

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

In re:	)	
	)	Case No. 09-40795
FORUM HEALTH, <u>et. al.</u> , <sup>1</sup>	)	Jointly Administered
	)	
Debtors.	)	Chapter 11
	)	
	)	Judge Kay Woods
	)	

**THE LIQUIDATING TRUSTEE’S TWENTY-SEVENTH OMNIBUS  
OBJECTION TO CERTAIN FILED PROOFS OF CLAIM (LATE CLAIMS)**

Dalton T. Edgecomb, the Liquidating Trustee of the Forum Health Liquidating Trust (the “Liquidating Trustee”),<sup>2</sup> hereby submits the twenty-seventh omnibus objection (the “Twenty-Seventh Omnibus Objection”), pursuant to section 502 of the United States Code, 11 U.S.C. §§ 101-1532 (the “Bankruptcy Code”), and Rules 3001 and 3007 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), to certain filed proofs of claim (each, individually, a “Claim,” and collectively, “Claims”), as referenced in Exhibit A attached hereto and incorporated by reference herein.

**IF YOU HAVE RECEIVED A COPY OF THIS TWENTY-SEVENTH OMNIBUS OBJECTION, YOUR CLAIM MAY BE SUBJECT TO AN OBJECTION BY THE LIQUIDATING TRUSTEE. PLEASE REVIEW EXHIBIT A TO LOCATE YOUR NAME AND CLAIM.**

<sup>1</sup> The Debtors include: Forum Health (31-1560189), Forum Health Diagnostics Co. (34-1773672), Forum Health Enterprises Co. (34-1368151), Forum Health Outreach Laboratories, Inc. (34-1437294), Forum Health Ventures Co. (34-1489491), Forum Health Pharmacy Services Co. (34-1754092), Forum Health Rehabilitative Services Co. (31-1581767), Forum Health Services Co. (34-1461044), Western Reserve Care System (34-1454933), Dacas Nursing Support Systems, Inc. (34-1482591), Dacas Nursing Systems, Inc. (34-1456983), Beeghly Oaks (31-1196072), PrideCare, Inc. (34-1490425), Trumbull Memorial Hospital (34-1461049), Comprehensive Psychiatry Specialists, Inc. (34-1697739) and Visiting Nurse Association and Hospice of Northeast Ohio (34-0714388).

<sup>2</sup> The Liquidating Trustee, as of the Effective Date, as defined in the Debtors’ Second Amended Plan of Liquidation (the “Plan”), Docket No. 1642, has full right, power, and discretion to manage the affairs of the Forum Health Liquidating Trust, consistent with the terms of the Forum Health Liquidating Trust Agreement and the Plan.

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## **BACKGROUND**

1. On March 16, 2008, the above-captioned debtors (collectively, the “Debtors”) each filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code.

2. The Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1334 and 157. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2). Venue of the Debtors’ chapter 11 cases and this Twenty-Seventh Omnibus Objection is proper pursuant to 28 U.S.C. §§ 1408 and 1409 and Local Bankruptcy Rules.

3. On July 21, 2011, this Court entered the Order Confirming the Debtors’ Plan, Docket No. 1730 (the “Confirmation Order”).

4. The Effective Date, as defined in the Plan, occurred on August 17, 2011, at which time the Liquidating Trust was formally established.

5. Pursuant to the terms of the Plan, as of the Effective Date, Dalton T. Edgecomb was appointed the Liquidating Trustee. The Plan and the Confirmation Order, among other things, vested and transferred all remaining assets of the Debtors, including the right of the Liquidating Trustee to “make and file objections” to Claims. Section 6.2.2 of the Plan states “[o]n or after the Effective Date, the Liquidating Trustee will have the sole authority, to File, settle, compromise, withdraw or litigate to judgment objections to Claims, subject to the requirements to obtain Bankruptcy Court authority for certain actions in accordance with Section 3.9 of this Plan.”

6. The statutory predicates for the relief sought herein are section 502 of the Bankruptcy Code and Rules 3001 and 3007 of the Bankruptcy Rules.

7. On April 30, 2009, and May 1, 2009, each of the Debtors filed a Summary of Schedules and a Statement of Financial Affairs (collectively, the “Schedules”) as follows:

<b>Debtor</b>	<b>Case No.</b>	<b>Docket Nos.</b>
Forum Health	09-40795	214, 215
Forum Health Rehabilitative Services Co.	09-40796	2, 3
Forum Health Diagnostics Co.	09-40797	2, 3
Forum Health Enterprises Co.	09-40798	2, 3
Forum Health Outreach Laboratories, Inc.	09-40799	2, 3
Forum Health Ventures Co.	09-40801	2, 3
Forum Health Pharmacy Services Co.	09-40802	2, 3
Forum Health Services Co.	09-40803	2, 3
Western Reserve Care Systems	09-40804	2, 3
Dacas Nursing Support Systems, Inc.	09-40805	2, 3
Forum Health Ventures Co.	09-40806	2, 3
Beeghly Oaks	09-40807	2, 3
Trumbull Memorial Hospital	09-40808	2, 3
Comprehensive Psychiatry Specialists, Inc.	09-40810	2, 3
PrideCare, Inc.	09-40811	2, 3
Visiting Nurse Association and Hospice of Northeast Ohio	09-40812	2, 3

8. On June 23, 2009, the Court established August 3, 2009 as the bar date by which non-governmental creditors wishing to assert prepetition claims against the Debtors must file proofs of claim (“Non-Governmental Claims Bar Date”), and September 14, 2009, as the bar date by which any governmental unit wishing to assert prepetition claims against the Debtors must file proofs of claim (“Governmental Claims Bar Date”), Docket No. 301.

