

Exhibit A

COMMITTEES:
BANKING, HOUSING, AND URBAN AFFAIRS
ARMED SERVICES
FINANCE
SPECIAL COMMITTEE ON AGING

United States Senate

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January 31, 2024

Tara Twomey
Director, Executive Office for United States
Trustees
U.S. Department of Justice
441 G Street, NW, Suite 6150
Washington, D.C. 20530

Kevin M. Epstein
U.S. Trustee for the Southern and Western
Districts of Texas
Office of the United States Trustee
515 Rusk Street, Suite 3516
Houston, TX 77002

Dear Director Twomey and Mr. Epstein:

I am writing regarding the Chapter 11 bankruptcy proceedings of Tehum Care Services (Tehum), a company that was formerly part of the prison health care servicer Corizon Health (Corizon). Corizon has used the Texas Two-Step maneuver explicitly to evade its liabilities owed to its many creditors. On January 16, 2024, Corizon announced an agreement on a new bankruptcy plan that, if confirmed, will deny Corizon's creditors, including incarcerated individuals, adequate restitution for the company's serious harms.¹

I was encouraged to see the U.S. Trustee for the Southern District of Texas file an objection to the debtor's prior disclosure statement and bankruptcy plan.² The objection rightly challenged many troubling elements of the plan put forward, including:

- the expedited nature of the plan,³
- the improper relationship between the mediator of bankruptcy plan negotiations and the attorney representing YesCare Corporation (YesCare),⁴
- the lack of adequate justification for the plan (e.g., inadequate legal justification for third-party releases, reduction of claims),⁵
- the coercive third-party releases,⁶ and
- the gate-keeper and injunction provisions included in the plan, which shift jurisdiction of potential criminal complaints against YesCare and Tehum to bankruptcy court.⁷

¹ Joint Motion for Entry of an Order, In re Tehum Care Services, Inc., No. 23-90086 (CML) (Bankr. S.D. Tex.), January 16, 2024, pp. 19-21, <https://www.kccllc.net/tehum/document/2390086240116000000000004>.

² Objection of the United States Trustee to Joint Emergency Motion, In re Tehum Care Services, Inc., No. 23-90086 (CML) (Bankr. S.D. Tex.), October 13, 2023, <https://www.kccllc.net/tehum/document/2390086231013000000000001>.

³ *Id.*, pp. 4-5.

⁴ *Id.*, p. 5.

⁵ *Id.*, pp. 7-8.

⁶ *Id.*, pp. 10-11, 13-16.

⁷ *Id.*, pp. 10-13.

I thank you for your efforts thus far, and encourage you to continue to fulfill the mission of the U.S. Trustee's Office to promote the integrity of the bankruptcy system. To do so, I ask that you (1) promptly assess the merits of joining the motion for structured dismissal filed by the Tort Claimants' Committee (TCC);⁸ (2) oppose the new bankruptcy plan on the basis that it provides plainly insufficient recovery for victims and includes nonconsensual non-debtor releases (among other issues); and (3) continue to ensure victims are adequately represented and provided proper notice.

The U.S. Trustee Should Assess the Merits of Joining the TCC's Motion for Structured Dismissal of the Bankruptcy

On January 16, 2024, the TCC filed a motion to dismiss Corizon's bankruptcy as a bad-faith attempt to defraud creditors, many of whom faced serious injury or death due to Corizon's services.⁹ I encourage you to promptly review the motion and join it if you find the motion meritorious. The TCC's motion argues persuasively that bankruptcy is not the appropriate venue for dealing with Corizon's harms, and that the purpose of the bankruptcy is not to fairly compensate all creditors but to transfer value from victims to investors.¹⁰

Corizon has expressly used this bankruptcy to evade liability. On October 25, 2023, Senator Durbin and I, along with a number of our colleagues, wrote to YesCare and Tehum seeking information on the financial actions taken by Corizon leadership before filing for bankruptcy and expressing concern that Corizon knowingly has used the "Texas Two-Step" maneuver to attempt to evade the countless wrongful death, medical malpractice, and other tort claims against it — principally to the detriment of incarcerated creditors harmed by Corizon.¹¹ Indeed, evading liability appears to have been Corizon's goal from the moment it came under new ownership in December 2021.¹² Isaac Lefkowitz was an owner of the private equity firm that took over Corizon,¹³ and is reported to have mentioned the Texas Two-Step to Corizon's lawyers as a way to "force plaintiffs into accepting lower settlements."¹⁴

⁸ Motion for Structured Dismissal of Chapter 11 Case, In re Tehum Care Services, Inc., No. 23-90086 (CML) (Bankr. S.D. Tex.), January 16, 2024, <https://www.kccllc.net/tehum/document/239008624011600000000005>.

