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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-20171-ER

Chapter 11 Cases

Hon. Ernest M. Robles

**DEBTORS' OBJECTION TO THE MOTION OF  
LYNN C. MORRIS, HILDA DAILY AND NOE  
GUZMAN FOR AUTHORIZATION TO FILE A  
CLASS PROOF OF CLAIM ON BEHALF OF  
CLAIMANTS ALLEGEDLY SIMILARLY  
SITUATED; DECLARATIONS IN SUPPORT  
THEREOF**

**[RELATED DOCKET NOS. 1977, 1979, 1981 and  
1982]**

**Hearing:**

Date: May 7, 2019  
Time: 10:00 a.m.  
Place: Courtroom 1568  
U.S. Bankruptcy Court  
Los Angeles, CA 90012



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Verity Health System of California, Inc. (“VHS” or “Verity”) and the above-referenced affiliated debtors (collectively, the “Debtors”), the debtors and debtors in possession in the above-captioned chapter 11 bankruptcy cases (collectively, the “Cases”), hereby file this objection to the *Motion Of Plaintiffs Lynn C. Morris, Hilda L. Daily And Noe Guzman* [(“Movants”)]*For (1) Authorization To File A Class Proof of Claim On Behalf of Claimants Similarly Situated, Memorandum of Points and Authorities* (the “Motion”), and in opposition thereto, respectfully state as follows:

### **I. INTRODUCTION**

Movants seek authority under Rules 7023 and 9014 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”)<sup>1</sup> to file a class proof of claim in the estimated amount of more than \$11 million, and to actively litigate alleged causes of action by way of a yet-unfiled complaint, on behalf of beneficiaries of Verity’s single employer defined benefit pension Verity Health System Retirement Plan A (“Plan A”), against Verity, members of the Verity Health System Benefits Administration Committee (“BAC”), Verity’s single employer defined benefit pension Verity Health System Retirement Plan B (“Plan B,” and collectively referred to with Plan A as the “A/B Plans”) and potentially others. In exercising its broad discretion, this Court should deny the Motion because it is predicated on a demonstrably false factual predicate and seeks relief under non-colorable legal theories.

The heart of Movants’ claim is predicated on the factual assertion that members of the BAC created Plan B for their own benefit.<sup>2</sup> This assertion is demonstrably false. Plan B was created by the Board of Directors (the “Board”) of VHS, none of whom are or were beneficiaries of Plan B. Board of Director Meeting, December 28, 2016 Minutes (“BODM”) attached as Exhibit “1” to Declaration of Steven Sharrer, filed in support (“Sharrer Declaration”); Sharrer Declaration, ¶ 7.

---

<sup>1</sup> Unless specified otherwise, all chapter and section references are to the Bankruptcy Code, 11 U.S.C. §§ 101-1532, all “Rule” references are to the Federal Rules of Bankruptcy Procedure, and all “LBR” references are to the Local Bankruptcy Rules for the United States Bankruptcy Court for the Central District of California.

<sup>2</sup> See Motion, p. 2, line 28 – p.3, line 2; p.3, line 22 – p.4, line 5; p.4, line 19 – p.6, line 2.

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1 And, for the record, no member of the BAC or management is a beneficiary of Plan B. Sharrer  
2 Declaration, ¶¶ 8-9. In addition, it is black letter law that actions by a plan sponsor to modify,  
3 amend, terminate or establish a plan are outside the scope of fiduciary duties imposed under the  
4 Employee Retirement Income Security Act of 1974 (“ERISA”). Therefore, Movant’s theory is  
5 both factually and legally flawed. To boot, Movants’ counsel, who represents the Service  
6 Employee International Union-United Healthcare Workers-West (“SEIU-UHW”) in this case,  
7 knew or should have known of these critical points because they discussed these issues with  
8 representatives of the Debtors and the A/B Plans months ago in response to SEIU-UHW’s § 1113-  
9 related discovery. Declaration of Bruce C. Gaffney of Ropes & Gray, filed in support, ¶¶ 10-11  
10 (“Ropes Declaration”) and Exhibit “1” attached thereto (email stating the Plan B “spinoff was in  
11 no way designed to favor executives”). As Movants’ counsel knew or should have known, the  
12 creation and funding of Plan B was not only lawful, it was and remains not a commonly-used  
13 approach by plan sponsors to reduce pension insurance costs. Declaration of Carlos De la Parra of  
14 Willis Towers Watson, filed in support (“WTW Declaration”), ¶ 10.

15 In fact, permitting the requested relief would likely actually cause more harm to Plan A  
16 participants, as well as Plan B participants (and creditors generally), by wasting limited estate assets  
17 and the resources of the A/B Plans. The proposed class action would also unnecessarily compete  
18 with the claims of, and interfere with the collection and operation efforts by, the Pension Benefit  
19 Guaranty Corporation (the “PBGC”), the federally-created insurer of the A/B Plans with the  
20 responsibility to cover pension benefit shortfalls (up to the statutory limit). The PBGC has already  
21 filed claims for Plan A and Plan B shortfalls. See Proof of Claim Nos. 4318, 4325, 4327  
22 (collectively, the “PBGC Plan A Claims”); 4281, 4282, 4287 (collectively, the “PBGC Plan B  
23 Claims”). Moreover, due to the liquidating nature of these bankruptcy cases and the fact that no  
24 purchaser has indicated a willingness to take over the A/B Plans, the PBGC has advised Verity that  
25 it is in the process of terminating and taking over the A/B Plans. Sharrer Declaration, ¶¶ 12-13.

26 As such, the PBGC not only has standing to pursue claims on behalf of Plan A, and it is the  
27 most appropriate party to take any necessary, legally sound actions to protect the beneficiaries of  
28 Plan A (and, for that matter, Plan B), it timely filed proofs of claim for all damages, including



1 underfunding and termination. *See* Exhibits “4-9” to attached to Declaration of Sam J. Alberts,  
2 filed in support (“Alberts Declaration”). In fact, due to this standing of the PBGC on behalf of Plan  
3 A (especially upon termination) it does not appear that individual participants have any claim or  
4 standing to seek damages, because such claims are at most speculative and (if existing) would  
5 belong to Plan A, the entity allegedly harmed by the creation and funding of Plan B.

6 The Debtors aver that these facts alone provide sufficient basis to overrule the Motion and  
7 that further analysis of the requirements of Bankruptcy Rules 9014 and 7023 is unnecessary.  
8 Assuming *arguendo* that the Court does not overrule the Motion on this basis alone, the Debtors  
9 submit that the Movants do not show why this Court should exercise its discretion under  
10 Bankruptcy Rule 9014 to apply Bankruptcy Rule 7023 to this claim; nor do they otherwise meet  
11 the requirements of Rule Bankruptcy 7023.<sup>3</sup> As such, the Court should deny the Motion - for these  
12 reasons and those stated below in greater detail.

## 13 II. STATEMENT OF RELEVANT FACTS

14 1. The factual history and procedural background of these cases is well-known to the  
15 Court and, as such, need not be repeated in significant detail here. However, certain material facts  
16 are restated here to aid the Court in adjudicating the Motion.

17 2. Prior to 2015, Verity and its affiliates were operated by the Daughters of Charity  
18 (“DOC”) and operated under the name of the Daughters of Charity Health System (“DCHS”). In  
19 2015, after a prior and unsuccessful attempt to market itself, DCHS again marketed the health  
20 system for sale, and, again, focused on offers that maintained the health system as a whole, and  
21 assumed all obligations. *Declaration of Richard G. Adcock In Support of Emergency First-Day*  
22 *Motions* [Docket No. 8] (“First Day Declaration”) at ¶¶ 82-88.

23 3. In July 2015, the DCHS Board of Directors selected BlueMountain Capital  
24 Management LLC (“BlueMountain”), a private investment firm, to recapitalize its operations and  
25 transition leadership of the health system to the new Verity Health System (the “BlueMountain”  
26

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27 <sup>3</sup> Moreover, as demonstrated herein in Part C., any claim for “attorney’s fees” for Movants’ counsel  
28 (which the Debtors would dispute), are like the claim itself, entirely prepetition in nature and should  
be treated as such.

1 Transaction”). First Day Declaration, ¶ 88.

2 4. As part of the BlueMountain Transaction, BlueMountain agreed to make a capital  
3 infusion of \$100 million to the hospital system, arrange loans for another \$160 million to the health  
4 system, and manage operations of the health system, with an option to buy the health system at a  
5 future time. In addition, the parties entered into a System Restructuring and Support Agreement  
6 (the “RSA”), DCHS’ name was changed to Verity Health System, and Integrity was formed to  
7 carry out the management services under a new management agreement. First Day Declaration, ¶  
8 89.

9 5. In connection with the BlueMountain Transaction, Verity retained liabilities with  
10 respect to various DCHS pension plans, including, but not limited to, a multiemployer defined  
11 benefit pension plan called the Retirement Plan for Hospital Employees (“RPHE”) and a single  
12 employer non-ERISA compliant or PBGC-insured, defined benefit “Church Plan.” WTW  
13 Declaration, ¶ 7. At that time, both the RPHE and Church Plan were underfunded. WTW  
14 Declaration, ¶ 8. As a provision of the BlueMountain Transaction, Verity agreed to convert the  
15 Church Plan to an ERISA-compliant and PBGC-insurable defined benefit plan called the “Verity  
16 Health System Retirement Plan” (the “Plan”).<sup>4</sup> See RSA §§ 7.3, attached as Exhibit “10” to Alberts  
17 Declaration.

18  
19 <sup>4</sup> In addition to these defined benefit pension plans, VHS is party to a defined benefit plan with the  
20 Stationary Engineers Local 39. Further, VHS and VMF maintain several defined contribution  
21 retirement plans (“DC Plans”) for employees, which include employer matching contributions and  
22 cover union represented employees, including employees represented by SEIU-UHW. The DC  
23 Plans include the Verity Health System Supplemental Retirement Plan (TSA), the Verity Health  
24 System Supplemental Retirement Plan (401(a)), the Verity Health System Retirement Account  
25 (RPA), the Verity Medical Foundation 401(k) Plan, the Verity Medical Foundation Management  
26 Bargaining Unit Employees 401(k) Plan for represented employees and the Verity Health System  
27 Executive Long-Term Savings Plan (457(b)) Plan for nonrepresented employees. The DC Plans  
28 are funded from employee and/or employer contributions generally on a payroll by payroll basis.  
In addition to the above active defined contribution plans, there are several small, frozen ancillary  
retirement plans. During the fiscal years ended June 30, 2017 and 2016, the employer’s  
contribution expense for DC Plans was approximately \$18.48 million and \$21.75 million  
respectively. The DC Plans are fully funded. Sharrer Declaration, ¶ 11.

6. On December 28, 2016, to enhance its ability to meet contribution requirements and, in consultation with advisors from Willis Towers Watson and Ropes & Gray, the Board of Directors of VHS converted the Plan into Plan A and created Plan B. *See* BODM; Ropes Declaration, ¶ 10. In doing this, VHS was seeking to shift the largest number of beneficiaries who held the lowest account balances in the Plan into Plan B.<sup>5</sup> WTW Declaration, ¶ 8. Plan B was funded with \$7,966,440 from the corpus of Plan A. WTW Declaration, ¶ 9. The assets of the Verity Plan before the creation of Plan B was \$274,549,560. WTW Declaration, ¶ 9.

