

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

X

In re:

SOUND SHORE MEDICAL CENTER OF  
WESTCHESTER, et al.,

Debtors.

Chapter 11  
Case No. 13-22840(RDD)

(Jointly Administered)

X

MOTION FOR LEAVE TO FILE LATE PROOF OF CLAIM

Allen Harper, appearing pro se, creditor of the debtors,  
respectfully submits to this Honorable Court:

1. That on or about June 16, 2013, said creditor, imprisoned at Green Haven Correctional Facility, P.O. Box 4000, Stormville, New York 12582, received in the mail a letter from the law firm of Bartlett, McDonough & Monaghan, LLP, Peter G. Monaghan, Esq., who said creditor knew to be the attorneys representing Mount Vernon Hospital in a medical malpractice lawsuit filed in the Supreme Court of the State of New York, Civil Term, Westchester County, under Index Number 398/10, in the matter of Allen Harper vs. Mt. Vernon Hospital. Said letter informed said creditor that Mount Vernon Hospital had filed a voluntary petition in bankruptcy on May 29, 2013 in the United States Bankruptcy Court for the Southern District of New York, "so an automatic stay is in effect." In addition, said creditor was provided with the name, address, and telephone number of the attorney representing Mount Vernon Hospital in the bankruptcy proceedings, and advised to contact said attorney for information with respect to filing a "Notice of Claim". (see Letter dated June 10, 2013, annexed hereto as EXHIBIT - A).

2. That the said letter mailed to Allen Harper and delivered on or about June 16, 2013, constituted the first time that the creditor Allen Harper, was aware of the fact that the Mount Vernon Hospital was in bankruptcy or had filed a petition in bankruptcy under the name of Sound Shore Medical Center of Westchester, et al. That prior to the receipt of the mail on or about June 16, 2013, the creditor Allen Harper had never been advised by Mount Vernon Hospital, or any officer, agent, attorney, servant or representative of Mount Vernon Hospital, that bankruptcy proceedings had been instituted by Mount Vernon Hospital.

3. That the creditor Allen Harper, on June 18, 2013, did write a letter to Burton S. Weston, Esq., Garfunkel Wild, P.C., the attorney representing Mount Vernon Hospital, the debtor, in the bankruptcy proceedings regarding information about the creditor Allen Harper filing notice of claim, as advised to do by Peter G. Monaghan, Esq., the attorney representing Mount Vernon Hospital in the medical malpractice lawsuit in the Supreme Court of the State of New York, County of Westchester; however, Burton S. Weston, Esq., the attorney representing the debtor Mount Vernon Hospital in the Chapter 11 Bankruptcy proceedings did not respond to the creditor Allen Harper's letter. (see Letter by Creditor Allen Harper to Burton S. Weston, Esq., dated June 18, 2013, annexed hereto as EXHIBIT - B).

4. That on or about August 29, 2013, the creditor Allen Harper received by regular first-class mail a document entitled "Notice of Hearing on Debtors' Application for Order Extending Time to Remove Actions and Claims Pursuant to 28 U.S.C. §1452" and

another document entitled "Debtors' Application for Order Extending Time to Remove Actions and Claims Pursuant to 28 U.S.C. §1452", both documents came in the same envelope bearing the return address: "Sound Shore Medical of Westchester, c/o GCG, Inc., PO Box 9982, Dublin, OH 43017-5982", but the top of the front page of each document listed "Garfunkel Wild, P.C., 111 Great Neck Road, Great Neck, New York 11021," as counsel for the debtor and debtors-in-possession.

5. That prior to receiving the documents listed in paragraph 4, supra, the creditor Allen Harper mailed a follow-up letter to Burton S. Weston, Esq., counsel for the debtor Mount Vernon Hospital regarding information about filing a notice of claim, dated August 2, 2013, but Burton S. Weston, Esq., again, did not respond. (see Letter to Burton S. Weston, Esq. dated August 2, 2013, annexed hereto as EXHIBIT - C).

6. That the creditor Allen Harper mailed an additional follow-up letter to Burton S. Weston, the attorney representing the debtor Mount Vernon Hospital, dated May 1, 2014, seeking to ascertain the results of the hearing scheduled to be held on September 13, 2013 concerning the debtors' application for an order extending the time for removal of actions and claims; however, Burton S. Weston, Esq., did not respond to this letter. (see Letter to Burton S. Weston, Esq. dated May 1, 2014, annexed hereto as EXHIBIT - D).

