

1 IN THE UNITED STATES BANKRUPTCY COURT

2 FOR THE SOUTHERN DISTRICT OF TEXAS

3 HOUSTON DIVISION

4 TEHUM CARE SERVICES, INC. § CASE NO. 23-03049-ADV
5 VERSUS § HOUSTON, TEXAS
6 THOSE PARTIES LISTED IN § WEDNESDAY,
APPENDIX A TO COMPLAINT § MAY 17, 2023
7 § 1:01 P.M. TO 2:00 P.M.

8 **STATUS HEARING (VIA GO TO MEETING)**

9 BEFORE THE HONORABLE CHRISTOPHER M. LOPEZ
10 UNITED STATES BANKRUPTCY JUDGE

11 APPEARANCES: SEE NEXT PAGE

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(Please also see Electronic Appearances.)

1 **HOUSTON, TEXAS; WEDNESDAY, MAY 17, 2023; 1:01 P.M.**

2 THE COURT: I'm going to call the 1:00 p.m. case,
3 which is Tehum. I'm sorry, remind everyone, those who wish
4 to make an appearance today, should also log into the
5 Court's -- to the extent you have the access to the
6 internet, please log into Southern District of Texas website
7 at your name there and go to my page. You will find a place
8 to make Chapter 11 case appearances, and you can do that.
9 Find a link to this case, just add your name, and you will
10 be recorded for purposes of making appearances.

11 I've muted the entire line. I think everyone was
12 entertained by some lovely background music there. But I'm
13 going to mute the line. If you wish to make an appearance
14 or wish to speak, I'm going to ask that you please hit five
15 star.

16 But I'll take and start with appearances in the
17 courtroom.

18 MR. BROOKNER: Good afternoon, Your Honor, Jayson
19 Brookner from Gray Reed. We actually thought that was your
20 walkup music.

21 With me in the courtroom are my colleagues, Aaron
22 Kaufman, Lydia Webb, Amber Carson. And we also have from
23 Ankura, our Chief Restructuring Officer, Russell Perry, and
24 in-house counsel from Ankura, Michael Russano.

25 THE COURT: Okay. All righty. Afternoon.

1 Anyone else in the courtroom wish to make an
2 appearance?

3 MR. ZLUTICKY: Good afternoon, Your Honor, Nick
4 Zluticky for the Official Committee of Unsecured Creditors.
5 I'm here with my partner Zach Hemenway.

6 THE COURT: All right. Good to see both of you.

7 MR. HAMM: Good afternoon, Your Honor, --

8 THE COURT: Good afternoon.

9 MR. HAMM: -- Blake Hamm from law firm Mehaffy
10 Weber here on behalf of Saint Alphonsus Health Alliance and
11 Saint Alphonsus Health System. And my clients filed a joint
12 objection to this proceeding along with St. Luke's.

13 THE COURT: Yes.

14 MR. HAMM: And their attorney Mr. Glover is on the
15 line.

16 THE COURT: Okay. Great. Good afternoon.

17 MR. HAMM: Good afternoon, Your Honor.

18 MR. NGUYEN: Good afternoon, Your Honor, Ha Nguyen
19 for the U.S. Trustee. I believe Mr. Andrew Jimenez should
20 be in one of those boxes on the screen.

21 THE COURT: Okay.

22 MR. NGUYEN: Thank you. Good to see you.

23 MS. JONES: Good afternoon, Your Honor, Erin Jones
24 on behalf of Capital Region Medical Center and The Curators
25 of the University of Missouri.

1 THE COURT: Oh, perfect.

2 MS. JONES: And I've got co-counsel on
3 GoToMeeting.

4 THE COURT: Okay. Great. Good afternoon.

5 Mr. Patterson, good afternoon, good to see you.

6 MR. PATTERSON: Good afternoon, Your Honor.
7 Johnie Patterson on behalf of the RMSC Plaintiffs.

8 THE COURT: Good afternoon. Okay. Let me open it
9 up if anyone wishes to make an appearance at this point, and
10 obviously please hit five star. I'm muting a 214 number.

11 MR. GLUCK: Good afternoon, Your Honor, Kristian
12 Gluck on behalf of M2 LoanCo.

13 THE COURT: Okay. Afternoon. And I'm unmuting a
14 210 number.

15 MS. HEARD: Good afternoon, Your Honor, Mary
16 Elizabeth Heard on behalf of Ms. Edmo. My co-counsel I
17 believe is on the phone as well.

18 THE COURT: Okay.

19 MS. HEARD: Thank you.

20 THE COURT: Good afternoon. A 206 number.

21 MR. GLOVER: Good afternoon, Your Honor. Bryan
22 Glover on behalf of St. Luke's. Thank you.

23 THE COURT: Okay. Good afternoon, Mr. Glover.

24 Anyone else?

25 (No audible response.)

1 THE COURT: Here is a 248 area code; 248 area
2 code, do you wish to make an appearance?

3 MR. BEAMS: Sorry, yes. Kenneth Beams here on
4 behalf of the Estate of Kerry Milkiewicz.

5 THE COURT: Okay. Good afternoon. And a 630.

6 MR. BEAMS: Good afternoon, thank you.

7 MR. SCHAEFERS: Good afternoon, Your Honor, Scott
8 Schaefers on behalf of the Halo Branded Solutions, --

9 THE COURT: Okay.

10 MR. SCHAEFERS: -- unsecured creditor.

11 THE COURT: Thank you. Okay. Is there a
12 representative from M2 either in the courtroom or on video?

13 (No audible response.)

14 THE COURT: Mr. Gluck.

15 MR. GLUCK: No, Your Honor.

16 THE COURT: Okay. Why don't we talk about
17 mediation? That's where we're going to start today. So I
18 saw something in papers and I want to talk about that, so
19 why don't we start there? Yeah, tell me about -- I saw
20 something in -- I saw a proposed order that was filed that
21 was contemplating mediation. --

22 MR. KAUFMAN: So --

23 THE COURT: Why don't we start there?

24 MR. KAUFMAN: Sure.

25 THE COURT: I don't want to talk about the DIP. I

1 want to talk about mediation.

2 MR. KAUFMAN: Your Honor, Aaron Kaufman for the
3 Debtor. Last night we filed a proposed third interim order
4 on the DIP motion. I believe it has the --

5 THE COURT: I just want to talk about mediation,
6 Mr. Kaufman. Tell me what your thoughts are.

7 MR. KAUFMAN: In terms of what?

8 THE COURT: What was contemplated by the
9 mediation, what are you thinking, about, who do you have in
10 mind, and timing.

11 MR. KAUFMAN: So the idea we -- I think the
12 parties heard, Your Honor, loud and clear that this case is
13 screaming for a global resolution. I think the Debtor
14 certainly agrees that a global resolution would save the
15 estate some time and money if we can get to an agreement.

16 The Debtor and the Committee are both continuing
17 their investigations. The DIP order does extend the
18 challenge period so we can complete that.

19 THE COURT: I only want to talk about -- Mr.
20 Kaufman, read me. Tell me, what do you have in mind with
21 mediation, timing, person, who's in it.

