

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

In re: TEHUM CARE SERVICES, INC. Debtor.	Chapter 11 Case No. 23-90086 (CML)
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**BRIEF OF *AMICI CURIAE* SUPPORTING THE TORT CLAIMANTS
COMMITTEE'S MOTION TO DISMISS (DOC. 1260)**

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CORPORATE DISCLOSURE STATEMENT

Amici American Civil Liberties Union, Center for Constitutional Rights, Human Rights Defense Center, Public Justice, Rights Behind Bars, and the UC Berkeley Center for Consumer Law & Economic Justice are all nonprofit organizations. None have a parent company, and thus no publicly held company has 10% or greater ownership interest in any.

INTRODUCTION¹

The American Civil Liberties Union, Center for Constitutional Rights, Human Rights Defense Center, Public Justice, Rights Behind Bars, and the UC Berkeley Center for Consumer Law & Economic Justice submit this brief as *amici curiae* to express their support of the Tort Claimants Committee’s (TCC) Motion to Dismiss (the “Motion to Dismiss”) (Doc. 1260). As discussed in that Motion and in this brief, dismissing this case is consistent with both the most basic notions of fairness and public policy favoring the resolution of tort claims through the civil justice system. This bankruptcy must be dismissed.

INTEREST OF *AMICI*

Amici are non-profit advocacy and research organizations with decades of experience advocating for the rights of incarcerated people and vulnerable populations, including involvement in litigation relating to Corizon’s failures to provide adequate care. As a result of that advocacy, *amici* are familiar with the barriers that incarcerated people face in accessing the legal system.

The **American Civil Liberties Union** (“ACLU”) is a nationwide, nonprofit, nonpartisan organization of more than 1.7 million members dedicated to protecting the fundamental rights guaranteed by the Constitution and the laws of the United

¹ No party’s counsel authored this brief in whole or in part, no party or party’s counsel contributed money intended to fund this brief, and no person other than *amici*, their members, and their counsel contributed money to fund this brief.

States. Consistent with that mission, the ACLU established the National Prison Project (“NPP”) in 1972 to protect and promote the civil and constitutional rights of incarcerated people. NPP has decades of experience in complex prisoners’ rights class action suits, including multiple cases regarding minimal standards for correctional health care in jurisdictions where debtor Corizon has operated or continues to operate.

The **Center for Constitutional Rights** (“CCR”) is a national, not-for-profit legal, educational, and advocacy organization dedicated to protecting and advancing rights guaranteed by the U.S. Constitution and international law. Founded in 1966 to represent civil rights activists in the South, CCR has litigated numerous landmark civil and human rights cases. CCR has represented numerous incarcerated people in state and federal custody across the country challenging their conditions of confinement. As such, CCR is deeply familiar with the barriers to participation in court proceedings—bankruptcy or otherwise—faced by incarcerated people and is committed to dismantling those barriers.

The **Human Rights Defense Center (HRDC)** is a nonprofit charitable organization conceived and incorporated in Washington, now headquartered in Florida, that advocates on behalf of the human rights of people held in state and federal prisons, local jails, immigration detention centers, civil commitment facilities, Bureau of Indian Affairs jails, juvenile facilities, and military prisons.

HRDC engages in state and federal court litigation on prisoner rights issues, including public records, class actions, and Section 1983 civil rights litigation concerning the First Amendment rights of prisoners and their correspondents. HRDC's advocacy efforts include publishing two monthly publications, *Prison Legal News*, which covers national and international news and litigation concerning prisons and jails, as well as *Criminal Legal News*, which is focused on criminal law and procedure and policing issues. HRDC also publishes and distributes self-help and legal reference books for prisoners.

Public Justice is a national public interest legal organization that specializes in precedent-setting, socially significant civil litigation, with a focus on fighting corporate and governmental misconduct. The organization maintains an Access to Justice Project that pursues litigation and advocacy efforts to remove procedural obstacles that unduly restrict the ability of consumers, workers, and people whose civil rights have been violated to seek redress in the civil court system. Public Justice has engaged in significant advocacy efforts to prevent abuse of the bankruptcy system to evade the civil justice system, which hinders and delays justice for survivors of corporate wrongdoing. For example, Public Justice filed an amicus brief opposing Johnson & Johnson's use of the Texas Two Step; the Third Circuit recently dismissed that bankruptcy. *In re LTL Mgmt., LLC*, 64 F.4th 84 (3d Cir. 2023).

