

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

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In the Matter of the Application of :
:

Index No.: 9188/11
(Demarest, J.)

THE LONG ISLAND COLLEGE HOSPITAL

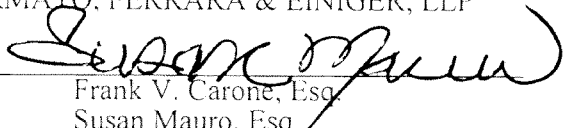
NOTICE OF APPEAL

For an Order Approving the Sale of the Assets of :
The Long Island College Hospital Pursuant to Sections :
510 and 511 of the Not-for-Profit Corporation Law. :
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PLEASE TAKE NOTICE, that State University of New York Health Science Center at Brooklyn a/k/a State University of New York Downstate Medical Center, hereby appeals to the Appellate Division of the Supreme Court of the State of New York, Second Department from each and every part of (1) an Order, dated and duly entered on August 20, 2013, (2) an Order, dated and duly entered on August 23, 2013, (3) an Order, dated and duly entered on August 28, 2013 and (4) an Order, dated September 4, 2013 and duly entered on September 5, 2013 issued in this action and filed in the Office of the Clerk of Kings County.

Dated: September 10, 2013

ABRAMS, FENSTERMAN, FENSTERMAN, EISMAN,
FORMATO, FERRARA & EINIGER, LLP

By 
Frank V. Carone, Esq.
Susan Mauro, Esq.

1 MetroTech, Suite 1704
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HOGAN LOVELLS, US, LLP
875 Third Ave.
New York, NY 10022
(212) 918-3000
Attorneys for State University of New York Health Science
Center at Brooklyn a/k/a State University of New York
Downstate Medical Center

To:

Proskauer Rose, LLP
Att'n: Edward S. Kornreich
Eleven Times Square
New York, NY 10036-8299
Attorneys for petitioner

KINGS COUNTY CLERK
FILED

2013 SEP 12 PM 3:45



Attorney General of the State of New York
Att'n: Paula Gellman, Esq.
Office of the New York State Attorney General
Charities Bureau
120 Broadway
New York, NY 10271-0332

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

Form A - Request for Appellate Division Intervention - Civil

See § 670.3 of the rules of this court for directions on the use of this form (22 NYCRR 670.3).

<p>Case Title: Set forth the title of the case as it appears on the summons, notice of petition or order to show cause by which the matter was or is to be commenced, or as amended.</p> <p>In the Matter of the Application of</p> <p>THE LONG ISLAND COLLEGE HOSPITAL For an Order Approving the Sale of the Assets of : The Long Island College Hospital Pursuant to Sections 510 and 511 of the Not-for-Profit Corporation Law</p>	<p style="text-align: center;">For Court of Original Instance</p> <hr/> <p style="text-align: center; font-size: small;">Date Notice of Appeal Filed</p>
<p style="text-align: center;">For Appellate Division</p>	

<p style="text-align: center;">Case Type</p> <input type="checkbox"/> Civil Action <input type="checkbox"/> CPLR article 75 Arbitration	<input type="checkbox"/> CPLR article 78 Proceeding <input type="checkbox"/> Special Proceeding Other <input type="checkbox"/> Habeas Corpus Proceeding	<p style="text-align: center;">Filing Type</p> <input checked="" type="checkbox"/> Appeal <input type="checkbox"/> Original Proceeding	<input type="checkbox"/> Transferred Proceeding <input type="checkbox"/> CPLR 5704 Review
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Nature of Suit: Check up to five of the following categories which best reflect the nature of the case.

