

CSD 3000A [07/01/18]

Docket #0135 Date Filed: 10/18/2023

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Order Entered on  
 October 18, 2023  
 by Clerk U.S. Bankruptcy Court  
 Southern District of California

**UNITED STATES BANKRUPTCY COURT**  
 SOUTHERN DISTRICT OF CALIFORNIA  
 325 West F Street, San Diego, California 92101-6991

In Re  
 BORREGO COMMUNITY HEALTH FOUNDATION  
 Debtor and Debtor in Possession

BANKRUPTCY NO. 22-02384-LT11

Debtor.

BORREGO COMMUNITY HEALTH FOUNDATION, a California nonprofit  
 public benefit corporation,

ADVERSARY NO. 22-90056-LT

Plaintiff(s)

v.  
 CALIFORNIA DEPARTMENT OF HEALTH CARE SERVICES, by and through  
 its Director, Michelle Baass,

Date of Hearing:

Time of Hearing:

Defendant(s)

Name of Judge:

**ORDER ON**

Stipulation Among the Debtor, the California Department of Health Care Services, and the Official Committee of Unsecured Creditors to (I) Vacate the (A) Findings of Facts and Conclusions of Law re: Emergency Motion to Enforce the Automatic Stay or Alternatively for Temporary Restraining Order [Docket No. 65] and (B) Order on Emergency Motion to Enforce the Automatic Stay or Alternatively for Temporary Restraining Order [Docket No. 66]; and (II) Dismiss the Adversary Proceeding

The court orders as set forth on the continuation pages attached and numbered 2 through 2 with exhibits, if any, for a total of 2 pages. Motion/Application Docket Entry No. 133.

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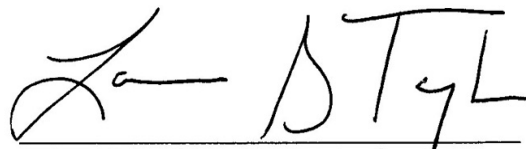
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October 18, 2023

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DATED:



Judge, United States Bankruptcy Court

CSD 3000A



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**CSD 3000A** [07/01/18] (Page 2)

ORDER ON Stipulation Among the Debtor, the California Department of Health Care Services, and the Official Committee of Unsecured Creditors to (I) Vacate the (A) Findings of Facts and Conclusions of Law re: Emergency Motion to Enforce the Automatic Stay or Alternatively for Temporary Restraining Order [Docket No. 65] and (B) Order on Emergency Motion to Enforce the Automatic Stay or Alternatively for Temporary Restraining Order [Docket No. 66]; and (II) Dismiss the Adversary Proceeding

DEBTOR: BORREGO COMMUNITY HEALTH FOUNDATION  
Debtor and Debtor in Possession

CASE NO.: 22-02384-LT11  
ADV. NO.: 22-90056-LT

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The Court having reviewed and considered the "Stipulation Among the Debtor, the California Department of Health Care Services, and the Official Committee of Unsecured Creditors to (I) Vacate the (A) Findings of Facts and Conclusions of Law Re: Emergency Motion to Enforce the Automatic Stay or Alternatively for Temporary Restraining Order [Docket No. 65] and (B) Order on Emergency Motion to Enforce the Automatic Stay or Alternatively for Temporary Restraining Order [Docket No. 66]; and (II) Dismiss the Adversary Proceeding" (the "Stipulation"), and good cause appearing therefore,

IT IS HEREBY ORDERED:

1. That the Stipulation, attached hereto as Exhibit A, is approved in its entirety.
2. The Findings of Facts and Conclusions of Law [Docket No. 65] and the Order [Docket No. 66] are hereby vacated and withdrawn.
3. The Adversary Proceeding is dismissed with prejudice.
4. That the terms and conditions of the Stipulation shall be binding upon the parties and are hereby fully incorporated into this Order by this reference.
5. This Court shall retain exclusive jurisdiction to resolve any dispute arising from or related to this Order.