7. VHS personnel at St. Francis Medical Center, St. Vincent Medical Center, O'Connor Hospital, Saint Louise Regional Hospital, and the VHS system office are eligible to participate in the A/B Plans. However, only CNA members continue to earn new benefits under Plan A; Plan B is completely frozen with no ongoing benefit accruals. First Day Declaration, ¶ 64.

No member of the Board of Directors or the BAC were or are beneficiaries of Plan B. BODM; Sharrer Declaration, ¶¶ 8-9.<sup>6</sup>

8. Since its creation through and until August 2018, Verity made all required contributions to Plan A (and to the RPHE).<sup>7</sup> Specifically, since December 31, 2016, VHS contributed more than \$95.9 million total to Plan A funds since 2015. *See* WTW Declaration, ¶ 11. During the fiscal years ended June 30, 2017 and 2016, VHS contributed approximately \$41.68

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<sup>5</sup> Due to collective bargaining agreement restrictions, represented employees remained among the beneficiaries of Plan A. *See* BODM.

<sup>6</sup> If necessary, Verity can supply the list of all beneficiaries of the A/B Plans, although for confidentiality purposes, such a submission should be *in camera*.

<sup>7</sup> Contributions to the RPHE are based on actuarially-determined amounts by the RPHE Board of Trustees to meet benefits to be paid to plan participants and satisfy IRS funding requirements. The VHS contributions accounted for approximately 43% and 40% of total contributions made to the RPHE for the fiscal years ending June 30, 2017 and 2016, respectively. VHS recorded benefit expenses of approximately \$20.46 million and \$17.22 million in cash contributions to the RPHE for the fiscal years ended June 30, 2017 and 2016, respectively. Of the estimated remaining \$4.79 million for 2018 and expected \$12.68 million for 2019, VHS contributions to RPHE, of approximately \$3.15 million and \$7.63 million, respectively, is for make-up of underfunded amounts that arose prior to VHS' acquisition from DCHS. First Day Declaration, ¶¶ 62-64.

1 million and \$7.73 million to Plan A. WTW Declaration, ¶ 11. Of the estimated remaining \$10.12  
2 million for post-petition 2018 and the expected \$35.53 million for 2019 contributions to Verity  
3 Plan A, approximately \$8.10 million and \$28.05 million, respectively, is for make-up of  
4 underfunded amounts that arose prior to VHS' acquisition of the plans from the DCHS. WTW  
5 Declaration, ¶ 12.

6 9. All contributions to Plan A (and the RPHE) were made with borrowed funds.  
7 Sharrer Declaration, ¶ 10.

8 10. On August 31, 2018 (the "Petition Date"), the Debtors each filed voluntary petitions  
9 for relief under chapter 11 of the Bankruptcy Code.

10 11. Shortly after the Petition Date, Movants' counsel filed a Notice of Appearance on  
11 behalf of SEIU-UHW [Docket No. 7] and began filing pleadings in the cases in an attempt to  
12 characterize and receive for SEIU-UHW members' frozen pension-related contribution obligations  
13 as administrative expenses. [Docket Nos. 213-215]. Those efforts proved unsuccessful. [Docket  
14 No. 612].<sup>8</sup>

15 12. In December 2018 in connection with the sale process to Santa Clara County and  
16 the related § 1113 motion process, Movants' counsel began serving discovery upon the Debtors.  
17 This discovery included a "Fourth Set of Information and Documents Requests" (the "Fourth  
18 Request") served on January 14, 2019 that was largely focused on Plan B. On January 18, 2019,  
19 the Debtors submitted written answers to the Fourth Request (the "Responses to the Fourth  
20 Request"). See Exhibit "3" attached to the Alberts Declaration. On their face, the Responses to  
21 the Fourth Request provided detailed answers as to the purposes underlying the creation of Plan B.  
22 See *id.*

23 13. On January 19, 2019, Mr. Bill Sokol (lead counsel on the Motion) contacted Mr.  
24

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25 <sup>8</sup> *Final Order Granting Emergency Motion Of Debtors For Entry Of Order: (I) Authorizing The*  
26 *Debtors To (A) Pay Prepetition Employee Wages And Salaries, And (B) Pay And Honor Employee*  
27 *Benefits And Other Workforce Obligations; And (Ii) Authorizing And Directing The Applicable*  
28 *Bank To Pay All Checks And Electronic Payment Requests Made By The Debtors Relating To The*  
*Foregoing.*

1 John Chesley, a Partner at Ropes & Gray, seeking further information on Plan B. Ultimately, a call  
2 was arranged on January 22, 2019 whereby Bruce Gaffney, a Principal at Ropes & Gray, and  
3 William Littell, a Senior Consultant at Ropes & Gray, provided information on the creation and  
4 funding of Plan B, the legal support for its creation and other questions posed by Mr. Sokol. Ropes  
5 Declaration, ¶ 11. In addition, during the call and in a subsequent email, Mr. Littell informed Mr.  
6 Sokol that “the spinoff was in no way designed to favor executives.” Ropes Declaration, ¶ 11;  
7 Email from W. Littell to B. Sokol, January 22, 2019, attached thereto as Exhibit “1.”

8 14. Recently, the PBGC has informally advised the Debtors that it intends to take action  
9 to terminate the A/B Plans and has requested information to facilitate initiation of such action.  
10 Sharrer Declaration, ¶ 12. Based on those communications, the Debtors understand that termination  
11 may occur as soon as May 2019. *Id.* at ¶ 13. Thereafter, the PBGC is expected to begin the process  
12 of trustee and administering the A/B Plans pursuant to ERISA § 4022. To the extent that  
13 underfunding may ultimately result in potential reductions in distributions to beneficiaries of Plan  
14 A, PBGC is expected to provide insurance in accordance with the requirements and limitations of  
15 ERISA § 4022.

### 16 III. ARGUMENT

#### 17 A. Claimants Do Not Satisfy The Threshold Requirements For Filing A Class Proof Of 18 Claim, Because, Among Other Reasons, There Is No Colorable Underlying Cause Of 19 Action.

##### 20 1. *The Court Should Exercise Its Broad Discretion To Deny The Motion.*

21 Foremost, the Motion should be denied because Movants have failed to create a case for  
22 this Court to exercise its discretion in permitting a class claim to be filed under Bankruptcy Rules  
23 7023 and 9014. In bankruptcy, “[t]he Ninth Circuit has determined that the Bankruptcy Code does  
24 allow for class proofs of claim . [...] However, Bankruptcy Courts have broad discretion to allow  
25 or disallow such class claims.” *Westfall v. MII Liquidation Inc.*, No. 06-CV-02343-BENNLS, 2007  
26 WL 2700951, at \*4 (S.D. Cal. Sept. 11, 2007) (citing *In re Birting Fisheries, Inc.*, 92 F.3d 939, 939  
(9th Cir.1996)).

27 Specifically, Bankruptcy Rule 7023 provides that Rule 23 of the Federal Rules of Civil  
28 Procedure (the “Civil Rules”) applies to adversary proceedings. In turn, “[a]pplication of [Civil]

Rule 23 is extended to contested matters by Bankruptcy Rule 9014, which *grants the Court discretion* to apply [Civil] Rule 23 to contested matters, including claims objections.” *In re MF Global Inc.*, 512 B.R. 757, 762 (Bankr. S.D.N.Y. 2014) (emphasis added); *see also* Fed. R. Bankr. P. 9014(c) (“The court *may* at any stage in a particular matter direct that one of the other rules in Part VII [which would include Bankruptcy Rule 7023] shall apply.” (emphasis added)).

Movants urge the Court to exercise its discretion to apply Bankruptcy Rule 7023, arguing that “[t]his class claim is favored and ‘particularly appropriate’ in bankruptcy cases.” (*See* Motion, p. 7, ll. 13-16, *citing In re First Alliance Mortgage Co.*, 269 B.R. 428, 444 (C.D. Cal. 2001).) As a matter of clarity, it is important to note that *First Alliance*, the case relied upon by Movants for that proposition, never once states that class procedures are “favored,” but rather only that they are not “disfavored,” which was the bankruptcy court’s presumption the Circuit Court found to be in error. 269 B.R. at 444, 445, 447. This difference may seem semantic, but it is significant, creating a neutral playing field where “the analysis necessarily focuses on the individual circumstances of the case”—not the slope toward permissiveness that the Movants attempt to convincingly present. *Id.* at 445. If anything, “the ‘normal policy concerns’ that would favor a class action process . . . [a]re not a concern in a bankruptcy proceeding involving a single court . . . [and, a]t bottom, . . . the systemic considerations favor[] the bankruptcy claims process.” *See Gentry v. Siegel*, 668 F.3d 83, 93 (4th Cir. 2012) (highlighting the lower court’s findings).

Accordingly, before the named representatives of a purported class are even afforded the opportunity to demonstrate satisfaction of the general class certification requirements under Civil Rule 23 (which they must also do),<sup>9</sup> they must *first* convince the bankruptcy court that exercising

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<sup>9</sup> Because the Debtors strongly believe the Motion can be decided on the basis of Bankruptcy Rule 9014, they do not in this Opposition devote as much time to the Civil Rule 23 factors. *See Gentry v. Siegel*, 668 F.3d 83, 93 (4th Cir. 2012) (“For the most part, Civil Rule 23 factors do not become an issue until the bankruptcy court determines that [Bankruptcy] Rule 7023 applies by granting a [Bankruptcy] Rule 9014 motion. The issue on such a motion centers more directly on whether the benefits of applying [Bankruptcy] Rule 7023 (and Civil Rule 23) are superior to the benefits of the standard bankruptcy claims procedures.”) The Debtors reserve their right to supplement their briefing if and when such analysis becomes appropriate, including at the request of the Court.

1 its discretion to extend those requirements to the bankruptcy claims administration process and  
2 allowing such purported class to file a single class proof of claim would be “beneficial” to that  
3 process. *See In re Chaparral Energy, Inc.*, 571 B.R. 642, 646 (Bankr. D. Del. 2017); *In re Pac.*  
4 *Sunwear of Cal., Inc.*, No. 16-10882 (LSS), 2016 WL 3564484, at \*5 (Bankr. D. Del. June 22,  
5 2016).

6 **2. Denial Of The Motion Is Warranted Because There Is No Colorable Claim.**

7 Here, Movants fail to demonstrate that the Court should exercise its discretion to permit a  
8 class claim for several reasons, not the least of which is the fact that Movants have no colorable  
9 claim. Accordingly, the Debtors believe that the Motion asks the Court and the parties to engage  
10 in an academic exercise that wastes estate resources because regardless of whether the claims are  
11 brought by a purported class or individually, they are baseless and would require objection.<sup>10</sup> In  
12 this sense, the Debtors recognize this point as a critical gating issue.

