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Honorable Whitman L. Holt  
 Chapter 11

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*Attorneys for Health Carousel Travel  
 Network, LLC*

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**UNITED STATES BANKRUPTCY COURT  
 EASTERN DISTRICT OF WASHINGTON**

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In re:

ASTRIA HEALTH, *et al.*,<sup>1</sup>

Debtor and Debtor In  
 Possession,

Chapter 11

Lead Case No. 19-01189-11

Jointly Administered

**RESPONSE OF HEALTH  
 CAROUSEL TRAVEL  
 NETWORK, LLC TO  
 DEBTORS' MOTION FOR  
 ENTRY OF AN ORDER  
 PURSUANT TO SECTION 1121  
 OF THE BANKRUPTCY CODE  
 FOR THIRD EXTENSION OF  
 THE EXCLUSIVE PERIODS TO**

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<sup>1</sup> The Debtors, along with their case numbers, are as follows: Astria Health (19-01189-11), Glacier Canyon, LLC (19-01193-11), Kitchen and Bath Furnishings, LLC (19-01194-11), Oxbow Summit, LLC (19-01195-11), SHS Holdco, LLC (19-01196-11), SHC Medical Center - Toppenish (19-01190-11), SHC Medical Center - Yakima (19-01192-11), Sunnyside Community Hospital Association (19-01191-11), Sunnyside Community Hospital Home Medical Supply, LLC (19-01197-11), Sunnyside Home Health (19-01198-11), Sunnyside Professional Services, LLC (19-01199-11), Yakima Home Care Holdings, LLC (19-01201-11), and Yakima HMA Home Health, LLC (19-01200-11).



**FILE A CHAPTER 11 PLAN  
AND SOLICIT ACCEPTANCES**

**[Related Dkt No. 1009]**

Health Carousel Travel Network, LLC (“**HCTN**”) responds (the “**Response**”) to *Debtors’ Motion for Entry of an Order Pursuant to Section 1121 of the Bankruptcy Code for Third Extension of the Exclusive Periods to File a Chapter 11 Plan and Solicit Acceptances* (the “**Motion**”) [Dkt No. 1008]. HCTN submits this Response solely to address the Debtors’ representation that SHC Medical Center - Toppenish (“**Toppenish Debtor**”) is paying its debts owed as they become due. That representation as it pertains to HCTN is simply not accurate and HCTN respectfully submits the following in support of its Response:

**I. BACKGROUND**

1. HCTN provides professional health care staffing services (“**Professionals**”) to healthcare systems and hospitals across the United States. Toppenish Debtor is one such hospital. Under that certain Master Services Agreement between HCTN and Toppenish Debtor dated October 30, 2018 (“**Contract**”), HCTN provides Toppenish Debtor with Professionals to work at the hospital. See Exhibit 1 to Declaration of Michael McKee in Support of Response of Health Carousel Travel Network, LLC to Debtors’ Motion for Entry of an Order Pursuant to Section 1121 of the Bankruptcy Code (“**McKee Decl.**”) [Dkt No. \_\_\_\_]. In doing so, HCTN ensures Toppenish Debtor can care for its patients. Yet Toppenish Debtor is not paying HCTN for the vital Professionals it continues to provide.

2. On May 6, 2019 (“**Petition Date**”), Toppenish Debtor filed its voluntary petition under Chapter 11 of the United States bankruptcy code

1 (“**Bankruptcy Code**”). Since the Petition Date, HCTN has honored its obligations  
2 under the Contract by providing Toppenish Debtor with Professionals without  
3 which Toppenish Debtor could not continue to operate. McKee Decl., ¶ 4. HCTN  
4 has performed its contractual obligations and continues to do so. Id. at ¶¶ 4-5.  
5 Toppenish Debtor has not. Id. at ¶ 6

6 3. On January 13, HCTN’s counsel emailed Debtors’ counsel informing  
7 counsel that, among other things, Toppenish Debtor has not paid HCTN for all the  
8 Professionals HCTN has provided Toppenish Debtor after the Petition Date. See  
9 Exhibit 1 to W. Timothy Miller’s Declaration, attached as Exhibit A (“**Miller**  
10 **Decl.**”). Of the amounts owed at that time, HCTN’s counsel told Debtors’ counsel  
11 that Toppenish Debtor had not paid \$361,542.37 within the parties’ agreed 15-day  
12 terms. Id. HCTN’s counsel asked that Toppenish Debtor promptly pay the past-due  
13 amounts owed for the Professionals HCTN has provided after the Petition Date. Id.