22 MR. KAUFMAN: The who would be the Debtor, the
23 Committee, and --

24 THE COURT: I mean who would be your mediator.

25 MR. KAUFMAN: Oh, apologies.

1 THE COURT: No, no, no, I'm not -- I wasn't clear.

2 MR. KAUFMAN: The Debtor was thinking perhaps
3 Judge Jones. But we did -- we want -- we haven't fully
4 conferred with the Committee. We want to make sure the
5 Committee's on board with who we're thinking.

6 THE COURT: Okay.

7 MR. KAUFMAN: That's why we've given ourselves a
8 couple weeks to talk this out, come back to Your Honor.

9 THE COURT: You're going to -- we're making
10 decisions today. So that one sounds fine to me, okay, if
11 he's willing to do it. And obviously you're going to have
12 to convince Judge Jones to do it. I like the who.

13 Tell me the when.

14 MR. KAUFMAN: The when would be sometime after the
15 Fourth of July holiday. We wanted to give parties time to
16 finish their travels, finish the discovery that is ongoing.

17 The DIP order does have a omnibus --

18 THE COURT: I'm not -- don't want to talk about
19 the DIP order. I just want to talk about timing.

20 MR. KAUFMAN: So mid-July --

21 THE COURT: Tell me when. No one from M2 is here
22 today so we're not -- I'll think about the DIP in a minute.

23 MR. KAUFMAN: Okay.

24 THE COURT: But I just want to talk. I like the
25 who. Tell me the when --

1 MR. KAUFMAN: The when would be mid-July, though --

2 THE COURT: Okay. Sometime in -- well, I've got
3 it. According -- if you can get Jones, then sometime -- I
4 got it, sometime in July you're going to try to get this
5 done according to -- and obviously subject to his agreeing
6 to do it and availability. Okay.

7 Who would be involved in the mediation, I got it,
8 the Debtors and the Committee and who else?

9 MR. KAUFMAN: And obviously M2 LoanCo.

10 THE COURT: Okay. Anyone else?

11 MR. KAUFMAN: There are a number of other parties.
12 I think Perigrove 1018 was one of the parties contemplated.

13 THE COURT: Who is that?

14 MR. KAUFMAN: So in the org structure --

15 THE COURT: Oh, it's one of the org structure, got
16 it.

17 MR. KAUFMAN: So the ultimate -- the direct owner
18 of the Debtor is an entity called Valitas Intermediate
19 Holding. And then one layer up I believe is M2 Hold Co., or
20 it might be M2 Hold Co. Equity. There are a couple of
21 layers above Valitas Intermediate. But above -- ultimately
22 above that the ultimate parent above that is an entity
23 called Perigrove 1018.

24 THE COURT: Yes, okay.

25 MR. KAUFMAN: So -- and as the Committee

1 discovered last week at a deposition, Mr. Lefkowitz is a
2 director. He's the sole director of the Debtor, also
3 director of M2 Hold Co. up the chain, and a director of
4 Perigrove and a partial, one of many owners at that level.
5 So I would imagine Mr. Lefkowitz would participate in the
6 mediation. And that's why the DIP order contemplates one --

7 THE COURT: I don't want to use the word DIP.

8 MR. KAUFMAN: One or more representatives
9 representing those parties.

10 THE COURT: Okay. So that's the who.

11 THE COURT: Anyone else?

12 MR. KAUFMAN: Oh, YesCare would also be a party.

13 They're --

14 THE COURT: So all the kind of --

15 MR. KAUFMAN: -- contemplated in the DIP as well.
16 I know you don't want to hear that but that's where we're
17 focusing.

18 THE COURT: What's the Committee think?

19 MR. ZLUTICKY: Your Honor, the Committee agrees
20 that this case screams for a global resolution. But there's
21 two requirements to get there. One is we have to complete
22 our investigation; so does the Debtor.

23 And the second is, everybody has to come to the
24 table. I can't make YesCare mediate with me. I can't make
25 Perigrove mediate with me.

1 THE COURT: I just want you talk --

2 MR. ZLUTICKY: And so --

3 THE COURT: -- to me conceptually.

4 MR. ZLUTICKY: -- conceptually what we would
5 envision is that the mediation take place with all of the
6 parties against whom we believe the estate has claims.

7 THE COURT: I think it should be broader. I think
8 contemplating mediation, I don't think it should just be
9 limited to the issues. I think I may be putting on more
10 work to someone who's, you know, holding a trial and doing
11 it first thing in the middle of the trial.

12 If you can convince Judge Jones to mediate and
13 he's got the availability, I think it ought to be open to
14 everyone, right. I think if -- and I'm not sure I'm not --
15 I think if there is a party that has litigation here, I
16 think they should have the right to have a -- you know, so
17 in other words, not one grand mediation but a bunch of
18 series of small mediations where if -- Judge Jones is going
19 to have to obviously agree to this. So I may get a call
20 telling me what was I thinking.

21 But what I'm thinking is, you know, a lot of this
22 should be stripped out fast. A lot of these issues can be
23 stripped out really fast. And I -- it seems to me that over
24 the next 60 days either there's a case or not. But I think
25 a lot of this third party litigation, I think an hour or two

1 with Judge Jones, if he's willing to do it, would get rid of
2 a lot of this. I think the parties -- not get rid of it.
3 That's no way of thinking about it. But they could be
4 resolved in a manner which protects everyone's rights. And
5 a lot of this can be done by stipulation.

6 I saw the Edmo set. And if department of -- if
7 Idaho's okay with it, I can sign that one.

8 But it seems to me in the next 60 days we -- there
9 either is a case or there's not. And it's just that simple.

10 And that's what I think everyone's rights -- and I
11 -- obviously I've got the hearing I think in late June where
12 I'll decide a bunch of matters that we talked about. And I
13 think I owe everyone an order that I've got to get out. I
14 didn't realize there were going to be -- I got hit with a
15 number of first days so I had to kind of get through those.
16 And I'm going to jump on that this afternoon and get that
17 out. Then I'll decide those issues in the ordinary course.

18 But it seems to me that we should find out if
19 Judge Jones can mediate and agree to mediate not just with
20 -- not just on the investigation of the issues but with
21 anyone who wants their day, you know, to decide this issue
22 in connection with the lift stay or -- and one -- you know,
23 if they're willing to, the Committee, the Debtor and that
24 individual, can have it and it can happen over the next 30
25 to 60 days, depending on what Judge Jones's schedule can be.

1 So he can hold ten short ones or one big one. I don't know
2 if he's willing to do it. But it seems to me that makes the
3 most sense.

4 And I don't know if any third parties, what their
5 reaction to it is. But I think in the next 60 days there's
6 either a case or there's not. And either there's going to
7 be a deal after you complete your investigation or there's
8 not. And then I think the Debtor's going to have to make
9 decisions about what it decides to do.

10 But I don't want to have a robust conversation
11 about a DIP without -- the DIP lender isn't even here and
12 hasn't been here for the 75 days. And that's enough.

13 So, you know, I -- if -- I'll take reactions from
14 the parties. But if what someone is asking me to do is
15 preserve status quo for 60 days and see if a mediator can
16 resolve a lot of this and the mediator agrees to it and
17 it's, you know, Jones or Isgur or something, I'm fine with
18 that.

