IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

In re: Curae Health, Inc., *et al.*[1] 1721 Midpark Road, Suite B200 Knoxville, TN 37921 Debtors.	Chapter 11 Lead Case No. 18-05665 Judge Walker Jointly Administered
The Official Committee of Unsecured Creditors, Plaintiff, vs. ServisFirst Bank, Defendant.	Adv. Pro. No:

COMPLAINT FOR AVOIDANCE OF FRAUDULENT TRANSFERS, AVOIDANCE OF PREFERENTIAL TRANSFERS, DETERMINATION AND/OR DISALLOWANCE OF CLAIMS, DECLARATORY RELIEF, AND RELATED RELIEF

The Official Committee of Unsecured Creditors (the "**Committee**") of Curae Health, Inc., *et al.* (the "**Debtors**") in the above-captioned bankruptcy cases (the "**Bankruptcy Cases**"), by the Committee's attorneys, and for the Committee's Complaint against ServisFirst Bank ("**ServisFirst**"), alleges as follows:

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are Curae Health, Inc. (5638); Amory Regional Medical Center, Inc. (2640); Batesville Regional Medical Center, Inc. (7929); and Clarksdale Regional Medical Center, Inc. (4755); Amory Regional Physicians, LLC (5044); Batesville Regional Physicians, LLC (4952); Clarksdale Regional Physicians, LLC (5311).

Description of Action

The Committee brings this adversary proceeding pursuant to this Court's *Final Order (i) Authorizing the Debtors to (a) Obtain Postpetition Secured Financing and (b) Utilize Cash Collateral, (ii) Granting Liens and Superpriority Administrative Expense Status, (iii) Granting Adequate Protection, and (iv) Modifying the Automatic Stay* (the "**Postpetition Financing Order**"), entered as docket number 455 in the Bankruptcy Cases, to avoid fraudulent and preferential transfers to ServisFirst, determine and/or disallow the claims asserted by ServisFirst in the Bankruptcy Cases, obtain declaratory relief with respect to certain non-Debtor assets, and obtain related relief, all as set forth more fully below.

Parties, Jurisdiction, and Venue

1. On August 24, 2018 (the "**Petition Date**"), each of the Debtors filed a voluntary petition in this Court (the "**Bankruptcy Court**") commencing a case for relief under chapter 11 of title 11 of the United States Code (the "**Bankruptcy Code**"). The Bankruptcy Cases are jointly administered under lead case number 18-05665.

2. Plaintiff Committee is the Official Committee of Unsecured Creditors appointed in the Bankruptcy Cases on September 6, 2018 by the Office of the United States Trustee for the Middle District of Tennessee.

3. The Committee has the right and standing to bring the causes of action set forth in this Complaint pursuant to paragraph 6 (pages 29-31) of the Postpetition Financing Order.

4. Paragraph 6 (pages 29-31) of the Postpetition Financing Order states in relevant part as follows:

> 6. **Reservation of Certain Third Party Rights and Bar of Challenges and Claims**. Nothing in the Interim Order, this Final Order, the DIP Credit Agreement, other DIP Financing Documents or otherwise, shall limit, modify or prejudice in any way the rights of the Committee, or any other party in interest to the extent it has

> requisite standing (other than the Debtors and their non-Debtor subsidiaries) ("***Party in Interest***") to object to or challenge the findings herein and the Stipulations regarding (i) the validity, extent, perfection, enforceability or priority of the Prepetition Liens in and on the Prepetition Collateral, (ii) the validity, allowability, priority, status or amount of the Prepetition First Lien Revolving Facility Obligations, Prepetition Senior Term Loan Facility Obligations or CHS Prepetition Obligations (collectively, the "***Prepetition Secured Obligations***"), or (iii) any other claim or cause of action that the Committee may assert individually or on behalf of the Debtors' estates against any of the Prepetition Secured Lenders, including without limitation, asserting any claim in the nature of a setoff, counterclaim or defense to the Prepetition Secured Obligations (including but not limited to, those under sections 506, 544, 547, 548, 549, and 550 of the Bankruptcy Code) (each, a "***Challenge***"). An adversary proceeding must be commenced by the Committee or a party in interest asserting a Challenge (i) as to the Prepetition First Lien Revolving Lender, no later than November 20, 2018; (ii) as to ServisFirst, no later than January 15, 2019; and (iii) as to CHS, no later than the date to be scheduled by the Court for the confirmation of the Debtors' plan of liquidation (each, a "***Challenge Period***"). . . . The Committee is hereby granted standing to commence, prosecute and/or settle any and all claims and causes of action of the Debtors or their estates against the Prepetition Secured Lenders, including, without limitation any claims or causes of action under Chapter 5 of the Bankruptcy Code.

5. Defendant ServisFirst is an Alabama state-charted bank and a subsidiary of ServisFirst Bancshares, Inc., a bank holding company. ServisFirst's headquarters are located at 2500 Woodcrest Place, Birmingham, Alabama 35209.

6. The Bankruptcy Court has jurisdiction over this adversary proceeding pursuant to 28 U.S.C. §1334.

7. Venue of this adversary proceeding is proper in this District pursuant to 28 U.S.C. §1409.

8. This adversary proceeding is a core proceeding within the meaning of 28 U.S.C. §157(b)(2)(A), (B), (C), (F), (H), (K), and (O).

9. The Committee consents to the Bankruptcy Court's entry of final orders and judgments in this adversary proceeding, even if it is determined that this adversary proceeding is not a core proceeding under 28 U.S.C. § 157(b), or that the Bankruptcy Court cannot enter final orders or judgments in connection with this adversary proceeding consistent with Article III of the United States Constitution absent consent of the parties.

Factual Background

I. The Debtors

10. Debtor Curae Health, Inc. ("**Curae**") is a Tennessee non-profit corporation.

11. Curae is the sole member and sponsoring organization of Debtors Amory Regional Medical Center, Inc. ("**Amory**"), Batesville Regional Medical Center, Inc. ("**Batesville**") and Clarksdale Regional Medical Center, Inc. ("**Clarksdale**," and collectively with Amory and Batesville, the "**Hospital Debtors**"), each of which owns and operates (or owned and operated) a hospital and/or other health care facilities in Mississippi, and each of which is a Tennessee non-profit corporation.

12. Amory is the sole member of Amory Regional Physicians, LLC ("**ARP**"), a Tennessee limited liability company that employed some of the physicians who worked at the Amory health care facilities.

13. Batesville is the sole member of Batesville Regional Physicians, LLC ("**BRP**"), a Tennessee limited liability company that employs some of the physicians who work at the Batesville health care facilities.

14. Clarksdale is the sole member of Clarksdale Regional Physicians LLC ("**CRP**" and together with ARP and BRP the "**Physician Group Debtors**"), a Tennessee limited liability company that employs some of the physicians who work at the Clarksdale health care facilities.

II. Russellville Hospital, Inc.

15. Non-Debtor Russellville Hospital, Inc. ("**Russellville**") owned and operated a hospital and/or other health care facilities in Alabama.

16. At all relevant times, Curae was the sole member and sponsoring organization of Russellville.

III. Hospital Acquisitions and ServisFirst Transactions

A. The Russellville Acquisition and 2014 ServisFirst Transaction

17. Russellville as borrower; Curae, non-Debtor affiliate Lakeland Community Hospital, Inc. ("**Lakeland**"), and non-Debtor affiliate Northwest Medical Center, Inc. ("**NWMC**") as guarantors; and ServisFirst as lender entered into a Loan Agreement dated December 31, 2014 (as same may have been amended from time to time, the "**Russellville Loan Agreement**," and together with all documents executed in connection therewith, the "**2014 ServisFirst Transaction**").

18. The Russellville Loan Agreement provided for, among other things, a term loan in the amount of three million dollars ($3,000,000) and a revolving credit loan in the amount of three million dollars ($3,000,000).

19. The Russellville Loan Agreement further provided in section 5.10 for the maintenance of a debt service reserve fund (the "**Debt Service Reserve Fund**") to secure repayment of the notes executed in favor of ServisFirst in connection with the Russellville Loan Agreement (described below).

20. Section 5.10 of the Russellville Loan Agreement, until its subsequent amendment, stated as follows:

> 5.10 Debt Service Reserve Fund. To further secure repayment of the Notes, Borrower shall maintain a debt service reserve fund (the "**Debt Service Reserve Fund**") with Lender with a minimum balance at all times equal to $2,000,000.00. Borrower hereby

> grants Lender a lien in such account. The Borrower's obligation to maintain the Debt Service Reserve Fund shall no longer apply once the Fixed Charge Coverage Ratio, calculated pursuant to Section 6.8(a) hereof, is greater than or equal to 1.25 to 1:00 [sic], as determined based upon audited financial statements even though audited statements are not otherwise required hereunder.

21. In connection with the Russellville Loan Agreement, Russellville executed, among other things, a Term Note in the amount of three million dollars ($3,000,000) in favor of ServisFirst, a Revolving Credit Note in the amount of three million dollars ($3,000,000) in favor of ServisFirst, and a Security Agreement purporting to grant a security interest in certain property of Russellville to ServisFirst.

22. In connection with the Russellville Loan Agreement, Curae, Lakeland, and NWMC, executed a Guaranty (as same may have been amended from time to time, the "**2014 Guaranty**") of the purported obligations of Russellville to ServisFirst and a Guarantor Security Agreement (as same may have been amended from time to time, the "**2014 Guarantor Security Agreement**") purporting to grant security interests in certain property of Curae, Lakeland, and NWMC to ServisFirst.

23. The 2014 Guarantor Security Agreement expressly limited the collateral purportedly securing the alleged obligations of Curae to ServisFirst relating to the Russellville Loan Agreement and the 2014 ServisFirst Transaction (including under the 2014 Guaranty) to assets and personal property "specifically related to" Russellville, Lakeland, and NWMC.

24. Section 1 of the 2014 Guarantor Security Agreement states in relevant part as follows:

> . . . Curae's grant of a security interest herein includes only assets and personal property specifically related to Lakeland, NWMC, and [Russellville Hospital, Inc.], including Curae's equity interest in each, and Curae's grant of a security interest specifically excludes its property related to NW Alabama Real Estate, LLC and its equity interests therein.

25. Upon information and belief, the proceeds of the 2014 ServisFirst Transaction were used by Russellville to, among other things, purchase the Russellville hospital and related assets.

26. In connection with an amendment to the Russellville Loan Agreement dated September 21, 2015, Curae, Lakeland, and NWMC amended the 2014 Guaranty and the 2014 Guarantor Security Agreement.

27. Neither the September 2015 amendments to the 2014 Guaranty and the 2014 Guarantor Security Agreement nor any other amendments to such documents modified or otherwise affected the 2014 Guarantor Security Agreement's collateral limitation.