14 4. Despite the foregoing, the Motion states that the Debtors, which  
15 includes Toppenish Debtor, are “paying their allowed claims in the ordinary course  
16 of business as they come due.” [See Dkt No. 1008 at 17.] As HCTN’s counsel  
17 previously informed Debtors’ counsel, that statement is incorrect as it pertains to  
18 HCTN.

## 19 II. ARGUMENT

20 5. HCTN does not object to the Debtors’ request to extend the  
21 exclusivity periods under 11 U.S.C. § 1121(d) of the Bankruptcy Code. Rather,  
22 HCTN files this Response to take issue, and disagree on the record, with Debtors’  
23 statement in the Motion that creditors are being paid in the ordinary course of  
24 business. That statement is not accurate as it pertains to HCTN. McKee Decl., ¶ 6.

25 6. HCTN submits this Response to make the Court aware that although  
26 HCTN continues to provide Toppenish Debtor with the Professionals that are

1 indispensable to Debtors' operation, HCTN is not being paid as required by the  
2 Contract, despite Debtors' implication to the contrary in the Motion. If HCTN is  
3 not promptly paid its post-petition debt, HCTN will have no choice but to move to  
4 compel Toppenish Debtor to assume or reject the Contract and to seek an order of  
5 the Court requiring Toppenish Debtor to pay administrative expenses for the  
6 actual, necessary costs and expenses of preserving the estate under 11 U.S.C.  
7 § 503.

8 DATED: February 14, 2020.

9 STOEL RIVES LLP

10 /s/ Bryan Glover

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22 *Attorneys for Health Carousel Travel*  
23 *Network, LLC*

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I, W. Timothy Miller declare as follows:

1. I am a resident of Hamilton County, Ohio and a Partner with the law firm of Taft Stettinius & Hollister LLP. I am over the age of 18 and make this declaration based upon my personal knowledge. If called and sworn as a witness in this case, I could and would competently testify thereto.

2. Attached as Exhibit 1 is a true and accurate copy of a January 13, 2020, email I sent to Debtors' counsel Sam Alberts.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

DATED: February 14, 2020.

W. Timothy Miller

EXHIBIT A  
PAGE 1 OF 1

**STOEL RIVES LLP**  
ATTORNEYS  
600 University Street, Suite 3600, Seattle, WA 98101  
Telephone 206.624.0900

## Wallin, Alex E.

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**From:** Miller, W. Timothy  
**Sent:** Friday, January 17, 2020 12:49 PM  
**To:** Wallin, Alex E.  
**Subject:** FW: In re Astria Health, et al., Case No. 19-01189 FLK (Bankr. E.D. Wash.)  
**Attachments:** [REDACTED]

**Importance:** [REDACTED]

[REDACTED]

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**From:** Miller, W. Timothy  
**Sent:** Monday, January 13, 2020 12:31 PM  
**To:** 'sam.alberts@dentons.com' <sam.alberts@dentons.com>  
**Cc:** 'samuel.maizel@dentons.com' <samuel.maizel@dentons.com>; 'jday@bskd.com' <jday@bskd.com>; 'tbuford@bskd.com' <tbuford@bskd.com>; 'teri.l.stratton@pjc.com' <teri.l.stratton@pjc.com>; 'robert.hirsh@arentfox.com' <robert.hirsh@arentfox.com>; 'jordana.renert@arentfox.com' <jordana.renert@arentfox.com>; 'wkannel@mintz.com' <wkannel@mintz.com>; 'iahammel@mintz.com' <iahammel@mintz.com>; 'msirota@coleschotz.com' <msirota@coleschotz.com>; 'rjareck@coleschotz.com' <rjareck@coleschotz.com>; 'Gary.W.Dyer@doj.gov' <Gary.W.Dyer@doj.gov>; 'asherman@sillscummis.com' <asherman@sillscummis.com>; 'bmankovetskiy@sillscummis.com' <bmankovetskiy@sillscummis.com>  
**Subject:** In re Astria Health, et al., Case No. 19-01189 FLK (Bankr. E.D. Wash.)  
**Importance:** High