13 Movants’ claim is based upon the fundamental assertion that Verity and the members of  
14 BAC, out of conflicted and improper self-interest, approved the creation and funding of a separate  
15 defined benefit pension Plan B from the corpus of Plan A. This assertion is patently false on two  
16 levels. First, as a factual matter, the BAC did not approve or authorize the creation of Plan B; rather  
17 the action was approved and authorized by the Board of VHS. Sharrer Declaration, ¶ 7, BODM.  
18 That is, Movants challenge plan modifications that were created by the plan sponsor (VHS) not by  
19 the plan fiduciary (BAC). This distinction point is important because it is black letter law that

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20 <sup>10</sup> Further, because proofs of claim are generally deemed to be *prima facie* valid, the Debtors  
21 believe it is of utmost importance that they object at this stage to such claims even being allowed  
22 to be filed, so as to preclude any such presumption of validity. *See* 11 U.S.C. § 502(a) (“A claim  
23 or interest, proof of which is filed under section 501 of this title, is deemed allowed, unless a party  
24 in interest . . . objects.” (emphasis added)); *In re Los Gatos Lodge, Inc.*, 278 F.3d 890, 894 (9th Cir.  
25 2002) (“a claim is ‘deemed allowed’ if no party in interest objects”); *In re Smith*, 123 B.R. 863,  
26 867 (Bankr. C.D. Cal. 1991) (claimant has “the right to allowance of their claim absent objection”);  
27 *Reid v. White Motor Corp.*, 886 F.2d 1462, 1469 n.8 (6th Cir. 1989) (“After a class proof of claim  
28 is filed, 11 U.S.C. 502(a) deems the claim allowed unless objected to by a party in interest.”); *In re*  
*Musicland Holding Corp.*, 362 B.R. 644, 651 n.8 (Bankr. S.D.N.Y. 2007) (“[C]laims are ‘deemed  
allowed’ under § 502(a) in the absence of an objection, in which case discovery and fact-finding  
are avoided altogether.”).

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1 actions by a plan sponsor to modify, amend, terminate or establish a plan are outside the scope of  
2 fiduciary duties imposed under ERISA. *See Lockheed Corp. v. Spink*, 517 U.S. 882, 891 (1996)  
3 (“[T]he act of amending a pension plan does not trigger ERISA’s fiduciary provisions.”); *Hughes*  
4 *Aircraft Co. v. Jacobson*, 525 U.S. 432, 444-45 (1999) (“In general, an employer’s decision to  
5 amend a pension plan concerns the composition or design of the plan itself and does not implicate  
6 the employer’s fiduciary duties which consist of such actions as the administration of the plan’s  
7 assets . . . . [W]ithout exception, ‘[p]lan sponsors who alter the terms of a plan do not fall into the  
8 category of fiduciaries.’” (quoting *Lockheed*, 517 U.S. at 890)).

9 Second, the members of the BAC have no beneficial interest in Plan B (nor do members of  
10 the VHS Board). Sharrer Declaration, ¶¶ 8-9. Movants repeatedly make charged statements to the  
11 effect that BAC members were among the participants who were moved from Plan A to Plan B “in  
12 order to protect their personal retirement benefits,” (Motion at 4) but the statements become no less  
13 spurious through repetition. Therefore, Movants’ allegation of self-dealing by the BAC or VHS  
14 are knowingly baseless, and their correlative allegations of ERISA fiduciary violations by the BAC  
15 or VHS are similarly without any factual foundation or legal merit.

16 Third, Movants suggest that the creation and funding of Plan B was somehow unlawful in  
17 that it allegedly disadvantaged Plan A and its participants. Both assertions are incorrect. As the  
18 Court may recall from prior pleadings, when VHS assumed sponsorship of the Church Plan  
19 following the restructuring of DCHS to become VHS, the Church Plan was a significantly  
20 underfunded single employer, defined benefit “church plan” exempt from ERISA and thus not  
21 insured by the PBGC. *See* Internal Revenue Code (“Code”) Section 414(e); ERISA Sections 3(33)  
22 and 4(b)(2). In doing so, VHS converted the Church Plan into the Verity Health System Retirement  
23 Plan (“Verity Plan”), a single employer, defined benefit plan that was: (1) subject to and compliant  
24 with ERISA, and (2) covered by PBGC insurance coverage in accordance with ERISA, subject to  
25 a 5-year statutory phase-in of such coverage under ERISA Section 4022. RSA, ¶ 7.3. VHS  
26 accordingly began paying significant insurance premiums to the PBGC, which since 2016 has  
27 totaled \$13.2 million. WTW Declaration, ¶ 11.

28 VHS created Plan B (and renamed the Verity Plan as Plan A), effective December 31, 2016,



1 to reduce the cost of PBGC insurance premiums that were paid by Plan A. This was accomplished  
2 through a “*de minimis* spin-off” in accordance with Code Section 414(l) and Treasury Regulations  
3 issued thereunder. Pursuant to those regulations, the assets and liabilities spun-off to Plan B could  
4 amount to no more than 3% of the total Verity Plan assets before the spin-off; further, Treasury  
5 Regulation Section 1.414(l)-1(n)(2) mandated that the transfer of assets be equal to liabilities for  
6 the spun-off participants (thus, requiring Plan B to be fully funded upon the spin-off from Plan A).  
7 *See* Treasury Regulations Section 1.414(l)-1(n)(2).

8 To achieve the greatest amount of PBGC savings for Plan A, the number of participants  
9 spun-off to Plan B was maximized by transferring the Plan A participants with the smallest Plan A  
10 benefits, subject to the aggregate 3% limitation under Code Section 414(l). This methodology of  
11 transferring participants with the smallest benefits to Plan B was set forth explicitly on the face of  
12 the written amendment to Plan A adopted by the Board. [BODM]; see also Ropes Declaration, ¶  
13 8.

14 It should be intuitively clear to the Court, as it should have been obvious to the Movants,  
15 that transferring participants with the smallest benefits to Plan B was not a clandestine effort to  
16 impermissibly protect the “personal retirement benefits” of VHS executives, whose benefits would  
17 presumably not be expected to rank as among the smallest benefits in Plan A. Rather, this *de*  
18 *minimis* spin-off, which was permitted by law, specifically authorized under Code section 414(l)  
19 and Treasury Regulations Section 1.414(l)-1(n)(2), and is a recognized pension administrative  
20 expense reduction strategy, was entirely proper. *See, e.g.*, [https://www.plansponsor.com/reducing-](https://www.plansponsor.com/reducing-pbgc-premiums-splitting-db-plan/)  
21 [pbgc-premiums-splitting-db-plan/](https://www.plansponsor.com/reducing-pbgc-premiums-splitting-db-plan/).

22 Movants’ ERISA-based allegations of prohibited transactions and fiduciary breaches by the  
23 BAC are otherwise irrelevant. As noted above, the amendment of Plan A to effectuate a *de minimis*  
24 spin-off to Plan B was undertaken by the Board of VHS in its role as plan sponsor and not by the  
25 BAC in its role as plan administrator; ERISA standards of fiduciary conduct are thus inapposite as  
26 a matter of a binding precedent. *See Lockheed*, 517 U.S. at 890-91; *Jacobson*, 525 U.S. at 444-45;  
27 *Sys. Council EM-3 v. AT&T Corp.*, 159 F.3d 1376, 1379 (D.C. Cir. 1998) (“It cannot be seriously  
28 disputed that, under ERISA, AT&T, as an employer and a plan administrator, is subject to ERISA’s

1 fiduciary standards only when it acts in a fiduciary capacity.”); *Sengpiel v. Goodrich*, 156 F.3d 660,  
2 665 (6th Cir. 1998) (“Only when the employer acts in its fiduciary capacity must it comply with  
3 ERISA’s fiduciary duties.”). The Sixth Circuit helpfully expounded on this point as follows:

4 ERISA defines a plan “fiduciary” as one who “exercises any  
5 discretionary authority or discretionary control respecting  
6 management of such plan or exercises any authority or control  
7 respecting management or disposition of its assets” or who “has any  
8 discretionary authority or discretionary responsibility in the  
9 administration of such plan.” 29 U.S.C. § 1002(21)(A). Accordingly,  
10 courts have typically distinguished between employer actions that  
11 constitute “managing” or “administering” a plan and those that are  
12 said to constitute merely “business decisions” that have an effect on  
13 an ERISA plan; the former are deemed “fiduciary acts” while the  
14 latter are not. It is firmly established, for example, that “a company  
15 does not act in a fiduciary capacity when deciding to amend or  
16 terminate a welfare benefits plan.” *Sengpiel*, 156 F.3d at 665  
17 (citations omitted). Accordingly, Movants’ claims of fiduciary self-  
18 dealing and breaches of the ERISA fiduciary duties of loyalty and  
19 prudence are not only factually unsupportable, but legally irrelevant.

20 *Id.*

21 Further, the amount “spun-off” from Plan A to Plan B—\$7,966,440, as compared to assets  
22 of Plan A before the spin-off of \$272,119,612—was a dollar amount equal to the liabilities  
23 attributable to such beneficiaries (measured using actuarial assumptions required by the Treasury  
24 Regulations for this type of transaction) that were also shifted to Plan B. Given that Verity has  
25 contributed approximately \$95.9 million in contributions and PBGC premiums to Plan A, the  
26 amount contributed to Plan B was not only legally defined as *de minimus*, but was a matter of fact,  
27 *de minimus*.

28 For these reasons alone, the Court should deny the Motion.

3. ***The Court Should Deny The Filing Of A Plan A Class Proof Of Claim Because  
Such A Claim And Related Litigation Would Hinder The Claims Administration  
Process.***

In addition to the reasons noted above, the Motion is fatally flawed for other reasons. The  
proposed class proof of claim is on behalf of a purported class of current and former employees (1)  
that have not been certified by any court; (2) that have not commenced any litigation; (3) all of  
whose members were on notice of the “deadline . . . for creditors and holders of ownership interests

1 in [the Debtors] to file proofs of claim against, or proofs of interests in, the Debtors' estates" (the  
2 "Bar Date"), with many if not most of them individually served with the Bar Date Notice; and (4)  
3 whose claims, if any, against the Debtors have been assumed by the PBGC (which has filed its own  
4 proofs of claim). The Debtors submit that these procedural facts also dictate against this Court  
5 exercising its discretion to authorize such a class claim to be filed.

6 In evaluating the first prong, *i.e.* whether the class structure would be beneficial in a  
7 bankruptcy proceeding, "courts have developed a three-factor framework to help guide the court's  
8 discretion in determining if Bankruptcy Rule 7023 should be extended to the claims administration  
9 process." *Chaparral Energy*, 571 B.R. at 646; *see also Pac. Sunwear*, 2016 WL 3564484, at \*5.  
10 Often referred to as the "*Musicland* factors," as they were first concisely stated in *In re Musicland*  
11 *Holding Corp.*, these factors include: (1) "whether the class was certified pre-petition;" (2)  
12 "whether the members of the putative class received notice of the bar date;" and (3) "whether class  
13 certification will adversely affect the administration of the estate." 362 B.R. 644, 654 (Bankr.  
14 S.D.N.Y. 2007). Although none are dispositive, courts have viewed the first two factors as  
15 "critical." *Id.* at 655; *see also In re Bally Total Fitness of Greater N.Y., Inc.*, 402 B.R. 616, 620  
16 (Bankr. S.D.N.Y. 2009) ("The filing of a class proof of claim is consistent with the Bankruptcy  
17 Code generally in two principal situations: (i) where a class has been certified pre-petition by a  
18 non-bankruptcy court; and (ii) where there has been no actual or constructive notice to the class  
19 members of the bankruptcy case and Bar Date."), *aff'd*, 411 B.R. 142 (S.D.N.Y. 2009).

