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Debtors In Possession

**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

☐ Affects Verity Health System of  
California, Inc.

☐ Affects O'Connor Hospital

☐ Affects Saint Louise Regional Hospital

☒ Affects St. Francis Medical Center

☐ Affects St. Vincent Medical Center

☐ Affects Seton Medical Center

☐ Affects O'Connor Hospital Foundation

☐ Affects Saint Louise Regional Hospital  
Foundation

☐ Affects St. Francis Medical Center of  
Lynwood Foundation

☐ Affects St. Vincent Foundation

☐ Affects St. Vincent Dialysis Center, Inc.

☐ Affects Seton Medical Center Foundation

☐ Affects Verity Business Services

☐ Affects Verity Medical Foundation

☐ Affects Verity Holdings, LLC

☐ Affects De Paul Ventures, LLC

☐ Affects De Paul Ventures - San Jose  
Dialysis, LLC

Debtors and Debtors In Possession.

Lead Case No. 2:18-bk-20151-ER

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

**DEBTORS' RESPONSE TO MOTION FOR  
RELIEF FROM THE AUTOMATIC STAY  
FILED ON BEHALF OF JOSEFINA ROBLES  
BY AND THROUGH HER CONSERVATOR  
SERGIO ROBLES [DOCKET NO. 696]**

Hearing:

DATE: November 19, 2018

TIME: 10:00 a.m.

PLACE: Courtroom 1568

255 E. Temple Street, Los Angeles, CA



Verity Health System of California, Inc., and St. Francis Medical Center, debtors and debtors in possession in the above-captioned chapter 11 bankruptcy cases (collectively, the “Debtors”), hereby respond to the *Motion For Relief From Stay* (the “Motion”) filed on behalf of Josefina Robles, by and through her Conservator, Sergio Robles (the “Movant”).

**I.**

**INTRODUCTION**

The Movant does not show “cause” to grant relief from the automatic stay. Moreover, relief at this point in the case would be premature and divert the Debtors’ attention from the pressing needs of its bankruptcy proceedings. The Motion seeks relief from the automatic stay so that a Complaint filed June 18, 2018, in the Los Angeles Superior Court, Case No. BC697012, can proceed to adjudication. According to the Motion, the Movant (i) asserts a tort claim against the Debtors; (ii) seeks recovery from insurance; and (iii) seeks a deficiency claim to the extent insurance does not cover the full amount of any judgment.

The Debtors are not prepared at this time to respond to the litigation demands, when their focus is upon closing the sales of the Debtors’ assets, and subsequently working toward developing a mechanism for the payment of claims in these cases. While the Debtors would consider stipulating to relief from stay if the Movant was seeking recovery only from insurance, that is not the situation as of the filing of this Response.

Nonetheless, counsel for the Debtors and Movant are engaged in discussions aimed at resolving the Motion and are currently exchanging information. However, absent resolution between the Debtors and the Movant, the Court should deny the Motion.

**II.**

**STATEMENT OF RELEVANT FACTS**

**A. Brief Description Of The Debtors’ Business And Their Operations.**

On August 31, 2018 (“Petition Date”), the Debtors each filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code. The Debtors continue to operate their businesses and manage their properties as debtors in possession as authorized by §§ 1107(a) and 1108.

1 The Debtor VHS, a California nonprofit public benefit corporation, is the sole corporate  
2 member of the following five Debtor California nonprofit public benefit corporations that operate  
3 six acute care hospitals: O'Connor Hospital, Saint Louise Regional Hospital, St. Francis Medical  
4 Center, St. Vincent Medical Center, Seton Medical Center, and Seton Medical Center Coastsides  
5 (collectively, the "Hospitals") and other facilities in the state of California.

6 VHS, the Hospitals, and their affiliated entities operate as a nonprofit health care system,  
7 with approximately 1,680 inpatient beds, six active emergency rooms, a trauma center, eleven  
8 medical office buildings, and a host of medical specialties, including tertiary and quaternary care.  
9 Declaration Of Richard G. Adcock In Support of Emergency First-Day Motions, at 4, 12 (the  
10 "First Day Declaration") [Docket No. 8]. On the Petition Date, the Debtors had approximately  
11 850 inpatients. *Id.*, at 6, 17. The scope of the services provided by the Verity Health System  
12 exemplified by the fact that in 2017, the Hospitals provided medical services to over 50,000  
13 inpatients and approximately 480,000 outpatients. *Id.*, at 4, 12.

14 On August 31, 2018, this Court entered an order authorizing the joint administration of the  
15 Debtors' chapter 11 cases (the "Cases") pursuant to Bankruptcy Rule 1015(b) and LBR 1015-1  
16 and 9013-1(q).

17 A detailed description of the Debtors' businesses, capital structure, and the events leading  
18 to the commencement of these Cases is contained in the First Day Declaration.

19 On September 17, 2018, the U.S. Trustee appointed a statutory creditors' committee  
20 pursuant to § 1102 (the "Committee").