<p>A. Administrative Review</p> <input type="checkbox"/> 1 Freedom of Information Law <input type="checkbox"/> 2 Human Rights <input type="checkbox"/> 3 Licenses <input type="checkbox"/> 4 Public Employment <input type="checkbox"/> 5 Social Services <input type="checkbox"/> 6 Other	<p>D. Domestic Relations</p> <input type="checkbox"/> 1 Adoption <input type="checkbox"/> 2 Attorney's Fees <input type="checkbox"/> 3 Children - Support <input type="checkbox"/> 4 Children - Custody/Visitation <input type="checkbox"/> 5 Children - Terminate Parental Rights <input type="checkbox"/> 6 Children - Abuse/Neglect <input type="checkbox"/> 7 Children - JD/PINS <input type="checkbox"/> 8 Equitable Distribution <input type="checkbox"/> 9 Exclusive Occupancy of Residence <input type="checkbox"/> 10 Expert's Fees <input type="checkbox"/> 11 Maintenance/Alimony <input type="checkbox"/> 12 Marital Status <input type="checkbox"/> 13 Paternity <input type="checkbox"/> 14 Spousal Support <input type="checkbox"/> 15 Other	<p>F. Prisoners</p> <input type="checkbox"/> 1 Discipline <input type="checkbox"/> 2 Jail Time Calculation <input type="checkbox"/> 3 Parole <input type="checkbox"/> 4 Other	<p>I. Torts</p> <input type="checkbox"/> 1 Assault, Battery, False Imprisonment <input type="checkbox"/> 2 Conversion <input type="checkbox"/> 3 Defamation <input type="checkbox"/> 4 Fraud <input type="checkbox"/> 5 Intentional Infliction of Emotional Distress <input type="checkbox"/> 6 Interference with Contract <input type="checkbox"/> 7 Malicious Prosecution/Abuse of Process <input type="checkbox"/> 8 Malpractice <input type="checkbox"/> 9 Negligence <input type="checkbox"/> 10 Nuisance <input type="checkbox"/> 11 Products Liability <input type="checkbox"/> 12 Strict Liability <input type="checkbox"/> 13 Trespass and/or Waste <input type="checkbox"/> 14 Other
<p>B. Business & Other Relationships</p> <input type="checkbox"/> 1 Partnership/Joint Venture <input type="checkbox"/> 2 Business <input type="checkbox"/> 3 Religious <input type="checkbox"/> 4 Not-for-Profit <input type="checkbox"/> 5 Other	<p>E. Miscellaneous</p> <input type="checkbox"/> 1 Constructive Trust <input type="checkbox"/> 2 Debtor & Creditor <input type="checkbox"/> 3 Declaratory Judgment <input type="checkbox"/> 4 Election Law <input type="checkbox"/> 5 Notice of Claim <input type="checkbox"/> 6 Other	<p>G. Real Property</p> <input type="checkbox"/> 1 Condemnation <input type="checkbox"/> 2 Determine Title <input type="checkbox"/> 3 Easements <input type="checkbox"/> 4 Environmental <input type="checkbox"/> 5 Liens <input type="checkbox"/> 6 Mortgages <input type="checkbox"/> 7 Partition <input type="checkbox"/> 8 Rent <input type="checkbox"/> 9 Taxation <input type="checkbox"/> 10 Zoning <input type="checkbox"/> 11 Other	<p>J. Wills & Estates</p> <input type="checkbox"/> 1 Accounting <input type="checkbox"/> 2 Discovery <input type="checkbox"/> 3 Probate/Administration <input type="checkbox"/> 4 Trusts <input type="checkbox"/> 5 Other
<p>C. Contracts</p> <input type="checkbox"/> 1 Brokerage <input type="checkbox"/> 2 Commercial Paper <input type="checkbox"/> 3 Construction <input type="checkbox"/> 4 Employment <input type="checkbox"/> 5 Insurance <input type="checkbox"/> 6 Real Property <input type="checkbox"/> 7 Sales <input type="checkbox"/> 8 Secured <input type="checkbox"/> 9 Other	<p>H. Statutory</p> <input type="checkbox"/> 1 City of Mount Vernon Charter § § 120, 127-f, or 129 <input type="checkbox"/> 2 Eminent Domain Procedure Law § 207 <input type="checkbox"/> 3 General Municipal Law § 712 <input type="checkbox"/> 4 Labor Law § 220 <input type="checkbox"/> 5 Public Service Law § § 128 or 170 <input checked="" type="checkbox"/> 6 Other		

Form A - RAD1 - Civil

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V2.0.060293

Appeal			
Paper Appealed From (check one only):			
<input type="checkbox"/> Amended Decree	<input type="checkbox"/> Determination	<input checked="" type="checkbox"/> Order	<input type="checkbox"/> Resettled Order
<input type="checkbox"/> Amended Judgment	<input type="checkbox"/> Finding	<input type="checkbox"/> Order & Judgment	<input type="checkbox"/> Ruling
<input type="checkbox"/> Amended Order	<input type="checkbox"/> Interlocutory Decree	<input type="checkbox"/> Partial Decree	<input type="checkbox"/> Other (specify):
<input type="checkbox"/> Decision	<input type="checkbox"/> Interlocutory Judgment	<input type="checkbox"/> Resettled Decree	
<input type="checkbox"/> Decree	<input type="checkbox"/> Judgment	<input type="checkbox"/> Resettled Judgment	
Court: Supreme		County: Kings	
Dated: August 20, 2013		Entered: August 20, 2013	
Judge (name in full): Carolyn E. Demarest		Index No.: 9188/11	
Stage: <input type="checkbox"/> Interlocutory <input checked="" type="checkbox"/> Final <input type="checkbox"/> Post-Final Trial: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes: <input type="checkbox"/> Jury <input type="checkbox"/> Non-Jury			
Prior Unperfected Appeal Information			
Are any unperfected appeals pending in this case? <input type="checkbox"/> Yes <input type="checkbox"/> No. If yes, do you intend to perfect the appeal or appeals covered by the annexed notice of appeal with the prior appeals? <input type="checkbox"/> Yes <input type="checkbox"/> No. Set forth the Appellate Division Cause Number(s) of any prior, pending, unperfected appeals:			
Original Proceeding			
Commenced by: <input type="checkbox"/> Order to Show Cause <input type="checkbox"/> Notice of Petition <input type="checkbox"/> Writ of Habeas Corpus Date Filed:			
Statute authorizing commencement of proceeding in the Appellate Division:			
Proceeding Transferred Pursuant to CPLR 7804(g)			
Court:		County:	
Judge (name in full):		Order of Transfer Date:	
CPLR 5704 Review of Ex Parte Order			
Court:		County:	
Judge (name in full):		Dated:	
Description of Appeal, Proceeding or Application and Statement of Issues			
<p>Description: If an appeal, briefly describe the paper appealed from. If the appeal is from an order, specify the relief requested and whether the motion was granted or denied. If an original proceeding commenced in this court or transferred pursuant to CPLR 7804(g), briefly describe the object of the proceeding. If an application under CPLR 5704, briefly describe the nature of the ex parte order to be reviewed.</p> <p>Appellant appeals from each and every part of the Order dated August 20, 2013 which sua sponte rescinded the prior order of the Court dated May 13, 2011 and revoked the Court's approval of the transfer of petitioner's assets.</p> <p>Amount: If an appeal is from a money judgment, specify the amount awarded.</p> <p>Issues: Specify the issues proposed to be raised on the appeal, proceeding, or application for CPLR 5704 review.</p> <p>Whether the lower court erred in its issuance of the order appealed from based on among other things, not having the authority to issue an order sua sponte, based on unauthorized judicial visitation and violation of due process.</p>			