9. On November 10, 2010, the Debtors filed the Motion for an Order Establishing Bar Date for Asserting Claims for Payment of Administrative Claims and Approving Form and Notice Thereof, Docket No. 1217 (the “Administrative Bar Date Motion”). The Court entered an order approving the Administrative Bar Date Motion on November 15, 2010, Docket No. 1234 (the “Administrative Bar Date Order”). Pursuant to the Administrative Bar Date Order, the deadline for filing administrative expenses claims was December 22, 2010 (the “Administrative Bar Date”).

**RELIEF REQUESTED**

10. By this Twenty-Seventh Omnibus Objection, the Liquidating Trustee seeks to expunge the claims set forth on Exhibit A attached hereto pursuant to section 502 of the

Bankruptcy Code and Rules 3001 and 3007 of the Bankruptcy Rules. The Claims set forth in Exhibit A attached hereto are collectively, referred to as “Late Claims.” The Late Claims are claims which were filed subsequent to either the Non-Governmental Claims Bar Date, the Governmental Claims Bar Date, or the Administrative Bar Date. As such, the Liquidating Trustee requests that the Court expunge each of the Late Claims.<sup>3</sup>

### **BASIS FOR RELIEF REQUESTED**

11. Section 502 of the Bankruptcy Code addresses the allowance and disallowance of claims and states, in relevant part:

(a) A claim or interest, proof of which is filed under section 501 of this title, is deemed allowed, unless a party in interest, including a creditor..., objects.

11 U.S.C. § 502(a). Section 502(b) of the Bankruptcy Code further provides:

(b) Except as provided in subsections (e)(2), (f), (g), (h) and (i) of this section, if such objection to a claim is made, the court, after notice and a hearing, shall determine the amount of such claim...as of the date of the filing of the petition....

11 U.S.C. § 502(b).

12. Bankruptcy Rule 3007 sets forth the procedure that a party in interest must follow for filing and providing notice of a hearing on an objection to a proof of claim. An objection to allowance of a proof of claim must be in writing and filed with the Court. Exhibit A attached hereto is intended to satisfy the requirements of Rule 3007 of the Bankruptcy Rules by listing claimants alphabetically, providing a cross-reference to Claim numbers, listing claimants by category of Claims, stating the grounds of the objection to each Claim, and containing objections to no more than 100 Claims. Further, a copy of the objection, coupled with notice of the hearing

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<sup>3</sup> The Liquidating Trustee specifically reserves the right to object in the future to any of the Claims referenced in this Twenty-Seventh Omnibus Objection, or in Exhibit A attached hereto, on any ground. The Liquidating Trustee further reserves the right to amend or supplement this Twenty-Seventh Omnibus Objection premised upon, among other things, the filing of amended or newly filed claims. In conjunction therewith, the Liquidating Trustee has filed a request to extend the claims objection bar date to March 23, 2012.

on the objection, must be “mailed or otherwise delivered” to the party whose proof of claim is challenged “at least 30 days prior to the hearing.” Fed. R. Bankr. P. 3007(a).

13. With respect to this Twenty-Seventh Omnibus Objection, Bankruptcy Rule 3007(d) specifically provides as follows:

(d) Omnibus Objection

Subject to subdivision (e), objections to more than one claim may be joined in an omnibus objection if all the claims were filed by the same entity, or the objections are based solely on the grounds that the claims should be disallowed, in whole or in part, because:

- (1) they duplicate other claims;
- (2) they have been filed in the wrong case;
- (3) they have been amended by subsequently filed proofs of claim;
- (4) they were not timely filed;
- (5) they have been satisfied or released during the case in accordance with the Code, applicable rules, or a court order;
- (6) they were presented in a form that does not comply with applicable rules, and the objection states that the objector is unable to determine the validity of the claim because of this noncompliance;
- (7) they are interests, rather than claims; or
- (8) they assert priority in an amount that exceeds the maximum amount under § 507 of the Code.

14. The Liquidating Trustee objects to the Late Claims identified on Exhibit A pursuant to 502(b)(1) of the Bankruptcy Code because such claims were filed subsequent to Non-Governmental Claims Bar Date, the Governmental Claims Bar Date, or the Administrative Bar Date. Therefore, the Late Claims must be expunged.

**NOTICE**

15. Notice of this Twenty-Seventh Omnibus Objection has been given to the following parties or, in lieu thereof, to their counsel, if known: (i) the United States Trustee; (ii) the District Director of the Internal Revenue Service; (iii) the Office of the Attorney General; (iv) the Pension Benefit Guaranty Corporation; (v) all parties requesting notice in the Debtors' chapter 11 cases; and (vi) all creditors included on Exhibit A attached hereto. The Liquidating Trustee submits that, in light of the nature of the relief requested, no other or further notice need be given.

