
BANKRUPTCY - WEST VIRGINIA

In re Fairmont General Hosp., Inc.

United States Bankruptcy Court, N.D. West Virginia - May 19, 2014 - Slip Copy - 2014 WL 2082298

Fairmont General Hospital, Inc. (the "Debtor"), and District 1199 West Virginia/Kentucky/Ohio, Service Employees International Union ("District 1199"), requested a declaration from the court that their November 1, 2013 Collective Bargaining Agreement (the "CBA") was executed in the ordinary course of the Debtor's business under 11 U.S.C. § 363(c)(1) and was consequently an effective agreement under the Bankruptcy Code.

UMB Bank, N.A., as successor indenture trustee with respect to certain hospital revenue bonds (the "Indenture Trustee"), objected on the basis that that the CBA required court approval because the Debtor was in Chapter 11 and sought to sell substantially all its assets. The Indenture Trustee asserted that court approval of the CBA should be denied on the grounds that the existence of the CBA might result in a lower sales price for the Debtor's business as potential purchasers might not desire to purchase a business with a unionized workforce. In addition, the Indenture Trustee stated that the CBA constituted a settlement agreement under Fed. R. Bankr.P. 9019 which must be approved by the court.

The court found that the CBA was executed in the ordinary course of the Debtor's business and was effective under § 363(c)(1) without obtaining court approval. The court also found that the CBA did not constitute a settlement as contemplated under Rule 9019.

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