21 No trustee or examiner has been appointed in these Cases.

22 **B. The Debtors' Bankruptcy Cases And Sale Of Assets.**

23 As set forth in the *Debtors' Notice Of Motion And Motion For The Entry Of (I) An Order*  
24 *(1) Approving Form Of Asset Purchase Agreement For Stalking Horse Bidder And For*  
25 *Prospective Overbidders To Use, (2) Approving Auction Sale Format, Bidding Procedures And*  
26 *Stalking Horse Bid Protections, (3) Approving Form Of Notice To Be Provided To Interested*  
27 *Parties, (4) Scheduling A Court Hearing To Consider Approval Of The Sale To The Highest*  
28 *Bidder And (5) Approving Procedures Related To The Assumption Of Certain Executory*

1 *Contracts And Unexpired Leases; And (Ii) An Order (A) Authorizing The Sale Of Property Free*  
2 *And Clear Of All Claims, Liens And Encumbrances; Memorandum Of Points And Authorities In*  
3 *Support Thereof* [Docket No. 365], the Debtors are fully engaged in the sale of O'Connor Hospital  
4 and Saint Louise Hospital, among an array of other tasks, exemplified by the Docket in these  
5 cases. The Debtors are also exploring aggressively the sales of St. Vincent Medical Center,  
6 St. Francis Medical Center and Seton Medical Center.

7 **III.**

8 **ARGUMENT IN OPPOSITION TO MOTIONS**

9 Whether stay relief should be granted or denied is committed to the sound discretion of the  
10 Bankruptcy Court. *Benedor Corp. v. Conejo Enterprises, Inc. (In re Conejo Enterprises, Inc.)*,  
11 96 F.3d 346 (9th Cir. 1996). Upon a showing of “cause,” a bankruptcy court shall grant relief  
12 from the automatic stay. *Id.* at 352. “Cause” has no clear definition and is determined on a case-  
13 by-case basis. *Id.* However, the Movants have not actually demonstrated cause to grant relief  
14 from stay. For the reasons set forth herein, the Motion should be denied.

15 **A. “Cause” Does Not Exist To Grant the Motion.**

16 Courts typically look at twelve nonexclusive factors to determine whether the stay should  
17 be lifted (the “*Plumberex* factors”).<sup>1</sup> See *Truebro, Inc. v. Plumberex Specialty Products, Inc. (In*  
18 *re Plumberex Specialty Products, Inc.*, 311 B.R. 551, 559 (Bankr. C.D. Cal. 2004). Here, most if  
19 not all of the *Plumberex* factors weigh in favor of denial of the Motion. For example, the  
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21 <sup>1</sup> These factors include: (1) whether the relief will result in a partial or complete resolution of the issues;  
22 (2) the lack of any connection with or interference with the bankruptcy case; (3) whether the foreign  
23 proceeding involves the debtor as a fiduciary; (4) whether a specialized tribunal has been established to  
24 hear the particular cause of action and whether that tribunal has the expertise to hear such cases;  
25 (5) whether the debtor’s insurance carrier has assumed full financial responsibility for defending the  
26 litigation; (6) whether the action essentially involves third parties, and the debtor functions only as a bailee  
27 or conduit for the goods or proceeds in question; (7) whether the litigation in another forum would  
28 prejudice the interests of other creditors, the creditors’ committee and other interested parties; (8) whether  
the judgment claim arising from the foreign proceeding would result in a judicial lien avoidable by the  
Debtor under section 522(f); (9) whether movant’s success in the foreign proceeding would result in a  
judicial lien avoidable by the debtor under section 522(f); (10) the interests of judicial economy and the  
expeditious economical determination of litigation for the parties; (11) whether the foreign proceedings  
have progressed to the point where the parties are prepared for trial; and (12) the impact of the stay on the  
parties and the “balance of hurt.”

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1 litigation will clearly interfere with the Debtors' bankruptcy cases, and the Debtors'  
2 managements' efforts to close a sale and address post-closing matters. There is no reason to  
3 believe that these claims will be resolved speedily and effectively in the pending litigation.  
4 Additionally, (a) the nature of the proceedings is not fiduciary duty claims asserted by Movants  
5 against Debtors, (b) while litigation has commenced, proceedings have not actually occurred, and  
6 indeed, bankruptcy courts routinely determine unliquidated and disputed claims, and (c) the  
7 litigation would be severely disruptive to the Debtors' operations and severely detrimental to the  
8 Debtors' estates, particularly at a time when the Debtors are focusing their energies toward closing  
9 a sale.

10 This case is only weeks old, and, as made clear from the large numbers of pleadings filed  
11 in this case, which identify the myriad of issues confronting the Debtors, and presentations made  
12 by Debtors' counsel at hearings, moving with alacrity towards sales of its six operating hospitals  
13 and related entities.

14 Allowing the State Court Action to proceed would be detrimental to the Debtors' prospects  
15 for success at this *critical point* in the Bankruptcy Case.

16 Bankruptcy courts have repeatedly found that granting relief from the automatic stay is  
17 inappropriate in situations such as the present case, where the bankruptcy proceeding has only just  
18 commenced and substantial actions must be taken to ensure a successful conclusion. "When  
19 considering an early filed motion for relief under [section 362], the Court first determines, under  
20 the facts presented, whether the reorganization in these early stages would be objectively futile."  
21 *In re C.C. Rider, Inc.*, No. CIV. A. 97-05754-W, 1997 WL 33344313, at \*2 (Bankr. D.S.C. Aug.  
22 19, 1997). "[I]f the relief from stay is requested at the early stages of the bankruptcy case, the  
23 burden upon the debtor is less stringent. But, if relief from stay is requested later in the case, the  
24 debtor's showing is closely scrutinized." *Sumitomo Trust & Banking Co. v. Grand Rapids Hotel,*  
25 *L.P.*, 140 B.R. 643, 700 (Bankr. W.D. Mich. 1992).

IV.

**CONCLUSION**

The Debtors have provided information and documents to Movant's counsel that may resolve the Motion, but a resolution has not yet been reached.

The Debtors' focus needs to remain on the bankruptcy case. Accordingly, as of today, the Debtors request relief from the automatic stay not be granted, without prejudice to the Movant seeking relief in the future.

Dated: November 7, 2018

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