WHEREFORE, the Liquidating Trustee respectfully requests that the Court (i) enter an order expunging each Claim described in this Twenty-Seventh Omnibus Objection and Exhibit A attached hereto; and (ii) grant such other and further relief as the Court may deem proper.

December 21, 2011

Respectfully submitted,

/s/ Manju Gupta

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COUNSEL FOR THE LIQUIDATING TRUSTEE

# **EXHIBIT A**

Late Filed Claims to Expunge

Index No	Date Filed	Claim Number	Name	Claim Amount	Nature	Debtor Name	Objection Basis	(Proposed) Treatment of Claim
1	11/13/2009	811	Argo Partners	\$24,739.89	General Unsecured	Forum Health	Late Filed Claim	Expunge & Disallow
2	01/03/2011	1012	CLINICAL DATA MANAGEMENT	\$150.00	Admin Priority	Trumbull Memorial Hospital	Late Filed Claim	Expunge & Disallow
3	01/12/2011	1013	COLUMBIANA COUNTY TREASURER	UNLIQUIDATED	Admin Priority	Forum Health Ventures Co.	Late Filed Claim	Expunge & Disallow
4	01/20/2010	822	Department of the Treasury Internal Revenue Service	\$50,000.00	General Unsecured	Dacas Nursing Support Systems, Inc.	Late Filed Claim	Expunge & Disallow
5	02/12/2010	826	Department of the Treasury Internal Revenue Service	\$50,200.00	General Unsecured	Forum Health Pharmacy Services Co.	Late Filed Claim	Expunge & Disallow
6	08/01/2011	1018	Department of the Treasury Internal Revenue Service	\$9,437.06	General Unsecured	Forum Health Ventures Co.	Late Filed Claim	Expunge & Disallow
7	09/12/2011	1021	General Electric Capital Corp	\$3,932.83	General Unsecured	Comprehensive Psychiatry Specialists, Inc.	Late Filed Claim	Expunge & Disallow
8	08/19/2011	1020	General Electric Capital Corporation	\$3,819.44	General Unsecured	Comprehensive Psychiatry Specialists, Inc.	Late Filed Claim	Expunge & Disallow
9	02/18/2011	1015	KON Financial Services	\$5,246.66	General Unsecured	Forum Health	Late Filed Claim	Expunge & Disallow
10	06/01/2010	868	Janie L Humphrey	UNLIQUIDATED	General Unsecured	Forum Health	Late Filed Claim	Expunge & Disallow
11	11/12/2009	819	Jennifer T Kollar	\$3,400.00	General Unsecured	Forum Health	Late Filed Claim	Expunge & Disallow
12	11/12/2009	819	Jennifer T Kollar	\$10,950.00	Priority	Forum Health	Late Filed Claim	Expunge & Disallow
13	12/20/2010	978	Lakesha Colton	UNLIQUIDATED	Admin Priority	Forum Health	Late Filed Claim	Expunge & Disallow
14	02/01/2010	823	Lanx Inc	\$40,982.00	General Unsecured	Trumbull Memorial Hospital	Late Filed Claim	Expunge & Disallow
15	02/04/2011	1014	MU Dr Bohumila A Slabochova MD	\$200,000.00	General Unsecured	Forum Health	Late Filed Claim	Expunge & Disallow
16	06/27/2011	1016	Mudr Bohumila A Slabochova MD	\$220,000.00	Secured	Forum Health	Late Filed Claim	Expunge & Disallow
17	08/18/2011	1019	Mudr Bohumila A Slabochova MD	\$58,000.00	General Unsecured	Forum Health	Late Filed Claim	Expunge & Disallow
18	08/18/2011	1019	Mudr Bohumila A Slabochova MD	\$220,000.00	Secured	Forum Health	Late Filed Claim	Expunge & Disallow
19	12/17/2010	966	OHIO DEPARTMENT OF TAXATION	\$55.00	Priority	Forum Health Ventures Co.	Late Filed Claim	Expunge & Disallow
20	12/17/2010	966	OHIO DEPARTMENT OF TAXATION	\$17.70	General Unsecured	Forum Health Ventures Co.	Late Filed Claim	Expunge & Disallow
18	09/06/2010	874	Ryan & Tricia McCabe on Behalf of Nolan Preston Brycen & Abbey McCabe	\$10,000,000.00	General Unsecured	Forum Health	Late Filed Claim	Expunge & Disallow
19	06/29/2011	1017	The Estate of Patricia Toskas	\$1,000,000.00	General Unsecured	Forum Health	Late Filed Claim	Expunge & Disallow
20	12/03/2010	902	Vivromed Laboratories	\$3,281.10	General Unsecured	Forum Health	Late Filed Claim	Expunge & Disallow

Any Claim referenced on this Exhibit may be subject to additional objection(s) set forth on a separate Omnibus Objection. Furthermore, the Liquidating Trustee specifically reserves the right to object in the future to any of the Claims referenced in this Exhibit A on any ground.