⁹ *Id.*, pp. 2-3.

¹⁰ *Id.*, p. 2.

¹¹ Letter from Senator Elizabeth Warren, Senator Dick Durbin, and colleagues to Corizon Health Inc. (YesCare Corp. and Tehum Care Services, Inc.), October 24, 2023, <https://www.warren.senate.gov/oversight/letters/senators-warren-durbin-lawmakers-call-on-corizon-health-inc-to-answer-for-abuse-of-bankruptcy-system-evasion-of-liability-after-years-of-corporate-wrongdoing>.

¹² Business Insider, "Hidden investors took over Corizon Health, a leading prison healthcare company. Then they deployed the Texas Two-Step," Nicole Einbinder and Dakin Campbell, August 21, 2023, <https://www.businessinsider.com/corizon-health-bankruptcy-yescare-texas-two-step-law-2023-8>.

¹³ Letter from Tehum Care Services, Inc. to Senator Elizabeth Warren, Senator Dick Durbin, and colleagues, November 15, 2023, p. 7, <https://www.warren.senate.gov/imo/media/doc/2023.11.15%20Tehum%20Response%20to%20Senate%20Letter%20%5bRedacted%5d.pdf>.

¹⁴ Wall Street Journal, "Prison Health Contractor Expands Texas Two-Step Bankruptcy Tactic," Andrew Scurria and Akiko Matsuda, September 19, 2023, <https://www.wsj.com/articles/prison-health-contractor-expands-texas-two-step-bankruptcy-tactic-acac4928>.

Facing mounting debts and liabilities stemming from inadequate provisions of health care services and mismanagement, Corizon reincorporated the company from Delaware to Texas on April 28, 2022 and executed a divisional merger just five days later, splitting assets and liabilities between two new companies: (1) CHX TX, with the assets and revenue of Corizon, existing today under the name “YesCare”; and (2) Corizon, a shell company holding most of the original company’s liabilities, later becoming “Tehum.”¹⁵ Unsurprisingly, the limited assets transferred to Tehum “proved insufficient for [the company] to satisfy its liabilities,” and Tehum filed for bankruptcy less than one year later, on February 13, 2023.¹⁶

Between Lefkowitz’s takeover of Corizon and the bankruptcy filing, Corizon ensured Tehum kept all of Corizon’s lawsuits, claims, liabilities, costs, expenses, and losses arising prior to, at, or after the date of the two-step — including liabilities related to any lawsuits in connection to the two-step or any settlement, as well as debts owed to any vendor or service provider.¹⁷ Meanwhile, YesCare received the company’s assets, including: almost all of the cash in Corizon’s bank accounts; all of Corizon’s real estate assets, leases, equipment, and inventory; all of Corizon’s insurance policies under which Corizon may be entitled to rights or benefits; all assets from employee benefit plans and \$17.5 million in cash collateral for worker compensation programs; and all of Corizon’s trademarks and other intellectual property (among other assets).¹⁸ In sum, more than \$170 million went to YesCare,¹⁹ and at least \$30 million went to entities affiliated with Lefkowitz’s private equity firm (including M2 LoanCo and Geneva Consulting).²⁰ All in all, Corizon transferred at least \$200 million to YesCare and to entities affiliated with its private equity owner prior to declaring bankruptcy.²¹

¹⁵ Business Insider, “Hidden investors took over Corizon Health, a leading prison healthcare company. Then they deployed the Texas Two-Step,” Nicole Einbinder and Dakin Campbell, August 21, 2023, <https://www.businessinsider.com/corizon-health-bankruptcy-yescare-texas-two-step-law-2023-8>.

