

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:)	Chapter 11
)	
PHYSIOTHERAPY HOLDINGS, INC., <i>et al.</i> , ¹)	Case No. 13-12965 (KG)
)	
Debtors.)	Joint Administration Requested
)	

**DEBTORS' MOTION FOR ENTRY OF AN ORDER
(A) AUTHORIZING THE DEBTORS TO FILE A CONSOLIDATED
LIST OF CREDITORS IN LIEU OF SUBMITTING A SEPARATE MAILING
MATRIX FOR EACH DEBTOR AND (B) EXTENDING THE TIME, AND,
UPON PLAN CONFIRMATION, WAIVING THE REQUIREMENT,
TO FILE SCHEDULES AND STATEMENTS OF FINANCIAL AFFAIRS**

The above-captioned debtors (collectively, the "*Debtors*") file this motion for entry of an order, substantially in the form attached hereto as Exhibit A (the "*Order*"), (a) authorizing the Debtors to file a consolidated list of creditors in lieu of submitting separate mailing matrices for each Debtor, (b) extending the time for the Debtors to file the schedules of assets and liabilities,

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal taxpayer-identification number, are: Physiotherapy Holdings, Inc. (5193); Actra Rehabilitation Associates, Inc. (7806); Alexandria Sports, Inc. (7654); Benchmark Acquisition Corp. (3850); Benchmark Medical Management Company (0335); Benchmark O&P Holdings, Inc. (6848); Benchmark Orthotics & Prosthetics, Inc. (7000); Blue Hen Physical Therapy, Inc. (7267); Cape Prosthetics-Orthotics, Inc. (7914); Carrollton Physical Therapy Clinic, Inc. (2832); Integrity Physical Therapy, Inc. (1075); Keystone Rehabilitation Associates of Warren (8341); Keystone Rehabilitation Systems, Inc. (8380); Keystone Rehabilitation Systems of McMurray (6304); Leesburg Sports, Inc. (4190); MATRIX Healthcare Services, LLC (7344); MATRIX Rehabilitation, Inc. (3147); MATRIX Rehabilitation-Delaware, Inc. (2504); MATRIX Rehabilitation-Georgia, Inc. (4073); MATRIX Rehabilitation-Ohio, Inc. (2505); MATRIX Rehabilitation-South Carolina, Inc. (5603); MATRIX Rehabilitation-Texas, Inc. (9542); Morris Area Rehabilitation Association, Inc. (2043); North Dallas Physical Therapy Associates, Inc. (5331); Northstar Health Services, Inc. (7152); NSHS Services, Inc. (6789); Orthopaedic Services of Paducah, Inc. (3143); PhysioLink Corporation (3705); Physiotherapy Associates Holdings, Inc. (3367); Physiotherapy Associates, Inc. (7193); Physiotherapy Associates-Union Rehab, LLC (0041); Physiotherapy Corporation (3816); Physiotherapy-BMHI Holdings, Inc. (3361); Physiotherapy-BMI, Inc. (4107); Potomac Rehabilitation Services, Inc. (2725); Professional Rehab Associates, Inc. (2393); Progressive Therapy Services, Inc. (8449); Rehab Associates, L.L.C. (9381); Rehab Colorado, LLC (5804); Rehab Missouri, LLC (0587); Rehab Xcel, LLC (0586); Rehabilitation Consultants, Inc. (1166); R.S. Network, Inc. (9104); SMR Banyan Tree, Inc. (6933); Swanson Orthotic & Prosthetic Center, Inc. (2308); The Parks Physical Therapy and Work Hardening Center, Inc. (2926); Theraphysics Partners of Colorado, Inc. (2115); Theraphysics Partners of Texas, Inc. (9976); Therapy Associates of Martinsville, Inc. (1394); Trumbull P.T. Corp. (3855); Wisconsin Prosthetics and Orthotics, Inc. (7815). The Debtors' main corporate address is 855 Springdale Drive, Suite 200, Exton, PA 19341.



