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**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW JERSEY**

In re:

PASCACK VALLEY HOSPITAL ASSOCIATION,  
INC.,

Debtor.

Hon. Rosemary Gambardella, U.S.B.J.

Case No. 07-23686

Chapter 11

**Hearing Date and Time:  
April 15, 2008 at 11:00 a.m.**

**NOTICE OF MOTION FOR AN ORDER PURSUANT TO 11 U.S.C. §§ 541  
AND 105(a) DEEMING UNCLAIMED PROPERTY TO BE ABANDONED  
AND AUTHORIZING THE DEBTOR TO DONATE SAME**

**PLEASE TAKE NOTICE** that on April 15, 2008, at 11:00 a.m., or as soon thereafter as counsel may be heard, the above-captioned debtor and debtor in possession (the "Debtor"), by its undersigned attorneys, shall move (the "Motion") before the Honorable Rosemary Gambardella at the United States Bankruptcy Court, Martin Luther King, Jr. Federal Building, 50 Walnut Street, 3<sup>rd</sup> Floor, Newark, New Jersey, seeking the entry of an order pursuant to 11 U.S.C. §§ 541 and 105(a), deeming unclaimed property to be abandoned and authorizing the Debtor to donate same to the Palisades Hospital Thrift Shop.

**PLEASE TAKE FURTHER NOTICE** that the undersigned shall rely upon the Application and Exhibits thereto submitted herewith, and that no brief is necessary as the factual

and legal bases for the relief requested are adequately set forth in the Application and the Motion presents no novel issues of law.

**PLEASE TAKE FURTHER NOTICE** that a form of proposed Order granting the relief requested by the Motion is submitted herewith in accordance with LBR 9072-1.

**PLEASE TAKE FURTHER NOTICE** that objections, if any, to the relief requested in the Motion shall be in writing and must be filed with the Bankruptcy Court and simultaneously served on the Debtor's counsel, Sills Cummis & Gross, P.C., One Riverfront Plaza, Newark, NJ 07102, Attn: Jack M. Zackin, Esq., in accordance with D.N.J. LBR 9013-1(d).

**PLEASE TAKE FURTHER NOTICE** that unless objections are timely filed and served, the motion shall be deemed uncontested in accordance with D.N.J. LBR 9013-1(a), and the relief requested may be granted without a hearing.

**PLEASE TAKE FURTHER NOTICE** that oral argument is waived unless an objection to the relief requested in the Motion is timely filed.

Dated: March 26, 2008

SILLS CUMMIS & GROSS, P.C.  
*Attorneys for the Debtor and Debtor-in-Possession*

By: /s/ Valerie A. Hamilton  
Jack M. Zackin  
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**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW JERSEY**

In re:

PASCACK VALLEY HOSPITAL  
ASSOCIATION, INC.,

Debtor.

Hon. Rosemary Gambardella, U.S.B.J.

Case No. 07-23686

Chapter 11

**Hearing Date and Time:  
April 15, 2008 at 11:00 a.m.**

**APPLICATION IN SUPPORT OF DEBTOR'S MOTION FOR AN ORDER  
PURSUANT TO 11 U.S.C. §§ 541 AND 105(a) DEEMING UNCLAIMED  
PROPERTY TO BE ABANDONED AND AUTHORIZING THE DEBTOR  
TO DONATE SAME**

**TO: THE HONORABLE ROSEMARY GAMBARDELLA,  
UNITED STATES BANKRUPTCY JUDGE**

Pascack Valley Hospital Association, Inc., debtor and debtor-in-possession in the above-captioned case (the "Debtor" or the "Hospital"), by and through its undersigned counsel, submits this application in support of its motion (the "Motion") seeking the entry of an Order, substantially in the form submitted herewith, pursuant to 11 U.S.C. §§ 541 and 105(a), deeming certain unclaimed property to be abandoned and authorizing the Debtor to donate same to the Palisades Medical Center Thrift Shop (the "Thrift Shop"). In support of the Motion, the Debtor respectfully represents as follows:

## **BACKGROUND**

1. On September 24, 2007 (the "Petition Date"), the Debtor filed a voluntary petition for relief pursuant to Chapter 11, Title 11 of the United States Code (the "Bankruptcy Code"). Since the Petition Date, the Debtor has remained in possession of its assets and continued management of its business as a debtor-in-possession pursuant to sections 1107 and 1108 of the Bankruptcy Code.

