinola), ordered that "[s]hould Plaintiff decide to file an amended complaint, he must do so by 9/13/24." Paperless Order, ECF No. 53 (July 12, 2024).

II. ARGUMENT

Federal Rule of Civil Procedure 15(a)(2) governs Mr. Akinola's motion for leave to amend. Granting leave to amend does not require reconsideration of the Court's order dismissing the original Complaint's claims against Defendant Lavin, so the standards governing motions for reconsideration do not apply. Under Rule 15(a)(2), the Court should grant leave so long as the proposed amendment is not futile, does not prejudice the opposing party, and does not represent bad faith. The proposed Amended Complaint satisfies each of these elements, so the Court should grant leave to amend.

In the alternative, should the Court conclude that reconsideration of its prior dismissal is a necessary prerequisite to granting leave to amend, a limited reconsideration is appropriate under Federal Rule of Civil Procedure 54(b) because Mr. Akinola's limited pro se presentation capabilities deprived the Court of the opportunity to analyze the true nature of his claims, and because Mr. Akinola did not receive an opportunity to amend his claims before they were denied with prejudice. The Court should revise its order to specify that its prior dismissal was without prejudice, and then grant leave to amend pursuant to Rule 15(a)(2).

A. Rule 15(a)(2) Establishes the Standard Governing Mr. Akinola's Motion for Leave to Amend

Rule 15(a)(2) provides, in relevant part, that "[t]he court should freely give leave [to amend] when justice so requires." Fed. R. Civ. P. 15(a)(2). Rule 15 reflects the "the federal policy in favor of resolving cases on their merits instead of disposing of them on technicalities." *Matrix Cap. Mgmt. Fund, LP v. BearingPoint, Inc.*, 576 F.3d 172, 193 (4th Cir. 2009) (citation omitted). As the Supreme Court has emphasized, "[i]f the underlying facts or circumstances relied upon by a plaintiff may be a proper subject of relief, he ought to be afforded an opportunity to test his claim on the merits." *Foman v. Davis*, 371 U.S. 178, 182 (1962). Consistent with that liberal policy of amendment, the Fourth Circuit "reads Rule 15(a) to mean that leave to amend should be denied only when the amendment would be prejudicial to the opposing party, there has been bad faith on the part of the moving party, or amendment would be futile." *Matrix*, 576 F.3d at 193.

Rule 15(a)(2) standards—and not the distinct standards governing motions for reconsideration—govern Mr. Akinola's motion for leave to amend "even though the Court previously dismissed the claims at issue[,]" and even assuming the Court did so "with prejudice."[5] *Ogunsula v. Maryland State Police*, Civil No. ELH-20-2568, 2022 WL 3290713, at *13 (D. Md. Aug. 11, 2022).

The Court's order dismissing the original Complaint's claims against Defendant Lavin was an interlocutory order; there was no final judgment. The order did not dispose of the claims against Defendant Stafford-Shroyer, which remain pending. The Court did not enter final judgment or make a finding—a prerequisite for entry of judgment against one party in a case in which claims against other parties remain pending—that there was no just reason for delay of final judgment

[5] The Court's order did not specify whether its dismissal of the original Complaint's claims against Defendant Lavin was with or without prejudice. Def. Lavin Dismissal Order.

regarding Defendant Lavin. Therefore, the Def. Lavin Dismissal Order "d[id] not end the action" even as to the claims against Defendant Lavin. Fed. R. Civ. P. 54(b) ("When an action presents more than one claim for relief—whether as a claim, counterclaim, crossclaim, or third-party claim—or when multiple parties are involved, the court may direct entry of a final judgment as to one or more, but fewer than all, claims or parties only if the court expressly determines that there is no just reason for delay. Otherwise, any order or other decision, however designated, that adjudicates fewer than all the claims or the rights and liabilities of fewer than all the parties does not end the action as to *any* of the claims or parties and may be revised at any time before the entry of a judgment adjudicating all the claims and all the parties' rights and liabilities" (emphasis added)); *AdvanFort Co. v. Int'l Registries, Inc.*, No. 1:15-CV-220, 2015 WL 4254988, at *3 (E.D. Va. July 13, 2015) ("Because the Court did not certify its decision under the first clause of [Rule 54(b)] by 'expressly determin[ing] that there is no just reason for delay,' the dismissal order at issue is an interlocutory order . . . ."). The prior dismissal, with or without prejudice, does not foreclose amendment of the Complaint as long as no final judgment has been entered.

Moreover, granting Mr. Akinola leave to amend cannot require reconsideration of the court's interlocutory opinion and order, because it does not require the Court to address the issue on which it previously ruled. The Court found that the *original* Complaint did not sufficiently state a claim. The Court must now answer the distinct question whether the proposed Amended Complaint—including its new factual allegations that cure the pleading deficiencies the Court identified—is futile, brought in bad faith, or would cause prejudice under Rule 15(a)(2). The separate standards governing motions for reconsideration of interlocutory orders pursuant to Rule 54(b) do not come into play. *See Pennsylvania Transportation Auth. v. Orrstown Fin. Servs., Inc.*, 335 F.R.D. 54, 74 (M.D. Pa. 2020) (holding that Rule 54(b) reconsideration standards did not

govern a motion for leave to amend previously dismissed claims where the motion did not "ask the Court to reconsider its analysis of the [previous complaint] as contained in its December 7, 2016 [dismissal] Memorandum and Order, but s[ought] to assert new factual allegations addressing previously-identified pleading deficiencies[,]" including because "the 'law of the case' doctrine does not apply in the situation where an amended complaint contains significant new factual allegations"), *aff'd*, 12 F.4th 337 (3d Cir. 2021); *cf. AdvanFort Co.*, 2015 WL 4254988, at *4 ("'[O]ne difference between a pre-and a post-judgment motion to amend: the district court may not grant the postjudgment motion unless the judgment is vacated pursuant to Rule 59(e) or Fed. R. Civ. P. 60(b).' . . . Conversely, then, a plaintiff need not have an interlocutory order dismissing its claim with prejudice vacated under Rule 59(e) prior to seeking leave to amend its complaint." (quoting *Laber v. Harvey*, 438 F.3d 404, 427 (4th Cir. 2006)).

Indeed, even in cases in which there *has* been a final judgment that would have to be altered pursuant to Federal Rule of Civil Procedure 59(e) in order to make way for an amended complaint, courts in the Fourth Circuit apply the liberal Rule 15(a)(2) amendment standards, and not the more stringent motion-to-vacate standards. *Katyle v. Penn Nat'l Gaming, Inc.*, 637 F.3d 462, 470–71 (4th Cir. 2011) ("[A] district court may not grant a post-judgment motion to amend the complaint unless the court first vacates its judgment pursuant to Fed. R. Civ. P. 59(e) or 60(b). To determine whether vacatur is warranted, however, the court need not concern itself with either of those rules' legal standards. The court need only ask whether the amendment should be granted, just as it would on a prejudgment motion to amend pursuant to Fed. R. Civ. P. 15(a). In other words, a court should evaluate a postjudgment motion to amend the complaint 'under the same legal standard as a similar

motion filed before judgment was entered— for prejudice, bad faith, or futility.'" (internal citations omitted)).[6]

Based on these principles, courts within the District of Maryland and the Fourth Circuit have held that the Rule 15(a)(2) standards, rather than Rule 54(b) reconsideration standards, govern a motion for leave to amend claims that have already been dismissed, including with prejudice, by way of an interlocutory order. As Judge Hollander explained:

> Plaintiff's motion for leave to amend is governed by Fed. R. Civ. P. 15(a)(2). This rule applies even though the Court previously dismissed the claims at issue with prejudice. Indeed, the Fourth Circuit has made clear that a district court should evaluate even a "postjudgment motion to amend the complaint 'under the same legal standard as a similar motion filed before judgment was entered,'" i.e., Rule 15(a)(2). *It would be incongruous to subject plaintiff to a higher standard for amendment prior to final judgment.*

Ogunsula, 2022 WL 3290713, at *13 (quoting *Katyle*, 637 F.3d at 471; other citations omitted) (emphasis added). Other courts within and outside the Fourth Circuit have reached the same conclusion. *Hamstead v. W. Virginia State Police*, No. 3:18-CV-79, 2019 WL 12313517, at *3 (N.D.W. Va. Jan. 7, 2019) ("[T]he inquiry regarding whether or not to vacate the Order Granting West Virginia State Police and Trooper Walker's Motion to Dismiss First Amended Complaint . . . so as to permit plaintiff to file a second amended complaint is not that of Rule 54(b), 59(e), or 60. Rather, the standard to be employed is simply that of Rule 15[.] . . . ."); *AdvanFort*, 2015 WL

[6] The original quotation from *Katyle* appeared to refer to motions to alter judgments pursuant to both Federal Rule of Civil Procedure 59(e) and Federal Rule of Civil Procedure 60(b). The Fourth Circuit recently reaffirmed *Katyle* as applied to motions to alter a judgment pursuant to Federal Rule of Civil Procedure 59(e) and held that a different standard governs cases where a party seeks to vacate the judgment pursuant to Federal Rule of Civil Procedure 60(b), which allows relief from a judgment "long after the judgment is final" but only in "extraordinary circumstances." *Daulatzai v. Maryland*, 97 F.4th 166, 177–78 (4th Cir. 2024) (citation omitted). Mr. Akinola's case is not analogous to a Rule 60(b) motion seeking the reopening of a judgment long after an entire case has been closed—he merely seeks the opportunity to amend his complaint concerning one defendant in an action that remains ongoing, including as to that defendant. *See* Fed. R. Civ. P. 54(b).

4254988, at *4; *Orrstown*, 335 F.R.D. at 73–74; *Dixon v. United States*, No. 1:17-CV-1716, 2021 WL 12143094, at *2–3 (M.D. Pa. July 6, 2021) ("A traditional Rule 15 analysis applies when considering a motion to file an amended complaint that reasserts in the same action claims previously dismissed with prejudice, so long as the party is not effectively asking the court to reconsider its earlier analysis.").

Accordingly, Mr. Akinola's motion is not a motion for reconsideration; it is instead a motion for leave to amend brought pursuant to Rule 15(a)(2) and governed by the standards of that rule.

B. The Court Should Grant Leave to Amend Pursuant to Rule 15(a)(2) because the Request is Timely, the Proposed Amendment is Not Futile, and There is No Prejudice or Bad Faith

1. Mr. Akinola's Request for Leave to Amend is Timely

Rule 15(a) establishes deadlines, not applicable here, by which a party must take advantage of its right to amend a pleading once as a matter of course. The Rule then provides that otherwise, a party may amend whenever the court provides leave, and directs that the court should grant leave "freely" whenever "justice so requires." Fed. R. Civ. P. 15(a)(2). Accordingly, "a party can seek leave to amend a pleading at any time." *Layani v. Ouazana*, No. CV 20-00420-SAG, 2022 WL 294286, at *6 (D. Md. Feb. 1, 2022); *Steele v. Goodman*, No. 3:21cv573, 2022 WL 19976456, at *1 (E.D. Va. Nov. 7, 2022) ("Pursuant to Federal Rule of Civil Procedure 15(a)(2), a court may grant a plaintiff leave to amend his or her complaint at any time during the pendency of litigation.").[7]

[7] The District of Maryland Local Rules do not include any deadline for motions for leave to amend. As discussed above, Mr. Akinola's motion for leave to amend is not a motion for reconsideration of the Court's prior order dismissing the claims against Defendant Lavin as brought in the original Complaint and is not governed by reconsideration standards; therefore, the Local Rule 105.10 deadline for "motion[s] to reconsider" does not apply.

2. The Proposed Amendment is Not Futile

"The Fourth Circuit cautions that leave to amend 'should only be denied on the ground of futility when the proposed amendment is clearly insufficient or frivolous on its face.'" *Parker v. Whole Foods Mkt. Grp., Inc.*, No. 1:23-cv-03321-JRR, 2024 WL 3200603, at *2 (D. Md. June 27, 2024) (quoting *Johnson v. Oroweat Foods Co.*, 785 F.2d 503, 510 (4th Cir. 1986)). While the Court may apply the same standard of review applicable to a motion to dismiss for failure to state a claim, including "drawing all reasonable inferences in favor of the plaintiff," *Cohen v. Gruber*, 855 F. App'x 139, 140 (4th Cir. 2021) (citation omitted) (unpublished) "'[a] review for futility is not equivalent to an evaluation of the underlying merits of the case," *see Parker*, 2024 WL 3200603, at *2 (citation omitted). Because Mr. Akinola's proposed Amended Complaint states plausible claims for relief, the proposed amendment is not futile.

The Court held that the original Complaint failed to state an Eighth Amendment claim based on Defendant Lavin's failure to escort Mr. Akinola down the stairs because the original Complaint did not sufficiently allege one of the elements necessary for an Eighth Amendment claim for failure to safeguard an inmate's health and safety, namely that the prison official must have acted with "'a sufficiently culpable state of mind' amounting to 'deliberate indifference to inmate health or safety.'" Mem. Op. at 7 (quoting *Farmer v. Brennan*, 511 U.S. 825, 834 (1994)). The Court emphasized that "a showing of mere negligence" does not suffice to establish deliberate indifference and observed that "[m]ost slip and fall cases, particularly in shower areas, present claims of simple negligence." *Id.* at 8 (citation omitted). The Court took note of Mr. Akinola's pro se briefing, which stated that "'through negligence,'" Officer Lavin "'deviated from . . . policy, a duty of care was owed to [Mr. Akinola]." *Id.* at 4 (quoting Pl.'s Opp. Def. Lavin's Mot. Dismiss, ECF No. 22 at 6 (Nov. 7, 2022)). Thus, the Court relied in part on a case rejecting deliberate indifference claims where the plaintiff accidentally slipped and fell *within* a shower area, and

distinguished a case, *Anderson v. Morrison*, 835 F.3d 681, 683 (7th Cir. 2016) holding that a plaintiff had stated a deliberate indifference claim for being "'forc[ed] to walk handcuffed and unaided down stairs needlessly strewn' with 'easily removable' debris." *Id.* at 9 (quoting *Anderson*, 835 F.3d at 683). In short, the Court understood the original Complaint to allege that Mr. Akinola had slipped in an unavoidably dangerous situation, and to at most allege a passive "error in judgment" on behalf of Defendant Lavin in that he escorted Mr. Akinola's cellmate but not Mr. Akinola: "Mr. Akinola's allegation that he slipped after showering while unsupported by Officer Lavin, without more, fails to state a plausible violation of Mr. Akinola's Eighth Amendment rights." *Id.* at 10.

This reasoning does not apply to the proposed Amended Complaint, which adds much "more" and demonstrates that this is not a mere "slip and fall" case. Among other things, the proposed Amended Complaint details that Defendant Lavin affirmatively ordered Mr. Akinola to proceed down the stairs and adds details making clear that Defendant Lavin appreciated and disregarded the risks of serious harm to Mr. Akinola. Thus, the Amended Complaint:

- Alleges that Defendant Lavin knew of the serious risk to inmates of proceeding down stairs unescorted, including because he knew of a prison policy requiring that each shackled inmate receive an individual officer to escort him during transport, and that Mr. Akinola directly reminded Defendant Lavin of the policy and therefore of the attendant risks of refusing to follow it. Ex. 1 ¶¶ 12, 16–22.
- Alleges Defendant Lavin considered the risk about which Mr. Akinola reminded him, and deliberately chose to disregard it, telling Mr. Akinola that although he lacked the required escort, "you'll be fine." *Id.* ¶ 22.
- Alleges that Defendant Lavin was aware of the distinct risk that Mr. Akinola and his cellmate were wet from the shower, and that he nonetheless insisted on moving the inmates at an unnecessarily high rate of speed. As with the risk of walking down the stairs while cuffed and unescorted, Defendant Lavin was directly advised of the risk of forcing Mr. Akinola to proceed quickly down a steel staircase with wet feet. *Id.* ¶ 27 ("Mr. Akinola observed that Defendant Lavin was rushing, moving the inmates quickly and impatiently. Defendant Lavin was escorting Mr. Wilson so quickly that Mr. Wilson was pushing up against Mr. Akinola's heels, forcing Mr.

Akinola onward toward the stairs. Mr. Wilson told Officer Lavin to slow down because it was wet.").

- Alleges—critically—that, in spite of the discussion of the risks and his knowledge of the policy, and after having audibly expressed his disregard of such risks, Defendant Lavin *affirmatively ordered*, and indeed physically directed and forced, Mr. Akinola reluctantly to walk down the stairs in spite of these risks. Ex. 1 ¶ 23 ("Officer Lavin flippantly responded to Mr. Akinola, 'you'll be fine,' and directed Mr. Akinola to 'come out' through the open gate; Officer Lavin backed up this verbal command with a hand gesture indicating that Mr. Akinola was under orders to walk. In response to Mr. Akinola's mention of the fact that there was no second officer to escort him, Officer Lavin made clear that he was nonetheless ordering Mr. Akinola to walk out of the shower and down the stairs: '*I'm giving you a direct order*,' said Officer Lavin." (emphasis added)); *id.* ¶ 25 ("Officer Lavin repeatedly told Mr. Akinola to 'go ahead,' which Mr. Akinola understood to mean the only thing it could have: a direct order to walk down the stairs back toward the cell. There was nowhere else for Mr. Akinola to 'go.'"); *id.* ¶ 26 ("Mr. Akinola had no choice but to follow Officer Lavin's order to walk down the steps. If he did not, he could be subject to punishment."); *id.* ¶ 27 ("Officer Lavin was moving at a fast pace, and pushing Mr. Wilson—and therefore Mr. Akinola, who was under orders to proceed in front of Mr. Wilson and Officer Lavin—to move at a fast pace toward the stairs. . . . Defendant Lavin was escorting Mr. Wilson so quickly that he was pushing up against Mr. Akinola's heels, forcing Mr. Akinola onward toward the stairs.").

These allegations plausibly allege the culpable state of mind—deliberate indifference—necessary for an Eighth Amendment claim. *Anderson v. Kingsley*, 877 F.3d 539, 545 (4th Cir. 2017 ("'[D]eliberate indifference' … may be characterized by three components: (1) the subjective knowledge of a substantial risk of serious harm; (2) the conscious disregard of that risk; and (3) the absence of intent to cause the harm risked.") (internal citation omitted). "Deliberate indifference requires more than mere negligence, but less than acts or omissions done for the very purpose of causing harm or with knowledge that harm will result. It is a subjective standard requiring that a prison official both be aware of facts from which the inference could be drawn that a substantial risk of serious harm exists, and also draw the inference. And, in addition to subjectively recognizing that substantial risk, the prison official must also subjectively be aware

that his actions were inappropriate in light of that risk." *Cox v. Quinn*, 828 F.3d 227, 236 (4th Cir. 2016) (cleaned up)).

Here, Mr. Akinola and Mr. Wilson reminded Defendant Lavin of the risks of being forced to walk quickly, unescorted while cuffed in violation of policy,[8] and while wet from the shower, down a slick metal staircase. As the inmates suggested, there were easy steps Defendant Lavin could have taken to avoid these risks, such as slowing down and/or waiting for a backup officer to arrive to escort Mr. Akinola, as the policy required. *Quinn*, 828 F.3d at 236 ("Prison officials are deliberately indifferent if they are aware that the plaintiff inmate faces a serious danger to his safety and they could avert the danger easily yet they fail to do so." (cleaned up)). Defendant Lavin heard the inmates' concerns yet brushed them off. Defendant Lavin "therefore disregard[ed] a risk of harm of which he [was] aware." *Kingsley*, 877 F.3d at 544 (quoting *Farmer*, 511 U.S. at 836–37 ; *cf. Quinn*, 828 F.3d at 237 (holding that a reasonable jury could conclude that evidence that the correctional officers had disregarded the advice of another officer and "tak[en] the one action [plaintiff] specifically advised would put him at greater risk" meant that the officers' response "was not only unreasonable, but so patently inadequate as to justify an inference that the officials actually recognized that their response to the risk was inappropriate under the circumstances" (cleaned up)); *Anderson*, 835 F.3d at 683 ("[E]ven though they knew that Anderson could not steady himself, the guards refused to assist him."); *Younger*, 79 F.4th at 384 (officer's failure to undertake "any effort at all" in response to a known risk supported a finding of deliberate indifference).

[8] Though a knowing violation of policy may not by itself establish a constitutional violation, failure to take risk-mitigating steps pursuant to a policy is evidence that can support an inference of deliberate indifference. *See Younger v. Crowder*, 79 F.4th 373, 384 (4th Cir. 2023).

Indeed, the allegations of officer knowledge and discussion of risk factors immediately before Mr. Akinola's fall distinguish the proposed Amended Complaint from cases the Court relied on to conclude that mere failure to follow an escort policy may not, by itself, establish deliberate indifference. Mem. Op. at 10; *see Stevens v. Jividen*, No. 1:18CV140, 2021 WL 1539154, at *8 (N.D.W. Va. Jan. 5, 2021) ("Plaintiff has not alleged that Folmer had any knowledge, prior to the fall, that Folmer knew that the manner in which he was escorting Plaintiff down the stairs could cause Plaintiff injury."), *report and recommendation adopted*, No. 1:18-CV-140, 2021 WL 792769 (N.D.W. Va. Mar. 2, 2021); *Martinez v. Correll*, No. 5:12-CT-3183-FL, 2014 WL 3955073, at *3 (E.D.N.C. Aug. 13, 2014) ("Nor is there any indication that [the defendant officer] knew that the manner in which he was escorting plaintiff to the shower would cause plaintiff injury"; case also involved an officer who *did* escort plaintiff albeit in an allegedly improper way and a plaintiff who slipped in the shower area itself); *Cadle v. Rubenstein*, No. 1:17CV218, 2018 WL 6628961, at *6 (N.D.W. Va. Oct. 24, 2018) ("There is no indication in the record that [the defendant officer] knew that the manner in which he was escorting plaintiff down the stairs could cause Plaintiff injury."), *report and recommendation adopted*, 2018 WL 6061442 (N.D.W. Va. Nov. 20, 2018).

Moreover, the allegation that Defendant Lavin affirmatively ordered and physically prodded Mr. Akinola to walk down the stairs under known, needlessly dangerous circumstances—an allegation that was not fully spelled out in the original pro se Complaint and briefing and that, accordingly, did not play a role in the Memorandum Opinion's analysis[9]—shows that Defendant

[9] Indeed, in one of the cases that guided the Court's Memorandum Opinion analysis, the *opposite* occurred—the officer ordered the Plaintiff to stop as he walked toward stairs while cuffed and escorted; this was "hardly evidence of the officer's deliberate indifference to the risk of Plaintiff falling." *Stevens*, 2021 WL 1539154, at *8. As Defendant Lavin forced Mr. Akinola to proceed reluctantly down the stairs under risky circumstances, the opposite inference obtains in this case.

Lavin did not merely fail to take reasonable actions in response to the known risks; rather, his "conduct was intentional with respect to taking a known risk."[10] *Kingsley*, 877 F.3d at 539.

That Defendant Lavin intentionally forced Mr. Akinola into an unreasonably risky situation makes clear that this is not a run-of-the mill, premises-liability-type "slip-and-fall" case. While such cases may not generally support Eighth Amendment liability, an officer intentionally subjecting an inmate to hazardous conditions does. *Anderson*, 835 F.3d at 683 (rejecting officers' "unhelpful[]" argument "that the risk of slipping in a prison shower does not violate the Eighth Amended" because plaintiff alleged "more" than the simple risk of slipping in an unavoidably wet shower area, including that the officers "[f]orced" him "to walk handcuffed and unaided down stairs");[11] *Ashlock v. Sexton*, No. 2:14-cv--00360-JMS-MJD, 2016 WL 3476367, at *4 (S.D. Ind. June 27, 2016) ("Requiring an inmate to descend stairs, with his hands cuffed behind his back, in sandals, without any assistance or means with which to brace himself, is sufficiently hazardous under the Eighth Amendment. . . . The video reflects that Officer Sexton was responsible for escorting Ashlock down the stairs. He was clearly aware that Ashlock was in shower shoes and was required to descend the stairs with his hands cuffed behind his back. He did not provide any physical bracing or assistance. There was a substantial risk that Ashlock would fall and there can

[10] The deliberate indifference standard does not require that the officer intended that the harm resulting from the risk occur; rather, acting intentionally with respect to undertaking the risky conduct itself suffices for deliberate indifference. *Id.*

[11] The Seventh Circuit reasoned in *Anderson*: "Forcing someone to walk handcuffed and unaided down stairs needlessly strewn with easily removable milk, food, and garbage . . . poses an unreasonable peril." *Id.* Both *Anderson* and the instant case involve an officer forcing a cuffed inmate to walk down stairs unaided. The only difference between the two cases is not material: in *Anderson*, the avoidable risk came from the debris on the staircase, here it came from the fact that Defendant Lavin declined to wait for an additional escort officer as required by policy and was moving unnecessarily quickly to the point that Mr. Wilson warned Defendant Lavin of the risks posed by his speed in combination with the inmates' wet feet. Unlike the water in a shower area, Defendant Lavin's refusal to follow prison policy and insistence on rushing the inmates down the stairs were not "inevitabl[e]" or "necessary condition[s] of prison" maintenance. *Id.*

be no dispute that an inmate falling down metal stairs with his hands cuffed behind his back will result in sufficiently serious injury. Officer Sexton, like any observer, would be aware of these facts. Yet, the video shows he did nothing to protect Ashlock.").[12]

A similar result applies to the proposed Amended Complaint's allegation that Defendant Lavin violated the Eighth Amendment (and displayed gross negligence) by refusing to take necessary steps to ensure that Mr. Akinola received the urgent medical care he needed, causing Mr. Akinola to suffer in severe pain for hours longer than was necessary. Ex. 1 ¶ 69. The Court concluded that the original Complaint did not "put forth any facts from which the court could find that Officer Lavin deliberately delayed, impeded, or otherwise failed to provide medical care to Mr. Akinola." Mem. Op. at 10. The proposed Amended Complaint, however, adds allegations to the satisfy standards for an Eighth Amendment claim as set forth in the Memorandum Opinion: "that objectively, the prisoner plaintiff was suffering from a serious medical need and that, subjectively, the prison staff were aware of the need for medical attention but failed either to provide it or to ensure the needed care." *Id.*

For starters, Mr. Akinola suffered a serious medical need immediately after the fall, namely that he was in excruciating pain from his badly swollen knee. Mr. Akinola told Defendant Lavin of his severe pain. Ex. 1 ¶ 32. The proposed Amended Complaint further alleges that Defendant Lavin responded to this need for immediate pain treatment with deliberate indifference. Though he acknowledged the need by promising to contact the medical unit shortly after the fall, he did

[12] Though the Court in *Ashlock* ultimately granted summary judgment to the officer on qualified immunity grounds, it did so in part because another officer testified that the video of the incident showed "no policy or procedural error." *Id.* at *6. In any event, the only question before the Court for the present purpose is whether the proposed Amended Complaint is futile on its face; the Court should not subject Mr. Akinola's pleading to the more stringent review appropriate at the summary judgment stage.

not do so for at least another hour, at which point Defendant Lavin said he was still "working on it." *Id.* ¶ 32. Mr. Akinola's cell mate had to bang on the door of the cell to prompt even this response. Ultimately, Mr. Akinola did not receive a visit from a nurse until at least 3-4 hours after his fall. *Id.* Defendant Lavin should have responded much more quickly, and his refusal do so caused Mr. Akinola to suffer in pain for hours.

At bottom, the Eighth Amendment requires prison officials to "take reasonable measures to guarantee the safety of the inmates[.]" *Farmer*, 511 U.S. at 832. Drawing all reasonable inferences from the proposed Amended Complaint in Mr. Akinola's favor, Defendant Lavin refused to do this and instead intentionally subjected Mr. Akinola to the known risks of falling down a slick metal staircase while being forced to walk at a fast pace, unescorted, cuffed behind the back, and with wet feet. While the Court interpreted the original Complaint to raise at most a claim of negligence resulting in a slip and fall, the proposed Amended Compliant pleads deliberate indifference. Accordingly, the proposed Amended Complaint is not futile.[13]

3. The Proposed Amendment Will Not Prejudice Defendant Lavin

Defendant Lavin would not suffer any prejudice from the proposed Amended Complaint, which comes at a very early stage in the case. Discovery has not yet commenced, and Defendant Lavin has been on notice of the general nature of the events underlying Mr. Akinola's claims at least since the March 2022 original Complaint. Especially in consideration of the fact that "[t]he [F]ederal [R]ule policy of deciding cases on the basis of the substantive rights involved rather than

[13] For the same reasons, the proposed Amended Complaint's claim for gross negligence is not futile: it alleges that Defendant Lavin intentionally subjected Mr. Akinola to known risks and refused to take readily available steps to mitigate them. *See* Mem. Op. at 9 n.5 ("[G]ross negligence is an intentional failure to perform a manifest duty in reckless disregard of the consequences as affecting the life or property of another, and also implies a thoughtless disregard of the consequences without the exertion of any effort to avoid them." (quoting *Stracke v. Est. of Butler*, 465 Md. 407, 420–21, 214 A.3d 561, 568 (2019)).

on technicalities requires that [the] plaintiff be given every opportunity to cure a formal defect in his pleading[,]" *Laber*, 438 F.3d 404 at (4th Cir. 2006) (quoting *Ostrzenski v. Seigel*, 177 F.3d 245, 252–53 (4th Cir. 1999)), Defendant Lavin cannot reasonably claim prejudice merely from again having to face at the pleading stage claims based on these events, this time presented with the assistance of counsel appointed by the Court. Accordingly, the proposed amendment does not prejudice Defendant Lavin. *See Davis v. Piper Aircraft Corp.*, 615 F.2d 606, 613 (4th Cir. 1980) ("[A]bsence of prejudice, though not alone determinative, will normally warrant granting leave to amend.").

4. The Proposed Amendment is Not Brought in Bad Faith

For similar reasons, Mr. Akinola is not acting in bad faith. Courts "typically find that a party acts in bad faith in bringing a motion for leave to amend, for example, when their amendment fails to 'advance a colorable legal argument'" or seeks to "artificially inflate [ ] damages in order to obtain subject matter jurisdiction." *Edmondson v. Eagle Nat'l Bank*, Civil No. 16-3938-SAG, 2019 WL 6684130, at *2 (D. Md. Dec. 6, 2019) (quoting *McCall-Scovens v. Blanchard*, 2016 WL 6277668, at *8 (D. Md. Oct. 27, 2016); *Peamon v. Verizon Corp.*, 581 F. App'x 291, 292 (4th Cir. 2014) (unpublished)). No such circumstances are present here. Because the proposed amendment is not futile, does not cause prejudice, and is not the result of bad faith, the Court should grant leave to amend.

C. In the Alternative, Should the Court Deem Reconsideration a Prerequisite to Leave to Amend, Reconsideration is Warranted

Even if the Court concludes that reconsideration of its interlocutory dismissal order under Federal of Civil Procedure 54(b) is a necessary prerequisite to leave to amend under Rule 15(a)(2), reconsideration is warranted to specify that the dismissal of the claims in the original Complaint was without prejudice.

1. Mr. Akinola's Alternative Motion for Reconsideration is Timely

Federal Rule of Civil Procedure 54(b) provides that "any order or other decision, however designated, that"—like the Court's order dismissing the original Complaint's claims against Defendant Lavin—"adjudicates fewer than all the claims or the rights and liabilities of fewer than all the parties . . . may be revised *at any time* before the entry of a judgment adjudicating all the claims and all the parties' rights and liabilities" (emphasis added). No such judgment has been entered (claims against Defendant Stafford-Shroyer remain pending), so Mr. Akinola's motion is timely.

It is true that Local Rule 105.10 provides that motions to reconsider must be filed within fourteen days after the entry of the subject order, and Mr. Akinola's motion comes after the expiration of that period (which expired before the appointment of counsel). D. Md. R. 105.10. This local rule, which cross-references certain federal rules providing for reconsideration in various circumstances but does not cite Rule 54(b), cannot render Mr. Akinola's motion untimely. To apply the local rule in this manner would impermissibly conflict with federal Rule 54(b)'s direction that a court may revise an interlocutory order "at any time" before the entry of a judgment adjudicating all claims against all parties. "An interpretation of a local rule that denies litigants rights conferred to them by the federal rules . . . is inconsistent with the federal rules and cannot stand." *CX Reinsurance Co. Ltd. v. Johnson*, 977 F.3d 306, 314 (4th Cir. 2020) (rejecting a district court's interpretation of a District of Maryland local rule governing the timing of motions for attorneys' fees because the interpretation would have provided a shorter time to file than available under Federal Rule of Civil Procedure 54(d)); 28 U.S.C. § 2071(a) (local rules must be consistent with the Federal Rules of Civil Procedure); Fed. R. Civ. P. 83(a)(1) (same).

Moreover, the deadline under Local Rule 105.10 can be suspended for "good cause." D. Md. R. 604; *Coulibaly v. J.P. Morgan Chase Bank, N.A.*, Civil Action No. DKC 10-3517, 2011

WL 6837656, at *1–2 (D. Md. Dec. 28, 2011); *cf. Hardin v. Belmont Textile Mach. Co.*, No. 3:05-CV-492-M., 2010 WL 2293406, at *3 (W.D.N.C. June 7, 2010) ("The Court creates the Local Rules for its own benefit. It follows that enforcement of the Court's own local rules is discretionary[.]"). Here, good cause exists to suspend the local-rule 14-day deadline and consider Mr. Akinola's motion for reconsideration, brought in the alternative, to be timely. As noted above, a plaintiff should be given an opportunity to amend his complaint to remedy court-identified pleading deficiencies before dismissal with prejudice. This is especially important for pro se plaintiffs. *See Woodley v. Stolle*, No. 1:14cv1722 (CMH/JFA), 2015 WL 11110841, at *1 (E.D. Va. Jan. 7, 2015) ("Plaintiff's current allegations regarding the conditions of his confinement . . . are insufficient to meet the[] criteria [for an Eighth Amendment claim], but as he is proceeding pro se plaintiff will be allowed an opportunity to particularize and amend his claim.").

Indeed, the Fourth Circuit has revised district courts' with-prejudice dismissals to be without-prejudice dismissals where the pro se plaintiff did not receive an opportunity to amend his complaint. *King v. Rubenstein*, 825 F.3d 206, 225 (4th Cir. 2016) ("[T]he district court neither gave King the opportunity to amend nor did it engage in any discussion as to why amendment would be futile. In such a situation, the dismissal should generally be without prejudice."); *Abdissa v. UNC Chapel Hill*, 637 F. App'x 101, (102 (4th Cir. 2016) (unpublished) ("Because the district court dismissed the complaint without giving Abdissa an opportunity to clarify his claims, we vacate the district court's order dismissing Abdissa's complaint as frivolous and remand to permit Abdissa to amend his complaint and for further proceedings." (citation omitted)). Mr. Akinola did not receive such an opportunity to amend his original complaint to cure the identified deficiencies, nor did he have the benefit of counsel during the pendency of the Local Rule 105.10 fourteen-day

period. Now, with the benefit of court-appointed counsel, he should receive an opportunity to amend. Accordingly, good cause exists to treat his motion for reconsideration as timely.