¹⁶ Letter from Tehum Care Services, Inc. to Senator Elizabeth Warren, Senator Dick Durbin, and colleagues, November 15, 2023, pp. 5-6, <https://www.warren.senate.gov/imo/media/doc/2023.11.15%20Tehum%20Response%20to%20Senate%20Letter%20%5bRedacted%5d.pdf>.

¹⁷ *Id.*, pp. 12-13.

¹⁸ Letter from YesCare Corp. to Senator Elizabeth Warren, Senator Dick Durbin, and colleagues, November 15, 2023, pp. 6-7, <https://www.warren.senate.gov/imo/media/doc/2023.11.15%20YesCare%20Response%20to%20Senate%20Letter%20%5bRedacted%5d.pdf>.

¹⁹ USA Today, “A prison medical company faced lawsuits from incarcerated people. Then it went ‘bankrupt,’” Beth Schwartzapfel, September 19, 2023, <https://www.usatoday.com/story/news/nation/2023/09/19/corizon-yescare-private-prison-healthcare-bankruptcy/70892593007/>.

²⁰ Letter from Tehum Care Services, Inc. to Senator Elizabeth Warren, Senator Dick Durbin, and colleagues, November 15, 2023, p.13, <https://www.warren.senate.gov/imo/media/doc/2023.11.15%20Tehum%20Response%20to%20Senate%20Letter%20%5bRedacted%5d.pdf>.

²¹ USA Today, “A prison medical company faced lawsuits from incarcerated people. Then it went ‘bankrupt,’” Beth Schwartzapfel, September 19, 2023, <https://www.usatoday.com/story/news/nation/2023/09/19/corizon-yescare-private-prison-healthcare-bankruptcy/70892593007/>; Letter from Tehum Care Services, Inc. to Senator Elizabeth Warren, Senator Dick Durbin, and colleagues, November 15, 2023, p. 13, <https://www.warren.senate.gov/imo/media/doc/2023.11.15%20Tehum%20Response%20to%20Senate%20Letter%20%5bRedacted%5d.pdf>.

Federal bankruptcy law states that a bankruptcy trustee may avoid any transfer of an interest of the debtor in property that was made within two years before the date of the filing of the bankruptcy petition if the debtor (a) made such transfer with intent to hinder, delay, or defraud potential creditors, or (b) “received less than a reasonably equivalent value in exchange for such transfer or obligation” and met one or more other characteristics.²² State law additionally provides a mechanism to challenge fraudulent transfers made within four years of the bankruptcy filing.²³ The transfers from Corizon to YesCare and other entities, which Corizon appears to have used to shield assets from victims’ reach, warrant serious examination under 11 U.S.C. 548 and other fraudulent transfer provisions.

In addition, key details about Corizon’s assets and corporate ownership have never been disclosed. As noted above, in October 2023, Senator Durbin and I wrote to Tehum and YesCare seeking information about the bankruptcy and about the companies’ structure and ownership.²⁴ The companies’ responses failed to answer key questions about the bankruptcy.²⁵

I encourage you to work to uncover the key facts needed to understand the bankruptcy filing. For example, the identity of other investors in the private equity firm that acquired Corizon in December 2021 is still not publicly known, as is whether they or their affiliated companies received assets prior to the bankruptcy filing.²⁶ Also unknown is the ownership structure of YesCare, which YesCare inexplicably claims is unknown even to the company itself.²⁷ This is concerning given YesCare’s involvement in negotiating Tehum’s bankruptcy plan, which includes generous releases of YesCare from liability.²⁸ If Tehum’s owner, Mr. Lefkowitz, is also a partial or full owner of YesCare, his dual ownership of both Corizon’s bankrupt and financially healthy

²² 11 U.S.C. 548.

²³ Tex. Bus. & Comm. Code 24.005; Tex. Bus. & Comm. Code 24.010.

²⁴ Letter from Senator Elizabeth Warren, Senator Dick Durbin, and colleagues to Corizon Health Inc. (YesCare Corp. and Tehum Care Services, Inc.), October 24, 2023, <https://www.warren.senate.gov/oversight/letters/senators-warren-durbin-lawmakers-call-on-corizon-health-inc-to-answer-for-abuse-of-bankruptcy-system-evasion-of-liability-after-years-of-corporate-wrongdoing>.

