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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

Hon. Ernest M. Robles

**DECLARATION OF JAMES M. MOLONEY IN SUPPORT
OF DEBTORS' § 1113 MOTIONS**

[RELATES TO DOCKET NOS. 1181, 1182, 1191, 1192]

Hearing:

Date: January 30, 2019

Time: 10:00 am

Location: Courtroom 1568

255 E. Temple St., Los Angeles, CA



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DECLARATION OF JAMES M. MOLONEY

I, James M. Moloney, hereby declare as follows:

1. I am a managing director of Cain Brothers (“Cain”), which is a division of KeyBanc Capital Markets Inc., a wholly-owned broker/dealer subsidiary of KeyCorp and an affiliate of KeyBank National Association. I am located in Cain’s San Francisco office which is located at One California Street, Suite 2400, San Francisco, California. Mr. Carsten Beith and I are the co-heads of Cain’s Health Systems Mergers & Acquisition group. I am over the age of 18 and competent to testify as to the facts set forth herein and will do so if called upon.

2. I submit this declaration (“Declaration”) in support of the *Debtors’ Motions under § 1113 of the Bankruptcy Code* (the “Motions”).¹ All capitalized terms not defined herein have the meaning ascribed to them in the Motions unless otherwise defined herein.

3. Except as otherwise stated, all facts contained within this Declaration (the “Declaration”) are based upon my personal knowledge, from information gathered from Cain and the Debtors’ employees, my review of relevant documents, or my opinion based upon my experience working as an investment banker for the above-captioned Debtors (the “Debtors”).

4. As set forth in my previous declaration, filed as Docket No. 394, beginning in June 2018, Cain began working with the Debtors to collect and review financial, operational and other information about the historic, current and project future operations and financial performance of each of the Debtors. Cain also began searching for a buyer or buyers for the Debtors’ assets and

¹ The full title of the Motions are: (1) *Debtors’ Motion under § 1113 of the Bankruptcy Code to Reject and Terminate the Terms of Engineers and Scientists of California, IFPTE Local 20’s Collective Bargaining Agreements with O’Connor Hospital and Saint Louise Regional Hospital upon the Closing of the Sale of Hospitals to Santa Clara County*; (2) *Debtors’ Motion under § 1113 of the Bankruptcy Code to Modify, Reject and Terminate the Terms of California Licensed Vocational Nurses Association’s Collective Bargaining Agreement with O’Connor Hospital upon the Closing of the Sale of Hospitals to Santa Clara County*; (3) *Debtors’ Motion under § 1113 of the Bankruptcy Code to Modify, Reject and Terminate the Terms of Service Employee International Union-United Healthcare Workers-West’s Collective Bargaining Agreements with Certain Debtors upon the Closing of the Sale of Hospitals to Santa Clara County*; and (4) *Debtors’ Motion under § 1113 of the Bankruptcy Code to (A) Reject and Terminate the Terms of California Nurses Association’s Collective Bargaining Agreements with Saint Louise Regional Hospital and O’Connor Hospital and (b) to Modify Related Provisions in a Certain Master Agreement upon the Closing of the Sale of Hospitals to Santa Clara County*.

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1 created a potential list of buyers for the Verity Heath System as a whole or in parts. In July, Cain
2 began soliciting interest from potentially interested parties and asking such parties to sign non-
3 disclosure agreements (“NDAs”). During July, Cain also prepared a Confidential Investment
4 Memorandum (the “CIM”) and organized an online data site to share financial, operational and
5 legal information with potential buyers to assist them in evaluating an offer to acquire some or all
6 of the Verity Health System.

7 5. In early August 2018, as a result of its ongoing and broad marketing process, Cain
8 received eleven indications of interest (“IOI”) for some or all of the Verity assets. Of these eleven
9 indications of interest, four were full system offers, two were offers for all the Debtors’ assets
10 located in Santa Clara County and one was an offer for only the DePaul Campus in conjunction
11 with an offer to acquire assets located outside of Santa Clara County. After reviewing the
12 indications of interest, Cain worked with the proposal parties (“Proposal Parties”) to develop more
13 detailed letter-of-intents to be submitted by August 31, 2018. Cain distributed a process letter
14 describing the content of the letters-of-intent on August 24, 2018. Cain facilitated subsequent
15 discussions and assisted interested parties with their review of diligence materials through the end
16 of August 2018. The only party to submit a letter-of-intent to acquire some or all of the Debtors’
17 assets located in Santa Clara County was submitted by Santa Clara County. After the August 31,
18 2018 petition date, the Court granted the Debtors’ application to employ Cain [Docket Nos. 346,
19 746] as its investment banker to assist in the marketing and sale of the Debtors’ assets. Thereafter,
20 during September 2018, Cain continued to reach out to and negotiate with Proposal Parties for all
21 the Debtors’ assets, including the SLRH and OCH hospitals (the “Hospitals”) in Santa Clara
22 County.

