**UNITED STATES DISTRICT COURT**
**WESTERN DISTRICT OF NORTH CAROLINA**
**CHARLOTTE DIVISION**
**CASE NO. 3:24-CV-00636-FDW-MTO**

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| **RUSSELL FINCHAM III, AS ADMINISTRATRIX OF THE ESTATE OF RUSSELL MEADE FINCHAM, IV, et al.,** | ) | |
| **Plaintiffs,** | ) | |
| **v.** | ) | **ORDER** |
| **GARRY L. MCFADDEN, et al.,** | ) | |
| **Defendants.** | ) | |

**THIS MATTER** is before the Court on Defendants Wellpath, LLC, Samantha Elliott-McLaren, Tracellar Smith, and Indrea Warren's ("**Wellpath Defendants**") Second Motion to Dismiss, (Doc. No. 83), Defendant Casey Englert's ("**Englert**") Second Motion to Dismiss, (Doc. No. 84), and Defendant Louis Hallman's ("**Hallman**") Motion to Dismiss, (Doc. No. 101) (collectively, "**Moving Defendants**"). This matter has been fully briefed,[1] (Doc. Nos. 83, 84, 85, 91, 95, 101, 102, 104, 106), and is ripe for ruling. For the reasons set forth below, the motions are **GRANTED**.

## I. BACKGROUND

This civil case concerns the death of Russell Meade Fincham IV ("**Fincham**"), who unfortunately passed away in the custody of the Mecklenburg County Detention Center ("**MCDC**") in Charlotte, North Carolina on July 6, 2022. (Doc. No. 34.) Plaintiffs Mary Robin and Russell Fincham III (collectively "**Plaintiffs**"), the co-administrators of Finchman's estate, bring federal constitutional claims under 42 U.S.C. § 1983 against Defendants for deliberate

[1] Plaintiffs did not timely file any opposition to Defendant Englert's Motion to Dismiss.

indifference to serious medical needs and under North Carolina law for wrongful death to serious medical needs. (Id. at pp. 4, 69–98.) Plaintiffs allege Wellpath, by contract, was responsible for delivering medical and mental health services to MCDC. (Id. at p. 18–21.) Additionally, they contend that Wellpath employed Defendants Samantha Elliott McLaren, Tracellar Smith, Indrea Warren, and Casey Englert to provide those services to MCDC inmates. (Id. at p. 23.) Further, they assert Defendant Hallman is the Executive Officer for Wellpath. (Id. at p. 22.) Plaintiffs filed this action on July 8, 2024 and amended their complaint on September 17, 2024. See generally (Doc. No. 1; Doc. No. 34.)

On November 11, 2024, Wellpath Holdings, Inc. and its affiliated companies (including Wellpath) each filed petitions in the United States Bankruptcy Court for the Southern District of Texas (the "**Bankruptcy Court**") under Chapter 11 of the United States Bankruptcy Code (the "**Bankruptcy**").[2] (Doc. No. 71.) On November 15, 2024, Wellpath filed its Notice of Petition of Bankruptcy and Notice of Stay with this Court, effectively staying this action. (Id.).

On May 1, 2025, the Bankruptcy Court entered an order confirming Wellpath's Chapter 11 Plan of Reorganization (the "**Plan**"). See (Doc. No. 83-1.) Under the Plan, "all Claims and Causes of Action"[3] against Wellpath Holdings, Inc. and its affiliated debtors were discharged, and all claimants were permanently enjoined from commencing or continuing any proceeding in connection with such claims, or enforcing recovery from, among others, the Debtors and Debtors' estates. (Id. at pp. 14–15, 134.) The Plan became effective on May 9, 2025. See (Doc. No. 83-3, p. 1.)

[2] The Court takes judicial notice of the filings in the Bankruptcy Cases. See Phillips v. Pitt Cnty. Mem'l Hosp., 572 F.3d 176, 180 (4th Cir. 2009) (explaining that courts "may properly take judicial notice of matters of public record"); Colonial Penn Ins. Co. v. Coil, 887 F.2d 1236, 1239 (4th Cir. 1989) ("We note that 'the most frequent use of judicial notice of ascertainable facts is in noticing the content of court records.'").

[3] As those terms are defined by the Bankruptcy Court. See (Doc. 83-1, pp. 65–66.)

On June 4, 2025, the Bankruptcy Court issued a General Form of Order Regarding Lift Stay Motions (the "**Stay Order**") lifting the automatic stay. (Id. at pp. 1–4.) The Stay Order clarified the impact of the Plan on actions against Wellpath Holdings, Inc., related entities, and other debtors. (Id.) Pursuant to Article IX.A. of the Plan and Paragraph 3 of the Stay Order, "all Claims and Causes of Action" against Wellpath were discharged as a result of the Plan becoming effective. (Id. at p. 2; Doc. No. 83-1, pp. 14–15.) The Plan also included protection for all Wellpath current and former employees, subject to a Third-Party Release, from claims that arose prior to November 11, 2024. (Doc. No. 83-1, pp. 132–34.) The deadline to opt out of the plan's Third-Party Release was July 31, 2025. (Doc. 83, p. 6). Plaintiffs did not opt out.[4] (Id.).

On October 3, 2025, the Wellpath Defendants filed their Second Motion to Dismiss and memorandum in support. (Doc. No. 83.) They move to dismiss Plaintiffs' claims and causes of action against them pursuant to the Bankruptcy. Plaintiffs filed a Response opposing the Motion on October 30, 2025. (Doc. No. 91.) On October 16, 2025, Defendant Englert filed her Second Motion to Dismiss and memorandum in support. (Doc. Nos. 84, 85.) Plaintiffs did not respond. On June 18, 2026, Defendant Hallman filed his Motion to Dismiss and memorandum in support. (Doc. Nos. 101, 102.) Plaintiffs filed a response on July 2, 2026. (Doc. 104.) Like the Wellpath Defendants, Englert and Hallman argue the claims and causes of action should be dismissed pursuant to the Bankruptcy.