2. On October 11, 2007, the Office of the United States Trustee for the District of New Jersey appointed an Official Committee of Unsecured Creditors (the "Creditors' Committee").

3. The Debtor has been a licensed 280-bed acute care hospital located in Bergen County, New Jersey that, until November 21, 2007, provided in-patient, out-patient, and related health care services to the general public. A detailed description of the Debtor's business and the facts precipitating the filing of the Debtor's Chapter 11 proceeding is set forth in the Affidavit of Leonard Weil submitted in support of the Debtor's various "first day" motions (the "Weil Affidavit"). *See*, ECF Document No. 13. Those facts are incorporated herein by reference.

4. As set forth in more detail in the Weil Affidavit, the Debtor determined that it could not continue to operate because of its exceptionally poor financial performance and prospects. As of November 21, 2007, the Debtor permanently ceased all operations as an acute care hospital, pursuant to a closure plan and application for a certificate of need submitted to the New Jersey Department of Health and Senior Services.

5. From time to time, patients at the Hospital have left money, jewelry and other personal property behind when departing the Hospital. The Debtor's policy is to retain the items

so that these items may be claimed by their owner. In the ordinary course, the Debtor attempted to contact the owner of the personalty so that these items could be claimed.

6. However, as of the Petition Date, the Debtor was, and currently is, in possession of money, jewelry and other personal property that was left behind by the Hospital's former patients and remains unclaimed to this date (collectively, the "Unclaimed Personalty").<sup>1</sup> The Unclaimed Personalty consists of a total of \$768.82 in cash, plus jewelry and other items of unknown value. Some of the items of Unclaimed Personalty have been in the Hospital's possession for almost 25 years.

7. With limited exception, the Debtor is aware of the names of the assumed owners of all of the Unclaimed Personalty. The Unclaimed Property has been segregated and is not commingled with the Debtor's assets.

8. The Debtor has made diligent effort to contact the owners of the Unclaimed Personalty, but those efforts have been unsuccessful.

9. Through this Motion, the Debtor seeks an Order deeming the Unclaimed Personalty to be abandoned and authorizing the Debtor to donate same to the Palisades Medical Center Thrift Shop. The Thrift Shop is located at 595 Anderson Avenue in Cliffside Park, New Jersey, and its purpose is to support the Palisades Medical Center Foundation.

#### **JURISDICTION, VENUE AND STATUTORY BASIS FOR RELIEF**

10. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue of the Debtor's chapter 11 case and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

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<sup>1</sup> Although the Debtor has an inventory of the Unclaimed Personalty, it has elected not to annex it to the Motion in order to preserve the Debtor's ability to ensure that any claims made for the personal property are genuine. Counsel for the Debtor will make the inventory available to the Court and any party in interest upon request.

The statutory bases for the relief requested herein are sections 541 and 105(a) of the Bankruptcy Code.

### **LEGAL BASIS FOR RELIEF REQUESTED**

11. Section 105(a) provides that provides that “[t]he court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of [the Bankruptcy Code].” 11 U.S.C. § 105(a).

12. Bankruptcy Code section 541 provides that, subject to certain enumerated exceptions, property of a debtor’s estate consists of “all legal or equitable interests of the debtor in property as of the commencement of the case.” 11 U.S.C. § 541(a)(1). However, the legislative history of § 541 “indicates that Congress intended to *exclude* from the estate property of others in which the debtor had some minor interest such as a lien or bare legal title.” *United States v. Whiting Pools*, 462 U.S. 198, 205 n.8, 103 S. Ct. 2309, 2314 n.8 (1983) (emphasis added).

13. The Unclaimed Personalty is being held by the Debtor pursuant to an involuntary or gratuitous bailment. According to New Jersey law, a gratuitous bailment exists when one party entrusts personal property to the care of another but the bailee receives no consideration for it. *See Banks v. Korman Assoc.*, 218 N.J. Super. 370, 372-3, 527 A.2d 933 (1987).