19 If it's -- that's not what the parties are
20 contemplating and if M2's asking for more, not going to
21 happen today. But I can preserve status quo.

22 And I think, again, I don't know if Judge Jones
23 will do this. But it seems to me all of -- every -- either
24 everything gets resolved through mediation or through some
25 form of court proceeding in front of me or it doesn't.

1 But it seems to me, for example, like Mr.
2 Patterson's client, that's a stip. I know Mr. Patterson may
3 disagree with me but it seems to me that there is a
4 resolution here to that. And that one should happen really
5 fast.

6 So I know I probably took this in a direction that
7 people weren't thinking, but that's where I'm -- that's
8 where my mind is. And I just need you all think about what
9 I'm saying. And you all want to have moment to think about
10 it, if people have reactions to it, I'm more than happy to
11 listen to it either here or on the line.

12 And has to be one of the people I unmuted.

13 MR. ZLUTICKY: I thought that was our thinking
14 music.

15 THE COURT: Six, three, oh, it's you. Six, three,
16 oh, it is you, whoever you are.

17 Do you all want a few minutes to talk about this
18 internally or what's going on? I'm happy to -- and maybe we
19 can talk about how this proceeds today.

20 But I think quite frankly, Ms. Jones, I think your
21 client -- I think to me that is a -- that's a short session
22 waiting to happen, and that can be resolved in the next 60
23 days and preserving rights.

24 And I think you all tell me what you -- and I say
25 we can -- oh, he's in trial. I can't talk to him right now.

1 But I -- what I don't want is either -- I like the
2 idea. I'm not going to force people to do it but I like the
3 idea. And if people are willing to do it, I'm willing to do
4 this. But everyone has to understand that, you know, July
5 31 or whatever date it is, it's a hard date in my mind in
6 terms of definitive action.

7 And I think it goes in line with what the Debtor
8 was telling me at the beginning of the year was to get on a
9 pace to try to get out by the end of the year. It's putting
10 -- it's requiring people to come to the table.

11 You need to do your investigation. Debtor needs
12 to do its investigation.

13 But other parties need to come to the table. And
14 if they don't come to the table then this is the way to do
15 it --

16 MR. ZLUTICKY: So --

17 THE COURT: -- if not. And they all have to be
18 involved. Who -- all the parties that you listed have got
19 to come to the table. If not, it doesn't make any sense and
20 we'll just have to figure out a different route.

21 I'm willing to sign something that pushes this out
22 for 60 days. And I -- someone's going to have to tell me
23 whether that order just preserves status quo or if it does
24 something different. If all it does is -- in other words,
25 if we -- if you find out something new next week, the order

1 doesn't cover it.

2 MR. ZLUTICKY: So --

3 THE COURT: That's what I mean. We're preserving
4 wherever things are as of the last time that I signed that
5 order. That's what I'm intending.

6 MR. ZLUTICKY: So, Your Honor, if what you're --
7 so may I ask a couple of questions? The first is, does your
8 -- is Your Honor envisioning a mediation of the stay issues
9 separate and apart from the mediation of --

10 THE COURT: Exactly what I'm --

11 MR. ZLUTICKY: -- the investigation?

12 THE COURT: Every -- in other words, everyone can
13 join it.

14 MR. ZLUTICKY: And so that would be an initial
15 mediation of the stay issues.

16 THE COURT: Well, no, I think Judge Jones -- if
17 Judge Jones is willing to do it. So I -- if the mediator is
18 willing to do it, then I envision he or she will either do a
19 -- just a couple of them --

20 MR. ZLUTICKY: Yeah.

21 THE COURT: -- or a lot of them or one of them. I
22 don't know. But I'm going to give them the flexibility to
23 have individual one-offs because there are one-offs. And
24 perhaps, you know, they can have Edmo-type steps or
25 something in these situations and things can continue to

1 move so that the 31st just isn't a large, massive date.
2 That's what I think. But, again, we've got to figure out if
3 it's even going to work or not.

4 MR. ZLUTICKY: And so the idea of doing several
5 rounds of mediation or sessions of mediation on the stay
6 issues would be separate and apart from a mediation or
7 rounds of mediation after the Debtor and the Committee have
8 completed its investigation so that we can mediate with him,
9 too, and YesCare and Perigrove.

10 THE COURT: Maybe yes, maybe not. I don't know.

11 MR. ZLUTICKY: Okay. I think --

12 THE COURT: I -- in other words, I would -- I just
13 -- what I am saying is that an outside date of the 31st --
14 and the parties can -- you know, whenever it makes sense to
15 have the global mediation about the big issues, everybody
16 can figure that out.

17 But if there are -- to me, there are one-offs that
18 can get resolved very quickly, as I see it. And maybe that
19 can happen, quite frankly, the next two weeks.

20 MR. BROOKNER: So may I, Your Honor?

21 THE COURT: Uh-huh.

22 MR. BROOKNER: So there's a few things that you
23 may not be aware of and --

24 THE COURT: I'm sure that's the case.

25 MR. BROOKNER: So and this is in no way meant of

1 course to take issue with Your Honor or --

2 THE COURT: No.

3 MR. BROOKNER: Okay. But so we have a bunch of
4 insurance. The problem, if you will, is that -- not
5 universally but in the main -- we have different policies
6 across the country. But in the main, the claims asserted
7 exceed the available proceeds.

8 And just to pick on Mr. Patterson for a minute
9 because he's an easy target and a friend so I'll just pick
10 on him, that policy, for example, the policy that if he was
11 not -- if his client was not -- if his client was allowed to
12 proceed and get a judgment, that policy, and my numbers may
13 be a little off, there is like \$8 million left on the
14 policy, or thereabouts, but there's like \$18 million worth
15 of claims.

16 And so if Mr. Patterson's client hits on that
17 policy and they hit a homerun, --

18 THE COURT: In the next 60 days?

19 MR. BROOKNER: No, I'm just talking generally
20 speaking.

21 THE COURT: That's all I'm saying, though.

22 MR. BROOKNER: Right.

23 THE COURT: Either you got -- sounds like
24 Mr. Patterson -- sounds like you need to convince
25 Mr. Patterson to join the mediation or a separate session of

1 it.

2 MR. BROOKNER: Well, I -- well that's what I'm
3 saying because if we're mediating these claims --

4 THE COURT: I'm not saying you're mediating the
5 claims. I just -- mediating the issues that are -- in other
6 words, I think --

7 MR. BROOKNER: Because that's where maybe I'm
8 confused. Maybe I'm not exactly following you.

9 THE COURT: No, maybe -- in other words, either
10 I'm going to let Mr. Patterson's clients go litigate or not,
11 and maybe there ought to be guardrails to it. Maybe you can
12 convince me that I shouldn't. Maybe your witness can do the
13 job or not. I don't know.

14 But it seems to me that -- I haven't made up my
15 mind one way or the other as to what you all are going to
16 do. And it seems to me that there could be ways, and I
17 don't know what the mediator may want to take up. The
18 mediator could take up settling the claim itself. The
19 mediator can take up whether how things will play out in the
20 next 60 days. I just think you all have flexibility there.
21 That's what I'm saying.