2. Reconsideration is Warranted

Following the principle that a pro se plaintiff should be given an opportunity to clarify his claims by amendment before they are dismissed with prejudice, the Court should grant a limited reconsideration of its dismissal order to specify that its dismissal of the claims against Defendant Lavin was without prejudice, and then grant leave to amend pursuant to the Rule 15(a)(2) analysis set forth above. Because "the United States Court of Appeals for the Fourth Circuit has not enunciated the precise standard that should govern a motion for reconsideration of an interlocutory order under Rule 54(b)[,]" courts often turn for guidance to the standards guiding motions for post-judgment reconsideration. *Byers v. United States*, Civil Action No. RDB-12-2348/Crim. Action No. RDB-08-056, 2022 WL 1567650, at *2 (D. Md. May 18, 2022). Among other reasons, such a motion may be granted "to prevent a manifest injustice." *United States ex rel. Carter v. Halliburton Co.*, 866 F.3d 199, 211 (4th Cir. 2017). Notably, while the post-judgment reconsideration standards provide guidance, the Court's reconsideration of an interlocutory order is not "bound by" the "strictures" governing post-judgment reconsideration. *Byers*, 2022 WL 1567650, at *2 (citing *Am. Canoe Ass'n v. Murphy Farms, Inc.*, 326 F.3d 505, 514 (4th Cir. 2003)). Thus, the Fourth Circuit's approach to reconsideration under Rule 54(b) "involves broader flexibility to revise interlocutory orders before final judgment as the litigation develops and new facts or arguments come to light" *Carlson v. Bos. Sci. Corp.*, 856 F.3d 320, 325 (4th Cir. 2017) (emphasis omitted). Ultimately, when considering whether reconsideration of a Rule 54(b) interlocutory order is appropriate, "the goal is simply to 'reach the correct judgment under law.'" *Matter of Vulcan Constr. Materials, LLC*, 433 F. Supp. 3d 816, 820 (E.D. Va. 2019) (citation omitted); *Netscape Commc'ns Corp. v. ValueClick, Inc.*, 704 F. Supp. 2d 544, 547 (E.D. Va. 2010) ("[T]he

motion at bar is properly brought only pursuant to Rule 54[(b)], Fed. R. Civ. P., and therefore plaintiff is not required to make a showing of extraordinary circumstances.").

Here, Mr. Akinola's pro se presentation of his allegations caused the Court to construe them as stating simple slip-and-fall negligence claims, and therefore to hold that he had not alleged deliberate indifference. As explained above, the gravamen of Mr. Akinola's claims is instead that Defendant Lavin affirmatively ordered him into a situation that Defendant Lavin knew to be dangerous. A key fact alleged in detail in the proposed Amended Complaint—that Defendant Lavin directly ordered and physically prodded Mr. Akinola to proceed down the stairs—illustrates the extent to which Mr. Akinola's pro se status caused him to fail to detail and emphasize certain allegations in the Complaint and in briefing because he did not understand their importance. As a result, the Court understandably construed his claims as less plausible than they actually are. Mr. Akinola did allege an affirmative order in his original Complaint but did not include the same level of detail as the proposed Amended Complaint and, failing to appreciate the legal import of this point given his lack of legal training, did not focus on it in his brief in opposition to Defendant Lavin's motion to dismiss. Compl. at 2 ("Lavin told me to go, telling me to proceed, even though no other officer was there."); Pl.'s Opp. Def. Lavin's Mot. Dismiss at 2. As a result, and understandably, the Court's Memorandum Opinion mentioned this allegation in passing in its background discussion of the Complaint's allegations, Mem. Op. at 2, but did not consider it as part of its analysis. Similarly, Mr. Akinola's lack of legal training caused him, and in turn the Court, to focus on the wrong legal theory as the gravamen of his claims—negligence. But the proposed Amended Complaint's addition of details regarding Defendant Lavin's affirmative orders, together with its other clarified allegations, now show that Mr. Akinola's claims do not arise from an accidental and unavoidable slip-and-fall caused at most by negligence. It would work

a manifest injustice to, because of Mr. Akinola's pro se shortcomings, hold that his claims have been dismissed with prejudice without any opportunity to amend and are not subject to reconsideration.

III. CONCLUSION

For the foregoing reasons, the Court should grant Mr. Akinola's motion for leave to amend, or, in the alternative, for reconsideration and leave to amend.

Dated Sept. 13, 2024

Respectfully submitted,

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
(Northern Division)

RILWAN AKINOLA, Plaintiff, v. OFFICER DARRELL LAVIN, AMY STAFFORD-SHROYER, R.N, Defendants.	Case No. 1:22-CV-00657-DKC

[PROPOSED] ORDER

Upon the foregoing Motion to Amend the Complaint of Plaintiff Rilwan Akinola, and any opposition thereto, it is this ___ day of _____, 2024 hereby

ORDERED that Plaintiff's motion to amend the complaint be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that Exhibit 1 to Plaintiff's Motion to Amend be docketed as Plaintiff's Amended Complaint.

_____
Hon. Deborah K. Chasanow
United States District Judge

EXHIBIT 1

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
(Northern Division)

RILWAN AKINOLA, Plaintiff, v. OFFICER DARRELL LAVIN, AMY STAFFORD-SHROYER, R.N, Defendants.	Case No. 1:22-CV-00657-DKC **JURY TRIAL DEMANDED**

[PROPOSED] FIRST AMENDED COMPLAINT

NATURE OF ACTION

1. On September 23, 2021, Defendant Correctional Officer Darrell Lavin ordered Plaintiff Rilwan Akinola, then incarcerated at Western Correctional Institution ("WCI"), a Maryland state prison in Cumberland, Maryland, to walk down a slippery steel staircase while Mr. Akinola was handcuffed with his hands behind his back, wet from having taken a shower, and unescorted. Mr. Akinola fell down the stairs and sustained a serious and severely painful injury to his left knee, in addition to other injuries. Defendant Lavin failed to arrange timely medical attention for Mr. Akinola, who languished in excruciating pain for hours. As a result of Defendant Lavin's deliberate indifference to serious risks of harm to Mr. Akinola and to his serious medical needs, Mr. Akinola suffered serious injuries and suffered from needlessly prolonged pain.

2. Mr. Akinola finally saw Defendant Nurse Amy Stafford-Shroyer, who brushed off Mr. Akinola's injuries and pain. She refused to examine him carefully or to arrange for his examination by a physician and failed to prescribe him sufficient pain medication. She prescribed

only over-the-counter-type pain medication but failed to ensure Mr. Akinola received this medication. He did not, and he did not receive any pain medication or attention from a physician until over a month later, after he had been transferred to Roxbury Correctional Institution ("RCI"), another Maryland state prison.

3. While at RCI, Mr. Akinola was still in severe pain and had difficulty walking. He finally received pain medication and was examined by a physician (including on November 4, 2021). Mr. Akinola's injury required, and he ultimately received, a cane to help him walk, a knee brace, and physical therapy, and examination by an orthopedist. Mr. Akinola ultimately was referred to receive an MRI. Defendant Stafford-Shroyer's earlier deliberate indifference to Mr. Akinola's serious medical needs and failure to prescribe stronger medication or to refer him to an orthopedist, or to any physician, needlessly prolonged Mr. Akinola's suffering from severe pain and his difficulty walking.

4. Accordingly, Mr. Akinola brings this action against Defendant Stafford-Shroyer and Defendant Lavin for compensation for the pain and suffering he needlessly endured and will continue to endure, vindicating his rights under the Eighth Amendment of the United States Constitution to be free of the cruel and unusual punishment inherent in deliberate indifference to serious risks of harm to and serious medical needs of prisoners like him who are entirely dependent upon others for their safety while shackled and for their medical care.

JURISDICTION AND VENUE

5. This Court has subject matter jurisdiction under 28 U.S.C. § 1331 because Mr. Akinola's claims arise under the Eighth Amendment and the Due Process Clause of the Fourteenth Amendment of the United States Constitution and 42 U.S.C. § 1983. The Court has supplemental jurisdiction over Mr. Akinola's state law claims under 28 U.S.C. § 1367.

6. The District of Maryland is a proper venue under both 28 U.S.C. § 1391(b)(1) & (2)(b) because a substantial part of the events or omissions giving rise to Mr. Akinola's claims occurred in Maryland and because all Defendants reside in Maryland.

PARTIES

7. Plaintiff Rilwan Akinola is a Maryland resident currently incarcerated at Roxbury Correctional Institution ("RCI"), a prison facility of the State of Maryland Department of Public Safety and Correctional Services ("DPSCS") in Hagerstown, Maryland. From early January 2020 until October 14, 2021, Mr. Akinola was housed at WCI.

8. Defendant Darrell Lavin ("Officer Lavin") was a correctional officer of the rank Correctional Officer II who, at all relevant times, was employed by DPSCS at WCI. He is sued in his individual capacity.

9. Defendant Amy Stafford-Shroyer ("Nurse Stafford-Shroyer") is a registered nurse who, at all relevant times, was employed by Corizon Health ("Corizon") at WCI. At all relevant times, Corizon had a contract with the State of Maryland to provide healthcare to the Maryland prison system, and thereby Corizon and its employees performed official duties and acted under color of law. Defendant Stafford-Shroyer is sued in her individual capacity. At relevant times, Defendant Stafford Shroyer was known as Amy M. Booth.

10. At all relevant times, all Defendants were acting under color of law.

FACTUAL ALLEGATIONS

I. Officer Lavin Ordered Mr. Akinola to Walk Down Slippery Stairs Without Escort While Mr. Akinola was Shackled and Wet, in Deliberate Indifference to a Known, Excessive Risk to Mr. Akinola's Health, Safety, and Well-Being

11. On September 23, 2021, Mr. Akinola was housed at WCI in the segregation housing area.

12. DCPCS and WCI policy provided that each shackled inmate should be escorted by an individual officer during transport. Upon information and belief, this policy existed at least in part to protect the safety of inmates, including from risks such as falling while shackled and unable to brace oneself. Mr. Akinola had heard from both officers and inmates about other incidents in which inmates had fallen when, contrary to policy, they were not escorted by an officer during transport. Officer Lavin had worked for the Maryland DPSCS for 30 years and in the segregation housing unit for three years; he was familiar with all governing policies. In particular, he was well aware of the escort policy that required one officer per inmate.

13. At approximately 8:35 a.m. on September 23, 2021, Officer Lavin came to the cell Mr. Akinola shared with Michael Wilson to take Mr. Akinola and Mr. Wilson to the showers, located up a metal staircase.

14. After Officer Lavin handcuffed Mr. Akinola and Mr. Wilson and led them to the upstairs showers, he placed them in the shower unit behind a gate (known as the "grill"). Officer Lavin closed the gate to the shower unit, separating himself from Mr. Akinola and Mr. Wilson (leaving Mr. Akinola and Mr. Wilson inside the shower unit, and Officer Lavin on the outside). Officer Lavin removed Mr. Akinola's and Mr. Wilson's handcuffs through the gate so that they could shower.

15. Mr. Akinola and Mr. Wilson proceeded to shower and to change back into their clothes, including their shoes. All of this took place within the shower unit, so the shoes into which Mr. Akinola changed were wet from the shower.

16. Approximately 5-10 minutes after closing the gate, Officer Lavin returned to cuff Mr. Akinola and Mr. Wilson again before opening the gate. As Officer Lavin approached, Mr. Wilson remarked to Mr. Akinola, "he's coming by himself."

17. Mr. Akinola understood Mr. Wilson's remark to be a reference to the fact that under governing policy and standard practice at WCI, Officer Lavin should have had another officer with him so that each individual inmate received an escorting officer

18. It is the standard practice at WCI to follow the escort policy, and to assign one escorting officer to each shackled inmate during transport, with the officer physically holding and supporting the inmate.

19. Without any other officer present, in violation of the WCI escort policy, Officer Lavin placed both Mr. Akinola and Mr. Wilson in handcuffs once again, with their hands shackled behind their backs. Officer Lavin then caused the grill gate to open via radio command.

20. Realizing that Officer Lavin intended to transport both Mr. Akinola and Mr. Wilson at once—leaving one of them without the required escorting officer—and cognizant of the fact that his feet were wet, he would be shackled, and he would be required to walk down a slick metal staircase while deprived of the use of his arms to support or brace himself—Mr. Akinola thought to himself that an additional officer would provide him assistance with the risky task of walking down the stairs and would provide him with additional safety.

21. Mr. Akinola advised Officer Lavin of his concern and of the escort policy. Mr. Akinola stated to Officer Lavin, "it's only you—where is the other officer at."

22. Officer Lavin, aware of the policy requiring one escort per inmate and having just been reminded by way of Mr. Akinola's concerned query of the policy and of the risk to Mr. Akinola's safety of forcing him to walk with his hands cuffed behind his back down a slick stairway after a shower, deliberately disregarded this risk.

23. Officer Lavin flippantly responded to Mr. Akinola, "you'll be fine," and directed Mr. Akinola to "come out" through the open gate; Officer Lavin backed up this verbal command

with a hand gesture indicating that Mr. Akinola was under orders to walk. In response to Mr. Akinola's mention of the fact that there was no second officer to escort him, Officer Lavin made clear that he was nonetheless ordering Mr. Akinola to walk out of the shower and down the stairs: "I'm giving you a direct order," said Officer Lavin. A distance of roughly five steps separated the staircase from the shower gate.

24. Exiting the shower gate, Mr. Akinola was in front of Mr. Wilson. Officer Lavin took hold of Mr. Wilson to begin escorting him. Mr. Akinola did not have any escort, contrary to policy.

25. Nevertheless, in deliberate indifference to the risk of severe injury to Mr. Akinola, Officer Lavin again commanded Mr. Akinola to walk down the stairs. Officer Lavin repeatedly told Mr. Akinola to "go ahead," which Mr. Akinola understood to mean the only thing it could have: a direct order to walk down the stairs back toward the cell. There was nowhere else for Mr. Akinola to "go."

26. Mr. Akinola had no choice but to follow Officer Lavin's order to walk down the steps. If he did not, he could be subject to punishment.

27. Officer Lavin was moving at a fast pace, and pushing Mr. Wilson—and therefore Mr. Akinola, who was under orders to proceed in front of Mr. Wilson and Officer Lavin—to move at a fast pace toward the stairs. Mr. Akinola observed that Defendant Lavin was rushing, moving the inmates quickly and impatiently. Defendant Lavin was escorting Mr. Wilson so quickly that Mr. Wilson was pushing up against Mr. Akinola's heels, forcing Mr. Akinola onward toward the stairs. Mr. Wilson told Officer Lavin to slow down because it was wet. Officer Lavin did not withdraw his order.

28. Mr. Akinola did as he was ordered: he walked down the slick metal stairs.

29. Mr. Akinola's shoes were wet, and the cuffs prevented him from balancing and from grabbing hold of the rail. Predictably, Mr. Akinola took 3-4 steps, slipped, and fell. With his hands shackled behind his back, he could not break this fall. He fell all the way to the bottom of the stairwell—roughly 20 steps.

30. The first part of Mr. Akinola's body to make contact with the hard concrete floor and/or the steel staircase itself was his left knee. When he came to a stop, his knee immediately began to swell up and to cause him severe pain. Mr. Akinola also injured, and felt severe pain in, his shoulders, back, arm, hip, ankle, and leg.

31. Officer Lavin ordered Mr. Akinola to "get up." Mr. Akinola protested: "I'm in pain." Officer Lavin forced him to get up anyway, and exacerbated the pain to Mr. Akinola's injured knee by forcing him to walk (this time escorted by Officer Lavin) to his cell. Mr. Akinola could barely walk, and doing so, even with an escort, exacerbated his existing pain.

32. Mr. Akinola told Officer Lavin that he was in severe pain and needed immediate medical attention. Officer Lavin indicated he would arrange for medical attention but did not return. As minutes turned into hours, Mr. Akinola languished in his cell in constant, excruciating pain, including in his badly swollen knee. During this period, Mr. Akinola's pain was so severe and apparent to his cellmate Mr. Wilson that Mr. Wilson began banging on the door of the cell to get an officer's attention. Officer Lavin returned (an hour or two later) and again said that he would call medical; he "was working on it." Still, Mr. Akinola waited. Mr. Akinola waited for at least three to four hours between his injury and receiving attention from a nurse.

II. Nurse Stafford-Shroyer Refused to Provide Necessary Care

33. Finally, Officer Lavin took Mr. Akinola to see Nurse Stafford-Shroyer in a room within the segregation unit. He was not taken to the prison medical area, which was outside the segregation unit.

34. Mr. Akinola described his symptoms to Nurse Stafford-Shroyer, including his excruciating pain, his badly swollen knee, and the fact that he could barely walk. At this point, Mr. Akinola had been suffering in pain for at least 3-4 hours.

35. But Nurse Stafford-Shroyer refused to carefully examine the injured areas of Mr. Akinola's body, including the severe swelling of his knee and his bruising. Mr. Akinola requested to be examined and to be seen by a physician, because his knee was in severe pain and was swollen. Nurse Stafford-Shroyer refused. Instead, she told Mr. Akinola he would be okay because he was a young, big guy. Mr. Akinola reiterated that he was in severe pain and again requested to be seen by a doctor, to no avail.

36. Given the swelling, pain, and difficulty walking Mr. Akinola reported to Nurse Stafford-Shroyer, she knew—particularly in light of her training and experience as a registered nurse—that Mr. Akinola was suffering from a serious knee injury.

37. But Nurse Stafford-Shroyer disregarded this serious medical need, and neither undertook more than a cursory examination herself nor referred Mr. Akinola to a physician for examination. After repeated pleas from Mr. Akinola, Nurse Stafford-Shroyer said that she would refer Mr. Akinola to a physician, but she never did so.

38. Instead of receiving an examination or a referral to a physician, Mr. Akinola was taken back to his cell, and remained in severe, untreated pain for weeks. Mr. Akinola suffered excruciating pain and untreated inflammation of his knee, and severe pain in his back and left arm. He had trouble walking, difficulty standing for long periods of time, and experienced swelling and sharp pains.

III. Nurse Stafford-Shroyer Failed to Ensure Mr. Akinola Received Prescribed Pain Medication

39. The only action Nurse Stafford-Shroyer *did* take on September 23, 2021 in response to Mr. Akinola's report of excruciating pain and inability to walk was to prescribe over-the-counter pain medication—acetaminophen or ibuprofen—and muscle rub. In fact, Mr. Akinola's pain was so severe that he needed stronger pain medication.

40. Nurse Stafford-Shroyer prescribed methyl salicylate/menthol (muscle rub) in 15%-10% cream and "pain relief" in 325 mg tablets. Upon information and belief, the term "pain relief" referred to acetaminophen.

41. But Nurse Stafford-Shroyer failed to provide Mr. Akinola with the pain medication she had prescribed. Mr. Akinola did not receive any medication at all in connection with his injuries from the fall while he resided at WCI. On information and belief, Nurse Stafford Shroyer, knowing of Mr. Akinola's severe pain and other symptoms, and knowing that he had not received the medication weeks after she prescribed it, did not follow up to ensure that he received the medication she had prescribed.

42. On or about September 26-27, 2021, Mr. Akinola submitted a sick call slip reporting the fact that he had not received any medication. Nurse Stafford-Shroyer signed this slip. Still, he received no medication. Nor did he receive a further medical visit or any further medical attention at WCI. And he continued to suffer in severe pain.

43. Under normal practice and policy, Mr. Akinola was required to sign for medication he received.

44. Despite undertaking to provide him care, acknowledging that his pain and other symptoms warranted pain medication, and undertaking to provide that medication, Nurse Stafford-Shroyer did not take the steps necessary to ensure that Mr. Akinola in fact received that medication.

Even after receiving express notice via Mr. Akinola's sick call slip of the fact that Mr. Akinola still had not received any medication days after she first undertook to prescribe it, Nurse Stafford-Shroyer deliberately disregarded the fact that Mr. Akinola was still in severe pain and failed to take steps necessary to provide him with needed medication.

45. All the while, Mr. Akinola continued to suffer excruciating pain and inflammation of his knee, and severe pain in his back and left arm. He had trouble walking, difficulty standing for long periods of time, and experienced swelling and sharp pains.

46. Mr. Akinola exhausted his administrative remedies regarding both Officer Lavin's conduct causing Mr. Akinola's fall and the continued delay and lack of medical treatment for his resulting injuries.

IV. After Being Transferred Away from WCI and Nurse Stafford-Shroyer's Care, Mr. Akinola Received Medical Attention and Treatment

47. On October 14, 2021, Mr. Akinola was transferred from WCI to RCI. At RCI, he continued to seek medical attention by writing sick call slips. Finally, two weeks after Mr. Akinola's arrival at RCI, he saw a nurse and a physician.

48. The RCI medical staff did some of what Nurse Stafford-Shroyer should have done but failed to do: responded to Mr. Akinola's pain by providing him with treatment. RCI staff prescribed ibuprofen and muscle rub—even over a month after the fall, Mr. Akinola was still in severe pain. On November 4, 2021, they also prescribed a course of naproxen for pain. Yet Mr. Akinola's pain persisted. On December 8, 2021, he received prescriptions for glucosamine and indomethacin. Indomethacin is a prescription-only medication for pain. Unlike Nurse-Stafford-Shroyer, the RCI staff actually ensured Mr. Akinola received this medication as prescribed.

49. RCI medical staff also prescribed Mr. Akinola a walking cane and knee brace.

50. An RCI doctor referred Mr. Akinola to an orthopedist. Mr. Akinola saw the orthopedist on June 9, 2022.

51. The orthopedist concluded that Mr. Akinola required physical therapy regarding his knee injury.

52. Mr. Akinola was transferred to a prison facility in Baltimore on July 24, 2022. Finally, on or about September 8, 2022, Mr. Akinola was permitted to begin a course of physical therapy.

53. In sessions over the course of September and October 2022—over a year after Mr. Akinola initially presented his symptoms to Nurse Stafford-Shroyer—the physical therapist noted that Mr. Akinola reported suffering throbbing left knee pain as high as levels 7 and 8 out of 10, was stiff and sore, and had an observable limp.

54. On October 7, 2022—over a year after Mr. Akinola's injury—the physical therapist recommended additional diagnostic testing for Mr. Akinola's knee in order to assess the possibility of structural damage. Mr. Akinola did not receive testing at that time.

55. In March 2023, Mr. Akinola was transferred to Dorsey Run Correctional Facility. There, a nurse prescribed additional physical therapy and diagnostic tests.

56. Eventually Mr. Akinola received a referral for an MRI of his knee.

57. To this day, Mr. Akinola suffers from pain in his left knee and in his back. The pain has steadily increased since his September 2021 fall. He faces difficulty walking. At the age of 41, he must use a cane to walk.

58. Earlier and more appropriate medication and treatment, including physical therapy, earlier receipt of over-the-counter pain medication and stronger pain medication, diagnostic testing, and treatment resulting from such testing would have mitigated Mr. Akinola's ongoing

pain and disability. The effects of Officer Lavin's and Nurse Stafford Shroyer's actions and omissions were to cause Mr. Akinola's injury, needlessly to prolong his pain, suffering, and disability, and to deprive him of earlier treatment intervention that would have mitigated the disability he suffers today.

CLAIMS FOR RELIEF

Count 1
(Against Defendant Lavin)
Eighth Amendment of U.S. Constitution and 42 U.S.C. § 1983

59. Mr. Akinola incorporates by references paragraphs 1 through 58.

60. Defendant Lavin acted with deliberate indifference to serious risks of harm to Mr. Akinola.

61. Being ordered to walk down a roughly 20-step wet metal staircase in wet shoes, with both hands cuffed behind his back, and without an officer escort exposed Mr. Akinola to a serious risk of harm, namely falling down the steps while unable to use his arms to break his fall and sustaining serious bodily injury.

62. Defendant Lavin had actual knowledge that Mr. Akinola faced a serious risk of harm from walking down a roughly 20-step metal staircase while wet, with both hands cuffed behind his back, and without an officer escort.

63. Defendant Lavin disregarded and acted with deliberate indifference to and reckless disregard of the serious risk to Mr. Akinola's health, safety, and well-being by affirmatively ordering and prodding Mr. Akinola to walk down the stairs while wet, shackled, and unescorted, which constituted an unreasonable response to this known risk.

64. Defendant Lavin's deliberate indifference and reckless disregard caused Mr. Akinola to fall down roughly 20 stairs and suffer serious physical and mental injuries, which

included excruciating pain in his knee; difficulty walking and standing; and severe pain in his knee, leg, arm, and back.

65. Defendant Lavin also acted with deliberate indifference and reckless disregard to Mr. Akinola's serious medical needs.

66. Mr. Akinola's injuries, including to his left knee, left arm, shoulders, and back, and symptoms of those injuries, including difficulty walking and excruciating pain, sustained on September 23, 2021 were each serious medical needs that required immediate and timely medical attention and pain medication.

67. Defendant Lavin had actual knowledge that Mr. Akinola suffered serious medical needs. Defendant Lavin witnessed Mr. Akinola's fall down a metal staircase that cause the injuries; Mr. Akinola directly told Officer Lavin that he was in pain and needed immediate medical attention; and Officer Lavin recognized that Mr. Akinola could not walk unaided when he escorted Mr. Akinola back to his cell.

68. Defendant Lavin knew that Mr. Akinola faced a substantial and excessive risk of harm, including remaining in severe, untreated pain, if he did not receive proper care, including immediate and timely medical attention and pain medication.

69. Even though Defendant Lavin knew that Mr. Akinola suffered from serious medical needs, including severe untreated pain, Defendant Lavin disregarded and acted with deliberate indifference and reckless disregard to the substantial and excessive risks to Mr. Akinola's health and well-being. Defendant Lavin did not take steps necessary to ensure that Mr. Akinola received the immediate and timely medical attention and pain medication he needed. There was no medical or penological purpose for failing to ensure that Mr. Akinola received the required immediate care.

70. Defendant Lavin's recklessness and deliberate indifference both caused Mr. Akinola's injury and prolonged his suffering in severe, untreated pain and inflammation for hours longer than was necessary.

71. Defendant Lavin acted under color of law because he worked for the State of Maryland, Department of Public Safety and Correctional Services, and acted or purported to act in furtherance of his official duties.

Count 2
(Against Defendant Lavin)
Gross Negligence

72. Mr. Akinola incorporates by references paragraphs 1 through 58.

73. Defendant Lavin owed Mr. Akinola a manifest duty to use reasonable care not to harm Mr. Akinola or to violate his rights. Defendant Lavin, as a correctional officer responsible for the custody of Mr. Akinola, further owed Mr. Akinola a duty to protect him against physical harm and to ensure his safety.

74. Defendant Lavin intentionally, with actual malice, and with reckless indifference to the risk of harm to Mr. Akinola failed to perform these duties and breached these duties in a grossly negligent manner by, among other things:

a. Affirmatively ordering and prodding Mr. Akinola to walk down a metal staircase while wet, with his hands shackled behind his back, and unescorted, knowingly in violation of WCI policies and practices and having been advised of the risks by Mr. Akinola and Mr. Wilson;

b. Refusing and failing to take steps necessary to ensure that Mr. Akinola received the immediate and timely medical attention and pain medication he needed after sustaining serious and severely painful injuries from falling down a roughly 20-stair metal staircase,

such that Mr. Akinola did not receive any medical attention until at least 3-4 hours after he sustained his injuries.

75. Defendant Lavin took these actions, failing to perform his manifest duties to Mr. Akinola, in wanton and reckless disregard for and utter indifference to the consequences to Mr. Akinola and his well-being and to his rights, and with thoughtless disregard for those consequences without exerting any effort to avoid them.

76. As a direct and proximate cause of Defendant Lavin's reckless, malicious conduct, Mr. Akinola has suffered, and will continue to suffer, significant and permanent personal injuries and damages.

Count 3
(Against Defendant Stafford-Shroyer)
Eighth Amendment of U.S. Constitution and 42 U.S.C. § 1983

77. Mr. Akinola incorporates by references paragraphs 1 through 58.

78. Defendant Stafford-Shroyer acted with deliberate indifference to Mr. Akinola's serious medical needs.

79. Mr. Akinola's injuries, including to his left knee, left arm, shoulders, and back, and symptoms of those injuries, including difficulty walking and excruciating pain, sustained on September 23, 2021 were each serious medical needs that required physical examination, evaluation and care by physicians and specialists, physical therapy, diagnostic tests, and sufficient pain medication.

80. Defendant Stafford-Shroyer had actual knowledge that Mr. Akinola suffered serious injuries and serious medical needs, which was evident through Mr. Akinola's repeated statements to Defendant Stafford-Shroyer and in his sick call slips.

81. Defendant Stafford-Shroyer knew that Mr. Akinola faced a substantial and excessive risk of harm if he did not receive proper care, including proper medication, physical

examination, and evaluation and care by physicians and specialists, including physical therapy and diagnostic tests.

82. Defendant Stafford-Shroyer knew from her own decision to prescribe Mr. Akinola pain medication and from his subsequent sick call slip that he had been prescribed pain medication, yet was not receiving it, and therefore remained in severe, untreated pain.

83. Even though Defendant Stafford-Shroyer knew that Mr. Akinola suffered from serious medical needs, she disregarded and acted with deliberate indifference to the substantial and excessive risks to his health and well-being by delaying and failing to provide the necessary care, including physical examination, evaluation and care by physicians and specialists, physical therapy, and diagnostic tests, and by failing to furnish Mr. Akinola with sufficiently strong pain medication and failing to ensure Mr. Akinola was furnished with pain medication prescribed to him. There was no medical purpose for these actions.

84. The deliberate indifference of Defendant Stafford-Shroyer caused Mr. Akinola to suffer physical and mental injuries. Defendant Stafford-Shroyer prolonged Mr. Akinola's suffering, which included excruciating pain in his knee that remained untreated until well over a month after his injury; difficulty walking and standing, and severe pain in his knee, leg, arm, and back. As a result of the delay in medication, physician examination, specialist examination, and physical therapy, Mr. Akinola continues to experience pain in his back and left knee, and continues to require the assistance of a cane to walk.

85. Defendant Stafford-Shroyer acted under color of law because she worked for Corizon, which had a contract with the State of Maryland to provide healthcare to the Maryland prison system, and thereby acted or purported to act in furtherance official duties.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that the Court enter judgment for Plaintiff against Defendants and grant:

A. Compensatory damages in an amount to be proven at trial;

B. Punitive damages as allowed by law;

C. Attorneys' fees and costs under 42 U.S.C. § 1988; and

D. Other such relief at law or in equity to which he is entitled or which the Court concludes is just and proper.

DEMAND FOR TRIAL BY JURY

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Mr. Akinola demands a trial by jury on all issues and claims.

Dated: September 13, 2024

Respectfully submitted,

/s/ Ben Jernigan
J. Benjamin Jernigan (admitted *pro hac vice*)
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Attorneys for Plaintiff Rilwan Akinola

EXHIBIT P

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

RILWAN AKINOLA	:	
v.	:	Civil Action No. DKC 22-657
CORIZON HEALTH SERVICE, et al.	:	

AMENDED SCHEDULING ORDER

The parties filed a joint motion seeking an extension of discovery deadlines. (ECF No. 66). The motion is reasonable and will be granted. Accordingly, it is this 31st day of December, 2024, by the United States District Court for the District of Maryland, ORDERED that:

1. The joint motion for extension of discovery deadlines (ECF No. 66) BE, and the same hereby IS, GRANTED;

2. Fact discovery will close ninety (90) days after the court resolves ECF No. 57 (Plaintiff's Motion to Amend Complaint);

3. Expert discovery will close thirty (30) days after the close of fact discovery;

4. The parties shall file, at the close of discovery, a status report covering the following matters:

   a. Whether discovery has been completed;

   b. Whether any motions are pending;

c. Whether any party intends to file a dispositive pretrial motion;

d. Whether the case is to be tried jury or non-jury and the anticipated length of trial;

e. A certification that the parties have met to conduct serious settlement negotiations; and the date, time and place of the meeting and the names of all persons participating therein;

f. Whether each party believes it would be helpful to refer this case to another judge of this court for a settlement or other ADR conference, either before or after the resolution of any dispositive pretrial motion;

g. Whether all parties consent, pursuant to 28 U.S.C. § 636(c), to have a U.S. Magistrate Judge conduct all further proceedings in this case, either before or after the resolution of any dispositive pretrial motion, including trial (jury or non-jury) and entry of final judgment; and

h. Any other matter which you believe should be brought to the court's attention.

5. Motions for summary judgment, if any, will be due 30 days after the close of expert discovery; and

6. The Clerk will transmit a copy of this Order to counsel of record.

/s/
DEBORAH K. CHASANOW
United States District Judge

EXHIBIT Q

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

RILWAN AKINOLA	:	
v.	:	Civil Action No. DKC 22-0657
CORIZON HEALTH SERVICE, et al.	:	

MEMORANDUM OPINION

Presently pending and ready for resolution in this civil rights case is the motion to amend the operative complaint filed by Plaintiff Rilwan Akinola ("Mr. Akinola"). (ECF No. 57). The issues have been briefed, and the court now rules, no hearing being deemed necessary. Local Rule 105.6. For the following reasons, the motion will be granted.

I. Background

The relevant factual background in this case is set out in a prior opinion. (ECF No. 31). Mr. Akinola, proceeding *pro se* and *in forma pauperis*, filed this lawsuit on March 17, 2022, pursuant to 42 U.S.C. § 1983. (ECF No. 1). As defendants, Mr. Akinola named Officer Lavin, CO II, Nurse Amy Stafford-Shroyer, and Corizon Health, Inc. Officer Lavin filed a motion to dismiss, or in the alternative, for summary judgment with respect to the claims against him on August 3, 2022. (ECF No. 10). The court granted the motion, construed as a motion to dismiss, on February 22, 2023,

and dismissed all claims against Officer Lavin. (ECF Nos. 31-32). Mr. Akinola, now represented by counsel, filed the pending motion for leave to amend the complaint to re-add the claims against Officer Lavin on September 13, 2024. (ECF No. 57).[1] Officer Lavin opposed on October 10, 2024 (ECF No. 62), and Mr. Akinola replied on October 24, 2024. (ECF No. 63).

II. Standard of Review

Fed.R.Civ.P. 15(a)(2) provides that "a party may amend its pleading only with the opposing party's written consent or the court's leave. The court should freely give leave when justice so requires." "Denial of leave to amend should occur 'only when the amendment would be prejudicial to the opposing party, there has been bad faith on the part of the moving party, or the amendment would be futile.'" *Jarallah v. Thompson*, 123 F.Supp.3d 719, 728 (D.Md. 2015) (quoting *Johnson v. Oroweat Foods Co.*, 785 F.2d 503, 509 (4th Cir. 1986)). An amendment is futile if it is clearly insufficient or frivolous on its face and would not survive a motion to dismiss. *See Tawwaab v. Va. Linen Serv., Inc.*, 729 F.Supp.2d 757, 769 (D.Md. 2010). "[T]o survive a motion to

[1] Pursuant to Local Rule 103.6(d), counsel for Mr. Akinola requested the consent of other counsel prior to filing the motion requesting leave to file the amended complaint. Because the proposed amended complaint amends the pending claims against Amy Stafford-Shroyer and Officer Lavin, counsel for each party was contacted. Counsel for Amy Stafford-Shroyer consented, counsel for Officer Lavin did not. (ECF No. 57-1, at 3).

dismiss, a complaint must contain sufficient factual matter, that when accepted as true, is sufficient to 'state a claim to relief that is plausible on its face.'" *Id.* (quoting *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009)). "A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Ashcroft*, 556 U.S. at 678.