20 Prior to *Musicland*, other courts highlighted "the concerns peculiar to bankruptcy law—  
21 which are the appropriate bases for exercise of discretion under Rule 9014," which ultimately  
22 underlie the *Musicland* factors, including, "to a greater or lesser degree, prejudice to the debtor or  
23 its other creditors, prejudice to putative class members, efficient estate administration, the conduct  
24 in the bankruptcy case of the putative class representatives, and the status of proceedings in other  
25 courts" (hereinafter referred to as the "Craft concerns"). *See In re Craft*, 321 B.R. 189, 199 (Bankr.  
26 N.D. Tex. 2005); *In re Ephedra Prods. Liab. Litig.*, 329 B.R. 1, 8 (S.D.N.Y. 2005).  
27 "[B]ankruptcy significantly changes the balance of factors to be considered in determining whether  
28 to allow a class action and that class certification may be 'less desirable in bankruptcy than in

ordinary civil litigation.” *Ephedra*, 329 B.R. at 5 (quoting *In re Am. Reserve Corp.*, 840 F.2d 487, 493 (7th Cir. 1988)). Here, all of the factors and concerns identified above strongly counsel against class treatment in this case, and support normal bankruptcy processes—including the administration of individual claims—as the superior route.

- a) *There was no certified prepetition class nor even any pending prepetition class action, certified or putative.*

The first *Musicland* factor is “whether the class was certified prepetition.” 362 B.R. at 654. *Musicland* described this first factor as not dispositive but “critical.” *See id.* at 655. It is without dispute that Movants’ asserted class was not certified prepetition, a fact amplified by the absence of any prepetition litigation filed at all.

Unlike the former employee claims in *MF Global*, 512 B.R. at 763, which permitted a class claim to proceed, the Movants’ allegations are not the product of the bankruptcy itself. The claims are based on events that occurred prepetition,<sup>11</sup> the Movants have been employees of the Debtors continuously since as recently as 2000, and were on notice of the events underlying their claims since the end of 2016—almost two years before the Debtors filed for bankruptcy protection. And not only was the purported class not certified during that time, but *no litigation has actually been brought*. Both the first *Musicland* factor as well as the *Craft* concern regarding status of proceedings in other courts therefore disfavor permitting the Movants to file a class claim.

- b) *The purported class members were not required to receive notice of the Bar Date given lack of standing, but nonetheless received actual or constructive notice of the Bar Date.*

The second *Musicland* factor is “whether the members of the putative class received notice

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<sup>11</sup> Although Movants are alleging that the effects of such actions continue postpetition, these “effects” do not give rise to an administrative expense. *In re Abercrombie*, 139 F.3d 755, 757 (9th Cir. 1998) (applying *In re DAK Indus.*, 66 F.3d 1091, 1094 (9th Cir.1995)) (the inquiry of whether a claim is administrative “focuses on whether the contract giving rise to the claim was entered into before or after the bankruptcy petition. Postpetition contracts may qualify for administrative expense priority, but costs and expenses arising out of prepetition contracts are treated under the Bankruptcy Code as nonprioritized unsecured claims ... Applying similar logic, we have denied administrative expense priority for an award of backpay that accrued after the filing of a petition. *See In re Palau Corp.*, 18 F.3d 746 (9th Cir.1994)”).

1 of the bar date. 362 B.R. at 654. “[P]utative members of an uncertified class who received actual  
2 notice of the bar date but did not file timely claims are the least favored candidates for class action  
3 treatment.” *Id.* at 655. As will be demonstrated below, because claims for underfunding of Plan A  
4 (and B) belong to the PBGC, the Debtors aver that no notice to individual plan beneficiaries was  
5 needed.

6 Nevertheless, as stated by the Debtors’ registered claims and noticing agent, all Plan A  
7 participants who were current employees of the Debtors on the Petition Date were served  
8 individually with a Bar Date Notice.<sup>12</sup> Moreover, the Debtors understand that Plan A participants  
9 who were former employees were kept apprised of important dates in these chapter 11 cases directly  
10 by Plan A.<sup>13</sup>

11 However, even if certain participants did not receive formal notice of the Bar Date, any such  
12 lack of actual notice would not be dispositive of this factor. The Debtors’ filing has been well-  
13 publicized, including on its website, in the media, and through their numerous employees and  
14 clients; and the Bar Date Notice was published in two national and two regional publications.<sup>14</sup> *See*  
15 *Craft*, 321 B.R. at 199 (“Mirant’s chapter 11 case has been well-publicized, and Mirant is willing  
16 to rely on that publicity and its published notice to bar later claims by class members.”).

17 The notice situation in this case is at least as comprehensive as in *Bally Total Fitness*, where  
18 the court found that the “formal Bar Date notices [sent] to all present employees as well as all  
19 former employees whose employment terminated between January 1, 2004 and the Petition Date”  
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21 <sup>12</sup> *See Declaration of Service by Kurtzman Carson Consultants, LLC Regarding Notice of Bar Date*  
22 *for Filing Proofs of Claims and Interests*, filed March 21, 2019 [Docket No. 1864], at Exhibit G.

23 <sup>13</sup> *See Declaration of Richard Adcock*, attached to the end of this Objection, at ¶ 6.

24 <sup>14</sup> *See Affidavit of Publication of the Notice of Bar Date for Filing Proofs of Claims and Interests*  
25 *in the San Francisco Chronicle*, filed March 21, 2019 [Docket No. 1859]; *Affidavit of Publication*  
26 *of the Notice of Bar Date for Filing Proofs of Claims and Interests in USA Today*, filed March 21,  
27 2019 [Docket No. 1860]; *Affidavit of Publication of the Notice of Bar Date for Filing Proofs of*  
28 *Claims and Interests in the San Jose Mercury News*, filed March 21, 2019 [Docket No. 1861];  
*Affidavit of Publication of the Notice of Bar Date for Filing Proofs of Claims and Interests in the*  
*Los Angeles Times*, filed March 21, 2019 [Docket No. 1862].

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1 and the “published notice of the Bar Date in the national editions of the Chicago Tribune and USA  
2 Today” provided “actual or constructive notice . . . to these putative class members;” and, further,  
3 that “[t]he direct notice, in combination with the published notice, was ‘reasonably calculated,  
4 under all the circumstances, to apprise interested parties’ of the bankruptcy case and was of ‘such  
5 nature as to convey the required information.’” 402 B.R. at 620 (quoting *Mullane v. Cent. Hanover*  
6 *Bank & Trust Co.*, 339 U.S. 306, 314 (1950)); *see also In re FIRSTPLUS Fin., Inc.*, 248 B.R. 60,  
7 73 (Bankr. N.D. Tex. 2000) (“[S]ince all of the members of the putative class received actual notice  
8 by mail, and constructive notice by publication, of the Debtor’s bankruptcy and of the Claims Bar  
9 Date, the claims of those persons who did not file a proof of claim with the Court are barred.”).  
10 And, in any case, Movants may “lack standing to challenge the notice” to other putative class  
11 members. *See Gentry*, 668 F.3d at 86 (“Finally, with respect to these Named Claimants’ challenge  
12 to notice, we conclude that the notice to them was not constitutionally deficient—a conclusion with  
13 which they agree—and that, with respect to the unnamed claimants, the Named Claimants lack  
14 standing to challenge the notice.”).

15 Because each purported class member received actual or constructive notice of the Bar Date,  
16 and especially in light of the absence of any litigation pending on their purported behalf, no Plan A  
17 participant would be prejudiced by being required to file an individual claim (assuming one even  
18 existed, which it does not), which is the only expectation any claimant should have had. *See, e.g.,*  
19 *Musicland*, 362 B.R. at 656 (where putative class was not certified prepetition, and putative class  
20 members were not served with formal notice of class action or advised regarding the bankruptcy  
21 by class counsel, they “did not have a reasonable expectation that a class claim would be filed that  
22 would protect their rights, or that they did not have to comply with the bar date.”); *In re Jamesway*  
23 *Corp.*, No. 95 B 44821 (JLG), 1997 WL 327105, at \*10 (Bankr. S.D.N.Y. June 12, 1997) (“No  
24 class was pre-certified such that purported class members who did not cho[o]se to file a proof of  
25 claim should or could have had any reasonable expectation that they need not comply with the Bar  
26 Date Order.”).

27 To permit such a class proof of claim would also prejudice creditors who timely filed proofs  
28 of claim. The court in *Musicland* recognized this point when it wrote, “[a]llowing the class proof

1 of claim would extend the bar date for those creditors who failed to file a timely claim to the  
2 prejudice of those creditors who did.” 362 B.R. at 656. Accordingly, the second *Musicland* and  
3 corresponding *Craft* concern counsel against the Court exercising its discretion to extend  
4 Bankruptcy Rule 7023. *See In re Sacred Heart Hosp. of Norristown*, 177 B.R. 16, 22 (Bankr. E.D.  
5 Pa. 1995) (“[I]f the putative unnamed class members have clearly received actual or constructive  
6 notice of the bankruptcy case and the bar date, denial of the implementation of the class proof of  
7 claim device appears advisable.”).

8 c) Class certification would adversely affect the claims administration process,  
9 and prejudice the Debtors and the other creditors.

10 The third *Musicland* factor, “whether class certification will adversely affect the  
11 administration of the estate,” 362 B.R. at 654, is undoubtedly answered in the affirmative here, as  
12 it would be significantly more costly and burdensome than normal bankruptcy processes, and  
13 therefore prejudice the Debtors and their creditors. This is especially so given that (1) the Movants  
14 waited until the Bar Date to file their Motion, (2) the claim is without merit, and (3) PBGC has the  
15 standing to file a claim on account of Plan A underfunding and has filed three proofs of claim  
16 accordingly.

17 Between the two, courts have recognized that “[b]ankruptcy provides the same procedural  
18 advantages as a class action. In fact, it provides more advantages.” *Musicland*, 362 B.R. at 651  
19 n.8. And, to the extent Movants are seeking to “protect” putative class members (*see* Motion, p.8,  
20 line 8), courts have recognized that “class status is unnecessary to protect the rights of the various  
21 members of the putative class; their rights are amply protected by the chapter 11 claims process  
22 itself.” *Bally Total Fitness*, 402 B.R. at 621. In reviewing a lower court decision on the matter, the  
23 Fourth Circuit provides a useful primer on the advantages of the bankruptcy process:

24 On the systemic level, the court [below] noted that the bankruptcy process  
25 had the advantages that all claims could be consolidated in one forum; that  
26 claimants could file proofs of claim without counsel; and that filing  
27 individual claims would impose “virtually no costs” on claimants. The  
28 court noted that bankruptcy provides “(1) established mechanisms for  
notice, (2) established mechanisms for managing large numbers of  
claimants, (3) proceedings centralized in a single court with nationwide  
service of process, and (4) protection against a race to judgment since all of

1 the debtor's assets are under control of the bankruptcy court." In contrast  
2 to those systemic advantages, the court pointed out that "going forward with  
3 the class action lawsuits would involve expensive, time-consuming,  
4 protracted litigation that could delay and lessen the distribution of the  
5 Debtors' assets to the creditors." The court observed that the "normal policy  
6 concerns" that would favor a class action process—referring to inconsistent  
7 adjudications and the deterrence of improper defendant behavior—were not  
8 a concern in a bankruptcy proceeding involving a single court. Deterrence  
in a liquidation proceeding was not a concern for the bankruptcy court  
because "any labor law violations could not be remedied for future  
employees and no long-term benefits could be provided." At bottom, it  
found that the systemic considerations favored the bankruptcy claims  
process.