22 Because I don't think anything's really going to
23 -- I think things could happen in the next 60 days, and
24 there could be really bad things that can happen. But I
25 think within the next 60 days you can tell me whether you

1 have a case or not. That's what I mean.

2 MR. BROOKNER: What do you mean by a case?

3 THE COURT: In other words is I don't know what
4 the global deal is going to look like. But I think you've
5 got 60 days to come -- in other words, I have yet to see who
6 the DIP lender is. I have yet to know anything about the
7 parents and what they're willing to do or not do in the
8 case. And I think they've got to put their cards on the
9 table in the next 60 days.

10 MR. BROOKNER: And -- okay. And to that point,
11 just so Your Honor understands again, the parties that Mr.
12 Kaufman ticked off, my understanding is they've all agreed
13 to come to the mediation so that --

14 THE COURT: No, that's what I'm saying.

15 MR. BROOKNER: That's a done deal. So all we have
16 to do is get in the room and figure out what the answer is
17 with those parties. There's not any cajoling or convincing
18 that has to happen to get them into the room.

19 THE COURT: Then it sounds like you just got to
20 convince Jones to do it then.

21 MR. BROOKNER: We just have to -- and --

22 MR. PATTERSON: Well, --

23 MR. BROOKNER: And I understand anecdotally that
24 he's probably willing to do it. But we do have to touch
25 base with chambers and find out when, you know, and all of

1 that, and then we'll come back.

2 THE COURT: I just think you got a 60-day window
3 to try to fit it in. And I don't know when your
4 investigation ends, but it's got to happen within -- it
5 looks like the DIP had an outside date of July 31st.

6 MR. KAUFMAN: Actually it goes a little beyond
7 that, Your Honor. Your Honor, the proposed order kind of --
8 it stretches things out so we have July 31st, or 14 days
9 after when we complete the mediation. We started in mid-
10 July but it carries on. The ideas, we don't want to
11 prejudice the Committee. Debtor doesn't want to be
12 prejudiced. We want to keep that open --

13 THE COURT: Yeah, I know.

14 MR. KAUFMAN: -- so people aren't having to rush
15 and file motions --

16 THE COURT: I'm telling you --

17 MR. KAUFMAN: -- we're in the middle of --

18 THE COURT: -- July 31st sounds like a really good
19 outside date to me --

20 MR. PATTERSON: Yeah, you're --

21 THE COURT: -- unless you all can really convince
22 me, Jones can come in and convince me or someone, Isgur,
23 somebody can convince me, you know, that you need some more
24 time. But that'll be the date.

25 MR. ZLUTICKY: Your Honor, assuming that we start

1 getting the proverbial cards put on the table, that sounds
2 perfectly reasonable. But as of now I don't have the cards,
3 they're not on the table.

4 THE COURT: No, that's what I'm saying. So --

5 MR. ZLUTICKY: So we --

6 THE COURT: And in terms of these issues, you
7 know, I just think it ought to go broader. In other words,
8 if Ms. Jones's client wants, you know, to see if she can
9 work something out with the Debtor, obviously the Committee
10 ought to be involved in this kind of -- there's going to be
11 public disclosure of it.

12 But to me, to try to reach something that kind of
13 then fits into a bigger puzzle I think makes a lot of sense.
14 And that's what I'm thinking. And maybe it's successful,
15 maybe it's not.

16 That's where I'm going today. I think I agree
17 with you. I don't have any cards and I don't know so I'm
18 trying to think of a way to keep things moving and get me
19 comfortable signing an order today.

20 MR. ZLUTICKY: So, Your Honor, the one thing I
21 will say is unfortunately in the next 30 to 60 days, one of
22 the things that you likely will be seeing are discovery
23 disputes from us because we're not getting information.

24 THE COURT: Bring them.

25 MR. ZLUTICKY: Okay.

1 THE COURT: I'm just saying like we -- just
2 there's an outside window, and if you can convince somebody,
3 if you can convince a mediator, one that everybody can agree
4 to.

5 I just don't want to -- I guess what I'm saying is
6 I don't want to foreclose it because maybe the Debtor wins
7 big today, maybe the Debtor doesn't. And I think it makes a
8 lot of sense to just see if there's going to be a potential
9 mediation, then it ought to be open to just the one issue
10 today because I think, you know, decisions that could be
11 made today one way or the other could affect -- in other
12 words, not -- Debtor could win 60 percent of these. But one
13 of -- the Debtor could lose on two or three of these.

14 But from what you're telling me is if I pick the
15 wrong two or three, then it could have a profound affect on
16 the estate. And that's what I need to kind of figure out.
17 So that's why I'm saying maybe it makes sense for everyone
18 to just kind of get in a room with someone who everybody
19 respects, whoever that is. And I don't want to pick who it
20 is and I don't want to jam anyone. But you all know how to
21 reach out to chambers.

22 Counsel.

23 MR. HAMM: Yes, Your Honor. Blake Hamm for Saint
24 Alphonsus. You had asked perhaps if any of the parties and
25 actual defendants in this case had any thoughts on the

1 procedure.

2 Number one, Your Honor, with respect to your
3 statement that the case should be resolved within the next
4 60 days or at least we know probably what's going to happen,
5 Saint Alphonsus absolutely agrees with that statement.

6 With respect to mediation, I obviously have to
7 confer with my client but I believe they'd probably be very
8 amenable to that, see if something could be worked out, in
9 particular because we're in an adversary proceeding and we
10 haven't even had a Rule 26(f) conference.

11 With regards to the mediator, Your Honor,
12 obviously Judge Jones is a fine mediator. We think there
13 are other fine mediators as well. So just if Judge Jones is
14 jammed up, I know he's jammed up because I jus had a hearing
15 tomorrow get thrown into the wind because he's jammed up,
16 you know, I know there are other really good people --

17 THE COURT: Right.

18 MR. HAMM: -- who could handle it. Judge
19 Felsenthal or somebody, there are lots of them who could
20 handle this I think, Your Honor.

21 I think I just wanted to say this. With respect
22 to our concerns, Saint Alphonsus's concerns, Judge, with
23 whether or not this case can be resolved in the next 60
24 days, Saint Alphonsus's greatest concern is that the Debtor
25 is too conflicted to do that. Its sole director is Mr.

1 Lefkowitz. Mr. Lefkowitz is also director of every other
2 party that would be at the mediation. We're concerned that
3 that will make resolving this case fairly to be a difficult
4 proposition. Thank you, Your Honor.

5 THE COURT: Thank you. Okay. Let me ask. Is --
6 of course.

7 MR. BROOKNER: So I want to try to maybe
8 reformulate a little bit, Your Honor. Just, again, I'm just
9 trying to work through this.

10 So what it sounds like you're really asking for,
11 if I'm understanding you correctly, is effectively two
12 mediations: one mediation to mediate this adversary
13 proceeding and what we're going to do with the stay and how
14 that all plays out and if people get stippled, if they don't,
15 or if there's a resolution.

16 And the second is the more global mediation for
17 the whole case which involved two different sets of people
18 but potentially the same mediator. Is that a fair
19 characterization of what you're asking us?