**CSD 3000A**

Signed by Judge Laura Stuart Taylor October 18, 2023

# Exhibit A

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6 *Debtor In Possession*

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Supervising Deputy Attorney General  
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14 *Department of Health Care Services*

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19 *Attorneys for the Official Committee*  
20 *of Unsecured Creditors*

21 **UNITED STATES BANKRUPTCY COURT**  
22 **SOUTHERN DISTRICT OF CALIFORNIA**  
23

24 In re  
25 BORREGO COMMUNITY HEALTH  
FOUNDATION, a California nonprofit  
26 public benefit corporation,  
27 Debtor and Debtor in Possession.  
28

Case No. 22-02384-11  
Chapter 11 Case

DENTONS US LLP  
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LOS ANGELES, CALIFORNIA 90017-5704  
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BORREGO COMMUNITY HEALTH  
FOUNDATION, a California nonprofit  
public benefit corporation,

Plaintiff,

v.

CALIFORNIA DEPARTMENT OF  
HEALTH CARE SERVICES, by and  
through its Director, Michelle Baass,

Defendant.

Adv. Pro. No. 22-90056

**STIPULATION AMONG THE  
DEBTOR, THE CALIFORNIA  
DEPARTMENT OF HEALTH CARE  
SERVICES, AND THE OFFICIAL  
COMMITTEE OF UNSECURED  
CREDITORS TO (I) VACATE THE  
(A) FINDINGS OF FACTS AND  
CONCLUSIONS OF LAW RE:  
EMERGENCY MOTION TO  
ENFORCE THE AUTOMATIC STAY  
OR ALTERNATIVELY FOR  
TEMPORARY RESTRAINING  
ORDER [DOCKET NO. 65] AND  
(B) ORDER ON EMERGENCY  
MOTION TO ENFORCE THE  
AUTOMATIC STAY OR  
ALTERNATIVELY FOR  
TEMPORARY RESTRAINING  
ORDER [DOCKET NO. 66]; AND  
(II) DISMISS THE ADVERSARY  
PROCEEDING**

Borrego Community Health Foundation, the debtor and debtor in possession in  
the above-captioned case (the “Debtor”), the California Department of Health Care  
Services, acting by and through its director Michelle Baass (collectively, “DHCS”),  
and the Official Committee of Unsecured Creditors (the “Committee” and with the  
Debtor and DHCS, the “Parties”), hereby agree and stipulate as follows:

### RECITALS

WHEREAS, on September 12, 2022, the Debtor filed a voluntary petition for  
relief under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”)<sup>1</sup>  
commencing the above referenced bankruptcy case (the “Bankruptcy Case”) in the  
United States Bankruptcy Court for the Southern District of California (the “Court”);

WHEREAS, on September 26, 2022, the Debtor filed the *Debtor’s Complaint*  
*for Declaratory Judgment and Preliminary and Permanent Injunctive Relief, or in the*  
*Alternative, for Writ of Mandate Under Code of Civil Procedure 1085* [Docket No. 1];

<sup>1</sup> All references to section or chapter herein are to the Bankruptcy Code, 11 U.S.C. §§ 101, *et seq.*,  
as amended. All references to “Rules” are to the Federal Rules of Bankruptcy Procedure.

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(the “Complaint”), commencing the above referenced adversary proceeding (the “Adversary Proceeding”);

WHEREAS, on September 26, 2022, the United States Trustee appointed the Committee in the Bankruptcy Case pursuant to section 1102;

WHEREAS, on September 27, 2022, the Debtor filed its *Emergency Motion: (I) to Enforce the Automatic Stay Pursuant to 11 U.S.C. § 362; or, Alternatively, (II) for Temporary Restraining Order; Memorandum of Points and Authorities in Support Thereof; and Declarations in Support Thereof* [Docket No. 3] (the “Motion to Enforce”) and certain other supporting declarations;

WHEREAS, DHCS objected to the Motion to Enforce and filed, among other things, *Defendant California Department of Health Care Services’ Opposition to Debtor’s Emergency Motion: (1) to Enforce the Automatic Stay; or (2) for Temporary Restraining Order* [Docket No. 30];

