

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

In re:

Balance Point LLC, *et al.*,<sup>1</sup>

Debtors.

Chapter 11

Case No. 21-11279 (JKS)

(Joint Administration Pending)

**MOTION OF DEBTORS FOR ENTRY OF AN ORDER AUTHORIZING DEBTORS TO  
REDACT CERTAIN PERSONNEL INFORMATION**

The above-captioned debtors and debtors in possession (the “**Debtors**”) hereby move (this “**Motion**”) for the entry of an order, substantially in the form attached hereto as Exhibit A (the “**Order**”), pursuant to sections 105(a), 107, and 521(a)(1) of title 11 of the United States Code (the “**Bankruptcy Code**”), Rules 1007, 9018, and 9037 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), and Rule 9018-1 of the Local Rules of Bankruptcy Practice and Procedure of the United States District Court for the District of Delaware (the “**Local Rules**”), authorizing the Debtors to redact personnel information—including the names and home addresses—of Debtors’ employees (former and current), from any document filed on the docket in these chapter 11 cases, including, but not limited to, the schedules of assets and liabilities, statements of financial affairs of the Debtors, creditor matrix, and pleadings, as applicable (collectively, the “**Debtors’ Public Filings**”). In support of this Motion, the Debtors respectfully state as follows:

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<sup>1</sup> The Debtors in these subchapter V cases, along with the last four digits of each Debtor’s federal tax identification number, are Balance Point LLC (5908) and MECTA Corporation (8275). The Debtors’ mailing address is 19799 SW 95<sup>th</sup> Avenue, Suite B, Tualatin, Oregon 97062.

**JURISDICTION AND VENUE**

1. This Court has jurisdiction to consider this Motion under 28 U.S.C. §§ 157 and 1334 and the Amended Standing Order of Reference from the United States District Court for the District of Delaware, dated February 29, 2012. This is a core proceeding under 28 U.S.C. § 157(b). Under Local Rule 9013-1(f), the Debtors consent to entry of a final order under Article III of the United States Constitution. Venue of these cases and the Motion in this district is proper under 28 U.S.C. §§ 1408 and 1409.

2. The statutory predicates for the relief requested herein are Bankruptcy Code sections 105(a), 107, 342(a), 1184, and 521(a)(1); Bankruptcy Rules 1007, 9018, and 9037; and Local Rule 9018-1,

**BACKGROUND**

3. On the date hereof (the “**Petition Date**”), each of the Debtors filed a voluntary petition in this Court commencing a case for relief under Subchapter V of chapter 11 of the Bankruptcy Code (the “**Chapter 11 Cases**”). The factual background regarding the Debtors, including their business operations, their capital and debt structures, and the events leading to the filing of the Chapter 11 Cases, is set forth in detail in the *Declaration of Adrian Kettering in Support of Chapter 11 Petitions and First Day Pleadings* (the “**First Day Declaration**”) and fully incorporated herein by reference.

4. The Debtors continue to manage and operate their business as debtors in possession pursuant to Bankruptcy Code sections 1107, 1108, and 1184. No trustee or examiner has been requested in the Chapter 11 Cases.

**RELIEF REQUESTED**

5. By this Motion, the Debtors seek entry of the Order, which would: (i) authorize the Debtors to redact personnel information of former and current employees and independent contractors from the Debtors' Public Filings; and (ii) grant such other further relief as requested herein or as the Court otherwise deems necessary or appropriate.

**BASIS FOR RELIEF**

6. As detailed in the First Day Declaration, the Debtors are in the business of manufacturing and distributing Electroconvulsive Therapy (ECT) devices. Although there is clear scientific evidence that ECT saves thousands of lives each year, and many doctors and patients rely on it to help patients who are battling debilitating mental illness, particularly when every other modality of treatment has proven unsuccessful, ECT manufacturers like the Debtors are not without critics and detractors.

7. Many of these critics and detractors have made it their goal to effect a ban on the use of ECT in this country. As ECT continues to be approved by the government for medical use, the critics and detractors have resorted to other means to hamper the work of companies like MECTA, including direct harassment and meritless litigation. Over the years, the Debtors' principals have been subjected to substantial harassment including, but not limited to, interfering protests outside of the Debtors' business, break-ins at the Debtors' place of business, harassing phone calls, disturbing newspaper and online campaigns targeting the Debtors, and a highly misleading, untruthful and exaggerated movie produced about ECT and physicians who offer ECT.

8. In the ordinary course of business, the Debtors currently employ 10 individuals as well as contracts with 6 independent contractors, and also maintain relationships with former

employees and contractors (collectively, the “**Employees**”). All Employees have been and are critical to the business operations of this small business.

9. While the Debtors understand and acknowledge the duty under the Bankruptcy Code for Debtors to be candid in their public filings and appreciate that filing confidential documents is generally disfavored absent a compelling reason, the Debtors submit that there is ample cause to allow the relief requested here.

10. It is essential that the Employees feel protected in their past and continued employment with the Debtors, and to that end, personnel information of all current and former Employees must remain confidential. Disclosure of names and addresses place the well-being and safety of the Employees at risk.