20 THE COURT: I think it is. And I'll tell you why.
21 One, I think if I preserve the status quo today in terms of
22 what everybody's knowledge is with respect to the DIP and
23 information that one knows about the DIP lender, I think
24 decisions -- you know, I could make decisions today that
25 could very well affect the viability of any future mediation

1 today.

2 So I'll essentially made decisions today
3 potentially. We haven't heard any evidence. I don't know
4 which way it would go. But I could essentially affect or
5 materially hamper the ability of any mediator to effectively
6 resolve any global issues.

7 So there could be a mediation to resolve the
8 adversary and a mediation to -- but they all have an outside
9 date of 60 days. But within the 60 days I think there are
10 individuals within the adversary that can be easily
11 resolved --

12 MR. BROOKNER: Just like we do with Ms. Edmo and
13 there was --

14 THE COURT: And I think there's a way to --

15 MR. BROOKNER: -- another Ninth Circuit case --

16 THE COURT: Yes. I think there's a bunch of -- a
17 couple of them, maybe not all, and that could be resolved
18 with it before the what I would call grand bargain --

19 MR. BROOKNER: Right.

20 THE COURT: -- mediation, if there is to be one.

21 And if there were discovery disputes along the
22 way, I just think one way or the other in 60 days I've got
23 to make a hard decision on "A" or "B." They almost have to
24 kind of go in total today.

25 But I can't extend anything else to the DIP lender

1 than -- other than preserving the status quo today. If they
2 were looking for any other abilities, any rights, any other
3 additional releases, whatever, everything is preserved today
4 so that if someone finds something out later to challenge,
5 there's no additional challenge period.

6 And I'm not saying anything bad about M2. What I
7 am saying is just we're just preserving this. I want an
8 outside date of July 31st.

9 If you can resolve a few of the steps, it may make
10 the 31st hearing a lot simpler one way or the other. Or we
11 can -- there's something on the table that everyone can look
12 at and maybe some folks like it, maybe some folks don't.
13 But we'll know more.

14 MR. BROOKNER: So from the Debtor's perspective,
15 Your Honor, we're in for that. If that's how Your Honor
16 goes today, we're very happy with it, we'll take you up on
17 that offer, and we'll execute appropriately to make sure we
18 get done what we need to get done, outside of any discovery
19 disputes that may exist between the Committee and third
20 parties or the Debtor and other third parties. Those are
21 just going to have to play themselves out.

22 But insofar as this concept of two mediations with
23 a grand bargain mediation later and the other ones stippling
24 people in and out, you know, the Debtor is very comfortable
25 with that and we're happy with it.

1 I do want to make a comment in response to Mr.
2 Hamm's comment about the conflict issues. The Debtor
3 strongly disagrees with that. First of all, the Debtor has
4 an independent chief restructuring officer who is vested
5 with all decision-making authority in this Chapter 11 case
6 to the extent that there might be a conflict with the sole
7 director.

8 And you would -- if we get to the testimony, I
9 don't know if we're going to get there or not, one of the
10 things you will hear or maybe would have heard from Mr.
11 Perry is that, for example, in this adversary proceeding, he
12 made all the decisions. This is all him. This is not other
13 people whispering in his ear or anything like that.

14 And so, you know, Mr. Lefkowitz is not my brother
15 or my father, right. But I do have to take issue with this
16 conflict situation, if you will, and the conflict allegation
17 because there are plenty of other people at all of the other
18 different levels that can step in. And we're not going to
19 have any conflict issues.

20 And I'll also tell you that there is a desire to
21 reach a global resolution, which is why I was able to tell
22 Your Honor a few minutes ago that the people listed off by
23 Mr. Kaufman are ready to come to the mediation table.

24 And so I just wanted to be clear that we don't
25 think there's a conflict issue. We take issue with that

1 allegation. And we're going to make sure that everything is
2 tied up in the neatest bow that it can be tied up in as soon
3 as possible based on the parameters that Your Honor gives
4 us.

5 THE COURT: All right. Agree that there could be
6 other mediators. They threw out one name and I just
7 obviously agreed with that name.

8 But, you know, what I am going to do -- what I'm
9 willing to do today is just extend everything out for until
10 July 31st. And it's really not 60 days. It's really until
11 July 31st to get everything done.

12 But I'm going to give every party that wishes to
13 have -- and really the Debtor needs to prepare a chart,
14 quite frankly, for -- well, one -- within I'd say by Friday
15 you got to pick a mediator. If Jones says he'll do it I'll
16 obviously -- he may want to hear that I'm okay with the
17 concept, if he's okay with it, you know, everything I've
18 proposed. If not, then we need to have an emergency hearing
19 and kind of figure out what we're going to do differently.

20 Then someone get an order by Friday, I sign the
21 order, you know, appointing whoever it is as mediator.

22 If parties seek to resolve their issues through
23 the mediation, and I'm not forcing anyone to do it, parties
24 seek to mediate with whoever the mediator is -- but it's
25 going to be the same mediator. I don't want ten different

1 mediators. It's going to be whoever it is is going to have
2 global knowledge because they're going to have to consider
3 everything and the big and the small, you know, I'm fine
4 with parties stippling it out.

5 I'm also fine with parties coming in and telling
6 me this ain't working and we got to do something different.
7 So I'm completely open to that.

8 But I assure everyone -- but, you know, I mean,
9 hear me. Like July 31st isn't a fake date. It's entirely
10 real. And there has to be something on the table. I'm
11 telling this not because -- not for the Debtor, not for the
12 Committee but for everyone else who may be listening to me
13 that thinks that, you know, this is going to drag out. It's
14 just not. It just has -- there has to be something you pass
15 forward. And maybe there's a ray of light. And I'm
16 certainly not saying that everything has to be buttoned up.
17 But within 60 days there has to be a global path.

18 And not everybody has to agree with the path. But
19 there has to be something on the table, right. I mean, the
20 Debtor could come up with something the Committee may not --
21 may hate it. But there's something on the table that folks
22 can agree or disagree with, like, not like. And that's
23 fine.

24 I hope everyone's hearing me loud and clear on
25 this.

1 Everybody's working really hard. It just -- there
2 just -- either there's something here or there's not. And
3 someone's thinking about a mediation as a way to do it then
4 I'm all for it if the parties are willing to do it.

5 So I still have rulings to do in June, the
6 hearings that I set. So I don't know if that impacts one
7 way or the other this or not. I have to kind of go and
8 compare.

9 But I think the Debtor needs to prepare a chart,
10 whoever the mediator, and say, here are all the people who
11 could potentially come knocking on your door, here's all the
12 -- everything we know. Here are the potential -- you know,
13 here's an org chart, here's a -- here are the potential
14 players, and here are parties related to the adversary and
15 here are parties related to the global issue.

16 And there could overlap obviously. And parties,
17 obviously the Committee would have to be involved in all of
18 this.