²⁵ Letter from Tehum Care Services, Inc. to Senator Elizabeth Warren, Senator Dick Durbin, and colleagues, November 15, 2023, <https://www.warren.senate.gov/imo/media/doc/2023.11.15%20Tehum%20Response%20to%20Senate%20Letter%20%5bRedacted%5d.pdf>; Letter from YesCare Corp. to Senator Elizabeth Warren, Senator Dick Durbin, and colleagues, November 15, 2023, <https://www.warren.senate.gov/imo/media/doc/2023.11.15%20YesCare%20Response%20to%20Senate%20Letter%20%5bRedacted%5d.pdf>.

²⁶ Letter from Tehum Care Services, Inc. to Senator Elizabeth Warren, Senator Dick Durbin, and colleagues, November 15, 2023, p. 7, <https://www.warren.senate.gov/imo/media/doc/2023.11.15%20Tehum%20Response%20to%20Senate%20Letter%20%5bRedacted%5d.pdf>.

²⁷ Letter from YesCare Corp. to Senator Elizabeth Warren, Senator Dick Durbin, and colleagues, November 15, 2023, p. 3, <https://www.warren.senate.gov/imo/media/doc/2023.11.15%20YesCare%20Response%20to%20Senate%20Letter%20%5bRedacted%5d.pdf>.

²⁸ Audio Recording from Status Conference, In re Tehum Care Services, Inc., No. 23-90086 (CML) (Bankr. S.D. Tex.), December 18, 2023, <https://www.kccllc.net/tehum/document/239008623121800000000002>; Joint Motion for Entry of an Order, In re Tehum Care Services, Inc., No. 23-90086 (CML) (Bankr. S.D. Tex.), January 16, 2024, Exhibit 1, pp. 4-5, <https://www.kccllc.net/tehum/document/239008624011600000000004>.

halves bolster the case that the companies are not in fact distinct and that Tehum “is a legal fiction created to perpetrate an obvious fraud.”²⁹

The companies’ ownership structures are significantly related to the question of whether Tehum fraudulently transferred assets to YesCare and whether the company should be in bankruptcy at all. Tehum has alleged the company is in financial distress, even while there are indications that YesCare and Tehum are under common ownership: the holding companies that own YesCare and Tehum share the same business address, and Mr. Lefkowitz and other individuals have held significant positions or otherwise been affiliated with both companies.³⁰ Further, YesCare has claimed Corizon’s operating history to assert to prospective clients that YesCare, a company formed less than two years ago, has “40 years of experience as the leading provider of correctional healthcare.”³¹ As I wrote to Tehum and YesCare,³² the assurances of “corporate separateness” between YesCare and Tehum³³ are a plainly unconvincing attempt to shelter assets and avoid adequately compensating victims. Even a federal judge in the Eastern District of Michigan has found that YesCare’s subsidiary “CHS TX is a mere continuation of pre-division Corizon Evidently, CHS TX picked up right where Corizon left off. Indeed, CHS TX holds itself out to clients as Corizon’s successor.”³⁴

Corizon’s bankruptcy is premised on the fact that it does not have sufficient resources to pay victims and other creditors. The links between Corizon and YesCare accentuate questions about whether the company should even be in bankruptcy proceedings, and further highlight the insufficiency of the bankruptcy plan’s proposed offer to victims.

From the time Corizon executed its division merger to today, this bankruptcy plan has served no legitimate reorganizational purpose. By design, Tehum will not return to being a prison health care provider and will not be able to give victims the restitution they deserve. As argued in the TCC’s motion for structured dismissal, victims’ most direct path to meaningful recovery is through the tort system, after dismissal of this bankruptcy case.³⁵ That way, victims would be able to “assert

²⁹ Motion for Structured Dismissal of Chapter 11 Case, In re Tehum Care Services, Inc., No. 23-90086 (CML) (Bankr. S.D. Tex.), January 16, 2024, p. 2, <https://www.kccllc.net/tehum/document/239008624011600000000005>.