WHEREAS, DHCS opposed the relief requested in the Complaint and filed its *Answer to Complaint for Declaratory Judgment and Preliminary and Permanent Injunctive Relief, or in the Alternative, for Writ of Mandate Under Code of Civil Procedure 1085* [Docket No. 67];

WHEREAS, the Court issued its *Findings of Fact and Conclusions of Law re: Emergency Motion to (I) Enforce the Automatic Stay or (II) Alternatively for Temporary Restraining Order* [Docket No. 65] (the “Findings of Fact and Conclusions of Law”);

WHEREAS the Court entered its *Order on Emergency Motion to (I) Enforce the Automatic Stay or (II) Alternatively for Temporary Restraining Order* [Docket No. 66] (the “Order”) granting, in part, the Motion to Enforce on the terms and conditions set forth in the Order;

WHEREAS, in November 2022, the Parties agreed, and the Court ordered the Parties to mediate all disputes between them before an appointed mediator, the Honorable Dennis Montali, United States Bankruptcy Judge [Docket Nos. 73, 74, 83];

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1 WHEREAS, on February 27, 2023, the Parties executed a term sheet outlining  
2 the terms of a settlement reached between the Parties (the “Term Sheet”) and filed the  
3 *Debtor’s Notice and Motion to Approve Compromise Among Debtor, Official*  
4 *Committee of Unsecured Creditors and California Department of Health Care*  
5 *Services Pursuant to Federal Rule of Bankruptcy Procedure 9019* [Docket No. 510]  
6 (the “Settlement Motion”), which was heard on shortened time on March 1, 2023  
7 [Docket No. 512]. On March 1, 2023, the Court granted the Settlement Motion and  
8 approved the settlement between the Parties;

9 WHEREAS, on March 7, 2023, the Court entered its *Order on Debtor’s Motion*  
10 *to Approve Compromise Among Debtor, Official Committee of Unsecured Creditors,*  
11 *and California Department of Unsecured Creditors* [Docket No. 544] (the  
12 “Settlement Order”), pursuant to which the Parties were “authorized to take all actions  
13 and execute all documents and instruments that they deem necessary or appropriate  
14 to implement and effectuate the transactions and other obligations contemplated by  
15 the Term Sheet.” [Docket No. 544 at ¶ 2];

16 WHEREAS, as contemplated by the Term Sheet, the Parties prepared and  
17 executed a final settlement agreement (the “Settlement Agreement”), and the Debtor  
18 filed the *Notice of Filing Executed Settlement Agreement Among the Debtor, the*  
19 *Official Committee of Unsecured Creditors, and the California Department of Health*  
20 *Care Services* [Docket No. 923];

21 WHEREAS, the Settlement Agreement provides, among other things, as  
22 follows:

23 The Parties agree to jointly (i) seek *vacatur* of the Findings of Facts and  
24 Stay Enforcement Order in the Adversary Proceeding [Adv. Dkt. Nos.  
25 65 and 66] and (ii) dismiss the Adversary Proceeding. The joint motion  
26 will be filed not later than 21 days after this Settlement Agreement is  
27 fully executed. The Parties agree that this Settlement Agreement is  
intended to and does resolve all issues between and among the Parties  
related to the Adversary Proceeding. The Parties agree to file any other  
joint motions and other documents as may be necessary to accomplish  
the foregoing.

28 Settlement Agreement, at 11 [Docket No. 923]; and

1 WHEREAS, the Parties enter into this Stipulation to (i) vacate the Findings of  
2 Fact and Conclusions of Law [Docket No. 65] and the Order [Docket No. 66], and  
3 (ii) dismiss the Adversary Proceeding.

4 **STIPULATION**

5 NOW, THEREFORE, the Parties to this Stipulation hereby stipulate and agree  
6 as follows:

7 1. The Findings of Fact and Conclusions of Law [Docket No. 65] and the  
8 Order [Docket No. 66] shall be vacated and withdrawn.