III. Analysis

Mr. Akinola requests leave to amend his complaint to add "additional factual allegations in support" of his previously dismissed claims against Officer Lavin. (ECF No. 57-1, at 3). Mr. Akinola asserts leave should be granted because "the proposed amendment is not futile, does not prejudice [Officer] Lavin, and is not in bad faith."[2] (ECF No. 57-1, at 3-4). Officer Lavin argues that Mr. Akinola's motion to amend should be denied because: (1) the proposed amendment constitutes "undue delay and [it is] made in bad faith" and (2) the "additional factual allegations . . . are not sufficient to cure the deficiencies" stated in the prior dispositive motion. (ECF No. 62, at 7-8).

[2] In the alternative, Mr. Akinola requests that the court grant "limited reconsideration of its order dismissing the original Complaint's claims against [Officer] Lavin to specify that this dismissal was without prejudice, and then grant leave to amend." (ECF No. 57-1, at 4). For the reasons explained in this opinion, the court will not grant limited reconsideration.

A. Bad Faith

Officer Lavin contends that Mr. Akinola should not be able to add additional facts known to him since September 23, 2021. Officer Lavin argues that the "facts [Mr. Akinola] uses as the basis for amending his Complaint are not facts that [Mr. Akinola] needed to learn through discovery to be able to amend his Complaint." (ECF No. 62, at 7). Officer Lavin argues that "[t]o now try and assert these alleged facts through an amended complaint after three years and numerous filings is an undue delay and made in bad faith" and therefore Mr. Akinola's motion should be denied.[3] (*Id.*, at 7-8). Mr. Akinola responds that his "prior knowledge of facts added in the proposed Amended Complaint is not ground to deny leave to amend." (ECF No. 63, at 3).

Mr. Akinola moves to amend his complaint more than two years from the date the complaint was initially filed. Until April 4, 2024, however, Mr. Akinola was proceeding *pro se*. Mr. Akinola moved to amend his complaint on September 13, 2024, roughly five months after Mr. Akinola obtained counsel. The delay was not undue. Mr. Akinola does not seek to add any new legal theories or causes of action, he only seeks to add additional facts clarifying

[3] Although Officer Lavin asserts that the proposed amended complaint is "made in bad faith," the only discussion of the purported bad faith is Mr. Akinola's delay in adding facts known to him since September 23, 2021. (ECF No. 62, at 6-8).

and supporting his allegations against Officer Lavin. *See Johnson v. Silver*, 742 F.2d 823, 825 (4th Cir. 1984).

Further, even if the delay was undue, "[d]elay alone is an insufficient reason to deny leave to amend." *Edwards v. City of Goldsboro*, 178 F.3d 231, 242 (4th Cir. 1999) (citation omitted); *see also Davis v. Piper Aircraft Corp.*, 615 F.2d 606, 613 (4th Cir. 1980) ("Delay alone however, without any specifically resulting prejudice, or any obvious design by dilatoriness to harass the opponent, should not suffice as reason for denial."); *Brightwell v. Hershberger*, 11-3278-DKC, 2015 WL 5315757, at *3 (D.Md. Sept. 10, 2015) ("Delay, however, 'cannot block an amendment which does not prejudice the opposing party.'") (quoting *Frank M. McDermott, Ltd. v. Moretz*, 898 F.2d 418, 421 (4th Cir. 1990)). "Rather, the delay must be accompanied by prejudice, bad faith, or futility." *Edwards*, 178 F.3d at 242 (citation omitted); *see Simmons, LLC*, 634 F.3d at 769; *Equal Rights Ctr. v. Niles Bolton Assocs.*, 602 F.3d 597, 603 (4th Cir. 2010); *Nourison Rug Corp. v. Parvizian*, 535 F.3d 295, 298 (4th Cir. 2008); *Steinburg v. Chesterfield Cnty. Plan. Comm'n*, 527 F.3d 377, 390 (4th Cir. 2008).

Officer Lavin has not made a sufficient showing of bad faith or prejudice caused by the delay.

B. Futility

Mr. Akinola seeks to resurrect his Eighth Amendment claim against Officer Lavin. Officer Lavin argues that the proposed

amended complaint would be futile because it fails to cure "both the objective and subjective components" of an Eighth Amendment violation. (ECF No. 62, at 10).

This court explained in the prior opinion:

> The [United States Court of Appeals for the] Fourth Circuit has observed that "not all Eighth Amendment violations are the same: some constitute 'deliberate indifference,' while others constitute 'excessive force.'" *Thompson v. Virginia*, 878 F.3d 89, 97 (4th Cir. 2017) (quoting *Whitley v. Albers*, 475 U.S. 312, 319-20 (1986)). In general, the deliberate indifference standard applies to cases alleging failure to safeguard the inmate's health and safety, including failing to protect inmates from attack, maintaining inhumane conditions of confinement, and failure to render medical assistance. *See Farmer v. Brennan*, 511 U.S. 825, 834 (1994); *Wilson v. Seiter*, 501 U.S. 294, 303 (1991); *Thompson*, 878 F.3d at 97. . . .

(ECF No. 31, at 6).

> To establish liability, a two-part inquiry that includes both an objective and a subjective component must be satisfied. *See Raynor v. Pugh*, 817 F.3d 123, 127 (4th Cir. 2016). Objectively, the prisoner "must establish a serious deprivation of his rights in the form of a serious or significant physical or emotional injury" or substantial risk of either injury. *Danser v. Stansberry*, 772 F.3d 340, 346-47 (4th Cir. 2014). The objective inquiry requires this court to "assess whether society considers the risk that the prisoner complains of to be so grave that it violates contemporary standards of decency to expose *anyone* unwillingly to such a risk." *Helling v. McKinney*, 509 U.S. 25, 36 (1993).

> Subjectively, a plaintiff must establish that the prison official involved had "a sufficiently culpable state of mind" amounting to "deliberate indifference to inmate health or safety." *Farmer*, 511 U.S. at 834. Evidence establishing a culpable state of mind requires actual knowledge of an excessive risk to the prisoner's safety or proof that prison officials were aware of facts from which an inference could be drawn that a substantial risk of serious harm exists and that the inference was drawn. *Id.* at 837. However, actual knowledge of a substantial risk does not alone impose liability. Where prison officials responded reasonably to a risk, they may be found free of liability. *Farmer*, 511 U.S. at 844.

(ECF No. 31, at 6-8).

In the proposed amended complaint, Mr. Akinola alleges that Officer Lavin exhibited deliberate indifference by "ordering and prodding Mr. Akinola to walk down the stairs while wet, shackled, and unescorted" with Mr. Akinola's hands cuffed behind his back and failing to secure timely medical assistance for Mr. Akinola after the fall. (ECF No. 57-3, at 13-15).

a. Objective Component

Officer Lavin contends that "[a]s it relates to the objective component, the proposed Amended Complaint fails to allege that [Mr. Akinola] was tripped, pushed, shoved, tossed or thrown down the stairs." (ECF No. 62, at 10). Officer Lavin further argues that Mr. Akinola "fails to provide any allegations to show [Mr. Akinola] endured extreme deprivation by virtue of having to wait four hours in his cell before being evaluated by a medical

provider." (*Id.*). Officer Lavin asserts that Mr. Akinola's "alleged injuries as stated in the proposed Amended Complaint are still incidental to that of a slip and fall, an accident that does not rise to the level of an objective standard of violating the contemporary standards of decency." (*Id.*).

As this court previously explained:

> Most slip and fall cases, particularly in shower areas, present claims of simple negligence that are not cognizable under § 1983, even when the prisoner is handcuffed, or the prison's procedures require escort. *See*, for example, *Stevens v. Jividen*, Civil Action No. 1:18cv140, 2021 WL 1539154, *6-8 (N.D.W.Va. January 5, 2021), citing, *inter alia*, *Martinez v. Cornell*, No. 5:12- CT-3183-FL, 2014 WL 3955073 (E.D.N.C. August 13, 2014), where an inmate, handcuffed behind his back, broke his arm when he stepped into a shower and sued the escorting officer who failed to keep a steadying hand on him. *Accord*, *Cadle v. Rubenstein*, Civil Action No. 1:17cv218, 2018 WL 6628961, at *5-6 (N.D.W.Va. October 24, 2018) (finding no cause of action against an officer who failed to protect prisoner from serious injury by physically assisting him to descend stairs while cuffed and shackled, even if the officer violated policy by not maintaining physical contact as he went down the stairs.) The few cases that find the allegations sufficient to sustain a claim contain facts that are more egregious. In *Anderson v. Morrison*, 835 F.3d 681, 683 (7th Cir. 2016), the court noted that:
>
> Prisons are not required to provide a 'maximally safe environment,' *Carroll v. DeTella*, 255 F.3d 470, 472 (7th Cir. 2001), but they must address easily preventable, observed hazards that pose a significant risk of severe harm to inmates. *Withers v. Wexford Health Sources, Inc.*, 710 F.3d 688, 689 (7th Cir.

> 2013); *Smith v. Peters*, 631 F.3d 418, 420 (7th Cir. 2011); *Gates v. Cook*, 376 F.3d 323, 338 (5th Cir. 2004).
>
> That court found that "forcing someone to walk handcuffed and unaided down stairs needlessly strewn with easily removable milk, food, and garbage," as alleged by the prisoner, "poses an unreasonable peril." *Anderson*, 835 F.3d at 683. The court distinguished cases dealing with slippery, wet floors that were unavoidably wet, such as in showers. *Id.*

(ECF No. 31, at 8-9).

Mr. Akinola's proposed amended complaint includes factual allegations that exceed those of a slip and fall case and demonstrate the objective requirement of deliberate indifference. Mr. Akinola alleges, in essence, that Officer Lavin: (1) prevented Mr. Akinola from being able to support himself by handcuffing him behind his back; (2) proceeded at a fast pace, forcing Mr. Wilson to push up against Mr. Akinola's heels; (3) ordered Mr. Akinola down the stairs despite knowing he could not support himself, was wet, and had no escort; and (4) did not get medical attention for Mr. Akinola for three to four hours despite knowing Mr. Akinola was in pain. (ECF No. 57-3, 13-15).

Thus, for the initial injury, Mr. Akinola alleges "a significant risk of severe harm" beyond that of merely a wet staircase. While the presence of water on the staircase may have been unavoidable, forcing someone who cannot support himself down

a staircase at a fast pace "poses an unreasonable peril." *See Anderson*, 835 F.3d at 683.

Additionally, the Fourth Circuit has explained:

> In medical needs cases . . . the *Farmer* test requires plaintiffs to demonstrate officials' deliberate indifference to a "serious" medical need that has either "been diagnosed by a physician as mandating treatment or . . . is so obvious that even a lay person would easily recognize the necessity for a doctor's attention." *Iko v. Shreve*, 535 F.3d 225, 241 (4th Cir. 2008).

Scinto v. Stansberry, 841 F.3d 219, 225 (4th Cir. 2016).

As to Mr. Akinola's medical needs, he alleges that Officer Lavin saw him fall, he told Officer Lavin of his pain, and displayed difficulty walking and visible swelling. (ECF No. 57-3 ¶¶ 30-32). Additionally, Mr. Akinola alleges that "his pain was so severe and apparent to his cellmate Mr. Wilson that Mr. Wilson began banging on the door of the cell to get an officer's attention." (*Id.* ¶ 32). All these factors would lead a lay person to recognize the need for medical attention. *Scinto*, 535 F.3d at 241 (quoting *Iko*, 535 F.3d at 241). Accordingly, the amended complaint sufficiently alleges the objective prong of Mr. Akinola's Eighth Amendment claim.

b. Subjective Prong

To satisfy the subjective prong, "a plaintiff must show that the defendant possessed a 'sufficiently culpable state of mind.' *Campbell v. Florian*, 972 F.3d 385, 394 (4th Cir. 2020) (quoting

Wilson v. Seiter, 501 U.S. 294, 298 (1991)). "Inadvertence or error in good faith," is not enough. *Id.* (quoting *Wilson*, 501 U.S. at 299). "Thus, to make out an Eighth Amendment violation, the Supreme Court requires that a plaintiff show that state officials were 'deliberate[ly] indifferent' to his plight." *Id.* (first citing *Farmer*, 511 U.S. at 834; then citing *Anderson*, 877 F.3d at 543).

The Fourth Circuit has explained:

> "[D]eliberate indifference" is a form of *mens rea* (or "guilty mind") equivalent to criminal-law recklessness. *Farmer*, 511 U.S. at 839–40, 114 S.Ct. 1970. In our Circuit, liability under this standard requires two showings: "[T]he prison official must have both 'subjectively recognized a risk of substantial harm' and 'subjectively recognized that his actions were inappropriate in light of that risk.'" *Anderson*, 877 F.3d at 545 (emphasis omitted) (quoting *Parrish ex rel. Lee v. Cleveland*, 372 F.3d 294, 303 (4th Cir. 2004) (Opinion of Williams, J.)); *see also Cox v. Quinn*, 828 F.3d 227, 236 (4th Cir. 2016); *Rich v. Bruce*, 129 F.3d 336, 340 n.2 (4th Cir. 1997). Thus, "[d]eliberate indifference is a very high standard," and "a showing of mere negligence will not meet it." *Grayson v. Peed*, 195 F.3d 692, 695 (4th Cir. 1999) (citing *Estelle*, 429 U.S. at 105–06, 97 S.Ct. 285).

Campbell, 972 F.3d at 395. Additionally, "the subjective 'actual knowledge' standard required to find deliberate indifference may be proven by circumstantial evidence that a risk was so obvious that it had to have been known." *Makdessi v. Fields*, 789 F.3d 126, 136 (4th Cir. 2015).

Mr. Akinola alleges that Officer Lavin had "actual knowledge that Mr. Akinola faced a serious risk of harm from walking down a roughly 20-step metal staircase while wet, with both hands cuffed behind his back, and without an officer escort," and that Officer Lavin "affirmatively ordering and prodding Mr. Akinola to walk to the stairs while wet, shackled, and unescorted" was "an unreasonable response to this known risk." (ECF No. 57-3 ¶ 63).

Mr. Akinola also alleges that Officer Lavin "had actual knowledge that Mr. Akinola suffered serious medical needs" because "[Officer] Lavin witnessed Mr. Akinola's fall . . .; Mr. Akinola directly told Officer Lavin that he was in pain and needed immediate medical attention; and Officer Lavin recognized that Mr. Akinola could not walk unaided when he escorted Mr. Akinola back to his cell." (*Id.* ¶ 67). Mr. Akinola further alleges that Officer Lavin "knew that Mr. Akinola faced a substantial and excessive risk of harm, including remaining in severe, untreated pain, if he did not receive proper care, including immediate and timely medical attention and pain medication," but "did not take the steps necessary to ensure Mr. Akinola received the immediate and timely medical attention and pain medication he needed." (*Id.* ¶¶ 68-69). Thus, the proposed amended complaint sufficiently alleges deliberate indifference. *See Anderson*, 877 F.3d at 545.

Officer Lavin argues that it is not enough to allege he had "actual knowledge of acts from which a reasonable person might

have inferred the existence of a substantial and unique risk." Instead, he contends Mr. Akinola must "establish that [Officer Lavin] actually inferred that there *was* a risk of injury to" Mr. Akinola. (ECF No. 62, at 10). At this stage, Mr. Akinola does not have the burden of establishing his claim, rather, the proposed amended complaint need only state a plausible claim for relief that is not "clearly insufficient or frivolous on its face." *See Tawwaab*, 729 F.Supp.2d at 769. Taken as true and construed in the light most favorable to Mr. Akinola, the allegations in the proposed amended complaint are sufficient to state a plausible Eighth Amendment claim against Officer Lavin.

IV. Conclusion

For the foregoing reasons, Mr. Akinola's motion to amend the complaint will be granted. A separate order will follow.

/s/
DEBORAH K. CHASANOW
United States District Judge

EXHIBIT R

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

RILWAN AKINOLA	:	
v.	:	Civil Action No. DKC 22-0657
CORIZON HEALTH SERVICE, et al.	:	

ORDER

For the reasons stated in the foregoing Memorandum Opinion, it is this 7th day of May, 2025, by the United States District Court for the District of Maryland, ORDERED that:

1. The motion to amend the operative complaint filed by Plaintiff Rilwan Akinola (ECF No. 57) BE, and the same hereby IS, GRANTED;

2. The Clerk IS DIRECTED to detach Plaintiff's Amended Complaint from ECF No. 57 and docket it separately; and

3. The clerk will transmit copies of the Memorandum Opinion and this Order to counsel for the parties.

/s/
DEBORAH K. CHASANOW
United States District Judge

EXHIBIT S

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
(Northern Division)

RILWAN AKINOLA, Plaintiff, v. OFFICER DARRELL LAVIN, AMY STAFFORD-SHROYER, R.N, Defendants.	Case No. 1:22-CV-00657-DKC **JURY TRIAL DEMANDED**

[PROPOSED] FIRST AMENDED COMPLAINT

NATURE OF ACTION

1. On September 23, 2021, Defendant Correctional Officer Darrell Lavin ordered Plaintiff Rilwan Akinola, then incarcerated at Western Correctional Institution ("WCI"), a Maryland state prison in Cumberland, Maryland, to walk down a slippery steel staircase while Mr. Akinola was handcuffed with his hands behind his back, wet from having taken a shower, and unescorted. Mr. Akinola fell down the stairs and sustained a serious and severely painful injury to his left knee, in addition to other injuries. Defendant Lavin failed to arrange timely medical attention for Mr. Akinola, who languished in excruciating pain for hours. As a result of Defendant Lavin's deliberate indifference to serious risks of harm to Mr. Akinola and to his serious medical needs, Mr. Akinola suffered serious injuries and suffered from needlessly prolonged pain.

2. Mr. Akinola finally saw Defendant Nurse Amy Stafford-Shroyer, who brushed off Mr. Akinola's injuries and pain. She refused to examine him carefully or to arrange for his examination by a physician and failed to prescribe him sufficient pain medication. She prescribed

only over-the-counter-type pain medication but failed to ensure Mr. Akinola received this medication. He did not, and he did not receive any pain medication or attention from a physician until over a month later, after he had been transferred to Roxbury Correctional Institution ("RCI"), another Maryland state prison.

3. While at RCI, Mr. Akinola was still in severe pain and had difficulty walking. He finally received pain medication and was examined by a physician (including on November 4, 2021). Mr. Akinola's injury required, and he ultimately received, a cane to help him walk, a knee brace, and physical therapy, and examination by an orthopedist. Mr. Akinola ultimately was referred to receive an MRI. Defendant Stafford-Shroyer's earlier deliberate indifference to Mr. Akinola's serious medical needs and failure to prescribe stronger medication or to refer him to an orthopedist, or to any physician, needlessly prolonged Mr. Akinola's suffering from severe pain and his difficulty walking.

4. Accordingly, Mr. Akinola brings this action against Defendant Stafford-Shroyer and Defendant Lavin for compensation for the pain and suffering he needlessly endured and will continue to endure, vindicating his rights under the Eighth Amendment of the United States Constitution to be free of the cruel and unusual punishment inherent in deliberate indifference to serious risks of harm to and serious medical needs of prisoners like him who are entirely dependent upon others for their safety while shackled and for their medical care.

JURISDICTION AND VENUE

5. This Court has subject matter jurisdiction under 28 U.S.C. § 1331 because Mr. Akinola's claims arise under the Eighth Amendment and the Due Process Clause of the Fourteenth Amendment of the United States Constitution and 42 U.S.C. § 1983. The Court has supplemental jurisdiction over Mr. Akinola's state law claims under 28 U.S.C. § 1367.

6. The District of Maryland is a proper venue under both 28 U.S.C. § 1391(b)(1) & (2)(b) because a substantial part of the events or omissions giving rise to Mr. Akinola's claims occurred in Maryland and because all Defendants reside in Maryland.

PARTIES

7. Plaintiff Rilwan Akinola is a Maryland resident currently incarcerated at Roxbury Correctional Institution ("RCI"), a prison facility of the State of Maryland Department of Public Safety and Correctional Services ("DPSCS") in Hagerstown, Maryland. From early January 2020 until October 14, 2021, Mr. Akinola was housed at WCI.

8. Defendant Darrell Lavin ("Officer Lavin") was a correctional officer of the rank Correctional Officer II who, at all relevant times, was employed by DPSCS at WCI. He is sued in his individual capacity.

9. Defendant Amy Stafford-Shroyer ("Nurse Stafford-Shroyer") is a registered nurse who, at all relevant times, was employed by Corizon Health ("Corizon") at WCI. At all relevant times, Corizon had a contract with the State of Maryland to provide healthcare to the Maryland prison system, and thereby Corizon and its employees performed official duties and acted under color of law. Defendant Stafford-Shroyer is sued in her individual capacity. At relevant times, Defendant Stafford Shroyer was known as Amy M. Booth.

10. At all relevant times, all Defendants were acting under color of law.

FACTUAL ALLEGATIONS

I. Officer Lavin Ordered Mr. Akinola to Walk Down Slippery Stairs Without Escort While Mr. Akinola was Shackled and Wet, in Deliberate Indifference to a Known, Excessive Risk to Mr. Akinola's Health, Safety, and Well-Being

11. On September 23, 2021, Mr. Akinola was housed at WCI in the segregation housing area.

12. DCPCS and WCI policy provided that each shackled inmate should be escorted by an individual officer during transport. Upon information and belief, this policy existed at least in part to protect the safety of inmates, including from risks such as falling while shackled and unable to brace oneself. Mr. Akinola had heard from both officers and inmates about other incidents in which inmates had fallen when, contrary to policy, they were not escorted by an officer during transport. Officer Lavin had worked for the Maryland DPSCS for 30 years and in the segregation housing unit for three years; he was familiar with all governing policies. In particular, he was well aware of the escort policy that required one officer per inmate.

13. At approximately 8:35 a.m. on September 23, 2021, Officer Lavin came to the cell Mr. Akinola shared with Michael Wilson to take Mr. Akinola and Mr. Wilson to the showers, located up a metal staircase.

14. After Officer Lavin handcuffed Mr. Akinola and Mr. Wilson and led them to the upstairs showers, he placed them in the shower unit behind a gate (known as the "grill"). Officer Lavin closed the gate to the shower unit, separating himself from Mr. Akinola and Mr. Wilson (leaving Mr. Akinola and Mr. Wilson inside the shower unit, and Officer Lavin on the outside). Officer Lavin removed Mr. Akinola's and Mr. Wilson's handcuffs through the gate so that they could shower.

15. Mr. Akinola and Mr. Wilson proceeded to shower and to change back into their clothes, including their shoes. All of this took place within the shower unit, so the shoes into which Mr. Akinola changed were wet from the shower.

16. Approximately 5-10 minutes after closing the gate, Officer Lavin returned to cuff Mr. Akinola and Mr. Wilson again before opening the gate. As Officer Lavin approached, Mr. Wilson remarked to Mr. Akinola, "he's coming by himself."

17. Mr. Akinola understood Mr. Wilson's remark to be a reference to the fact that under governing policy and standard practice at WCI, Officer Lavin should have had another officer with him so that each individual inmate received an escorting officer

18. It is the standard practice at WCI to follow the escort policy, and to assign one escorting officer to each shackled inmate during transport, with the officer physically holding and supporting the inmate.

19. Without any other officer present, in violation of the WCI escort policy, Officer Lavin placed both Mr. Akinola and Mr. Wilson in handcuffs once again, with their hands shackled behind their backs. Officer Lavin then caused the grill gate to open via radio command.

20. Realizing that Officer Lavin intended to transport both Mr. Akinola and Mr. Wilson at once—leaving one of them without the required escorting officer—and cognizant of the fact that his feet were wet, he would be shackled, and he would be required to walk down a slick metal staircase while deprived of the use of his arms to support or brace himself—Mr. Akinola thought to himself that an additional officer would provide him assistance with the risky task of walking down the stairs and would provide him with additional safety.

21. Mr. Akinola advised Officer Lavin of his concern and of the escort policy. Mr. Akinola stated to Officer Lavin, "it's only you—where is the other officer at."

22. Officer Lavin, aware of the policy requiring one escort per inmate and having just been reminded by way of Mr. Akinola's concerned query of the policy and of the risk to Mr. Akinola's safety of forcing him to walk with his hands cuffed behind his back down a slick stairway after a shower, deliberately disregarded this risk.

23. Officer Lavin flippantly responded to Mr. Akinola, "you'll be fine," and directed Mr. Akinola to "come out" through the open gate; Officer Lavin backed up this verbal command

with a hand gesture indicating that Mr. Akinola was under orders to walk. In response to Mr. Akinola's mention of the fact that there was no second officer to escort him, Officer Lavin made clear that he was nonetheless ordering Mr. Akinola to walk out of the shower and down the stairs: "I'm giving you a direct order," said Officer Lavin. A distance of roughly five steps separated the staircase from the shower gate.

24. Exiting the shower gate, Mr. Akinola was in front of Mr. Wilson. Officer Lavin took hold of Mr. Wilson to begin escorting him. Mr. Akinola did not have any escort, contrary to policy.

25. Nevertheless, in deliberate indifference to the risk of severe injury to Mr. Akinola, Officer Lavin again commanded Mr. Akinola to walk down the stairs. Officer Lavin repeatedly told Mr. Akinola to "go ahead," which Mr. Akinola understood to mean the only thing it could have: a direct order to walk down the stairs back toward the cell. There was nowhere else for Mr. Akinola to "go."

26. Mr. Akinola had no choice but to follow Officer Lavin's order to walk down the steps. If he did not, he could be subject to punishment.

27. Officer Lavin was moving at a fast pace, and pushing Mr. Wilson—and therefore Mr. Akinola, who was under orders to proceed in front of Mr. Wilson and Officer Lavin—to move at a fast pace toward the stairs. Mr. Akinola observed that Defendant Lavin was rushing, moving the inmates quickly and impatiently. Defendant Lavin was escorting Mr. Wilson so quickly that Mr. Wilson was pushing up against Mr. Akinola's heels, forcing Mr. Akinola onward toward the stairs. Mr. Wilson told Officer Lavin to slow down because it was wet. Officer Lavin did not withdraw his order.

28. Mr. Akinola did as he was ordered: he walked down the slick metal stairs.

29. Mr. Akinola's shoes were wet, and the cuffs prevented him from balancing and from grabbing hold of the rail. Predictably, Mr. Akinola took 3-4 steps, slipped, and fell. With his hands shackled behind his back, he could not break this fall. He fell all the way to the bottom of the stairwell—roughly 20 steps.

30. The first part of Mr. Akinola's body to make contact with the hard concrete floor and/or the steel staircase itself was his left knee. When he came to a stop, his knee immediately began to swell up and to cause him severe pain. Mr. Akinola also injured, and felt severe pain in, his shoulders, back, arm, hip, ankle, and leg.

31. Officer Lavin ordered Mr. Akinola to "get up." Mr. Akinola protested: "I'm in pain." Officer Lavin forced him to get up anyway, and exacerbated the pain to Mr. Akinola's injured knee by forcing him to walk (this time escorted by Officer Lavin) to his cell. Mr. Akinola could barely walk, and doing so, even with an escort, exacerbated his existing pain.

32. Mr. Akinola told Officer Lavin that he was in severe pain and needed immediate medical attention. Officer Lavin indicated he would arrange for medical attention but did not return. As minutes turned into hours, Mr. Akinola languished in his cell in constant, excruciating pain, including in his badly swollen knee. During this period, Mr. Akinola's pain was so severe and apparent to his cellmate Mr. Wilson that Mr. Wilson began banging on the door of the cell to get an officer's attention. Officer Lavin returned (an hour or two later) and again said that he would call medical; he "was working on it." Still, Mr. Akinola waited. Mr. Akinola waited for at least three to four hours between his injury and receiving attention from a nurse.

II. Nurse Stafford-Shroyer Refused to Provide Necessary Care

33. Finally, Officer Lavin took Mr. Akinola to see Nurse Stafford-Shroyer in a room within the segregation unit. He was not taken to the prison medical area, which was outside the segregation unit.

34. Mr. Akinola described his symptoms to Nurse Stafford-Shroyer, including his excruciating pain, his badly swollen knee, and the fact that he could barely walk. At this point, Mr. Akinola had been suffering in pain for at least 3-4 hours.

35. But Nurse Stafford-Shroyer refused to carefully examine the injured areas of Mr. Akinola's body, including the severe swelling of his knee and his bruising. Mr. Akinola requested to be examined and to be seen by a physician, because his knee was in severe pain and was swollen. Nurse Stafford-Shroyer refused. Instead, she told Mr. Akinola he would be okay because he was a young, big guy. Mr. Akinola reiterated that he was in severe pain and again requested to be seen by a doctor, to no avail.

36. Given the swelling, pain, and difficulty walking Mr. Akinola reported to Nurse Stafford-Shroyer, she knew—particularly in light of her training and experience as a registered nurse—that Mr. Akinola was suffering from a serious knee injury.

37. But Nurse Stafford-Shroyer disregarded this serious medical need, and neither undertook more than a cursory examination herself nor referred Mr. Akinola to a physician for examination. After repeated pleas from Mr. Akinola, Nurse Stafford-Shroyer said that she would refer Mr. Akinola to a physician, but she never did so.

38. Instead of receiving an examination or a referral to a physician, Mr. Akinola was taken back to his cell, and remained in severe, untreated pain for weeks. Mr. Akinola suffered excruciating pain and untreated inflammation of his knee, and severe pain in his back and left arm. He had trouble walking, difficulty standing for long periods of time, and experienced swelling and sharp pains.

III. Nurse Stafford-Shroyer Failed to Ensure Mr. Akinola Received Prescribed Pain Medication

39. The only action Nurse Stafford-Shroyer *did* take on September 23, 2021 in response to Mr. Akinola's report of excruciating pain and inability to walk was to prescribe over-the-counter pain medication—acetaminophen or ibuprofen—and muscle rub. In fact, Mr. Akinola's pain was so severe that he needed stronger pain medication.

40. Nurse Stafford-Shroyer prescribed methyl salicylate/menthol (muscle rub) in 15%-10% cream and "pain relief" in 325 mg tablets. Upon information and belief, the term "pain relief" referred to acetaminophen.

41. But Nurse Stafford-Shroyer failed to provide Mr. Akinola with the pain medication she had prescribed. Mr. Akinola did not receive any medication at all in connection with his injuries from the fall while he resided at WCI. On information and belief, Nurse Stafford Shroyer, knowing of Mr. Akinola's severe pain and other symptoms, and knowing that he had not received the medication weeks after she prescribed it, did not follow up to ensure that he received the medication she had prescribed.

42. On or about September 26-27, 2021, Mr. Akinola submitted a sick call slip reporting the fact that he had not received any medication. Nurse Stafford-Shroyer signed this slip. Still, he received no medication. Nor did he receive a further medical visit or any further medical attention at WCI. And he continued to suffer in severe pain.

43. Under normal practice and policy, Mr. Akinola was required to sign for medication he received.

44. Despite undertaking to provide him care, acknowledging that his pain and other symptoms warranted pain medication, and undertaking to provide that medication, Nurse Stafford-Shroyer did not take the steps necessary to ensure that Mr. Akinola in fact received that medication.

Even after receiving express notice via Mr. Akinola's sick call slip of the fact that Mr. Akinola still had not received any medication days after she first undertook to prescribe it, Nurse Stafford-Shroyer deliberately disregarded the fact that Mr. Akinola was still in severe pain and failed to take steps necessary to provide him with needed medication.

45. All the while, Mr. Akinola continued to suffer excruciating pain and inflammation of his knee, and severe pain in his back and left arm. He had trouble walking, difficulty standing for long periods of time, and experienced swelling and sharp pains.

46. Mr. Akinola exhausted his administrative remedies regarding both Officer Lavin's conduct causing Mr. Akinola's fall and the continued delay and lack of medical treatment for his resulting injuries.

IV. After Being Transferred Away from WCI and Nurse Stafford-Shroyer's Care, Mr. Akinola Received Medical Attention and Treatment

47. On October 14, 2021, Mr. Akinola was transferred from WCI to RCI. At RCI, he continued to seek medical attention by writing sick call slips. Finally, two weeks after Mr. Akinola's arrival at RCI, he saw a nurse and a physician.

48. The RCI medical staff did some of what Nurse Stafford-Shroyer should have done but failed to do: responded to Mr. Akinola's pain by providing him with treatment. RCI staff prescribed ibuprofen and muscle rub—even over a month after the fall, Mr. Akinola was still in severe pain. On November 4, 2021, they also prescribed a course of naproxen for pain. Yet Mr. Akinola's pain persisted. On December 8, 2021, he received prescriptions for glucosamine and indomethacin. Indomethacin is a prescription-only medication for pain. Unlike Nurse-Stafford-Shroyer, the RCI staff actually ensured Mr. Akinola received this medication as prescribed.

49. RCI medical staff also prescribed Mr. Akinola a walking cane and knee brace.

50. An RCI doctor referred Mr. Akinola to an orthopedist. Mr. Akinola saw the orthopedist on June 9, 2022.

51. The orthopedist concluded that Mr. Akinola required physical therapy regarding his knee injury.

52. Mr. Akinola was transferred to a prison facility in Baltimore on July 24, 2022. Finally, on or about September 8, 2022, Mr. Akinola was permitted to begin a course of physical therapy.

53. In sessions over the course of September and October 2022—over a year after Mr. Akinola initially presented his symptoms to Nurse Stafford-Shroyer—the physical therapist noted that Mr. Akinola reported suffering throbbing left knee pain as high as levels 7 and 8 out of 10, was stiff and sore, and had an observable limp.

54. On October 7, 2022—over a year after Mr. Akinola's injury—the physical therapist recommended additional diagnostic testing for Mr. Akinola's knee in order to assess the possibility of structural damage. Mr. Akinola did not receive testing at that time.

55. In March 2023, Mr. Akinola was transferred to Dorsey Run Correctional Facility. There, a nurse prescribed additional physical therapy and diagnostic tests.

56. Eventually Mr. Akinola received a referral for an MRI of his knee.

57. To this day, Mr. Akinola suffers from pain in his left knee and in his back. The pain has steadily increased since his September 2021 fall. He faces difficulty walking. At the age of 41, he must use a cane to walk.

58. Earlier and more appropriate medication and treatment, including physical therapy, earlier receipt of over-the-counter pain medication and stronger pain medication, diagnostic testing, and treatment resulting from such testing would have mitigated Mr. Akinola's ongoing

pain and disability. The effects of Officer Lavin's and Nurse Stafford Shroyer's actions and omissions were to cause Mr. Akinola's injury, needlessly to prolong his pain, suffering, and disability, and to deprive him of earlier treatment intervention that would have mitigated the disability he suffers today.

CLAIMS FOR RELIEF

Count 1
(Against Defendant Lavin)
Eighth Amendment of U.S. Constitution and 42 U.S.C. § 1983

59. Mr. Akinola incorporates by references paragraphs 1 through 58.

60. Defendant Lavin acted with deliberate indifference to serious risks of harm to Mr. Akinola.

61. Being ordered to walk down a roughly 20-step wet metal staircase in wet shoes, with both hands cuffed behind his back, and without an officer escort exposed Mr. Akinola to a serious risk of harm, namely falling down the steps while unable to use his arms to break his fall and sustaining serious bodily injury.

62. Defendant Lavin had actual knowledge that Mr. Akinola faced a serious risk of harm from walking down a roughly 20-step metal staircase while wet, with both hands cuffed behind his back, and without an officer escort.