³⁰ Business Insider, “Hidden investors took over Corizon Health, a leading prison healthcare company. Then they deployed the Texas Two-Step,” Nicole Einbinder and Dakin Campbell, Aug. 21, 2023, <https://www.businessinsider.com/corizon-health-bankruptcy-yescare-texas-two-step-law-2023-8>.

³¹ Business Insider, “Hidden investors took over Corizon Health, a leading prison healthcare company. Then they deployed the Texas Two-Step,” Nicole Einbinder and Dakin Campbell, Aug. 21, 2023, <https://www.businessinsider.com/corizon-health-bankruptcy-yescare-texas-two-step-law-2023-8>; YesCare Corp., “About YesCare,” <https://www.yescarecorp.com/about>.

³² Letter from Senator Elizabeth Warren, Senator Dick Durbin, and colleagues to Corizon Health Inc. (YesCare Corp. and Tehum Care Services, Inc.), October 24, 2023, p. 4, <https://www.warren.senate.gov/oversight/letters/senators-warren-durbin-lawmakers-call-on-corizon-health-inc-to-answer-for-abuse-of-bankruptcy-system-evasion-of-liability-after-years-of-corporate-wrongdoing>.

³³ Response in Opposition to Plaintiff’s Motion, Kelly v. Corizon Health, Inc., No. 2:22-cv-10589-MAG-DRG, 2022 WL 16575763 (E.D. Mich.), August 17, 2022, p. 24, <https://s3.documentcloud.org/documents/23919673/yescare-corp-and-chs-tx-incs-response.pdf>.

³⁴ Kelly v. Corizon Health Inc., No. 2:22-cv-10589, 2022 WL 16575763 (E.D. Mich.), November 1, 2022, p. *13, <https://1.next.westlaw.com/Document/I9ae768f05a9411edbf39cf32a4dcbebd/View/FullText.html>.

³⁵ Motion for Structured Dismissal of Chapter 11 Case, In re Tehum Care Services, Inc., No. 23-90086 (CML) (Bankr. S.D. Tex.), January 16, 2024, pp. 23-26, <https://www.kccllc.net/tehum/document/239008624011600000000005>.

claims against governmental entities and other parties who are co-liable with [Tehum and YesCare].”³⁶ The U.S. Trustee should carefully consider the merits of the TCC’s motion for structured dismissal and support it if it agrees with the conclusions presented. YesCare and Mr. Lefkowitz do not deserve to reap the benefits of bankruptcy — including the “litigation holiday,” — without actually filing for bankruptcy.³⁷ They must “return[] to the tort system [and] face[] the reality of litigation.”³⁸

The U.S. Trustee Should Challenge Any Plan that Includes Insufficient Recovery for Victims and Nonconsensual Non-Debtor Releases

The new plan provides plainly insufficient recovery for victims

The initial bankruptcy plan, mediated by Texas-based bankruptcy judge David Jones, proposed that YesCare and its backers pay a paltry \$37 million to individuals and entities with claims against Corizon.³⁹ After Judge Jones resigned from his position following the exposure of his secret relationship with an attorney for YesCare, the parties agreed to restart the mediation and renegotiate the plan.⁴⁰ According to a motion filed under Rule 9019, this mediation has resulted in a new plan that would provide \$54 million to victims, state agencies, and other creditors.⁴¹ This number remains plainly insufficient to satisfy the thousands of debts against the company. Tehum currently owes \$82 million to more than 1,000 creditors, and hundreds of victims seek more than \$775 million in claims for alleged personal injury and wrongful death claims.⁴²

The plan ensures that no creditor — whether a state agency, private company, or family member of a loved one who died in Corizon’s care — would receive the full amount it is owed. Further, \$54 million is a small fraction of the at least \$200 million that Corizon transferred to YesCare and to entities affiliated with its private equity owner prior to declaring bankruptcy.⁴³

The new plan contains unlawful nonconsensual non-debtor releases

³⁶ *Id.*, p. 26.

³⁷ *Id.*, p. 23.

³⁸ *Id.*, p. 9.

³⁹ Reuters, “Prison healthcare company restarts mediation after bankruptcy judge Jones quits,” Dietrich Knauth, November 14, 2023, <https://www.reuters.com/business/healthcare-pharmaceuticals/prison-healthcare-company-restarts-mediation-after-bankruptcy-judge-jones-quits-2023-11-15/>.