23 6. I and Mr. Beith led the marketing and sale efforts on behalf of Verity and advised
24 Verity in connection with Verity’s selection of Santa Clara County (“SCC”) as the Stalking Horse
25 Bid for the Debtors’ hospitals and related assets in Santa Clara County. The Debtors’ assets (the
26 “Assets”) being purchased by SCC are set forth in the APA, but consist primarily of O’Connor
27 Hospital (“OCH”) in San Jose, Saint Louise Regional Hospital (“SLRH”) in Gilroy, the DePaul
28 Campus, which is an ambulatory care center operated in a building adjacent to a closed hospital in

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1 Morgan Hill and a joint-venture interest in a medical office building located near the O'Connor
2 campus. Verity, with the assistance of Cain and its other advisors, evaluated the proposals for
3 whole system purchases and the proposals for only certain assets, and determined that the expected
4 net proceeds would be higher if the Verity assets were sold separately as opposed to the entire
5 Verity Health System to a single buyer.

6 7. The Debtors, in consultation with Cain and its other advisors, selected SCC's offer
7 as the only viable stalking horse bidder to acquire the Assets through a sale under § 363 of the
8 Bankruptcy Code. The APA was the result of extensive negotiations and documentation between
9 the Debtors and SCC.

10 8. Cain continued to actively market the Debtors' Assets after SCC executed the APA,
11 in accordance with the Court's order entered on October 31, 2018 [Docket No. 724] (the "Bidding
12 Procedures Order").² As a part of this process, Cain monitored interest and continued to
13 communicate with parties that had expressed interest and that Cain had identified as potential
14 bidders—either as partial or aggregate bidders. The marketing process described herein was meant
15 to identify and shepherd any bidders that could contribute to a competitive "Auction" in addition
16 to the Stalking Horse Bid. Cain stayed in contact with the Proposal Parties regarding the Bidding
17 Procedures Order throughout these cases, including after the APA was signed and after the Bidding
18 Procedures Order was entered.

19 9. Additionally, after the Bidding Procedures Order was entered, Cain sent a direct
20 email communication to more than 170 potentially interested parties Cain had identified and more
21 than 600 individual email addresses. This communication contained key information about the
22 Assets, the Auction, the Bidding Deadline and other deadlines, a hyperlink to access the Bidding
23 Procedures Order and contact information for an individual at Cain to further discuss questions and
24

25 ² Order (1) Approving Form Of Asset Purchase Agreement For Stalking Horse Bidder And For
26 Prospective Overbidders To Use, (2) Approving Auction Sale Format, Bidding Procedures And
27 Stalking Horse Bid Protections, (3) Approving Form Of Notice To Be Provided To Interested
28 Parties, (4) Scheduling A Court Hearing To Consider Approval Of The Sale To The Highest Bidder
And (5) Approving Procedures Related To The Assumption Of Certain Executory Contracts And
Unexpired Leases; And Authorizing The Sale Of Property Free And Clear Of All Claims, Liens And
Encumbrances.

1 interest. Cain continued to populate the Data Room with new and relevant information as it became
2 available.

3 10. Cain continued to communicate with one of the Proposal Parties (“Alternate Bidder
4 A”) that had submitted an indication of interest early in the marketing process. Alternate Bidder A
5 indicated that it was not likely to submit a bid under the Bidding Procedures, but remained
6 interested and in contact up to the Bid Deadline. However, Alternate Bidder A decided not to
7 acquire the Assets and did not submit a Qualified Bid.

8 11. Cain also actively followed-up with a potential partial asset bidder (“Alternate
9 Bidder B”) that had expressed interest in purchasing one, but not both, of the Hospitals after the
10 Stalking Horse Bid was submitted to the Court. Cain provided this bidder with information to guide
11 its diligence and made itself available to address issues raised. However, after performing some
12 initial diligence, Alternate Bidder B decided not to participate in the auction and did not submit a
13 Qualified Bid.

14 12. Other than SCC, no other interested party submitted a Qualified Bid for the Assets,
15 whether partial or aggregate. No party has requested an extension of time to bid.

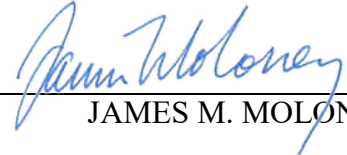
16 13. Throughout the sale process, Verity’s preference was that its collective bargaining
17 agreements for employees of the Hospitals be assumed, in whole or in part and this preference was
18 expressed in the CIM used to communicate with interested parties. However, no party, including
19 Alternate Bidder A or Alternate Bidder B, expressed interest in assuming the collective bargaining
20 agreements. No party submitted a bid whereby it sought to assume any of these collective
21 bargaining agreements.

22 14. Although many entities initially expressed an interest in the Assets, I believe that
23 recent and current financial performance of the health system, the capital investment requirements
24 to meet the seismic safety requirements of the hospitals and other capital investment needs, and the
25 Attorney General operating conditions imposed in the 2015 Blue Mountain Transaction, created
26 challenges for many potential bidders. Accordingly, I believe that the transaction under the APA
27 is the best transaction available to the Debtors under the circumstances, and is consistent with the
28 Debtors’ objectives of transferring the Hospitals to an owner committed to keeping the hospitals

1 open to provide patient care to the communities they have historically served and continued
2 employment for many of the employees.

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

5 Executed this 2nd day of January, 2019 in San Francisco, California.

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10 JAMES M. MOLONEY
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