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8 Department of Health Care Services

9 UNITED STATES BANKRUPTCY COURT  
10 SOUTHERN DISTRICT OF CALIFORNIA  
11

12 In re

13 BORREGO COMMUNITY HEALTH  
FOUNDATION, a California nonprofit  
14 public benefit foundation,

15 Debtor and Debtor in Possession,  
16

17  
18  
19 BORREGO COMMUNITY HEALTH  
FOUNDATION, a California nonprofit  
20 public benefit corporation,

21 Plaintiff,  
22

23 v.  
24

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

26 Defendants.  
27  
28

Case No. 22-02384-LT11

Chapter 11 Case

Adv. Pro. No. 22-90056-LT

**APPELLANT CALIFORNIA  
DEPARTMENT OF HEALTH  
CARE SERVICES'S STATEMENT  
OF ISSUES ON APPEAL**

**[Fed. R. Bankr. P. 8009]**

On November 7, 2022, Appellant California Department of Health Care  
Services (Department) filed a Notice of Appeal to the "Court Modified" Order on



1 Plaintiff's Emergency Motion, and accompanying Findings of Fact and Conclusions  
2 of Law, filed on October 26, 2022. The Department now hereby submits, pursuant  
3 to Federal Rule of Bankruptcy Procedure 8009, this statement of issues on appeal:

4 **STATEMENT OF ISSUES ON APPEAL**

5 1. Whether the Bankruptcy Court erred in concluding that the payment  
6 suspension imposed by the California Department of Health Care Services is not  
7 exempt from the automatic stay pursuant to 11 U.S.C. § 362(b)(4).

8 2. Whether the Bankruptcy Court erred in concluding that the Debtor was  
9 not required to exhaust administrative remedies before seeking the relief in the  
10 Emergency Motion.


11 3. Whether the Bankruptcy Court erred in determining that the Patient Care  
12 Ombudsperson's (PCO) declarations were admissible and credible.

13 4. Whether the Bankruptcy Court erred in determining that the payment  
14 suspension would have a detrimental impact and cause irreparable harm to the  
15 Debtor and its patients, employees, and creditors.

16 Dated: November 21, 2022

Respectfully submitted,

17 ROB BONTA  
18 Attorney General of California  
19 RICHARD T. WALDOW  
20 Supervising Deputy Attorney General

21   
22 KENNETH K. WANG  
23 GRANT LIEN  
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26 California Department of Health Care  
27 Services  
28

LA2022602345

## 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:

**300 South Spring Street, Room 1700  
Los Angeles, CA 90013**

A true and correct copy of the foregoing document entitled (*specify*): **APPELLANT CALIFORNIA DEPARTMENT OF HEALTH CARE SERVICES'S STATEMENT OF ISSUES ON APPEAL** 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*) **November 21, 2022**, 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:

- Samuel R. Maizel, attorney for the Plaintiff Borrego Community Health Foundation at Samuel.maizel@dentons.com;
- Tania M. Moyron, attorney for Plaintiff Borrego Community Health Foundation at tania.moyron@dentons.com;
- David Ortiz, Esq., at the Office of the United States Trustee at david.a.ortiz@usdoj.gov;
- Regional 15 of the Office of the United States Trustee at ustp.region15@usdoj.gov;
- Steven Golden, Esq. attorney for the Unsecured Creditors Committee at sgolden@pszjlaw.com
- and INDIVIDUALS AND ENTITIES ON THE ATTACHED LIST

☒ Service information continued on attached page

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

On (*date*) \_\_\_\_\_, 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.

**SEE ATTACHED SERVICE MAILING LIST**

☐ 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.

November 21, 2022      NORMA L. HERRERA-GILBODY  
*Date*                      *Printed Name*

/s/ Norma L. Herrera-Gilbody  
*Signature*

## INDIVIDUALS AND ENTITIES

Description	CreditorName	CreditorNoticeName	Email
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