63. Defendant Lavin disregarded and acted with deliberate indifference to and reckless disregard of the serious risk to Mr. Akinola's health, safety, and well-being by affirmatively ordering and prodding Mr. Akinola to walk down the stairs while wet, shackled, and unescorted, which constituted an unreasonable response to this known risk.

64. Defendant Lavin's deliberate indifference and reckless disregard caused Mr. Akinola to fall down roughly 20 stairs and suffer serious physical and mental injuries, which

included excruciating pain in his knee; difficulty walking and standing; and severe pain in his knee, leg, arm, and back.

65. Defendant Lavin also acted with deliberate indifference and reckless disregard to Mr. Akinola's serious medical needs.

66. Mr. Akinola's injuries, including to his left knee, left arm, shoulders, and back, and symptoms of those injuries, including difficulty walking and excruciating pain, sustained on September 23, 2021 were each serious medical needs that required immediate and timely medical attention and pain medication.

67. Defendant Lavin had actual knowledge that Mr. Akinola suffered serious medical needs. Defendant Lavin witnessed Mr. Akinola's fall down a metal staircase that cause the injuries; Mr. Akinola directly told Officer Lavin that he was in pain and needed immediate medical attention; and Officer Lavin recognized that Mr. Akinola could not walk unaided when he escorted Mr. Akinola back to his cell.

68. Defendant Lavin knew that Mr. Akinola faced a substantial and excessive risk of harm, including remaining in severe, untreated pain, if he did not receive proper care, including immediate and timely medical attention and pain medication.

69. Even though Defendant Lavin knew that Mr. Akinola suffered from serious medical needs, including severe untreated pain, Defendant Lavin disregarded and acted with deliberate indifference and reckless disregard to the substantial and excessive risks to Mr. Akinola's health and well-being. Defendant Lavin did not take steps necessary to ensure that Mr. Akinola received the immediate and timely medical attention and pain medication he needed. There was no medical or penological purpose for failing to ensure that Mr. Akinola received the required immediate care.

70. Defendant Lavin's recklessness and deliberate indifference both caused Mr. Akinola's injury and prolonged his suffering in severe, untreated pain and inflammation for hours longer than was necessary.

71. Defendant Lavin acted under color of law because he worked for the State of Maryland, Department of Public Safety and Correctional Services, and acted or purported to act in furtherance of his official duties.

Count 2
(Against Defendant Lavin)
Gross Negligence

72. Mr. Akinola incorporates by references paragraphs 1 through 58.

73. Defendant Lavin owed Mr. Akinola a manifest duty to use reasonable care not to harm Mr. Akinola or to violate his rights. Defendant Lavin, as a correctional officer responsible for the custody of Mr. Akinola, further owed Mr. Akinola a duty to protect him against physical harm and to ensure his safety.

74. Defendant Lavin intentionally, with actual malice, and with reckless indifference to the risk of harm to Mr. Akinola failed to perform these duties and breached these duties in a grossly negligent manner by, among other things:

a. Affirmatively ordering and prodding Mr. Akinola to walk down a metal staircase while wet, with his hands shackled behind his back, and unescorted, knowingly in violation of WCI policies and practices and having been advised of the risks by Mr. Akinola and Mr. Wilson;

b. Refusing and failing to take steps necessary to ensure that Mr. Akinola received the immediate and timely medical attention and pain medication he needed after sustaining serious and severely painful injuries from falling down a roughly 20-stair metal staircase,

such that Mr. Akinola did not receive any medical attention until at least 3-4 hours after he sustained his injuries.

75. Defendant Lavin took these actions, failing to perform his manifest duties to Mr. Akinola, in wanton and reckless disregard for and utter indifference to the consequences to Mr. Akinola and his well-being and to his rights, and with thoughtless disregard for those consequences without exerting any effort to avoid them.

76. As a direct and proximate cause of Defendant Lavin's reckless, malicious conduct, Mr. Akinola has suffered, and will continue to suffer, significant and permanent personal injuries and damages.

Count 3
(Against Defendant Stafford-Shroyer)
Eighth Amendment of U.S. Constitution and 42 U.S.C. § 1983

77. Mr. Akinola incorporates by references paragraphs 1 through 58.

78. Defendant Stafford-Shroyer acted with deliberate indifference to Mr. Akinola's serious medical needs.

79. Mr. Akinola's injuries, including to his left knee, left arm, shoulders, and back, and symptoms of those injuries, including difficulty walking and excruciating pain, sustained on September 23, 2021 were each serious medical needs that required physical examination, evaluation and care by physicians and specialists, physical therapy, diagnostic tests, and sufficient pain medication.

80. Defendant Stafford-Shroyer had actual knowledge that Mr. Akinola suffered serious injuries and serious medical needs, which was evident through Mr. Akinola's repeated statements to Defendant Stafford-Shroyer and in his sick call slips.

81. Defendant Stafford-Shroyer knew that Mr. Akinola faced a substantial and excessive risk of harm if he did not receive proper care, including proper medication, physical

examination, and evaluation and care by physicians and specialists, including physical therapy and diagnostic tests.

82. Defendant Stafford-Shroyer knew from her own decision to prescribe Mr. Akinola pain medication and from his subsequent sick call slip that he had been prescribed pain medication, yet was not receiving it, and therefore remained in severe, untreated pain.

83. Even though Defendant Stafford-Shroyer knew that Mr. Akinola suffered from serious medical needs, she disregarded and acted with deliberate indifference to the substantial and excessive risks to his health and well-being by delaying and failing to provide the necessary care, including physical examination, evaluation and care by physicians and specialists, physical therapy, and diagnostic tests, and by failing to furnish Mr. Akinola with sufficiently strong pain medication and failing to ensure Mr. Akinola was furnished with pain medication prescribed to him. There was no medical purpose for these actions.

84. The deliberate indifference of Defendant Stafford-Shroyer caused Mr. Akinola to suffer physical and mental injuries. Defendant Stafford-Shroyer prolonged Mr. Akinola's suffering, which included excruciating pain in his knee that remained untreated until well over a month after his injury; difficulty walking and standing, and severe pain in his knee, leg, arm, and back. As a result of the delay in medication, physician examination, specialist examination, and physical therapy, Mr. Akinola continues to experience pain in his back and left knee, and continues to require the assistance of a cane to walk.

85. Defendant Stafford-Shroyer acted under color of law because she worked for Corizon, which had a contract with the State of Maryland to provide healthcare to the Maryland prison system, and thereby acted or purported to act in furtherance official duties.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that the Court enter judgment for Plaintiff against Defendants and grant:

A. Compensatory damages in an amount to be proven at trial;

B. Punitive damages as allowed by law;

C. Attorneys' fees and costs under 42 U.S.C. § 1988; and

D. Other such relief at law or in equity to which he is entitled or which the Court concludes is just and proper.

DEMAND FOR TRIAL BY JURY

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Mr. Akinola demands a trial by jury on all issues and claims.

Dated: September 13, 2024

Respectfully submitted,

/s/ Ben Jernigan
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EXHIBIT T

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

RILWAN AKINOLA, Plaintiff, v. AMY STAFFORD-SHROYER, et al. Defendants.	Case No. 1:22-CV-00657-DKC

DEFENDANT AMY STAFFORD-SHROYER'S MOTION TO STAY THIS ACTION UNLESS THE U.S. BANKRUPTCY COURT FOR THE SOUTHERN DISTRICT OF TEXAS IN *In Re Tehum Care Services, Inc.* ISSUES AN ORDER PERMITTING THE PLAINTIFF TO FURTHER PROSECUTE THE ACTION

Amy Stafford-Shroyer ("Defendant") respectfully requests that the Court enter an Order staying this action, until the U.S. Bankruptcy Court for the Southern District of Texas (Houston Division) in *In Re Tehum Care Services, Inc.* (f/k/a Corizon Health, Inc.), Case No. 23-90086 (CML), (the "Bankruptcy Case"), issues an Order deciding the Omnibus Motion to Enjoin attached hereto as **Exhibit A** (the "Motion to Enjoin")[1]. As discussed below, the Motion to Enjoin seeks an Order from the Bankruptcy Court clarifying that actions brought against the Debtor's former employees are enjoined consistent with the administration and intended consummation the now-effective Bankruptcy Plan, including the existing injunctions and releases therein. As the Bankruptcy Court has exclusive jurisdiction to determine issues related to the Plan and its injunctions, the present action should be stayed unless the Bankruptcy Court determines that it can continue. Defendant will promptly inform this Court of the Bankruptcy Court's Order.

Tehum Care Services, Inc. f/k/a Corizon Health, Inc. (the "Debtor") commenced a Chapter 11 case in the United States Bankruptcy Court for the Southern District of Texas. By Order dated

[1] The Motion to Enjoin was served on the Plaintiff.

March 3, 2025 [Doc. 2014], the Bankruptcy Court confirmed the First Modified Joint Chapter 11 Plan of Reorganization of the Tort Claimants' Committee, Official Committee of Unsecured Creditors and Debtor (the "Plan"). All capitalized terms herein have their meaning as defined in the Plan unless noted. The Plan is now effective.

The Defendant is a former employee of the Debtor. As the Motion to Enjoin explains, the Debtor and its former employees are included as "Released Parties" under the Plan. Plan, Art. I, ¶ 175. In furtherance of the Plan's consummation, the Plan contains certain injunctions and a Consensual Claimant Release that will fully release the Plaintiff's Causes of Action against the Defendant[s] as long as the injunctions and Releases do not terminate or become void. *See* Plan, Art. IV.B.7 and IX.D. When the Plan became effective, and in compliance with any meet and confer requirements, Defendants sent a letter to Plaintiff requesting that the Plaintiff stipulate to stay this action consistent with the Plan. To date, Plaintiff has not agreed to so stipulate.

The Motion to Enjoin before the Bankruptcy Court requests that the Bankruptcy Court enter an Order confirming that all Plaintiffs with actions that will be released upon the Final Payment Date are enjoined from further prosecuting their actions as long as the injunctions and Releases do not terminate or become void. Amongst the existing injunctions discussed in the Motion to Enjoin, the Bankruptcy Court precluded and enjoined "actions to interfere with the implementation and consummation of the Plan." Plan, Art. IX.J. The Bankruptcy Court also retained "exclusive jurisdiction over all matters arising out of or related to the Chapter 11 Case and the Plan pursuant to sections 105(a) and 1142 of the Bankruptcy Code." Plan, Art. XII.A. The Bankruptcy Court's exclusive jurisdiction includes jurisdiction to "issue and enforce injunctions, enter and implement other orders, or take such other actions as may be necessary or appropriate to restrain interference by any Entity with Consummation, implementation or

enforcement of the Plan, including all settlements (including the Estate Party Settlement), releases, exculpations and injunctions provided for under the Plan." *See* Plan, Art. XII.A.9.

Should the Plaintiff contend that the Confirmation Order and Plan does not enjoin this case from proceeding, the Plaintiff must litigate that dispute in the Bankruptcy Court. Plan, Art. XII.A. Accordingly, Defendant respectfully requests that this Court enter an order staying this action until and unless the Bankruptcy Court issues an Order that permits it to continue.

Respectfully,

MARKS, O'NEILL, O'BRIEN DOHERTY & KELLY, P.C.

/s/ Megan T. Mantzavinos
Megan Mantzavinos (Bar No. 16416)
Shane T. Rosenbloom (Bar No. 31137)
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Attorneys for Defendants Amy Stafford Schroyer

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 5th day of June, 2025, a copy of the foregoing was electronically filed and served on all parties in the case.

/s/ Megan T. Mantzavinos
Megan T. Mantzavinos

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

In re:	**Chapter 11**
TEHUM CARE SERVICES, INC.,	**Case No. 23-90086 (CML)**
Debtor.	

YESCARE'S OMNIBUS MOTION TO ENJOIN PLAINTIFFS FROM PROSECUTING CASES AGAINST RELEASED PARTIES

IF YOU OBJECT TO THE RELIEF REQUESTED, YOU MUST RESPOND IN WRITING. UNLESS OTHERWISE DIRECTED BY THE COURT, YOU MUST FILE YOUR RESPONSE ELECTRONICALLY AT HTTPS://ECF.TXSB.USCOURTS.GOV/ WITHIN TWENTY-ONE DAYS FROM THE DATE THIS MOTION WAS FILED. IF YOU DO NOT HAVE ELECTRONIC FILING PRIVILEGES, YOU MUST FILE A WRITTEN OBJECTION THAT IS ACTUALLY RECEIVED BY THE CLERK WITHIN TWENTY-ONE DAYS FROM THE DATE THIS MOTION WAS FILED. OTHERWISE, THE COURT MAY TREAT THE PLEADING AS UNOPPOSED AND GRANT THE RELIEF REQUESTED.

CHS TX, Inc. d/b/a YesCare respectfully requests that the Court enter an Order enjoining the non-opt-out Plaintiffs identified in **Exhibit A** of this motion from continuing to prosecute Causes of Action against the Released Party Defendants in those lawsuits as long as the Bankruptcy Plan's Injunctions and Releases do not terminate or become void. The "Released Parties" under the Plan include, among others, Tehum Care Services, Inc. f/k/a/ Corizon Health, Inc., (the "Debtor"), YesCare Cop., CHS TX., Inc., and their current and former employees. As discussed herein, such an Order is necessary and appropriate to facilitate the administration and intended consummation of the Bankruptcy Plan, which releases Causes of Action against the

Released Parties upon the Final Payment Date. *See* 11 U.S.C. § 105(a) (authorizing "any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title); 11 U.S.C. § 1123(b)(6) (authorizing "other appropriate provisions not inconsistent with the applicable provisions of this title"); Art. IX.J ("Upon entry of the Confirmation Order, all holders of Claims and Interests shall be precluded and enjoined from taking any actions to interfere with the implementation and consummation of the Plan."); *see also* Fed. R. Bank. Pro. 7016. Such an Order is also consistent with the Court's inherent power as a court of equity to enforce the Bankruptcy Plan and its Injunctions consistent with the Consensual Claimant Release. CHS TX., Inc. has a strong interest in ensuring that the Plan is implemented in a way that is consistent with its intended consummation.

INTRODUCTION

This Court retained exclusive jurisdiction to determine issues related to the Bankruptcy Plan. That jurisdiction includes post-confirmation jurisdiction over disputes relating to the implementation of execution of the Bankruptcy Plan, including its injunctions and releases.

The bankruptcy proceeding provided any Holder of a personal injury or wrongful death claim against the Debtor with the opportunity to obtain recovery by channeling their claim into a PI/WD Trust provided the claimant filed a timely Proof of Claim and did not opt out of the Consensual Claimant Release. In furtherance of the PI/WD Trust process, the Confirmation Order and Bankruptcy Plan authorized a Channeling Injunction that enjoined Holders from attempting to side-step the PI/WD Trust process by pursuing Channeled Claims as claims that sought recovery from "Released Parties." Upon the Final Payment Date, the Consensual Claimant Release will fully and finally release all Causes of Action against Released Parties, unless a claimant opted out.

Plaintiffs identified in Exhibit A ("Plaintiffs") are current or former incarcerated individuals who did not opt out of the Bankruptcy Plan and did not object to or appeal the Confirmation Order. In their respective lawsuits, Plaintiffs asserted pre-petition Causes of Action alleging injuries resulting from conduct by Former Corizon Employees related to and in connection with their employment with the Debtor, including in their capacity as employees providing correctional healthcare on behalf of the Debtor, and which may be attributable to the Debtor and/or reach the *res* of the Debtor under various legal theories, including vicarious liability, *respondeat superior*, *Monell*, and indemnification. Many of the Plaintiffs sued the Debtor directly based on the same conduct.[1] All Plaintiffs directly or impliedly allege that the actionable conduct of the Former Corizon Employee was in their capacity as an employee of the Debtor and in many cases pursuant to an act, omission, or policy of the Debtor. Thus, they all have actually asserted Claims or have possible or potential Claims under the Code.

The Bankruptcy Plan's definition of "Released Parties" expressly includes the Debtor's former employees. The Bankruptcy Plan's Consensual Claimant Release, which is integral to the Plan, releases all claims and Causes of Action "arising from, in whole or in part, any act, omission, transaction, event, or other circumstance taking place or existing on or before the Effective Date in connection with or related to the Debtor…" Art. IV.B.7; Art. IX.D. Causes of Action against Former Corizon Employees and Released Parties, related to Former Corizon Employee's work on behalf of the Debtor, plainly fall within the Release. Plainitffs' Causes of Action that are released by the Consensual Claimant Release may also result in potential indemnification claims, successor liability claims, or other claims against other Released Parties, including CHS TX, Inc. and YesCare Corp.

[1] Corizon Health, Inc. remains a named defendant in some of these lawsuits.

The need for an Order enjoining Plaintiffs from prosecuting their lawsuits against Former Corizon Employees and other Released Parties arises because, since the Plan became effective, the Plaintiffs listed in Exhibit A have not agreed to stay their respective lawsuits against Former Corizon Employees and the Released Parties despite the Bankruptcy Plan's Injunctions and the Consensual Claimant Release. Permitting continued prosecution of these lawsuits while the Bankruptcy Plan remains effective, and as long as the Channeling Injunction and Consensual Claimant Release are not void, would directly conflict with the intended consummation of the Plan, including the unconditional release of claims by non-opt out Plaintiffs against Former Corizon Employees, YesCare Corp. and CHS TX, Inc.

The Court should therefore enter an Order confirming that the Plaintiffs in Exhibit A are enjoined from continuing their lawsuits against Former Corizon Employees and other Released Parties as long as the Channeling Injunction and Consensual Claimant Release do not terminate or become void. It would be an epic waste of resources, including judicial resources, and contrary to the intent of the Plan, to allow Plaintiffs to continue to prosecute Causes of Action that the Bankruptcy Plan intends to fully release. Accordingly, Movants respectfully request that the Court enter an Order enjoining the Plaintiffs from further prosecuting their lawsuits as long as the Bankruptcy Plan's Injunctions and Releases are in effect.

FACTUAL BACKGROUND

By Order dated March 3, 2025, the Court confirmed the *First Modified Joint Chapter 11 Plan of Reorganization of the Tort Claimants' Committee, Official Committee of Unsecured*

Creditors and Debtor (the "Bankruptcy Plan"). (Doc. 2014).[2] The Bankruptcy Plan is now effective.

A. The Channeling Injunction

Under the Bankruptcy Plan, "Claim" means any claim against the Debtor, as defined in section 101(5) of the Bankruptcy Code. Art. I, ¶ 28. A "Holder" of a Claim means "any Person or Entity holding a Claim...." Art. I, ¶ 105. Plaintiffs who could or did assert injuries arising from conduct attributable to the Debtor are Holders of "PI/WD Claim," which is defined as:

> any unsecured Claim against the Debtor that is attributable to, arises from, is based upon, relates to, or results from an alleged personal injury tort or wrongful death claim within the meaning of 28 U.S.C. § 157(b)(2)(B), including any PI/WD Claim against the Debtor.

Art. I, ¶142. Holders of PI/WD Claims who did not opt out became a "Consenting PI/WD Claimant." Art. I, ¶ 45. Consenting PI/WD Claimants have their claims "channeled" into a PI/WD Trust and are subject to a Channeling Injunction. Art.I, ¶ 45 (defining Channeling Injunction); Art. IV.D ("All Channeled PI/WD Trust Claims shall be subject to the Channeling Injunction.")).

The Channeling Injunction prohibits Plaintiffs from pursuing recovery outside of a PI/WD Trust against "any Released Party":

> the sole recourse of any Holder of a Channeled PI/WD Trust Claim that is eligible for compensation under the PI/WD Trust Distribution Procedures on account of such Channeled PI/WD Trust Claim shall be to and against the PI/WD Trust pursuant to the PI/WD Trust Documents, and such ***Holder shall have no right to assert such Channeled PI/WD Trust Claim or any Claim against the Debtor against any Released Party***…
>
> …on or after the Effective Date, and subject to the terms of Article IX.I.5, all Persons that have held or asserted, currently hold or assert, or that may in the future hold or assert, any Channeled Claim ***shall be stayed, restrained, and enjoined*** from taking any action for the

[2] Capitalized terms used herein but not defined have the meanings ascribed to in the Bankruptcy Plan.

> purpose of directly, indirectly, or derivatively collecting, recovering, or receiving payment, satisfaction, or recovery ***from any Released Party*** with respect to any such Channeled Claim, other than from the Trusts…

Art. IX.I.2. Pursuant to Art. III.F.6(a)(i), "[e]xcept as provided in the Plan, Holders of Channeled PI/WD Claims shall be enjoined from prosecuting any outstanding or filing future Claims against the Released Parties in any forum whatsoever, including any state, federal, or non-U.S. court."

The Bankruptcy Plan defines a "Released Party" to include, amongst others, the Debtor and "each of their respective current and former officers, directors, managers, ***employees***, contractors, agents, attorneys, and other professional advisors." Art. I, ¶ 175 (emphasis added).

B. The Consensual Claimant Release Applies to Former Corizon Employees

The Consensual Claimant Release releases the Released Parties from "all claims or Causes of Action, including any Estate Causes of Action, against a Released Party that are released under the Plan and the Confirmation Order." Art. I, ¶ 173.[3] Pursuant to the Plan's Consensual Claimant Release, "[a]s of the Final Payment Date":

> Consenting Claimants shall, and shall be deemed to, expressly, conclusively, absolutely, unconditionally, irrevocably, and forever release and discharge each Released Party of and from ***any and all Causes of Action based on or relating to, or in any manner arising from, in whole or in part, any act, omission, transaction, event, or other circumstance taking place or existing on or before the Effective Date in connection with or related to the Debtor***, the Estate, their respective current or former assets and properties, the Chapter 11 Case, the Plan of Divisional Merger, any Claim or Interest that is treated by the Plan***, the business or contractual***

[3] The Bankruptcy Plan defines "Causes of Action" to "mean[] any claims, causes of action, interests, damages, remedies, demands, rights, actions (including Avoidance Actions), suits, debts, sums of money, obligations, judgments, liabilities, accounts, defenses, offsets, counterclaims, crossclaims, powers, privileges, licenses, liens, indemnities, guaranties, and franchises of any kind or character whatsoever, whether known or unknown, foreseen or unforeseen, now existing or hereafter arising, contingent or non-contingent, liquidated or unliquidated, choate or inchoate, secured or unsecured, assertable, directly or derivatively, matured or unmatured, suspected or unsuspected, in contract, tort, law, equity, or otherwise. Art. I, ¶ 18.

> ***arrangements between the Debtor and any Released Party***, the restructuring of any Claim or Interest that is treated by the Plan before or during the Chapter 11 Case, any of the Plan Documents or any related agreements, instruments, and other documents created or entered into before or during the Chapter 11 Case or the negotiation, formulation, preparation or implementation thereof, the pursuit of Plan confirmation, the administration and implementation of the Plan, the solicitation of votes with respect to the Plan, the distribution of property under the Plan***, or any other act or omission, transaction, agreement, event, or other occurrence taking place on or before the Effective Date related or relating to the foregoing***…

The Bankruptcy Plan recognized that these releases were provided in exchange "for good and valuable consideration, the adequacy of which is hereby confirmed, as an integral component of the Plan." Art. IV.B.7; Art. IX.D. The Confirmation Order held that "[t]he release of Claims and Causes of Action by the Consenting Claimants, as set forth in Article IV.B.7 and IX.D of the Plan, constitutes an essential and critical provision of the Plan and forms an integral part of the agreement embodied in the Plan among all parties in interest." Confirmation Order, ¶ 45. The Confirmation Order further held

> 46. The Consensual Claimant Release is: (a) consensual as to the Consenting Claimants, respectively; (b) within this Court's jurisdiction pursuant to 28 U.S.C. § 1334; (c) in exchange for the good and valuable consideration provided by the Released Parties; (d) a good-faith settlement and compromise of the Claims and Causes of Action released by such release; (e) in the best interests of the Debtor and its creditors; (f) fair, equitable, and reasonable; (g) given and made after due notice and opportunity for hearing; and (h) appropriately tailored under the facts and circumstances of the Chapter 11 Case.
>
> 47. The Consensual Claimant Release and its protections were necessary inducements to the participation of the Debtor's stakeholders in the negotiations and compromises that led to the Plan and the structure thereof, including the Estate Party Settlement.

Confirmation Order, ¶¶ 46-47. *See also* ¶¶ 91. The Court also held "All applicable parties received due and adequate notice of the Consensual Claimant Release and had the opportunity to opt out of the Consensual Claimant Release." Confirmation Order, ¶ 48.

The Court entered the Confirmation Order as a final order on March 3, 3025, which set the time for appeal. Confirmation Order, ¶ 131. Upon the Effective Date, the Confirmation Order became binding on "All Entities that are parties to or are subject to the settlements, compromises, releases, and injunctions described in the Plan." The Plan contains a broad injunction precluding and enjoining "any actions to interfere with the implementation and consummation of the Plan." Confirmation Order, ¶ 97; ¶ 129.

C. Lawsuits Against Former Corizon Employees By Plaintiffs Who Did Not Opt Out Of The Bankruptcy Plan

Plaintiffs in Exhibit A are current or former incarcerated individuals who allegedly received health care from Corizon Health, Inc. pursuant to a Corizon contract with a government and/or government agency before the petition date. Exhibit A identifies the basis for each Plaintiff's knowledge and notice of the bankruptcy proceedings.[4] The Plaintiffs did not opt out of the Bankruptcy Plan's Consensual Claimant Release. The Plaintiffs did not object to or appeal the Confirmation Order.

As their respective Complaints indicate, each Plaintiff claims that they suffered personal injuries as a result of conduct by one or more former Corizon employees (the Former Corizon Employees) who were acting in their capacity as a Corizon employee at the time of the alleged

[4] The Court repeatedly approved of the form and manner of notice to claimholders. *See* Doc. 1813, ¶ J; Doc. 1813 at 9, ¶ 18; Doc. 2014 at 6; § G, ¶ 10. In addition to the Plaintiffs' actual knowledge and notice, notice of Deadlines for the Filing of Proofs of Claim was published in The New York Times on May 8, 2023, and in The Wall Street Journal on May 9, 2023, s*ee* Doc. 610, and Notice of Deadlines for the Filing of Proofs of Claim was also published in the Prison Legal News in the June 2023 issue. *See* Doc. 658.

conduct giving rise to their claim. Most Plaintiffs have either directly asserted claims against Corizon Health, Inc. or directly or impliedly allege that the Former Corizon Employee's actionable conduct was undertaken pursuant to a Corizon directive or policy. The specific legal theories at issue in each are identified in Exhibit A, and generally include negligence, medical malpractice, wrongful death, and § 1983 claims. All claims allege personal injuries as the harm caused by the alleged actionable conduct.

D. Plaintiffs Refuse To Stipulate To Stay Their Lawsuits Against Former Corizon Employees and Other Released Parties

After the Plan became effective, counsel for CHS TX, Inc., a "Released Party" under the Bankruptcy Plan, sent letters to each Plaintiff requesting that they agree to a stipulation to be filed in their respective case staying their action against Former Corizon Employees (and, in some instances, against other Released Parties, including CHS) in light of the Plan's Injunctions and the Consensual Claimant Release. Some Plaintiffs agreed. The Plaintiffs identified in Exhibit A did not agree.[5]

ARGUMENT

I. THE COURT HAS JURISDICTION TO ENFORCE THE BANKRUPTCY PLAN CONSISTENT WITH THE CONSENSUAL CLAIMANT RELEASE

Federal district courts may hear "all civil proceedings…related to" bankruptcy cases. 28 U.S.C. § 1334(b). This Court retained "exclusive jurisdiction over all matter arising out of, or related to, the Chapter 11 Case and the Plan pursuant to sections 105(a) and 1142 of the Bankruptcy Code…" (Confirmation Order, ¶ 128).

[5] Concurrent with filing this motion, Movants are filing motions in all federal and state cases implicated by this motion seeking to stay the respective actions until such time as this Court decides this motion.

A proceeding relates to a bankruptcy case if "the outcome of that proceeding could conceivably have any effect" on the debtor's estate. *Bass v. Denney (In re Bass)*, 171 F.3d 1016, 1022 (5th Cir. 1999) (quotation omitted). "Related-to jurisdiction" thus includes "any litigation" that "could alter the debtor's rights, liabilities, options, or freedom of action or could influence the administration of the bankrupt estate." *Collins v. Sidharthan (In re KSRP, Ltd.)*, 809 F.3d 263, 266 (5th Cir. 2015) (cleaned up). Related-to jurisdiction includes "matters pertaining to the implementation or execution of the plan." *Craig's Stores of Tex., Inc. v. Bank of La. (In re Craig's Stores of Tex., Inc.),* 266 F.3d 388, 390 (5th Cir. 2001). Indeed, "related-to jurisdiction is clear" when the bankruptcy court seeks to enforce its orders, when there is a dispute over the meaning of the plan, or when it "implicate[s] a specific plan's provision." *In re GenOn Mid-Atl. Dev., LLC,* 42 F.4th 523, 535 (5th Cir. 2022). Related-to jurisdiction therefore includes post-confirmation jurisdiction over suits between non-debtors when the dispute relates to the implementation of execution of the bankruptcy plan. *Id.*; *First Am. Title Ins. Co. v. First Tr. Nat'l Ass'n (In re Biloxi Casino Belle),* 368 F.3d 491 (5th Cir. 2004).

The Court has jurisdiction here because the Order sought herein specifically seeks to facilitate and enforce the Bankruptcy Plan's injunctions and Consensual Claimant Release. *See In re CJ Holding Co.,* 597 B.R. 597, 611 (S.D. Tex. 2019) (bankruptcy court had "related to" jurisdiction to enforce consensual claimant release against tort claimant).

II. THE COURT SHOULD ENJOIN PLAINTIFFS FROM PROSECUTING RELEASED CLAIMS UNLESS THE CONSENSUAL CLAIMANT RELEASE BECOMES VOID

Consensual third party releases that discharge claims against non-debtors are appropriate and permitted. *See In re Robertshaw U.S. Holding Corp*., 662 B.R. 300, 323 (Bankr. S.D. Tex. 2024) (affirming opt out feature for consensual third-party releases, noting "[h]undreds of chapter

11 cases have been confirmed in this District with consensual third-party releases"); *In re Pipeline Health Sys., LLC,* No. 22-90291, 2025 WL 686080, at *4 (Bankr. S.D. Tex. Mar. 3, 2025) ("Opt-out procedures are a proper means to obtain consent to third-party releases in a chapter 11 plan.").[6] Importantly, none of the Plaintiffs objected to or appealed the Confirmation Order. Accordingly, Plaintiffs cannot use their response to this motion as a collateral attack on the Bankruptcy Plan's injunctions, the Consensual Claimant Release, or the notice or opt-out procedures. *See In re CJ Holding Co.,* 597 B.R. 597, 611 (S.D. Tex. 2019); *see also In re Palmaz Sci. Inc.*, 262 F. Supp. 3d 428, 437 (W.D. Tex. 2017); *Republic Supply v. Shoaf*, 815 F.2d 1046 (5th Cir. 1987).

As long as the Bankruptcy Plan remains in effect, and unless the Plan's injunctions and Consensual Claimant Release become void, it would directly conflict and interfere with the intended consummation of the Bankruptcy Plan to allow lawsuits against Former Corizon Employees to proceed when those Causes of Action will be fully released upon Final Payment Date absent a subsequent Settlement Payment clawback. Art. IV.B.13. The Bankruptcy Court has the authority to enjoin the continued prosecution of third-party actions against Former Corizon Employees to facilitate a comprehensive resolution of the Debtor's potential liabilities and to prevent litigation that is inconsistent with the Bankruptcy Plan's Releases. *See* 11 U.S.C. § 105(a)

[6] The Supreme Court's opinion in *Harrington v. Purdue Pharma L.P.*, 603 U.S. 204, 144 S.Ct. 2071, 219 L.Ed.2d 721 (2024) does not alter Fifth Circuit law about ***consensual*** releases and injunctions. In *Purdue*, the Court held that the Code "does not authorize a release and injunction that, as part of a plan of reorganization under Chapter 11, effectively seeks to discharge claims against a nondebtor without the consent of the affected claimants." *Id*. at 227, 144 S. Ct. 2071 (emphasis added). *Compare In re Robertshaw,* 662 B.R. at 22 ("The Plan does not include non-consensual third-party releases like the ones addressed in *Purdue*. It contains consensual ones." So the *Purdue* decision does not apply here) *with Matter of Highland Cap. Mgmt., L.P.,* 132 F.4th 353, 359 (5th Cir. 2025) (disapproving of "a non-consensual release and/or injunction protecting non-debtors").

(authorizing "any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title); 11 U.S.C. § 1123(b)(6) (authorizing "other appropriate provisions not inconsistent with the applicable provisions of this title"); Art. IX.J ("Upon entry of the Confirmation Order, all holders of Claims and Interests shall be precluded and enjoined from taking any actions to interfere with the implementation and consummation of the Plan."). A bankruptcy court's power to enforce a consensual release by enjoining third-party actions against non-debtors that would be released is well-recognized as it is in furtherance of the bankruptcy plan. See *In re Think Fin., LLC*, 2019 WL 8272638, at *11 (Bankr. N.D. Tex. Dec. 2, 2019) (confirming injunctions as "necessary to implement the Plan and to preserve and enforce…the Consensual Third Party Releases…"); *In re Dow Corning Corp.,* 280 F.3d 648 (6th Cir. 2002) (third-party injunction authorized by 11239(b)(6) and "broad authority to modify creditor-debtor relationships."); *SEC v. Drexel Burnham Lambert Group, Inc. (In re Drexel Burnham Lambert Group, Inc*., 960 F.2d 285, 293 (2d Cir. 1992) ("In bankruptcy cases, a court may enjoin a creditor from suing a third party, provided the injunction plays an important part in the debtor's reorganization plan"); *Matter of Munford, Inc.,* 97 F.3d 449, 456 (11th Cir. 1996) (affirming injunction precluding claims for contribution and indemnity).

III. THE CHANNELING INJUNCTION PROHIBITS CONTINUED PROSECUTION OF PLAINTIFFS' CLAIMS AGAINST RELEASED PARTIES

Although the Court has authority to issue a new Order providing the requested injunction, the Court should also confirm that the Channeling Injunction already enjoins Plaintiffs from further prosecuting their claims against Released Parties as along as it has not terminated or the Consensual Claimant Release does not become void. *See* Art. IX.I.

Plaintiffs may argue that the Channeling Injunction does not enjoin their lawsuits against Former Corizon Employees because they have not actually asserted their claims against the

Debtor. That argument is inconsistent with the Channeling Injunction and the Code. The Channeling Injunction expressly prohibits Plaintiffs from avoiding the Trust process by prosecuting claims against the Debtor as claims seeking recovery from the Released Parties. Art. IX.I.2. There is no question that each Plaintiff is a "Holder" of claims against the Debtor. The Code defines a pre-petition claim as a "right to payment, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured or unsecured." 11 U.S.C. § 101(5)(A). Congress confirmed that the word "Claim" is to be given the "broadest possible definition" to ensure that "all legal obligations of the debtor, no matter how remote or contingent, will be able to be dealt with in the bankruptcy case." H.R.Rep. No. 95–595 (1977) reprinted in 1978 U.S.C.C.A.N. 5963, 6266. *See also In re Nat'l Gypsum Co.,* 139 B.R. 397, 405 (N.D. Tex. 1992) ("courts accordingly have given a broad and expansive reading to the term "claim."). The drafters defined "claim" broadly to ensure that "all those with a potential call on the debtor's assets, provided the call in at least some circumstances could give rise to a suit for payment . . . come before the reorganization court so that those demands can be allowed or disallowed and their priority and dischargeability determined." *In re Caldor, Inc.-NY*, 240 B.R. 180, 191 (Bankr. S.D.N.Y. 1999), *aff'd sub nom*. *Pearl-Phil GMT (Far E.) Ltd. v. Caldor Corp.,* 266 B.R. 575 (S.D.N.Y. 2001). The term "Claim" is therefore "sufficiently broad to encompass any possible right to payment." *Mazzeo v. U.S. (In re Mazzeo)*, 131 F.3d 295, 302 (2d Cir. 1997) (*citing Ohio v. Kovacs*, 469 U.S. 274, (1985).