14. Property held by the debtor pursuant to a bailment is not property of the debtor’s estate under section 541. *In re Guild & Gallery Plus*, 72 F.3d 1171, 1179-80 (3d Cir. 1996), citing 4 COLLIER ON BANKRUPTCY ¶ 541.08[2] at 42-43 (15th ed. 1995). Collier’s describes the manner in which bailments should be analyzed under § 541:

It became well settled under the Bankruptcy Act that absent state statutory enactment to the contrary, if property was in the debtor's hands as bailee. . . , the trustee held it as such, and the bailor . . . could recover the property or its proceeds.

4 COLLIER ON BANKRUPTCY ¶ 541.08[2] at 42-43 (15th ed. 1995). New Jersey law regarding bailments is consistent with Section 541(a).

15. The Bankruptcy Court does not have *in rem* jurisdiction over property held pursuant to a bailment because section 1334 of Title 28 of the United States Code limits the *in rem* jurisdiction of the Bankruptcy Court to property of the estate under Bankruptcy Code section 541. 28 U.S.C. § 1334(e) (“The district court in which a case under title 11 is commenced or is pending shall have exclusive jurisdiction ... of all property, wherever located, of the debtor as of the commencement of such case, and of property of the estate....”); *In re Kaiser Aluminum Corp.*, 343 B.R. 88, 94 (D. Del. 2006) (*in rem* jurisdiction of the bankruptcy court requires that the subject property be property of the estate pursuant to 11 U.S.C. § 541); *In re Xonics*, 813 F.2d 127, 131 (7th Cir. 1987) (bankruptcy court cannot take jurisdiction over personal property that was never part of the bankrupt estate); *Whitaker v. ICC (In re Olympia Holdings Corp.)*, 141 B.R. 443, 446 (Bankr. M.D. Fla. 1992) (pursuant to 28 U.S.C. § 1334, the bankruptcy court has jurisdiction over estate property within the scope of Section 541 of the Bankruptcy Code).

**IF THE PERSONAL PROPERTY REMAINS UNCLAIMED AFTER NOTICE BY PUBLICATION, THE PROPERTY SHOULD BE DEEMED ABANDONED AND THE DEBTOR SHOULD BE AUTHORIZED TO DONATE THE UNCLAIMED PERSONALTY TO THE PALISADES MEDICAL CENTER THRIFT SHOP**

16. As set forth above, the Debtor has made diligent efforts to locate the owners of the Unclaimed Property, without success.

17. There is no New Jersey statute concerning the time period within which a patient must claim property left at a hospital or when such property is deemed to have been abandoned.

18. New Jersey has enacted the Uniform Unclaimed Property Act, N.J.S.A. § 46:30B-1 *et seq.* (the “Act”), whose provisions, though instructive, are inapplicable to the circumstances

of this case. The Act concerns situations in which property is held as a result of commercial transaction, including credit balances, refunds, unpaid wages, and similar property. N.J.S.A. § 46:30B-6(r) (limiting definition of “property” covered by the Act to property “held, issued or owed in the course of a holder’s business”). The Debtor is not in the business of holding personal property.

19. The Act provides that property held in the ordinary course of business, which remains unclaimed by the owner for more than three (3) years is presumed abandoned. N.J.S.A. § 46:30B-7. The Act further provides that property held in a safe deposit box or other depository is presumed abandoned after five (5) years. N.J.S.A. § 46:30B-45.

20. Although inapplicable under the circumstances of this case, the Act generally stands for the principle that personal property will be deemed abandoned if the owner fails to claim such property within a reasonable period of time.

21. As a result of the closure of the Hospital and the pending sale of all of its assets, the Debtor can no longer continue holding the Unclaimed Personalty subject to a bailment. The Unclaimed Property must be disposed of in some manner.

22. The closure of the Hospital and the pending sale of substantially all of its assets are well known throughout the community that was served by the Hospital, as these events have been widely reported in the local media. As a matter of law, former patients are likely to be on inquiry notice of the Debtor’s need to terminate any bailment arrangement and of their obligation to claim any property left in the Debtor’s possession or risk abandonment.

