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10 **UNITED STATES BANKRUPTCY COURT**  
11 **CENTRAL DISTRICT OF CALIFORNIA, LOS ANGELES DIVISION**  
12

13 In re  
14 BEVERLY COMMUNITY HOSPITAL  
ASSOCIATION dba BEVERLY HOSPITAL  
15 (A NONPROFIT PUBLIC BENEFIT  
CORPORATION), *et al.*,  
16  
Debtors and Debtors in Possession.  
17

Lead Case No. 2:23-bk-12359-SK

Jointly administered with:  
Case No: 2:23-bk-12360-SK  
Case No: 2:23-bk-12361-SK

Chapter 11

Hon. Sandra R. Klein

18 ☒ Affects All Debtors  
19 ☐ Affects Beverly Community Hospital  
Association  
20 ☐ Affects Montebello Community Health  
Services, Inc.  
21 ☐ Affects Beverly Hospital Foundation  
22  
Debtors and Debtors in Possession  
23  
24  
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**UNAC/UHCP'S RESERVATION OF  
RIGHTS REGARDING DEBTORS'  
EMERGENCY MOTION FOR INTERIM  
AND FINAL ORDERS (I) AUTHORIZING  
THE DEBTORS TO OBTAIN POST-  
PETITION FINANCING, (II) GRANTING  
ADEQUATE PROTECTION TO  
PREPETITION SECURED CREDITORS,  
AND (III) GRANTING RELATED  
RELIEF**

**Date: May 26, 2023  
Time: 9:00 a.m.  
Place: Zoom.Gov – or - Courtroom 1575  
255 E. Temple St.  
Los Angeles, CA 90012**

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The United Nurses Associations of California/Union of Health Care Professionals (“UNAC/UHCP”), a creditor and party-in-interest with respect to Beverly Community Hospital Association and the above-referenced affiliated debtors and debtors in possession in the above-captioned Chapter 11 bankruptcy cases (collectively, “Debtors”), by and through its undersigned counsel, submits this Reservation of Rights in connection with the Debtors’ *Emergency Motion for Interim and Final Orders (I) Authorizing the Debtors to Obtain Post-Petition Financing, (II) Granting Adequate Protection to Prepetition Secured Creditors, and (III) Granting Related Relief* [D.I. 31] (“**DIP Financing Motion**”) and the order entered by the Court granting the DIP Financing Motion, on an interim basis [D.I. 182] (“**Interim DIP Financing Order**”), and setting a final hearing on the DIP Financing Motion for May 17, 2023.

UNAC/UHCP offers this reservation of rights with respect to the DIP Financing Motion to the extent it or the “**Final Order**” may be construed to permit the Debtors to evade any of their post-petition obligations under the UNAC/UHCP collective bargaining agreement (“**CBA**”), which are protected by 11 U.S.C. § 1113.

### **BACKGROUND**

Since 2011, UNAC/UHCP has represented a unit of over 230 registered nurses providing essential healthcare services to the community and the Debtors at their Beverly Community Hospital facility. The current iteration of the collective bargaining agreement between UNAC/UHCP and Beverly Community Hospital Association has been in effect since February 4, 2022, and runs through April 30, 2025. In addition to wages and working conditions, the CBA sets forth various obligations owed to bargaining unit employees represented by UNAC/UHCP, including, but not limited to, the provision of paid time off; sick leave; health, dental, and other insurance coverage; and severance pay; as set forth more fully therein.

### **RESERVATION**

Section 1113 of the Bankruptcy Code (“**Section 1113**”) is the exclusive means by which collective bargaining agreements may be rejected or modified in bankruptcy. 11 U.S.C. § 1113(a). Prior to compliance with the requirements in Section 1113, a debtor is prohibited from unilaterally terminating or altering any provisions of a collective bargaining agreement. 11 U.S.C. § 1113(f).