19 And everybody's going to get due process and
20 rights and -- anyway. Those are my thoughts.

21 MS. SPEAKER: Your Honor, --

22 THE COURT: There's a 205 number. Here, hold on,
23 let me just unmute their --

24 MR. EARLY: Good afternoon, Your Honor. I'm Val
25 Early in Birmingham --

1 THE COURT: Mr. Early, yes.

2 MR. EARLY: -- representing Tracey --

3 THE COURT: I apologize if --

4 MR. EARLY: -- Grissom. Thank you.

5 THE COURT: -- I didn't --

6 MR. EARLY: Quite all right. God, --

7 THE COURT: Thank you.

8 MR. EARLY: -- I was trying to figure out if I had
9 mashed the buttons the right way, and apparently -- thank
10 you for --

11 THE COURT: Oh, no.

12 MR. EARLY: -- hearing me. I believe I have heard
13 you correctly. And if I have not, please excuse it to the
14 waverings of an old country lawyer. My client --

15 THE COURT: You're setting me up, Mr. Early.

16 MR. EARLY: -- is not a member of this AP. No,
17 sir, I'm not. I'm being painfully honest.

18 My client is not part of this AP. But to the
19 extent that my client has a seat at any mediation table,
20 we'd be delighted to talk.

21 Is it my correct understanding that the so-called
22 second global or final deal or whatever we going to call it,
23 mediation, would include people like my client who has
24 currently pending a motion for relief from the stay to
25 proceed to trial against co-defendant non-debtors; is that

1 accurate?

2 THE COURT: Mr. Early, I would make sure -- I --
3 let's see --

4 MR. EARLY: You would make sure --

5 THE COURT: No, no, no, I'm just looking at -- I'm
6 looking at your claims. I'm just making sure that what I'm
7 saying would fit one way or the other.

8 MR. EARLY: Yes, Your Honor.

9 THE COURT: Remind me who Mr. Early represents.
10 The --

11 MR. EARLY: Tracey Grissom. She is a plaintiff in
12 Alabama Middle who has survived summary judgment and was six
13 days away from trial against Corizon.

14 THE COURT: I'm going to make sure that you -- I
15 don't -- I will make the call and I will add you to that
16 list.

17 MR. EARLY: Thank you very much. I appreciate
18 that, Your Honor.

19 THE COURT: You may have already --

20 MR. EARLY: And I will mute myself.

21 THE COURT: -- been added but I'll make sure and
22 add you to that list.

23 MS. HEARD: Your Honor, this is Mary Elizabeth
24 Heard on behalf of Ms. Edmo. Just two things I just wanted
25 to -- before we forget about it here.

1 We have two stipulations pending. One is in the
2 adversary and one is in the main case. And I just as an
3 officer of the Court can represent to you that the Idaho
4 Department of Corrections has signed off on those. And we
5 -- I just wanted to make sure you knew there were two and
6 that we were all in agreement --

7 THE COURT: Can you --

8 MS. HEARD: -- and also --

9 THE COURT: -- just tell me which docket numbers
10 they are? I just want to make sure. And then Ms. Funk is
11 here. I'm just going to get the head-nod. And if that's
12 the case then I'll --

13 (Pause)

14 MS. HEARD: Okay. While I'm looking for them, the
15 other issue, Your Honor, is just that we are -- have been
16 resolved from the -- in the interim DIP order that's been
17 proposed and that will I imagine be in front of you shortly.

18 The -- but we do want to reserve our rights with
19 regard to the final order so I just wanted to make sure that
20 we are a party to whatever mediation. We wouldn't
21 necessarily, you know, have to participate in the end of we
22 can resolve our issues. But we just don't want to be
23 shutout from whatever mediation is addressing the DIP and
24 the global --

25 THE COURT: Yeah. I don't think mediation's --

1 MS. HEARD: -- resolution. That's all.

2 THE COURT: -- going to address the DIP. I think
3 mediation's going --

4 MS. HEARD: Okay.

5 THE COURT: -- to address path forward. And I
6 think the Debtor's still going to have to -- the Debtor
7 wants to continue, I think the Debtor's going to have to
8 obviously file something.

9 And everybody -- all of your rights would be
10 reserved with respect to the DIP on a final basis. And I
11 certainly don't mean to infringe upon anyone on that.

12 MS. HEARD: Okay. I just wanted the -- thank you
13 for saying that because I wasn't completely sure. So thank
14 you.

15 THE COURT: No, I appreciate it.

16 MS. HEARD: And I'm getting you the numbers right
17 now.

18 THE COURT: Ms. Funk, can you just confirm that
19 you're okay with the two --

20 MS. FUNK: Yes, Your Honor. For the record,
21 Brenda Funk for the State of Idaho and Idaho Department of
22 Corrections. We can confirm that the stipulation as filed
23 is acceptable to the State of Idaho.

24 THE COURT: Thank you very much. I appreciate it.
25 And I apologize. I signed that one. I didn't realize. I

1 should have given that a little bit more time and
2 opportunity for everyone to review, so that's on me. And I
3 apologize. But I'm glad that everything got corrected.
4 Thank you.

5 MR. BROOKNER: Your Honor, we just found them.
6 It's number 567 in the main case and number 38 in the
7 adversary. They're identical. It's the same stip. We just
8 filed them in both places because we had orders in both
9 places.

10 THE COURT: Okay. So five, six, seven, and 38.

11 MR. BROOKNER: And they're both -- even though
12 they're docketed as just stipulation, we couldn't put the
13 word "amended" in.

14 THE COURT: No, got it.

15 MR. BROOKNER: But on the piece of paper it says
16 amended.

17 THE COURT: Okay. Got it.

18 MS. FUNK: Thank you, Your Honor.

19 THE COURT: Thank you. Ms. Saldana, --

20 MS. HEARD: That's right. Thank you.

21 THE COURT: -- can we pull five, six, seven and 38
22 and put them aside for me to be able to review and sign
23 today? Okay.

24 July 31st is clear. August 1st is clear.

25 (Pause)

1 MR. ZLUTICKY: Your Honor, --

2 THE COURT: Yeah.

3 MR. ZLUTICKY: -- I know that Your Honor said
4 July 31st is a hard deadline. But I do have a family trip
5 July 30th to August 2nd and so --

6 THE COURT: No, no, I need to get a --

7 MR. ZLUTICKY: -- if Your Honor is contemplating a
8 hearing, --

9 THE COURT: Well, I was contemplating a hearing.
10 And that's helpful to know. I just mean sounds like you all
11 need to then get a deal done by the 28th.

12 MR. ZLUTICKY: Absolutely.

13 THE COURT: Don't blame me if you don't.

14 MR. ZLUTICKY: Absolutely. I'm not getting in the
15 car if we haven't.

16 THE COURT: Oh, you said what dates?

17 MR. ZLUTICKY: Thirtieth through the 2nd, Your
18 Honor.

19 (Pause)

20 THE COURT: August 4th at 10:00 a.m.

21 Ms. Saldana, we're going to have to move the 9:00
22 a.m. We'll figure out how to do that this afternoon.

23 I'm going to have a -- what is this -- oh, it's a
24 pretrial, okay.

25 July 18th at 10:00 a.m. I want to have a check-in

1 and see -- tentative, just status conference. I don't need
2 to know specifics. I just need to know kind of we can check
3 in and see where things are going. July 10th check-in; on
4 June 13th, 9:00 a.m., status conference.