Sam,

Our firm represents Health Carousel Travel Network, LLC ("HCTN"). HCTN is party to a Master Services Agreement, dated October 30, 2018, with SCH Medical Center – Toppenish (the "Debtor") pursuant to which HCTN provides professional staffing services to the Debtor. HCTN is listed on Schedule F of the Debtor's Schedules of Assets and Liabilities filed on June 20, 2019 as holding a non-contingent, liquidated and undisputed claim in the amount of \$176,033.94. On August 2, 2019, HCTN timely filed a proof of claim in the amount of \$560,506.63 (Claim No. 370) for obligations arising under its agreements with the Debtor.

Please be advised that as of January 8, 2020, the Debtor owes HCTN \$368,576.37 in respect of professional staffing services provided after the petition date, **\$361,542.37 of which is past due** – i.e., beyond the parties' agreed 15-day terms. Notably, \$232,367.19 of that amount is more than 90-days past due and \$149,585.82 is more than 120-days past due – due and payable prior to September 8, 2020. HCTN has unpaid post-petition invoices dating back to May, 2019. I have attached a spreadsheet containing an aging of the post-petition invoices issued by HCTN to the Debtor.

I note that the post-petition accounts payable aging that appears on page 10 of the Debtors' Monthly Operating Report for the period ending October 31, 2019 filed in the above-reference case on November 21, 2019 (Doc. No. 768) shows negative amounts owing from the Debtors in the 31 – 90-day categories. That accounts payable aging cannot be accurate in light of the attached aging of HCTN's invoices because over \$149,585.82 was owing from the Debtor to HCTN as of September 8, 2019, more than 30 days prior to October 31, 2019. The same is true for the accounts payable agings that appear in the Debtors' July and August Monthly Operating Reports (Doc. Nos. 521 and 626), each of which show no payables aged more than 30 days, despite the fact that HCTN had unpaid post-petition invoices from May outstanding at the end of each of those months.

HCTN is also in receipt of the “Debtors’ Notice to Counterparties to Certain Executory Contracts and Unexpired Leases of the Debtors that May Be Assumed and Assigned Pursuant to § 365 of the Bankruptcy Code” (Doc. No. 861), dated January 3, 2020 (the “Cure Notice”), which you filed in the above-referenced case. You will note that I have copied on this email the notice parties listed in the Cure Notice.

Footnote 5 on Schedule A of the Cure Notice states that “because the Debtors generally remain current with respect to payment of amounts arising in connection with services rendered on or after the May 6, 2019 Petition Date, the Cure Amounts listed on **Schedule A** likely do not include postpetition obligations that may be due and owing or future amounts that may arise in connection with a Contract or Lease.” The first half of that sentence is demonstrably false when considered in light of the attached aging of the Debtor’s post-petition payables owing to HCTN.

Moreover, despite the Debtor having scheduled HCTN with a \$176,033.94 claim, despite HCTN having filed a proof of claim in the amount of \$560,506.63, and despite the Debtor having failed to timely pay over \$360,000 of HCTN’s post-petition invoices, the Cure Notice lists HCTN at two places at the bottom of page 59 of Schedule A as having a cure claim in the amount of “\$0.00”. The cure claim allowance process in connection with the Debtors’ proposed sale of their assets should not be used as a means of interposing claim objections that would never satisfy the requirements of Bankruptcy Rule 9011.

Consistent with the representations made to the Court in the Cure Notice, HCTN expects the Debtor to bring its post-petition payables owing to HCTN current immediately with a payment of not less than \$361,542.37. In addition, HCTN expects the Debtors to promptly amend the Cure Notice to accurately reflect the amount of HCTN’s pre- and post-petition claims against Debtors of which the Debtors clearly have notice. Finally, HCTN expects the Debtors to amend their prior monthly operating reports to accurately reflect their accounts payable agings so that all parties in interest are aware of the extent to which the Debtors are failing to remain current with their post-petition trade payables.

We look forward to the Debtors’ prompt compliance with these requests. If HCTN is required to expend additional legal fees in obtaining payment of its post-petition receivables owing from the Debtor or in obtaining corrections of the inaccurate statements in the Cure Notice and the Debtors’ Monthly Operating Reports, HCTN reserves the right to seek reimbursement of those fees from the responsible parties.

Regards,