Rights Behind Bars (RBB) legally advocates for people in prison to live in humane conditions and contributes to a legal ecosystem in which such advocacy is more effective. RBB seeks to create a world in which people in prison do not face large structural obstacles to effectively advocating for themselves in the courts. RBB helps incarcerated people advocate for their own interests more effectively and through such advocacy push towards a world in which people in prison are treated humanely.

The UC Berkeley Center for Consumer Law & Economic Justice is the leading law school research and advocacy center dedicated to ensuring safe, equal, and fair access to the marketplace. Through regular participation as an amicus before the United States Supreme Court, the federal courts of appeals, and state appellate courts, the Center seeks to develop and enhance economic protections for all consumers, especially those who compose particularly vulnerable segments of the population. The Center appears in this proceeding to underscore the importance of the bankruptcy process being both fair and accessible to all creditors.

PRELIMINARY STATEMENT

Two weeks ago, Donald Rolle, a *pro se* incarcerated creditor, implored this court to “ask the question. If we don’t hold these corporations and individuals accountable now, what is going to stop these states from contracting even lower budget [correctional health] contractors now that they are shown a way out of

providing constitutionally adequate medical care?” Doc. 1337. This is what is at stake in this case. This court’s decision will not only affect the ability of incarcerated creditors to obtain redress for serious harms suffered at the hands of Corizon (the Debtor’s corporate predecessor), but also will absolve Corizon of its long history of constitutional and statutory violations and inoculate Corizon’s successor YesCare. And now armed with the knowledge that it can simply repeat the maneuver the Debtor seeks to pull off here, YesCare will have no incentive to provide adequate care to thousands of incarcerated people nationwide.² Thus, the Court’s decision in this case will have far-reaching effects, potentially creating a roadmap for both YesCare and other companies to exploit some of the most vulnerable populations in this country without consequence.

Amici are non-profit, civil rights organizations with decades of experience advocating for the rights of incarcerated people, including involvement in litigation relating to Corizon’s failures to provide constitutionally adequate medical and mental health care. As *amici* previously discussed in a brief filed almost nine months ago, this case implicates the rights of hundreds—if not thousands—of incarcerated

² Already, allegations that YesCare is failing to provide adequate medical care have surfaced. Allegations of “wide-scale medical neglect” in Alabama prisons, where YesCare provides care, were recently reported. Alex Gladden, *Families, Advocates Describe Wide-Scale Medical Neglect In Alabama Prisons*, Montgomery Advertiser (Nov. 20, 2023), <http://tinyurl.com/2nwv9shv>.

people across the country who have been harmed by the Debtor's systemic failures to provide adequate health care to incarcerated people.³ Doc. 576-1.

On January 16, 2024, the newly appointed TCC's filed a Motion to Dismiss that confirmed what amici had suspected after months of seeing incarcerated creditors' mounting pleas for information and assistance and the presentation of a Chapter 11 Plan that plainly discriminated against tort claimants and secured expansive non-consensual third-party releases of the entities that have benefited from Corizon's Two-Step: this case is an unconscionable abuse of the bankruptcy system. *See* Doc. 1260 at 2-4, 19-23; *see also* Doc. 1022 (Objection of the United States Trustee to Emergency Motion for Conditional Approval of Disclosure Statement) at 1-2. *Amici* write separately to express their support of the TCC's Motion. Section I of this brief tells an abbreviated history of this case to highlight the general lack of transparency and false sense of urgency⁴ that left incarcerated creditors with little meaningful opportunity to advocate for their interests, giving rise to the need to appoint a second committee for tort claimants. Section II supplements

³ *Amici* understand that the Debtor is technically not the same corporate entity as the corporate entity that systematically and severely harmed thousands of incarcerated people. However, this difference is "legal fiction created to perpetrate an obvious fraud." *See* Doc. 1260 at 2.