23. The Debtor would prefer to locate the owner of the Unclaimed Property, if possible. In order to afford owners a final chance to claim their property, the Debtor proposes to publish notice, in substantially the form annexed hereto as Exhibit A, in the Bergen Record of

the deadline by which Unclaimed Personalty must be claimed or deemed abandoned (the “Unclaimed Personalty Deadline”).

24. Through the Motion, the Debtor also requests that it be authorized to donate all Unclaimed Personalty that is suitable for donation to the Palisades Medical Center Thrift Shop.<sup>2</sup>

25. Pursuant to D.N.J. LBR 9013-2, the Debtor respectfully requests that the Court waive the requirement that the Debtor file a separate memorandum of law in support of the Motion. No memorandum of law is necessary because no novel issues of law are presented herein.

WHEREFORE, the Debtor respectfully requests that the Court enter an Order granting the relief requested herein and granting such other and further relief as the Court deems just and proper.

Dated: March 26, 2008

Respectfully submitted,

SILLS CUMMIS & GROSS P.C.  
One Riverfront Plaza  
Newark, New Jersey 07102  
(973) 643-7000  
*Attorneys for the Debtor and Debtor-in-Possession*

By: /s/ Valerie A. Hamilton  
Jack M. Zackin  
Valerie A. Hamilton

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<sup>2</sup> The Debtor would not donate personal identification documents or financial instruments such as Social Security cards, drivers’ licenses, credit cards, checks, checkbooks or similar items. The Debtor intends to destroy and dispose of any items that are unsuitable for donation.

# EXHIBIT A

## OFFICIAL NOTICE OF THE UNITED STATES BANKRUPTCY COURT

*In re Pascack Valley Hospital Assn., Inc.,*  
Case No. 07-23686 (RG)

### **TO ALL OWNERS OF UNCLAIMED PROPERTY LOCATED AT PASCACK VALLEY HOSPITAL:**

Pascack Valley Hospital is in possession of certain items of personal property that have gone unclaimed.

Pursuant to the Order of the United States Bankruptcy Court dated April \_\_, 2008, all persons wishing to claim personal property in the possession of the Hospital must contact Sandy Greenland at (609) 227-4609 **NO LATER THAN MAY 15, 2008**. Claimants must provide an accurate description of the property.

If any property remains unclaimed on that date, the property will be deemed **ABANDONED** and title will vest in the Hospital.

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW JERSEY  
Caption in Compliance with D.N.J. LBR 9004-2(c)

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In re:

PASCACK VALLEY HOSPITAL ASSOCIATION, INC.,

Debtor.

Hon. Rosemary Gambardella

Case No. 07-23686

Chapter 11

**ORDER PURSUANT TO 11 U.S.C. §§ 541 AND 105(a) DEEMING UNCLAIMED  
PERSONALTY TO BE ABANDONED AND AUTHORIZING THE DEBTOR TO  
DONATE SAME TO THE PALISADES MEDICAL CENTER THRIFT SHOP**

The relief set forth on the following pages, numbered two (2) through three (3), is  
hereby **ORDERED**.

Debtor: PASCACK VALLEY HOSPITAL ASSOCIATION, INC.  
Case No.: 07-23686  
Caption of Order: Order Pursuant to 11 U.S.C. §§ 541 and 105(a) Deeming Unclaimed  
Personalty to Be Abandoned and Authorizing the Debtor to Donate Same

This matter having been raised before this Court by motion (the “Motion”) of Pascack Valley Hospital Association, Inc., the debtor and debtor-in-possession herein (the “Debtor”), seeking the entry of an order, pursuant to sections 541 and 105(a) of chapter 11, Title 11 of the United States Code, deeming Unclaimed Personalty (as such term is defined in the Motion) to be abandoned and authorizing the Debtor to donate same to the Palisades Medical Center Thrift Shop; and the Court having jurisdiction to consider the Motion and the relief requested therein in accordance with 28 U.S.C. §§ 157 and 1334 and the Standing Order of Referral of Cases to Bankruptcy Court Judges of the District of New Jersey; and the consideration of the Motion and the supporting Application, and the relief requested therein being a core proceeding under 28 U.S.C. § 157(b); and the Court having considered the Application filed in support of the Motion and any responses or objections thereto; and after due deliberation and sufficient cause appearing therefor;

**IT IS HEREBY ORDERED AS FOLLOWS:**

1. The Motion is granted in all respects.
2. Pursuant to 11 U.S.C. §§ 541 and 105(a), any Unclaimed Personalty that remains in the Debtor’s possession on May 15, 2008 (the “Unclaimed Personalty Deadline”) shall be deemed abandoned. From and after the Unclaimed Personalty Deadline, no person shall have any claim against the Debtor, the Estate or any immediate or mediate transferee of the Unclaimed Personalty (including, without limitation, the Palisades Medical Center Thrift Shop), or any agent of any of the foregoing, with respect to the Unclaimed Personalty.

