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Attorneys for Local Initiative Health Authority
for Los Angeles County operating as L.A.
Care Health Plan

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

Adv. Proc. No. 2:19-ap-01002-ER

**MOTION FOR ENTRY OF PROTECTIVE
ORDER, AND MEMORANDUM OF
POINTS AND AUTHORITIES IN
SUPPORT THEREOF**

Date: April 2, 2019
Time: 10:00 A.M.
Judge: Hon. Ernest M. Robles
Courtroom: 1568



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1 ST. VINCENT MEDICAL CENTER, a
2 California nonprofit public benefit
3 corporation and ST. FRANCIS MEDICAL
4 CENTER, a California nonprofit public
5 benefit corporation,

6 Plaintiffs,

7 v.

8 LOCAL INITIATIVE HEALTH AUTHORITY
9 FOR LOS ANGELES COUNTY DBA L.A.
10 CARE HEALTH PLAN, an independent
11 local public agency,

12 Defendant.

13 Pursuant to Rule 26(c)(1) of the Federal Rules of Civil Procedure ("FRCP"), which
14 is applicable to this Adversary Proceeding under Rule 7026 of the Federal Rules of
15 Bankruptcy Procedure ("Bankruptcy Rules"), Defendant Local Initiative Health Authority
16 of Los Angeles County, operating as L.A. Care Health Plan, an independent local public
17 agency ("L.A. Care") respectfully requests that the Court enter a Protective Order staying
18 all discovery in this Adversary Proceeding, including but not limited to the exchange by
19 the parties of "Initial Disclosures" under Rule 26(a)(1) of the FRCP, until the Court rules
20 on L.A. Care's Motion for Entry of Order Dismissing Complaint or, in the Alternative,
21 Motion for Entry of Order Staying Trial of Adversary Proceeding ("Motion to Dismiss or
22 Stay"), filed on Friday, February 15, 2019.

23 L.A. Care is entitled to the requested relief because, at a minimum (and as more
24 fully described by L.A. Care in the Motion to Dismiss or Stay), all of Plaintiffs' claims in
25 this Adversary Proceeding are subject to mandatory arbitration under separate, but
26 identical, arbitration clauses ("Arbitration Clauses") in the contracts between the
27 respective parties. Those Arbitration Clauses expressly provide, *inter alia*, that the
28 parties agreed to conduct discovery in any dispute that may arise between them in
accordance with the provisions of Section 1283.05 of the California Code of Civil
Procedure. Hence, disclosures and discovery in this Adversary Proceeding under Rule

1 26 and related sections of the Federal Rules of Civil Procedure may well be both
2 inappropriate and wasteful, and thereby cause both parties to incur "undue burden or
3 expense." FRCP 26(c)(1).

4 In accordance with the requirements of Rule 26(c)(1) of the FRCP, L.A. Care
5 hereby certifies to the Court that, through its legal counsel, it has in good faith conferred
6 with counsel for the Plaintiffs in an effort to resolve this discovery dispute without court
7 action, but Plaintiffs have refused to stipulate to a stay of discovery.

8 In support of this Motion for Entry of Protective Order, L.A. Care relies on the filed
9 pleadings, the Motion to Dismiss or Stay, its anticipated Reply Brief in support of the
10 Motion to Dismiss or Stay, the accompanying Memorandum of Points and Authorities,
11 any facts of which the Court may later take judicial notice upon proper application by one
12 or both of the parties, applicable legal authority, and the arguments of counsel in support
13 of this Motion.

14
15
16 DATED: February 27, 2019

HANSON BRIDGETT LLP

17
18 By: /s/ Neal L. Wolf

19 NEAL L. WOLF

20 ANTHONY J. DUTRA

21 Attorneys for Local Initiative Health Authority
22 for Los Angeles County, operating as L.A.
23 Care Health Plan
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MEMORANDUM OF POINTS AND AUTHORITIES

Pursuant to Rule 26(c)(1) of the FRCP, which is applicable to this Adversary Proceeding under Rule 7026 of the Bankruptcy Rules, L.A. Care has requested that the Court enter a Protective Order staying all discovery in this Adversary Proceeding, including but not limited to the exchange by the parties of “Initial Disclosures” under Rule 26(a)(1) of the FRCP, until the Court has ruled upon the Motion to Dismiss or Stay that L.A. Care filed in this Adversary Proceeding on Friday, February 15, 2019.

L.A. Care is entitled to the requested relief because, at a minimum, as more fully described by L.A. Care in the Motion to Dismiss or Stay, all of the claims that have been made by the Plaintiffs in this Adversary Proceeding are subject to mandatory arbitration under separate, but identical, arbitration clauses (“Arbitration Clauses”) in the contracts between the respective parties. Under those Arbitration Clauses, *inter alia*, the parties agreed that they “shall be entitled to discovery in accordance with the provisions of the California Code of Civil Procedure Section 1283.05.” [Complaint at Exh. A ¶ 7.3(b) [ECF No. 1-1.]; Complaint at Exh. C ¶ 6.3(c) [ECF No. 1-3.] In its Motion to Dismiss or Stay, L.A. Care has asked the Court, *inter alia*, to dismiss or stay this Adversary Proceeding in deference to the Arbitration Clauses. [See Motion to Dismiss or Stay, ECF No. 17.] Hence, the commencement and conduct of discovery in this Adversary Proceeding under Rule 26 and related sections of the Federal Rules of Civil Procedure may well be both inappropriate and wasteful, and thereby cause both parties to incur “undue burden or expense.” FRCP 26(c)(1).

L.A. Care respectfully suggests that all discovery in this Adversary Proceeding, including but not limited to the sharing of Initial Disclosures, be stayed until the ruling on the Motion to Dismiss or Stay. At that time, if necessary and appropriate, a revised discovery schedule can be set. The requested relief will spare the parties potentially undue burden and expense.

The Court may enter a protective order of this nature in these circumstances. Rule 26(c)(1)(B) of the FRCP expressly provides, in relevant part:

1 A party or any person from whom discovery is sought may
2 move for a protective order in the court where the action is
3 pending... The court may, for good cause, issue an order to
4 protect a party or person from annoyance, embarrassment,
5 oppression, ***or undue burden or expense***, including one or
6 more of the following: ... (B) specifying terms, including time
7 and place or the allocation of expenses, for the disclosure or
8 discovery...

9 (Emphasis and italics added.)

10 In this circumstance, in light of the existence and enforceability of the Arbitration
11 Clauses, the suspension of discovery is manifestly reasonable.

12 DATED: February 27, 2019

HANSON BRIDGETT LLP

13 By: /s/ Neal L. Wolf

NEAL L. WOLF

ANTHONY J. DUTRA

Attorneys for Local Initiative Health Authority
for Los Angeles County, operating as L.A.
Care Health Plan

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:
425 Market Street, 26th Floor, San Francisco, California, 94105

A true and correct copy of the foregoing document entitled (*specify*):

MOTION FOR ENTRY OF PROTECTIVE ORDER, AND MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF

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 February 27, 2019, 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:

Steven J Kahn skahn@pszyjw.com
United States Trustee (LA) ustpregion16.la.ecf@usdoj.gov

☐ Service information continued on attached page

2. SERVED BY UNITED STATES MAIL:

On February 27, 2019, 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.

Honorable Judge Ernest M. Robles
U.S. Bankruptcy Court
Roybal Federal Building
255 E. Temple Street
Suite 1560
Los Angeles, CA 90012

☐ 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.

February 27, 2019

Landa Chappell

Date

Printed Name

Signature

