Docket #0777 Date Filed: 11/5/2018

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UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA – LOS ANGELES DIVISION

In re:

VERITY HEALTH SYSTEM OF CALIFORNIA, INC., *et al*.,

Debtors and Debtors In Possession.

Affects:

☐ All Debtors
☐ Verity Health System of California, Inc.
☐ Saint Louise Regional Hospital
☑ St. Francis Medical Center
☐ St. Vincent Medical Center
☐ Seton Medical Center
☐ O'Connor Hospital Foundation
☐ Saint Louise Regional Hospital Foundation
☐ St. Francis Medical Center of Lynwood Foundation
☐ St. Vincent Foundation
☐ St. Vincent Dialysis Center, Inc.
☐ Seton Medical Center Foundation
☐ Verity Business Services
☐ Verity Medical Foundation
☐ Verity Holdings, LLC
☐ De Paul Ventures, LLC
☐ De Paul Ventures - San Jose Dialysis, LLC

Debtors and Debtors In Possession.

Lead Case No. 18-20151
Jointly Administered With:
CASE NO.: 2:18-bk-20162-ER
CASE NO.: 2:18-bk-20163-ER
CASE NO.: 2:18-bk-20164-ER
CASE NO.: 2:18-bk-20165-ER
CASE NO.: 2:18-bk-20167-ER
CASE NO.: 2:18-bk-20168-ER
CASE NO.: 2:18-bk-20169-ER
CASE NO.: 2:18-bk-20171-ER
CASE NO.: 2:18-bk-20172-ER
CASE NO.: 2:18-bk-20173-ER
CASE NO.: 2:18-bk-20175-ER
CASE NO.: 2:18-bk-20176-ER
CASE NO.: 2:18-bk-20178-ER
CASE NO.: 2:18-bk-20179-ER
CASE NO.: 2:18-bk-20180-ER
CASE NO.: 2:18-bk-20181-ER

Chapter 11 Cases

Hon. Ernest M. Robles

OFFICIAL COMMITTEE OF UNSECURED CREDITORS' RESPONSE TO MOTION FOR RELIEF FROM STAY (NON-BANKRUPTCY FORUM) FILED BY JOSEFINA ROBLES [DKT. 696]

Hearing:
Date: Nov. 19, 2018
Time: 10:00 a.m.
Location: Courtroom 1568
255 E. Temple St., Los Angeles, CA

1820151181106000000000001

The Official Committee of Unsecured Creditors of Verity Health System of California, Inc., *et al*. (the "Committee") appointed in connection with the chapter 11 cases of the above-captioned debtors and debtors-in-possession (the "Debtors"), hereby submits this response to the *Motion for Relief from the Automatic Stay Under 11 U.S.C. § 362 (with supporting declarations) (Action in Non-Bankruptcy Forum)* filed by Josefina Robles (the "Motion") [Docket No. 696].

The Committee believes that relief from stay would be premature, especially where the movant appears not to be limiting her recovery to applicable insurance, and the Committee is concerned that granting relief from stay at this time could negatively impact the Debtors' bankruptcy cases.

The decision of whether to grant relief from stay is committed to the discretion of the bankruptcy judge and may be overturned only upon a showing of abuse of discretion. *In re Sonnax Indus., Inc.*, 907 F.2d 1280, 1286 (2d Cir. 1990) (citing cases). Among the factors considered by courts when determining whether "cause" exists to grant relief from stay under 11 U.S.C. § 362(d)(1) are "whether the debtor's insurer has assumed full responsibility for defending," "lack of any connection with or interference with the bankruptcy case," "whether the parties are ready for trial in the other proceeding," and "impact of the stay on the parties and the balance of harms." *Id.* (citing *In re Curtis*, 40 B.R. 795 (Bankr. D. Utah 1984)). Courts may also take timing into account, in some instances being reluctant to grant relief from stay at the outset of a case in order to give a debtor some "breathing space"—though "the longer the case goes on, the more the analysis may change and the balance of competing interests may compel a different result." *In re Plastech Engineered Prod., Inc.*, 382 B.R. 90, 109, 118 (Bankr. E.D. Mich. 2008) (denying relief from stay where the bankruptcy case was in its early stages).

Here, with regard to insurance, the third page of the Motion indicates that the movant will not seek to limit her recovery to what may be obtained from the Debtors' insurers, as the movant indicates that she will also seek to recover from the Debtors or property of the Debtors' estates. To the extent that the movant seeks to recover from the Debtors and their estates, rather than only from the Debtors' insurers, this weighs against granting relief from stay at this time. *See Sonnax*, 907 F.2d at 1286.

The Committee is also concerned that litigation related to the movant's claims could interfere with the Debtors' restructuring activities, at a time in the case when the Debtors are focusing their attention on actively marketing their assets for sale in order to generate the highest possible returns for creditors. *See Sonnax*, 907 F.2d at 1286-88. It is safe to assume that the Debtors are not yet ready for trial (the date for which has not yet been set, according to the Motion). Such preparation may interfere with the Debtors' bankruptcy cases. *Id*. Given these considerations, the balance of the harms weighs against granting relief from stay at this time. *Id*.

Finally, with regard to timing, the Debtors have been in bankruptcy for only approximately two months. The Debtors would benefit from some "breathing space" at the outset of these cases. *See Plastech Engineered Prod., Inc*., 382 B.R. 90, 109, 118. However, because circumstances may change later in the Debtors' cases, while the Committee urges the Court to deny the Motion at this time, the Committee requests that any denial of the Motion be without prejudice.

For the reasons set forth above, the Committee believes that relief from stay would be premature at this time. Accordingly, the Committee requests that the Court deny the motion but that such denial be made without prejudice.

DATED: November 5, 2018

MILBANK, TWEED, HADLEY & McCLOY LLP

/s/ Gregory A. Bray
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MARK SHINDERMAN
JAMES C. BEHRENS

Proposed Counsel for the Official Committee of Unsecured Creditors of Verity Health System of California, Inc., et al.

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:

2029 Century Park E, 33rd Floor, Los Angeles, CA 90067.

A true and correct copy of the foregoing document entitled (*specify*): ***OFFICIAL COMMITTEE OF UNSECURED CREDITORS' RESPONSE TO MOTION FOR RELIEF FROM STAY (NON-BANKRUPTCY FORUM) FILED BY JOSEFINA ROBLES [DKT. 696]*** 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 5, 2018, 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 (*date*) November 5, 2018, 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*) November 5, 2018, 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 5, 2018	Ricky Windom	/s/ Ricky Windom
Date	*Printed Name*	*Signature*

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