A Plaintiff alleging an injury resulting from the actions of a Former Corizon Employee that is based on the employee's conduct arising from their employment by the Debtor is invariably a Holder of a "Claim" against the Debtor even if they did not name the Debtor as a party, assert the allegations, or file a Proof of Claim. *See In re Russell,* 193 B.R. 568, 571–72 (Bankr.S.D.Cal.

1996) ("where the claimants had a pre-petition relationship to the debtor and the circumstance which gives rise to their claim, it is within the fair contemplation of the parties that a contingent claim exists at that point in time."); *In re Arrowmill Dev. Corp.,* 211 B.R. 497, 503 (Bankr. D.N.J. 1997) ("A discharge in bankruptcy is an involuntary release by operation of law of creditor claims against an entity (both asserted and unasserted) which is enforced by the court."). *Accord In re Natl Gypsum Co.,* 139 B.R. at 405 ("the creditor need not have a cause of action that is ripe for suit outside of bankruptcy in order for it to have a pre-petition claim for purposes of the Code.").

Claims against Former Corizon Employees are inherently derivative of claims against Corizon because the Corizon employees would not have been in a position to act in relation to a Plaintiff's health care but for their employment by Corizon. To the extent a Plaintiff directly or impliedly alleges that the Former Corizon Employee acted within the scope of their employment, or further to a Corizon policy, the Plaintiff would hold a vicarious liability or *respondeat superior* claim against Corizon, or a *Monell* claim in a §1983 action, or a potential indemnification claim regardless of whether the Plaintiff asserted it. The point of the Channeling Injunction is to prevent recovery "from any Released Party" for Channeled Claims. The Channeling Injunction would hardly have any effect if a Plaintiff could obtain recovery "from any Released Party" for conduct attributable to the Debtor simply by declining to name the Debtor as a party.

A Plaintiff's failure to assert their rights in the Bankruptcy Court is also no out. "Once creditors know about the bankruptcy, then they must take steps to protect their rights." *In re Schepps Food Stores, Inc.,* 152 B.R. 136, 138 (Bankr. S.D. Tex. 1993); *Robbins v. Amoco Prod. Co.,* 952 F.2d 901 (5th Cir. 1992) (reh'g denied 1992) ("When the holder of a large, unsecured claim . . . receives any notice . . . that its debtor has initiated bankruptcy proceedings, it is under

constructive or inquiry notice that its claim may be affected, and it ignores the proceedings to which the notice refers at its peril.") (citation omitted); *Otto v. Texas Tamale Co.,* 219 B.R. 732, 740 (Bankr. S.D. Tex. 1998) (The failure to act by an individual who knows about a debtor's bankruptcy "is fatal to his claims"). "[I]t does not offend due process to view actual notice of a debtor's bankruptcy to a prepetition creditor as placing a burden on the creditor to come forward with his claim." *Sequa Corp. v. Christopher*, 28 F.3d 512, 517 (5th Cir. 1994). Releasees cannot avoid a consensual claimant release when they had knowledge of the bankruptcy but failed to assert their rights. *In re Pipeline Health Sys., LLC,* 2025 WL 686080, at *4 (Bankr. S.D. Tex. Mar. 3, 2025) (party with notice of the bankruptcy who did not receive an opt-out form because he did not file a proof of claim was bound by the consensual claimant release). "[I]nadvertence, ignorance of the rules, or mistakes construing the rules do not usually constitute 'excusable' neglect[.]" *Pioneer Brunswick Assoc. Ltd. Partnership*, 507 US 380, 395 (1993).[7]

The Channeling Injunction also must read consistent with the Consensual Claimant Release, which unquestionably releases Causes of Action against the Released Parties relating to or arising from their connection to the Debtor. It is therefore consistent with the intended consummation of the Bankruptcy Plan to read all the Bankruptcy Plan's injunctions as prohibiting prosecution of all actions that would be released upon the Final Payment Date as long as the Plan's injunctions and Consensual Claimant Release do not terminate or become void.

[7] To the extent Plaintiffs did not receive Plan notices ***because they did not assert their rights***, it is well-established that publication notice of a Confirmation Hearing and Plan provide adequate due process related to notice of third-party releases. *See In re CiCi's Holdings, Inc.,* 2021 WL 819330, at *10 (Bankr. N.D. Tex. Mar. 3, 2021) (holding third-party releases are consensual when "the Publication Notice referenced the release provisions in the Plan and advised careful review of the release, exculpation, discharge, and injunction provisions in Article VIII of the Plan and emphasized in bold and capitalized typeface that parties' rights may be affected thereby."; *see also In re Paddock Enterprises, LLC,* 2022 WL 1746652, at *45 (Bankr. D. Del. May 31, 2022) (publication notice adequate to provide notice of third-party releases).

CONCLUSION

For the reasons stated herein, the Court should enter an Order enjoining non-opt-out Plaintiffs identified in Exhibit A to this motion from continuing to prosecute Causes of Action against Former Corizon Employees as long as the Bankruptcy Plan's Injunctions and Releases are in effect.

Respectfully submitted,

By: */s/ Trevor W. Carolan*

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CERTIFICATE OF SERVICE

I do hereby certify that on the 16th day of May, 2025, a true and correct copy of the foregoing was electronically filed with the Clerk of Court and served using the CM/ECF system. In addition, a true and correct copy has been electronically mailed or certified mailed to the following:

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/s/ Trevor W. Carolan

Exhibit A

EXHIBIT A

Claimant/ Plaintiff	Case Caption	PI/WD Claim	§ 1983 Claim	Notice
Abraham, Andrea	*Andrea Abraham, et al., v. Corizon Health Inc., et al.*, #: 22-06060-NH (Mich. Cir. Ct.)	Yes	Yes	Ms. Abraham, as personal representative of the estate of Gregory A. Abraham, had actual knowledge of the bankruptcy proceeding because a Suggestion of Bankruptcy was filed in her case on February 27, 2023. Ms. Abraham is listed on the creditor matrix and is listed as having received notice of the Claims Bar Date and Solicitation Materials related to the Plan, including the Opt-Out Release Form. See (SDTX Doc. 609, Ex. D); (SDTX Doc. 1852, Ex. F). Ms. Abraham filed a Proof of Claim executed on August 14, 2023 and filed on August 14, 2023.
Akinola, Rilwan	*Akinola v. Corizon Health, Inc., et al.,* 22cv00657 & (D-121-CV-22-007131) (USDC Distrift of Maryland & District Court of Maryland for Allegany County)	Yes	Yes	Mr. Akinola had actual knowledge of the bankruptcy proceeding because a Suggestion of Bankruptcy was filed in the underlying lawsuit on February 21, 2023. (Doc. 30). Mr. Akinola is listed on the creditor matrix and is listed as having received notice of the Claims Bar Date and Solicitation Materials related to the Plan, including the Opt-Out Release Form. *See* (SDTX Doc. 609, Ex. D); (SDTX Doc. 1852, Ex. F).
Alvarez, Bruhman	*Alvarez v. Corizon Health, Inc., et al.*, #: 1:22-cv-02382-MJM (USDC District of Maryland)	Yes	Yes	Mr. Alvarez had actual knowledge of the bankruptcy proceeding because a Suggestion of Bankruptcy was filed in his case on February 21, 2023. (Doc. 15.) Mr. Alvarez is listed on the creditor matrix and is listed as having received notice of the Claims Bar Date and Solicitation Materials related to the Plan, including the Opt-Out Release Form.

Claimant/ Plaintiff	Case Caption	PI/WD Claim	§ 1983 Claim	Notice
				See (SDTX Doc. 609, Ex. D); (SDTX Doc. 1852, Ex. F). Mr. Alvarez filed a Proof of Claim executed on May 29, 2023 and filed on June 5, 2023. Mr. Alvarez voted for the Plan. (See SDTX Doc. 1852 at 27.)
Amaro, Pedro	*Amaro v. New Mexico Corrections Department, et al.*, #: 1:20-cv-01308-MV-LF (USDC District of New Mexico)		Yes	Publication Notice
Anderson, Michael	*Anderson v. Corizon Health, Inc., et al.,* 6:21-cv-03226-MDH (USDC Western District of Missouri)	Yes	Yes	Plaintiff had actual knowledge of the bankruptcy proceeding because a Suggestion of Bankruptcy was filed in the above-captioned case on February 16, 2023. (Doc. 215). Plaintiff is listed on the creditor matrix and is listed as having received notice of the Claims Bar Date and Solicitation Materials related to the Plan, including the Opt-Out Release Form. *See* (SDTX Doc. 609, Ex. D); (SDTX Doc. 1852, Ex. F). Plaintiff filed a Proof of Claim executed on May 25, 2023 and filed on May 31, 2023. Plaintiff even voted in favor of the Plan. (*See* SDTX Doc. 1852 at 19).
Anderson, Terence	1:21-cv-00683 (USDC District of Maryland)		Yes	Mr. Anderson is listed on the creditor matrix and is listed as having received notice of the Claims Bar Date and Solicitation Materials related to the Plan, including the Opt-Out Release Form. *See* (SDTX Doc. 609, Ex. D); (SDTX Doc. 1852, Ex. H).
Ayala, Kim	*K.A. et al v. City Of New York, et al.*, #:	Yes	Yes	K.A. had actual knowledge of the bankruptcy proceeding because a Suggestion of Bankruptcy was filed in

Claimant/ Plaintiff	Case Caption	PI/WD Claim	§ 1983 Claim	Notice
	1:16-cv-04936-LTS-JW (USDC Southern District of New York)			the above-captioned case on February 15, 2023. (Doc. 191.) K.A. is listed on the creditor matrix and is listed as having received notice of the Claims Bar Date and Solicitation Materials related to the Plan, including the Opt-Out Release Form. See (SDTX Doc. 609, Ex. D); (SDTX Doc. 1852, Ex. F). K.A. filed a Proof of Claim executed on April 4, 2023 and filed on April 4, 2023. See Exhibit A (Proof of Claim). K.A. voted for the Plan. (See SDTX Doc. 1993 at 27.)
Ballard, DeAndre	*Ballard v. Kingoo, et al.*, #: 1:24-cv-02763-BAH (USDC District of Maryland)		Yes	Publication Notice
Barrow, Gregory	*Barrow v. City of Philadelphia, et. Al:* 2:22cv03322 (USDC Eastern District of Pennsylvania)	Yes	Yes	Plaintiff had actual knowledge of the bankruptcy proceeding because a Suggestion of Bankruptcy was filed in the above-captioned case on February 15, 2023, Docs #19 and 20. Plaintiff is listed on the creditor matrix and is listed as having received notice of the Claims Bar Date and Solicitation Materials related to the Plan, including the Opt-Out Release Form. *See* (SDTX Doc. 609, Ex. D); (SDTX Doc. 1852, Ex. F). Plaintiff filed a Proof of Claim executed on May 18, 2023, and filed on May 18, 2023.
Beach, Benjamin	*Beach v. Corizon, et al.*, #2:22-cv-12105-MFL-APP (USDC Eastern District of Michigan)		Yes	Plaintiff had actual knowledge of the bankruptcy proceeding because a Suggestion of Bankruptcy was filed in the above-captioned case on February 20, 2023, Doc #26. Plaintiff is listed on the creditor matrix and is listed as having received notice of the Claims Bar Date and Solicitation Materials related to the Plan, including the Opt-Out Release

Claimant/ Plaintiff	Case Caption	PI/WD Claim	§ 1983 Claim	Notice
				Form. See (SDTX Doc. 609, Ex. D); (SDTX Doc. 1852, Ex. F).
Bell, Bahir	*Bell v. City of Philadelphia, et. Al:* 21-cv-03852 (USDC Eastern District of Pennsylvania)	Yes	Yes	Plaintiff had actual knowledge of the bankruptcy proceeding because a Suggestion of Bankruptcy was filed in the above-captioned case on February 16, 2023, Doc #43. Plaintiff is listed on the creditor matrix and is listed as having received notice of the Claims Bar Date and Solicitation Materials related to the Plan, including the Opt-Out Release Form. *See* (SDTX Doc. 609, Ex. D); (SDTX Doc. 1852, Ex. F). Plaintiff filed a Proof of Claim executed on June 5, 2023, and filed on June 14, 2023. Plaintiff voted for the Plan. (*See* SDTX Doc. 1993 at 13).
Blackwell, Denver	*Blackwell v. Corizon Health Care et al*, #1:21-cv-00176-AGF (USDC Eastern District of Missouri)	Yes	Yes	Plaintiff had actual knowledge of the bankruptcy proceeding because a Suggestion of Bankruptcy was filed in the above-captioned case on February 16, 2023, Doc. #63. Plaintiff is listed on the creditor matrix and is listed as having received notice of the Claims Bar Date and Solicitation Materials related to the Plan, including the Opt-Out Release Form. See (SDTX Doc. 609, Ex. D); (SDTX Doc. 1852, Ex. F). Plaintiff filed a Proof of Claim executed on July 20, 2023 and filed on July 28, 2023.
Blake, Shaidon	*Shaidon Blake #96323 vs. Corizon Health Services, et al.,* #2020-CV-000081 (Dist. Court, Butler County, KS)	Yes		Plaintiff had actual knowledge of the bankruptcy proceeding because a Suggestion of Bankruptcy was filed in the above-captioned case on February 20, 2023 and an amended Suggestion of Bankruptcy on April 7, 2023. Plaintiff is listed on the creditor matrix and is listed as having received notice of the Claims Bar Date and Solicitation Materials related to the Plan, including the Opt-Out Release Form. See (SDTX Doc. 609, Ex.

Claimant/ Plaintiff	Case Caption	PI/WD Claim	§ 1983 Claim	Notice
				D); (SDTX Doc. 1852, Ex. F). Plaintiff filed a Proof of Claim executed on May 8, 2023 and filed on May 19, 2023.
Bouton, Austin	22-cv-00010 (USDC Eastern Missouri)	Yes		Plaintiff had actual knowledge of the bankruptcy proceeding because a Notice of Filing Bankruptcy was filed in the above-captioned case on February 16, 2023, Doc # 80. Plaintiff is listed on the creditor matrix and is listed as having received notice of the Claims Bar Date and Solicitation Materials related to the Plan, including the Opt-Out Release Form. *See* (SDTX Doc. 609, Ex. D); (SDTX Doc. 1852, Ex. F). Plaintiff filed a Proof of Claim executed on August 11, 2023 and filed on August 11, 2023. Plaintiff voted for the Plan. (*See* SDTX Doc. 1993 at 22).
Brightly, Christopher	21cv00127 (USDC Arizona Tucson Division)		Yes	Plaintiff had actual knowledge of the bankruptcy proceeding because a Suggestion of Bankruptcy was filed in the above-captioned case on February 14, 2023, Doc #231. Plaintiff is listed on the creditor matrix and is listed as having received notice of the Claims Bar Date and Solicitation Materials related to the Plan, including the Opt-Out Release Form. *See* (SDTX Doc. 609, Ex. D); (SDTX Doc. 1852, Ex. F). Plaintiff filed a Proof of Claim executed on August 14, 2023 and filed on August 14, 2023. Plaintiff voted for the Plan. (*See* SDTX Doc. 1993 at 19).
Brown, Lisa	*Lisa Lee Alice Brown v. CHS TX, Inc., et al.*, 2:23-cv-12679 (USDC Eastern		Yes	Ms. Brown is listed on the creditor matrix and is listed as having received notice of the Claims Bar Date and Solicitation Materials related to the Plan, including the Opt-Out Release Form. *See* (SDTX Doc. 609, Ex. D); (SDTX Doc. 1852, Ex. F).

Claimant/ Plaintiff	Case Caption	PI/WD Claim	§ 1983 Claim	Notice
	District of Michigan)			
Bryant, Jeffery	*Bryant v. Corizon Health Inc., et Al:* 22cv12238 (USDC Eastern District of Missouri)		Yes	Mr. Bryant is listed as having received notice of the Claims Bar Date and Solicitation Materials related to the Plan, including the Opt-Out Release Form. (*See* SDTX Doc. 1852, Ex. F and K).
Buchanan, Phillip	*Buchanan v. Tehum Care Services, et. Al:* 4:22-cv-01361 (USDC Eastern District of Missouri)	Yes	Yes	Mr. Buchanan had actual notice of the bankruptcy proceeding because a Suggestion of Bankruptcy was filed in the above-captioned case on February 16, 2023 (*See* ECF No. 3). Mr. Buchanan is listed on the creditor matrix and is listed as having received notice of the Claims Bar Date and Solicitation Materials related to the Plan, including the Opt-Out Release Form. *See* (SDTX Doc. 609, Ex. D); (SDTX Doc. 1852, Ex. E). Mr. Buchanan also voted in favor of the Plan. (*See* SDTX Doc. 1993 at 21).
Buoncristian oChristi	*Buoncristiano v. YesCare, et. Al:* 23cv02588 (USDC Eastern District of Pennsylvania)	Yes	Yes	Ms. Buoncristiano had actual notice of the bankruptcy, as this matter was initially stayed on July 3, 2024 (*See* Doc. 60).
Byrd, Jeri	*Jeri Byrd v. Corizon, L.L.C., et al:* 5:23-CV-06005-FJG		Yes	Ms. Byrd had actual notice of the bankruptcy proceeding because a Suggestion of Bankruptcy was filed in the above-captioned case on February 16, 2023 (*See* ECF No. 4). Ms. Byrd is listed

Claimant/ Plaintiff	Case Caption	PI/WD Claim	§ 1983 Claim	Notice
	(USDC Western District of Missouri)			as having received notice of the Claims Bar Date and Solicitation Materials related to the Plan, including the Opt-Out Release Form. *See* (SDTX Doc. 1852, Ex. E).
Carlton, David	1:24-cv-00514-JRR (USDC District of Maryland)	Yes	Yes	Publication Notice
Calhoun-EL, James	*James Calhoun-EL v. Hamid Kiabayan, et al.,* No.: 1:24-cv-01491-TDC (USDC District of Maryland)	Yes	Yes	Publication Notice
Chapman, Michael	2:20-cv-00007-WKW-CSC (USDC Middle District of Alabama)	Yes	Yes	Mr. Chapman had actual notice of the bankruptcy, as this matter was initially stayed on March 7, 2023 (*See* Doc. 59). Mr. Chapman is listed on the creditor matrix and is listed as having received notice of the Claims Bar Date and Solicitation Materials related to the Plan, including the Opt-Out Release Form. *See* (SDTX Doc. 609, Ex. D); (SDTX Doc. 1852, Ex. F). Mr. Chapman voted for the Plan. (*See* SDTX Doc. 1993 at 21).
Chestnut, James	3:24-cv-00100-TKW-ZCB (USDC Northern Dist of Florida, Southern Division)	Yes	Yes	The Holder of a Claim wishing to opt out of the Plan, including the Consensual Claimant Release, was required to do so prior to the Voting Deadline. (Plan, Art. III.D; *See also* Confirmation Order, dated Mar. 3, 2025, at p. 4, (a.) (identifying voting deadline)). The Voting Deadline passed on February 21, 2025, at 5:00

Claimant/ Plaintiff	Case Caption	PI/WD Claim	§ 1983 Claim	Notice
				p.m. Central Time. Mr. Chestnut did not opt out of the Plan. (*See* SDTX Doc. 1993, Exhibits A-5 and A-6).
Clark, Hammel	22cv02231 (USDC District of Maryland)	Yes	Yes	Publication Notice.
Clay, Randy	*Randy Ladell Clay v. Gregory Costello, et al.,* No.: 2:17-cv-00646-ES-MAH (USDC District of New Jersey)	Yes	Yes	Plaintiff had actual notice of the bankruptcy proceeding because a Stay was filed in the above-captioned case on August 2, 2024 (See ECF No. 179), wherein the Court stayed the action against Gregory Costello and Joseph Girone, former employees of Corizon Health, Inc. while the Chapter 11 Bankruptcy was pending. Plaintiff is listed on the creditor matrix and is listed as having received notice of the Claims Bar Date and Solicitation Materials related to the Plan, including the Opt-Out Release Form. See (SDTX Doc. 609, Ex. D)
Dalal, Aakash	*Aakash Dalal v. Corizon Health, Inc.,* et al., Court File No.: PAS L 002979-1 (New Jersey Superior Court)	Yes	Yes	Plaintiff had actual notice of the bankruptcy proceeding because a Suggestion of Bankruptcy was filed in the above-captioned case on February 22, 2023 and is listed on the creditor matrix and is listed as having received notice of the Claims Bar Date and Solicitation Materials related to the Plan, including the Opt-Out Release Form. *See* (SDTX Doc. 609, Ex. D); (SDTX Doc. 1852, Ex. F). Plaintiff voted for the Plan. (*See* SDTX Doc. 1993 at 19).
Davis, Marques – Walker (Est. of Davis)	2:17-cv-02601 (USDC District Kansas)		Yes	Plaintiff had actual knowledge of the bankruptcy proceeding because a Minute Order was filed by the Clerk of the Court on April 2, 2024, continuing the

Claimant/ Plaintiff	Case Caption	PI/WD Claim	§ 1983 Claim	Notice
				abatement of the appeal pursuant to 18 U.S.C. § 362 based on the status of the bankruptcy proceedings. (*See* Doc. 320).
Dean, Jesse	1:23-cv-00408 (USDC for Western District of Michigan)		Yes	Plaintiff had actual knowledge of the bankruptcy proceeding because Plaintiff is listed on the creditor matrix and is listed as having received notice of the Claims Bar Date. *See* (SDTX Doc. 1852, Ex. O & Q).
Deloatch, Sean	22cv01521 (USDC Eastern District of Pennsylvania)	Yes	Yes	Plaintiff had actual knowledge of the bankruptcy proceeding because a Suggestion of Bankruptcy was filed in the above-captioned case on February 16, 2023, Doc #38. Plaintiff filed a Proof of Claim executed on May 18, 2023 and filed on May 18, 2023. *See* Plaintiff is listed on the creditor matrix and is listed as having received notice of the Claims Bar Date. *See* (SDTX Doc. 609, Ex. D). Plaintiff is also listed as having received Solicitation Materials related to the Plan, including the Opt-Out Release Form. *See* (SDTX Doc. 1852, Ex. E).
Dicks, Andrew	23cv2464 USDC Maryland		Yes	Plaintiff had actual knowledge of the bankruptcy proceeding because a Suggestion of Bankruptcy was filed in the above-captioned case on February 7, 2025. (Doc. 46).
Eisenbach, Brandon	23cv00462 USDC E. Missouri	Yes	Yes	Publication Notice
Farmer, Bryan	2:23-cv-10212 USDC Eastern District of Michigan	Yes	Yes	Plaintiff had actual knowledge of the bankruptcy proceeding because a Suggestion of Bankruptcy was filed in the above-captioned case on February 17, 2023, Doc #13. Plaintiff also filed a Proof of Claim executed on April 25, 2023 and filed on April 26, 2024.

Claimant/ Plaintiff	Case Caption	PI/WD Claim	§ 1983 Claim	Notice
				Plaintiff is listed on the creditor matrix and is listed as having received notice of the Claims Bar Date. *See* (SDTX Doc. 609, Ex. D). Plaintiff is also listed as having received Solicitation Materials related to the Plan, including the Opt-Out Release Form. *See* (SDTX Doc. 1852, Ex. E). Finally, Plaintiff voted in favor of the Plan. (*See* SDTX Doc. 1852) (Ex. A-4).
Fletcher, Jamonte	1:23-cv-01570-PX USDC District of MD (Baltimore)	Yes	Yes	Plaintiff had actual knowledge of the bankruptcy proceeding because a Suggestion of Bankruptcy was filed in the above-captioned case on November 22, 2023, Doc #16.
Floyd, Gary	*Linda Floyd v. Corizon Health, Inc., et.* Al: 19cv0341 (USDC District of Arizona)	Yes	Yes	Plaintiff had actual knowledge of the bankruptcy proceeding because a Suggestion of Bankruptcy was filed in the above-captioned case on February 14, 2023, Doc #85. Plaintiff filed a Proof of Claim executed on August 11, 2023 and filed on August 11, 2023. Plaintiff is listed on the creditor matrix and is listed as having received notice of the Claims Bar Date. *See* (SDTX Doc. 609, Ex. D). Plaintiff is also listed as having received Solicitation Materials related to the Plan, including the Opt-Out Release Form. *See* (SDTX Doc. 1852, Ex. R). Finally, Plaintiff voted for the Plan. (*See* SDTX Doc. 1993 at 27).
Fly, Jonathan	1:20-cv-03310 USDC District of Maryland)	Yes		Plaintiff had actual knowledge of the bankruptcy proceeding because a Suggestion of Bankruptcy was filed in the above-captioned case on February 21, 2023, Doc #34. Plaintiff filed a Proof of Claim executed on June 21, 2023 and filed on June 29, 2023. Plaintiff is listed on the creditor matrix and is listed as having received notice of the Claims Bar

Claimant/ Plaintiff	Case Caption	PI/WD Claim	§ 1983 Claim	Notice
				Date. *See* (SDTX Doc. 609, Ex. D). Plaintiff is also listed as having received Solicitation Materials related to the Plan, including the Opt-Out Release Form. *See* (SDTX Doc. 1852, Ex. F). Finally, Plaintiff voted for the Plan. (*See* SDTX Doc. 1993 at 20).
Franklin, Vivian	2:22-cv-03395-GAM (USDC E.D. Pennsylvania)		Yes	Plaintiff had actual knowledge of the bankruptcy proceeding because a Suggestion of Bankruptcy was filed in the above-captioned matter on February 15, 2023. *See* Doc. 19. In addition, Plaintiff is listed on the creditor matrix. *See* SDTX Doc. 609, Ex. D. Furthermore, Plaintiff received notice of the Claims Bar Date and Solicitation Materials related to the Plan, including the Opt-Out Release Form. SDTX Doc. 1852, Exs. C and E. Plaintiff executed and filed the Proof of Claim on May 18, 2023.
Fuller, Jerry	24cv2925 (USDC Eastern District of Pennsylvania)	Yes	Yes	Mr. Fuller had actual knowledge of the bankruptcy proceeding because a Suggestion of Bankruptcy was filed in the above-captioned matter on August 19, 2024. *See* Doc. 9. The Bankruptcy Court approved all notice procedures, including publication notice, and held in the Confirmation Order "that notice of the Confirmation Hearing and the opportunity for any party in interest to object to Confirmation have been adequate and appropriate as to all parties affected or to be affected by the Plan and the transactions contemplated thereby." SDTX Doc. 2014, p. 6.
Garcia-Ramos	*Garcia-Ramos v. Temesgen, et al*., Case No. 1:24-cv-00522-SAG (USDC		Yes	Publication Notice

Claimant/ Plaintiff	Case Caption	PI/WD Claim	§ 1983 Claim	Notice
	District of Maryland)			
Gilliam, Chelsea	*Gilliam v. Department of Public Safety and Correctional Services, et al.* 23cv01047 (USDC District of Maryland)		Yes	Chelsea Gilliam, Chloe Grey, and Kennedy Holland (collectively, "Plaintiffs") had actual knowledge of the bankruptcy proceeding because a Suggestion of Bankruptcy was filed in the above-captioned matter on May 8, 2023. *See* Doc. 18. The Bankruptcy Court approved all notice procedures, including publication notice, and held in the Confirmation Order "that notice of the Confirmation Hearing and the opportunity for any party in interest to object to Confirmation have been adequate and appropriate as to all parties affected or to be affected by the Plan and the transactions contemplated thereby." SDTX Doc. 2014, p. 6.
Harrison, Kevin	*Harrison v. Hakala et al,* 1:23-cv-00047-SEP (USDC E.D. Missouri)		Yes	Publication Notice
Harrison, Paul	21cv04166 (USDC Western Missouri)	Yes	Yes	Plaintiff had actual knowledge of the bankruptcy proceeding because a Suggestion of Bankruptcy was filed in the above-captioned case on February 16, 2023 (*Watkins v. Algoa Correctional Facility et al*, # 2:21-cv-04166-BCW Doc. 86). Plaintiff also is listed on the creditor matrix and is listed as having received notice of the Claims Bar Date and Solicitation Materials related to the Plan, including the Opt-Out Release Form. *See* (SDTX Doc. 609, Ex. D, pg. 147); (SDTX Doc. 1852, Ex. E). Finally, Plaintiff filed a Proof of Claim executed on June 27, 2023 and filed on June 27, 2023.

Claimant/ Plaintiff	Case Caption	PI/WD Claim	§ 1983 Claim	Notice
Hasty, Wilber	2:22cv04054 (USDC Western Missouri - Central Division)	Yes	Yes	Mr. Hasty had actual knowledge of the bankruptcy proceeding because a Suggestion of Bankruptcy was filed in the above-captioned case on February 16, 2023 (*See Hasty v. Corizon, LLC, et al.*, #2:22-cv-04054-SRB Doc. 80). Mr. Hasty is listed on the creditor matrix and is listed as having received notice of the Claims Bar Date and Solicitation Materials related to the Plan, including the Opt-Out Release Form. *See* (SDTX Doc. 609, Ex. D, pg. 172); (SDTX Doc. 1852, Ex. E). Mr. Hasty also filed a Proof of Claim executed on August 2, 2023 and filed on August 2, 2023. *See* Exhibit A (Proof of Claim). Finally, Mr. Hasty voted in favor of the Plan. (*See* SDTX Doc. 1993, pg. 31).
Hawkins, Timothy	1:22-cv-02121-PX (USDC District of Maryland)		Yes	Mr. Hawkins had actual knowledge of the bankruptcy proceeding because a Suggestion of Bankruptcy was filed in the above-captioned case on March 1, 2023. (*Hawkins v. Corizon Health Inc. et al.* Doc. 14). Mr. Hawkins is listed on the creditor matrix and is listed as having received notice of the Claims Bar Date and Solicitation Materials related to the Plan, including the Opt-Out Release Form. *See* (SDTX Doc. 609, Ex. D, pg. 161); (SDTX Doc. 1852, Ex. E). Mr. Hawkins filed a Proof of Claim executed on May 19, 2023 and filed on May 30, 2023. And Mr. Hawkins voted in favor of the Plan. (*See* SDTX Doc. 1993, pg. 30).
Hayes, LuJuan	*Hayes v. Precythe et al.* # 2:21-cv-04228-SRB (USDC District of Missouri)		Yes	Plaintiff had actual knowledge of the bankruptcy proceeding because a Suggestion of Bankruptcy was filed in the above-captioned case on February 16, 2023. (See Hayes v. Precythe et al, Doc. 54). Plaintiff is also listed on the creditor matrix and is listed as having received

Claimant/ Plaintiff	Case Caption	PI/WD Claim	§ 1983 Claim	Notice
				notice of the Claims Bar Date and Solicitation Materials related to the Plan, including the Opt-Out Release Form. See (SDTX Doc. 609, Ex. D); (SDTX Doc. 1852, Ex. F). Plaintiff filed a Proof of Claim executed on May 11, 2023 and filed on June 5, 2023.
Hefley, Dustin	21cv00041 consolidated with 21cv01050 (USDC Eastern Missouri)	Yes	Yes	Mr. Hefley had actual knowledge of the bankruptcy proceeding because a Suggestion of Bankruptcy was filed in the above-captioned case on February 16, 2023. (*See Hefley v. Redington et al*, Doc. 84). Mr. Hefley is also listed on the creditor matrix and is listed as having received notice of the Claims Bar Date and Solicitation Materials related to the Plan, including the Opt-Out Release Form. *See* (SDTX Doc. 609, Ex. D); (SDTX Doc. 1852, Ex. H).
Helvey, Chase	5:19-cv-00136-GFVT (USDC Eastern Kentucky – Lexington)	Yes	Yes	Mr. Helvey had actual knowledge of the bankruptcy proceeding because a Suggestion of Bankruptcy was filed in the above-captioned case on February 17, 2023. (*See Helvey v. Lexington-Fayette Urban County Government, et al*, Doc 138). Mr. Helvey is also listed on the creditor matrix and is listed as having received notice of the Claims Bar Date and Solicitation Materials related to the Plan, including the Opt-Out Release Form. *See* (SDTX Doc. 609, Ex. D); (SDTX Doc. 1852, Ex. E). Mr. Helvey filed a Proof of Claim executed on August 11, 2023 and filed on August 11, 2023.
Holden, Gregory	*Holden v. Donaldson et al,* #1:24-cv-00105-DLB (USDC		Yes	Publication Notice

Claimant/ Plaintiff	Case Caption	PI/WD Claim	§ 1983 Claim	Notice
	District of Maryland)			
Hoskins, Danny	*Hoskins v. Corizon Health et al*, #1:22-cv-00355-PX (USDC District of Maryland)		Yes	Plaintiff had actual knowledge of the bankruptcy proceeding because a Suggestion of Bankruptcy was filed in the above-captioned case on May 12, 2023 (See Hoskins v. Corizon Health et al, Doc. 28). Plaintiff is listed as having received notice of the Claims Bar Date and Solicitation Materials related to the Plan, including the Opt-Out Release Form. (SDTX Doc. 1852, Ex. D). Plaintiff also filed a Proof of Claim executed on July 26, 2023 and filed on August 8, 2023.
Howard, Daniel	22cv02603 (24-C-22-003390) USDC Maryland	Yes	Yes	Plaintiff had actual knowledge of the bankruptcy proceeding because a Suggestion of Bankruptcy was filed in the above-captioned case on February 21, 2023 (*See Hunter, et al. v. Corizon Health, Inc. et al.,* Doc. 22). Plaintiff is also listed on the creditor matrix and is listed as having received notice of the Claims Bar Date and Solicitation Materials related to the Plan, including the Opt-Out Release Form. *See* (SDTX Doc. 609, Ex. D); (SDTX Doc. 1852, Ex. E). Plaintiff filed a Proof of Claim executed and filed on August 11, 2023. And Plaintiff voted in favor of the Plan. (*See* SDTX Doc. 1993, p. 26).
Howe, Stephen	1:24-cv-00653-ABA (USDS District of Maryland)		Yes	Publication Notice
Jeter, Dante	*Jeter v. Corizon Health Inc.,* # 1:21-cv-02828-SAG (USDC		Yes	Plaintiff had actual knowledge of the bankruptcy proceeding because a Suggestion of Bankruptcy was filed in the above-captioned case on February 15, 2023. (See Jeter v. Corizon Health Inc.,