## II. ANALYSIS

The claims against the Moving Defendants are among the claims and causes of action discharged in the Bankruptcy. (Doc. 83-1, pp. 13–15, 134). Plaintiffs concede that they did not opt

[4] Plaintiffs claim they did not receive notice of the opt out deadline. (Doc. No. 91, pp. 8–10, Doc. No. 104, pp. 10–12). But the Plan states, "to the extent that any personal injury or wrongful death claimant has not received constitutional due process in connection with the solicitation and/or the Bar Date Order, the Bankruptcy Court shall retain jurisdiction to address these issues." (Doc. No. 83-1, p. 52).

out of the Plan's Third-Party Release but insist that they could not opt out as they failed to receive due process. (Doc. No. 91, pp. 8–10, Doc. No. 104, pp. 10–12.) But under the Plan, the Bankruptcy Court retains jurisdiction to address due process issues.[5] (Doc. No. 83-1, p. 52). So, the Court dismisses all individual capacity claims and causes of action against the Moving Defendants.[6] See, e.g., Washington v. Al Cannon Det. Ctr., No. 4:24-CV-03791-JDA, 2025 WL 3484900, at *2–3 (D.S.C. Dec. 3, 2025) (dismissing claims against Wellpath and individual nurse practitioner defendant where plaintiff failed to opt out of a third-party release); Thomas v. McFadden, 810 F. Supp. 3d 732, 741–42 (W.D.N.C. 2025) (dismissing similar claims against Wellpath as a result of Wellpath's bankruptcy); Polk v. Clark, No. 1:24CV00744, 2026 WL 699649, at *3-4 (M.D.N.C. Mar. 12, 2026) (dismissing claims against nurse employed by Wellpath).

Plaintiffs also request that they be permitted to proceed against Moving Defendants in a nominal capacity for the limited purpose of pursuing potential recovery from Wellpath's Third-Party Insurers or the Plan's Liquidating Trust. (Doc. No. 91, pp. 7–8, Doc. No. 104, p. 13.) As part of Wellpath's Chapter 11 reorganization, a Liquidating Trust assumed Wellpath's liability "for all General Unsecured Claims," including personal injury and wrongful death claims that arose prior to May 9, 2025. (Doc. No. 83-1, p. 107.) Furthermore, the Stay Order provides a specific procedure for holders of personal injury or wrongful death claims against Wellpath. (Doc. No. 83-3, p. 2.) These holders can proceed through the Trust Distribution Procedures or can

> seek determinations of the Debtors' liability by the appropriate civil court pursuant to 28 U.S.C. § 157(b)(5) with the Liquidating Trust as a nominal party (a) to the extent such inclusion is necessary to recover against available third-party insurance proceeds or an unreleased Non-Debtor Defendant, or (b) to establish or liquidate

[5] "To the extent that any personal injury or wrongful death claimant has not received constitutional due process in connection with the solicitation and/or the Bar Date Order, the Bankruptcy Court shall retain jurisdiction to address these issues." (Doc. No. 83-1, p. 52).

[6] Since Plaintiffs failed to respond to Defendant Englert's Motion to Dismiss, we assume the truth of Defendant Englert's Motion to Dismiss. See Washington, 2025 WL 3484900, at *2–3.

> the amount of their claim for distribution under the Plan from the Liquidating Trust[.]

(Id.)

Thus, the Stay Order establishes that while Plaintiffs can potentially proceed against the Liquidating Trust as a nominal defendant,[7] no such carve out exists for litigating against the Moving Defendants, even as nominal defendants. See Payne v. Catell, No. 25-cv-1119, 2026 WL 1510454, at *4 (M.D. Pa. May 29, 2026) ("[A] holder of an unsecured claim that arises from alleged pre-petition personal injury tort or wrongful death may proceed with and litigate such claim with the Liquidating Trust established by the Bankruptcy Court by including it as a nominal defendant."); O'Neil v. Las Vegas Metro. Police Dep't, No. 2:22-CV-00474-ART-BNW, 2025 WL 3552410, at *2-3 (D. Nev. Dec. 10, 2025) (explaining that pursuant to the stay order, plaintiff cannot proceed nominally against Wellpath). Therefore, the Moving Defendants are entitled to dismissal from this action.[8]

## III. CONCLUSION

**IT IS, THEREFORE, ORDERED** that for the foregoing reasons, the Wellpath Defendants' Second Motion to Dismiss, (Doc. No. 83), Englert's Second Motion to Dismiss (Doc. No. 84), and Hallman's Second Motion to Dismiss (Doc. No. 101), are **GRANTED**. Defendants Wellpath, Samantha Elliott-McLaren, Tracellar Smith, and Indrea Warren, Casey Englert, and Louis Hallman are **DISMISSED** from this case.

[7] The Court expresses no opinion as to the viability of adding the Liquidating Trust as a party to this matter.
[8] Plaintiffs also request that if we find any ambiguity regarding the effect of the Wellpath Plan, that we grant them limited discovery and leave to amend before any dismissal. (Doc. No. 91, p. 14.) The Court takes no position on the requested clarification as it is beyond the scope of this Order.

**IT IS SO ORDERED.**

Signed: September 21, 2026

Frank D. Whitney
Senior United States District Judge