⁴ For example, the Debtor and the UCC requested an emergency hearing for the Court to grant conditional approval of the Disclosure Statement, but as the U.S. Trustee noted in an objection, that motion was "devoid of any statements articulating an emergency." Doc. 1022 at 4. The same can be said for countless motions, many of which implicated issues of significant concern, like entry of the DIP order. *See* Docs. 5; *see also* Doc 576-1 (discussing amici's objections to entry of the DIP order given the due process concerns at play).

the narrative in Section I, highlighting additional evidence relating to incarcerated creditors' lack of access to these proceedings.

ARGUMENT

I. TORT CLAIMANTS' VOICES WENT UNHEARD AND THEIR CONCERNS HAVE BEEN IGNORED FOR THE MAJORITY OF THESE PROCEEDINGS

Although the Unsecured Creditors Committee that was appointed at the outset of this case included two formerly incarcerated claimants, *see* Doc. 145, the record quickly showed that incarcerated creditors had no idea what was happening, how their rights would be impacted, and whether they would be able to meaningfully participate in this case. *See generally* Doc. 576-1. Based on that evidence, *amici*⁵ filed a brief raising serious concerns about the ability of incarcerated people to meaningfully advocate for their interests. *See* Doc. 576-1 at 14-19. Specifically, *amici* explained that 1) incarcerated people face unique obstacles that could impinge on their right to appear and be heard in these proceedings, (2) the Court's Bar Date Order (Doc. 499) failed to establish a sufficiently robust notice plan that would adequately protect the due process rights of all incarcerated creditors, (3) the Court should establish procedures for considering *pro se* motions that afforded *pro se*

⁵ *Amici* Human Rights Defense Center and the UC Berkeley Center for Consumer Law & Economic Justice were not signatories to the initial brief.

litigants sufficient due process, and (4) the Court should not enter a final DIP order given Debtor's clear abuse of the bankruptcy system to avoid tort liability.

Since the filing of *amici*'s initial brief, additional evidence indicating that the interests of incarcerated people were not being zealously represented continued to mount. That evidence includes a significant number of *pro se* filings requesting additional information or the court's assistance, a number of represented tort creditors' filings presenting evidence of bad faith and possible fraud, and media coverage shining a light on who would ultimately benefit from this Chapter 11 plan being confirmed (and at whose expense). A short comparison of the procedural developments in this case in the larger context of what information was made available to incarcerated creditors and the general public powerfully illustrates the extent to which incarcerated creditors were kept in the dark for months.

The Debtor filed its Chapter 11 petition on February 13, 2023. Doc. 1. *Amici* filed their brief on May 17, 2023, detailing their concerns. Doc. 576-1. On May 22, 2023, the Debtor and the UCC filed a stipulation to appoint Judge David R. Jones as mediator in efforts to reach a global settlement. Doc. 602. At a hearing on August 25, 2023, the Debtor and the UCC announced at a status conference that they have reached a preliminary settlement that would "resolve all disputes among the debtor and the mediation parties," but did not provide any additional details. Doc. 900. It took over a month for those details to be made public; on September 29, 2023, the

Debtor filed its Disclosure Statement and the Debtor and the UCC filed a Joint Chapter 11 Plan. Docs. 984-85. In the three months between the announcement that the parties intended to reach a settlement through mediation and the announcement that a settlement had been reached, there was little to no activity on the docket that would signal to incarcerated creditors what was happening in the case. This is clear from numerous *pro se* filings filed at that time:

- On June 28, 2023 incarcerated creditor Edward Stenberg wrote, “I am constantly receiving court orders regarding issues that I have never even received a motion for. Also, still to this day I have never even received a copy of the original bankruptcy filing.” Doc. 752 (docketed on July 3, 2023).
- On June 27, 2023, incarcerated creditor Christopher D. Harrell wrote, “I am an inmate involved with this bankruptcy case because of my lawsuit against Corizon. I have missed court hearings because I was not notified in time because of the processes within our prison system... I cannot make a proper decision in this case without having read everything that is filed in this case as I will not know how to proceed with only bits and pieces of information.” Doc. 755 (docketed on July 3, 2023).
- On July 10, 2023, incarcerated creditor Gordon S. Dittmer wrote that “because I have not been receiving any of the filings in this case and because I do not know what I will want to join or object to, I am requesting that I be provided with a copy of everything that has been filed in this case thus far.” Doc. 805 (docketed on July 17, 2023).
- On August 17, 2023, incarcerated creditor Marcus Middlebrook wrote to the court asking “whether or not I can receive information dealing with this case ...in which I received paperwork months ago... In which it gave me a deadline to file proof of claim by August 14, 2023. I was without counsel and was unable to effectively utilize the general provisions of access to the courts to assist myself, does not have a

GED or high school diploma.” Doc. 892 (docketed on August 22, 2023).

