

Nos. 13-cv-348 & 13-cv-358
[notice of appeal filed April 1, 2013 and April 4, 2013]

No. 13-cv-1059
[notice of appeal filed September 23, 2013]

**IN THE DISTRICT OF COLUMBIA
COURT OF APPEALS**

District of Columbia,
Department of Insurance, Securities and Banking,
Petitioner and Appellee,

v.

D.C. Chartered Health Plan, Inc.
Respondent and Appellee,

D.C. Healthcare Systems, Inc.
Party in Interest and Appellant.

Appeal from an Order Approving Settlement Between D.C. Chartered Health Plan
and the District of Columbia
Superior Court Civil Division Civil Action No. 2012-CA-8227-2
The Honorable Melvin R. Wright

**MOTION TO CONSOLIDATE
APPEALS**

Appellant Party in Interest D.C. Healthcare Systems, Inc. ("DCHSI") hereby moves (1) to consolidate the current appeal -- No. 13-cv-1059 (*D.C. Healthcare Systems, Inc. v. D.C. Department of Insurance, Securities and Banking et al.*) -- with the currently consolidated appeals: Nos. 13-CV-348 (*D.C. Healthcare Systems, Inc. v. D.C. Department of Insurance, Securities and Banking et al.*) and 13-CV-358 (*Medstar Georgetown Hosp. Ct. Inc. and Washington Hospital Ctr. Corp. v. D.C. Department of Insurance, Securities and Banking et al.*); and (2) set a briefing schedule to reflect the consolidation.

1. Consent to the consolidation has been requested from counsel for the Rehabilitator of D.C. Chartered Health Plan, Inc. ("Chartered"). At the time of this filing, counsel for the Rehabilitator has not responded to the request one way or the other.

2. The current consolidated appeal – Nos. 13-CV-348 and 13-CV-358 – will be impacted by the Settlement Agreement and Release between MedStar Georgetown Medical Center, Inc. ("Medstar") and Chartered in rehabilitation. As a result of the settlement, Medstar's appeal will likely be dismissed. See Rehabilitator's Seventh Status Report attached as Exhibit A.

3. Chartered and MedStar are involved in a civil action filed in the D.C. Superior Court as *Washington Hosp. Ctr. Corp. and Medstar Georgetown Medical Ctr., Inc. v. D.C. Chartered Health Plan, Inc.* No. 2012 CA 009510 B (D.C. Superior Ct.). That action was stayed and referred to arbitration, by agreement of the parties (Arbitration No. 16 187 Y 00104 13 (AAA)). Id.

4. Chartered and MedStar agreed to compromise their claims, entering into a Memorandum of Understanding on August 9, 2013, which also resolved Medstar's appeal pending in the consolidated appeal before this Court. Id.

5. Chartered and MedStar subsequently entered a Settlement Agreement and Release, contingent on the D.C. Superior Court's approval. *Id.*

6. This Court entered an Order granting Medstar's motion for extension of time to file its brief, ordering that the brief would be due October 3, 2013. Medstar will dismiss its appeal as well as the underlying civil action and arbitration once the Superior Court approves the Medstar Settlement Agreement.

7. That dismissal will leave No. 13-CV-348 (*D.C. Healthcare Systems, Inc. v. D.C. Department of Insurance, Securities and Banking et al.*) standing alone. DCHSI has filed its opening brief, as of June 10, 2013. No date had been set for an opposing/response brief.

8. The two DCHSI appeals should be consolidated because the issues raised by DCSHI arise out of the Superior Court's orders in rehabilitation of D.C. Chartered Health Plan, Inc. ("Chartered") (Civil Action No. 2012 CA 008227 2).

9. These issues raised by the same party in interest – DCHSI – make for a more meaningful consolidation than the consolidation of DCHSI's first appeal and the Medstar appeal, which this Court granted *sua sponte*.

10. The Medstar appeal involved an appeal of the Superior Court's denial of Medstar's motion to intervene in the Chartered Rehabilitation (Civil Action No. 2012 CA 008227 2) – a contention not necessarily in line with DCHSI's first appeal, which asks the Court of Appeals to address the lower court's decisions to approve *inter alia* an asset purchase agreement in the rehabilitation of Chartered. Nevertheless, the Medstar Appeal and DCHSI's first appeal were consolidated.

11. While the dismissal of the Medstar Appeal seems imminent, it makes sense to consolidate DCHSI's two appeals because the second DCHSI appeal asks the Court of Appeals

to examine another of the lower court's decision in the rehabilitation of Chartered that involves the disposition of Chartered's remaining asset – claims against the District of Columbia.

12. At issue in DCHSI's first appeal (No. 13-CV-348) addresses the Superior Court's order approving a reorganization plan, and a subsequent order denying a stay of that order. The reorganization plan determined the fate of Chartered, whose sole shareholder is DCHSI, the Appellant Party in Interest. The first appeal challenges an asset purchase agreement and plan of rehabilitation involving the transfer of substantially all of Chartered's assets and its business activities to AmeriHealth Mercy Family of Companies.

13. At issue in DCHSI's second appeal (No. 13-CV-1059) is the Superior Court's order approving the Settlement Agreement between the District and Chartered in rehabilitation. As with the first DCHSI appeal, the settlement agreement determines the fate of Chartered, whose sole shareholder is DCHSI, the Appellant Party in Interest. This second appeal will challenge the Settlement Agreement between the District and Chartered, which has adversely impacted Chartered's remaining asset and permitted the vast underpayment by the District of its contractual obligations to Chartered.

14. Each of the two DCHSI's appeals involves motions by the Rehabilitator heard by the same judge in the rehabilitation of Chartered proceeding. The outcome of these two DCHSI appeals – whether the reorganization and asset purchase agreement should have been approved and whether the settlement of Chartered's claims against the District should have been approved – rest upon interrelated issues.

15. As such, consolidation would serve the interests of judicial economy, as only one panel would need to consider the dispositive legal issues at hand and avoids the possibility of separate panels reaching different decisions on interrelated legal and factual issues involving the

rehabilitation of Chartered and the rulings of the same lower court judge. Furthermore, consolidation would obviate the need for duplicative and wasteful expenditures of time and resources by all parties.

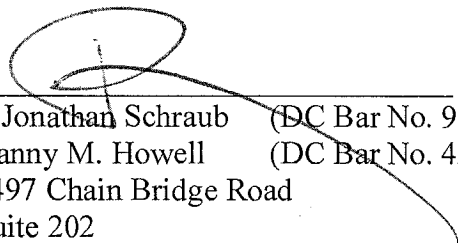
CONCLUSION

16. For the foregoing reasons, Appellant DCHSI respectfully requests that this Court consolidate the appeals in No. 13-CV-1059 (*D.C. Healthcare Systems, Inc. v. D.C. Department of Insurance, Securities and Banking et al.*) and the currently consolidated appeals: Nos. 13-CV-348 (*D.C. Healthcare Systems, Inc. v. D.C. Department of Insurance, Securities and Banking et al.*) and 13-CV-358 (*Medstar Georgetown Hosp. Ct. Inc. and Washington Hospital Ctr. Corp. v. D.C. Department of Insurance, Securities and Banking et al.*).

17. Additionally, DCHSI respectfully requests that the Court set a briefing schedule to reflect the order of consolidation.

Dated: October 16, 2013

Respectfully submitted,



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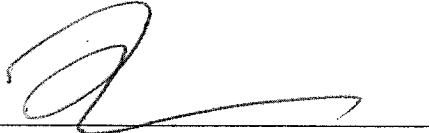
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