⁴⁰ *Id.*

⁴¹ Joint Motion for Entry of an Order, In re Tehum Care Services, Inc., No. 23-90086 (CML) (Bankr. S.D. Tex.), January 16, 2024, p. 3, <https://www.kccllc.net/tehum/document/2390086240116000000000004>.

⁴² USA Today, “A prison medical company faced lawsuits from incarcerated people. Then it went ‘bankrupt,’” Beth Schwartzapfel, September 19, 2023, <https://www.usatoday.com/story/news/nation/2023/09/19/corizon-yescare-private-prison-healthcare-bankruptcy/70892593007/>; Motion for Structured Dismissal of Chapter 11 Case, In re Tehum Care Services, Inc., No. 23-90086 (CML) (Bankr. S.D. Tex.), January 16, 2024, p. 20, <https://www.kccllc.net/tehum/document/2390086240116000000000005>.

⁴³ USA Today, “A prison medical company faced lawsuits from incarcerated people. Then it went ‘bankrupt,’” Beth Schwartzapfel, September 19, 2023, <https://www.usatoday.com/story/news/nation/2023/09/19/corizon-yescare-private-prison-healthcare-bankruptcy/70892593007/>; Letter from Tehum Care Services, Inc. to Senator Elizabeth Warren, Senator Dick Durbin, and colleagues, November 15, 2023, p. 13, <https://www.warren.senate.gov/imo/media/doc/2023.11.15%20Tehum%20Response%20to%20Senate%20Letter%20%5bRedacted%5d.pdf>.

The new plan retains a coercive provision that pushes victims — including families of individuals who died in Corizon’s care — to release from liability not just Corizon/Tehum but also several individuals and entities not party to the bankruptcy, including YesCare and Mr. Lefkowitz, in exchange for a small fraction of what they are owed.⁴⁴ The plan states that, in exchange for the \$54 million collective payout, creditors would have to release from liability not only Tehum but also YesCare, M2 LoanCo, Geneva Consulting, and “certain related entities, directors, and employees,” including Mr. Lefkowitz.⁴⁵ This does not afford creditors the opportunity to provide the “unambiguous and freely-given consent” required for provisions releasing non-debtors of liability.⁴⁶ As you noted in your earlier objection, this option to accept limited funds in exchange for sacrificing claims that could lead to true recovery is “no real choice, particularly in the context of the vulnerable creditor body in this case.”⁴⁷

Further, the broad releases of YesCare, Mr. Lefkowitz, and other non-debtor third parties from future liability likely violate bankruptcy law and Fifth Circuit precedent as nonconsensual non-debtor releases. As noted in the U.S. Trustee’s objections to the September 2023 plan, which appears to contain non-debtor releases that are substantially similar to those in the January 2024 plan, “a bankruptcy court may not confirm a plan that provides non-consensual non-debtor releases.”⁴⁸ By depriving victims and other creditors of a meaningful choice, YesCare and Mr. Lefkowitz are attempting to unlawfully shield themselves from liability and keep victims from exercising their legal rights. As a result of this and other harmful provisions, the U.S. Trustee concluded that the September 2023 plan was “patently unconfirmable” and must be rejected.⁴⁹ This recognition by the U.S. Trustee is consistent with the Trustee Program’s efforts to fight similar nonconsensual non-debtor provisions in the Purdue Pharma bankruptcy plan.⁵⁰ Based on the details of the plan shared in the Joint Motion filed on January 16, 2024,⁵¹ the new plan remains patently unconfirmable.

I was encouraged by your acknowledgment that the September 2023 plan was “patently unconfirmable” due in part to its attempt to coerce victims into accepting a minor one-time payment in exchange for signing away their legal rights.⁵² The new plan’s non-debtor releases

⁴⁴ Joint Motion for Entry of an Order, In re Tehum Care Services, Inc., No. 23-90086 (CML) (Bankr. S.D. Tex.), January 16, 2024, Exhibit 1, pp. 4-5, <https://www.kccllc.net/tehum/document/239008624011600000000004>.