28. All obligations of Russellville to ServisFirst, including all obligations under the Russellville Loan Agreement and related documents (including all amendments to such documents), were satisfied by Dava Foundation, Inc. ("**Dava**") pursuant to a member substitution agreement (the "**Member Substitution Agreement**") between Dava and Curae approved by the Bankruptcy Court on November 30, 2018 by way of an order entered at docket number 511 in the Bankruptcy Cases.

B. The Amory and Batesville Acquisition and the May 2017 ServisFirst Transaction

29. Amory and Batesville as borrowers, Curae as guarantor, and ServisFirst as lender entered into a Loan Agreement dated May 1, 2017 (as same may have been amended from time to time, the "**May 2017 Loan Agreement**," and together with all documents executed in connection therewith, the "**May 2017 ServisFirst Transaction**").

30. The May 2017 Loan Agreement provided for, among other things, a term loan in the amount of fourteen million dollars ($14,000,000) (the "**May 2017 Term Loan**") and a

revolving credit loan in the amount of five million dollars ($5,000,000) (the "**May 2017 Revolving Loan**").

31. In connection with the May 2017 Loan Agreement, Amory and Batesville executed, among other things, a Term Note in the amount of fourteen million dollars ($14,000,000) (the "**May 2017 Term Note**") in favor of ServisFirst and a Revolving Credit Note in the amount of five million dollars ($5,000,000) in favor of ServisFirst (the "**May 2017 Revolving Note**").

32. In connection with the May 2017 Loan Agreement, Amory executed a Mississippi Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing (as same may have been amended from time to time, the "**Amory Deed of Trust**") purporting to grant a security interest in Amory's real estate assets and personal property.

33. In connection with the May 2017 Loan Agreement, Batesville executed a Mississippi Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing (as same may have been amended from time to time, the "**Batesville Deed of Trust**") purporting to grant a security interest in Batesville's real estate assets and personal property.

34. In connection with the May 2017 Loan Agreement, Curae executed a Guaranty (the "**May 2017 Guaranty**") of the purported obligations of Amory and Batesville to ServisFirst and a Guarantor Security Agreement (as same may have been amended from time to time, the "**May 2017 Guarantor Security Agreement**") purporting to grant a security interest in substantially all of Curae's assets and personal property.

35. The May 2017 Guarantor Security Agreement expressly limited the collateral purportedly securing the alleged obligations of Curae to ServisFirst relating to the May 2017 Loan Agreement and the May 2017 ServisFirst Transaction (including under the May 2017

Guaranty) to assets and personal property "related to the hospitals owned and operated by" Amory and Batesville.

36. Section 1 of the May 2017 Guarantor Security Agreement states as follows:

> **Security Interest and Indebtedness.** The Debtor[, Curae,] hereby grants Lender a security interest in all Debtor's assets and personal property, which are related to the hospitals owned and operated by Borrowers (as defined below), but specifically excluding Debtor's ownership interest in NW Alabama Real Estate, LLC ("NWARE") [sic] and any assets owned by NWARE or related to such assets, whether presently existing or hereafter acquired or arising and wherever located, including without limitation, Gross Revenues (as defined in the Loan Agreement), all accounts, chattel paper, deposit accounts, documents, electronic chattel paper, equipment, fixtures, general intangibles, goods, health-care-insurance receivables, instruments, inventory, investment property, letter-of-credit rights, payment intangibles, promissory notes, software, any commercial tort claims hereafter identified by Debtor in any authenticated record delivered to Lender and all supporting obligations, products and proceeds of any of the foregoing (collectively, the "**Collateral**"), to secure prompt and full performance and payment of (a) all obligations, liabilities and indebtedness evidenced by that certain Guaranty of even date herewith executed by Debtor in favor of Lender (as such may be amended and/or restated from time to time, the "**Guaranty**"), whereby Debtor guaranties payment of certain obligations of Amory Regional Medical Center, Inc. and Batesville Regional Medical Center, Inc. (collectively [sic] the "**Borrowers**"), including but not limited to, the Obligations as defined and described that [sic] certain Loan Agreement of even date herewith by and among Borrowers, Guarantor and Lender (as such may be amended and/or restated from time to time, the "**Loan Agreement**"; capitalized terms not otherwise defined herein shall have such meaning as set forth in the Loan Agreement); (b) all amounts that Lender may now or hereafter pay or advance at any time for taxes, levies, insurance, repairs, maintenance or other protection with respect to the Collateral; and (c) all costs and expenses that Lender may incur in enforcing or protecting its rights with respect to the Collateral or the indebtedness secured by the Collateral, including attorneys' fees (all of the foregoing, collectively, the "**Indebtedness**").

37. Upon information and belief, the security interest grant in the May 2017 Guarantor Security Agreement was never modified to include assets and personal property relating to Clarksdale or any other entity in the definition of collateral.

38. Upon information and belief, the proceeds of the May 2017 Term Loan were used by Amory and Batesville to purchase the Amory and Batesville hospitals and related assets from CHS/Community Health Systems, Inc. ("**CHS**")[2] and several related entities (the "**Amory and Batesville Acquisition**").

39. Upon information and belief, the proceeds of the May 2017 Revolving Loan were used to pay certain costs of operation of Amory's and Batesville's respective health care facilities.

40. Upon information and belief, at the time of the May 2017 ServisFirst Transaction, or as a result thereof: (i) the respective liabilities of Amory, Batesville, and Curae exceeded the value of their respective assets; (ii) Amory, Batesville, and Curae were each left inadequately capitalized; and/or (iii) Amory, Batesville, and Curae each could not pay their respective obligations as they became due.

C. The Clarksdale Acquisition

41. On or about November 1, 2017, Clarksdale purchased the Clarksdale hospital and related assets from CHS and several related entities (the "**Clarksdale Acquisition**").

[2] The allegations in this Complaint are based upon the documents and information available to the Committee at the time of its filing, and are subject to clarification, amendment, revision, or other modification in light of new documents and information, obtained through subsequent discovery in this adversary proceeding or the Bankruptcy Cases, or otherwise. No statement in this Complaint is intended to waive or impair any right of the Committee or the Debtors' estates with respect to CHS, and shall not have any estoppel effect with respect to any subsequent action brought against CHS. All rights of the Committee and the Debtors' estates with respect to CHS, including those preserved by paragraph 6 (pages 29-31) of the Postpetition Financing Order, are expressly reserved.

42. The First Amendment to Amended and Restated Asset Purchase Agreement for the Clarksdale Acquisition, dated October 30, 2017 (the "**Clarksdale APA Amendment**"), states in section 1(c) that the purchase price would be paid as follows:

> (i) $5,000,000.00 shall be paid by wire transfer of immediately available funds to an account designated by Seller, (ii) $5,000,000.00 shall be paid pursuant to a Promissory Note with a term of thirty (30) days; and (iii) the balance of the Purchase Price shall be paid pursuant to a Promissory Note with a term of three (3) years.

43. The closing statement for the Clarksdale Transaction is inconsistent with the Clarksdale APA Amendment, and states that the consideration for the Clarksdale Acquisition consisted of seller financing from CHS in the amount of eighteen million one hundred thirty three thousand eight hundred thirty nine dollars and sixty four cents ($18,133,389.64) and cash in the amount of five million dollars ($5,000,000).

D. The December 2017 ServisFirst Transaction

44. Subsequent to the Clarksdale Acquisition closing, the Hospital Debtors (including Clarksdale) as borrowers, Curae as guarantor, and ServisFirst as Lender entered into a First Amendment to Term Note and Second Amendment to Loan Agreement dated December 13, 2017 (the "**December 2017 Amendment**," and together with all documents executed in connection therewith, the "**December 2017 ServisFirst Transaction**").

45. The December 2017 Amendment provided for, among other things, the conversion of the purported outstanding May 2017 Revolving Loan from ServisFirst to Amory and Batesville into term loan debt, an increase of the amount of the term loan to eighteen million seven hundred eighty three thousand dollars ($18,783,000), and cancellation of the May 2017 Revolving Note.

46. Section 5 of the December 2017 Amendment states as follows:

> 5. Section 1.1(a) of the Loan Agreement is hereby amended to increase the Term Loan described therein by $5,000,000.00 to a principal sum of up to $18,783,000.00; provided, no additional Advances to be made [sic] and such increase reflects the conversion of the existing Revolving Credit Loans to Term Loans. The Loan Documents are amended generally to reflect said increase, including without limitation the Guaranty and the Guarantor Security Agreement and the definitions of "**Guaranteed Obligations**" and "**Indebtedness**" respectively contained therein.

47. Section 6 of the December 2017 Amendment states as follows:

> 6. Section 1.1(b) of the Loan Agreement and all references within the Loan Agreement and the other Loan Documents to the Revolving Credit Loan or the Revolving Credit Note are hereby deleted including Section 2.2 of the Loan Agreement, and the Revolving Credit Note is hereby cancelled and no Revolving Credit Loans or other commitments in connection therewith remain outstanding.

48. The December 2017 Amendment further purported to join Clarksdale as a borrower under the May 2017 Loan Agreement and May 2017 Term Note (both as amended), and make Clarksdale jointly and severally liable for the full eighteen million seven hundred eighty three thousand dollar ($18,783,000) face amount of the obligations purportedly owed to ServisFirst thereunder.

49. In connection with the December 2017 Amendment, Clarksdale executed a Mississippi Leasehold Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing (as same may have been amended from time to time, the "**Clarksdale Deed of Trust**") purporting to grant a security interest in Clarksdale's real estate assets and personal property.

50. Upon information and belief, Clarksdale did not receive any funds or other value from ServisFirst in connection with the December 2017 ServisFirst Transaction.

51. Upon information and belief, at the time of the December 2017 ServisFirst Transaction, or as a result thereof: (i) the liabilities of Clarksdale exceeded the value of its assets;

(ii) Clarksdale was left inadequately capitalized; and/or (iii) Clarksdale could not pay its obligations as they became due.

E. The December 2017 MidCap Transaction

52. Amory, Batesville, and Clarksdale as borrowers; MidCap Financial Trust ("**MidCap**") as agent; and certain financial institutions and other entities as lenders entered into a Credit and Security Agreement dated December 13, 2017 (the "**December 2017 MidCap Agreement**," and together with all documents executed in connection therewith, the "**December 2017 MidCap Transaction**").

53. Upon information and belief, as set forth on Schedule 1 to the Loan Disbursement Request dated December 13, 2017 made in connection with the December 2017 MidCap Agreement (the "**MidCap Closing Schedule**"), MidCap wired five million seven hundred twenty nine thousand five hundred twenty eight dollars and fifteen cents ($5,729,528.15) to ServisFirst (the "**MidCap Wire**") in connection with the December 2017 MidCap Transaction.

54. Upon information and belief, the MidCap Wire funds were utilized to satisfy a Promissory Note dated November 1, 2017 executed by Clarksdale in favor of CHS in the amount of five million dollars ($5,000,000) (the "**CHS Promissory Note**") by way of a five million dollar wire from ServisFirst to CHS (the "**ServisFirst Wire**") as set forth on the MidCap Closing Schedule.