- On August 9, 2023, incarcerated creditor Aaron Fodge wrote to request help from a local attorney because “I know nothing about chapter 11... I would really like for someone to tell me if I’m getting something out of this.” Doc. 886 (docketed on August 15, 2023).

Several days before the Debtor and the UCC announced that they’d reached a settlement, a media outlet published a comprehensive investigative piece explaining how Corizon was deploying the Texas Two-Step to escape liability for over a decade of mounting tort liability.⁶ At the August 24, 2023 hearing, the Debtor referenced this coverage, previewing for the Court that they anticipated comments “to the effect of that there’s a secret settlement or that there’s been a lack of transparency.” Doc. 900. The Debtor argued that “there’s been a whole lot of transparency in this process,” and that even though the terms of the settlement had not yet been made public “it doesn’t mean the settlement itself is secretive. We think it just means that ...we don’t want to have our process derailed by premature comments to the press or other creditors before a plan has even been public.” *Id.* The Debtor specifically highlighted that certain attorneys who represented tort claimants had spoken to the reporters, presumably to suggest some sort of impropriety, before concluding, “the point is we have some reluctance to publish the terms of the settlement until the plan

⁶ Nicole Einbinder and Dakin Campbell, *Hidden Investors Took Over Corizon Health, a Leading Prison Healthcare Company. Then They Deployed the Texas Two-Step*, Business Insider (Aug. 21, 2023), <https://tinyurl.com/2n8fahat>.

is filed. Only because we don't want our process derailed by misstatements about what the terms are or how they impact creditors or we don't want creditors prejudging the plan before it's even filed.” *Id.*

The Disclosure Statement and Joint Chapter 11 Plan were finally filed in late September 2023, and then twice amended. Docs. 984, 985, 1042, 1042, 1071, 2072. Incarcerated creditors who were not on the Master Service List only received notice of the filing of these critical documents on October 31, when the Debtor filed its Notice of Filing of Disclosure Statement, Hearing Thereon, and Objection Deadline (Doc. 1077) served that notice on the entire creditor matrix, not just the Master Service List. *See* 1120. Notably, copies of the Disclosure Statement and Chapter 11 Plan were not provided, though the Notice explained that copies were accessible online or by call or written request—a useless offer for most incarcerated people. Doc. 1077.

In the meantime, outside scrutiny over these proceedings intensified. On October 6, 2023, news broke of the undisclosed relationship between the mediator, Judge David Jones, and YesCare’s attorney, Elizabeth Freeman.⁷ A week later, the U.S. Trustee filed an objection to the Debtor’s and the UCC’s motion seeking

⁷ See Nicole Einbinder, Dakin Campbell, and Esther Kaplan, *Prominent Bankruptcy Judge David Jones Recused From Cases, Under Investigation After Exposure Of Undisclosed Romantic Relationship*, Business Insider (Oct. 2023), <http://tinyurl.com/59f8vpfu>.

conditional approval of the disclosure statement, noting that “recent admissions by the judicial mediator may raise issues about the propriety of the mediation that serves as the basis for the global settlement—and thus about the very propriety of the settlement and plan itself.” Doc. 1022 at 2. Then, on October 24, 2023, nine United States Senators, including Judiciary Committee Chair Dick Durbin, wrote to the Debtor and YesCare, objecting to Corizon’s misuse of the bankruptcy system. As the Senators explained, “[t]he bankruptcy system has many aims, but it was not designed to provide an avenue for companies to evade accountability for wrongdoing. Your company, however, is attempting to do just that, utilizing the ‘Texas Two-Step’ to position yourselves to pay pennies on the dollar to claimants that deserve recompense for poor health outcomes and unpaid debts accrued under your watch.” Doc. 1365-1. Still, the Debtor and the UCC maintained that the best path forward was to approve the settlement.