the schedule of current income and expenditures, the schedule of executory contracts and unexpired leases, and the statements of financial affairs (collectively, the “*Schedules and Statements*”) through and including January 15, 2014 (the “*Deadline*”) and (c) waiving the requirement that the Debtors file the Schedules and Statements upon confirmation of the Plan (as defined below) if confirmation occurs on or before the Deadline. In support of this motion, the Debtors respectfully state as follows:

Jurisdiction

1. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2).
2. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.
3. The statutory bases for the relief requested herein are sections 105(a) and 521 of the Bankruptcy Code, Rule 1007 of the Federal Rules of Bankruptcy Procedure (the “*Bankruptcy Rules*”) and Rules 1001-1(c), 1007-1, 1007-2 and 2002-1 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the “*Local Rules*”).

Introduction²

4. The Debtors are the largest pure-play providers of outpatient physical therapy services in the United States with a national footprint of 581 outpatient rehabilitation and orthotics and prosthetics clinics located in 29 states plus the District of Columbia. With over 1,500 clinicians managing over 2.9 million patient visits per year, the Debtors provide the entire spectrum of outpatient rehabilitation therapy, including physical therapy, sports and industrial

² A detailed description of the Debtors and their businesses, and the facts and circumstances supporting this motion and the Debtors’ chapter 11 cases, are set forth in greater detail in the Declaration of Martin McGahan, Chief Restructuring Officer and Interim Chief Executive Officer of Physiotherapy Holdings, Inc., in Support of First Day Pleadings (the “*First Day Declaration*”), filed contemporaneously with the Debtors’ voluntary petitions for relief filed under chapter 11 of title 11 of the United States Code (the “*Bankruptcy Code*”).

rehabilitation, hand and aquatic therapy, women's health, pediatric and geriatric programs. The Debtors also provide a comprehensive suite of orthotic, prosthetic and core rehabilitation therapy solutions at each clinic to service the needs of their patients. The Debtors currently employ approximately 3,859 employees and contract with insurers and managed care entities on a local, regional and national basis, all reflecting the strength of the Debtors' scale and density as well as their institutional goodwill and sturdy reputation in the outpatient physical therapy market sector.

5. While the Debtors' operations are fundamentally sound and profitable, in March 2013, during the course of their fiscal year 2012 audit, they discovered there had been an overstatement of revenue and profitability. Upon such discovery, the Debtors' board of directors took proactive steps to address the potential impact of the accounting issues, including hiring Kirkland & Ellis LLP as restructuring counsel, engaging Rothschild Inc. as financial advisor, hiring Alvarez & Marsal Healthcare Industry Group as operational and restructuring advisor and forming a special committee to investigate potential claims related to the overstatement of revenue and profitability and to engage Dechert LLP as special counsel.

6. The Debtors, in consultation with their advisors, ultimately determined that it would be necessary for the Debtors to deleverage their balance sheet to right-size their capital structure and more efficiently compete in the outpatient rehabilitation and physical therapy industry. To preserve liquidity while commencing restructuring negotiations with other stakeholders, the Debtors elected to forego the \$12.5 million interest payment on their \$210 million 11.875% senior notes due 2019 (the "*Senior Notes*"). The Debtors' inability to deliver the audited financials and their failure to make the May 1, 2013 coupon payment to the Senior Notes resulted in defaults both under the 2012 credit agreement and the Senior Notes indenture.

7. Starting in May 2013, the Debtors proactively engaged in discussions with their key stakeholders, including an ad hoc committee that currently holds over 90% in principal amount of the Senior Notes and their equity sponsor, regarding potential restructuring alternatives. These collaborative talks resulted in the Debtors negotiating a fully consensual restructuring transaction that will be implemented swiftly through a “prepackaged” chapter 11 plan of reorganization (the “*Plan*”) and will, among other things, (a) reduce their prepetition funded debt by more than 62%, from approximately \$375 million to approximately \$144 million, (b) provide the Debtors with reasonable, long-term financing and permit additional indebtedness that will enable them to support their go-forward business needs and (c) establish and fund a litigation trust to consolidate and coordinate prosecution of certain claims and causes of action transferred and assigned to the litigation trust.