55. The MidCap Wire and, to the extent actually effectuated, ServisFirst wire were inconsistent with the terms of the December 2017 Amendment, which, as described in paragraphs 45 through 47 above, provided for a cashless conversion of the purported outstanding May 2017 Revolving Loan from ServisFirst to Amory and Batesville into term loan debt, increase of the amount of the term loan to eighteen million seven hundred eighty three thousand

dollars ($18,783,000), and cancellation of the May 2017 Revolving Note, and did not contemplate a further five million dollar ($5,000,000) advance by ServisFirst (nor a five million seven hundred twenty nine thousand five hundred twenty eight dollars and fifteen cent ($5,729,528.15) pay down by MidCap).

56. Upon information and belief, the ServisFirst Wire, to the extent effectuated, did not result in any value to Clarksdale or any other Debtor in light of the MidCap Wire to ServisFirst to fund the ServisFirst Wire.

57. Upon information and belief, the net effect of the ServisFirst Wire and the MidCap Wire, to the extent the ServisFirst Wire was effectuated, was to reduce the cumulative purported indebtedness to ServisFirst under the May 2017 Loan Agreement and related documents (including any amendments to any of the foregoing documents) by seven hundred twenty nine thousand five hundred twenty eight dollars and fifteen cents ($729,528.15).

F. The March 2018 ServisFirst Transaction

58. The Physician Group Debtors executed a Guaranty dated March 6, 2018 under which the Physician Group Debtors purported to guarantee the obligations owed to ServisFirst under the May 2017 Loan Agreement and May 2017 Term Note (the "**March 2018 Guaranty**," and together with all documents executed in connection therewith, the "**March 2018 ServisFirst Transaction**").

59. In connection with the March 2018 Guaranty, the Physician Group Debtors executed a Guarantor Security Agreement purporting to grant ServisFirst a security interest in substantially all of each Physician Group Debtors' assets and personal property.

60. Upon information and belief, the Physician Group Debtors did not receive any funds or any other value from ServisFirst in connection with the December 2017 Transaction.

61. Upon information and belief, at the time of the March 2018 Transaction, or as a result thereof: (i) the respective liabilities of the Physician Group Debtors exceeded the value of their respective assets; (ii) the Physician Group Debtors were each left inadequately capitalized; and/or (iii) the Physician Group Debtors could not pay their respective obligations as they became due.

G. ServisFirst Proof of Claim

62. On or about November 14, 2018, ServisFirst filed a proof of claim (identified as claim number 65-00122 on the claims register maintained by the claims agent in the Bankruptcy Cases) (the "**Proof of Claim**") asserting a secured claim in the amount of $18,773,834.20 against Curae and identifying the applicable collateral as "all assets and personal property[.]"

63. As set forth on Exhibit A to the Proof of Claim, ServisFirst asserts that it is owed $18,773,834.20 under the May 2017 Term Loan (as amended); that each of the Debtors is indebted to ServisFirst; and that ServisFirst has perfected liens on each Debtors' property.

Count I
Avoidance of All Alleged Obligations of Curae to ServisFirst as Fraudulent Transfers (11 U.S.C. § 548)

64. The Committee repeats and realleges the allegations set forth in each of the foregoing paragraphs, which are incorporated by reference as if set forth fully herein.

65. To the extent enforceable, the alleged obligations of Curae to ServisFirst – including all guaranties, security interest grants, lien grants, collateral pledges, and other obligations – purportedly incurred in connection with the May 2017 ServisFirst Transaction (including under the May 2017 Loan Agreement, the May 2017 Guaranty, and the May 2017 Guarantor Security Agreement) or any other transaction, described in this Complaint, related to transactions described in this Complaint, or otherwise (collectively, the "**Alleged Curae**

Obligations"), constituted transfers of interests of Curae in property and/or obligations incurred on or within two (2) years before the Petition Date.

66. Upon information and belief, Curae did not receive any funds or other value in exchange for the Alleged Curae Obligations.

67. Upon information and belief, Curae did not receive reasonably equivalent value in exchange for the Alleged Curae Obligations.

68. Upon information and belief, Curae, on the dates each of the Alleged Curae Obligations were incurred, (i) was insolvent (or became insolvent as a result of each Alleged Curae Obligation); (ii) was engaged in business or a transaction, or was about to engage in business or a transaction, for which any property remaining with Curae was unreasonably small capital; (iii) intended to incur, or believed that it would incur, debts that would be beyond its ability to pay as such debts matured; and/or (iv) incurred each Alleged Curae Obligation to or for the benefit of an insider, under an employment contract and not in the ordinary course of business.

69. Based upon the foregoing, the Committee, on behalf of Curae, is entitled to avoidance of all Alleged Curae Obligations under 11 U.S.C. § 548(a)(1)(B).

Count II
Avoidance of All Alleged Obligations of Curae to ServisFirst as Fraudulent Transfers (11 U.S.C. § 544 and Tenn. Code Ann. §§ 66-3-305 and 308)

70. The Committee repeats and realleges the allegations set forth in each of the foregoing paragraphs, which are incorporated by reference as if set forth fully herein.

71. Curae incurred the Alleged Curae Obligations[3] within four (4) years before the Petition Date.

72. Upon information and belief, Curae did not receive any funds or other value in exchange for the Alleged Curae Obligations.

73. Upon information and belief, Curae did not receive reasonably equivalent value in exchange for the Alleged Curae Obligations.

74. Upon information and belief, at the times that Curae incurred the Alleged Curae Obligations, Curae (i) was engaged or was about to engage in a business or a transaction for which Curae's remaining assets were unreasonably small in relation to the business or transaction, and/or (ii) Curae intended to incur, or believed or reasonably should have believed that Curae would incur, debts beyond Curae's ability to pay as they became due.

75. Under 11 U.S.C. § 544(b)(1), a debtor-in-possession may avoid any transfer of an interest of the debtor in property or any obligation incurred by the debtor that is voidable under applicable law by a creditor holding an unsecured claim that is allowable under 11 U.S.C. § 502 or that is not allowable only under 11 U.S.C. § 502(e).

76. Upon information and belief, with respect to each Alleged Curae Obligation, at least one creditor of Curae of the kind described in 11 U.S.C. § 544(b)(1), and whose claim arose either before or after the Alleged Curae Obligation was incurred, exists.

77. Based upon the foregoing, the Alleged Curae Obligations were fraudulent transfers under Tenn. Code Ann. § 66-3-305(a)(2).

[3] For the purposes of Counts II and III of this Complaint, the term "Alleged Curae Obligations" shall include the alleged obligations of Curae to ServisFirst – including all guaranties, security interest grants, lien grants, collateral pledges, and other obligations – purportedly incurred in connection with 2014 ServisFirst Transaction (including under the Russellville Loan Agreement, the 2014 Guaranty, and the 2014 Guarantor Security Agreement) in addition to the obligations included in the definition of "Alleged Curae Obligations" in paragraph 65 above.

78. Based upon the foregoing, the Committee, on behalf of Curae, is entitled to avoidance of all Alleged Curae Obligations under Tenn. Code Ann. § 66-3-308(a)(1).

Count III
Avoidance of All Alleged Obligations of Curae to ServisFirst as Fraudulent Transfers (11 U.S.C. § 544 and Tenn. Code Ann. §§ 66-3-306 and 308)

79. The Committee repeats and realleges the allegations set forth in each of the foregoing paragraphs, which are incorporated by reference as if set forth fully herein.

80. Curae incurred the Alleged Curae Obligations within four (4) years before the Petition Date.

81. Upon information and belief, Curae did not receive any funds or other value in exchange for the Alleged Curae Obligations.

82. Upon information and belief, Curae did not receive reasonably equivalent value in exchange for the Alleged Curae Obligations.

83. Upon information and belief, Curae was insolvent at the times each of the Alleged Curae Obligations were incurred, or became insolvent as a result of each of the Alleged Curae Obligations, because at each time the Alleged Curae Obligations were incurred, or as a result of each Alleged Curae Obligation, the sum of Curae's debts was greater than all of Curae's assets, at fair value, and/or Curae was not paying its debts as they became due.

84. Under 11 U.S.C. § 544(b)(1), a debtor-in-possession may avoid any transfer of an interest of the debtor in property or any obligation incurred by the debtor that is voidable under applicable law by a creditor holding an unsecured claim that is allowable under 11 U.S.C. § 502 or that is not allowable only under 11 U.S.C. § 502(e).

85. Upon information and belief, with respect to each Alleged Curae Obligation, at least one creditor of Curae of the kind described in 11 U.S.C. § 544(b)(1), and whose claim arose before the Alleged Curae Obligation was incurred, exists.

86. Based upon the foregoing, the Alleged Curae Obligations were fraudulent transfers under Tenn. Code Ann. § 66-3-306(a).

87. Based upon the foregoing, the Committee, on behalf of Curae, is entitled to avoidance of all Alleged Curae Obligations under Tenn. Code Ann. § 66-3-308(a)(1).

Count IV
Avoidance of All Alleged Obligations of Amory to ServisFirst as Fraudulent Transfers (11 U.S.C. § 548)

88. The Committee repeats and realleges the allegations set forth in each of the foregoing paragraphs, which are incorporated by reference as if set forth fully herein.

89. To the extent enforceable, the alleged obligations of Amory to ServisFirst – including all debts, security interest grants, lien grants, collateral pledges, and other obligations – purportedly incurred in connection with the May 2017 ServisFirst Transaction, the December 2017 ServisFirst Transaction, or any other transaction, described in this Complaint, related to the transactions described in this Complaint, or otherwise (collectively, the "**Alleged Amory Obligations**"), constituted transfers of interests of Curae in property and/or obligations incurred on or within two (2) years before the Petition Date.

90. Upon information and belief, Amory did not receive reasonably equivalent value in exchange for the Alleged Amory Obligations.

91. Upon information and belief, Amory, on the dates each of the Alleged Amory Obligations were incurred, (i) was insolvent (or became insolvent as a result of each Alleged Amory Obligation); (ii) was engaged in business or a transaction, or was about to engage in

business or a transaction, for which any property remaining with Amory was unreasonably small capital; (iii) intended to incur, or believed that it would incur, debts that would be beyond its ability to pay as such debts matured; and/or (iv) incurred each Alleged Amory Obligation to or for the benefit of an insider, under an employment contract and not in the ordinary course of business.

92. Based upon the foregoing, the Committee, on behalf of Amory, is entitled to avoidance of all Alleged Amory Obligations under 11 U.S.C. § 548(a)(1)(B).

Count V
Avoidance of All Alleged Obligations of Amory to ServisFirst as Fraudulent Transfers (11 U.S.C. § 544 and Tenn. Code Ann. §§ 66-3-305 and 308)

93. The Committee repeats and realleges the allegations set forth in each of the foregoing paragraphs, which are incorporated by reference as if set forth fully herein.