⁴⁵ Joint Motion for Entry of an Order, In re Tehum Care Services, Inc., No. 23-90086 (CML) (Bankr. S.D. Tex.), January 16, 2024, pp. 3, 8-10, and 21.

⁴⁶ Objection of the United States Trustee to Joint Emergency Motion, In re Tehum Care Services, Inc., No. 23-90086 (CML) (Bankr. S.D. Tex.), October 13, 2023, p. 13, <https://www.kccllc.net/tehum/document/2390086231013000000000001>.

⁴⁷ *Id.*, p. 14.

⁴⁸ *Id.*

⁴⁹ *Id.*, pp. 10-11.

⁵⁰ CBS News, “Purdue Pharma bankruptcy plan that shields Sackler family faces Supreme Court arguments,” Melissa Quinn, December 4, 2023, <https://www.cbsnews.com/news/purdue-pharma-bankruptcy-supreme-court/>.

⁵¹ Joint Motion for Entry of an Order, In re Tehum Care Services, Inc., No. 23-90086 (CML) (Bankr. S.D. Tex.), January 16, 2024, <https://www.kccllc.net/tehum/document/239008624011600000000004>.

⁵² Objection of the United States Trustee to Joint Emergency Motion, In re Tehum Care Services, Inc., No. 23-90086 (CML) (Bankr. S.D. Tex.), October 13, 2023, p. 3, <https://www.kccllc.net/tehum/document/2390086231013000000000001>.

raise the same concerns.⁵³ I urge you to continue challenging these issues until they are completely resolved.

The U.S. Trustee Should Ensure Victims Are Adequately Represented & Given Sufficient Notice

The U.S. Trustee has been instrumental in this bankruptcy in protecting the rights of under-resourced victims and their families, including individuals currently incarcerated. In November 2023, you announced the formation of a six-member tort claimants' committee to ensure victims' interests are adequately represented.⁵⁴ This was a necessary step: the UCC's support for the deeply flawed initial bankruptcy plan has cast doubt on whether the UCC is adequately representing the interests of victims. The tort committee's motion requests the dismissal of Corizon's bankruptcy on the grounds that the bankruptcy was "a fraud from its inception,"⁵⁵ noting that victims "will recover substantially more in the tort system than YesCare . . . would ever contribute to this case."⁵⁶ It appears, therefore, that the tort committee is off to a promising start powerfully representing the victims of Corizon's alleged wrongdoing. I am optimistic about the tort committee's formation, but urge that you to remain vigilant to make sure victims' interests are properly represented. As the U.S. Trustee has observed,⁵⁷ incarcerated individuals without legal representation are inordinately vulnerable in these proceedings already — they lack access to up-to-date information on the bankruptcy and face unique barriers in participating in the proceedings. Should a settlement eventually be reached, I hope you continue to advocate that information disseminated to creditors be in language that is easy to understand.⁵⁸

Relatedly, I encourage you to join the TCC in pushing for adequate notice to be provided to creditors, particularly vulnerable incarcerated creditors. The lack of sufficient notice (whether actual or constructive) exacerbates the existing issues with the proposed bankruptcy plan.

The U.S. Trustee is in a Unique Position to Safeguard the Bankruptcy System from Abuse

Americans rely on the U.S. Trustee Program to "promote the integrity and efficiency of the bankruptcy system for the benefit of *all* stakeholders."⁵⁹ The Trustee Program has the responsibility and power to view the bankruptcy system as a whole, assess systemic trends, and take forceful action in the interest of justice. Rarely is such action more important than when

⁵³ Joint Motion for Entry of an Order, In re Tehum Care Services, Inc., No. 23-90086 (CML) (Bankr. S.D. Tex.), January 16, 2024, Exhibit 1, pp. 5-6, <https://www.kccllc.net/tehum/document/239008624011600000000004>.

⁵⁴ Bloomberg Law, "Prisoner Plaintiffs Get Committee in Medical Provider Bankruptcy," Alex Wolf, November 21, 2023, <https://news.bloomberglaw.com/bankruptcy-law/prisoner-plaintiffs-get-committee-in-medical-provider-bankruptcy>.