Claimant/ Plaintiff	Case Caption	PI/WD Claim	§ 1983 Claim	Notice
	District of Maryland)			Doc 27). Plaintiff is also listed on the creditor matrix and is listed as having received notice of the Claims Bar Date and Solicitation Materials related to the Plan, including the Opt-Out Release Form. See (SDTX Doc. 609, Ex. D); (SDTX Doc. 1852, Ex. H).
Johnson, James	*James Johnson, Sr., as as Personal Representative of the Estate of James David Johnson, II, deceased v. Contenna Moore, et al.*, #CV-18-902289 (Circuit Court Montgomery County, Alabama)	Yes	Yes	Plaintiff is listed on the creditor matrix and is listed as having received notice of the Claims Bar Date and Solicitation Materials related to the Plan, including the Opt-Out Release Form. See (SDTX Doc. 609, Ex. D); (SDTX Doc. 1852, Ex. F). Plaintiff filed a Proof of Claim executed and filed on August 9, 2023.
Johnson, Marvin	24cv10815 (USDC Eastern District of Michigan)	Yes	Yes	Publication Notice
Jones, Maurice	6:22-cv-03079 (USDC Western District of Missouri)			Plaintiff is listed on the creditor matrix and is listed as having received notice of the Claims Bar Date and Solicitation Materials related to the Plan, including the Opt-Out Release Form. *See* (SDTX Doc. 609, Ex. D); (SDTX Doc. 1852, Ex. F).
Keeker, Thomas	*Thomas Keeker v. Indiana Department of Correction,*		Yes	Plaintiff is listed on the creditor matrix and is listed as having received notice of the Claims Bar Date and Solicitation Materials related to the Plan, including the

Claimant/ Plaintiff	Case Caption	PI/WD Claim	§ 1983 Claim	Notice
	Corizon Medical, et al., 11, Case #: 49D11-1603-CT-010712 (State of Indiana Marion Superior Court)			Opt-Out Release Form. See (SDTX Doc. 609, Ex. D); (SDTX Doc. 1852, Ex. B).
Kelly, Keith	*Kelly v. YesCare, et. Al:* 23-cv-2432 (USDC District of Maryland)	Yes		Plaintiff is listed on the creditor matrix and is listed as having received notice of the Claims Bar Date and Solicitation Materials related to the Plan, including the Opt-Out Release Form. See (SDTX Doc. 609, Ex. D); (SDTX Doc. 1852, Ex. F).
Kirschke, Moses	*Kirschke v. Corizon Health Incorporated et al,* Case #: 2:19-cv-13788-DPH-APP (USDC Eastern District of Michigan)	Yes	Yes	Plaintiff had actual knowledge of the bankruptcy proceeding because a Suggestion of Bankruptcy was filed in the above-captioned case on February 17, 2023. See Doc # 146. Plaintiff is listed on the creditor matrix and is listed as having received notice of the Claims Bar Date and Solicitation Materials related to the Plan, including the Opt-Out Release Form. See (SDTX Doc. 609, Ex. D); (SDTX Doc. 1852, Ex. F). Plaintiff filed and executed a Proof of Claim August 14, 2023. Plaintiff voted for the Plan. (See SDTX Doc. 1993) (p. 3).
Lee, Jason	*Lee, Jason v. Corizon Health et al.*, Case #: 1:20-cv-01216-SHM-cgc (USDC W. District of Tennessee)	Yes	Yes	Plaintiff had actual knowledge of the bankruptcy proceeding because a Suggestion of Bankruptcy was filed in the above-captioned case on February 27, 2023. See Doc # 33. Plaintiff is listed on the creditor matrix and is listed as having received notice of the Claims Bar Date and Solicitation Materials related to the Plan, including the Opt-Out Release

Claimant/ Plaintiff	Case Caption	PI/WD Claim	§ 1983 Claim	Notice
				Form. See (SDTX Doc. 609, Ex. D); (SDTX Doc. 1852, Ex. F).
Libertus, Timothy	*Libertus v. Harris et al.,* Case #: 4:22-cv-01226-AGF, (USDC Eastern District of Missouri)	Yes	Yes	Publication Notice
Lino, Janine	2020-CA-000296 (St. Lucie County Circuit Court)	Yes	Yes	Plaintiff had actual knowledge of the bankruptcy proceeding because a Suggestion of Bankruptcy was filed in the above-captioned case on February 21, 2023. *See* Doc # 136. Plaintiff is listed on the creditor matrix and is listed as having received notice of the Claims Bar Date and Solicitation Materials related to the Plan, including the Opt-Out Release Form. *See* (SDTX Doc. 609, Ex. D); (SDTX Doc. 1852, Ex. F). Plaintiff filed a Proof of Claim executed and filed on August 14, 2023.
Loyde, Mack	3:20-cv-00710 (USDC - Middle District of Tennessee)	Yes	Yes	Plaintiff had actual knowledge of the bankruptcy proceeding because a Suggestion of Bankruptcy was filed in the above-captioned case on February 17, 2023. *See* Doc # 106. Plaintiff is listed on the creditor matrix and is listed as having received notice of the Claims Bar Date and Solicitation Materials related to the Plan, including the Opt-Out Release Form. *See* (SDTX Doc. 609, Ex. D); (SDTX Doc. 1852, Ex. F). Plaintiff filed a Proof of Claim executed and filed on July 14, 2023. Plaintiff even voted in favor of the Plan. (*See* SDTX Doc. 1993 at 21).
Lyles, Andrew	2:19-cv-10673	Yes	Yes	Plaintiff had actual knowledge of the bankruptcy proceeding because a

Claimant/ Plaintiff	Case Caption	PI/WD Claim	§ 1983 Claim	Notice
	(USDC Eastern District of Michigan)			Suggestion of Bankruptcy was filed on the federal court docket on February 22, 2023 (*See* Doc. 87). Plaintiff is also listed on the creditor matrix and is listed as having received notice of the Claims Bar Date and Solicitation Materials related to the Plan, including the Opt-Out Release Form. *See* (SDTX Doc. 609, Ex. D); (SDTX Doc. 1852, Ex. H, R).
Mahan, Tyrone	2:22-cv-10489 (USDC Eastern District of Michigan)		Yes	Plaintiff is listed on the creditor matrix has having received notice of the Claims Bar Date and Solicitation Materials related to the Plan, including the Opt-Out Release Form. See SDTX DOC. 609 Ex. D; SDTX Doc. 1852, Ex. F. Plaintiff filed a Proof of Claim executed on August 10, 2023, and filed on August 22, 2023.
Majors, Richie	2:16-cv-13672 (USDC Eastern District of Michigan)	Yes	Yes	Plaintiff had actual knowledge of the bankruptcy proceeding because a Suggestion of Bankruptcy was filed in the above-captioned case on February 20, 2023 [Doc. #233]. Plaintiff is also listed on the creditor matrix and is listed as having received notice of the Claims Bar Date and Solicitation Materials related to the Plan, including the Opt-Out Release Form. *See* (SDTX Doc. 609, Ex. D); (SDTX Doc. 1852, Ex. F). Plaintiff filed a Proof of Claim executed on August 30, 2023, and filed on September 26, 2023.
Manzano-Mora, Oscar	1:22-cv-03011-DKC (USDC District of Maryland)		Yes	Plaintiff is listed on the creditor matrix and is listed as having received notice of the Claims Bar Date and Solicitation Materials related to the Plan, including the Opt-Out Release Form. *See* (SDTX Doc. 609, Ex. D); (SDTX Doc. 1852, Ex. F). Plaintiff filed a Proof of Claim and filed on May 23, 2023.1
Mason, Trent	24cv00459	Yes	Yes	Plaintiff had actual knowledge of the bankruptcy proceeding because a Motion

Claimant/ Plaintiff	Case Caption	PI/WD Claim	§ 1983 Claim	Notice
	(USDC Eastern District of Pennsylvania)			to Stay was filed in the above-captioned case on May 29, 2024 (Doc. 47).
May, Jacob	1:24-cv-00480 (USDC Western District of Michigan)		Yes	Publication Notice
McClain, Renard	*McClain v. Kavic et al.,* Case No. 1:24-cv-01489 (USDC District of Maryland)	Yes		Plaintiff had actual knowledge of the bankruptcy proceeding because a Suggestion of Bankruptcy was filed in the above-captioned case on August 30, 2024. [Doc. #14].
McNamara	2:20-cv-04570-RBS (USDC Eastern District of Pennsylvania)	Yes	Yes	Plaintiff Eileen McNamara ("Ms. McNamara") had actual knowledge of the bankruptcy proceeding because a Suggestion of Bankruptcy was filed in the above-captioned matter on February 16, 2023. *See* Doc. 41. In addition, Ms. McNamara is listed on the creditor matrix. *See* SDTX Doc. 609. Moreover, Ms. McNamara received the Opt-Out Release Form, Notice of Non-Voting Status, and the Confirmation Hearing Notice. *See* SDTX Doc. 1852, Ex. H.
Milkiewicz, Kerrie	2:20-cv-10017 (USDC Eastern District of Michigan; Southern Division)	Yes	Yes	Plaintiff had actual knowledge of the bankruptcy proceeding because a Suggestion of Bankruptcy was filed in the above-captioned case on February 17, 2023. (20-cv-10017: Doc. 101). Plaintiff is listed on the creditor matrix and is listed as having received notice of the Claims Bar Date and Solicitation Materials related to the Plan, including the Opt-Out Release Form. *See* (SDTX

Claimant/ Plaintiff	Case Caption	PI/WD Claim	§ 1983 Claim	Notice
				Doc. 609, Ex. D); (SDTX Doc. 1852, Ex. E, F).
Mitchell, Amanda	21-CA-001895 (Circuit Court of the Second Judicial Circuit, Leon County)	Yes	Yes	Plaintiff had actual knowledge of the bankruptcy proceeding because a Suggestion of Bankruptcy was filed and because Plaintiff filed a Proof of Claim executed on July 17, 2023, and filed on August 14, 2023.
Nachtweih, Todd	4:21-cv-00371-SEP (sUSDC Eastern Missouri)	Yes	Yes	Plaintiff had actual knowledge of the bankruptcy proceeding because a Suggestion of Bankruptcy was filed in the above-captioned case on February 16, 2023. (*See* Dkt. No. 59). Plaintiff is listed on the creditor matrix and is listed as having received notice of the Claims Bar Date and Solicitation Materials related to the Plan, including the Opt-Out Release Form. *See* (SDTX Doc. 609, Ex. D); (SDTX Doc. 1852, Ex. F). Plaintiff also voted for the Plan. (*See* SDTX Doc. 1993 at 34).
Nelson, Waheed	8:19-cv-00449-CEH-JSS (USDC Middle District of Florida)	Yes	Yes	Plaintiff had actual knowledge of the bankruptcy proceeding because a Suggestion of Bankruptcy was filed in the above-captioned case on February 21, 2023. (*See* Dkt. No. 348). Plaintiff is listed on the creditor matrix and is listed as having received notice of the Claims Bar Date and Solicitation Materials related to the Plan, including the Opt-Out Release Form. *See* (SDTX Doc. 609, Ex. D); (SDTX Doc. 1852, Ex. F). Plaintiff also filed a Proof of Claim executed on August 11, 2023, and filed on August 11, 2023. And Plaintiff even voted in favor of the Plan. (SDTX Doc. 1993 at 22).
Nettles, Macking	*Nettles #271812 v. Edgar et al,* #:1:22-cv-00119-RJJ-SJB		Yes	Plaintiff had actual knowledge of the bankruptcy proceeding because Plaintiff is listed on the creditor matrix and is listed as having received notice of the Claims Bar Date and Solicitation

Claimant/ Plaintiff	Case Caption	PI/WD Claim	§ 1983 Claim	Notice
	(USDC Western District of Michigan)			Materials related to the Plan, including the Opt-Out Release Form. See (SDTX Doc. 609, Ex. D); (SDTX Doc. 1852, Ex. F).
Nivens, Stephen	23-cv-2298-ELH (USDC Maryland)		Yes	Plaintiff had actual knowledge of the bankruptcy proceeding because Plaintiff is listed as having received notice of the Claims Bar Date and Solicitation Materials related to the Plan, including the Opt-Out Release Form. *See* (SDTX Doc. 1852, Ex. F). Plaintiff also filed a proof of claim and voted in favor of the Plan. (*See* SDTX Doc. 1852, p. 22).
Nolan, Stephen	*Nolan v. Corizon Correctional Health Care, #* 1:23-cv-00327-BAH (USDC District of Maryland – Baltimore) 01-CV-21-308 (Allegany County Court, Maryland)		Yes	Plaintiff had actual knowledge of the bankruptcy proceeding because Plaintiff is listed on the creditor matrix and is listed as having received notice of the Claims Bar Date and Solicitation Materials related to the Plan, including the Opt-Out Release Form. *See* (SDTX Doc. 609, Ex. D); (SDTX Doc. 1852, Ex. F). Plaintiff also filed a Proof of Claim executed on May 14, 2023, and filed on June 5, 2023.
Norred, Jennifer	4:19-cv-00162-MW-MAF (USDC - Northern District of FL – Tallahassee)	Yes	Yes	Plaintiff had actual knowledge of the bankruptcy proceeding Plaintiff is listed on the creditor matrix and is listed as having received notice of the Claims Bar Date and Solicitation Materials related to the Plan, including the Opt-Out Release Form. *See* (SDTX Doc. 609, Ex. D); (SDTX Doc. 1852, Ex. F). Plaintiff also filed a Proof of Claim executed on August 10, 2023, and filed on August 10, 2023. And Plaintiff voted in favor of the Plan. (*See* SDTX Doc. 1852, p. 20).

Claimant/ Plaintiff	Case Caption	PI/WD Claim	§ 1983 Claim	Notice
Parks, Larry	*Parks v. Corizon, LLC et al.*, # 3:19-cv-00631-MMH-PDB (USDC Middle District of Florida – Jacksonville)		Yes	Plaintiff had actual knowledge of the bankruptcy proceeding because a Suggestion of Bankruptcy was filed in the above-captioned case on February 17, 2023. (See Dkt. No. 122).
Patino, Jesus	*Moreno v. Defendant Does 1-10*, # 2:23-cv-04827-NIQA, (USDC Eastern District of Pennsylvania – Philadelphia)	Yes		Plaintiff had actual knowledge of the bankruptcy proceeding because a Suggestion of Bankruptcy was filed in the above-captioned case on March 12, 2024. (See Dkt. No. 19).
Pederson, Darren	4:18-cv-00513 USDC District of AZ (Tucson Division)	Yes	Yes	Plaintiff had actual knowledge of the bankruptcy proceeding because a Suggestion of Bankruptcy was filed in the above-captioned case on February 14, 2023. (*See* Doc. 200). Plaintiff is listed on the creditor matrix. *See* (SDTX Doc. 609, Ex. D). Plaintiff also filed a Proof of Claim executed on January 18, 2023, and filed on January 18, 2023. Finally, Plaintiff voted for the Plan. (*See* SDTX Doc. 1993 at 19).
Perkins, Ronald	22-cv-04149 (USDC Western Missouri)	Yes	Yes	Plaintiff had actual knowledge of the bankruptcy proceeding because a Suggestion of Bankruptcy was filed in the above-captioned case on February 15, 2023. (See Dkt. No. 36). Plaintiff is listed on the creditor matrix and is listed as having received notice of the Claims Bar Date and Solicitation Materials related to the Plan, including the Opt-Out Release Form. *See* (SDTX Doc. 609, Ex. D); (SDTX Doc. 1852, Ex. F). Plaintiff also

Claimant/ Plaintiff	Case Caption	PI/WD Claim	§ 1983 Claim	Notice
				filed a Proof of Claim executed on August 1, 2023, and filed on August 1, 2023.
Perry, Tremonti	1:17-cv-00115-HEA (USDC Eastern District of Missouri)	Yes		Plaintiff had actual knowledge of the bankruptcy proceeding because a Suggestion of Bankruptcy was filed in the above-captioned case on March 21, 2023. (*See* Doc. 123). Plaintiff is listed on the creditor matrix and is listed as having received notice of the Claims Bar Date and Solicitation Materials related to the Plan, including the Opt-Out Release Form. *See* (SDTX Doc. 609, Ex. D); (SDTX Doc. 1852, Ex. F). Plaintiff also filed a Proof of Claim executed on August 14, 2023, and filed on August 14, 2023.
Perkins, Michael	4:21-cv-12720-SDK-DRG (USDC Eastern District of Michigan - Flint)	Yes	Yes	Plaintiff is listed on the creditor matrix and is listed as having received notice of the Claims Bar Date and Solicitation Materials related to the Plan, including the Opt-Out Release Form. *See* (SDTX Doc. 609, Ex. D); (SDTX Doc. 1852, Ex. F).
Pich, Kevin	23-09-01145 (Philadelphia County Court of Common Pleas)	Yes		Publication Notice
Reali, Antonio	2:19-cv-00603-GJF-SMV (USDC District of New Mexico)	Yes	Yes	Mr. Reali had actual knowledge of the bankruptcy proceeding because a Suggestion of Bankruptcy was filed in the above-captioned case on February 15, 2023. (Doc. 98). Mr. Reali is listed on the creditor matrix and is listed as having received notice of the Claims Bar Date and Solicitation Materials related to the Plan, including the Opt-Out Release

Claimant/ Plaintiff	Case Caption	PI/WD Claim	§ 1983 Claim	Notice
				Form. *See* (SDTX Doc. 609, Ex. D); (SDTX Doc. 1852, Ex. F). Mr. Reali filed a Proof of Claim executed on August 7, 2023 and filed on August 7, 2023. *See* Exhibit A (Proof of Claim). Mr. Reali voted for the Plan. (*See* SDTX Doc. 1993 at 19).
Resper, Wayne	*Resper v. Corizon Health, Inc., et al.,* C-01-CV-21-000274 (Md. Circ. Ct. Allegany Cty.)		Yes	Plaintiff had actual knowledge of the bankruptcy proceeding because a Suggestion of Bankruptcy was filed in the above-captioned case on February 15, 2023. Plaintiff is listed on the creditor matrix and is listed as having received notice of the Claims Bar Date and Solicitation Materials related to the Plan, including the Opt-Out Release Form. See (SDTX Doc. 609, Ex. D); (SDTX Doc. 1852, Ex. F). Plaintiff filed a Proof of Claim executed on August 1, 2023 and filed on August 9, 2023. See Exhibit A (Proof of Claim). Plaintiff voted for the Plan. (See SDTX Doc. 1993 at 23).
Robinson, Jason	21cv00608 TUC-DWL (CDB) (USDC Arizona)	Yes	Yes	Plaintiff had actual knowledge of the bankruptcy proceeding because Plaintiff is listed on the creditor matrix and is listed as having received notice of the Claims Bar Date and Solicitation Materials related to the Plan, including the Opt-Out Release Form. *See* (SDTX Doc. 609, Ex. D); (SDTX Doc. 1852, Ex. E, R). Plaintiff filed a Proof of Claim executed and filed on August 7, 2023. Plaintiff even voted in favor of the Plan. (*See* SDTX Doc. 1993 at 27).
Rogers, Sean	1:24-cv-00214-ABJ (USDC District of Wyoming)		Yes	Publication Notice

Claimant/ Plaintiff	Case Caption	PI/WD Claim	§ 1983 Claim	Notice
Ryan, Sean	*Ryan v. State of Michigan et al.*, #4:24-cv-11105-SDK-APP (USDC Eastern District Michigan)		Yes	Publication Notice
Satterfield, John	*Satterfield v. Corizon Healthcare et al.*, Case No.: D-121-CV-22-007860 Dist. Ct. (Allegany Co., MD)	Yes	Yes	Plaintiff had actual knowledge of the bankruptcy proceeding because a Suggestion of Bankruptcy was filed in the above-captioned case on February 27, 2023. Plaintiff is also listed on the creditor matrix and are listed as having received notice of the Claims Bar Date and Solicitation Materials related to the Plan, including the Opt-Out Release Form. See (SDTX Doc. 609, Ex. D); (SDTX Doc. 1852, Ex. F). Plaintiff also filed a Proof of Claim executed on May 30, 2023 and filed on May 30, 2023.
Schwartz, Bradley	CV2021-092282 (Maricopa County Superior Court)	Yes		Mr. Schwartz had actual knowledge of the bankruptcy proceeding because a Suggestion of Bankruptcy was filed in the above-captioned case on February 14, 2023. Mr. Schwartz is listed on the creditor matrix and is listed as having received notice of the Claims Bar Date and Solicitation Materials related to the Plan, including the Opt-Out Release Form. *See* (SDTX Doc. 609, Ex. D); (SDTX Doc. 1852, Ex. F). Mr. Schwartz filed a Proof of Claim executed on August 11, 2023 and filed on August 11, 2023. Mr. Schwartz voted for the Plan. (*See* SDTX Doc. 1993 at 19).
Scott, Ricky	21-002889-NH 2:22-cv-10306 Circuit Court for Jackson County	Yes	Yes	Tracey Scott, as Personal Representative for the Estate of Rickey Darnell Scott, Deceased ("Ms. Scott"), had actual knowledge of the bankruptcy proceeding because a Suggestion of Bankruptcy was

Claimant/ Plaintiff	Case Caption	PI/WD Claim	§ 1983 Claim	Notice
				filed in the above-captioned case on February 17, 2023. (Doc. 39.) Ms. Scott is listed on the creditor matrix and is listed as having received notice of the Claims Bar Date and Solicitation Materials related to the Plan, including the Opt-Out Release Form. *See* (SDTX Doc. 609, Ex. D); (SDTX Doc. 1852, Ex. F). Ms. Scott filed a Proof of Claim executed on August 14, 2023 and filed on August 14, 2023.
Smith, Tiffany	2:18-cv-00092 JMS-MJD and IDOI 1019036 Parke County 61C01-2106-CT-000220 (USDC Southern Indiana)	Yes		Ms. Smith had actual knowledge of the bankruptcy proceeding because a Suggestion of Bankruptcy was filed in the above-captioned case on February 16, 2023. Ms. Smith is listed on the creditor matrix and is listed as having received notice of the Claims Bar Date and Solicitation Materials related to the Plan, including the Opt-Out Release Form. *See* (SDTX Doc. 609, Ex. D); (SDTX Doc. 1852, Ex. F).
Stewart, Curtis	1:18-cv-00229 (USDC Eastern District of Missouri - Cape Girardeau)	Yes	Yes	Mr. Stewart is listed on the creditor matrix and is listed as having received notice of the Claims Bar Date and Solicitation Materials related to the Plan, including the Opt-Out Release Form. *See* (SDTX Doc. 609, Ex. D); (SDTX Doc. 1852, Ex. F). Mr. Stewart also filed a Proof of Claim executed on June 12, 2023 and filed that same day. The Holder of a Claim wishing to opt out of the Plan, including the Consensual Claimant Release, was required to do so prior to the Voting Deadline. (Plan, Art. III.D; *See also* Confirmation Order, dated Mar. 3, 2025, at p. 4, (a.) (identifying voting deadline)). The Voting Deadline passed on February 21, 2025, at 5:00 p.m. Central Time. Mr. Stewart did not opt

Claimant/ Plaintiff	Case Caption	PI/WD Claim	§ 1983 Claim	Notice
				out of the Plan. (*See* SDTX Doc. 1993, Exhibits A-5 and A-6).
Stewart, Mark	*Stewart #203381 v. Ryan, et al.*, #: 2:20-cv-01376-ROS-DMF (USDC District of Arizona)		Yes	Plaintiff had actual knowledge of the bankruptcy proceeding because a Suggestion of Bankruptcy was filed in the above-captioned case on February 14, 2023 (No. 153). Plaintiff is listed on the creditor matrix and are listed as having received notice of the Claims Bar Date and Solicitation Materials related to the Plan, including the Opt-Out Release Form. See (SDTX Doc. 609, Ex. D); (SDTX Doc. 1852, Ex. F). Plaintiff filed a Proof of Claim executed on May 11, 2023 and filed on May 19, 2023. And he voted for the Plan. (See SDTX Doc. 1993 at 21).
Strickland, Kevin	5:22-CV-06009-BP USDC Western Missouri - St. Joseph Division	Yes	Yes	Mr. Strickland had actual knowledge of the bankruptcy proceeding because a Suggestion of Bankruptcy was filed in the above-captioned case on February 16, 2023 (No. 29). Mr. Strickland is listed on the creditor matrix and is listed as having received notice of the Claims Bar Date and Solicitation Materials related to the Plan, including the Opt-Out Release Form. *See* (SDTX Doc. 609, Ex. D); (SDTX Doc. 1852, Ex. F). Mr. Strickland filed a Proof of Claim executed on June 25, 2023 and filed that same day. Finally, Mr. Strickland voted for the Plan. (*See* SDTX Doc. 1993 at 21).
Swallow, Brandon	4:18-cv-01045-JMB USDC - Eastern District of MO	Yes	Yes	Mr. Swallow had actual knowledge of the bankruptcy proceeding because a Suggestion of Bankruptcy was filed in the above-captioned case on February 16, 2023. (Doc. 138). Mr. Swallow is listed on the creditor matrix and is listed as having received notice of the Claims Bar Date and Solicitation Materials related to

Claimant/ Plaintiff	Case Caption	PI/WD Claim	§ 1983 Claim	Notice
				the Plan, including the Opt-Out Release Form. *See* (SDTX Doc. 609, Ex. D); (SDTX Doc. 1852, Ex. F). Mr. Swallow filed a Proof of Claim executed on July 17, 2023 and filed on July 17, 2023. *See* And Mr. Swallow voted in favor of the Plan. (*See* SDTX Doc. 1993 at 19).
Thomas, Todd	*Thomas v. Jordan, et al.*, #: 6:23-cv-01355-ACC-LHP (USDC Middle District of Florida)		Yes	Plaintiff had actual knowledge of the bankruptcy proceeding because a Suggestion of Bankruptcy was filed in the above-captioned case on April 22, 2024 (Doc. 55).
Thompson, Derico	2:20-cv-158 (USDC Western District of Michigan Northern Division)	Yes	Yes	Mr. Thompson had actual knowledge of the bankruptcy proceeding because a Suggestion of Bankruptcy was filed in the above-captioned case on February 17, 2023. (Doc. 78). Mr. Thompson is listed on the creditor matrix and is listed as having received notice of the Claims Bar Date and Solicitation Materials related to the Plan, including the Opt-Out Release Form. See (SDTX Doc. 609, Ex. D); (SDTX Doc. 1852, Ex. F). Mr. Thompson filed a Proof of Claim executed on February 24, 2023 and filed on August 12, 2023. Mr. Thompson voted for the Plan. (See SDTX Doc. 1993 at 20)
Toliver, David	*Toliver v. The Florida Department of Corrections, et al.*, #: 3:22-cv-00039-HLA-LLL (USDC Middle District of Florida)		Yes	Plaintiff had actual knowledge of the bankruptcy proceeding because a Suggestion of Bankruptcy was filed in the above-captioned case on February 21, 2023 (Doc. 68). Plaintiff are listed on the creditor matrix and are listed as having received notice of the Claims Bar Date and Solicitation Materials related to the Plan, including the Opt-Out Release Form. See (SDTX Doc. 609, Ex. D); (SDTX Doc. 1852, Ex. F). Plaintiff filed

Claimant/ Plaintiff	Case Caption	PI/WD Claim	§ 1983 Claim	Notice
				a Proof of Claim executed on May 15, 2023 and filed on June 14, 2023. Plaintiff voted for the Plan. (See SDTX Doc. 1852 at 19).
Vela, Alfred	*Vela v. Thompson, et al.*, #: 3:16-CV-51 (USDC Northern District of Indiana)		Yes	Plaintiff had actual knowledge of the bankruptcy proceeding because a "Notice of Filing of Bankruptcy and Automatic Stay was filed in the above-captioned case. Mr. Vela is listed on the creditor matrix and is listed as having received notice of the Claims Bar Date and Solicitation Materials related to the Plan, including the Opt-Out Release Form. See (SDTX Doc. 609, Ex. D); (SDTX Doc. 1852, Ex. F).
Walker, Henry	6:22-cv-01761-PGB-DA (USDC Middle District of Florida)	Yes	Yes	Brenda Walker ("Ms. Walker") individually and as personal representative of the estate of Henry Lee Walker, had actual knowledge of the bankruptcy proceeding because a Suggestion of Bankruptcy was filed in the above-captioned case on February 21, 2023. (Doc. 33.)
Watkins, Nafiz	1:20-cv-00208 (USDC District of Maryland)		Yes	A Suggestion of Bankruptcy was filed in the Watkins Lawsuit on April 6, 2023. (Case No. 2:20-cv-00208: Doc. 186). The Suggestion of Bankruptcy put Watkins and all parties on notice of the Chapter 11 Bankruptcy filing of Tehum Care Services, Inc. d/b/a Corizon Health, Inc. in the United States Bankruptcy Court for the Southern District of Texas, Houston Division. Moreover, Watkins appears in Exhibit E to the Plan Certificate of Service for receiving the Solicitation Package, including a Class 6, 7, and 8 Ballot, the Opt-Out Release Form, Confirmation Hearing Notice, and other notices and correspondence. (Case No. 23-90086: Doc. 1852 at 29).

Claimant/ Plaintiff	Case Caption	PI/WD Claim	§ 1983 Claim	Notice
Watson, Thurman	1:23-cv-03520-LKG (USDC District of Maryland)		Yes	Publication Notice
Wichterman, Daniel	*Wichterman v. City of Philadelphia, et al.*, #: 2:16-cv-05796-JMY (USDC Eastern District of Pennsylvania)	Yes	Yes	Mr. Wichterman, Jr. had actual knowledge of the bankruptcy proceeding because a Suggestion of Bankruptcy was filed in the above-captioned case on February 16, 2023 (Doc. 109). Mr. Wichterman, Jr. is listed on the creditor matrix and is listed as having received notice of the Claims Bar Date and Solicitation Materials related to the Plan, including the Opt-Out Release Form. *See* (SDTX Doc. 609, Ex. D); (SDTX Doc. 1852, Ex. F).
Willey, Neal	1:22-cv-01294-SAG (USDC District of Maryland)		Yes	Mr. Willey is listed on the creditor matrix and is listed as having received notice of the Claims Bar Date and Solicitation Materials related to the Plan, including the Opt-Out Release Form. *See* (SDTX Doc. 609, Ex. D); (SDTX Doc. 1852, Ex. F). Mr. Willey filed a Proof of Claim executed on July 19, 2023 and filed on July 19, 2023.
Williams, Jim	2:21-cv-12534-MAG-PTM (USDC Eastern District of Michigan)		Yes	Mr. Williams had actual knowledge of the bankruptcy proceeding because a Suggestion of Bankruptcy was filed in the above-captioned case on February 20, 2023. (Doc. 34.) He is listed on the creditor matrix and is listed as having received notice of the Claims Bar Date and Solicitation Materials related to the Plan, including the Opt-Out Release Form. *See* (SDTX Doc. 609, Ex. D); (SDTX Doc. 1852, Ex. F). He filed a Proof of Claim executed on May 26, 2023 and filed on May 22, 2023. He voted for the Plan. (*See* SDTX Doc. 1993 at 20).

Claimant/ Plaintiff	Case Caption	PI/WD Claim	§ 1983 Claim	Notice
Winters, Gary	*Collier v. Jones, et al.*, #: 4:19-cv-00053-RH-MAF (USDC Northern District of Florida)		Yes	Plaintiff had actual knowledge of the bankruptcy proceeding because a Suggestion of Bankruptcy was filed in the above-captioned case on February 21, 2023 (Doc. 91). Plaintiff are listed on the creditor matrix and is listed as having received notice of the Claims Bar Date and Solicitation Materials related to the Plan, including the Opt-Out Release Form. See (SDTX Doc. 609, Ex. D); (SDTX Doc. 1852, Ex. F). Plaintiff filed a Proof of Claim executed on May 23, 2023 and filed on May 31, 2023.
Wolf, Andrew	*Wolf v. Tewalt, et al.*, #: 1:21-cv-00226-AKB (USDC District of Idaho)	Yes	Yes	Plaintiff had actual knowledge of the bankruptcy proceeding because a Suggestion of Bankruptcy was filed in the above-captioned case on February 23, 2023 (Doc. 81). Plaintiff is listed on the creditor matrix and are listed as having received notice of the Claims Bar Date and Solicitation Materials related to the Plan, including the Opt-Out Release Form. See (SDTX Doc. 609, Ex. D); (SDTX Doc. 1852, Ex. F).
Wood, Shelton	*Wood v. Boettinger, et al.*, #: 1:23-cv-01705-ELH (USDC District of Maryland)		Yes	Publication Notice

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

In re:	**Chapter 11**
TEHUM CARE SERVICES, INC.,	**Case No. 23-90086 (CML)**
Debtor.	

ORDER ENJOINING PLAINTIFFS FROM
PROSECUTING CASES AGAINST RELEASED PARTIES

THIS CAUSE coming before the Court upon Defendant YesCare's Omnibus Motion to Enjoin Plaintiffs from Prosecuting Cases Against Released Parties Pursuant to the Now Effective Bankruptcy Plan and Injunctions (the "Motion"), and the Court having reviewed the Motion, and being otherwise fully advised in the premises, hereby finds that:

IT IS HEREBY ORDERED that the Plaintiffs identified in Exhibit A of the Motion are hereby restrained and enjoined from taking any action or to prosecuting any causes of action for the purpose of directly, indirectly, or derivatively collecting, recovering, or receiving payment, satisfaction, or recovery from any Released Party in those lawsuits as long as the Bankruptcy Plan's Injunctions and Releases do not terminate or become void.

Hon. Christopher M. Lopez
United States Bankruptcy Judge

EXHIBIT U

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
(Northern Division)

RILWAN AKINOLA, Plaintiff, v. OFFICER DARRELL LAVIN, AMY STAFFORD-SHROYER, R.N, Defendants.	Case No. 1:22-CV-00657-DKC

PLAINTIFF'S RESPONSE IN OPPOSITION TO
DEFENDANT STAFFORD-SHROYER'S MOTION TO STAY

Plaintiff Rilwan Akinola respectfully submits this Response in opposition to the Motion to Stay filed on June 6, 2025 by Defendant Amy Stafford-Shroyer, and styled as a "Motion to Stay this Action Unless the U.S. Bankruptcy Court for the Southern District of Texas in *In re Tehum Care Services, Inc.* Issues an Order Permitting the Plaintiff to Further Prosecute the Action." ECF No. 73 (the "Motion"). Defendant Stafford-Shroyer provides no meaningful justification for a stay of these proceedings at this juncture, and even if she did, there is no reason to delay these proceedings as against Defendant Lavin.

Defendant Stafford-Shroyer seeks a stay because of a pending motion in the United States Bankruptcy Court for the Southern District of Texas, by which a successor entity of Ms. Stafford-Shroyer's former employer, Corizon Health, Inc. (with its subsidiaries and successor entities,

"Corizon"),[1] seeks the extraordinary relief of a nationwide injunction that would terminate more than a hundred meritorious cases by inmate plaintiffs, including this one, regardless of whether the plaintiffs had received *any* notice whatsoever of the bankruptcy plan or its consensual release of third-party claims, which the successor claims will release claims like Mr. Akinola's, asserted not against the debtor, but against its current and former employees. *See* Mot., Exh. A, ECF No. 73-1 ("Motion to Enjoin").

