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The ''officially released'' date that appears near the beginning of each opinion is the date the opinion will be published in the Connecticut Law Journal or the date it was released as a slip opinion. The operative date for the beginning of all time periods for filing postopinion motions and petitions for certification is the ''officially released'' date appearing in the opinion. In no event will any such motions be accepted before the ''officially released'' date.

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ZARELLA, J., with whom SULLIVAN, C. J., joins, concurring in part and dissenting in part. I concur in the majority opinion insofar as it reverses the judgment of the trial court and remands the case for a new trial. I respectfully disagree, however, with the conclusion that the majority reaches in part II of its opinion.

In part II of its opinion, the majority concludes that a trustee in bankruptcy who has been substituted as a plaintiff for a bankruptcy debtor in a medical malpractice action may not have access to pathology slides of the debtor's tissue and any accompanying pathology reports pursuant to General Statutes § 20-7c. More specifically, the majority concludes that a bankruptcy trustee is not the debtor's ''authorized representative'' for purposes of § 20-7c and, consequently, cannot have access to the debtor's medical records, which, in the present case, include slides of the debtor's uterine tissue and reports generated in connection with the analysis of that tissue. I disagree with the majority's conclusion based on the language of §20-7c, relevant state law and bankruptcy law.

The majority concludes that the plaintiff trustee, Michael J. Daly, is not the ''authorized representative'' of the named plaintiff debtor, Michelle DiLieto, for purposes of § 20-7c and, therefore, is not entitled to access, inter alia, slides of DiLieto's tissue pursuant to that statute. General Statutes § 20-7c provides in relevant part: ''(b) Upon a written request of a patient, his attorney or authorized representative, or pursuant to a written authorization, a provider . . . shall furnish to the person making such request a copy of the patient's health record . . . .''

The majority notes that § 20-7c does not define the term ''authorized representative,'' and that the legislative history sheds no light on the proper interpretation of that term.[1] The majority acknowledges, however, that the general purpose of the statute is '' 'principally but not exclusively, to provide patients a right to examine and to obtain copies of their health records prior to the initiation of malpractice litigation.' '' The majority then reviews the United States Bankruptcy Code (code), 11 U.S.C. § 101 et seq., and ultimately concludes that, although the trustee is the representative of both the debtor's estate, ''which consists of all of the debtor's property, including causes of action,'' and the creditors of the estate, there is nothing in the code to support ''the premise that the bankruptcy trustee is the debtor's authorized representative or that he acquires personal rights of the debtor such as the right to examine her health records.''

Federal courts have held that "[t]he appointment of a Chapter 7 trustee results in his becoming the sole representative of the [debtor's] estate." *Nova Telecom, Inc.* v. *Long Distance Management Systems, Inc.*, No. 00-2113, 2000 U.S. Dist. LEXIS 15510, *13 (E.D. Pa. October 25, 2000). "The primary duty of the chapter 7 trustee is to collect and reduce to money property of the estate . . . ." (Internal quotation marks omitted.) *In re Bowker*, 245 B.R. 192, 195 (Bankr. D.N.J. 2000), quoting 11 U.S.C. § 704 (1) (2000). "[A] bankruptcy estate encompasses a wide variety of assets. See 11 U.S.C. § 541 (a) (1994). It includes . . . all legal or equitable interests of the debtor in property as of the commencement of the case . . . as well as any interest in property that the estate acquires after the commencement of the case . . . [11 U.S.C. § 541 (a) (1) and (7) (1994)]. These provisions have been interpreted broadly, and include an interest in a cause of action." (Citation omitted; internal quotation marks omitted.) *Kollar* v. *Miller*, 176 F.3d 175, 178 (3d Cir. 1999); see also H.R. Rep. No. 95-595, p. 175 (1978), reprinted in 1978 U.S.C.C.A.N. 5963, 6136 (under Bankruptcy Reform Act of 1978, codified as amended at 11 U.S.C. § 101 et seq., debtor's estate includes, inter alia, "all interests, such as interests in real or personal property, tangible and intangible property . . . [and] causes of action"). Accordingly, "[t]he trustee steps into the shoes of the debtor for the [purpose] of asserting or maintaining the debtor's causes of [action] . . . ." *In re Rare Coin Galleries of America, Inc.*, 862 F.2d 896, 901 (1st Cir. 1988). "It is clear, therefore, that, after appointment of a trustee, a Chapter 7 debtor no longer has standing to pursue a cause of action which existed at the time the Chapter 7 petition was filed. Only the trustee, as representative of the estate, has the authority to prosecute and/or settle such causes of action." *Cain* v. *Hyatt*, 101 B.R. 440, 442 (Bankr. E.D. Pa. 1989).

One can deduce from the foregoing principles that, by stepping into the shoes of the debtor for the purpose of maintaining a cause of action, the trustee acquires all the necessary rights and powers, including personal rights, related to the cause of action. Indeed, the bankruptcy trustee, by standing in the shoes of the debtor, "has *all* of the rights the bankrupt [debtor] had"; (emphasis added) *In re Urban*, 136 F.2d 296, 298 (7th Cir. 1943); and is "vested with the causes of actions pending at the date of filing the bankruptcy . . . and with the [debtor's] personal property . . . ." (Citations omitted.) *Skelton* v. *Clements*, 408 F.2d 353, 354 (9th Cir. 1969). Moreover, in order to promote the effectuation of the fundamental purposes of the code, "it is necessary and desirable that the amount of property included in the bankruptcy estate be as inclusive as possible." 5 W. Collier, Bankruptcy (15th Rev. Ed. 2003) ¶ 541.01, p. 541-7. In my view, therefore, the majority's conclusion that the code only provides the trustee with limited

rights and powers, which do not include personal rights, such as the right to access medical records in furtherance of the prosecution of a medical malpractice claim, pays short shrift to these well settled principles of bankruptcy law.

Furthermore, the majority appears to base its decision on the conclusion that § 20-7c creates a personal right to obtain medical records that is not subject to exercise by the trustee. The majority offers no support for this conclusion, however. The majority states that ''§ 20-7c deals with an individual's health records. Thus, it involves particularly personal and sensitive material. This factor counsels strongly against interpreting 'authorized representative' in such a way as to include persons or entities [that] are not closely associated with the 'patient' whose records are sought.''

I do not dispute the fact that information contained in medical records is of a personal and sensitive nature. The majority, however, loses sight of the fact that, under well settled principles of bankruptcy law, a trustee is designated as the debtor's ''authorized representative'' for purposes of asserting and maintaining the debtor's causes of action. In my view, a ''patient'' cedes any right he may have in preventing the trustee from gaining access to his medical records by filing for bankruptcy when his estate includes a cause of action for medical malpractice to which those medical records pertain. Under such circumstances, the medical records of the patient/debtor lose, at least to some degree, their status as purely personal records.

In sum, I disagree with the majority's conclusion that the right to access medical records under § 20-7c is so personal to the debtor that it does not transfer to the trustee as a necessary part of trustee's authority to assert and maintain the debtor's cause of action for medical malpractice.

[1] I reaffirm my continuing belief in the plain meaning rule as expressed in my dissenting opinion in *State* v. *Courchesne*, 262 Conn. 537, 597, 618–19, 816 A.2d 562 (2003) (*Zarella, J.*, dissenting).