94. Amory incurred the Alleged Amory Obligations within four (4) years before the Petition Date.

95. Upon information and belief, Amory did not receive reasonably equivalent value in exchange for the Alleged Amory Obligations.

96. Upon information and belief, at the times that Amory incurred the Alleged Amory Obligations, Amory (i) was engaged or was about to engage in a business or a transaction for which Amory's remaining assets were unreasonably small in relation to the business or transaction, and/or (ii) Amory intended to incur, or believed or reasonably should have believed that Amory would incur, debts beyond Amory's ability to pay as they became due.

97. Under 11 U.S.C. § 544(b)(1), a debtor-in-possession may avoid any transfer of an interest of the debtor in property or any obligation incurred by the debtor that is voidable under

applicable law by a creditor holding an unsecured claim that is allowable under 11 U.S.C. § 502 or that is not allowable only under 11 U.S.C. § 502(e).

98. Upon information and belief, with respect to each Alleged Amory Obligation, at least one creditor of Amory of the kind described in 11 U.S.C. § 544(b)(1), and whose claim arose either before or after the Alleged Amory Obligation was incurred, exists.

99. Based upon the foregoing, the Alleged Amory Obligations were fraudulent transfers under Tenn. Code Ann. § 66-3-305(a)(2).

100. Based upon the foregoing, the Committee, on behalf of Amory, is entitled to avoidance of all Alleged Amory Obligations under Tenn. Code Ann. § 66-3-308(a)(1).

Count VI
Avoidance of All Alleged Obligations of Amory to ServisFirst as Fraudulent Transfers (11 U.S.C. § 544 and Tenn. Code Ann. §§ 66-3-306 and 308)

101. The Committee repeats and realleges the allegations set forth in each of the foregoing paragraphs, which are incorporated by reference as if set forth fully herein.

102. Curae incurred the Alleged Amory Obligations within four (4) years before the Petition Date.

103. Upon information and belief, Amory did not receive reasonably equivalent value in exchange for the Alleged Curae Obligations.

104. Upon information and belief, Amory was insolvent at the times each of the Alleged Amory Obligations were incurred, or became insolvent as a result of each of the Alleged Amory Obligations, because at each time the Alleged Amory Obligations were incurred, or as a result of each Alleged Amory Obligation, the sum of Amory's debts was greater than all of Amory's assets, at fair value, and/or Amory was not paying its debts as they became due.

105. Under 11 U.S.C. § 544(b)(1), a debtor-in-possession may avoid any transfer of an interest of the debtor in property or any obligation incurred by the debtor that is voidable under applicable law by a creditor holding an unsecured claim that is allowable under 11 U.S.C. § 502 or that is not allowable only under 11 U.S.C. § 502(e).

106. Upon information and belief, with respect to each Alleged Amory Obligation, at least one creditor of Amory of the kind described in 11 U.S.C. § 544(b)(1), and whose claim arose before the Alleged Amory Obligation was incurred, exists.

107. Based upon the foregoing, the Alleged Amory Obligations were fraudulent transfers under Tenn. Code Ann. § 66-3-306(a).

108. Based upon the foregoing, the Committee, on behalf of Amory, is entitled to avoidance of all Alleged Amory Obligations under Tenn. Code Ann. § 66-3-308(a)(1).

Count VII
Avoidance of All Alleged Obligations of Batesville to ServisFirst as Fraudulent Transfers (11 U.S.C. § 548)

109. The Committee repeats and realleges the allegations set forth in each of the foregoing paragraphs, which are incorporated by reference as if set forth fully herein.

110. To the extent enforceable, the alleged obligations of Batesville to ServisFirst – including all debts, security interest grants, lien grants, collateral pledges, and other obligations – purportedly incurred in connection with the May 2017 ServisFirst Transaction, the December 2017 ServisFirst Transaction, or any other transaction, described in this Complaint, related to the transactions described in this Complaint, or otherwise (collectively, the "**Alleged Batesville Obligations**") constituted transfers of interests of Batesville in property and/or obligations incurred on or within two (2) years before the Petition Date.

111. Upon information and belief, Batesville did not receive reasonably equivalent value in exchange for the Alleged Batesville Obligations.

112. Upon information and belief, Batesville, on the dates each of the Alleged Batesville Obligations were incurred, (i) was insolvent (or became insolvent as a result of each Alleged Batesville Obligation); (ii) was engaged in business or a transaction, or was about to engage in business or a transaction, for which any property remaining with Batesville was unreasonably small capital; (iii) intended to incur, or believed that it would incur, debts that would be beyond its ability to pay as such debts matured; and/or (iv) incurred each Alleged Batesville Obligation to or for the benefit of an insider, under an employment contract and not in the ordinary course of business.

113. Based upon the foregoing, the Committee, on behalf of Batesville, is entitled to avoidance of all Alleged Batesville Obligations under 11 U.S.C. § 548(a)(1)(B).

Count VIII
Avoidance of All Alleged Obligations of Batesville to ServisFirst as Fraudulent Transfers (11 U.S.C. § 544 and Tenn. Code Ann. §§ 66-3-305 and 308)

114. The Committee repeats and realleges the allegations set forth in each of the foregoing paragraphs, which are incorporated by reference as if set forth fully herein.

115. Batesville incurred the Alleged Batesville Obligations within four (4) years before the Petition Date.

116. Upon information and belief, Batesville did not receive reasonably equivalent value in exchange for the Alleged Batesville Obligations.

117. Upon information and belief, at the times that Batesville incurred the Alleged Batesville Obligations, Batesville (i) was engaged or was about to engage in a business or a transaction for which Batesville's remaining assets were unreasonably small in relation to the

business or transaction, and/or (ii) Batesville intended to incur, or believed or reasonably should have believed that Batesville would incur, debts beyond Batesville's ability to pay as they became due.

118. Under 11 U.S.C. § 544(b)(1), a debtor-in-possession may avoid any transfer of an interest of the debtor in property or any obligation incurred by the debtor that is voidable under applicable law by a creditor holding an unsecured claim that is allowable under 11 U.S.C. § 502 or that is not allowable only under 11 U.S.C. § 502(e).

119. Upon information and belief, with respect to each Alleged Batesville Obligation, at least one creditor of Batesville of the kind described in 11 U.S.C. § 544(b)(1), and whose claim arose either before or after the Alleged Batesville Obligation was incurred, exists.

120. Based upon the foregoing, the Alleged Batesville Obligations were fraudulent transfers under Tenn. Code Ann. § 66-3-305(a)(2).

121. Based upon the foregoing, the Committee, on behalf of Batesville, is entitled to avoidance of all Alleged Batesville Obligations under Tenn. Code Ann. § 66-3-308(a)(1).

Count IX
Avoidance of All Alleged Obligations of Batesville to ServisFirst as Fraudulent Transfers (11 U.S.C. § 544 and Tenn. Code Ann. §§ 66-3-306 and 308)

122. The Committee repeats and realleges the allegations set forth in each of the foregoing paragraphs, which are incorporated by reference as if set forth fully herein.

123. Batesville incurred the Alleged Batesville Obligations within four (4) years before the Petition Date.

124. Upon information and belief, Batesville did not receive reasonably equivalent value in exchange for the Alleged Batesville Obligations.

125. Upon information and belief, Batesville was insolvent at the times each of the Alleged Batesville Obligations were incurred, or became insolvent as a result of each of the Alleged Batesville Obligations, because at each time the Alleged Batesville Obligations were incurred, or as a result of each Alleged Batesville Obligation, the sum of Batesville's debts was greater than all of Batesville's assets, at fair value, and/or Batesville was not paying its debts as they became due.

126. Under 11 U.S.C. § 544(b)(1), a debtor-in-possession may avoid any transfer of an interest of the debtor in property or any obligation incurred by the debtor that is voidable under applicable law by a creditor holding an unsecured claim that is allowable under 11 U.S.C. § 502 or that is not allowable only under 11 U.S.C. § 502(e).

127. Upon information and belief, with respect to each Alleged Batesville Obligation, at least one creditor of Batesville of the kind described in 11 U.S.C. § 544(b)(1), and whose claim arose before the Alleged Batesville Obligation was incurred, exists.

128. Based upon the foregoing, the Alleged Batesville Obligations were fraudulent transfers under Tenn. Code Ann. § 66-3-306(a).

129. Based upon the foregoing, the Committee, on behalf of Batesville, is entitled to avoidance of all Alleged Batesville Obligations under Tenn. Code Ann. § 66-3-308(a)(1).

Count X
Avoidance of All Alleged Obligations of Clarksdale to ServisFirst as Fraudulent Transfers (11 U.S.C. § 548)

130. The Committee repeats and realleges the allegations set forth in each of the foregoing paragraphs, which are incorporated by reference as if set forth fully herein.

131. To the extent enforceable, the alleged obligations of Clarksdale to ServisFirst – including all debts, security interest grants, lien grants, collateral pledges, and other obligations –

purportedly incurred in connection with the Clarksdale Acquisition, the December 2017 ServisFirst Transaction, or any other transaction, described in this Complaint, related to transactions described in this Complaint, or otherwise (collectively, the "**Alleged Clarksdale Obligations**"), constituted transfers of interests of Clarksdale in property and/or obligations incurred on or within two (2) years before the Petition Date.

132. Upon information and belief, Clarksdale did not receive any funds or other value in exchange for the Alleged Clarksdale Obligations.

133. Upon information and belief, Clarksdale did not receive reasonably equivalent value in exchange for the Alleged Clarksdale Obligations.

134. Upon information and belief, Clarksdale, on the dates each of the Alleged Clarksdale Obligations were incurred, (i) was insolvent (or became insolvent as a result of each Alleged Clarksdale Obligation); (ii) was engaged in business or a transaction, or was about to engage in business or a transaction, for which any property remaining with Clarksdale was unreasonably small capital; (iii) intended to incur, or believed that it would incur, debts that would be beyond its ability to pay as such debts matured; and/or (iv) incurred each Alleged Clarksdale Obligation to or for the benefit of an insider, under an employment contract and not in the ordinary course of business.

135. Based upon the foregoing, the Committee, on behalf of Clarksdale, is entitled to avoidance of all Alleged Clarksdale Obligations under 11 U.S.C. § 548(a)(1)(B).

Count XI
Avoidance of All Alleged Obligations of Clarksdale to ServisFirst as Fraudulent Transfers (11 U.S.C. § 544 and Tenn. Code Ann. §§ 66-3-305 and 308)

136. The Committee repeats and realleges the allegations set forth in each of the foregoing paragraphs, which are incorporated by reference as if set forth fully herein.

137. Clarksdale incurred the Alleged Clarksdale Obligations within four (4) years before the Petition Date.

138. Upon information and belief, Clarksdale did not receive reasonably equivalent value in exchange for the Alleged Clarksdale Obligations.