On November 20, 2023—nine months after the original petition was filed—the U.S. Trustee appointed a second committee solely for tort claimants. Doc. 1127. The newly appointed TCC has aggressively litigated this case since, culminating in the filing of its Motion to Dismiss on January 16, 2024. Doc. 1260. That motion has garnered the support of numerous creditors (including *pro se* incarcerated creditors

and non-tort claimants), Senator Elizabeth Warren,⁸ and the U.S. Trustee. *See, e.g.*, Docs. 1345, 1348, 1363, 1365, 1367, 1381. Based on this evidence and amici's experience advocating for the rights of incarcerated people and vulnerable populations, *amici* now also express their support for the TCC's Motion to Dismiss on behalf of the hundreds of incarcerated creditors who may not otherwise have the ability to protect their own interests.

II. THE RECORD IS REplete WITH INDICATIONS THAT INCARCERATED CREDITORS DESIRE TO, BUT CANNOT, MEANINGFULLY ACCESS AND PARTICIPATE IN THESE PROCEEDINGS

Amici begin by reiterating their concern that hundreds of incarcerated people should have been given actual notice but were not, and constructive notice was next to useless. Doc. 576-1 at 14-28. It is thus unsurprising that only a smaller than anticipated number of incarcerated people filed proofs of claim.⁹ It is also unsurprisingly, given the complexity and inaccessibility of these proceedings, that only ten incarcerated people have been added to the Master Service List, the only reasonably accessible means through which an incarcerated creditor could follow the

⁸ On January 31, 2024, Senator Elizabeth Warren wrote to the U.S. Trustee urging the Trustee to consider supporting the Motion to Dismiss, noting that the settlement agreement and bankruptcy plan "if confirmed, will deny Corizon's creditors, including incarcerated individuals, adequate restitution for the company's serious harm." The letter highlighted the relative lack of access to information about the corporate ownership structures of the Debtor and non-Debtor affiliates and the Debtor's and YesCare's "fail[ure] to answer key questions about the bankruptcy." Exhibit A.

⁹ *See* Claims Register *available at* <https://www.kccllc.net/tehum/register>.

case. Notably, at least forty-eight incarcerated creditors have filed documents with the Court but many were not added despite some making statements that could reasonably be construed as a request to receive service of filings in this case. *See, e.g.,* Doc. 751.

Being added to the Master Service List is just the first hurdle incarcerated creditors faced in their attempts to gain access and adequate notice to these bankruptcy proceedings. As previously explained, limited access to technology, lack of counsel or adequate legal resources, reliance on inefficient and often inoperable prison mail systems, inexperience with the complex procedures of bankruptcy court, and disabilities are all major barriers that have prevented incarcerated creditors from achieving fair access to these proceedings. Without access, *pro se* incarcerated creditors—who naturally make up a significant portion of those harmed by a prison health care provider—have not been able to represent their rights and interests fully and fairly in these proceedings. The evidence of these barriers is summarized below.

Lack of access to technology and legal resources

Most incarcerated creditors seeking to represent their interests in these bankruptcy proceedings lack the basic technology and legal resources necessary to do so. They do not have unrestricted access to internet services and rely almost entirely on mail communications from the court to find out about hearings or major events that will affect their interests. *See* Docs. 886, 635, and 316. Many incarcerated

creditors also lack access to basic legal resources and are thus woefully ill-equipped to represent themselves in a bankruptcy proceeding. Several creditors have written to the Court to request guidance on proper bankruptcy proceedings, while others have complained that their facilities do not provide reasonable legal resources. *See* Docs. 635, 996, 1032 and 951. Internet access and standard legal resources are the bare minimum for any modern-day litigant to represent their interests in a complex bankruptcy proceeding. Deprived of these necessities, incarcerated creditors have been left to go up against Goliath without so much as a slingshot.