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Issues Continued:

Use Form B for Additional Appeal Information

Party Information

Instructions: Fill in the name of each party to the action or proceeding, one name per line. If this form is to be filed for an appeal, indicate the status of the party in the court of original instance and his, her, or its status in this court, if any. If this form is to be filed for a proceeding commenced in this court, fill in only the party's name and his, her, or its status in this court.

Examples of a party's original status include: plaintiff, defendant, petitioner, respondent, claimant, defendant third-party plaintiff, third-party defendant, and intervenor. Examples of a party's Appellate Division status include: appellant, respondent, appellant-respondent, respondent-appellant, petitioner, and intervenor.

No.	Party Name	Original Status	Appellate Division Status
1	LONG ISLAND COLLEGE HOSPITAL	Petitioner	Respondent
2	ATTORNEY GENERAL OF THE STATE OF NEW YORK	Respondent	Respondent
3	State University of New York Health Science Center at Brooklyn	N/A	Appellant
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Attorney Information

Instructions: Fill in the names of the attorneys or firms of attorneys for the respective parties. If this form is to be filed with the notice of petition or order to show cause by which a special proceeding is to be commenced in the Appellate Division, only the name of the attorney for the petitioner need be provided. In the event that a litigant represents herself or himself, the box marked "Pro Se" must be checked and the appropriate information for that litigant must be supplied in the spaces provided.

Attorney/Firm Name: Proskauer Rose, LLP

Address: Eleven Times Square

City: New York State: NY Zip: 10036 Telephone No.: (212) 969-3000

Attorney Type: Retained Assigned Government Pro Se Pro Hac Vice

Party or Parties Represented (set forth party number(s) from table above or from Form C): 1

Attorney/Firm Name: Office of the New York State Attorney General, Charities Bureau

Address: 120 Broadway

City: New York State: NY Zip: 10271 Telephone No.: (212) 416-8401

Attorney Type: Retained Assigned Government Pro Se Pro Hac Vice

Party or Parties Represented (set forth party number(s) from table above or from Form C): 2

Attorney/Firm Name: Abrams, Fensterman, Fensterman, Eisman, Formato, Ferrara & Einiger, LLP

Address: 1 MetroTech, Suite 1704

City: Brooklyn State: NY Zip: 11201 Telephone No.: (718) 215-5303

Attorney Type: Retained Assigned Government Pro Se Pro Hac Vice

Party or Parties Represented (set forth party number(s) from table above or from Form C): 3

Attorney/Firm Name:

Address:

City: State: Zip: Telephone No.:

Attorney Type: Retained Assigned Government Pro Se Pro Hac Vice

Party or Parties Represented (set forth party number(s) from table above or from Form C):

Attorney/Firm Name:

Address:

City: State: Zip: Telephone No.:

Attorney Type: Retained Assigned Government Pro Se Pro Hac Vice

Party or Parties Represented (set forth party number(s) from table above or from Form C):

Attorney/Firm Name:

Address:

City: State: Zip: Telephone No.:

Attorney Type: Retained Assigned Government Pro Se Pro Hac Vice

Party or Parties Represented (set forth party number(s) from table above or from Form C):

Use Form C for Additional Party and/or Attorney Information

The use of this form is explained in § 670.3 of the rules of the Appellate Division, Second Department (22 NYCRR 670.3). If this form is to be filed for an appeal, place the required papers in the following order: (1) the Request for Appellate Division Intervention [Form A, this document], (2) any required Additional Appeal Information Forms [Form B], (3) any required Additional Party and Attorney Information Forms [Form C], (4) the notice of appeal or order granting leave to appeal, (5) a copy of the paper or papers from which the appeal or appeals covered in the notice of appeal or order granting leave to appeal is or are taken, and (6) a copy of the decision or decisions of the court of original instance, if any.

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