5 MR. ZLUTICKY: And, Your Honor, what time was the
6 check-in on July 10th?

7 THE COURT: Ten a.m.

8 MR. ZLUTICKY: Thank you.

9 THE COURT: Nine a.m. on the June date. May
10 mediation order picking -- if we need to have a status
11 conference on who that is. I know, didn't I say 10:00 a.m.?
12 And then there's a June date that I picked also, June 13th
13 at 9:00 a.m. Just it's a pencil. We don't need to
14 necessarily have it. But if things are fluttering, I want
15 to know about it. I don't want to wait until the end.

16 In other words, if the Committee -- I'm making
17 something up. If the Committee says folks aren't showing up
18 and, you know, not everybody's what they've said, no one's
19 showing up, and I can't get everyone here or the -- I want
20 to know about it in June rather than middle of July. That's
21 kind of -- but if everything is moving then there's nothing
22 to talk about.

23 Or there could be a date where some stips could be
24 presented. I'm just carving out a hearing date there. So
25 if there were some stipulations that people wanted to

1 present, you know, maybe that's a date that you can -- you
2 know you've got and parties can have it and present it.

3 May -- by Monday I should be entering a mediation
4 order appointing a mediator by Monday at the latest.

5 Mr. Patterson.

6 MR. PATTERSON: I guess up until just the last few
7 minutes I thought we were kind of discussing options. But
8 now sounds like this is what you're going to do and --

9 THE COURT: That's what I'm going to do.

10 MR. PATTERSON: And I show up or I don't show up,
11 it's up to me. And I don't show up, when do I get my
12 hearing?

13 THE COURT: That August date is going forward no
14 matter what.

15 MR. PATTERSON: So I --

16 THE COURT: I'm not moving it.

17 MR. PATTERSON: So I don't get my hearing until
18 August the 8th, that's what's happening today.

19 THE COURT: That's what's happening today.

20 MR. PATTERSON: All right. Second piece --

21 THE COURT: Well, I -- well, let me -- with one
22 caveat, Mr. Patterson, and that is, all right, if there
23 isn't a mediator, if, you know, this starts to flutter and
24 it starts to look like it's going to flutter in early June,
25 I'm going to push up that date really fast and everybody's

1 -- and you're going to -- you'll have your date well before
2 then.

3 MR. PATTERSON: All right. And if I choose -- I
4 decide I'm not going, can I file a notice and get a hearing?

5 THE COURT: Maybe.

6 MR. PATTERSON: I mean, I can try obviously.

7 THE COURT: Absolutely.

8 MR. PATTERSON: I mean, I know you're going to
9 read it but --

10 THE COURT: No, no, no, agreed, agreed, yeah.

11 MR. PATTERSON: I'm just trying to figure out --

12 THE COURT: Yeah.

13 MR. PATTERSON: -- the process here.

14 THE COURT: That's exactly right. I think that's
15 fair.

16 MR. PATTERSON: All right. And it's not going to
17 be with -- it'll be my hearing or maybe me and three others
18 or five --

19 THE COURT: I'll consider it. Yeah, I'll --

20 MR. PATTERSON: -- others or --

21 THE COURT: -- consider it, yeah, absolutely.

22 MR. PATTERSON: All right. Second thing, there
23 are a couple of conditions that I would hope that the Court
24 would consider --

25 THE COURT: Okay.

1 MR. PATTERSON: -- that might change my decision,
2 my client's decision. Number one, there are, what, five
3 pages of insurance policies that we still have no
4 information on. Now, I know what Mr. Brookner tells you.
5 Oh, Patterson's claim is capped with a \$5 million insurance
6 policy. Well, I don't know that. He hasn't give me that --
7 and I'm not pointing my finger at Mr. Brookner. The Debtor,
8 but he's an easy target as I am, right. I don't have that
9 information. And when am I going to get this information?
10 And when are all these litigation parties going to get this
11 information --

12 THE COURT: Hold on, hold on.

13 MR. PATTERSON: -- about the type of policy, the
14 amounts, what's left, is there a cap, is there overage, is
15 there an umbrella? We need to know because this makes a
16 huge difference. And I just feel like we're being kept in
17 the dark and trying to be pushed along going, you're just
18 going to have to trust us, and this is why we're getting an
19 extension. Not that I don't trust them. But let's get some
20 information here, right.

21 THE COURT: That's -- hold on.

22 MR. PATTERSON: And I would like --

23 THE COURT: That's condition one.

24 MR. PATTERSON: -- the Court to make that a
25 condition, that the Debtor will do this, right.

1 Number two doesn't generally affect me, but it
2 does, and the Court's talked about -- not the Court but some
3 of the parties have talked about this alleged conflict of
4 Mr. Lefkowitz and Mr. Perry. Again, I'm looking for
5 information. And I'm told Mr. Perry is the man in charge,
6 he has all authority.

7 I either want Mr. Perry to sign the schedules
8 because he didn't sign the schedules. He's the man in
9 charge but he didn't sign the schedules. Mr. Lefkowitz did.
10 Or get Mr. Lefkowitz in here and let's talk to him, right.
11 Let's get a 2004 and you give us as much time as we need
12 with him if he's the man with the knowledge.

13 But they can't play one off of the other, right.
14 They either have someone in charge that has this
15 information, that's willing to swear to it without, you
16 know, 15 pages of conditions and carveouts and maybes.

17 Sign the schedule like every other debtor does
18 because there's enough here now that it's making me a little
19 concerned about who's saying what and where the real
20 information is, and are they playing shuffleboard with the
21 parties in order to minimize the hard questions.

22 So my two requests that would go a long way in
23 getting my clients are those two things.

24 THE COURT: I know you stood up. I figured --

25 MR. BROOKNER: Well, I think, Your Honor,

1 respectfully of Mr. Patterson, he needs to ask me questions
2 and not make accusations about failures to provide
3 information when it's never been asked for, number one.

4 Number two, it might make sense for Mr. Patterson
5 to talk to his faraway counsel in New York who's been in
6 that case since it was filed five years ago to find out what
7 information that lawyer has.

8 So that's number three, Mr. Patterson also knows
9 very well what Rule 2004 provides and how to ask for a 2004
10 exam.

11 So I just want that to be clear, which is
12 everything that my friend over here just said has not ever
13 been said before. So I just -- so it's clear for Your
14 Honor.

15 MR. PATTERSON: That's correct. These things came
16 up today, right. And I hope I --

17 THE COURT: Yeah.

18 MR. PATTERSON: -- didn't accuse you of anything.

19 THE COURT: No --

20 MR. BROOKNER: Well, we --

21 MR. PATTERSON: We talked about insurance.

22 MR. BROOKNER: -- accuse us.

23 MR. PATTERSON: But we still don't have the
24 insurance information. All --

25 THE COURT: I got it.

1 MR. PATTERSON: -- I've gotten is what was told
2 today, there's a \$5 million cap and there's 13 --

3 THE COURT: No, no, I --

4 MR. PATTERSON: -- or eight million and 13 --

5 THE COURT: And I --

6 MR. PATTERSON: -- million claims.

7 THE COURT: Mr. Patterson was going to wait to see
8 if you could prove your case and see if you were going to
9 put it on.