Mr. Akinola strenuously disputes the Bankruptcy Court's authority to grant Corizon's requested relief. Concurrently with this Opposition, he has joined with five other litigants, all present or former incarcerated individuals represented by counsel appointed in this district, and filed an objection to the Motion to Enjoin. *See* Exh. 1 ("Objection"). In the Objection, Mr. Akinola explains that the Motion to Enjoin would deprive him of Due Process, in violation of the Fifth Amendment, by enjoining him from pursuing his claim without notice of the bankruptcy plan's consensual release of claims against former employees and an opportunity to opt out or reject or oppose the plan, and then binding him to the "consensual" release of third-party claims notwithstanding his lack of notice of or consent to the release. The Objection further argues that the injunction is impermissible under the plain terms of the approved Chapter 11 plan. *See id.*

As the basis for relief in this Court, Ms. Stafford-Shroyer simply states that, "[a]s the Bankruptcy Court has exclusive jurisdiction to determine issues related to the Plan and its injunctions, the present action should be stayed unless the Bankruptcy Court determines that it can continue." Mot. at 1. While the first clause in this sentence is true enough—the Bankruptcy Court *does* have exclusive jurisdiction to determine issues related to the bankruptcy plan—the relevant

[1] Corizon is no longer a party to this action, and Mr. Akinola asserts no claims against any Defendant in this action for which Corizon holds vicarious liability. *See Ashcroft v. Iqbal*, 556 U.S. 662, 676 (2009) ("vicarious liability is inapplicable to . . . § 1983 suits").

point is that, to date, no court has made any determination that this civil action is, in whole or in part, related to the bankruptcy plan, nor has any court found, even preliminarily, that the injunction sought in the Bankruptcy Court should be granted. Those questions are currently before the Bankruptcy Court for the first time, and Mr. Akinola, like many other similarly situated individuals, has raised substantial arguments in that forum that he believes will persuade the Bankruptcy Court not to grant Corizon's requested injunction of this case.

In essence, Ms. Stafford-Shroyer asks this Court to anticipatorily cede jurisdiction over this case—notably, the *entire* case—because her former employer has filed a motion in the Bankruptcy Court seeking to enjoin this action as to Ms. Stafford-Shroyer. In doing so, Ms. Stafford-Shroyer ascribes an awesome role to bankruptcy courts that is untethered from common sense and without so much as a single citation to authority. Simply put, while the filing of a bankruptcy petition automatically stays proceedings in other courts on claims against the debtor or against property of the bankruptcy estate, *see* 11 U.S.C. § 362, a district court is not so constrained by every other suggestion a Debtor or its successor might make in bankruptcy.

Instead, where "an automatic stay is not available" to litigants seeking a stay on account of parallel bankruptcy proceedings, their request for a stay arises incident to "the inherent power in courts under their general equity powers and in the efficient management of their dockets to grant relief." *Williford v. Armstrong World Indus., Inc.*, 715 F.2d 124, 127 (4th Cir. 1983) (denying discretionary stay of district court proceedings where asserted basis for stay was added litigation burdens caused by joint tortfeasors' pending bankruptcies). A party seeking such a stay "must justify it by clear and convincing circumstances outweighing potential harm to the party against whom it is operative." *Id.* (citing *Landis v. North American Co.*, 299 U.S. 248, 254–55 (1936)).

Ms. Stafford-Shroyer has made no attempt to satisfy the applicable standard—nor could

she. The potential harm to Mr. Akinola in conditioning his right to proceed with his meritorious claims in this Court on the Bankruptcy Court's resolution of a complex and novel motion is substantial. The Motion to Enjoin assertedly applies to over a hundred cases around the country, and a thorough airing of that motion could take the Bankruptcy Court many months. Meanwhile, on the other side of the ledger, the only justification offered by Ms. Stafford-Shroyer is the pending Motion to Enjoin in the Bankruptcy Court. *See* Mot. at 1. But to grant a stay of this action because of a possible *future* injunction by the Bankruptcy Court—one that the Bankruptcy Court has not issued or given any indication that it will issue—would be a grave abuse of discretion. *See Moses H. Cone Mem'l Hosp. v. Mercury Constr. Corp.*, 460 U.S. 1, 28 (1983) ("[A] stay is as much a refusal to exercise federal jurisdiction as a dismissal" and if there is "any substantial doubt as to" whether parallel litigation "will be an adequate vehicle for the complete and prompt resolution of the issues between the parties[,] . . . it would be a serious abuse of discretion to grant the stay[.]"). And even if Ms. Stafford-Shroyer's motion is treated as advancing a more circumscribed interest in judicial efficiency, she cannot possibly satisfy the "clear and convincing circumstances" standard. *See Williford*, 715 F.2d at 127 ("The party seeking a stay must justify it by clear and convincing circumstances outweighing potential harm to the party against whom it is operative."). Mr. Akinola's physical impairments stemming from the facts in this case continue unabated; with discovery soon to resume, he is entitled to proceed with developing and presenting his case to a jury without unjustifiable delay.[2]

[2] Discovery is currently stayed until July 14, 2025, by which time the parties must jointly file a status report or motion proposing a schedule to govern further proceedings in this case. *See* ECF Nos. 71, 72. Mr. Akinola preserved his objection to the relief sought by this Motion in a joint motion to this Court in connection with the brief stay of discovery. *See* ECF No. 71 at 2. Mr. Akinola will continue to work with counsel for all parties to make accommodations among the parties where practical considerations or circumstances warrant them.

Moreover, to whatever extent the Motion to Enjoin might justify a stay of these proceedings against Defendant Stafford-Shroyer, under no circumstances does it provide a reason to stay these proceedings against Defendant Lavin. Yet that is the relief sought by Ms. Stafford-Shroyer. *See, e.g.*, Mot. at 3 (seeking "an order staying this action").

Accordingly, Mr. Akinola respectfully requests that this Court deny Defendant Stafford-Shroyer's motion to stay or, in the alternative, deny it to the extent that it would stay this action as to Defendant Lavin.

Dated June 20, 2025

Respectfully submitted,

/s/ Martin S. Himeles, Jr.

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CERTIFICATE OF SERVICE

I hereby certify that on this 20th of June 2025, a copy of the foregoing Response in Opposition and all attachments was served upon all counsel of record via CM/ECF.

/s/ Martin S. Himeles, Jr.
Martin S. Himeles, Jr.

EXHIBIT 1

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

In re:	**Chapter 11**
TEHUM CARE SERVICES, INC.,	**Case No. 23-90086 (CML)**
Debtor.	

CERTAIN MARYLAND PLAINTIFFS' JOINT OPPOSITION TO YESCARE'S OMNIBUS MOTION TO ENJOIN PLAINTIFFS FROM PROSECUTING CASES AGAINST NON-DEBTOR PARTIES OR, IN THE ALTERNATIVE, CROSS-MOTION FOR LEAVE TO SUBMIT UNTIMELY OPT-OUTS

Plaintiffs Stephen J. Howe, Jamonte Jamar Fletcher, Rilwan Akinola, Chelsea Gilliam, Kennedy Holland, and Chloe Grey (the "Objecting Plaintiffs"), through their respective counsel, submit the following Joint Memorandum in Opposition to CHS TX, Inc. d/b/a YesCare's ("YesCare") Omnibus Motion to Enjoin Plaintiffs from Prosecuting Cases Against Released Parties, ECF No. 2160 (the "Omnibus Motion") or, in the alternative, Cross-Motion for Leave to Submit Untimely Opt-Outs. For the reasons set forth below, the Court must deny the relief requested in YesCare's Omnibus Motion as to the Objecting Plaintiffs, principally for lack of constitutional due process among other reasons. The Omnibus Motion sweeps too broadly and is unsupported by law, equity, and the text of the Bankruptcy Plan itself. ECF No. 2014 (Order approving modified plan of reorganization).

INTRODUCTION

The Objecting Plaintiffs are all currently or formerly incarcerated individuals who are pursuing claims pursuant to 42 U.S.C. § 1983 (and other claims) in separate cases pending in the

United States District Court for the District of Maryland that are implicated by YesCare's Omnibus Motion.[1] None of the Objecting Plaintiffs are pursuing claims against the Debtor. The Omnibus Motion seeks to enjoin them from prosecuting their cases against *non-Debtor* third-party entities that YesCare contends should be deemed "Released Parties" under the Plan.[2] But the Objecting

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[1] The Objecting Plaintiffs' cases, cited in Exhibit A to the Omnibus Motion, are: *Howe v. Wexford Health Sources, Inc., et al.*, Case No. 1:24-cv-000653 (D. Md.) ("Howe Action"); *Fletcher v. YesCare Corp., et al.,* Case No. 1:23-cv-01570 (D. Md.) ("Fletcher Action"); *Akinola v. Stafford-Shroyer, et al.*, Case No. 1:22-cv-00657 (D. Md.) (incorrectly listed in Exhibit A as *Akinola v. Corizon Health*, Inc., et al.) ("Akinola Action"); and *Gilliam, et al. v. Department of Public Safety and Correctional Services, et al.,* Case No. 1:23-cv-01047 (D. Md.) ("Gilliam Action"). Exhibit A also lists a second case number for Mr. Akinola, in the District Court of Maryland for Allegany County (small claims court), but that case, and an appeal to the Circuit Court for Allegany County, is closed. *See* Case No. C-01-CV-22-000408 (Circuit Court for Allegany County, MD) (available at https://casesearch.courts.state.md.us/casesearch/inquiry-search.jsp).

[2] The "Debtor" is Tehum Care Services Inc. f/k/a Corizon Health, Inc. Plan at Art. I ¶ 51. "Released Parties" is defined as follows:

> "Released Parties" means collectively the following, in each case in its capacity as such with each being a "Released Party": (a) the Debtor; (b) Russell Perry, the Debtor's Chief Restructuring Officer; (c) the Committees and their respective members; (d) the Professionals; (e) the GUC Trustee; (f) the PI/WD Trustee; (g) the Settlement Parties; (h) M2 EquityCo LLC; (i) Valitás Intermediate Holdings Inc.; (j) Valitás Health Services, Inc.; (k) M2 Pharmacorr Equity Holdings LLC; (l) Pharmacorr/M2 LLC; (m) Pharmacorr Holdings LLC; (n) Endeavor Distribution LLC; (o) Yes Care Holdings LLC; (p) Sigma RM, LLC; (q) DG Realty Management LLC; (r) Scaracor LLC; (s) Yitzchak Lefkowitz a/k/a Isaac Lefkowitz; (t) Sara Ann Tirschwell; (u) Ayodeji Olawale Ladele; (v) Beverly Michelle Rice; (w) Jeffrey Scott King; (x) Jennifer Lynne Finger; (y) Frank Jeffrey Sholey; (z) FTI Capital Advisors, LLC, and for each Entity listed in (a) through (z), each of their respective current and former officers, directors, managers, employees, contractors, agents, attorneys, and other professional advisors, Insiders, and Affiliates; provided, however, that a Non-Released Party shall not be a 'Released Party."

Id. at Art. I ¶ 175. The "Settlement Parties" are defined to include YesCare Corp. and CHS TX, Inc. *Id.* at ¶ 182.

Plaintiffs, having never received notice of the releases, cannot be enjoined from continuing to prosecute their respective civil claims against these non-Debtor entities and former employees.

Indeed, the Omnibus Motion must be denied as to the Objecting Plaintiffs for multiple independently sufficient reasons. *First* and foremost, the Objecting Plaintiffs did not receive adequate notice—if any notice at all—of the Plan terms, including the releases or their opt-out rights. Therefore, enjoining them from prosecuting their cases, including against Released Parties, would violate the Objecting Plaintiffs' due process rights under the Fifth Amendment. As more fully set forth below, the Objecting Plaintiffs cannot be deemed to have knowingly or voluntarily relinquished their rights to proceed against non-Debtor affiliated entities or against individual health care providers, and the Objecting Plaintiffs' conduct in pursing their pending cases shows just the opposite. Specifically, the Objecting Plaintiffs lacked notice of the "Consensual Claimant Release"—a misnomer as applied to them. In fact, they did not consent to it and under the Plan terms are not bound by it. So too, they cannot be bound by an injunction that stays their pursuit of claims that were not released by the Consensual Claimants Release.

Second, the relief requested in the Omnibus Motion is unavailable based on the plain terms of the Plan itself. The Objecting Plaintiffs' active claims against YesCare and their claims against former employees are otherwise not covered by the Channeling Injunction or other provisions of the Plan.

Third, in the alternative, the Objecting Plaintiffs request leave to submit untimely opt-outs on the basis of excusable neglect, where the failure to ensure that they received notice of the Plan meant that they lacked a meaningful opportunity to opt out of or object to the Plan terms, including the release.

FACTUAL BACKGROUND

The Objecting Plaintiffs, while presenting common interests in this brief, have each endured their own distinct forms of mistreatment at the hands of YesCare, its affiliates, or its current or former employees. They have each individually chosen to exercise their rights to seek relief for the damages they have suffered as a result of deprivations of their constitutional rights. We begin with a brief account of the facts and circumstances that led them to pursue their claims, as well as information relevant to the questions of notice at issue here.

1. Stephen Howe

At the age of 23, Mr. Howe developed telltale symptoms indicative of a neurological problem while he was incarcerated at the Eastern Correctional Institution in Somerset County, Maryland. He experienced weakness in his limbs, vision problems, tingling, and dizziness. These symptoms consistently worsened, and were consistently reported to Corizon Health Inc. In 2018, Dr. Clayton Raab, a Corizon doctor, noted that Mr. Howe's symptoms were "bizarre." Dr. Raab's notes show that he believed Mr. Howe just has a "persisting worry," and that Mr. Howe was given "reassurances all is OK." Dr. Raab's note concluded that if Mr. Howe continues to be concerned about his health, then "he should have a psych referral for it." In March 2021, four years after the onset of symptoms and now slurring his speech, experiencing cognitive impairment, and stumbling through the prison because he had become physically disabled, Corizon finally arranged for Mr. Howe to have an MRI. The MRI showed lesions on Mr. Howe's brain consistent with Multiple Sclerosis.[3] Corizon then waited until August 2021 to have a lumbar puncture to confirm the

[3] Multiple Sclerosis ("MS") is a chronic, neurodegenerative disease where nerve coverings in the brain are damaged, which impairs the brain's ability to communicate with the body. A prompt diagnosis and prompt drug therapy is essential for MS. An MRI is the primary tool used to make an MS diagnosis. That is the standard of care. With a prompt diagnosis and drug therapy, an individual can slow the progression of the disease and minimize or even eliminate severe, long-

diagnosis. He then was forced to wait over a year to begin the drug therapy that can slow the progression of the disease. He was resentenced to time served in April 2024, and since then has been in an assisted living facility. He cannot walk, has limited use of his hands and arms, and has severely slurred speech. He will require profound assistance with all activities of daily living for the remainder of his natural life.

Mr. Howe did not file a claim in the Tehum bankruptcy, because he later learned, through counsel, of the deadline to file claims after it had passed. He sued YesCare and other co-liable parties for their deliberate disregard of the substantial risk of serious harm to him, in violation of the Eight Amendment, and for other causes of action on March 4, 2024. YesCare never filed anything referencing the Tehum bankruptcy proceedings, but actively participated in the case, filing a Motion to Dismiss, a Reply, and an answer to the Second Amended Complaint filed in early 2025. Mr. Howe first learned of the Plan and its confirmation from a letter sent by counsel for YesCare on April 22, 2025. The only notice of the Plan and right to vote and/or opt-out that YesCare alleges Mr. Howe received in Exhibit A to the Omnibus Motion was from the *Prison Legal News* publication notice. YesCare does not assert that he was provided any other notice, nor does it assert that Mr. Howe ever received an Opt-Out Release Form that would have allowed him to opt out of the Consensual Claimant Release set forth in Article IX.D of the Plan.

2. Jamonte Jamar Fletcher

Jamonte Jamar Fletcher, who is currently incarcerated at Roxbury Correctional Institution in Maryland, was routinely denied the bare minimum of dental care that was necessary under the

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term disabilities. Without that standard treatment, the disease can progress and lead to severe and permanent neurological damage, including permanent physical and cognitive disability, permanent loss of function in affected areas, and the attendant physical complications associated with reduced activity.

prevailing standards of dental and related medical care applicable in Maryland correctional facilities. As a result of years of delays and denials in necessary care from his providers, Mr. Fletcher unnecessarily lost two teeth, sustained damage to multiple other teeth, including cavities that unnecessarily progressed on at least five teeth, and endured years of acute and chronic dental pain and suffering. To seek relief from these injuries, on June 20, 2023, Mr. Fletcher filed suit in the District of Maryland, proceeding *pro se*, asserting § 1983 violations. Over a year later, on July 12, 2024, the Court appointed Zuckerman Spaeder, LLP as pro bono counsel.

Mr. Fletcher only received notice of the bankruptcy proceeding against Debtor when a Suggestion of Bankruptcy was filed in his case on November 22, 2023. Fletcher Action, ECF No. 16. In its Omnibus Motion papers, YesCare does not allege that Mr. Fletcher received any other forms of notice or had actual notice of the Plan or its terms. The Suggestion of Bankruptcy asserted that Tehum Care Services, d/b/a Corizon Health, Inc., had filed a voluntary petition pursuant to Chapter 11 of the Bankruptcy Code, causing an automatic stay of claims against the Debtor. It did not mention any other entity, or suggest that proceedings against other entities were stayed. Nor did the Suggestion of Bankruptcy suggest that Mr. Fletcher might be prevented from pursuing claims against anyone other than the Debtor.

Mr. Fletcher originally asserted claims against Tehum, YesCare Corp., and one related individual, as well as two state officials. Following the Suggestion of Bankruptcy, the district court stayed proceedings only against Tehum, while allowing Mr. Fletcher's claims against all other defendants to proceed. Fletcher Action, ECF No. 20, at 2 ¶ 4. Following the district court's stay order, the remaining YesCare defendants (other than Tehum) answered Mr. Fletcher's *pro se* complaint on March 18, 2024, Fletcher Action, ECF No. 31, and otherwise continued to engage in

the Maryland proceedings through their Maryland counsel, *see, e.g.,* Fletcher Action, ECF Nos. 22-26, 57, 59, 61.

Mr. Fletcher recently sought leave to amend his complaint to state § 1983 and related state law claims against (1) one Maryland state official, (2) a group of dental providers having no corporate affiliation to YesCare, and (3) CHS TX, Inc., based on its role as the State Medical Contractor after Corizon, in coordinating the provision of dental and related medical care in Maryland correctional facilities, and its direct responsibility for providing certain forms of dental care, such as oral surgeries and emergency dental care. *See* Fletcher Action, ECF No. 62 & accompanying papers. Mr. Fletcher is dismissing claims against Tehum as a defendant. *See* Fletcher Action, ECF No. 62-4, at 3. Mr. Fletcher's motion for leave is unopposed and remains pending. On June 9, 2025, YesCare filed a motion to stay Mr. Fletcher's Maryland action unless this Court allows his pending claims to proceed. Fletcher Action, ECF No. 72.

Similar to Mr. Howe, Mr. Fletcher first learned of the Plan and its confirmation long after the fact—specifically, from a letter sent by counsel for YesCare on May 6, 2025. In Exhibit A to the Omnibus Motion, YesCare alleges only that Mr. Fletcher had general notice of the bankruptcy proceeding based on the Suggestion of Bankruptcy, but does not allege that he received any notice of the Plan itself, much less any rights to vote or opt-out. YesCare does not assert that Mr. Fletcher was provided any other form of notice, nor claims he ever received an Opt-Out Release Form that would have allowed him to opt out of the Consensual Claimant Release.

Through his proposed third amended complaint in Maryland, Mr. Fletcher intends to proceed against CHS TX, Inc., based on its role as State Medical Contractor responsible for certain aspects of Mr. Fletcher's dental care—but *not* against Tehum, YesCare Corp., or the related individual named in his earlier *pro se* complaints.

3. Rilwan Akinola

While incarcerated at Western Correctional Institution in Maryland, Rilwan Akinola suffered serious injuries in September 2021 from the gross negligence of a correctional officer and the subsequent deliberate indifference of a prison nurse—a now-former employee of Corizon—who denied and delayed medically necessary care and failed to ensure Mr. Akinola received prescribed medication. As a result of this deficient care, Mr. Akinola suffers from ongoing, excruciating pain and inflammation in his left knee and back. This pain and inflammation has significantly impaired Mr. Akinola's mobility and, at the age of 41, he required use of a cane when walking.

To redress these damages, on March 17, 2022, Mr. Akinola filed a pro se Complaint in the United States District Court for the District of Maryland that asserted claims under 42 U.S.C. § 1983 against Corizon Health, Inc. and the nurse, for acting with deliberate indifference in violation of the Eighth Amendment, and against the correctional officer. *See* Akinola Action, ECF No. 1.[4] Corizon filed a Suggestion of Bankruptcy on February 21, 2023, and the district court stayed proceedings against Corizon on March 16, 2023. Akinola Action, ECF Nos. 30, 34. The Suggestion of Bankruptcy did not stay claims against other parties or provide notice that claims against them could be released in the course of bankruptcy proceedings. Indeed, the Court continued to treat the nurse, a former Corizon employee, as a Defendant and on May 9, 2023, denied her pending motion to dismiss on grounds unrelated to the bankruptcy. Akinola Action, ECF Nos. 36, 37. The nurse continued to participate fully and actively in the Maryland

[4] Mr. Akinola, while proceeding *pro se*, wrote to the Court in June 2022 inquiring whether he needed to re-file the Complaint, since he believed that Corizon had changed its name to YesCare. The Court noted that the allegations predated YesCare's provision of medical care, and no claim was asserted against YesCare. Akinola Action, ECF Nos. 6, 35.

proceedings, answering the Complaint and responding to discovery requests without raising any argument that she was entitled to a stay or otherwise affected by Corizon's bankruptcy until June 6, 2025, well after the Debtor filed the instant Omnibus Motion to Enjoin in this Court. *See* Akinola Action, ECF Nos. 39, 73.

On April 4, 2024, the district court appointed pro bono counsel for Mr. Akinola, after which date counsel's name and contact information was listed on the docket of the Maryland proceedings. Akinola Action, ECF No. 48. On September 13, 2024, Mr. Akinola, by counsel, moved to amend his complaint and filed a proposed amended complaint that dropped the stayed claim against Corizon and asserted claims only against the nurse and a correctional officer. Akinola Action, ECF No. 57. The district court granted Mr. Akinola's motion. Akinola Action, ECF Nos. 69, 70. Mr. Akinola does not pursue any claim against the Debtor or any entity affiliated with it, and has not pursued any such claim since early 2023.

Mr. Akinola, like many inmates, was transferred between correctional facilities during the course of the Maryland proceedings. At all times during his incarceration, Mr. Akinola's contemporaneous whereabouts were readily ascertainable through the publicly available Inmate Locator on the website of Maryland's Department of Public Safety and Correctional Services. On November 20, 2024, Mr. Akinola was located at Roxbury Correctional institution in Hagerstown, Maryland, which is the same facility and address listed in the caption of his district court case in Maryland. Although he had been located at Baltimore City Correctional Center for a period of time during the pendency of the Maryland proceedings, the last day on which he resided at that facility was March 11, 2023. Mr. Akinola was released from custody on November 27, 2024.[5]

[5] Exhibit A to the Omnibus Motion asserts that Mr. Akinola received notice of the Claims Bar Date, which the Cited Certificate of Service asserts was mailed to him on May 5, 2023, and the Solicitation Materials related to the Plan, including the Opt-Out Release Form, which a different

4. Chelsea Gilliam, Chloe Grey, and Kennedy Holland

Ms. Gilliam, Ms. Grey, and Ms. Holland are three transgender women. Ms. Gilliam and Ms. Holland were previously incarcerated within the Maryland Department of Public Safety and Correctional Services. Ms. Grey remains incarcerated at the Department's Western Correctional Institution. While in custody, all three were held in men's facilities, subject to sexual and physical abuse, and denied gender affirming medical care, even when it had been prescribed by specialists.

These three women have filed suit in the United States District Court for the District of Maryland seeking damages and—for Ms. Grey—injunctive relief against the Department, YesCare,[6] and individual Doe defendants yet unknown, including "Health Care Does," who are medical providers and other staff who were contracted or employed at the facilities where Plaintiffs were incarcerated. For Ms. Holland and Ms. Grey, the damages claims against YesCare (brought only by Ms. Grey) and the Health Care Does post-date Tehum's filing of bankruptcy. All three women asserted claims under 42 U.S.C. § 1983, the Americans with Disabilities Act, the Rehabilitation Act, and state tort law. Following the district court's December 20, 2024 decision granting in part and denying in part the Department Defendants' motion to dismiss, all three plaintiffs have § 1983 claims against the Health Care Does remaining in the case and Ms. Grey has a § 1983 claim against YesCare remaining as well. *See* Gilliam Action, ECF No. 146.

Certificate of Service asserts was sent to him on November 20, 2024. In both cases, the Certificates of Service assert that he was served by mail at the Baltimore City Correctional Center. *See* ECF No. 609 at 139; ECF No. 1852 at 68. He was transferred from that facility on March 11, 2023 and never received either incorrectly addressed mailing. *See* Ex. 1, Decl. of Rilwan Akinola ¶¶ 2, 8, 9.

[6] Ms. Grey now seeks only damages against YesCare given that a new entity has taken over the contract to provide health care for the Department.

The action was filed originally only by Ms. Gilliam on April 18, 2023, and included a claim against Corizon Health, Inc. Gilliam Action, ECF No. 1. On May 1, 2023, Ms. Gilliam filed an amended complaint removing Corizon Health as a defendant, while retaining her claims against the Health Care Does. Gilliam Action, ECF No. 13. Nevertheless, on May 8, 2023, Tehum Care Services, Inc., doing business as Corizon Health, Inc., filed a Suggestion of Bankruptcy on the docket. *See* Gilliam Action, ECF No. 18. The Suggestion of Bankruptcy did not reference any other corporate or individual parties (such as YesCare), nor did it state that claims against other corporate or individual parties could be released in bankruptcy proceedings. *Id.* That day, the district court issued an order that "as the Suggestion of Bankruptcy was only as to one defendant not the entire case . . . [the] [c]ase should proceed with remaining defendants as noted on the docket." *See* Gilliam Action, ECF No. 22.

On July 21, 2023, Ms. Holland joined with Ms. Gilliam to file a Second Amended Complaint. Gilliam Action, ECF No. 31. At the time, Ms. Holland was still incarcerated. The complaint alleged that the Health Care Does had failed, post-filing of the Tehum bankruptcy, to provide her hormone medication as prescribed, including lapses of care lasting up to two months. *Id.* ¶¶ 43-44. Ms. Holland was released from custody in August 2023. Gilliam Action, ECF No. 46 ¶ 112.

On November 2, 2023, Ms. Grey joined with the other two plaintiffs to file a Third Amended Complaint. Gilliam Action, ECF No. 46. In it, she alleged that, after the date of the Tehum filing, YesCare and the Health Care Does refused to provide her with the specialist-recommended doses of her hormone medication. *Id.* ¶¶ 170-176. Ms. Grey further alleged that YesCare and the Health Care Does failed to find her a suitable replacement method for removing

facial hair after a product she had been using was discontinued—a failure that also post-dates the Tehum filing. *Id.* ¶¶ 177-179.

On December 4, 2023, the District Court entered a Temporary Restraining Order requiring the Department to:

> Ensure that [Ms. Grey] is consistently provided and/or administered prescribed hormone medication in accordance with her prescriptions, make a date-stamped video recording of each provision and/or administration, and make the recordings reasonably available to Plaintiff's counsel upon demand or on a rolling basis; . . . Provide Plaintiff with any over-the-counter facial hair inhibitor product that is a reasonable replacement for the facial hair inhibitor cream Plaintiff has been prescribed, provided that any such over-the-counter facial hair inhibitor product is available to DPSCS; [and] Provide razors to Plaintiff for shaving, to the extent consistent with DPSCS policies and procedures . . . .

Gilliam Action, ECF No. 75.

On July 18, 2024, the plaintiffs filed a Fourth Amended Complaint to add additional state law claims. Gilliam Action, ECF No. 124. YesCare filed an Answer to the Fourth Amended Complaint on August 15, 2024. Gilliam Action, ECF No. 130.

On the same date, The Department and its employee-Defendants filed a Motion to Dismiss Fourth Amended Complaint. Gilliam Action, ECF No. 132. In denying that motion in part, the district court found that the alleged facts were "sufficient to state plausible claims that Health Care Does were deliberately indifferent to each Plaintiff's serious medical needs." Gilliam Action, ECF No. 146 at 30. As discovery is ongoing, the identity and employer of the "Health Care Does" remain unknown.

On June 11, 2025, YesCare filed a motion to stay the entire action, subject to orders of this Court, arguing that "Defendant is a former employee of the Debtor." Gilliam Action, ECF No. 160 at 2. An opposition to that motion is forthcoming.

ARGUMENT

The Omnibus Motion should be denied insofar as it seeks an injunction against the Objecting Plaintiffs for at least two reasons. First, the Objecting Plaintiffs did not receive adequate notice of the Plan and its terms, including their opt-out rights, and enjoining them from prosecuting their cases against YesCare entities and individuals other than Tehum would violate their due process rights under the Fifth Amendment under controlling Fifth Circuit authority. The Objecting Plaintiffs' conduct in their Maryland cases shows that they have intended to pursue their claims against non-Debtor affiliates and individuals and would have opted out of the Plan had they known of it. That conduct cannot be reconciled with YesCare's contention that they knowingly and voluntarily relinquished their rights to pursue claims against non-Debtor affiliates and individuals. Second, the Channeling Injunction does not prohibit continued prosecution of the Objecting Plaintiffs' claims against YesCare, CHS TX, Inc., or former employees of those entities or the Debtor.

I. THE RELIEF REQUESTED IN THE OMNIBUS MOTION VIOLATES THE DUE PROCESS CLAUSE.

Enjoining Objecting Plaintiffs from pursuing their claims after Debtor failed to provide them with the requisite notice of the bankruptcy proceedings—including notice of the Claim Bar Date, the Plan, the Opt-Out Release Forms, the Plan terms purporting to affect their rights to pursue claims against parties other than the Debtor, their rights to opt out of the Plan, or the deadline for opting out—would violate their due process rights under the Fifth Amendment. YesCare asserts that the Objecting Plaintiffs received notice in different forms, but none of them received sufficient notice to apprise them that their claims against YesCare Corp., CHS TX, Inc., or former YesCare employees could be impaired if they did not take action in the Tehum bankruptcy. The absence of notice is particularly egregious in light of both (1) the Debtor's knowledge of their identities and

locations and, in most cases, their claims and the identities of their counsel; and (2) the active post-petition involvement of YesCare affiliates in the Maryland actions they now claim should be stayed or enjoined based on Tehum's bankruptcy.

It should not be lost on this Court that having failed to provide any meaningful notice of the Plan when it could have mattered, YesCare waited until after the Plan was confirmed, then promptly wrote to counsel for the Objecting Plaintiffs asserting that their claims were enjoined by a Plan they never saw. At most, for some Objecting Plaintiffs, YesCare claims it had previously provided notice of the Plan by mail to the wrong address, or by publication. Publication notice, the Supreme Court has acknowledged, may suffice *only* "when the names, interests, and addresses of persons *are unknown*." *In re New Century TRS Holdings, Inc.*, 465 B.R. 38, 48 (Bankr. D. Del. 2009) (quoting *City of New York v. New York, N.H. & H.R. Co.*, 344 U.S. 293, 296 (1953)) (emphasis added). The names, interests, and correct addresses of the Objecting Plaintiffs and their counsel surely *were* known, as YesCare's after-the-fact notice of the Plan confirms.

In the bankruptcy context, "[d]ue process requires that notice must be reasonably calculated, under all of the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections." *In re Pipeline Health Sys., LLC*, No. 22-90291, 2025 WL 686080, at *3 (Bankr. S.D. Tex. Mar. 3, 2025) (internal citation omitted). Each of the Objecting Plaintiffs, like anyone else, has a constitutional due process right to be notified of a proceeding "that could affect his rights" by means of a method that is "reasonably certain to inform" him of the proceeding in the context of his specific "circumstances." *In re Kendavis Holding Co.*, 249 F.3d 383, 386-87 (5th Cir. 2001) (citation omitted) (finding insufficient notice even though creditor had actual knowledge of bankruptcy proceeding). Any relinquishment of substantial rights must be knowing and voluntary for it to be consistent with due process. *See*

In re Miami Metals I, Inc., 625 B.R. 593, 598 (Bankr. S.D.N.Y. 2021) ("Where waiver is not explicit, it may be implied through the conduct of a party; however, '[t]he conduct said to constitute a waiver must be clear and unequivocal, as waivers are never to be lightly inferred.'" (quoting *Mooney v. City of New York*, 219 F.3d 123, 131 (2d Cir. 2000))). The sufficiency of the notice is addressed in each case against the backdrop of its unique factual circumstances. *In re Kendavis Holding Co.*, 249 F.3d 383, 387 (5th Cir. 2001).

These circumstances include both the Debtor's knowledge of the claimant and the nature of the claim, such as whether the claim is against a non-Debtor third party. Under controlling precedent, known creditors—those who are actually known by the Debtor or whose identifies are "reasonably ascertainable"—"must" receive direct and actual notice of bankruptcy proceedings, including and especially all critical deadlines, such as the bar date for filing claims as well as the date for opting out of a plan (which presupposes the claimant has actual notice of the plan itself). *See In re MA-BBO Five, LP*, No. 11-40644, 2022 WL 3329016, at *8 (Bankr. E.D. Tex. Aug. 11, 2022); *see also In re Placid Oil Co.*, 753 F.3d 151, 154 (5th Cir. 2014) ("A debtor must provide actual notice to all 'known creditors' in order to discharge their claims." (citing *City of New York v. New York, N.H. & H.R. Co.*, 344 U.S. 293, 295-97 (1953))). Publication notice is not direct notice, full stop. Thus, it is insufficient for known creditors like each of the Objecting Plaintiffs. *Placid Oil Co.,* 753 F.3d at 155; *see also In re Schepps Food Stores, Inc.*, 152 B.R. 136, 138 (Bankr. S.D. Tex. 1993) (stating that "the use of publication notice to notify known creditors fails to satisfy the dictates of the due process clause," and finding due process was satisfied for known creditors that were *correctly* sent the Notice of Bar Date and an unknown creditor whose attorneys

had received actual notice).[7] The Court should rigorously enforce this mandate to avert gamesmanship.

Furthermore, clear notice is especially vital when claims against non-Debtor entities are implicated. *See, e.g.*, *In re Lower Bucks Hosp.*, 471 B.R. 419, 461 (Bankr. E.D. Pa. 2012); *In re Chassix Holdings, Inc.*, 533 B.R. 64, 80-81 (Bankr. S.D.N.Y. 2015). Notice and disclosure of the effects of a bankruptcy plan on third-party claims must be clearly and specifically communicated whenever possible. *See In re Lower Bucks Hosp.*, 471 B.R. at 459, 461 (denying confirmation of certain portions of the chapter 11 plan related to a third party release when certain bondholders "did not receive adequate disclosures before they voted to accept the Plan" and explaining "[n]ot only did the [Disclosure Statement, or 'DS'] obscure the significance of the Third Party Release by placing its disclosure, without any emphasis, among the disclosure of other, routine, perhaps even superfluous, releases that would result from confirmation of the Plan, the DS squandered the opportunity to mention the Third Party Release in several places where it was germane."). As the court explained in *In re Chassix*, even the receipt of disclosure materials about a debtor's bankruptcy is insufficient itself to put creditors on notice that their claims against other parties could be implicated. 533 B.R. at 80-81. There, the court explained that

[7] "Known creditors include both claimants actually known to the debtor and those whose identities are 'reasonably ascertainable.'" *Placid Oil Co.*, 753 F.3d at 155 (quoting *Tulsa Prof'l Collection Servs., Inc. v. Pope*, 485 U.S. 478, 489-490 (1988)). Even for unknown creditors, the adequacy of publication notice must be analyzed on its own merits. *See Mullane v. Cent. Hanover Bank & Tr. Co.,* 339 U.S. 306, 315 (1950) ("It would be idle to pretend that publication alone as prescribed here, is a reliable means of acquainting interested parties of the fact that their rights are before the courts. It is not an accident that the greater number of cases reaching this Court on the question of adequacy of notice have been concerned with actions founded on process constructively served through local newspapers."). Here, mere publication of Debtor's bankruptcy in a prisoner newsletter, or in the New York Times and Wall Street Journal, is not reasonably calculated to provide notice to any inmate that his claims against a third-party healthcare provider other than the Debtor might be at issue.