⁵⁵ Motion for Structured Dismissal of Chapter 11 Case, In re Tehum Care Services, Inc., No. 23-90086 (CML) (Bankr. S.D. Tex.), January 16, 2024, p. 35, <https://www.kccllc.net/tehum/document/239008624011600000000005>.

⁵⁶ *Id.*, p. 47.

⁵⁷ Objection of the United States Trustee to Joint Emergency Motion, In re Tehum Care Services, Inc., No. 23-90086 (CML) (Bankr. S.D. Tex.), Sept. 29, 2023, pp. 2 and 5, <https://www.kccllc.net/tehum/document/239008623101300000000001>.

⁵⁸ *Id.*, p. 10.

⁵⁹ U.S. Department of Justice, "Executive Office for United States Trustees," <https://www.justice.gov/doj/executive-office-united-states-trustees> (emphasis added).

powerful corporations with well-resourced backers try to corrupt the bankruptcy process to deprive thousands of victims of the ability to achieve justice.

As the tort committee noted, “[t]his case gives bankruptcy a bad name.”⁶⁰ I have no doubt that other corporations are watching to see whether Corizon and its allies will be able to successfully deploy the Texas Two-Step to shield their assets from the myriad legitimate claims they face. The U.S. Trustee’s actions, together with those of the bankruptcy judge, are of crucial importance not just for this case but also for the future of the bankruptcy system. For these reasons, and as detailed above, I urge you to (1) promptly assess the merits of joining the motion for structured dismissal filed by the TCC; (2) oppose the new bankruptcy plan on the basis that it provides plainly insufficient recovery for victims and includes nonconsensual non-debtor releases; and (3) continue to ensure victims are adequately represented and provided proper notice.

In addition, to assist my office’s oversight of Tehum’s Chapter 11 bankruptcy, please answer the following questions by February 14, 2024:

1. How does the U.S. Trustee plan to monitor whether the UCC or tort committee is adequately representing the interests of incarcerated victims?
 - a. Given Tehum’s looming administrative insolvency and restrictions on the debtor-in-possession loan,⁶¹ are there sufficient funds to pay the fees of TCC professionals?
2. Does the U.S. Trustee plan to challenge the new bankruptcy plan, consistent with its position against nonconsensual non-debtor releases?⁶²
 - a. If the U.S. Trustee does challenge the plan and the plan is nevertheless approved, does the U.S. Trustee plan to appeal that decision?
3. What actions will the U.S. Trustee take to determine the full ownership of Tehum and YesCare?
 - a. What actions will the U.S. Trustee take to ascertain the role of Isaac Lefkowitz in the ownership of Tehum and YesCare?
4. If information about Tehum and YesCare’s ownership continues to cast doubts upon claims of corporate separateness between Tehum and YesCare, under what circumstances would the U.S. Trustee move to:
 - a. Dismiss Tehum’s bankruptcy filing?
 - b. Challenge the pre-bankruptcy transfers of funds from Tehum/Corizon to YesCare and other entities as fraudulent?
5. What actions will the U.S. Trustee take to determine Corizon’s value at the time of the divisional merger?

⁶⁰ Motion for Structured Dismissal of Chapter 11 Case, In re Tehum Care Services, Inc., No. 23-90086 (CML) (Bankr. S.D. Tex.), January 16, 2024, p. 2, <https://www.kccllc.net/tehum/document/23900862401160000000000005>.

⁶¹ *Id.*, pp. 17 (“Without the DIP loan, there is no funding for this case and no funding to pay professional fees”), 18 (“The DIP loan denies funding for any committee or estate party that challenges any of the prepetition transfers”), and 33 (“The Debtor has no means to generate positive cash flow and is now facing administrative insolvency”).

⁶² *See, e.g.*, Brief for the Petitioner, *Harrington v. Purdue Pharma L.P.*, No. 23-124 (U.S.), September 20, 2023, pp. 19-48, https://www.supremecourt.gov/DocketPDF/23/23-124/280102/20230920205320537_23-124tsUnitedStates.pdf.

Thank you for your ongoing oversight of Corizon's bankruptcy on behalf of the public. I urge you to continue to closely scrutinize the developments in this case.

Sincerely,

A handwritten signature in black ink, appearing to read "Elizabeth Warren", with a long, sweeping underline.

Elizabeth Warren
United States Senator