8. On October 10, 2013, the Debtors entered into a plan support agreement with 100% of their bridge loan lenders, holders of over 90% in principal amount of the Senior Notes, and their equity sponsor and its affiliates, which collectively hold approximately 90% of the outstanding shares of Physiotherapy Holdings, Inc. On the same day, the Debtors commenced solicitation of the Plan. As of the November 8, 2013 voting deadline, 100% of the holders of claims arising under the Debtors’ bridge loan facility and 100% of the holders of Senior Notes claims that submitted ballots, consisting of approximately 99.71% of the holders of Senior Notes in dollar amount, voted to accept the Plan.

9. On the date hereof (the “*Petition Date*”), each of the Debtors filed a petition with the Court under chapter 11 of the Bankruptcy Code to effectuate the Plan, enhance liquidity and solidify their long-term growth prospects and operating performance. The Debtors are operating their businesses and managing their properties as debtors in possession pursuant to sections

1107(a) and 1108 of the Bankruptcy Code. No request for the appointment of a trustee or examiner has been made in these chapter 11 cases, and no committees have been appointed or designated. Concurrently with the filing of this motion, the Debtors have requested procedural consolidation and joint administration of these chapter 11 cases.

Relief Requested

10. The Debtors seek entry of an Order (a) authorizing the Debtors to file a consolidated list of creditors in lieu of separate mailing matrices for each Debtor, (b) extending the time for the Debtors to file the Schedules and Statements through and including the Deadline, without prejudice to the Debtors' right to request additional extensions should it become necessary and (c) waiving the requirement that the Debtors file the Schedules and Statements on the date of confirmation of the Plan if confirmation occurs on or before the Deadline.

Supporting Authority

I. Filing a Consolidated List of Creditors in Lieu of Submitting a Separate Creditor Mailing Matrix for Each Debtor is Warranted

11. Amended Local Rule 2002-1(f)(v) requires each debtor in jointly administered cases to maintain a separate creditor mailing matrix. Local Rule 1001-1(c) permits modification of the Local Rules by the Court "in the interest of justice."

12. The Debtors submit that permitting them to maintain a single consolidated list of creditors, in lieu of filing a separate creditor matrix for each Debtor, is warranted. Requiring the Debtors to submit Debtor-specific creditor matrices for each of the 51 Debtors would be an unnecessarily burdensome task and would likely result in duplicate mailings. Moreover, the requirement that each debtor maintain a separate creditor matrix was implemented to provide parties with information that may be necessary in the event of conversion to chapter 7 liquidation. Because of the prepackaged nature of these chapter 11 cases, the Debtors' planned

short stay in bankruptcy, and the fact that General Unsecured Claims are unimpaired by the Plan, this concern is not implicated here.

13. The Court has granted relief similar to the relief requested herein since the modifications to Local Rule 2002-1(f)(v) took effect. *See, e.g., In re Longview Power, LLC*, No. 13-12211 (BLS) (Bankr. D. Del. Sept. 3, 2013) (authorizing filing of a consolidated list of creditors in lieu of separate mailing matrices); *In re Maxcom Telecomunicaciones, S.A.B. de C.V.*, No. 13-11839 (PJW) (Bankr. D. Del. Aug. 15, 2013) (same); *In re Dex One Corp.*, No. 13-10533 (KG) (Bankr. D. Del. Mar. 19, 2013) (same); *In re Geokinetics Inc.*, No. 13-10472 (KJC) (Bankr. D. Del. Mar. 12, 2013) (same); *In re Ormet Corp.*, No. 13-10334 (PJW) (Bankr. D. Del. Feb. 27, 2013) (same).³