9 *Gentry*, 668 F.3d at 92-93 (finding none of this to be an abuse of discretion); *see also In re*  
10 *FIRSTPLUS Fin.*, 248 B.R. at 73 ("In the bankruptcy context, class actions should be rare.  
11 Bankruptcy is unique in that it provides a forum for a collective claims resolution process that is  
12 similar to the purpose of class actions.").

13 The bankruptcy process is similarly advantageous here where the Bar Date has already  
14 passed; no class action or any action for that matter has yet to be commenced regarding the claim;  
15 the Debtors provided actual and constructive notice of the Bar Date to Plan A participants; the  
16 estates have already received proofs of claim by PBGC on account of Plan A underfunding; the  
17 chapter 11 cases are in a liquidating, rather than reorganizing process, where recoveries are further  
18 limited; and the Debtors, their professionals, and the Court together "have already established a  
19 structure for processing large numbers of claims and that [almost 7,000] claims had been filed under  
20 the process." *See Gentry*, 668 F.3d at 93 (noting that, in that case, approximately 15,000 claims  
21 had been filed). In contrast, allowing a class action process to interfere with the bankruptcy claims  
22 administration process not only is not advantageous, but would have an adverse impact on the estate  
23 and its other stakeholders, including the PBGC who has not only asserted claims but is in the  
24 process of terminating and taking over responsibility for administering the A/B Plans. *See In re*  
25 *Woodward & Lothrop Holdings, Inc.*, 205 B.R. 365, 376 (Bankr.S.D.N.Y.1997) ("[A] bankruptcy  
26 case can proceed no faster than its slowest matter ... and a class action may 'gum up the works'  
27 because until complete, the bankruptcy court cannot determine the entitlement of other creditors.").



(1) Movants Are Not Creditors Holding Any Claim Against The Debtors

Movants should not be allowed to hinder the normal bankruptcy process with their Motion because they are not even “creditors” entitled to file a “claim” against the Debtors. This is a threshold issue for any claim. *See First Alliance*, 269 B.R. at 434. In *First Alliance*, before reaching the class claims, the District Court stated as follows:

The Court’s analysis properly begins with the Bankruptcy Code itself. Section 501 of the Bankruptcy Code provides that “[a] creditor or an indenture trustee may file a proof of claim.” 11 U.S.C. § 501(a). In order to file a proof of claim, a party must therefore be a “creditor.” The Bankruptcy Code defines a “creditor” as an “entity that has a claim against the debtor that arose at the time of or before the order for relief concerning the debtor.” 11 U.S.C. § 101(10). In turn, a “claim” is defined as “a right to payment, whether or not such right is . . . fixed [or] contingent . . . disputed [or] undisputed . . . legal [or] equitable.” 11 U.S.C. § 101(5)(A). . . The Supreme Court has held that a “right to payment” is “nothing more nor less than an enforceable obligation.” *Id.* Whether a right to payment exists in a bankruptcy case is generally determined by reference to state law. *Butner v. United States*, 440 U.S. 48, 55, 99 S.Ct. 914, 918, 59 L.Ed.2d 136 (1979).

*Id.* at 434-35. In the case below, the bankruptcy court had held that “[t]he relevant inquiry . . . was not whether an entity was entitled to collect payment, but whether it had the power to enforce such a payment.” *Id.* at 436.

Here, the Movants have no power to collect payment from, nor enforce payment against, the Debtors. In *In re Adams Hard Facing Co.*, the district court for the Western District of Oklahoma disallowed ERISA claims filed by participants in the debtor’s single employer pension plan on the basis that the debtor employer was only liable to the PBGC, not participants. 129 B.R. 662, 663 (W.D. Okla. 1991). Any claims the plan participants have are rightly directed toward PBGC under the ERISA scheme. *Id.* “The debtors and the PBGC agree that if Plan participants make claims directly against the bankruptcy estate, the purposes of ERISA § 4022(c) will be defeated.” *Id.*; *see also United Steelworkers of America, AFL-CIO, CLC v. United Eng’g, Inc.*, 52 F.3d 1386, 1392 (6th Cir. 1995) (“Several courts that have addressed the issue that confronts us

1 today have held that ERISA now preempts direct actions against the employer.”).<sup>15</sup>

2 Accordingly, Movants have no right to assert a claim against the Debtor, which makes the  
3 class certification exercise both academic and wasteful.

4 (2) The Interests of Plan A And Plan A Participants Are Sufficiently  
5 Protected By the PBGC, Which Has Filed Claims in This Case for  
6 Plan A Shortfalls and Eventual Termination And Is In The Process  
Of Terminating And Taking Over The A/B Plans.

7 Even if the Movants’ allegations have any validity—which the Debtors strongly dispute—  
8 such claims are effectively duplicative of the claims filed in these chapter 11 cases by the PBGC.  
9 First, as noted below, Movants’ claims against members of the BAC for alleged “self dealing” is  
10 without merit because the BAC are not beneficiaries of the A/B Plans. Second, any alleged claim  
11 against Verity is duplicative of the proofs of claim filed by PBGC, jointly and severally against  
12 each Debtor,<sup>16</sup> relating to the underfunding of Plan A. Accordingly, allowing Movants to pursue  
13 effectively redundant claims, where they are not the proper claimant, will cost the estates (and  
14 potentially the A/B Plans themselves) time and money while distracting from the goal of efficiently  
15 administering these cases.

16 Furthermore, the amounts asserted by the PBGC subsumes and dwarfs the \$7.9 million  
17 dwarf used to create Plan B. For example, proof of claim assigned number 4318 by the claims  
18 agent (“Claim 4318”), PBGC asserts a claim in the amount of \$310,300,000, on account of

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19 <sup>15</sup> Should Movants eventually file their Complaint, Debtors intend to further object in that context  
20 based on lack of standing. *See, e.g., David v. Alphin*, 704 F.3d 327, 338 (4th Cir. 2013) (“We find  
21 on this record the alleged risk to be insufficiently ‘concrete and particularized’ to constitute an  
22 injury-in-fact for Article III standing purposes. If the Plan becomes underfunded, the Bank will be  
23 required to make additional contributions. If the Bank is unable to do so because of insolvency,  
24 participants’ vested benefits are guaranteed by the PBGC up to a statutory minimum. Thus, the  
25 risk that Appellants’ pension benefits will at some point in the future be adversely affected as a  
26 result of the present alleged ERISA violations is too speculative to give rise to Article III standing.”);  
*see also LaRue v. DeWolff, Boberg & Assocs., Inc.*, 552 U.S. 248, 255 (2008) (“Misconduct by the  
administrators of a defined benefit plan will not affect an individual’s entitlement to a defined  
benefit unless it creates or enhances a risk of default by the entire plan.”).

27 <sup>16</sup> PBGC was permitted to file consolidated proofs of claim under a single case number pursuant to  
28 a Stipulation with the Debtors, filed and ordered on March 12, 2019 [Docket Nos. 1772 and 1782].

1 “Statutory Liability under 29 U.S.C. §§ 1362 and 1368 for unfunded benefit liabilities of [Plan A].”  
2 Specifically, the PBGC states that “[i]f the Pension Plan terminates, the assets of the Pension Plan  
3 may be insufficient to cover the benefit liabilities of the Pension Plan,” and that “[u]pon termination  
4 of the Pension Plan, its contributing sponsor and each member of the contributing sponsor’s  
5 controlled group become jointly and severally liable to PBGC for the total amount of the Pension  
6 Plan’s unfunded benefit liabilities.” PBGC asserts that Claim 4318 is entitled to partial  
7 administrative priority as a tax under 11 U.S.C. §§ 503(b)(1)(B), 507(a)(2), and 507(a)(8), and 29  
8 U.S.C. § 1368(a) and (c)(2), in an amount up to 30% of the controlled group’s collective net  
9 worth.<sup>17</sup>

10 In the proof of claim assigned number 4325 by the claims agent (“Claim 4325”), the PBGC  
11 asserts a claim in the amount of \$30,600,374, on account of “Statutory Liability to [Plan A] for  
12 unpaid minimum funding contributions under 26 U.S.C. §§ 412 and 430, 29 U.S.C. §§ 1082, 1342  
13 and 1362(c)” contingent on Plan A’s termination. PBGC asserts that Claim 4325 is entitled to  
14 partial administrative priority as ordinary course business expenses under 11 U.S.C. §§ 503(b),  
15 507(a)(2), and 507(a)(5), for the postpetition amount of \$4,401,712, and the 180-day prepetition  
16 amount of \$1,278,575.

17 In the proof of claim assigned number 4327 by the claims agent (“Claim 4327” and together  
18 with Claim 4318 and Claim 4325, the “PBGC Claims”), the PBGC asserts a claim in the estimated  
19 amount of \$27,075,098.25, for “Statutory Liability under 29 U.S.C. § 1307 on account of [Plan  
20 A].” Specifically, “[e]ach member of the contributing sponsor’s controlled group is jointly and  
21 severable liable to PBGC for insurance premiums, interest, and penalties.” Claim 4327 consists of  
22 flat-rate and variable-rate premiums in an unliquidated amount, \$1,076,348.25 of which is  
23 attributed to the post-petition period and which PBGC asserts is entitled to administrative priority  
24 under 11 U.S.C. §§ 503(b)(1), 507(a)(2), and/or 507(8). Claim 4327 also consists of termination  
25 premiums, which are contingently claimed in the amount of \$25,998,750, and which PBGC asserts

26 \_\_\_\_\_  
27 <sup>17</sup> For the avoidance of doubt, the Debtors do not concede the amount, validity or priority of any  
28 claim asserted by PBGC. That said, the Debtors are committed to working with PBGC to address  
these issues in a consensual manner and hope to reach accord without the need for litigation.

1 are not a dischargeable debt should such termination occur in a distressed context.

2 Accordingly, the validity of the PBGC Claims aside, PBGC has, at minimum, sought the  
3 recovery Movants seek through its own proofs of claim. And PBGC is the rightful claimant in this  
4 situation. To permit Movants to pursue a separate litigation against VHS—against whom the  
5 PBGC has asserted claims (as well as the other Debtors)—would be duplicative, waste resources  
6 and potentially compete for assets that would ostensibly go to the same place: funding shortfalls of  
7 Plan A (and Plan B). *Cf. Craft*, 321 B.R. at 199 (“As to prejudice to the class members, their claims  
8 are being pursued not only in the Mirant Cases but also by various arms of local and state  
9 governments and FERC. Interests of class members will be protected by these governmental  
10 units.”).

11 In fact, the only persons who would seem to benefit from a class action would be Movants’  
12 counsel, who unabashedly assert they will seek attorney’s fees for their efforts. *See* Motion at p.1,  
13 line 15; p.6, line 25. That benefit, however, is counter-productive to the interest of the estates,  
14 including participants of the A/B Plans. *Cf. Sacred Heart*, 177 B.R. at 24 (referring to “the  
15 pocketbook of the putative class’s counsel” and the purported class members’ “arguably  
16 opportunistic counsel” alongside “the members of the putative class who failed to exercise  
17 vigilance” as “unwarranted [and] unfair” to prioritize over the Debtors’ other “vigilant” creditors);  
18 *Bally Total Fitness*, 402 B.R. at 621 n.4 (“Were Plaintiffs to prevail, their attorneys could seek  
19 payment of their fees from the Debtors’ estates, necessarily diminishing the already limited  
20 distributions available to other creditors.”); *contra MF Global*, 512 B.R. at 768 (“not[ing] that the  
21 experienced counsel for the . . . Class Claimants represented that they will not seek any  
22 compensation for services in connection with the vacation pay claim, so allowing the claim to  
23 proceed as a class claim will not unfairly prejudice other creditors by adding additional costs to be  
24 borne out of the estate”).