11. As detailed herein, the risk is not merely speculative. By virtue of the Debtors’ business, critics of psychiatric medicine and ECT actively target the Debtors’ operations. The Debtors have reason to believe that such harassment might extend to their Employees if the critics and detractors are able to access personnel information. As such, disclosure of Employees’ personnel information could potentially harm the Employees, the Employees’ families, and the Debtors’ relationships with their Employees, thereby risking significant attrition at a critical time in these cases.

12. While “[t]here is a presumptive right of access to documents filed in federal court . . . [t]he right of public access, however, is not absolute.” *In re Altegrity, Inc.*, Case No. 15–10226 (LSS), 2015 WL 10963572, at \*3 (Bankr. D. Del. July 6, 2015). *See also Video Software Dealers Assoc. v. Orion Pictures Corp. (In re Orion Pictures Corp.)*, 21 F.3d 24, 27-28 (2d Cir. 1994). Bankruptcy Code section 107(c) allows a bankruptcy court, for cause, to protect an individual if disclosure would create an undue risk of unlawful injury.

13. Local Rule 9018-1(b) further provides that “[a]ny party who seeks to file documents under seal must file a motion to that effect.”

14. While the moving party bears the burden of demonstrating that the information falls within a statutory exception, “the court is required to protect a requested interested party and has no discretion to deny the application.” *In re Orion Pictures Corp.*, 21 F.3d at 27.

15. The Debtors believe that the request to redact Employees’ addresses, phone numbers, email addresses, or any other personal information is justified under the circumstances of these cases. Moreover, the Debtors will share unredacted versions of the Debtors’ Public Filings with the Court, the Office of the United States Trustee for the District of Delaware, and the Subchapter V Trustee, on a confidential basis.

16. The Debtors thus submit that under the circumstances, this narrowly crafted solution appropriately balances public access to information while protecting the personal information of Employees. *See, e.g., In re Altegrity*, 2015 WL 10963572, at \*2 n.12 (noting that the proposed solution by the debtors allowed for redaction of employee addresses but ensured proper access and service).

**NOTICE**

17. Notice of this Motion will be given to: (a) the Office of the United States Trustee for the District of Delaware; (b) the Subchapter V Trustee (to be appointed by the U.S. Trustee); (c) the parties included on the Debtors’ consolidated list of twenty (20) largest unsecured creditors; (d) the current and former Employees; (e) any party that has requested notice pursuant to Bankruptcy Rule 2002; and (f) all parties entitled to notice pursuant to Local Rule 9013-1(m). The Debtors submit that, under the circumstances, no other or further notice is required.

18. No previous request for the relief sought herein has been made to this Court or any other court.

**WHEREFORE**, the Debtors respectfully requests that the Court enter an order, substantially in the form of the proposed order attached hereto as Exhibit A, granting the relief requested in the Motion and such other and further relief as may be just and proper.

Dated: September 30, 2021  
Wilmington, Delaware

Respectfully submitted,

**POLSINELLI PC**

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*Proposed Counsel to the Debtors and  
Debtors in Possession*

**Exhibit A**

Proposed Order

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

In re:

Balance Point LLC, *et al.*,<sup>1</sup>

Debtors.

Chapter 11

Case No. 21-11279 (JKS)

(Joint Administration Pending)

**Re: Docket No. \_\_\_\_**

**ORDER AUTHORIZING DEBTORS TO REDACT  
CERTAIN PERSONNEL INFORMATION**

Upon the motion (the “**Motion**”)<sup>2</sup> of the Debtors for entry of an order authorizing the redaction of Employees’ personnel information; and the Court having reviewed the Motion and the First Day Declaration; and the Court having determined that the relief requested in the Motion is in the best interests of the Debtors, their estates, their creditors, and other parties in interest; 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 *Amended Standing Order of Reference* from the United States District Court for the District of Delaware dated as of February 29, 2012; and the Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and the Debtors consent to entry of a final order under Article III of the United States Constitution; and the Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and it appearing that proper and adequate notice of the Motion has been

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<sup>2</sup> Capitalized terms not otherwise defined herein shall have the meanings previously ascribed to such terms in the Motion.

given and that no other or further notice is necessary; and upon the record herein; after due deliberation thereon; and good and sufficient cause appearing therefor, it is hereby

**ORDERED, ADJUDGED, AND DECREED THAT:**

1. The Motion is GRANTED, as set forth herein.
2. The Debtors are authorized, but not directed, pursuant to sections 105 and 107 of the Bankruptcy Code to redact personnel information—including the names and home addresses—of Debtors’ current and former Employees, from any document filed on the docket in these chapter 11 cases.
3. Upon request, the Debtors shall provide unredacted copies of any redacted documents, including, but not limited to, the Schedules and Statements, to the Court, the United States Trustee, and the Subchapter V Trustee.
4. Nothing contained in this Order prejudices or affects the rights of an entity acting pursuant to the police or regulatory power of a domestic governmental unit to seek access to information filed under seal pursuant to 11 U.S.C. § 107(c)(2).
5. The Debtors are authorized and empowered to take all actions necessary or appropriate to implement the relief granted in this Order.
6. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation and/or interpretation of this Order.

Dated: \_\_\_\_\_, 2021  
Wilmington, Delaware

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UNITED STATES BANKRUPTCY JUDGE