

October 20, 2017

VIA ECF, E-MAIL, AND FIRST CLASS MAIL

The Honorable John K. Sherwood
United States Bankruptcy Court
District of New Jersey
PO Box 1352
Newark, NJ 07101-1352

Re: In re Florham Park Surgery Center, LLC
Case No. 16-16964

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Reference Number
032407.00000

Dear Judge Sherwood:

We are counsel to Medline Industries, Inc. in the above referenced matter and write to request a telephonic conference to clarify the Court's September 19, 2017 order granting Medline an administrative expense claim of \$10,042.34 on account of medical supplies Medline provided the Debtor postpetition [Docket No. 218] (the "Admin. Order").

The Admin. Order provides that Medline's claim would be paid on a pro rata basis with other allowed administrative expense claims. The proposed order Medline originally submitted to Chambers did not originally provide for a pro rata distribution. Medline modified the submitted order at Chambers' direction. It was our understanding that, at the August 15, 2017 hearing, the Court ruled that administrative expense claims would be paid on a pro rata basis.¹ After the Admin. Order was entered, Arent Fox contacted Debtor's counsel, Webber McGill, for instructions on how to receive a pro rata distribution on account of its newly allowed claim. Webber McGill stated that there would not be any distribution to administrative expense claimants because the proceeds from the sale of the Debtor's assets were insufficient to provide any distribution to administrative claims.

Medline asserts that the Admin. Order entitles it to a pro rata distribution from the \$100,000.00 carveout (the "Carveout") provided for in the Court's July 7, 2017 order authorizing the sale of substantially all of the Debtor's property [Docket No. 190] (the "Sale Order"). Webber McGill's position is that the Carveout is not property of the Debtor's estate and was made specifically for

¹ On August 22, 2017, Arent Fox was contacted by Chambers and was informed that the Court came to this conclusion during the August 15, 2017 hearing on Wasserman, Jurista & Stolz, P.C.'s motion to amend the Sale Order (defined below).

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the benefit of case professionals. If this is true, then one set of administrative expense claimants—professionals—will receive a distribution while another set of administrative expense claimants—*i.e.* Medline—will not receive any distribution. This contradicts the Court's conclusion that administrative expense claimants are to be paid on a pro rata basis.

Medline is sympathetic to the estate's financial condition and has requested this telephonic conference to attempt to resolve the dispute and avoid costly motion practice.

Please do not hesitate to contact me with any questions.

Respectfully yours,



Robert M. Hirsh

RMH/nam

cc: Webber McGill, LLC
Attention: Douglas J. McGill
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