II. An Extension of the Deadline to File the Schedules and Statements is Warranted

14. Section 521 of the Bankruptcy Code requires a debtor to file schedules and statements, unless the court orders otherwise. Furthermore, Bankruptcy Rule 1007 requires that a debtor file schedules and statements within 14 days of its petition date, unless the Court grants an extension of such time for “cause.” Fed. R. Bankr. P. 1007(c) (extension of time to file schedules and statements will be granted “on motion for cause shown”). Under Local Rule 1007-1(b), in a voluntary chapter 11 case where the debtor has more than 200 creditors and otherwise satisfies the conditions of Local Rule 1007-2, the time within which the debtor must file its schedules and statements is extended to 30 days from the petition date. Del. Bankr. L.R. 1007-1(b). A further extension may be granted for cause. *Id.* Showing cause merely requires that the debtor “demonstrate some justification for the issuance of the order” and “normally will be granted in the absence of bad faith or prejudice to the adverse party.” *See, e.g., Bryant v.*

³ Because of the voluminous nature of the orders cited herein, such orders have not been attached to this motion. Copies of these orders are available upon request of the Debtors’ proposed counsel.

Smith, 165 B.R. 176, 182 (W.D. Va. 1994) (discussing the standard for granting extensions under Bankruptcy Rule 1007) (citations omitted).

15. The Court's grant of an extension of time to file the Schedules and Statements through and including the Deadline is necessary and appropriate under the circumstances of these prepackaged chapter 11 cases. The Debtors have approximately 5,000 creditors, and the ordinary operation of the Debtors' businesses requires them to maintain voluminous books, records and complex accounting systems. Accordingly, substantial time would be required for the Debtors and their advisors to complete the Schedules and Statements.

16. Moreover, no party in interest will be prejudiced by the Court granting the Debtors' request for an extension through and including the Deadline. The Debtors' major creditor constituencies, including the bridge loan lenders and the senior noteholders that submitted ballots, have voted unanimously to accept the Plan. All holders of General Unsecured Claims (as defined in the Plan) will be paid in full in the ordinary course of business. All other creditors (other than bridge loan lenders, senior noteholders and holders of General Unsecured Claims) are either unimpaired and deemed to accept the Plan or are impaired and deemed to reject the Plan and will not receive distributions on account of their prepetition claims or interests. Accordingly, "cause" exists under Bankruptcy Rule 1007 and Local Rule 1007-1(b) to grant the requested extension.

17. Courts in this district and others routinely grant extensions of time to file schedules and statements of financial affairs in large chapter 11 cases. *See e.g., In re Longview Power, LLC*, No. 13-12211 (BLS) (Bankr. D. Del. Sept. 24, 2013) (granting 60-day extension to file schedules and statements); *In re Maxcom Telecomunicaciones, S.A.B. de C.V.*, No. 13-11839 (PJW) (Bankr. D. Del. Aug. 15, 2013) (granting 60-day extension to file schedules and

statements); *In re Dex One Corp.*, No. 13-10533 (KG) (Bankr. D. Del. Mar. 19, 2013) (granting 60-day extension to file schedules and statements); *In re PTL Holdings LLC*, No. 11-12676 (BLS) (Bankr. D. Del. Nov. 18, 2011) (granting 72-day extension to file schedules and statements); *In re DSI Holdings, Inc.*, No. 11-11941 (KJC) (Bankr. D. Del. Aug. 16, 2011) (granting 60-day extension to file schedules and statements); *In re N. Am. Petroleum Corp. USA*, No. 10-11707 (CSS) (Bankr. D. Del. June 21, 2010) (granting 30-day extension to file schedules and statements); *In re Vertis Holdings, Inc.*, No. 08-11460 (CSS) (Bankr. D. Del. Aug. 13, 2008) (granting 40-day extension to file schedules and statements); *In re ACG Holdings, Inc.*, No. 08-11467 (CSS) (Bankr. D. Del. Aug. 12, 2008) (granting 45-day extension to file schedules and statements).