7. That the creditor Allen Harper, on September 30, 2014 did receive by regular first-class mail two separate envelopes that contained a document entitled "Notice of (I) Approval of Disclosure Statement; (II) Hearing on Confirmation of Plan of

Reorganization; (III) Deadline for Filing Objections to Confirmation of the Plan; (IV) Deadline and Procedures for Temporary Allowance of Claims; (V) Treatment of Disputed, Contingent or Unliquidated Claims; and (VI) Voting Deadline for Receipt of Ballots".

8. That inasmuch as your petitioner has never been given any notice advising him of need to file a timely proof of claim or advising him of any deadline for doing so, thus, your petitioner had no knowledge of such deadline, until advised of the same by letter mailed to him by Martin G. Bunin, Esq. of Alston & Bird LLP, Attorneys for Creditors' Committee, dated October 7, 2014, in response to a letter mailed to him by your petitioner on September 30, 2014. Until your petitioner received the letter from Martin G. Bunin, Esq., he had not knowledge that the deadline for filing all proof of claims against Mount Vernon Hospital and the other Debtors was September 16, 2013, nor that Mount Vernon scheduled your petitioner as "a general unsecured creditor with a 'contingent/unliquidated/disputed' claim; for your petitioner was not provided with nor had he had access to the Schedule issued by Mount Vernon Hospital. (see Letter from Martin G. Bunin, Esq. dated October 7, 2014, annexed hereto as EXHIBIT - E)

9. That it would be in the best interests of justice that the creditor Allen Harper; your petitioner, be granted permission to file late proof of claim in this bankruptcy so that the creditor may proceed to prosecute his claim in accordance with the law. The debtor will not be harmed or injured by the filing of the proof of claim and the power of attorney at this time any more than it would have been injured or damaged had the proof of claim

and power of attorney been filed timely.

10. The proof of claim and power of attorney would have been timely filed if the debtor and/or the attorney for the debtor had advised or notified the creditor and your petitioner herein of the deadline for filing a proof of claim. In addition to being granted leave to file late proof of claim, the creditor requests that he be provided with the Official Form No. 10, for filing his proof of claim. Your petitioner, further, states that he lacks the resources to retain counsel, and requests that this Court consider assigning him counsel from the pro bono panel.

Dated: October 22<sup>nd</sup>, 2014

Respectfully submitted,

  
Allen Harper, Pro Se

#02-A-3550

Green Haven Corr. Fac.

P.O. Box 4000

Stormville, New York 12582

(Creditor Pro Se)

EXHIBIT - A

**BARTLETT, McDONOUGH & MONAGHAN, LLP**

ATTORNEYS AT LAW

170 OLD COUNTRY ROAD  
MINEOLA, NEW YORK 11501-4112  
TELEPHONE: (516) 877-2900  
FAX: (516) 877-0732  
WWW.BMMLLP.COM

June 10, 2013

ALLEN HARPER #02-A3550  
Plaintiff Pro Se  
Green Haven Correctional Facility  
P.O. Box 4000  
Stormville, New York 12582

*Re: Harper, Allen v. Mt. Vernon Hospital*  
*Index No.: 398/10*  
*BMM File No.: 158-0169*

Dear Sirs:

I am advised that the Mount Vernon Hospital filed a voluntary petition in bankruptcy on May 29, 2013 in the United States Bankruptcy Court for the Southern District of New York, so an automatic stay is in effect.

I would recommend that you contact the hospital attorney Burton S. Weston, Esq., Garfunkel Wild, P.C., 111 Great Neck Road, Great Neck, New York 11021 (Tel.: 516-393-2200) for information with respect to filing a Notice of Claim or if you have need of any further information.