139. Upon information and belief, at the times that Clarksdale incurred the Alleged Clarksdale Obligations, Clarksdale (i) was engaged or was about to engage in a business or a transaction for which Clarksdale's remaining assets were unreasonably small in relation to the business or transaction, and/or (ii) Clarksdale intended to incur, or believed or reasonably should have believed that Clarksdale would incur, debts beyond Clarksdale's ability to pay as they became due.

140. Under 11 U.S.C. § 544(b)(1), a debtor-in-possession may avoid any transfer of an interest of the debtor in property or any obligation incurred by the debtor that is voidable under applicable law by a creditor holding an unsecured claim that is allowable under 11 U.S.C. § 502 or that is not allowable only under 11 U.S.C. § 502(e).

141. Upon information and belief, with respect to each Alleged Clarksdale Obligation, at least one creditor of Clarksdale of the kind described in 11 U.S.C. § 544(b)(1), and whose claim arose either before or after the Alleged Clarksdale Obligation was incurred, exists.

142. Based upon the foregoing, the Alleged Clarksdale Obligations were fraudulent transfers under Tenn. Code Ann. § 66-3-305(a)(2).

143. Based upon the foregoing, the Committee, on behalf of Clarksdale, is entitled to avoidance of all Alleged Clarksdale Obligations under Tenn. Code Ann. § 66-3-308(a)(1).

Count XII
Avoidance of All Alleged Obligations of Clarksdale to ServisFirst as Fraudulent Transfers (11 U.S.C. § 544 and Tenn. Code Ann. §§ 66-3-306 and 308)

144. The Committee repeats and realleges the allegations set forth in each of the foregoing paragraphs, which are incorporated by reference as if set forth fully herein.

145. Clarksdale incurred the Alleged Clarksdale Obligations within four (4) years before the Petition Date.

146. Upon information and belief, Clarksdale did not receive reasonably equivalent value in exchange for the Alleged Clarksdale Obligations.

147. Upon information and belief, Clarksdale was insolvent at the times each of the Alleged Clarksdale Obligations were incurred, or became insolvent as a result of each of the Alleged Clarksdale Obligations, because at each time the Alleged Clarksdale Obligations were incurred, or as a result of each Alleged Clarksdale Obligation, the sum of Clarksdale's debts was greater than all of Clarksdale's assets, at fair value, and/or Clarksdale was not paying its debts as they became due.

148. Under 11 U.S.C. § 544(b)(1), a debtor-in-possession may avoid any transfer of an interest of the debtor in property or any obligation incurred by the debtor that is voidable under applicable law by a creditor holding an unsecured claim that is allowable under 11 U.S.C. § 502 or that is not allowable only under 11 U.S.C. § 502(e).

149. Upon information and belief, with respect to each Alleged Clarksdale Obligation, at least one creditor of Clarksdale of the kind described in 11 U.S.C. § 544(b)(1), and whose claim arose before the Alleged Clarksdale Obligation was incurred, exists.

150. Based upon the foregoing, the Alleged Clarksdale Obligations were fraudulent transfers under Tenn. Code Ann. § 66-3-306(a).

151. Based upon the foregoing, the Committee, on behalf of Clarksdale, is entitled to avoidance of all Alleged Clarksdale Obligations under Tenn. Code Ann. § 66-3-308(a)(1).

Count XIII
Avoidance of All Alleged Obligations of the Physician Group Debtors to ServisFirst as Fraudulent Transfers (11 U.S.C. § 548)

152. The Committee repeats and realleges the allegations set forth in each of the foregoing paragraphs, which are incorporated by reference as if set forth fully herein.

153. To the extent enforceable, the alleged obligations of the Physician Group Debtors to ServisFirst – including all guaranties, security interest grants, lien grants, collateral pledges, and other obligations – purportedly incurred in connection with the March 2018 ServisFirst Transaction or any other transaction, described in this Complaint, related to transactions described in this Complaint, or otherwise (collectively, the "**Alleged Physician Group Debtor Obligations**"), constituted transfers of interests of the Physician Group Debtors in property and/or obligations incurred on or within two (2) years before the Petition Date.

154. Upon information and belief, the Physician Group Debtors did not receive any funds or other value in exchange for their respective Alleged Physician Group Debtor Obligations.

155. Upon information and belief, the Physician Group Debtors did not receive reasonably equivalent value in exchange for their respective Alleged Physician Group Debtor Obligations.

156. Upon information and belief, each Physician Group Debtor, on the dates each of its respective Alleged Physician Group Debtor Obligations were incurred, (i) was insolvent (or became insolvent as a result of each of its respective Alleged Curae Obligations); (ii) was engaged in business or a transaction, or was about to engage in business or a transaction, for

which any property remaining with the such Physician Group Debtor was unreasonably small capital; (iii) intended to incur, or believed that it would incur, debts that would be beyond its ability to pay as such debts matured; and/or (iv) incurred the applicable Alleged Physician Group Debtor Obligation to or for the benefit of an insider, under an employment contract and not in the ordinary course of business.

157. Based upon the foregoing, the Committee, on behalf of the Physician Group Debtors, is entitled to avoidance of all Alleged Physician Group Debtor Obligations under 11 U.S.C. § 548(a)(1)(B).

Count XIV
Avoidance of All Alleged Obligations of the Physician Group Debtors to ServisFirst as Fraudulent Transfers (11 U.S.C. § 544 and Tenn. Code Ann. §§ 66-3-305 and 308)

158. The Committee repeats and realleges the allegations set forth in each of the foregoing paragraphs, which are incorporated by reference as if set forth fully herein.

159. The Physician Group Debtors incurred the Alleged Physician Group Debtor Obligations within four (4) years before the Petition Date.

160. Upon information and belief, the Physician Group Debtors did not receive any funds or other value in exchange for their respective Alleged Physician Group Debtor Obligations.

161. Upon information and belief, the Physician Group Debtors did not receive reasonably equivalent value in exchange for their respective Alleged Physician Group Debtor Obligations.

162. Upon information and belief, at the times that the Physician Group Debtors incurred their respective Alleged Physician Group Debtor Obligations, the applicable Physician Group Debtor (i) was engaged or was about to engage in a business or a transaction for which

such Physician Group Debtor's remaining assets were unreasonably small in relation to the business or transaction, and/or (ii) such Physician Group Debtor intended to incur, or believed or reasonably should have believed that such Physician Group Debtor would incur, debts beyond such Physician Group Debtor's ability to pay as they became due.

163. Under 11 U.S.C. § 544(b)(1), a debtor-in-possession may avoid any transfer of an interest of the debtor in property or any obligation incurred by the debtor that is voidable under applicable law by a creditor holding an unsecured claim that is allowable under 11 U.S.C. § 502 or that is not allowable only under 11 U.S.C. § 502(e).

164. Upon information and belief, with respect to each Alleged Physician Group Debtor Obligation, at least one creditor of the applicable Physician Group Debtor of the kind described in 11 U.S.C. § 544(b)(1), and whose claim arose either before or after the Alleged Physician Group Debtor Obligation was incurred, exists.

165. Based upon the foregoing, the Alleged Curae Obligations were fraudulent transfers under Tenn. Code Ann. § 66-3-305(a)(2).

166. Based upon the foregoing, the Committee, on behalf of the Physician Group Debtors, is entitled to avoidance of all Alleged Curae Obligations under Tenn. Code Ann. § 66-3-308(a)(1).

Count XV
Avoidance of All Alleged Obligations of the Physician Group Debtors to ServisFirst as Fraudulent Transfers (11 U.S.C. § 544 and Tenn. Code Ann. §§ 66-3-306 and 308)

167. The Committee repeats and realleges the allegations set forth in each of the foregoing paragraphs, which are incorporated by reference as if set forth fully herein.

168. The Physician Group Debtors incurred the Alleged Physician Group Debtor Obligations within four (4) years before the Petition Date.

169. Upon information and belief, the Physician Group Debtors did not receive any funds or other value in exchange for their respective Alleged Physician Group Debtor Obligations.

170. Upon information and belief, the Physician Group Debtors did not receive reasonably equivalent value in exchange for their respective Alleged Physician Group Debtor Obligations.

171. Upon information and belief, each Physician Group Debtor was insolvent at the times each of its respective Alleged Physician Group Debtor Obligations were incurred, or became insolvent as a result of each of its respective Alleged Physician Group Debtor Obligations, because at each time such Alleged Physician Group Debtor Obligations were incurred, or as a result of each such Alleged Curae Obligation, the sum of such Physician Group Debtor's debts was greater than all of such Physician Group Debtor's assets, at fair value, and/or such Physician Group Debtor was not paying its debts as they became due.

172. Under 11 U.S.C. § 544(b)(1), a debtor-in-possession may avoid any transfer of an interest of the debtor in property or any obligation incurred by the debtor that is voidable under applicable law by a creditor holding an unsecured claim that is allowable under 11 U.S.C. § 502 or that is not allowable only under 11 U.S.C. § 502(e).

173. Upon information and belief, with respect to each Alleged Physician Group Debtor Obligation, at least one creditor of the applicable Physician Group Debtor of the kind described in 11 U.S.C. § 544(b)(1), and whose claim arose before the Alleged Physician Group Debtor Obligation was incurred, exists.

174. Based upon the foregoing, the Alleged Physician Group Debtor Obligations were fraudulent transfers under Tenn. Code Ann. § 66-3-306(a).

175. Based upon the foregoing, the Committee, on behalf of the Physician Group Debtors, is entitled to avoidance of all Alleged Physician Group Debtor Obligations under Tenn. Code Ann. § 66-3-308(a)(1).

Count XVI
Avoidance of Payments Made on Account of Avoided Obligations as Fraudulent Transfers (11 U.S.C. § 548)

176. The Committee repeats and realleges the allegations set forth in each of the foregoing paragraphs, which are incorporated by reference as if set forth fully herein.

177. Upon information and belief, various of the Debtors made payments to ServisFirst within two (2) years before the Petition Date (collectively, the "**Payments**").

178. The Payments known to the Committee at this time are set forth on **Schedule 1** attached hereto.[4]

179. Upon information and belief, the Payments each constituted a transfer of an interest of a Debtor in property.

180. To the extent any Payment was made in satisfaction of, or otherwise on account of, any alleged obligation avoided under the Bankruptcy Code, Tennessee law, or otherwise (collectively, the "**Avoided Obligations**"), the Debtor whose interest was transferred by such Payment did not receive any value in exchange for such Payment.

181. To the extent any Payment was made in satisfaction of, or otherwise on account of, any Avoided Obligation, the Debtor whose interest was transferred by such Payment did not receive reasonably equivalent value in exchange for such Payment.

[4] Schedule 1 is based upon the documents and information available to the Committee as of the date of this Complaint, and is subject to clarification, amendment, revision, or other modification (including to add or remove Payments as necessary) in light of new documents and information, obtained through subsequent discovery in this adversary proceeding or the Bankruptcy Cases, or otherwise.