9 2. Pursuant to Federal Rule of Civil Procedure 41(a), as made applicable to  
10 adversary proceedings pursuant to Rule 7041, and the terms of the Settlement  
11 Agreement, this Adversary Proceeding shall be dismissed with prejudice.

12 IT IS SO STIPULATED AND AGREED.

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15 *Signatures on the following page.*  
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DENTONS US LLP  
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213 623 9300

1 Dated: October 16, 2023

DENTONS US LLP  
SAMUEL R. MAIZEL  
TANIA M. MOYRON

3 By: /s/ Tania M. Moyron

4 Attorneys for the Chapter 11  
5 Debtor and Debtor In Possession

6 AND

6 Dated: October 16, 2023

ROB BONTA  
ATTORNEY GENERAL OF  
CALIFORNIA  
RICHARD T. WALDOW  
SUPERVISING DEPUTY  
ATTORNEY GENERAL  
DARIN L WESSEL  
DEPUTY ATTORNEY GENERAL

11 By: /s/ Darin L. Wessel

12 Attorneys for Defendant California  
13 Department of Health Care Services

13 AND

14 Dated: October 16, 2023

PACHULSKI STANG ZIEHL &  
JONES LLP  
JEFFREY N. POMERANTZ  
STEVEN W. GOLDEN

17 By: /s/ Steven W. Golden

18 Attorneys for the Official Committee  
19 of Unsecured Creditors

United States Bankruptcy Court  
Southern District of California

BORREGO COMMUNITY HEALTH FOUNDATION,,

Plaintiff

Adv. Proc. No. 22-90056-LT

CALIFORNIA DEPARTMENT OF HEALTH CARE SER,

Defendant

## CERTIFICATE OF NOTICE

District/off: 0974-3

User: Admin.

Page 1 of 1

Date Rcvd: Oct 18, 2023

Form ID: pdfO1

Total Noticed: 1

Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on Oct 20, 2023:

Recip ID	Recipient Name and Address
pla	BORREGO COMMUNITY HEALTH FOUNDATION,, 587 Palm Canyon Dr., Suite 208, Borrego Springs, CA 92004

TOTAL: 1

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.  
Electronic transmission includes sending notices via email (Email/text and Email/PDF), and electronic data interchange (EDI).

NONE

## BYPASSED RECIPIENTS

The following addresses were not sent this bankruptcy notice due to an undeliverable address, \*duplicate of an address listed above, \*P duplicate of a preferred address, or ## out of date forwarding orders with USPS.

NONE

## NOTICE CERTIFICATION

I, Gustava Winters, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.

Meeting of Creditor Notices only (Official Form 309): Pursuant to Fed .R. Bank. P.2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.

Date: Oct 20, 2023

Signature: /s/Gustava Winters

## CM/ECF NOTICE OF ELECTRONIC FILING

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on October 18, 2023 at the address(es) listed below:

Name	Email Address
Bernard M. Hansen	on behalf of Creditor Premier Healthcare Management Inc. bernardmhansen@sbcglobal.net
Darin L. Wessel	on behalf of Defendant CALIFORNIA DEPARTMENT OF HEALTH CARE SERVICES by and through its Director, Michelle Baass darin.wessel@doj.ca.gov
Kenneth K. Wang	on behalf of Defendant CALIFORNIA DEPARTMENT OF HEALTH CARE SERVICES by and through its Director, Michelle Baass kenneth.wang@doj.ca.gov
Tania M. Moyron	on behalf of Plaintiffs BORREGO COMMUNITY HEALTH FOUNDATION tania.moyron@dentons.com, derry.kalve@dentons.com;DOCKET.GENERAL.LIT.LOS@dentons.com
Teddy Kapur	on behalf of Creditor Committee Official Committee of Unsecured Creditors of Borrego Community Health Foundation tkapur@pszjlaw.com;jpomierantz@pszjlaw.com;sgolden@pszjlaw.com

TOTAL: 5