

Bond Case Briefs

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BANKRUPTCY - ALABAMA

PNC Bank, N.A. v. Presbyterian Retirement Corp., Inc.

United States District Court, S.D. Alabama, Southern Division - November 4, 2014 - Slip Copy - 2014 WL 5596646

Presbyterian Retirement operates Westminster Village, a continuing care retirement community. Presbyterian defaulted on its obligations, which included loans from PNC Bank and revenue bonds guaranteed by Infirmity Health System. Infirmity Health made good on the guarantee, paying out \$13.5 million to the bondholders. Presbyterian is contractually obligated to reimburse Infirmity Health. Both PNC Bank and Infirmity Health hold security interests in Westminster Village.

PNC Bank commenced this lawsuit against Presbyterian, seeking expedited appointment of a receiver to manage Westminster Village pending a contemplated foreclosure sale that PNC Bank has noticed for March 2015. PNC did not name Infirmity Health as a party.

Infirmity Health moved to intervene, expressing profound disagreement with PNC Bank's proposed strategy of appointing a receiver to manage Westminster Village. Infirmity Health asserted that the pathway charted by PNC Bank would impair the value of the facility rather than preserve it, thereby damaging Infirmity Health's interests in such collateral.

The District Court granted Infirmity Health's motion to intervene, finding that Infirmity Health had met its burden of showing that existing parties and any duly appointed receiver might not adequately represent its interests.