Debtor: PASCACK VALLEY HOSPITAL ASSOCIATION, INC.  
Case No.: 07-23686  
Caption of Order: Order Pursuant to 11 U.S.C. §§ 541 and 105(a) Deeming Unclaimed  
Personalty to Be Abandoned and Authorizing the Debtor to Donate Same

3. Any Unclaimed Personalty remaining in the Debtor's possession after the Unclaimed Personalty Deadline that is suitable for donation may be donated by the Debtor to the Palisades Medical Center Thrift Shop. From and after the Unclaimed Personalty Deadline, the Debtor is authorized to destroy and dispose of any Unclaimed Personalty that is, in its sole discretion, determined to be unsuitable for donation.

4. The Debtor shall cause notice to be provided to the owners of the Unclaimed Personalty by publication by publishing notice of the Unclaimed Personalty Deadline, in substantially the form annexed as Exhibit A to the Application filed in support of the Motion, one time in the Bergen Record. Such notice is hereby determined to be adequate and sufficient under the circumstances of this case.

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**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW JERSEY**

In re:	Case No. 07-23686
PASCACK VALLEY HOSPITAL ASSOCIATION, INC.	Hon. Rosemary Gambardella
Debtor.	Chapter 11

**CERTIFICATE OF SERVICE**

SANDRA J. GREENLAND, of full age, certifies as follows:

1. I am a Paralegal employed with the firm of Sills Cummis & Gross P.C. (“Sills Cummis”), attorneys for Debtor and Debtor-in-Possession.

2. On March 26, 2008, the following documents were filed electronically with the United States Bankruptcy Court for the District of New Jersey.

Notice of Motion for an Order Pursuant to 11 U.S.C. §§ 541 and 105(a) Deeming Unclaimed Property to be Abandoned and Authorizing the Debtor to Donate Same;

Application in Support of Notice of Motion for an Order Pursuant to 11 U.S.C. §§ 541 and 105(a) Deeming Unclaimed Property to be Abandoned and Authorizing the Debtor to Donate Same; and

Proposed form of Order.

3. In addition to the parties which were served electronically with a Notice of Electronic Filing by the Court, on March 26, 2008, I caused a true and correct copy of the above-stated documents to be served upon the parties on the attached service list marked Exhibit "A" by U.S. First-Class Mail.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

/s/ Sandra J. Greenland

Sandra J. Greenland

Dated: March 26, 2008

**EXHIBIT A  
SERVICE LIST**

Mitchell B. Hausman, Esq.  
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Employees Requesting Notice*

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and General Electric Company d/b/a  
GE Healthcare Financial Services  
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Notice*

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Eisenhower Plaza II  
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Requesting Notice*

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Requesting Notice*

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*Counsel for New York SMSA Limited  
Partnership d/b/a Verizon Wireless  
Requesting Notice*

St. Jude Medical S.C. Inc.  
Attn: Accounts Receivable  
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*Creditor Requesting Notice*

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Inc. Requesting Notice*

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d/b/a Care One at Pascack Valley  
Hospital Requesting Notice*

Jay Ganzman, Esq., DAG  
Department of Law and Public Safety  
Division of Law  
25 Market Street  
Trenton, NJ 08625  
*For Notice Purposes Only*

Mr. John A. Calabria, Director  
Office of Certificate of Need &  
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NJ Dept of Health and Senior Services  
171 Jersey Street  
P.O. Box 358  
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*For Notice Purposes Only*

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Medical Center Requesting Notice*

Siemens Medical Solutions Diagnostic  
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Attn: Yesim Brisbane  
*Creditor Requesting Notice*

Primeshares  
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*Creditor Requesting Notice*

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