Very truly yours,

  
PETER G. MONAGHAN

PGM:jd

Enclosure

cc: Office of the Attorney General  
of the State of New York  
Attorneys for Defendant  
DR. AARON ROTH  
120 Broadway  
New York, New York 10271

WHITE PLAINS OFFICE

81 MAIN STREET  
WHITE PLAINS, NEW YORK 10601-1711  
TELEPHONE: (914) 448-0200  
FAX: (914) 448-0215

ISLIP OFFICE

670 MAIN STREET  
ISLIP, NEW YORK 11751  
TELEPHONE: (631) 277-0300  
FAX: (631) 446-1671

NEW YORK CITY OFFICE

230 PARK AVENUE  
NEW YORK, NEW YORK 10169-1099  
TELEPHONE: (212) 983-2900  
FAX: (212) 983-2901

EXHIBIT - B



Allen Harper #02-A-3550  
Green Haven Correctional Facility  
P.O. Box 4000  
Stormville, New York 12582

June 18, 2013

Burton S. Weston, Esq.  
Garfunkel Wild, P.C.  
Attorneys-at-Law  
111 Great Neck Road  
Great Neck, New York 11021

RE: Harper, Allen v. Mt. Vernon Hospital  
Index No.: 398/10

Dear Mr. Weston:

I have been informed by Peter G. Monaghan, Esq., of Bartlett, McDonough & Monaghan, LLP, who are attorneys of record for Mount Vernon Hospital in the above-referenced matter, that Mount Vernon Hospital filed a voluntary petition in bankruptcy on May 29, 2013 in the United States Bankruptcy Court for the Southern District of New York. I am, therefore, as the plaintiff in the above-referenced matter, contacting you as Mount Vernon Hospital's attorney regarding filing a Notice of Claim and any further information that you believe I am entitled to regarding this matter.

I thank you in advance for your time and consideration.

Respectfully,

  
Allen Harper

cc: File

EXHIBIT - C

Allen Harper #02-A-3550  
Green Haven Correctional Facility  
P.O. Box 4000  
Stormville, New York 12582

August 2, 2013

Mr. Burton S. Weston, Esq.  
Garfunkel Wild, P.C.  
Attorneys-at-Law  
111 Great Neck Road  
Great Neck, New York 11021

RE: Harper, Allen v. Mt. Vernon Hospital  
Index No.: 398/10

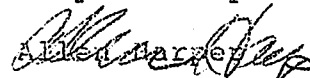
Dear Mr. Weston:

This missive is a follow-up to my June 18, 2013 missive requesting information regarding filing a Notice of Claim and any other information that I might be entitled to, in light of the filing of the voluntary bankruptcy on behalf of Mount Vernon Hospital. As indicated in my June 18, 2013 missive, the law firm representing Mount Vernon Hospital in the above-referenced action notified me of the voluntary bankruptcy filing and advised that I contact you regarding filing my Notice of Claim.

Since I have not received any response to my initial missive, I thought this follow-up would be appropriate, if only, to let you know that I am awaiting your response.

I thank you in advance for your time and consideration.

Respectfully,

Allen Harper

cc: File

EXHIBIT - D

Allen Harper #02-A-3550  
Green Haven Correctional Facility  
P.O. Box 4000  
Stormville, New York 12582

May 1, 2014

Mr. Burton S. Weston, Esq.  
Garfunkel, Wild, P.C.  
Attorneys-at-Law  
111 Great Neck Road  
Great Neck, New York 11021

Re: Harper v. Mount Vernon Hospital

Dear Mr. Weston:

This missive is being forwarded regarding the above referenced matter, in which I am the Plaintiff. I was served a copy of your application for order extending time to remove actions, dated August 22, 2013 which I did not oppose. The time period for removal was to expire on August 29, 2013. I understand that a hearing was held on September 13, 2013 regarding this application for extension of time. I would very much appreciate ascertaining the results of the hearing, as it pertains to my action against your client.

In concluding, I thank you in advance for your time and consideration.

Respectfully,

  
Allen Harper

EXHIBIT - E

# ALSTON & BIRD LLP

90 Park Avenue  
New York, NY 10016

212-210-9400  
Fax: 212-922-3892  
www.alston.com

Martin G. Bunin

Direct Dial: 212-210-9492

Email: marty.bunin@alston.com

October 7, 2014

## **BY FIRST CLASS MAIL**

Mr. Allen Harper #02-A-3550  
Green Haven Correctional Facility  
P.O. Box 4000  
Stormville, New York 12582

Re: Sound Shore Medical Center of Westchester, et al.  
Debtors (Bankr. S.D.N.Y.Y.) (the "Debtors")

Dear Mr. Harper:

We received your letter dated September 30, 2014 yesterday. We represent the official committee of unsecured creditors in the chapter 11 cases filed by the above Debtors, including the Mount Vernon Hospital ("Mount Vernon").