> many creditors may simply have assumed that a package that related to the Debtors' bankruptcy case must have related only to their dealings with the Debtors and would not affect their claims against other parties. Charging all inactive creditors with full knowledge of the scope and implications of the proposed third party releases, and implying a "consent" to the third party releases based on the creditors' inaction, is simply not realistic or fair, and would stretch the meaning of "consent" beyond the breaking point.

Id.

None of the Objecting Plaintiffs have active claims against Tehum (the Debtor). And none received the Solicitation Package, the Plan, the Opt-Out Release Forms, or any other form of notice about the Plan terms or how the Plan might affect their future rights to pursue claims against non-Debtor entities or individuals. Alleging that they had general notice of Tehum's bankruptcy through the Suggestion of Bankruptcy does not establish that they were on notice that their third-party claims against any party other than the Debtor, such as claims against YesCare, CHS TX., Inc., or against individual healthcare providers who were former employees of any of these entities, might be released if they did not take some unspecified action in the bankruptcy proceeding of a different legal entity—let alone that their inaction would be deemed to be consent to have their third-party claims released in that bankruptcy. Indeed, parties like the Objecting Plaintiffs, who are not pursuing claims against the Debtor—and in the case of Mr. Akinola, who asserts no claims against any legal entity—lacked any economic incentive "to follow the bankruptcy case," with its more than 2,280 docket entries (and counting). *See In re Spirit Airlines, Inc.*, 668 B.R. 689, 704-05 (Bankr. S.D.N.Y.) (collecting cases). That is especially important where, as here, the Objecting Plaintiffs were prison inmates, an especially vulnerable group who, in the absence of the required direct and clear notice concerning a potential impairment of their rights, would find it especially challenging to follow complex bankruptcy proceedings, or even to obtain the hundreds of pleadings filed in this court. *Cf. United States v. One Toshiba Color Television,* 213 F.3d 147, 153-54 (3d Cir. 2000) (declining to adopt "a per se rule that mail will always be adequate notice" for a

prisoner, in part because "a prisoner lacks the ability to take steps to ensure that his mail is actually delivered to him. This dilemma is especially acute for a prisoner who may be transferred from facility to facility, complicating efforts to effect service."). No principle of law or fairness supports the conclusion that Objecting Plaintiffs' timely pursued claims against non-Debtor defendants have been knowingly forfeited.

The facts bear out that none of the Objecting Plaintiffs received the notice required to justify releasing their claims against entities other than the Debtor. None of these known creditors received direct and clear notice that the Plan purports to implicate their claims against YesCare and/or CHS TX, Inc. In the absence of such notice, their due process rights would be violated if they were enjoined from prosecuting their cases.

A. Mr. Howe Did Not Receive Notice.

YesCare alleges that that Mr. Howe received only "Publication Notice." Ex. A to Omnibus Motion at 15. This constructive notice is insufficient for a known creditor, like Mr. Howe. *See In re MA-BBO Five, LP*, 2022 WL 3329016, at *8. He filed suit on March 4, 2024, and therefore was well-known to YesCare before this Court entered its November 13, 2024, Order approving the Disclosure Statement, Solicitation Procedures, and form and manner of notice to Claim Holders, and before the ballot or Opt-Out Release Form were disseminated. Indeed, it was not until April 22, 2025, when Mr. Howe's counsel received a letter from YesCare's counsel, that he received actual notice of the bankruptcy. The Court had confirmed the Plan a month earlier; Mr. Howe did not know of it, and could not have consented to it. Therefore, Mr. Howe cannot have his claims extinguished by this Court. If "consent [to a third-party release] cannot be inferred by the failure of a creditor … to return a ballot or Opt-Out Form," then surely the consent of known creditor who

does not receive a ballot or Opt-Out Form cannot be inferred. *In re Emerge Energy Services, LP,* 2019 WL 7634308 at *18 (Bankr. D. Del. 2019).

B. Mr. Fletcher Did Not Receive Notice.

YesCare alleges that Mr. Fletcher had actual knowledge of the bankruptcy proceeding because a Suggestion of Bankruptcy was filed in his case on November 22, 2023. However, after learning of Debtor's bankruptcy, the Court stayed proceedings against Tehum but otherwise allowed Mr. Fletcher's claims against non-Debtor defendants to proceed. He never received direct or actual notice that his pending claims against CHS TX, Inc. might be implicated in Debtor's bankruptcy proceedings—the Suggestion of Bankruptcy certainly made no mention of it.

To the contrary, the non-Debtor YesCare defendants answered Mr. Fletcher's complaint after Tehum's Suggestion of Bankruptcy and continued thereafter to participate in the Maryland action through its Maryland counsel. *See, e.g.,* Fletcher Action, ECF Nos. 22-26, 57, 59, 61. Thus, the Court, the other YesCare defendants, and Mr. Fletcher all proceeded as though the only defendant whose interests were implicated by Tehum's bankruptcy was Tehum itself. Mr. Fletcher certainly had no notice that his rights to pursue claims against any other YesCare entities or individuals might be affected by Tehum's bankruptcy—and YesCare's conduct in the litigation led him to believe precisely the opposite.

Mr. Fletcher filed his *pro se* suit on June 20, 2023; therefore, Mr. Fletcher's case was well-known to YesCare before this Court entered its November 13, 2024, Order approving the Disclosure Statement, Solicitation Procedures, and form and manner of notice to Claim Holders, and before the ballot or Opt-Out Release Form were disseminated. Nevertheless, it was not until May 6, 2025, when Mr. Fletcher's counsel received a letter from YesCare's counsel, that he first received actual notice of the Plan and its terms. Like the other Objecting Plaintiffs, Mr. Fletcher

had no notice or meaningful opportunity to opt out of the Plan terms asserted in the Omnibus Motion.

C. Mr. Akinola Did Not Receive Notice.

YesCare alleges that Mr. Akinola had actual knowledge of the bankruptcy proceeding because a suggestion of Bankruptcy was filed in his lawsuit on February 21, 2023. Ex. A to Omnibus Motion at 1. It also claims that he is listed on the creditor matrix as having received notice of the Claims Bar Date and the Solicitation Materials related to the Plan, including the Opt-Out Release Form—*not so*.

In fact, however, Mr. Akinola did not receive the required notice (or any notice at all). The Suggestion of Bankruptcy that Debtor filed in Mr. Akinola's proceeding did not suggest that claims against any non-Debtor parties were stayed or provide notice that claims against them could be released in the Plan, and the district court's Order shortly following the Suggestion of Bankruptcy stayed the case only against the Debtor, not against the nurse who was formerly employed by the Debtor. Akinola Action, ECF Nos. 30, 34. The district court, like Mr. Akinola, did not consider that the bankruptcy in any way affected the claim against the nurse formerly employed by the Debtor; the court denied the nurse's pending motion to dismiss, ECF Nos. 36, 37, and appointed counsel to pursue the claim against the nurse on Mr. Akinola's behalf, ECF No. 48—after finding that the bankruptcy stayed proceedings against the Debtor. Mr. Akinola then filed an Amended Complaint dropping his claim against the Debtor and asserting claims only against the nurse and a correctional officer—not against the Debtor or any entity affiliated with it. ECF No. 57, 68, 69, 70. The nurse participated in discovery and never asserted that the claim against her was affected by the bankruptcy until three weeks after YesCare filed the Omnibus Motion, on June 6, 2025, when she filed a motion to stay Mr. Akinola's entire Maryland action based on the pending

Omnibus Motion unless this Court allows his pending claims to proceed. ECF No. 73. Mr. Akinola is filing an opposition to that motion today.

Moreover, contrary to YesCare's representation in Exhibit A to the Omnibus Motion, Mr. Akinola did not receive notice of the Plan, Disclosure Statement, Solicitation Materials, Opt-Out Release Form, or any other materials concerning the Consensual Claimant Release or the Channeling Injunction. Ex. 1, Akinola Decl. ¶ 8. Nor did he receive notice of the Claims Bar Date, which in any event would not have told him anything about claims against any person or entity other than Tehum. *Id.* ¶ 9. The only mailing of Plan-related materials that YesCare points to was on November 20, 2024, when the Certificate of Service cited in Exhibit A to the Omnibus Motion attests that the Solicitation Materials were sent to the wrong address: Baltimore City Correctional Center ("Baltimore City CC," at the Baltimore address of the Correctional Center). *See* Certificate of Service, ECF No. 1852, at 68. Mr. Akinola did not receive the mailing because he did not reside at Baltimore City Correctional Center on November 20, 2024—nor had he since March 11, 2023; he resided at Roxbury Correctional Institution in Hagerstown, MD, 1½ hours away. Akinola Decl. ¶¶ 2-4.[8]

[8] And surely YesCare—which served as the State Medical Contractor for the Maryland correctional system after the Debtor—is aware that the location of Maryland inmates may be looked up online. *See generally* https://www.dpscs.state.md.us/inmate/. Moreover, the packet that Mr. Akinola did not receive, which contains this alleged notice, would have incorrectly advised him that he was a holder of a Class 1 or Class 2 Claim that was unimpaired under the Plan; a member of Class 11 (equity Interests in the Debtor), which class was presumed to accept the Plan; or the holder of an administrative professional fee, or tax claim. He is none of these. This incorrect information would have rendered the notice insufficient even if it had been sent to his address. Nor did Mr. Akinola receive notice of the Claims Bar Date. YesCare's reliance on Exhibit A to the Omnibus Motion asserts that Mr. Akinola received notice of the Claims Bar Date, which the Cited Certificate of Service says was mailed to him on May 5, 2023. That too was mailed to the Baltimore City Correctional Center, which he had left two months earlier. ECF No. 609 at 139; Akinola Declaration at ¶ 2. And Notice of the Claims Bar Date would not have told him of the Plan, which did not yet exist, let alone that it might release claims against former employees of the Debtor, or that he had the right to opt out.

D. Ms. Gilliam, Ms. Grey, and Ms. Holland Did Not Receive Notice.

YesCare alleges that the Gilliam Plaintiffs had actual knowledge of the bankruptcy proceeding because a suggestion of Bankruptcy was filed in Ms. Gilliam's lawsuit on May 8, 2023. Ex. A to Omnibus Motion at 12. The Suggestion of Bankruptcy did not suggest that claims against non-Debtor parties were stayed or provide notice that claims against them could be released in the Plan. And the district court, upon receiving the Suggestion of Bankruptcy, only stayed the case as to the Debtor, not YesCare or the "Health Care Does." The arguments set forth above concerning the Suggestion of Bankruptcy apply to the Gilliam Plaintiffs for the same reasons explained for the other Objecting Plaintiffs.

E. Failure to Provide Notice or a Meaningful Opportunity to Opt Out Renders the Request for an Injunction Unenforceable Against the Objecting Plaintiffs.

A creditor's claim cannot be discharged in bankruptcy without constitutionally adequate notice of the bankruptcy proceedings and applicable deadlines. *See, e.g.*, *In re Waterford Energy,* 294 F. App'x 900, 904 (5th Cir. 2008); *Chemetron Corp. v. Jones*, 72 F.3d 341, 346 (3d Cir.1995) ("[I]nadequate notice is a defect which precludes discharge of a claim in bankruptcy."). None of the Objecting Plaintiffs received the requisite direct and clear notice that their third-party claims against YesCare, CHS TX, Inc., or employees of those entities or of Debtor, could be released if they did not take action under the Debtor's Plan—of which they also had no direct or clear notice. Therefore, because the Objecting Plaintiffs did not receive notice that could possibly comply with the requirements of the Constitution, this Court cannot enjoin them from pursuing their claims in another jurisdiction against third parties like YesCare, CHS TX, Inc., or former employees, and should deny their motion with prejudice.

Nor can YesCare escape the consequences of the woefully deficient notice by pointing to this Court's finding in the Confirmation Order that "[a]ll applicable parties received due and

adequate notice of the Consensual Claimant Release and had the opportunity to opt out of the Consensual Claimant Release." Omn. Mot. at 8 (quoting Confirmation Order at ¶ 48). The Court understandably relied on the five Certificates of Service filed by Debtors' claims and noticing agent, which it found established that the Debtor, the Committees, and Proponents "caused the Solicitation Packages, Non-Voting Package, . . . [and other materials] to be distributed in accordance with . . . the Disclosure Statement Order, and the Solicitation Procedures, the Disclosure Statement Order, and the Solicitation Statement Procedures." Notice of Confirmation Order at pp. 3-4 ¶ k. However, the Court was not informed, in the Certificates or otherwise, that these specific Objecting Plaintiffs never actually received the Solicitation Packages, the Non-Voting Package, the Plan itself, the Opt-Out Forms, or other crucial materials bearing on the fairness of holding them to Plan terms they never saw much less considered. For most Objecting Plaintiffs, YesCare effectively concedes this deficiency in its motion papers.

Nor did the Court know that incarcerated individuals whose claims and locations were well-known to Debtor, like Messrs. Howe and Fletcher, were not included on any certificate of service, and that Debtor's representation to this Court that it had in fact given the required notice was materially inaccurate at least with respect to them and Mr. Akinola, whose purported notice was sent to the wrong address. Under these circumstances, this Court can, and in fairness must, revisit its finding to avoid allowing the Debtor's misstatement of critical facts to impair inmates' substantial rights. That is especially true where YesCare attempts to persuade the Court to find that these incarcerated plaintiffs were given notice, when in fact the Debtor failed to do so, even though it would have been a simple matter to give notice. The rights of vulnerable individuals to seek redress for violations of their constitutional rights cannot so capriciously be taken from them without due process.

F. Third-Party Releases in a Bankruptcy Are Not Enforceable Absent Express Consent, Which Objecting Plaintiffs Did Not Give.

Non-consensual releases of claims against non-debtors in bankruptcy proceedings are not permitted. *Harrington v. Purdue Pharma L.P.*, 603 U.S. 204, 227 (2024). In *Harrington*, the Supreme Court did not preclude *consensual* third-party releases, but it squarely foreclosed non-consensual ones. It did not answer the question of what is required for effective consent. This Court and others have allowed consent based on an opt-out mechanism that presupposes parties in interest received adequate notice of the third-party release and their rights to opt out. *See, e.g., In re Robertshaw US Holding Corp.*, 662 B.R. 300 (Bankr. S.D. Tex. 2024).[9] Others have held that, to give consent, "the creditor must affirmatively sign a writing under which it expressly agrees to discharge the non-debtor parties." *In re Tonawanda Coke Corp.*, 662 B.R. 220, 222–23 (Bankr. W.D.N.Y. 2024); *see also In re Smallhold, Inc.*, 665 B.R. 704, 726 (Bankr. D. Del. 2024) (ruling that "the plan's releases for those creditors who have not voted on the plan cannot be described as

[9] *Robertshaw* supports the view that whether by failing to opt out or by express consent, what is required is more than what occurred here. The allegedly releasing parties in *Robertshaw* were given direct notice that their claims would be released. *Id.* at 323 (finding that parties in interest "were provided detailed notice about the Plan, the deadline to object to plan confirmation, the voting deadline, and the opportunity to opt out of the third-party releases," such that voting and non-voting parties could "review and consider the terms of the third-party release and the consequences of electing not to opt out"). And, in *In re CJ Holding Co.*, 597 B.R. 597 (Bankr. S.D. Tex. 2019), cited in *Robertshaw* as an example of this Court's view of what constitutes consent, the court found, "The record shows, and Cole admits, that he received notice of the bankruptcy proceeding, of the deadline for filing his proof of claim, of the debtors' proposed plan, and of the hearing date." *Id.* at 609. The *CJ Holding* court looked to *Mullane* for the Supreme Court's "standard for adequate notice: 'The notice must be of such nature as reasonable to convey the required information, . . . and it must afford a reasonable time for those interested to make their appearance.'" *Id.* at 610 (quoting *Mullane*, 339 U.S. at 314).

consensual, and therefore are not valid"); *Patterson v. Mahwah Bergen Retail Grp., Inc.*, 636 B.R. 641, 675 (E.D. Va. 2022).

But whatever the merits of an opt-out or opt-in mechanism, what's certain is that each approach, to satisfy due process, depends on notice of the Plan terms and a meaningful opportunity to consider the third-party releases. *See Robertshaw*, 662 B.R. at 323. Otherwise, interested parties like the Objecting Plaintiffs cannot, as this Court found necessary, "review and consider the terms of the third-party release and the consequences of electing not to opt out." *Id.* Even so, the deficiencies in notice in this case illustrate why the latter view—that third-party releases should require the affirmative, express consent of the releasing party—is the better one, at least when applied to a vulnerable claimant class such as prison inmates. Absent affirmative, express consent, there is considerable room for doubt that putative releasing inmates in fact received, considered, and understood the Plan terms. So, too, there is no basis for finding that the Objecting Plaintiffs or others in the same situation ever consented to Article I adjudication that could impair their pending claims against non-debtors. *See Patterson*, 636 B.R. at 675. Further, "allowing inaction to imply consent encourages the very gamesmanship that the Supreme Court intended to check" when it required that a party's consent to bankruptcy jurisdiction must be "'knowing and voluntary.'" *Id.* (quoting *Wellness International Network, Ltd. v. Sharif*, 575 U.S. 665, 685 (2015)). Finally, allowing third-party releases based on a party's inaction runs afoul of basic principles of contract law applicable to releases—under which silence cannot manifest assent—and due process. *Id.* at 686-88. Here, especially, consent cannot (and should not) be inferred from inaction when applied to releases of claims that the Objecting Plaintiffs have been actively pursuing in another judicial district. The Objecting Plaintiffs' inability to opt out or object to the releases does not evince their

consent, but rather their good faith belief that no such action was necessary to protect their pending claims against non-Debtor entities.

The disclosures—never received much less considered—themselves certainly cannot show consent in this case. In *In re Spirit Airlines, Inc*., the court found that the third-party releases were consensual because they were "clearly worded and prominently presented in all of the Plan materials" and "reasonably calculated to appraise interested parties of their rights in these bankruptcy cases." 668 B.R. 689, 707 (Bankr. S.D.N.Y. 2025). As in *Robertshaw*, this quoted statement presupposes that the releases were actually received, which permitted consideration of their clarity in wording and placement within the Plan—circumstances that are not present. Here, the Objecting Plaintiffs never saw, much less considered, the third-party releases, and their purported effect was never clearly disclosed to the Objecting Plaintiffs. Undisputedly, the Objecting Plaintiffs did not give affirmative, express consent to the third-party releases in the Plan. As to Objecting Plaintiffs, any such purported release should therefore be held invalid.

II. THE OBJECTING PLAINTIFFS' CLAIMS ARE NOT SUBJECT TO THE CHANNELING INJUNCTION.

The Omnibus Motion incorrectly asserts that the Channeling Injunction prohibits continued prosecution of the Objecting Plaintiffs' claims. It does not. The plain language of the Plan makes this clear.

First, the definition of "Channeling Injunction" expressly provides that, "[f]or the avoidance of doubt, the Channeling Injunction shall apply only to Channeled Claims asserted by Consenting Claimants." Plan at Art. I ¶ 25. A "Consenting Claimant" is, in turn, defined as a "Consenting Indirect Claimant, a Consenting GUC Claimant, and/or Consenting PI/WD Claimant, regardless of whether any such Claimant receives a Distribution and so long as such Claimant has previously consented to the Consensual Claimant Release in accordance with the procedures set

forth in the Plan." *Id.* at Art. I ¶ 42. Each of these terms, as defined in the Plan, requires consent to the Plan. *Id.* at Art. I ¶¶ 43-45. None of the Objecting Plaintiffs consented to the Consensual Release in accordance with the procedures set forth in the Plan. Therefore, because the Objecting Plaintiffs are not Consenting Claimants, the Channeling Injunction does not apply to them.

The Motion nevertheless argues that it is enough that any plaintiff who "did not opt out [of the Plan's Consensual Claimant Release] became a 'Consenting PI/WD Claimant,'" is bound by the Consensual Claimant Release, and therefore should be "subject to a Channeling Injunction." Omn. Mot. at 5. But even under the Plan terms, a failure to opt out is not sufficient by itself to make Objecting Plaintiffs into Consenting PI/WD Claimants. The definition of "Consenting PI/WD Claimant" requires not only failure to opt out, but also at least one of two other requirements. Plan at Art. I ¶ 45. A Holder of a PI/WD Claim who opts out is a Consenting PI/WD Claimant if he also 1) "votes to accept or is deemed to accept the Plan", *id.* at Art. I ¶ 45(a), or 2) "abstains from voting on the Plan, votes to reject the Plan, or is deemed to reject the plan," *id.* at Art. I ¶ 45(b). Objecting Plaintiffs did not vote to accept or reject the Plan, or abstain from voting; indeed, under the Plan, they were actually "prohibited from voting to accept or reject" the Plan because they did not file Proofs of Claim. ECF No. 499, at 8 ¶ 14 (Order setting bar dates for filing proofs of claim). Nor could they have done so without required notice of the Claims Bar Date (and because they do not pursue claims against the Debtor and therefore do not assert "Claims" as defined in the Plan). Plan at Art. I ¶ 28 ("'Claim' means any claim against the Debtor … ")).[10]

[10] Nor does anything in the Plan suggest that a person who asserts claims against entities affiliated with the Debtor or former employees can be deemed to accept or reject the Plan. *See* Plan Art. III.E (providing that only Holders of Priority and Secured Claims are "Deemed to Accept" the Plan).

Because Objecting Plaintiffs are not Consenting Claimants, they are not bound by the Consensual Claimant Release and cannot be enjoined from pursuing claims that will not be released.

Second, under the terms of the Plan, the Channeling Injunction "shall only apply to Channeled Claims asserted by Consenting Claimants." *Id.* at Art. I ¶ 25; *see also id.* at Art. IX.I.2 (stating that the "Protections Afforded to Released Parties" by the Channeling Injunction apply "while the Channeling Injunction is in full force and effect as to any Channeled Claim"). The Objecting Plaintiffs' claims against their respective third-party defendants are not Channeled Claims both because they are not Consenting Claimants and because they do not assert Channeled Claims. Regarding the first point, as discussed above, they are not Consenting Claimants because they did not consent to the Plan nor were they (having not filed Proofs of Claim) allowed to do so. As for the second point, the Plan defines "Channeled Claim" to include only claims directed *against the Debtor*. Channeled Claims mean, as relevant here, "a Channeled PI/WD Trust Claim." *Id.* at Art. I ¶ 19. "Channeled PI/WD Trust Claim" means (a) "a Channeled PI/WD Claim" and (b) "an Indirect PI/WD Claim that is a channeled Claim." *Id.* at Art. I ¶ 24. Crucially, both of these terms are defined to mean only claims against the Debtor.[11] None of the Objecting Plaintiffs are pursuing claims against Tehum Care Services Inc. f/k/a Corizon Health, Inc., *i.e.*, the Debtor, nor are they pursuing claims for defense or contribution against anyone (let alone the Debtor).

Third, the terms of the Channeling Injunction itself do not bar the Objecting Plaintiffs from pursuing their claims against the defendants in their respective actions (none of whom is the Debtor). Even if the Objecting Plaintiffs' claims could be considered "Channeled PI/WD Trust

[11] A "Channeled PI/WD Claim" must be a "PI/WD Claim," in addition to meeting certain other requirements.). *Id.* ¶ 23. A "PI/WD Claim" must be a "Claim against the Debtor." *Id.* at Art. I ¶ 142. An "Indirect PI/WD Claim" likewise must be "a Claim against the Debtor" and can be for "defense, contribution, indemnification, reimbursement, or subrogation of any entity that is liable with the Debtor on a PI/WD Claim held by another creditor. . . .". *Id.* ¶ 109.

Claims" (they cannot), the injunction would not bar the claims as asserted in their respective cases. Article IX.I.2 provides, "while the Channeling Injunction is in full force and effect as to any Channeled Claim, (a) the sole recourse of any Holder of a Channeled PI/WD Trust Claim that is eligible for compensation under the PI/WD Trust Distribution Procedures on account of such Channeled PI/WD Trust Claim shall be to and against the PI/WD Trust pursuant to the PI/WD Trust Documents, and such Holder shall have no right to assert such Channeled PI/WD Trust Claim or any Claim against the Debtor against any Released Party." Plan at Art.IX.I.2 (emphasis added). Here again, the Plan makes clear that the Channeling Injunction bars only pursuit of claims *against the Debtor*.

Fourth, as the language in Article IX.I.2 provides, the Channeling Injunction only limits the recourse of a "Holder of a Channeled PI/WD Trust Claim that is eligible for compensation under the PI/WD Trust Distribution Procedures." *Id.* None of the Objecting Plaintiffs filed a Proof of Claim against the Debtor, and therefore none are eligible for compensation under the PI/WD Trust Distribution Procedures. *See* ECF No. 1740-5 at 8 (explaining that "to be eligible to potentially receive compensation from the Trust on account of a Trust Claim, each Claimant must…have timely filed, or have been deemed to have timely filed, a Proof of Claim with the Bankruptcy Court").[12] Here again, the Channeling Injunction cannot limit the Objecting Plaintiffs' third-party claims against non-Debtor affiliates.

To the extent YesCare argues that the definition of "PI/WD Claim," Plan at Art. I ¶ 142, includes certain personal injury or wrongful death claims against the Debtor that were allocated to

[12] Notably, although the Objecting Plaintiffs' respective counsel all received similar letters from YesCare asserting that their claims are subject to the Channeling Injunction, none of them received packages advising the Objecting Plaintiffs how to seek compensation under the PI/WD Trust process. Thus, incongruously, it appears YesCare may be using the Plan as a sword, when it comes to enforcing the Third-Party Release, and as a shield, when it comes to determining who is eligible

CHS TX, Inc. or YesCare Corp. based on the Plan of Divisional Merger, any such argument is irrelevant to the Objecting Plaintiffs' claims that are actually at issue.[13] That definition is expressly limited in scope to claims that (a) were made against the Debtor *and* (b) were allocated to the named YesCare affiliates under the divisional merger plan. The first element is limited to claims made against the Debtor, which logically excludes direct claims brought against YesCare affiliates based on their own conduct and decisions; and the second element does not purport to cover post-merger claims that were not allocated under the Plan of Divisional Merger. The PI/WD Claim definition does not purport to cover claims, like those pursued by Mr. Howe and Mr. Fletcher, that were made directly against entities or individuals other than the Debtor after the merger plan. Rather, the definition's "regardless" clause merely clarifies that the definition does not exclude

to participate in the PI/WD Trust process. YesCare has a chance in its Reply to clear up this confusion by explaining why, having already failed to notify the Objecting Plaintiffs of the Plan in the first place, it saw fit to notify them of the Channeling Injunction but not any rights to compensation under the PI/WD Trust process.

[13] The complete definition reads: "'*PI/WD Claim*' means any unsecured Claim against the Debtor that is attributable to, arises, from, is based upon, relates to, or results from an alleged personal injury tort or wrongful death claim within the meaning of 28 U.S.C. § 157(b)(2)(B), including any PI/WD Claim against the Debtor regardless of whether such Claim is alleged to have been allocated to CHS TX, Inc. or YesCare Corp. under the Plan of Divisional Merger. The term PI/WD Claim does not include Indirect PI/WD Claims." Plan at Art. I ¶ 142.

claims against the Debtor even if they were allocated to others under the merger plan and its accompanying claim lists.

In sum, the Plan terms establish that the Objecting Plaintiffs' claims are not subject to the Channeling Injunction. This Court should deny the Omnibus Motion, based on a correct interpretation of the Plan's express terms.

III. IN THE ALTERNATIVE, THE OBJECTING PLAINTIFFS CROSS-MOVE FOR LEAVE TO SUBMIT UNTIMELY OPT-OUTS FOR HAVING BEEN DENIED THAT OPPORTUNITY WHEN THE PLAN WAS ISSUED.

Federal Rule of Bankruptcy Procedure 9006(b)(1)(B) permits a bankruptcy court to grant leave to submit a late opt out request if "the failure to act within [the specified] period resulted from excusable neglect." Fed. R. Bankr. P. 9006(b)(1)(B). The determination whether a party has shown excusable neglect is at bottom an equitable one, taking account of all relevant circumstances surrounding the party's omission. *Pioneer Inv. Servs. Co. v. Brunswick Assocs. Ltd. P'ship*, 507 U.S. 380, 394-95 (1993). Courts have looked to four factors when assessing excusable neglect: "(1) danger of prejudice to the non-movant; (2) length of delay and its potential impact on the judicial proceedings; (3) the reason for the delay, including whether it was in the reasonable control of the movant; and (4) whether the movant acted in good faith[.]" *In re Davenport*, 342 B.R. 482, 496 (Bankr. S.D. Tex. 2006) (citing *Pioneer Inv. Servs. Co.*, 507 U.S. at 395). All of these factors weigh in favor of permitting the Objecting Plaintiffs to submit opt out requests after the original deadline has passed.

First, there will be limited, if any, prejudice to YesCare if this request is granted. In some of the Objecting Plaintiffs' cases, YesCare itself is not even a defendant. Even for the cases where YesCare or a related entity remains a defendant, there is little prejudice in requiring them to continue to defend cases that have been pending for years—particularly when their asserted basis for avoiding those cases is a Plan that the Objecting Plaintiffs did not receive. And if this Court

agrees that the Consensual Claimants' Release does not apply to Objecting Plaintiffs, refusing to enjoin them will not prejudice YesCare at all.

Second, the length of delay is minimal. YesCare only filed its request to stay the Objecting Plaintiffs' cases around one month ago. The deadline to opt out was the Voting Deadline, February 21, 2025, just four months ago. *See* Solicitation Procedures Order at 4, ECF No. 1813; Plan at 22, ECF No. 2014.

Third, and crucially, the Objecting Plaintiffs did not miss the opt out deadline through any fault of their own; it was because they never received notice that their claims against non-Debtor entities or former employees might be impaired. As discussed more thoroughly in Section I above, the Objecting Plaintiffs did not receive actual notice of the Third-Party releases until after the deadline to opt out had passed. This factor carries the most weight in analyzing excusable neglect and, in this case, provides a powerful basis to afford the Objecting Plaintiffs an opportunity to opt out soon after YesCare actually provided them notice through its recent letters from its counsel. *See In re Davenport*, 342 B.R. 482, 497 (Bankr. S.D. Tex. 2006); *In re Hongjun Sun*, 323 B.R. 561, 564 (Bankr. E.D.N.Y. 2005) ("[T]he main focus of inquiry is the third factor.").

Fourth, the Objecting Plaintiffs have acted in good faith. They have litigated their civil cases under the reasonable belief that only the Debtor's claims were entangled in the Plan—a position that the courts and the non-Debtor YesCare defendants seemed to embrace, as the bankruptcy stay applied only to Tehum while the claims against the other YesCare defendants continued. Additionally, upon learning that YesCare and the Released Parties sought to advance a different view in this Court by way of the instant Omnibus Motion, the Objecting Plaintiffs

promptly filed this opposition and cross-motion, and likewise are opposing YesCare's stay motions in their district court cases.

The equities strongly support granting the Objecting Plaintiffs' request for leave to submit untimely opt out requests because they are a vulnerable population (incarcerated or formerly incarcerated individuals) who suffered great injuries at the hands of prison medical and dental staff. It would be a miscarriage of justice to deprive these Objecting Plaintiffs of the opportunity to seek meaningful relief through no fault of their own.

CONCLUSION

As set forth above, the failure to provide the Objecting Plaintiffs with adequate notice of the bankruptcy proceedings and their rights to opt out of the Chapter 11 plan constitutes a violation of their due process rights under the Fifth Amendment, and the terms of the Plan do not implicate their individual lawsuits. Accordingly, the Court should deny the Omnibus Motion as it pertains to the Objecting Plaintiffs and enter such orders as are necessary to provide Objecting Plaintiffs relief from the Omnibus Motion, or, alternatively, order that the Objecting Plaintiffs are permitted to submit opt-out requests at this time.

Dated: June 20, 2025

Respectfully submitted,

/s/ Martin S. Himeles, Jr.

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CERTIFICATE OF SERVICE

I certify that on June 20, 2025, I caused a true and correct copy of the foregoing document to be served by the Court's CM/ECF notification system, which will send notice of electronic filing to all counsel of record.

/s/ Kirk E. MacKinnon Morrow
Kirk E. MacKinnon Morrow

EXHIBIT 1

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

In re:	**Chapter 11**
TEHUM CARE SERVICES, INC.,	**Case No. 23-90086 (CML)**
Debtor.	

DECLARATION OF RILWAN AKINOLA IN SUPPORT OF CERTAIN PLAINTIFFS' OPPOSITION TO YESCARE'S OMNIBUS MOTION TO ENJOIN PLAINTIFFS FROM PROSECUTING CASES AGAINST RELEASED PARTIES

I, Rilwan Akinola, am of legal age and have personal knowledge of the facts stated herein.

1. Beginning on or about July 26, 2022, I was in the custody of the Maryland Department of Public Safety and Correctional Services ("DPSCS") at the Baltimore City Correctional Center ("BCCC"), which is located at 901 Greenmount Avenue, Baltimore, Maryland 21202.
2. On or about March 11, 2023, I was transferred from BCCC to Dorsey Run Correctional Facility and remained in the custody of DPSCS. Dorsey Run Correctional Facility is located at 2020 Toulson Road, Jessup, Maryland 20794.
3. On or about November 11, 2023, I was again transferred from Dorsey Run Correctional Facility to Roxbury Correctional Institution and remained in the custody of DPSCS. Roxbury Correctional Institution is located at 18701 Roxbury Road, Hagerstown, Maryland 21746.

4. I remained in custody at Roxbury Correctional Institution until the date of my release on November 27, 2024.
5. Although I understood it to be the policy of DPSCS that, after I was transferred to a new facility, my mail would be forwarded to me at the new facility's address, in practice, DPSCS regularly failed to do so. During one approximately five-month period in 2024, I did not receive any mail at all—whether forwarded or otherwise.
6. After my release, DPSCS did not forward mail to me that had been sent to my address while in custody.
7. During my time in custody and continuing after my release, it has been my consistent practice to carefully review and retain my legal mail. I pay especially close attention to mail addressed to me that references courts or legal proceedings.
8. My attorney has informed me of an allegation that I was served with a "Solicitation Package" by first class mail in November 2024. I have never received such materials, by mailing or otherwise.
9. My attorney has informed me of an allegation that I was served with a "Proof of Claim Form" by first class mail in May 2023. I have never received such materials, by mailing or otherwise.

I solemnly declare under the penalties of perjury that the contents of this document are true to the best of my knowledge, information, and belief.

Signed: Rilwan Akinola

Executed on this 18 day of June, 2025.