25 Moreover, the PBGC’s standing and interest will be further enhanced once it takes control  
26 of the A/B Plans. The PBGC recently informed VHS that it plans to terminate the A/B Plans and  
27 assume their administration. At that time, “under established law, [the plan participants’] only  
28 recourse for such claims lies against the PBGC.” *McMillan v. LTV Steel Co.*, No. 1:06CV00850,

2007 WL 2838975, at \*6 (N.D. Ohio Sept. 26, 2007) (quoting *United Steelworkers of Am. v. United Eng'g*, 52 F.3d 1386, 1392 (6th Cir. 1995)), *aff'd sub nom. McMillan v. LTV Steel, Inc.*, 555 F.3d 218 (6th Cir. 2009).; *see also In re Lineal Grp., Inc.*, 226 B.R. 608 (Bankr. M.D. Tenn. 1998); *In re Adams Hard Facing Co.*, 129 B.R. 662 (Bankr. W.D. Okla. 1991). The District Court in *Adams Hard Facing* helpfully explained: “The debtors and the PBGC agree that if Plan participants make claims directly against the bankruptcy estate, the purposes of ERISA § 4022(c) will be defeated. Under ERISA, the PBGC must collect the employer’s unfunded benefit liabilities and distribute those amounts to plan participants within the priority scheme of § 4044(a). The direct claims of the participants in the *Adams* Plan are therefore disallowed. The PBGC is instructed to collect and allocate the unfunded benefit liability amounts in strict compliance with the ERISA sections referred to herein.” *Adams Hard Facing*, 129 B.R. at 663. These facts on their own prevent the third *Musicland* factor from being satisfied.

(3) Granting The Motion Given Its Bar Date Timing Will Adversely Affect Estates.

Moreover, it is inconvenient, to say the least, that Movants waited until the Bar Date to file the Motion. This is particularly perplexing in light of the fact that Movants’ counsel has known about Plan B for months, and actually conducted discovery on it in January 2019. “The most propitious time for filing a motion for class recognition is before a bar date is established, since the bar date is effectively uprooted in part by an extension of the bar date for a favored class of creditors.” *Sacred Heart*, 177 B.R. at 23. Here, Movants claim that they are still “collecting information about the Plan A underfunding status that would inform them as to whether or not the BAC’s decision was unlawful” and are still “finalizing these efforts.” *See* Motion at p.8, lines 1-4. Although this acknowledgment begs the very question of enforceability of the claim against the Debtors, if Movants feel confident in their Motion at such a preliminary information-gathering stage, at minimum they fail to explain why they were not able to file the Motion two months earlier when the Bar Date was announced, or up to six months earlier than that as soon as the chapter 11 cases were commenced. *See, e.g.,* Motion at p.3 (acknowledging awareness of events underlying Movants’ claim prior to the bankruptcy case). Instead, Movants waited until the last possible

1 moment to request the instant relief, which, if granted, would render the Bar Date meaningless for  
2 nearly 7,000 new claimants who otherwise had “sat on their rights.” *See Musicland*, 362 B.R. at  
3 650; *FIRSTPLUS Fin.*, 248 B.R. at 73 (“[W]ere the Court to allow the class proof of claim to stand,  
4 such action would allow a second bite at the apple for those creditors who received notice of the  
5 bankruptcy filing and of the Claims Bar Date, and who chose not to file. Such a result would be  
6 inequitable . . . .”); *Sacred Heart*, 177 B.R. at 24 (“[I]t is manifestly clear that it would be  
7 unwarranted, unfair, and possibly violate the due process rights of other creditors of the Debtor to  
8 effectively extend the bar date to benefit (1) the members of the putative class who failed to exercise  
9 vigilance; and (2) the pocketbook of the putative class’s counsel,” which “could have the effect of  
10 penalizing vigilant employees to the benefit of those who ignored their known rights.”). Given that  
11 the claim is meritless—and to the extent it has any merit, the PBGC has it handled—this timing  
12 element further encourages denial of the Motion.

13 For all of these reasons, this Court should refuse to exercise its discretion under Bankruptcy  
14 Rules 7023 and 9014.

15 **B. Movants Fail to Show That They Satisfy Civil Rule 23.**

16 As demonstrated above, the Court should exercise its discretion to deny allowance of the  
17 requested relief. However, even if this Court were to determine that it is appropriate to extend  
18 Bankruptcy Rule 7023 to the class claim, the Movants still “must satisfy the four threshold  
19 requirements of [Civil] Rule 23(a) as well as the requirements of at least one of the subdivisions of  
20 [Civil] Rule 23(b) for maintenance of the class action.” *In re Madison Assocs.*, 183 B.R. 206, 214  
21 (Bankr. C.D. Cal. 1995); *see also* Fed. R. Bankr. P. 7023; *Gentry*, 668 F.3d at 93 (“For the most  
22 part, Civil Rule 23 factors do not become an issue until the bankruptcy court determines that Rule  
23 7023 applies by granting a Rule 9014 motion. The issue on such a motion centers more directly on  
24 whether the benefits of applying Rule 7023 (and Civil Rule 23) are superior to the benefits of the  
25 standard bankruptcy claims procedures.”). For all the reasons thus far stated herein, the Debtors  
26 do not believe the Court needs to even reach the Civil Rule 23 factor. The Debtors briefly address  
27 them below; however, they reserve their right to supplement their briefing on these points should  
28 they be placed by the Court into central focus.

Under Civil Rule 23(a), the Movants must show that “(1) the class is so numerous that joinder of all members is impracticable; (2) there are questions of law or fact common to the class; (3) the claims or defenses of the representative parties are typical of the claims or defenses of the class; and (4) the representative parties will fairly and adequately protect the interests of the class.” Thereafter, the Movants must show that they constitute one of the types of class actions described in Civil Rule 23(b), which the Movants have stated they fit under both (b)(1) and (b)(3). (*See* Motion pp. 12-13.) “The presence of such a ‘virgin class’ necessitates heightened analysis of whether [Civil Rule] 23 requirements are satisfied here.” *See Sacred Heart*, 177 B.R. at 23 (referring to a class action that had not only not yet been certified, but had been filed only two days before the bankruptcy filing). As touched on below, the Movants do not and cannot show that they satisfy all of these threshold requirements, or that the class action would be superior to the standard bankruptcy claims process.

Most generally, in making their Motion, the Movants improperly rely on nothing more than overwhelmingly conclusory allegations and some statutory filings pursuant to ERISA and the Internal Revenue Code. They do not, however, provide any relevant declarations or exhibits in support of their allegations. Under binding Supreme Court and Ninth Circuit precedent, a class cannot be certified on this basis. *See, e.g., Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 350 (2011) (“[Civil] Rule 23 does not set forth a mere pleading standard. A party seeking class certification must affirmatively demonstrate [their] compliance with the Rule—that is, [they] must be prepared to prove that there are *in fact* sufficiently numerous parties, common questions of law or fact, etc.” (emphasis in original)); *Blackie v. Barrack*, 524 F.2d 891, 900-01 (9th Cir. 1975) (the moving party must provide the court with “material sufficient to form a reasonable judgment on each requirement.”). This burden remains with the Movants.<sup>18</sup>

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<sup>18</sup> Movants make an incorrect blanket statement that, “should Debtor oppose this motion, it will have the burden of demonstrating why the class claim should not be permitted.” (Motion p. 7, ll. 15-16 (citing *First Alliance*, 269 B.R. at 445)). The Debtors also disagree that the statement in *First Alliance* from almost twenty years ago regarding the burden is the accepted statement of law; it is at most restricted to consideration of a bankruptcy court’s discretion under Bankruptcy Rule 9014 whether to extend Bankruptcy Rule 7023, and not the Court’s “rigorous analysis” under Civil Rule

1        Numerosity: If the Movants’ claims are legitimately applied to all Plan A participants, it  
2 would seem fairly straightforward that there would be a large number of class members, a number  
3 that may often satisfy the term “numerous” for certifying a class in other circumstances. However,  
4 two primary points belie characterization of the Plan A participants as being “so numerous that  
5 joinder of all members is impracticable.” First, the Plan A participants do not act for themselves  
6 and accordingly lack standing in their individual capacity. Prepetition, their interests been  
7 represented by the Plan, and postpetition, their interests are being represented by the PBGC, as  
8 evidenced by the PBGC Claims. Accordingly, to the extent any of the Plan A claims are legitimate,  
9 the holders thereof are not so numerous.

10        Furthermore, to the extent they would have standing in an individual capacity, the proper  
11 number would not actually be as large as the total class. “[G]iven that each of [the putative class  
12 members] received actual and constructive notice of the Claims Bar Date, [the total number of  
13 putative class members] is not the appropriate number to look at in determining numerosity. Those  
14 parties who did not file proofs of claim prior to the Claims Bar Date are barred and have no claim.  
15 Therefore, the only possible number to consider when determining numerosity is the [number of]  
16 persons who did file proofs of claim.” *FIRSTPLUS Fin.*, 248 B.R. at 74. This would only be a  
17 maximum of three.<sup>19</sup>

18        Finally, even adding nearly 7,000 claims would not actually be an administrative hurdle in  
19 a bankruptcy case the way it might in a separately-filed class action lawsuit. Here, there has  
20 “already [been] established a structure for processing large numbers of claims and [thousands of]  
21 claims had been filed under the process.” *See Gentry*, 668 F.3d at 93-94 (“[T]he court [below]  
22 could reasonably conclude that even several thousand claims would better be handled by the well-  
23 functioning claims resolution process that the court had already put into place. Indeed, the court  
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25        23. *See First Alliance*, 269 B.R. at 448 (supporting that it is always for the class claimants to  
26 “establish[] the pre-requisites for class certification”).

27        <sup>19</sup> The Debtors object to the single purported class claim as serving the purpose of individual claims  
28 as well.



1 could discern no substantial benefit in allowing the claimants to proceed through a class action  
2 process in this case, and we find no reason to find this to be an abuse of discretion”).

3       Commonality: Civil Rule 23(a)(2) is satisfied when there is a “common contention . . . of  
4 such a nature that it is capable of classwide resolution—which means that determination of its truth  
5 or falsity will resolve an issue that is central to the validity of each one of the claims in one stroke.”  
6 *Wal-Mart*, 564 U.S. at 350. “To meet this standard, the class members must not only ‘have all  
7 suffered a violation of the same provision of law’ but must ‘have suffered the same injury.’” *Humes*  
8 *v. First Student, Inc.*, No. 17-17072, 2019 WL 413687, at \*1 (9th Cir. Feb. 1, 2019) (quoting *Wal-*  
9 *Mart*, 564 U.S. at 350). Taking the Movants’ allegations at face value, commonality sounds  
10 relatively non-contentious. However, again, that is all we have: superficial, unsubstantiated  
11 allegations. It is not enough to just pose a question that may apply to numerous people if  
12 substantiated. Proof is required to satisfy commonality under Civil Rule 23(a). *See Hanlon v.*  
13 *Chrysler Corp.*, 150 F.3d 1011, 1019-20 (9th Cir. 1998). In employment and wage claim cases,  
14 “utterly threadbare allegations that a group is exposed to illegal policies and practices are [not]  
15 enough to confer commonality. As *Wal-Mart* made clear, Civil Rule 23(a) is not a pleading  
16 standard; rather, it requires proof that there are ‘*in fact* ... common questions of law or fact.’”  
17 *Parsons v. Ryan*, 754 F.3d 657, 683 (9th Cir. 2014). “[T]he district court [is] required to resolve  
18 any factual disputes necessary to determine whether there was a common pattern and practice that  
19 could affect the class *as a whole*. If there is no evidence that the entire class was subject to the  
20 same allegedly [prohibited] practice, there is no question common to the class.” *Ellis v. Costco*  
21 *Wholesale Corp.*, 657 F.3d 970, 983 (9th Cir. 2011) (emphasis in original). Here, the Motion  
22 presents nothing more than “threadbare allegations” that the Debtors violated legal requirements  
23 owed to the Plan A participants. Every single allegation is nothing more than a recitation of legal  
24 requirements and conclusory statements. This is insufficient and as such, the Motion should be  
25 denied.