III. A Waiver of the Requirement to File the Schedules and Statements is Warranted

18. Section 105(a) of the Bankruptcy Code, which codifies the equitable powers of the bankruptcy court, empowers courts to “issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.” This section thus “empowers [courts] to fashion orders in furtherance of Bankruptcy Code provisions.” *In re Joubert*, 411 F.3d 452, 455 (3d. Cir. 2005). In light of the facts and circumstances surrounding these chapter 11 cases, the Court has authority, consistent with section 521(a) of the Bankruptcy Code, to grant the relief requested herein. See *In re Hawkeye Renewables, LLC*, No. 09-14461 (KJC), 2010 WL 2745975, at *24 (Bankr. D. Del. June 2, 2010) (granting debtor’s motion for waiver, upon confirmation of the debtor’s prepackaged chapter 11 plan, of requirement to file any list, schedule or statement under section 521 of the Bankruptcy Code and Rule 1007); *In re Elec. Components Int’l, Inc.*, No. 10-11054 (KJC), 2010 WL 3350305, at *25 (Bankr. D. Del. May 11, 2010) (same); *In re Affiliated Media, Inc.*, No. 10-10202 (KJC) (Bankr. D. Del. Jan. 26, 2010) (same).

19. A waiver of the requirement that the Debtors file the Schedules and Statements effective upon confirmation of the Plan, if confirmation occurs on or before the Deadline, is appropriate here. As stated previously, in light of the nature of the Debtors' operations, the Debtors require time to prepare the Schedules and Statements. Indeed, the Debtors would expect to be in a position to file the Schedules and Statements at approximately the same time that the Debtors expect to emerge from bankruptcy. Furthermore, no party in interest would be prejudiced if the requirement that the Debtors file the Schedules and Statements was waived. Also, preparing the Schedules and Statements would cause the Debtors to incur substantial expense and would burden the Debtors' employees at a time when such employees should be implementing or preparing to implement the Debtors' restructuring and focusing on business operations. The Debtors have already negotiated and solicited the prepackaged Plan, and parties entitled to vote have voted overwhelmingly to accept the Plan. Accordingly, one of the primary justifications for requiring the Debtors to file the Schedules and Statements—to permit interested parties to assess a debtor's assets and liabilities and thereafter negotiate and confirm a plan of reorganization—does not exist in these chapter 11 cases, and preparation of the Schedules and Statements would be unnecessarily burdensome to the Debtors' estates.

20. Courts in this jurisdiction have granted similar waivers in other prepackaged chapter 11 cases. *See, e.g., In re Maxcom Telecomunicaciones, S.A.B. de C.V.*, No. 13-11839 (PJW) (Bankr. D. Del. Aug. 15, 2013) (permanently waiving requirement to file schedules and statements upon confirmation of plan); *In re Dex One Corp.*, No. 13-10533 (KG) (Bankr. D. Del. Mar. 19, 2013) (same); *In re Homer City Funding, LLC*, No. 12-13024 (KG) (Bankr. D. Del. Nov. 7, 2012) (same); *In re CHL, Ltd.*, No. 12-12437 (KJC) (Bankr. D. Del. Aug. 31, 2012)

(same); *In re Vertis Holdings, Inc.*, No. 08-11460 (CSS) (Bankr. D. Del. Aug. 13, 2008) (same);
~~*In re ACG Holdings, Inc.*, No. 08-11467 (CSS) (Bankr. D. Del. Aug. 12, 2008) (same).~~

Notice

21. The Debtors have provided notice of this motion to: (a) the Office of the United States Trustee for the District of Delaware; (b) the entities listed on the Consolidated List of Creditors Holding the 30 Largest Unsecured Claims filed pursuant to Bankruptcy Rule 1007(d); (c) counsel to the administrative and collateral agent under the Debtors' bridge loan credit agreement; (d) counsel for certain lenders under the bridge loan credit agreement; (e) counsel to the Senior Notes indenture trustee; (f) counsel to the ad hoc committee of senior noteholders; (g) counsel to the equity sponsor; (h) each of the holders of equity interests in the Debtors; (i) the Delaware Secretary of State; (j) the Delaware Secretary of Treasury; (k) the Delaware State Attorney General; (l) the Office of the United States Attorney General for the State of Delaware; (m) the Internal Revenue Service; and (n) the Securities and Exchange Commission. In light of the nature of the relief requested in this motion, the Debtors respectfully submit that no further notice is necessary.