182. Upon information and belief, each Debtor, on the dates each of its respective Payments were made, (i) was insolvent (or became insolvent as a result of each of its respective Payments); (ii) was engaged in business or a transaction, or was about to engage in business or a transaction, for which any property remaining with the such Debtor was unreasonably small capital; (iii) intended to incur, or believed that it would incur, debts that would be beyond its ability to pay as such debts matured; and/or (iv) made the applicable Payment to or for the benefit of an insider, under an employment contract and not in the ordinary course of business.

183. Based upon the foregoing, to the extent any Payment was made in satisfaction of, or otherwise on account of, an Avoided Obligation, the Committee, on behalf of the applicable Debtor, is entitled to avoidance of such Payment under 11 U.S.C. § 548(a)(1)(B).

Count XVII
Avoidance of Payments Made on Account of Avoided Obligations as Fraudulent Transfers (11 U.S.C. § 544 and Tenn. Code Ann. §§ 66-3-305 and 308)

184. The Committee repeats and realleges the allegations set forth in each of the foregoing paragraphs, which are incorporated by reference as if set forth fully herein.

185. The Payments were made within four (4) years before the Petition Date.

186. To the extent any Payment was made in satisfaction of, or otherwise on account of, any Avoided Obligation, the Debtor whose interest was transferred by such Payment did not receive any value in exchange for such Payment.

187. To the extent any Payment was made in satisfaction of, or otherwise on account of, any Avoided Obligation, the Debtor whose interest was transferred by such Payment did not receive reasonably equivalent value in exchange for such Payment.

188. Upon information and belief, each Debtor was insolvent at the times each of its respective Payments were made, or became insolvent as a result of each of its respective

Payments, because at each time one of its Payments was made, or as a result of each of its Payments, the sum of such Debtor's debts was greater than all of such Debtor's assets, at fair value, and/or such Debtor was not paying its debts as they became due.

189. Under 11 U.S.C. § 544(b)(1), a debtor-in-possession may avoid any transfer of an interest of the debtor in property or any obligation incurred by the debtor that is voidable under applicable law by a creditor holding an unsecured claim that is allowable under 11 U.S.C. § 502 or that is not allowable only under 11 U.S.C. § 502(e).

190. Upon information and belief, with respect to each Payment, at least one creditor of the applicable Debtor of the kind described in 11 U.S.C. § 544(b)(1), and whose claim arose either before or after the Payment was made, exists.

191. Based upon the foregoing, to the extent any Payment was made in satisfaction of, or otherwise on account of, an Avoided Obligation, such Payment was a fraudulent transfer under Tenn. Code Ann. § 66-3-305(a)(2).

192. Based upon the foregoing, to the extent any Payment was made in satisfaction of, or otherwise on account of, an Avoided Obligation, the Committee, on behalf of the applicable Debtor, is entitled to avoidance of such Payment under Tenn. Code Ann. § 66-3-308(a)(1).

Count XVIII
Avoidance of Payments Made on Account of Avoided Obligations as Fraudulent Transfers (11 U.S.C. § 544 and Tenn. Code Ann. §§ 66-3-306 and 308)

193. The Committee repeats and realleges the allegations set forth in each of the foregoing paragraphs, which are incorporated by reference as if set forth fully herein.

194. Upon information and belief, the Payments were made within four (4) years before the Petition Date.

195. To the extent any Payment was made in satisfaction of, or otherwise on account of, any Avoided Obligation, the Debtor whose interest was transferred by such Payment did not receive any value in exchange for such Payment.

196. To the extent any Payment was made in satisfaction of, or otherwise on account of, any Avoided Obligation, the Debtor whose interest was transferred by such Payment did not receive reasonably equivalent value in exchange for such Payment.

197. Upon information and belief, each Debtor was insolvent at the time each of its respective Payments were made, or became insolvent as a result of each such Payment, because at each time each such Payment was made, or as a result of each such Payment, the sum of such Debtor's debts was greater than all of such Debtor's assets, at fair value, and/or such Debtor was not paying its debts as they became due.

198. Under 11 U.S.C. § 544(b)(1), a debtor-in-possession may avoid any transfer of an interest of the debtor in property or any obligation incurred by the debtor that is voidable under applicable law by a creditor holding an unsecured claim that is allowable under 11 U.S.C. § 502 or that is not allowable only under 11 U.S.C. § 502(e).

199. Upon information and belief, with respect to each Payment, at least one creditor of the applicable Debtor of the kind described in 11 U.S.C. § 544(b)(1), and whose claim arose before the Payment was made, exists.

200. Based upon the foregoing, to the extent any Payment was made in satisfaction of, or otherwise on account of, an Avoided Obligation, such Payment was a fraudulent transfer under Tenn. Code Ann. § 66-3-306(a).

201. Based upon the foregoing, to the extent any Payment was made in satisfaction of, or otherwise on account of, an Avoided Obligation, the Committee, on behalf of the applicable Debtor, is entitled to avoidance of such Payment under Tenn. Code Ann. § 66-3-308(a)(1).

Count XIX
Avoidance of Payments Made on Account of Obligations of Other Parties as Fraudulent Transfers (11 U.S.C. § 548)

202. The Committee repeats and realleges the allegations set forth in each of the foregoing paragraphs, which are incorporated by reference as if set forth fully herein.

203. Upon information and belief, the Payments were made within two (2) years before the Petition Date.

204. Upon information and belief, the Payments each constituted a transfer of an interest of a Debtor in property.

205. To the extent any Payment was made in satisfaction of, or otherwise on account of, any obligation of a party other than the Debtor whose interest was transferred by such Payment, where such obligation did not also constitute an obligation of the Debtor whose interest was transferred (collectively, the "**Other Party Obligations**"), the Debtor whose interest was transferred by such Payment did not receive any value in exchange for such Payment.

206. To the extent any Payment was made in satisfaction of, or otherwise on account of, any Other Party Obligation, the Debtor whose interest was transferred by such Payment did not receive reasonably equivalent value in exchange for such Payment.

207. Upon information and belief, each Debtor, on the dates each of its respective Payments were made, (i) was insolvent (or became insolvent as a result of each of its respective Payments); (ii) was engaged in business or a transaction, or was about to engage in business or a transaction, for which any property remaining with the such Debtor was unreasonably small

capital; (iii) intended to incur, or believed that it would incur, debts that would be beyond its ability to pay as such debts matured; and/or (iv) made the applicable Payment to or for the benefit of an insider, under an employment contract and not in the ordinary course of business.

208. Based upon the foregoing, to the extent any Payment was made in satisfaction of, or otherwise on account of, an Other Party Obligation , the Committee, on behalf of the applicable Debtor, is entitled to avoidance of such Payment under 11 U.S.C. § 548(a)(1)(B).

Count XX
Avoidance of Payments Made on Account of Avoided Obligations as Fraudulent Transfers (11 U.S.C. § 544 and Tenn. Code Ann. §§ 66-3-305 and 308)

209. The Committee repeats and realleges the allegations set forth in each of the foregoing paragraphs, which are incorporated by reference as if set forth fully herein.

210. Upon information and belief, the Payments were made within four (4) years before the Petition Date.

211. To the extent any Payment was made in satisfaction of, or otherwise on account of, any Other Party Obligation, the Debtor whose interest was transferred by such Payment did not receive any value in exchange for such Payment.

212. To the extent any Payment was made in satisfaction of, or otherwise on account of, any Other Party Obligation, the Debtor whose interest was transferred by such Payment did not receive reasonably equivalent value in exchange for such Payment.

213. Upon information and belief, each Debtor was insolvent at the times each of its respective Payments were made, or became insolvent as a result of each of its respective Payments, because at each time one of its Payments was made, or as a result of each of its Payments, the sum of such Debtor's debts was greater than all of such Debtor's assets, at fair value, and/or such Debtor was not paying its debts as they became due.

214. Under 11 U.S.C. § 544(b)(1), a debtor-in-possession may avoid any transfer of an interest of the debtor in property or any obligation incurred by the debtor that is voidable under applicable law by a creditor holding an unsecured claim that is allowable under 11 U.S.C. § 502 or that is not allowable only under 11 U.S.C. § 502(e).

215. Upon information and belief, with respect to each Payment, at least one creditor of the applicable Debtor of the kind described in 11 U.S.C. § 544(b)(1), and whose claim arose either before or after the Payment was made, exists.

216. Based upon the foregoing, to the extent any Payment was made in satisfaction of, or otherwise on account of, an Other Party Obligation, such Payment was a fraudulent transfer under Tenn. Code Ann. § 66-3-305(a)(2).

217. Based upon the foregoing, to the extent any Payment was made in satisfaction of, or otherwise on account of, an Other Party Obligation, the Committee, on behalf of the applicable Debtor, is entitled to avoidance of such Payment under Tenn. Code Ann. § 66-3-308(a)(1).

Count XXI
Avoidance of Payments Made on Account of Avoided Obligations as Fraudulent Transfers (11 U.S.C. § 544 and Tenn. Code Ann. §§ 66-3-306 and 308)

218. The Committee repeats and realleges the allegations set forth in each of the foregoing paragraphs, which are incorporated by reference as if set forth fully herein.

219. Upon information and belief, the Payments were made within four (4) years before the Petition Date.

220. To the extent any Payment was made in satisfaction of, or otherwise on account of, any Other Party Obligation, the Debtor whose interest was transferred by such Payment did not receive any value in exchange for such Payment.

221. To the extent any Payment was made in satisfaction of, or otherwise on account of, any Other Party Obligation, the Debtor whose interest was transferred by such Payment did not receive reasonably equivalent value in exchange for such Payment.

222. Upon information and belief, each Debtor was insolvent at the time each of its respective Payments were made, or became insolvent as a result of each such Payment, because at each time each such Payment was made, or as a result of each such Payment, the sum of such Debtor's debts was greater than all of such Debtor's assets, at fair value, and/or such Debtor was not paying its debts as they became due.

223. Under 11 U.S.C. § 544(b)(1), a debtor-in-possession may avoid any transfer of an interest of the debtor in property or any obligation incurred by the debtor that is voidable under applicable law by a creditor holding an unsecured claim that is allowable under 11 U.S.C. § 502 or that is not allowable only under 11 U.S.C. § 502(e).

224. Upon information and belief, with respect to each Payment, at least one creditor of the applicable Debtor of the kind described in 11 U.S.C. § 544(b)(1), and whose claim arose before the Payment was made, exists.

225. Based upon the foregoing, to the extent any Payment was made in satisfaction of, or otherwise on account of, an Other Party Obligation, such Payment was a fraudulent transfer under Tenn. Code Ann. § 66-3-306(a).

226. Based upon the foregoing, to the extent any Payment was made in satisfaction of, or otherwise on account of, an Other Party Obligation, the Committee, on behalf of the applicable Debtor, is entitled to avoidance of such Payment under Tenn. Code Ann. § 66-3-308(a)(1).

