

## Corporate & Financial Weekly Digest

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### **Court Finds Exigent Circumstances Warrant Appointment of Receiver for an Insolvent, Closely Held Corporation**

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The Delaware Chancery Court recently found that exigent circumstances necessitated the appointment of a receiver for an insolvent company under section 291 of the Delaware General Corporation Law (DGCL). The insolvent company at issue had \$1.9 million in tax debt and was at risk of losing a favorable settlement opportunity with the IRS due to an impasse between voting and non-voting shareholders. The Chancery Court reasoned that, under the circumstances of indisputable insolvency, a time-sensitive opportunity to settle a “value-destroying” tax debt, and the Board’s insistence on a dubious transaction, there was sufficient exigency to justify the appointment of a receiver charged with ensuring that the company fairly attempted to take advantage of the possibly short-lived IRS offer. In addition to appointing a receiver, the Court granted the receiver the power to exercise independent business judgment to implement, in relation to the IRS offer, or to otherwise recommend whatever steps the receiver determined, in good faith, would maximize the value of the company for its various stakeholders.

*Badii v. Metropolitan Hospice, Inc.*, C.A. No. 6192 – VCP (Del. Ch. Mar. 12, 2012).

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