

## In The News

# Billionaire Kelcy Warren Sued Over \$20 MM Cancer Center Loan

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*Law360*

A bankrupt company that has been developing a cancer treatment center in Dallas on Sunday filed a lawsuit in Texas against billionaire Kelcy Warren over a \$20 million loan, arguing that Warren gained unfair leverage over the business through the transaction.

Dallas Proton Treatment Holdings LLC and an affiliate filed an adversary suit that seeks to avoid and recover payments and certain security interests in the business that Warren received as a result of the loan. Dallas Proton Treatment Center LLC filed for Chapter 11 protection in September after Warren, one of its largest backers, initiated foreclosure proceedings.

The lawsuit arises from a \$20 million promissory note that DPTH issued to Warren in August 2013 in exchange for the loan. The original note was unsecured and gave Warren the right to convert up to 50 percent of it into equity in the company, according to the complaint.

Several months later, Warren requested that the note be amended to provide a security interest, the lawsuit said. Among other advantages, the change purportedly granted Warren an interest in land owned by affiliate DPTC, the lawsuit said.

However, neither DPTH or DPTC received additional value for the changes made to the underlying promissory note. The lawsuit asserts legal claims to avoid and recover subsequent transfers that were made to Warren and a corporate entity that he controlled.

“Warren did not extend, nor did the debtors receive, any additional funds in exchange for the amended note or security agreement,” the lawsuit said. “Upon information and belief, debtors did not receive any consideration for execution of the amended note and related documents.”

According to the debtors, Warren is on the board of managers of an affiliated treatment center called California Proton Treatment Center LLC. CPTC and the other cancer treatment centers, including DPTC, are controlled by a company called APT. Therefore, Warren qualifies as an insider to DPTH, the lawsuit said.

Warren, who is the second largest investor in DPTH, is the chairman and CEO of Energy Transfer Equity LP. An attorney representing Warren could not immediately be reached for comment on Monday.

The lawsuit comes weeks after the creditors of another related cancer treatment in Georgia, Georgia Proton Treatment Holdings LLC, filed an involuntary Chapter 7 petition trying to force the company into bankruptcy.

The debtors are represented by Marcus A. Helt and Mark C. Moore of Gardere Wynne Sewell LLP.

Warren is represented by Kevin M. Lippman, Davor Rukavina and Thomas D. Berghman of Munsch Hardt Kopf & Harr PC.

The adversary suit is Dallas Proton Treatment Center LLC et al. v. Kelcy Warren et al., case number 16-03041, in the U.S. Bankruptcy Court for the Northern District of Texas.

The Dallas bankruptcy case is In re: Dallas Proton Treatment Center LLC et al., case number 3:15-bk-33783, in the U.S. Bankruptcy Court for the Northern District of Texas.

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