10 MR. PATTERSON: That's right.

11 MR. BROOKNER: And he should also know that the
12 insurance company is defending on our reservation of
13 rights --

14 THE COURT: No, no, no.

15 MR. BROOKNER: -- in his case.

16 THE COURT: I'm just saying that's why he didn't
17 ask for it. He was going to see if you could prove your
18 case and say you couldn't --

19 MR. BROOKNER: And I would --

20 THE COURT: -- one way or the other.

21 MR. BROOKNER: -- have proved it today if we went
22 forward, Your Honor.

23 THE COURT: So --

24 MR. PATTERSON: So we have insurance information?

25 THE COURT: No, so, look, what I will say is this.

1 Seems to me that a lot of what the parties have raised, I'm
2 well aware of. And this is why I think some of this would
3 make a lot of sense to just deal with. I think none of what
4 I'm proposing should stop the information flow process. I
5 think quite frankly I'm advocating for it.

6 I -- someone needs insurance information then I
7 just think it should not be difficult to get. I get it,
8 someone has to ask for it. But to me the flow of
9 information should be relatively easy obviously within the
10 -- follow the rules and everybody should proceed if somebody
11 needs a 2004 exam.

12 But I'm hoping, in other words, before a lot of
13 money gets spent and everyone, there are 30 maybe a couple
14 of hours with mediator, if we can find one that can do it
15 who I'm loading up with -- they don't even know I'm --
16 they're being loaded up, to me, this makes a lot of sense if
17 that's the case.

18 MS. WEBB: Your Honor, Lydia Webb of Gray Reed.

19 As the mistress of the calendar, I'm now making my
20 appearance to try to feel out exactly what Your Honor wants
21 from us as far as scheduling goes.

22 First, I want to make sure that I confirm the
23 dates and, second, what exactly Your Honor is asking of the
24 Debtor as far as an order or --

25 THE COURT: I don't think you need to do anything.

1 I'm just -- I'll enter an order. I'll just continue today's
2 hearing to that date, whatever date I set, the August date.

3 MS. WEBB: August 4th at 10:00 a.m.

4 THE COURT: That sounds right. And Ms. Saldana
5 will tell me if that date doesn't work. But I will confirm
6 with the person who can affirm it. But pencil in that date.

7 And then we will have the status conferences on
8 the two dates that I kind of check-in. And they could also
9 be used if, let's say -- why don't we -- I'm almost thinking
10 about this like an omnibus hearing date, you know, where
11 something needed to -- somebody had stips or someone wanted
12 to just check in, we could talk about stuff or I could --
13 someone could ask me to sign things and they can be put on
14 notice.

15 But you know that those dates work so you kind of
16 have them there. Maybe they're used, maybe they're not.
17 Maybe they tell me things are going wrong and I've got to
18 adjust everything. But that's the way I'm thinking about
19 this.

20 And I just need a mediator by Monday if this
21 process is going to really work because I'm going to jam you
22 and make you figure something out over the next couple of
23 weeks.

24 But every party that's listed on that order, and
25 if there's some that are -- need to be involved, it's got to

1 make sense for whoever's supposed to be on there to show up.
2 And that means, you know, what I don't want is for the
3 middle of June the Committee to tell me I still don't have
4 information. Like that's just a -- in other words,
5 everything should not be loaded for some grand mediation
6 day. It should be a free-flowing information if this is
7 going to really be fruitful.

8 MR. KAUFMAN: Your Honor, at the appropriate time
9 I wanted to get back into the proposed DIP order and how --

10 THE COURT: I know. You can't help yourself. You
11 just cannot help yourself.

12 MR. KAUFMAN: I can't.

13 THE COURT: No.

14 MR. KAUFMAN: I can't. And now may not be the
15 right time, but I think it does fit into the schedule --

16 THE COURT: Okay.

17 MR. KAUFMAN: -- pretty well. But --

18 THE COURT: I -- no, no, no.

19 MR. KAUFMAN: -- we can wait.

20 THE COURT: No, no, tell me now.

21 MR. KAUFMAN: So the proposed interim DIP order,
22 to your point, really does maintain the status quo. It
23 pushes the --

24 THE COURT: Okay.

25 MR. KAUFMAN: challenge period out, so no changes

1 there.

2 It extends the milestone to enter a final DIP
3 order. And I've conferred with Mr. Gluck off the record the
4 DIP lender would agree to continue the milestone out to a
5 final hearing. I think we would propose to put it at August
6 4th to kind of keep things out.

7 THE COURT: Why don't we put it August 10th just
8 in case that date doesn't work. It's just the -- an outside
9 date.

10 MR. KAUFMAN: Okay. August 10th.

11 THE COURT: I don't know if -- wait, make sure I
12 didn't just give you a Saturday. No, August 10th is
13 Thursday. I'm just using that as an outside date just in
14 case the 4th -- I don't know, things come up and I just
15 don't want to --

16 MR. KAUFMAN: And then --

17 THE COURT: -- have a hearing to just push the
18 date out.

19 MR. KAUFMAN: -- in paragraph three of the
20 proposed DIP order, this is at Docket 573, there are some
21 conditions in the DIP order that the Committee was
22 contemplating for a mediation. One was attendance by the --
23 all the parties.

24 Two was substantial production of the outstanding
25 requests.

1 But, three, there was -- there would be an omnibus
2 hearing on discovery disputes. We had penned June 16th.
3 But I think it would work to put that on the June 13th
4 check-in hearing. And I'll confer --

5 THE COURT: No, I mean, you can -- let's see, June
6 16. No, no, no, June 16th I've got -- that date is now
7 gone. I gave it yesterday.

8 MR. KAUFMAN: Yeah. I -- in fairness, I don't
9 think we had conferred with Ms. Saldana on --

10 THE COURT: No, no, no, no, yeah, no, no, no. I
11 just -- the reason -- the 13th -- the reason I picked the
12 13th, the 16th I've got the afternoon of Vision Healthcare
13 just took a -- that was like on Monday or so.

14 MR. KAUFMAN: What we would propose to do is put
15 the omnibus --

16 THE COURT: I can --

17 MR. KAUFMAN: -- discovery date on the 13th
18 instead.

19 THE COURT: Yeah. But really what you're hearing
20 out of me is if -- you can always come in sooner than that,
21 too. And I -- seriously, this really has to kind of really
22 move. And I'm not -- but don't come in here to -- litigate,
23 you're a pro. I mean, come in sooner if you really have to.
24 If not, then let's just wait until the 13th. But if there's
25 a real problem then, you know, you can always come in sooner

1 than that.

2 MR. PATTERSON: Understood. Thank you, Your
3 Honor.

4 THE COURT: All right. I can type that in. I can
5 type in that tweak.

6 Zilde, you better have been taking good notes to
7 see what dates I set. That's the Clerk value add.

8 All righty, folks, thank you. Have a good day.

9 THE CLERK: All rise.

10 (Proceeding adjourned at 2:00 p.m.)

11 * * * * *

12 I certify that the foregoing is a correct
13 transcript to the best of my ability due to the condition of
14 the electronic sound recording of the ZOOM/video/telephonic
15 proceedings in the above-entitled matter.

16 /S/ MARY D. HENRY

17 CERTIFIED BY THE AMERICAN ASSOCIATION OF
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20 JTT TRANSCRIPT #67253
21 DATE FILED: MAY 30, 2023

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