26       Typicality: Similar to commonality, this element appears possible on the surface level.  
27 However, without actual support for the allegations, even this element cannot be satisfied. It is not  
28 clear, for example, if Movants’ claims are typical of Plan A participants who are no longer

1 employed by the Debtors; or typical of Plan A participants who were employed after Plan B had  
2 already been spun off. At minimum, it would be premature without conducting discovery to even  
3 determine the satisfaction of any of these prerequisites at this juncture based solely on the Motion.  
4 Given all of the reasons noted above, however, the Court should simply deny the Motion and with  
5 it, the need to conduct such discovery.

6 Adequacy: “[Civil] Rule 23(a) (4)’s adequacy requirement ensures that absent class  
7 members are afforded competent representation before entry of a judgment which binds them.”  
8 *Hanlon*, 150 F.3d at 1020. “Class representation is inadequate if the named plaintiff fails to  
9 prosecute the action vigorously on behalf of the entire class or has an insurmountable conflict of  
10 interest with other class members.” *Hesse v. Sprint Corp.*, 598 F.3d 581, 589 (9th Cir.2010) (*citing*  
11 *Hanlon*, 150 F.3d at 1020). Some courts define this element not only with regard to “the interests  
12 and incentives of the representative plaintiffs,” but also “concerning the experience and  
13 performance of class counsel.” *See, e.g., Pac. Sunwear*, 2016 WL 3564484, at \*8. Here, it is  
14 already questionable whether these three Movants can adequately represent their purported class.  
15 Having had notice of the events that gave rise to their allegations prior to the Petition Date, they  
16 waited until the Bar Date to file this Motion, and still have not commenced any lawsuit. As for  
17 their counsel, it is also not clear that they adequately represent the purported class’s best interests.  
18 Beyond already serving as counsel to one of the Debtors’ several unions, with other duties that may  
19 diverge with the Plan A participants’ best interests,<sup>20</sup> it is unclear why they did not advise Movants  
20 to act earlier. As a small example, unlike PBGC’s counsel who worked with Debtors’ counsel to  
21 get a stipulation authorizing consolidated proofs of claim filed and ordered three weeks before the  
22 Bar Date, Movants’ counsel “contacted the Debtor’s attorneys on March 28, 2019 to gain a  
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24 <sup>20</sup> As just one example, SEIU has separately filed proofs of claim against the Debtors, including  
25 against VHS, St. Louise Regional Hospital, St. Vincent Medical Center, St. Francis Medical Center  
26 and O’Connor Hospital for liability on account of contributions to Plan A required under the  
27 corresponding collective bargaining agreements. *See, e.g., Alberts Declaration*, ¶ 7, Exhibit G. To  
28 the extent Movants’ claims and SEIU’s claims are duplicative, the Debtors will file appropriate  
objections in due time.

1 stipulation to file a class proof of claim”—two business days before the Bar Date. Moreover, as  
2 addressed elsewhere herein, counsel’s request for attorneys’ fees in the Motion is inappropriate.

3 Although there may be theoretical arguments supporting the satisfaction of Civil Rule 23(a)  
4 prerequisites, none is by any means an ace, and each has some material deficiencies. And in any  
5 case, Movants must also satisfy Civil Rule 23(b). Movants argue they satisfy both Civil Rule  
6 23(b)(1) and (b)(3). The Debtors disagree.

7 Inconsistency: Civil Rule 23(b)(1) arguably has no application to the bankruptcy context,  
8 where claims are all administered in a single forum, and debtors have available several tools for  
9 consistent adjudication, such as omnibus claims objections and bankruptcy plans. For example,  
10 “there is little or no risk of inconsistent and varying adjudications since this Court has jurisdiction  
11 over all the parties involved.” *FIRSTPLUS Fin.*, 248 B.R. at 75. Furthermore, “Rule 23(b)(1)(B)  
12 refers to a situation where there is a finite amount of money to satisfy all claims and wherein one  
13 plaintiff could exhaust the fund to the detriment of the other potential claimants. There is no such  
14 risk in the context of a bankruptcy case since bankruptcy procedures provide for a *pro rata*  
15 distribution to all claimants who have allowed claims.” *Id.* at 75-76.

16 Superiority: With regard to Civil Rule 23(b)(3), “[t]he superiority and efficiency of the  
17 bankruptcy claims resolution process over class litigation is well established.” *In re Circuit City*  
18 *Stores, Inc.*, No. 08-35653, 2010 WL 2208014, at \*6 (Bankr. E.D. Va. May 28, 2010), *aff’d in part*  
19 *on other grounds sub nom. Gentry*, 668 F.3d 83; *see also Ephedra*, 329 B.R. at 5 (“[S]uperiority of  
20 the class action vanishes when the ‘other available method’ is bankruptcy.”); *Bally Total Fitness*,  
21 411 B.R. at 145 (“many of the perceived advantages of class treatment drop away” in a bankruptcy  
22 proceeding); *In re Computer Learning Ctrs., Inc.*, 344 B.R. 79, 93 (Bankr. E.D. Va. 2006) (“Thus,  
23 the class action in this case is not superior to this bankruptcy case for the fair and efficient  
24 adjudication of the controversy.”).

25 **C. The Claims (If They Exist, Which They Do Not) Are Solely Prepetition.**

26 Finally, it should be noted that because the transfer that allegedly caused the subject claim  
27 occurred in 2016, any claim is prepetition. *In re Abercrombie*, 139 F.3d 755, 757 (9th Cir. 1998).  
28 Moreover, because such a claim is prepetition, the Ninth Circuit Court of Appeals has repeatedly

1 held that any attorney's fees related thereto, if allowable, would also be prepetition. *See id.* at 758  
2 (holding that creditors' post-petition attorneys' fees incurred in litigation over a contract entered  
3 into before the petition date are not entitled to administrative priority); *see also Christian Life Ctr.*  
4 *Litig. Defense Comm. v. Silva (In re Christian Life Ctr.)*, 821 F.2d 525, 533 (9<sup>th</sup> Cir. 1987)  
5 (disallowing administrative priority to indemnitee for post-petition attorneys' fees covered by  
6 corporate indemnity). In this case, Movant's attorneys' fees do not fit into any category of  
7 administrative expense enumerated by the Bankruptcy Code. *See* 11 U.S.C. § 503; *see also*  
8 *Abercrombie*, 139 F.3d at 757 (stating "[n]o § 503 concerns are triggered" by attorneys' fees for  
9 prepetition claim). Of course, because there is no claim, this issue should be moot.

10 **IV. CONCLUSION**

11 WHEREFORE, the Debtors respectfully request that the Court enter an order (i) overruling  
12 the Motion in its entirety and (ii) granting such further relief as necessary.

13 Dated: April 23, 2019

DENTONS US LLP  
SAMUEL R. MAIZEL  
TANIA M. MOYRON  
SAM J. ALBERTS

17 By /s/ Tania M. Moyron  
Tania M. Moyron

18 Attorneys for the Chapter 11 Debtors and  
19 Debtors In Possession

DENTONS US LLP  
601 SOUTH FIGUEROA STREET, SUITE 2500  
LOS ANGELES, CALIFORNIA 90017-5704  
(213) 623-9300

**DECLARATION OF RICHARD G. ADCOCK**

I, Richard G. Adcock, hereby declare that if called as a witness, I would and could competently testify thereto, of my own personal knowledge, as follows:

1. I am the Chief Executive Officer of Verity Health System of California, Inc. (“VHS”). I became the Debtors’ Chief Executive Officer effective January 2018. Prior thereto, I served as VHS’s Chief Operating Officer since August 2017.

3. I submit this declaration (“Declaration”) in support of the Debtors’ Objection To The Motion of Lynn C. Morris, Hilda Daily and Noe Guzman For Authorization to File Class Proof of Claim on Behalf of Claimants Allegedly Similarly Situation (the “Objection”). All capitalized terms not defined herein have the meaning ascribed to them in the Objection.

2. I have extensive senior-level experience in the not-for-profit healthcare arena, especially in the areas of healthcare delivery, hospital acute care services, health plan management, product management, acquisitions, integrations, population health management, budgeting, disease management and medical devices. I have meaningful experience in both the technology and healthcare industries in the areas of product development, business development, mergers and acquisitions, marketing, financing, strategic and tactical planning, human resources, and engineering.

3. Prior to VHS, from 2014 until 2017, I served as Executive Vice President and Chief Innovation Officer of Sanford Health, a large integrated health system headquartered in the Dakotas and is dedicated to health and healing. In this role, I was responsible for leading Sanford Health’s growth and innovation, in addition to direct operational oversight of the following related entities: Sanford Research, Sanford Health Plan, Sanford Foundation (a philanthropic fundraising foundation), Sanford Frontiers (a commercial and real estate company), Profile by Sanford (a scientific weight loss program), and Sanford World Clinic (which operates clinics in multiple countries).

DENTONS US LLP  
601 SOUTH FIGUEROA STREET, SUITE 2500  
LOS ANGELES, CALIFORNIA 90017-5704  
(213) 623-9300

1           4.       From 2012 to 2017, I served as the President of Sanford Frontiers and was  
2 responsible for starting a new entity within Sanford Health focused on innovative ventures. From  
3 2008 to 2012, I served as Executive Vice President of Sanford Clinic. I was responsible both for (i)  
4 working directly with the President of the Clinic to the lead team of Vice Presidents in all aspects  
5 of management, and (ii) Sanford World Clinics operations, including the design, opening and  
6 operation of several global clinics. From 2006 to 2008, I served as the Vice President of Sanford  
7 Clinic and was responsible for leading strategic, operational and financial aspects within Sanford  
8 Clinic. From 2004 to 2006, I served as Director of Clinical Operations at Sanford Children's  
9 Specialty Clinic and was responsible for leading the Pediatric Subspecialty Physician program and  
10 the clinical practice through all facets of the operation.

11           5.       Prior to Sanford Health, I served as the Director of Engineering and Six Sigma  
12 Master Black Belt at GE Medical Systems, and before that I was the Vice President of Research  
13 and Development and the Co-Owner/Founder of Micro Medical Systems. I have a bachelor of  
14 science in business administration and a masters of business administration in healthcare  
15 management.

16           6.       Before the Petition Date, I approved the creditor matrix to be used for noticing of  
17 large bankruptcy events, such as the bankruptcy filing and the deadline by which all creditors  
18 against and interest holders in the Debtors were obligated to file a proof of claim with the claims  
19 agent. Included in this creditor matrix were all current employees as of the Petition Date, and all  
20 former employees with known owed amounts or litigation. The A/B Plan participants were not  
21 included as a separate category in the creditor matrix (although there was substantial overlap)  
22 precisely because the A/B Plan administrator expressly instructed us not to notice the plan  
23 participants separately, but rather that they would keep the participants apprised of all important  
24 developments, deadlines and events.