Pursuant to Section 1113, the Debtors must continue to honor, pay, remit, or reimburse, as applicable, all obligations relating to or arising under the CBA, without modification whatsoever, unless and until the CBA is modified or rejected pursuant to the processes and procedures set forth therein.

The Approved Budget, as described and set forth in the DIP Financing Motion, allows for ongoing payroll and employee benefit payments, among other ordinary operating expenses, but makes no reference to the ongoing operation of the CBA and provides no assurances that the Debtors will continue to honor all collectively bargained obligations to UNAC/UHCP-represented employees in the post-petition period.

The Debtors are required by statute to maintain the status quo with respect to their obligations under the CBA and may not unilaterally pick and choose which obligations they will honor and which they will disregard in favor of other expenses and obligations. UNAC/UHCP therefore files this reservation of rights to ensure and confirm that the Debtors will continue to honor their obligations pursuant to the CBA and Section 1113.

DATED: May 12, 2023

BUSH GOTTLIEB, A Law Corporation

By: 

DAVID E. AHDOOT

Attorneys for United Nurses Associations of  
California/Union of Health Care Professionals

BUSH GOTTLIEB  
801 North Brand Boulevard, Suite 950  
Glendale, California 91203-1260

## PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:  
801 N. Brand Blvd, Ste. 950, Glendale, CA 91203

A true and correct copy of the foregoing document entitled (*specify*): **UNAC/UHCP'S RESERVATION OF RIGHTS REGARDING DEBTORS' EMERGENCY MOTION FOR INTERIM AND FINAL ORDERS (I) AUTHORIZING THE DEBTORS TO OBTAIN POST-PETITION FINANCING, (II) GRANTING ADEQUATE PROTECTION TO PREPETITION SECURED CREDITORS, AND (III) GRANTING RELATED RELIEF** will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

**1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF):** Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (*date*) May 12, 2023, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

☒ Service information continued on attached page

**2. SERVED BY UNITED STATES MAIL:**

On \_\_\_\_\_, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page

**3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL** (*state method for each person or entity served*): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (*date*) \_\_\_\_\_, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

May 12, 2023      Judith Valenzuela  
Date                      Printed Name

/s/ Judith Valenzuela  
Signature

### **ADDITIONAL SERVICE LIST**

#### **TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF):**

- Evelina Gentry on behalf of Creditor Advantis Medical Staffing  
evelina.gentry@akerman.com
- Megan M. Adeyemo on behalf of Creditor Aya Healthcare, Inc.  
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- Scott E. Blakeley on behalf of Creditor Baxter Healthcare Corporation  
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- Alexandria Lattner on behalf of Debtor Beverly Community Hospital Association  
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- Marc A. Levinson on behalf of Debtor Beverly Community Hospital Association  
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- Roye Zur on behalf of Interested Party Courtesy NEF  
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- Kenneth K. Wang on behalf of Creditor Department of Health Care Services for the State of California  
kenneth.wang@doj.ca.gov
- Sharon Z. Weiss on behalf of Interested Party HRE Montebello, LLC  
sharon.weiss@bclplaw.com
- Nathan A. Schultz on behalf of Creditor Hanmi Bank  
nschultzesq@gmail.com
- Sharon Z. Weiss on behalf of Interested Party Hilco Real Estate, LLC  
sharon.weiss@bclplaw.com
- Evan Gershbein on behalf of Other Professional Kurtzman Carson Consultants LLC  
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- Joseph P. Buchman on behalf of Creditor Montebello Land and Water Company  
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- Mark J. Valencia on behalf of Creditor Ihsan Shamaan  
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- Brian T. Harvey on behalf of Creditor T.R.L. Systems Incorporated  
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- Howard Steinberg on behalf of Creditor U.S. Bank Trust Company National Association, as Master Trustee  
stenbergh@gtlaw.com
- Michael Jones on behalf of U.S. Trustee United States Trustee (LA)  
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- Ron Maroko on behalf of U.S. Trustee United States Trustee (LA)  
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- Kelly L. Morrison on behalf of U.S. Trustee United States Trustee (LA)  
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