- Tyrone-Anthony Bell wrote a letter urging the court to address the circumstances under which “the state has created and is enforcing a state of poverty by forcing select prisoner[s] to litigate using an antiquated form of litigation.” Doc. 635. According to Mr. Bell he has been restricted in his “ability to use a laptop, handheld scanner, thumb drive and e-file, which in modern day litigation is not an ‘adequate and meaningful’ form of litigation.” *Id.*
- Daniel Lee Wilmer is “still currently in prison at the Tucson Complex Whetstone ... and needs... to set up hybrid hearing audio video connection communication” to attend the hearings. Doc. 996.
- Aaron Fodge wrote to the court, “I don’t have the internet here in prison, so I can’t look nothing up.” Doc. 886.
- Shaidon Blake also wrote to the court to request he be sent a claim form because “we lack access to internet services. Therefore, I cannot use [kccle website], [U.S. Court's website], or [Pacer] services in order to obtain a proof of claim form.” Doc. 316.

- Wayne Merkley wrote to the court on behalf of himself and another creditor, Steven Ullrich, to express that “the difficulty ... is that [we] reside in a State of Idaho prison penal system that provides no legal assistance, has no reasonable law library or resources.” Doc. 1032.
- Alfred Green wrote several letters stating that he “ha[s] no ability to investigate the facts of the case. The legal materials in the library are grossly deficient ... these facts, along with the legal merit of my claims, support the appointment of counsel to represent the claimant.” Doc. 951.
- Similarly, Neil Willey complained that he “do[es] not have access to the rules governing bankruptcy for complex cases in the Southern District of Texas.” Doc. 571. Mr. Willey also notes that he “ha[s] no access to the bankruptcy court[’]s website in order to obtain my necessary forms or documents.” *Id.*
- William Teddy Walker asked the Court to send him the U.S. Bankruptcy rules “because the deadline to object to final approval of the disclosure statement is November 30, 2023 (‘the objection deadline’) and because any objections to the disclosure statement must A) be in writing, B) conform to the bankruptcy rules, the bankruptcy local rules and any orders of the Court.” Doc. 1131.

Delays and disturbances with service by mail.

The schedule for the bankruptcy proceedings has not accounted for or made any effort to address the delayed and unreliable nature of the prison mail system. Given the restrictions on access to the internet and telecommunications in prison, incarcerated creditors often rely exclusively on the mail to receive updates on the bankruptcy proceedings and learn about opportunities to represent their interests. Many creditors have written to the Court to report significant delays and complete failures in mail communications. *See* Docs. 1287, 1221, 751 and 571. Some of these

delays and failures have resulted in missed deadlines, denying these creditors important advocacy opportunities. *See* Docs. 1046 and 751.

- Robert D. Blaurock alerted the court that “[d]espite affording Tehum Care Services, Inc., the County Clerk, and 11 attorneys involved in the above-mentioned case matter regarding my recent change of address, I have not received any legal mail since the date of December 08, 2023.” Doc. 1287.
- Tyrone-Anthony Bell has filed more than twenty letters with the court, and he has yet to receive proper notice and access to the bankruptcy proceedings. *See* Docs. 169, 175, 266, 286, 386, 387, 388, 389, 390, 391, 439, 440, 441, 633, 634, 781, 820, 877, 1224, 1126, 1239. He has yet to be added to the Master Mailing List (Doc. 1126), and he has also formally complained that he has been “receiving late notices due to legal documents going to the wrong address.” Doc. 1124.
- Marcus Jones reported that his mail was incomplete and appeared to have been tampered with. “The letter was already opened, and a copy of the envelope was attached. It looks to be a page was missing. I also have other mail from your court missing.” Doc. 1221.
- Lee Ridgely wrote to the court to document that he has “received nothing in the above case of the pending bankruptcy... I need additional case documents in order to properly prepare responses.” Doc. 751.
- Earl D. Christine wrote to the court to “intervene at this late date because such existence of this litigation was not earlier disclosed.” Doc. 1046.
- Neil Willey wrote that he “ha[s] only received an order by the court notifying me the cases have been stayed ... I NEVER received a copy of this notice by the debtor ... and I have never received any response from the debtors counsel to my complaints whatsoever.” (Doc. 571)

The mail delays impact *all* incarcerated creditors, not just those left off the Master Service List. Even incarcerated creditors who have been included on the Master Service List have missed hearings and fallen behind on information because of mail delays or lack of information. *See* Docs. 755, 805, 752 and 1348. Thus, it is not enough to simply add these individuals to a mailing list that is meant to serve notice to incarcerated and non-incarcerated creditors equally. To ensure that incarcerated creditors are guaranteed a meaningful opportunity to receive notice and participate in these proceedings, the process must be responsive to the delays and lapses in mail communication inherent to the prison mail system.