Count XXII
Declaratory Judgment Regarding Debt Service Reserve Fund
(28. U.S.C. § 2201)

227. The Committee repeats and realleges the allegations set forth in each of the foregoing paragraphs, which are incorporated by reference as if set forth fully herein.

228. Upon information and belief, the Debt Service Reserve Fund currently totals approximately $950,020.00 and is held in a ServisFirst account in the name of Curae ending in 2745 (the "**Debt Service Reserve Fund Account**").

229. Upon information and belief, ServisFirst requested and/or required the Debt Service Reserve Fund to be held in the Debt Service Reserve Fund Account.

230. Section 3 of the Third Amendment to Revolving Credit Note and Fifth Amendment to Loan Agreement dated June 30, 2018 between Russellville and ServisFirst states as follows:

> 3. Section 5.10 of the Loan Agreement, originally titled "Debt Service Reserve Fund" is hereby amended and restated as follows:
>
> 5.10 Cash Collateral Account. During the term of this Agreement and until such time as the Obligations have been fully discharged, Borrower shall maintain a minimum balance of at least $850,000 in Account No: . . . 2747 [sic] held with Lender (the "**Cash Collateral Account**"). Borrower hereby grants Lender a lien in the Cash Collateral Account.

231. Upon information and belief, Curae's role with respect to the Debt Service Reserve Fund Account is purely custodial and/or in the nature of a quasi- or constructive trust.

232. Upon information and belief, Curae had no legal or beneficial interest in the Debt Service Reserve Fund until after the satisfaction and discharge described in paragraph 233 below.

233. Any obligations of Russellville to ServisFirst under the Russellville Loan Agreement and any related documents (including any amendments to any of the foregoing documents), including with respect to the Debt Service Reserve Fund, were satisfied in full by Dava pursuant to the Member Substitution Agreement and discharged along with any corresponding liens.

234. As a result of the satisfaction and discharge described in paragraph 233 above, any obligations of Curae to ServisFirst under the 2014 Guaranty, the 2014 Guarantor Security Agreement, and any documents related to the Russellville Loan Agreement (including any amendments to any of the foregoing documents), including with respect to the Debt Service Reserve Fund, were satisfied in full and discharged along with any corresponding liens.

235. As a result of the satisfactions and discharges described in paragraphs 233 and 234 above, ServisFirst has no lien on, or right of setoff or recoupment with respect to, the Debt Service Reserve Fund under any documents executed in connection with the 2014 ServisFirst Transaction.

236. The Debt Service Reserve Fund does not constitute an asset or personal property of Curae "related to the hospitals owned and operated by" Amory or Batesville (or Clarksdale), and therefore no lien of ServisFirst attached to the Debt Service Reserve Fund as a function of the May 2017 Guaranty or the May 2017 Guarantor Security Agreement.

237. Upon information and belief, ServisFirst has no basis other than the documents executed in connection with the 2014 ServisFirst Transaction and the May 2017 ServisFirst Transaction to assert a lien on, or right of setoff or recoupment with respect to, the Debt Service Reserve Fund.

238. Based upon the foregoing, the Committee, on behalf of the Debtors, is entitled to a declaratory judgment that ServisFirst has no lien on, or right of setoff or recoupment with respect to, the Debt Service Reserve Fund.

Count XXIII
Declaratory Judgment Regarding Russellville DSH/UPL Payments
(28. U.S.C. § 2201)

239. The Committee repeats and realleges the allegations set forth in each of the foregoing paragraphs, which are incorporated by reference as if set forth fully herein.

240. Upon information and belief, subsequent to the satisfaction and discharge described in paragraph 233 above, Russellville received and/or will receive certain Medicaid disproportionate-share hospital ("**DSH**"), upper payment limit ("**UPL**"), and/or other reimbursements, rebates, or other payments (collectively, the "**DSH/UPL Payments**").

241. As a result of the satisfactions and discharges described in paragraphs 233 and 234 above, ServisFirst has no lien on, or right of setoff or recoupment with respect to, the DSH/UPL Payments under any documents executed in connection with the 2014 ServisFirst Transaction.

242. The DSH/UPL Payments do not constitute assets or personal property of Curae "related to the hospitals owned and operated by" Amory or Batesville (or Clarksdale), and therefore no lien of ServisFirst attached to the DSH/UPL Payments as a function of the May 2017 Guaranty or the May 2017 Guarantor Security Agreement.

243. Upon information and belief, ServisFirst has no basis other than the documents executed in connection with the 2014 ServisFirst Transaction and the May 2017 ServisFirst Transaction to assert a lien on, or right of setoff or recoupment with respect to, the DSH/UPL Payments.

244. Based upon the foregoing, the Committee, on behalf of the Debtors, is entitled to a declaratory judgment that ServisFirst has no lien on, or right of setoff or recoupment with respect to, the DSH/UPL Payments.

Count XXIV
Declaratory Judgment Regarding Other Russellville Assets
(28. U.S.C. § 2201)

245. The Committee repeats and realleges the allegations set forth in each of the foregoing paragraphs, which are incorporated by reference as if set forth fully herein.

246. As a result of the satisfactions and discharges described in paragraphs 233 and 234 above, ServisFirst has no lien on, or right of setoff or recoupment with respect to, any assets of Russellville under any documents executed in connection with the 2014 ServisFirst Transaction.

247. No assets of Russellville constitute assets or personal property of Curae "related to the hospitals owned and operated by" Amory or Batesville (or Clarksdale), and therefore no lien of ServisFirst attached to assets of Russellville as a function of the May 2017 Guaranty or the May 2017 Guarantor Security Agreement.

248. Upon information and belief, ServisFirst has no basis other than the documents executed in connection with the 2014 ServisFirst Transaction and the May 2017 ServisFirst Transaction to assert a lien on, or right of setoff or recoupment with respect to, any assets of Russellville.

249. Based upon the foregoing, the Committee, on the Debtors' behalf, is entitled to a declaratory judgment that ServisFirst has no lien on, or right of setoff or recoupment with respect to, any assets of Russellville that are not otherwise specifically identified in Counts XIX and XX above.

Count XXV
Declaratory Judgment Regarding Clarksdale Assets
(28. U.S.C. § 2201)

250. The Committee repeats and realleges the allegations set forth in each of the foregoing paragraphs, which are incorporated by reference as if set forth fully herein.

251. Assets of Clarksdale do not constitute assets or personal property of Curae "related to the hospitals owned and operated by" Amory or Batesville, and therefore no lien of ServisFirst attached to the assets of Clarksdale as a function of the May 2017 Guaranty or the May 2017 Guarantor Security Agreement.

252. As set forth in Counts X-XII above, all Alleged Clarksdale Obligations to ServisFirst are avoidable as fraudulent transfers.

253. Upon information and belief, ServisFirst has no basis other than the May 2017 Guaranty, the May 2017 Guarantor Security Agreement, and the Alleged Clarksdale Obligations to assert a lien on, or right of setoff or recoupment with respect to, any assets of Clarksdale.

254. Based upon the foregoing, to the extent the Alleged Clarksdale Obligations are avoided, the Committee, on the Debtors' behalf, is entitled to a declaratory judgment that ServisFirst has no lien on, or right of setoff or recoupment with respect to, any assets of Clarksdale.

Count XXVI
Objection to Alleged Claims
(11 U.S.C. § 502)

255. The Committee repeats and realleges the allegations set forth in each of the foregoing paragraphs, which are incorporated by reference as if set forth fully herein.

256. Section 502(a) of the Bankruptcy Code states as follows:

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

257. The Committee is a party in interest for the purposes of 11 U.S.C. § 502(a).

258. Section 502(b) of the Bankruptcy Code states in relevant part as follows:

> (b) . . . [I]f such objection to a claim is made, the court, after notice and a hearing, shall determine the amount of such claim in lawful currency of the United States as of the date of the filing of the petition, and shall allow such claim in such amount, except to the extent that –
>
> (1) such claim is unenforceable against the debtor and property of the debtor, under any agreement or applicable law for a reason other than because such claim is contingent or unmatured[.]

259. Based upon the foregoing, to the extent that ServisFirst's alleged claims against any of the Debtors (including as asserted in the Proof of Claim) are legally unenforceable – as a result of the avoidance of any transfer or obligation, as a result of a misstatement of any amounts owed, as a result of recharacterization of any postpetition payments of interest as payments of principal, or for any other reason – the Committee objects to such claims and is entitled, on the Debtors' behalf, to disallowance such claims (including the Proof of Claim) under 11 U.S.C. § 502(a) and (b).

Count XXVII
Determination of Alleged Secured Claim
(11 U.S.C. § 506(a)(1))

260. The Committee repeats and realleges the allegations set forth in each of the foregoing paragraphs, which are incorporated by reference as if set forth fully herein.

261. Section 506(a)(1) of the Bankruptcy Code states in relevant part as follows:

> An allowed claim of a creditor secured by a lien on property in which the estate has an interest, or that is subject to setoff under section 553 of this title, is a secured claim to the extent of the value of such creditor's interest in the estate's interest in such property, or to the extent of the amount subject to setoff, as the case may be, and is an unsecured claim to the extent that the value of such creditor's interest or the amount so subject to setoff is less than the amount of such allowed claim.

262. Based upon the foregoing, to the extent that ServisFirst has any valid claim against any Debtor secured by a valid lien or right of setoff, the Committee is entitled, on the Debtors' behalf, to a determination that (i) such claim is a secured claim only to the extent of the value of ServisFirst's interest in the applicable Debtor's estate's interest in the applicable collateral, or to the extent of the amount subject to setoff; and (ii) such claim is an unsecured claim to the extent that the value of ServisFirst's interest or the amount so subject to setoff is less than the amount of ServisFirst's valid claim under 11 U.S.C. § 506(a).

Count XXVIII
Avoidance of Payments as Preferential Transfers
(11 U.S.C. § 547(b))

263. The Committee repeats and realleges the allegations set forth in each of the foregoing paragraphs, which are incorporated by reference as if set forth fully herein.

264. Upon information and belief, certain Payments were made within ninety (90) days before the Petition Date (collectively, the "**90-Day Payments**").

265. The 90-Day Payments known to the Committee at this time are set forth on **Schedule 2** attached hereto.[5]

266. Upon information and belief, each 90-Day Payment constituted a transfer of interests of a Debtor in property to or for the benefit of ServisFirst.

267. To the extent the alleged obligation on account of which any 90-Day Payment was made is not avoided, ServisFirst was a creditor of the applicable Debtor at the such 90-Day payment was made.

[5] Schedule 2 is based upon the documents and information available to the Committee as of the date of this Complaint, and is subject to clarification, amendment, revision, or other modification (including to add or remove Payments as necessary) in light of new documents and information, obtained through subsequent discovery in this adversary proceeding or the Bankruptcy Cases, or otherwise.

268. To the extent the alleged obligation on account of which any 90-Day Payment was made is not avoided, such 90-Day Payment was made on account of antecedent debt or debts owed by the applicable Debtor to, or for the benefit of, ServisFirst before such 90-Day Payment was made.