No Prior Request

22. No prior motion for the relief requested herein has been made to this or any other court.

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WHEREFORE, for the reasons set forth herein, the Debtors respectfully request that the Court enter the Order, substantially in the form attached hereto as **Exhibit A**, granting the relief requested herein and such other and further relief as the Court deems appropriate.

Dated: November 12, 2013
Wilmington, Delaware

/s/ Domenic E. Pacitti

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EXHIBIT A

- Proposed Order

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:)
) Chapter 11
PHYSIOTHERAPY HOLDINGS, INC., et al.,1)
) Case No. 13-12965 (KG)
Debtors.)
) Joint Administration Requested

ORDER (A) AUTHORIZING THE DEBTORS TO FILE A
CONSOLIDATED LIST OF CREDITORS IN LIEU OF SUBMITTING A
SEPARATE MAILING MATRIX FOR EACH DEBTOR AND (B) EXTENDING THE
TIME, AND, UPON PLAN CONFIRMATION, WAIVING THE REQUIREMENT
TO FILE, SCHEDULES AND STATEMENTS OF FINANCIAL AFFAIRS

Upon the motion (the "Motion") of the above-captioned debtors (collectively, the
"Debtors") for entry of this Order2 (a) authorizing the Debtors to file a consolidated list of
creditors in lieu of submitting separate mailing matrices for each Debtor, (b) extending the time
for the Debtors to file the Schedules and Statements through and including the Deadline, and

1 The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal taxpayer-
identification number, are: Physiotherapy Holdings, Inc. (5193); Actra Rehabilitation Associates, Inc. (7806);
Alexandria Sports, Inc. (7654); Benchmark Acquisition Corp. (3850); Benchmark Medical Management
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Corp. (3855); Wisconsin Prosthetics and Orthotics, Inc. (7815). The Debtors' main corporate address is 855
Springdale Drive, Suite 200, Exton, PA 19341.

2 Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Motion.

(c) waiving the requirement that the Debtors file the Schedules and Statements upon confirmation of the Plan if confirmation occurs on or before the Deadline, all as more fully set forth in the Motion; and the Court having jurisdiction to consider this Motion and the relief requested therein in accordance with 28 U.S.C. §§ 157 and 1334; and consideration of the Motion and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and venue being proper in this District pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion being adequate and appropriate under the particular circumstances; and a hearing having been held to consider the relief requested in the Motion (the "*Hearing*"); and upon consideration of the First Day Declaration, the record of the Hearing and all proceedings had before the Court; and the Court having found and determined that the relief sought in the Motion is in the best interests of the Debtors' estates, their creditors and other parties in interest, and that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and any objections to the requested relief having been withdrawn or overruled on the merits; and after due deliberation and sufficient cause appearing therefor, it is hereby ORDERED:

1. The Motion is granted to the extent provided herein.
2. The requirement of Local Rule 2002-1(f)(v) that separate mailing matrices be submitted for each Debtor is permanently waived, and the Debtors are authorized to submit a consolidated list of creditors.
3. The time within which the Debtors shall file the Schedules and Statements is extended through and including January 15, 2014, without prejudice to the Debtors' right to seek further extensions of the time within which to file the Schedules and Statements or to seek additional relief from this Court regarding the filing of, or waiver of the requirement to file, the Schedules and Statements.

4. The requirement that the Debtors file the Schedules and Statements is permanently waived effective upon the date of confirmation of the Plan, provided confirmation occurs on or before January 15, 2014.

5. The Debtors are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Motion.

6. Notwithstanding the possible applicability of Bankruptcy Rules 6004(h), 7062, 9014 or otherwise, this Order shall be immediately effective and enforceable upon its entry.

7. The Court retains jurisdiction with respect to all matters arising from or related to the interpretation or implementation of this Order.

Dated: _____, 2013
Wilmington, Delaware

The Honorable Kevin Gross
Chief United States Bankruptcy Judge