- Frank Patterson wrote, “I received these notices very late because they first were sent to Wyoming and then re-routed to me here in MS ... I request the court send a notice of any impending hearings like the one on February 12 at 1:00pm to: Mrs. Walker/grievance manager at this facility. So that I may attend via conference call.” Doc. 1348.

Many creditors requested legal assistance or guidance because of the complexity of the case.

Incarcerated creditors—even those who have prior experience representing themselves *pro se* in civil proceedings— often do not have the knowledge or expertise to understand how to represent themselves in a complex bankruptcy proceeding. Many creditors, therefore, have written to the court requesting legal representation or some specialized guidance to help them understand how to represent their interests before the court. *See* Docs. 886, 1148 and 392. Having

endured medical neglect and often permanent injury at the hands of Corizon, many of these creditors have already overcome significant hurdles to assert their rights in civil proceedings. *See* Docs. 892 and 502. It is a tall order now to require that these creditors jump through additional hoops without adequate expertise or representation to ensure they do not lose their ability to achieve proper redress.

- Edward Smith wrote “inform the court that I don’t have attorney at this time and that I’m in need of an extension of time...this notice was fast and I’m asking the courts to allow me the extension of time that is needed for me to have a lawyer so that I’m able to fight my case the right way.” Doc. 1148.
- Partick Lynn “has received written communications and informations [sic] pertaining to Tehum Care Services, Inc. Bankruptcy proceedings from two U.S.D. Courts, both in Houston, Texas, each with a different mailing address, and is unsure to which of the two courts that he may enter his proof of claim against the debtor.” Doc. 502.
- Mr. Chapman, an indigent incarcerated person, requested the appointment of counsel because while he “is somewhat familiar with Alabama state law and Federal Criminal Law, he is completely in the dark and knows nothing about Texas State or Federal Bankruptcy/Corporate Law.” Doc. 329.

Disability or Educational challenges

The bankruptcy proceedings have not provided legal assistance or guidance for incarcerated creditors with disabilities who face additional challenges in representing themselves in these proceedings. Several creditors have written to the Court to request assistance due to disability. *See* Docs. 1341, 1222 and 953. Both physical and cognitive disabilities have made it exceedingly difficult for these

creditors to adhere to formal bankruptcy procedures and represent their interests in these proceedings. Because of the nature of Corizon’s abuses—medical neglect and physical harm that has had permanent effects on incarcerated creditors—it is vital that this Court make accommodations that ensure the fair notice and proper representation of incarcerated creditors with disabilities.

- Mr. Ervin has written to the court asking for assistance because he has severe vision impairment: “I would like to be heard. I lose my sight in one eye & losing it in the right eye as I write I file two emergency requests under federal [sic] what about inmate like me? Who is usually depending on friends of the court to receive information or the Master Service List.” Doc. 1341.
- Charlie Stevens petitioned the court to appoint him an attorney to assist with these proceedings. He “has a 9th grade education and is not able to comprehend the language that the court has set before him.” Doc. 1222.
- Alfred Green, wrote on behalf of another incarcerated creditor, Steve Nolte, asking the court to provide Mr. Nolte with additional assistance. Mr. Nolte has difficulty writing and Mr. Green has been his sole resource, writing on his behalf and providing legal resources. Mr. Green let the court know in September that he was being transferred to a minimum-security facility and would no longer be able to help Mr. Nolte. Doc. 953.

CONCLUSION

In the words of incarcerated creditor Gordon S. Dittmer, the “incarcerated and formerly incarcerated class of creditors [] who have suffered, not economical [sic] distress, but rather, actual physical injury, and even death, at the hands of the Debtor, have not been given any consideration as to their interests thus far in the proceedings.” Doc. 804. That lack of consideration has been partially (but

significantly) corrected through appointment of a tort committee that has valiantly tried to make up for lost time. Accordingly, *amici* support the TCC's efforts and urge the Court to dismiss this case.

Dated: February 23, 2024

Submitted,

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