269. Upon information and belief, the Debtors were insolvent at the times each of their respective 90-Day Payments were made.

270. To the extent ServisFirst is unsecured or undersecured with respect to a Debtor, such Debtor's 90-Day Payments enabled ServisFirst to receive more than it would have received if (i) the Debtors' bankruptcy cases were cases under chapter 7 of the Bankruptcy Code, (ii) such 90-Day Payments had not been made, and (iii) ServisFirst had received payment of the antecedent debt or debts to the extent provided by the provisions of the Bankruptcy Code.

271. Based upon the foregoing, to the extent (i) the alleged obligation on account of which any 90-Day Payment was made is not avoided and (ii) ServisFirst is unsecured or undersecured with respect to the applicable Debtor, the Committee, on behalf of the applicable Debtor, is entitled to avoidance of such 90-Day Payment under 11 U.S.C. § 547(b).

Count XXIX
Collateral Surcharge
(11 U.S.C. § 506(c))

272. The Committee repeats and realleges the allegations set forth in each of the foregoing paragraphs, which are incorporated by reference as if set forth fully herein.

273. Section 506(c) of the Bankruptcy Code states as follows:

> The trustee may recover from property securing an allowed secured claim the reasonable, necessary costs and expenses of preserving, or disposing of, such property to the extent of any benefit to the holder of such claim, including the payment of all ad valorem property taxes with respect to the property.

274. Upon information and belief, the Debtors have incurred and/or will incur costs and expenses associated with preserving or disposing of their respective assets that, if ServisFirst is allowed a secured claim, will benefit ServisFirst.

275. Based upon the foregoing, to the extent ServisFirst is allowed a secured claim, the Committee, on behalf of the Debtors, seeks and is entitled to recover the reasonable, necessary costs and expenses of preserving or disposing of the collateral securing such claim.

Count XXX
Recharacterization of Postpetition Interest Payments
(11 U.S.C. § 506(b) and Postpetition Financing Order)

276. The Committee repeats and realleges the allegations set forth in each of the foregoing paragraphs, which are incorporated by reference as if set forth fully herein.

277. Upon information and belief, ServisFirst received certain postpetition payments from the Debtors (collectively, the "**Postpetition Payments**").

278. The Postpetition Payments known to the Committee at this time are set forth on **Schedule 3** attached hereto.[6]

279. Upon information and belief, certain of the Postpetition Payments were adequate protection payments of interest made pursuant to the Postpetition Financing Order (collectively, "**Interest Payments**").

280. Paragraph 4(c) (pages 26-27) of the Postpetition Financing Order states in relevant part as follows with respect to any postpetition interest payments received by ServisFirst thereunder:

> [T]o the extent that the Court determines, pursuant to sections 506(a) or (b) of the Bankruptcy Code that the Prepetition Senior

[6] Schedule 3 is based upon the documents and information available to the Committee as of the date of this Complaint, and is subject to clarification, amendment, revision, or other modification (including to add or remove Payments as necessary) in light of new documents and information, obtained through subsequent discovery in this adversary proceeding or the Bankruptcy Cases, or otherwise.

Term Loan Adequate Protection Payments are not properly allocable to interest on the Prepetition Senior Term Loan Obligations, Prepetition Senior Term Loan Adequate Protection Payments shall be re-characterized as payment(s) applied to the principal amount of the Prepetition Senior Term Loan Obligations.

281. Pursuant to 11 U.S.C. § 506(b), secured creditors are only allowed interest on their secured claims to the extent that they are oversecured.

282. Based upon the foregoing, to the extent that ServisFirst is determined to be undersecured as a result of the determination of any secured claims under 11 U.S.C. § 506(a) and/or a surcharge of any collateral under 11 U.S.C. § 506(c), the Committee, on behalf of the Debtors, is entitled to recharacterization of the Interest Payments as payments applied to any principal amounts owed to ServisFirst under the applicable loan agreements and related documents.

Count XXXI
Avoidance of Postpetition Transfers
(11 U.S.C. § 549)

283. The Committee repeats and realleges the allegations set forth in each of the foregoing paragraphs, which are incorporated by reference as if set forth fully herein.

284. Upon information and belief, the Postpetition Payments constituted transfers of property of the Debtors' estates.

285. Upon information and belief, certain of the Postpetition Payments were adequate protection payments of fees and expenses or other amounts (other than Interest Payments) made pursuant to the Postpetition Financing Order (collectively, "**Other Adequate Protection Payments**").

286. Based upon the foregoing, to the extent that any Other Adequate Protection Payments no longer fall within the authorizations set forth in the Postpetition Financing Order as a result of the avoidance of any obligation or other relief granted as a result of this adversary

proceeding, and are not recharacterized as payments applied to any principal amounts owed to ServisFirst under any applicable loan agreements and related documents, the Committee, on behalf of the Debtors, is entitled to avoidance of such Other Adequate Protection Payments pursuant to 11 U.S.C. § 549(a).

Count XXXII
Avoidance of Postpetition Transfers
(11 U.S.C. § 549)

287. The Committee repeats and realleges the allegations set forth in each of the foregoing paragraphs, which are incorporated by reference as if set forth fully herein.

288. Upon information and belief, the Postpetition Payments constituted transfers of property of the Debtors' estates.

289. Upon information and belief, certain Postpetition Payments may not have fallen within the authorizations set forth in the Postpetition Financing Order (collectively, the "**Other Postpetition Payments**").

290. Based upon the foregoing, the Committee, on behalf of the Debtors, is entitled to avoidance of any Other Postpetition Payments pursuant to 11 U.S.C. § 549(a).

Count XXXIII
Recovery of Avoided Transfers
(11 U.S.C. § 550)

291. The Committee repeats and realleges the allegations set forth in each of the foregoing paragraphs, which are incorporated by reference as if set forth fully herein.

292. ServisFirst was (i) the initial transferee of all transfers described in this Complaint (including the Payments, the Payments, and the 90-Day Payments) or the entity for whose benefit such transfers were made or (ii) the immediate or mediate transferee of such initial transferee.

293. Based upon the foregoing, to the extent any transfers described in this Complaint (including the Payments, the Payments, and the 90-Day Payments) are avoided, the Committee, on behalf of the Debtors, is entitled to recover from ServisFirst the aggregate sum of such transfers, plus interest thereon from the date of the demand to the date of payment and the costs of this adversary proceeding to the extent permitted under 11 U.S.C. § 550(a).

Count XXXIV
Disallowance of Claims
(11 U.S.C. § 502(d))

294. The Committee repeats and realleges the allegations set forth in each of the foregoing paragraphs, which are incorporated by reference as if set forth fully herein.

295. ServisFirst has not returned any avoidable transfer described in this Complaint (including the Payments, the Payments, and the 90-Day Payments).

296. Based upon the foregoing, any claims of ServisFirst against any of the Debtors from which ServisFirst received an avoidable transfer must be disallowed until such time as ServisFirst pays to the applicable Debtor an amount equal to the aggregate amount of all such transfers from such Debtor to ServisFirst, plus interest thereon and the costs of this adversary proceeding pursuant to 11 U.S.C. § 502(d).

Count XXXV
Equitable Subordination
(11 U.S.C. § 510(c))

297. The Committee repeats and realleges the allegations set forth in each of the foregoing paragraphs, which are incorporated by reference as if set forth fully herein.

298. To the extent that ServisFirst intentionally misstated the amount of any valid claim against any Debtor, intentionally induced any Debtor to execute a fraudulent transfer, or otherwise undertook any conduct with the intention of inequitably or illegally improving its

position vis-à-vis any Debtor at the expense of its creditors, (i) such conduct was inequitable, (ii) such conduct resulted in injury to the Debtor's creditors or conferred an unfair advantage on ServisFirst, and (iii) equitable subordination of any valid ServisFirst claims against such Debtor to the claims of other creditors would not be inconsistent with the provisions of the Bankruptcy Code.

299. Based upon the foregoing, to the extent that ServisFirst intentionally misstated the amount of any valid claim against any Debtor, intentionally induced any Debtor to execute a fraudulent transfer, or otherwise undertook any conduct with the intention of inequitably or illegally improving its position vis-à-vis any Debtor at the expense of its creditors, the Committee, on behalf of such Debtor, is entitled to equitable subordination of any valid ServisFirst claim against such Debtor to the claims of other creditors pursuant to 11 U.S.C. § 510(c).

WHEREFORE, the Committee respectfully requests the entry order and judgments against ServisFirst granting the following relief:

(i) Avoidance of all Alleged Curae Obligations, Alleged Amory Obligations, Alleged Batesville Obligations, Alleged Clarksdale Obligations, and Alleged Physician Group Debtor Obligations;

(ii) Avoidance of all Payments made in satisfaction of, or otherwise on account of, Avoided Obligations;

(iii) Avoidance of all Payments made in satisfaction of, or otherwise on account of, Other Party Obligations;

(iv) Declaratory judgment that ServisFirst has no lien on, or right of setoff or recoupment with respect to, the Debt Service Reserve Fund;

(v) Declaratory judgment that ServisFirst has no lien on, or right of setoff or recoupment with respect to, the DSH/UPL Payments;

(vi) Declaratory judgment that ServisFirst has no lien on, or right of setoff or recoupment with respect to, assets of Russellville;

(vii) Declaratory judgment that ServisFirst has no lien on, or right of setoff or recoupment with respect to, assets of Clarksdale;

(viii) Disallowance of all claims of ServisFirst in the Bankruptcy Cases that are legally unenforceable;

(ix) Determination of any secured claim of ServisFirst;

(x) Avoidance of all 90-Day Payments to the extent such payments were made on account of obligations that are not avoided and ServisFirst is unsecured or undersecured with respect to the applicable Debtor;

(xi) Recovery of reasonable, necessary costs and expenses of preserving or disposing of any collateral securing any claim of ServisFirst;

(xii) Recharacterization of the Interest Payments as payments applied to any principal amounts owed to ServisFirst under any applicable loan agreement and related documents;

(xiii) Avoidance of any Other Adequate Protection Payments to the extent such payments (a) no longer fall within the authorizations set forth in the Postpetition Financing Order as a result of the avoidance of any obligation or other relief granted as a result of this adversary proceeding and (b) are not recharacterized as payments applied to any principal amounts owed to ServisFirst under any applicable loan agreements and related documents.

(xiv) Avoidance of any Other Postpetition Payments.

(xv) Recovery of the aggregate sum of all avoided transfers;

(xvi) Disallowance of all claims of ServisFirst in the Bankruptcy Cases;

(xvii) Equitable subordination of any allowed claim of ServisFirst in the Bankruptcy Cases to the claims of creditors holding valid claims;

(xviii) Attorneys' fees and costs of suit; and

(xix) Such other and further relief that the Court deems just and proper.

Dated: January 16, 2018

/s/ Michael E. Collins

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