We do not represent individual creditors of the Debtors. Additionally, we are unaware of the particulars of your claim. As a result, we are not able to advise you individually how your rights are impacted by the chapter 11 plan proposed by the Debtors, whether you need to file an objection and, if so, what objection you might file.

Nevertheless, I point out the following in connection with your letter:

Mount Vernon scheduled you as a general unsecured creditor with a "contingent/unliquidated/disputed" claim. When a claim is scheduled as contingent (meaning the existence of the claim is dependent on conditions or events not yet established), unliquidated (meaning the amount of the claim has not yet been determined) or disputed (meaning Mount Vernon disputes the existence of the claim), the claimant/creditor is required to file proof of claim.

We checked and are not aware that you filed a proof of claim. All proofs of claim against Mount Vernon and the other Debtors were required to be filed on or before September 16, 2013, over a year ago. The Mount Vernon schedule lists your address at Green Haven correctly, so you should have received a notice that all proofs of claim were due by September 16, 2013. Since it appears you did not file one, your claim is likely barred, unless you file a motion with the Bankruptcy Court for permission to file a late

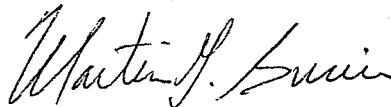
October 7, 2014  
Page 2

proof of claim and demonstrate excusable neglect in not having filed one on a timely basis last year.

In any event, Mount Vernon did not have any insurance for medical malpractice claims (Sound Shore Medical Center did have medical malpractice insurance). The disclosure statement you received (at page 6) contains a chart estimating that creditors who timely filed proofs of claim against one of the Debtors and whose claims are allowed (recognized as valid by the Debtors or the Court) will recover between 3% and 6% of the amount of their claims in these chapter 11 cases.

Please let me know if I can help you further understand the posture of these chapter 11 cases.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Martin G. Bunin".

Martin G. Bunin

MGB:mt

LEGAL02/35130029v1



UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

X

In re:

Chapter 11

SOUND SHORE MEDICAL CENTER OF  
WESTCHESTER, et al.,

Case No. 13-22840(RDD)  
(Jointly Administered)

Debtors.

X

PROOF OF SERVICE

STATE OF NEW YORK )  
COUNTY OF DUTCHESS) SS.:

ALLEN HARPER, pro se, being duly sworn, deposes and says that he has this 22 day of October, 2014 caused to be served a true and accurate copy of the enclosed Motion for Leave to File Late Proof of Claim by placing the same in sealed, postage prepaid envelopes and delivering the same to officials at Green Haven Correctional Facility with the exclusive authority to ~~mail~~ the same by regular first-class mail via United States Postal Service to the following interested parties:

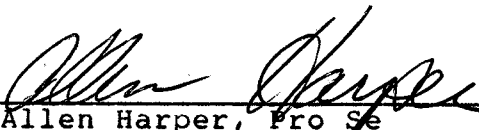
Sound Shore Medical Center  
16 Guion Place  
New Rochelle, New York  
Attn: Monica Terrano, Chief Wind-Down Officer

Garfunkel Wild, P.C.  
111 Great Neck Road  
Great Neck, New York 11021  
Attn: Burton S. Weston, Afsheem A. Shah, Adam T. Berkowitz

Alston & Bird LLP  
90 Park Avenue  
New York, New York 10016  
Attn: Craig E. Freeman, Martin G. Bunin

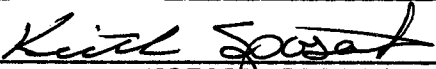
The Office of the United States Trustee  
201 Varick Street, Room 1006  
New York, New York 10014  
Attn: Susan Golden, William E. Curtin

PROOF OF SERVICE  
Page 2 of 2

  
Allen Harper, Pro Se  
Green Haven Corr. Fac.  
P.O. Box 4000  
Stormville, New York 12582  
DIN #02-A-3550

Sworn to before me this

22 day of OCTOBER, 2014

  
\_\_\_\_\_  
NOTARY PUBLIC

KEITH J. SPOSATO  
NOTARY PUBLIC-STATE OF NEW YORK  
No. 01SP6248188  
Qualified in Putnam County  
My Commission Expires September 19, 2015