25  
26 INTENTIONALLY LEFT BLANK.  
27  
28

1 I declare under penalty of perjury that, to the best of my knowledge and after reasonable  
2 inquiry, the foregoing is true and correct.

3 Executed this 23 of April 2019, at Los Angeles, California.  
4

5  
6 SIGNATURE TO BE SUBMITTED

7 Richard G. Adcock  
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601 SOUTH FIGUEROA STREET, SUITE 2500  
LOS ANGELES, CALIFORNIA 90017-5704  
(213) 623-9300

**DECLARATION OF STEVEN C. SHARRER**

I, Steven C. Sharrer, declare, that if called as a witness, I would and could competently testify thereto, of my own personal knowledge, as follows:

1. I am the Chief Human Resources Officer for Verity Health System. I became the Debtors' Chief Human Resources Officer effective August 21, 2017. As Chief Human Resources Officer, I lead talent recruitment and management, labor relations and workforce planning and development. My role is to ensure that the Verity Health System's human resources programs are aligned with System goals.

2. In addition to my position as Chief Human Resources Officer, I am also a member of the Benefits Administration Committee ("BAC")

3. I submit this declaration ("Declaration") in support of the *Debtors' Objection To The Motion of Lynn C. Morris, Hilda Daily and Noe Guzman For Authorization to File Class Proof of Claim on Behalf of Claimants Allegedly Similarly Situation* (the "Objection"). All capitalized terms not defined herein have the meaning ascribed to them in the Objection.

4. I have more than twenty years of human resources management experience in the healthcare industry alone, including most recently as Vice President for Human Resources at Hazel Hawkins Memorial Hospital in Hollister, as well as Integrated Health Strategies in San Francisco, NantHealth in Culver City, Saint John's Health Center in Santa Monica and Sisters of Charity of Leavenworth Health System in Santa Monica. Between 2000 and 2007, I led the human resources departments at two hospitals within the Verity Health System: O'Connor Hospital and Saint Louise Regional Hospital.

5. I received my bachelor's degree in history at the University of Tampa and my master's degree in business administration at Golden Gate University. I am also a veteran of the U.S. Army and retired Lieutenant Colonel.

6. Except as otherwise indicated herein, this Declaration is based upon my personal knowledge, my review of relevant documents, information provided to me by employees of the Debtors or the Debtors' legal and financial advisors, or my opinion based upon my experience,



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LOS ANGELES, CALIFORNIA 90071-3124  
(213) 688-1000

1 knowledge, and information concerning the Debtors' operations and the healthcare industry. If  
2 called upon to testify, I would testify competently to the facts set forth in this Declaration.

3 7. The creation of Plan B was approved and authorized by the Board of VHS, not the  
4 BAC, as reflected in the Board of Directors minutes of December 28, 2016. Attached hereto as  
5 Exhibit "1" is a true and correct copy of the Verity Health System Board of Directors, Special  
6 Session Telephonic Meeting, Minutes, dated Thursday, December 28, 2016.

7 8. Neither I nor any other member of the BAC is a beneficiary of Plan B.

8 9. No member of management of the Debtors or the Board of Directors of VHS is a  
9 Plan B beneficiary.

10 10. Based upon my review of information, I understand that all amounts used to fund  
11 the Verity Plan A and Plan B were borrowed.

12 11. To my knowledge, all defined contribution plans (the "DC Plans") are fully funded  
13 as of the last pay cycle. I have no reason to believe that any future amounts that become due and  
14 owing with respect to the DC plans will be unfunded.

15 12. On April 5, 2019, I along with professionals representing the Debtors in this  
16 Bankruptcy Case and professionals representing the Verity Plan A and Verity Plan B, spoke with  
17 persons from the Pension Benefit Guaranty Corporation ("PBGC"). The purpose of that call was  
18 to discuss the PBGC terminating and taking over the trustee and administration of the A/B Plans.  
19 Toward that end, the PBGC has provided requests for information, which are currently being  
20 responded to by Verity. The PBGC stated that the termination process would begin promptly.

21 13. Subsequent to that April 5, 2019 conversation, the PBGC confirmed that  
22 termination of the A/B Plans may occur as soon as May 2019.

23 I declare under penalty of perjury and of the laws in the United States of America, the  
24 foregoing is true and correct.

25 Executed this 25<sup>th</sup> day of April, 2019, at Los Angeles, California.

26  
27 

28 Steven C. Sharrer

# **Exhibit 1**

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**VERITY HEALTH SYSTEM  
BOARD OF DIRECTORS MEETING**

**SPECIAL SESSION**

*Thursday, December 28, 2016, 7:00 am*

**TELEPHONIC MEETING**

**MINUTES**

**PRESENT**

Jack Krouskup, *Board Chair*  
Terry Belmont  
Jeffrey Flocken  
Andrew Pines

**ABSENT**

Ernest Agatstein, M.D.  
Charles Patton  
James Pieri, *Board Secretary*

**MANAGEMENT/ STAFF**

Stephen Forney, *Chief Financial Officer*  
Andrei Soran, *Chief Executive Officer*  
J. Mark Waxman, *General Counsel*  
Sharon Wu, *Deputy General Counsel, Recorder*

**GUESTS**

John Chesley, *Ropes & Gray LLP*  
Bruce Gaffney, *Ropes & Gray LLP*  
Chris Selecky, *incoming Board member*

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**1. CALL TO ORDER**

Mr. Jack Krouskup, Board Chair, called the meeting to order at 7:05 am. Each participant in the meeting could hear and be heard by each other participant in the meeting.

**2. DE MINIMIS SPIN-OFF INVOLVING VERITY RETIREMENT PLAN**

Mr. Andrei Soran, Chief Executive Officer, provided the Board with a brief overview of the proposed "de minimis" spin-off of a portion of the Verity Health System Retirement Plan (the "Plan") in order to reduce current and future premium costs from Pension Benefit Guaranty

Corp ("PBGC"). Mr. Stephen Forney, Chief Financial Officer, presented the details of the spin-off plan. Specifically, the assets spun off to the new de minimis plan must be no more than 3% of the total assets of the Plan before the spin-off per IRS regulations, which is approximately \$8 million. In order to qualify as a de minimis spin-off, a plan sponsor must transfer assets equal to the benefit obligations being spun-off to the new plan. As the result, the spun-off plan is fully funded and does not have a variable-rate premium ("VRP"). The goal of the spin-off is to have as many participants transferred to the spinoff plan as possible because the savings is based on the number of participants in the spinoff plan. Once the headcount is reduced in the original plan while maintaining the same unfunded obligation, the VRP for the original plan is reduced due to the \$500 per participant cap being applied to a lower headcount. As a result of the spin-off, PBGC premiums paid by the Plan is estimated to decrease by \$300,000 to \$800,000 in 2017. The annual savings will continue for each subsequent year. The actual savings will be determined by the final number of members who can be moved to the new spinoff plan. Management is still finalizing on the appropriate categories of employees to transition to the de minimis spinoff plan. The Board and Management engaged in a discussion relating to the details and rationale of the spin-off.

Mr. John Chesley of Ropes & Gray LLP discussed the potential impact of the AG Condition governing Verity's Retirement Plan. Mr. Chesley believes that the spinoff would not impact the intent behind the AG Condition, and has emailed Ms. Wendi Horwitz, Deputy Attorney General on December 22, 2016 to provide notice of this proposed change. Mr. Chesley also noted that the proposed de minimis spinoff will not alter the Plan participants' substantive rights or protections, and will benefit Verity by reducing costs.

**3. BOARD RESOLUTION**

Following the presentation by Management and outside counsel, and discussion among the Board, the Board members present unanimously approved of the Resolution 2016-12-28-1 Approval of Spinoff Retirement Plan attached hereto as Exhibit A.

**4. OTHER BUSINESS**

There being no further business before the Board, the meeting was adjourned at 7:26 a.m.

  
Jack Krouskup, Board Chair

4/4/17  
\_\_\_\_\_  
Date

  
Sharon Wu, Recording Secretary

4/4/2017  
\_\_\_\_\_  
Date

EXHIBIT A

**RESOLUTION 2016-12-28-1  
OF THE BOARD OF DIRECTORS  
Verity Health System of California, Inc.  
Re: Approval of Spinoff Retirement Plan**

WHEREAS, Verity Health System ("Verity") maintains the Verity Health System Retirement Plan, as amended and restated effective December 14, 2015 (the "Plan");

WHEREAS, Section 13.1 of the Plan reserves to Verity Health System the right to amend the Plan in any respect and at any time;

WHEREAS, Verity Health System desires to amend the Plan by spinning off to a new and separate plan maintained by Verity the liability attributable to certain participants in the Plan and assets equal to such liability;

WHEREAS, the individuals whose benefit liabilities and assets to be spun-off from the Plan will consist of those participants with frozen benefits in the Plan with the lowest present value of accrued benefit (PVAB) for which the aggregate PVAB is not more than 3% of total Plan assets, as determined by the Plan actuaries based on data provided for actuarial valuation purposes; and

WHEREAS, the management of Verity will finalize, prior to December 31, 2016, the composition of such group of participants to be spun-off to the Spinoff Plan upon delivery of final data from the Plan actuaries.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

RESOLVED: That the Board of Directors of Verity Health System ("Verity", and the Board of Directors of Verity, the "Board") hereby adopts and approves and authorizes the amendment of the Verity Health System Retirement Plan (the "Plan"), effective December 31, 2016, in or substantially in the form attached hereto as Exhibit A, but with such changes as an officer of Verity deems to be necessary or desirable that are not substantially at variance with the amendment presented, which amendment provides for a spin-off of benefit liabilities and assets with respect to the participants designated in said amendment from the Plan into a newly established single-employer defined benefit plan sponsored and maintained by Verity.

RESOLVED: That the Board hereby adopts and approves and authorizes the establishment of the new Verity Health System Spinoff Retirement Plan (the "Spinoff Plan"), effective December 31, 2016, in or substantially in the form attached hereto as Exhibit B, but with such changes as an officer of Verity deems to be necessary or desirable that are not substantially at variance with the Spinoff Plan document presented, which document establishes the Spinoff Plan effective December 31, 2016.

RESOLVED:

That the officers of Verity be and they hereby are and each of them acting singly hereby is authorized and directed in the name and on behalf of Verity to take any and all actions as may seem necessary or appropriate to such officer or officers so acting in putting into effect the foregoing resolutions, including, without limitation, finalizing the group of participants to be spun-off to the Spinoff Plan, executing any required plan amendments and documents, notifying participants and executing and delivering any required forms, returns, agreements or other documents in connection with the foregoing, and that the taking of any such action by such officer or officers shall be conclusive evidence that the same has been approved by the Board.

The undersigned Secretary of the Board hereby certifies that this document is a true and complete copy of resolutions adopted by the Board at a meeting held on December 28, 2016.

Dated: 02/07/2017

  
James Pieri, Secretary

**DECLARATION OF BRUCE C. GAFFNEY**

I, Bruce C. Gaffney, declare, that if called as a witness, I would and could competently testify thereto based on my own personal knowledge, as follows:

1. I am a Principal at Ropes & Gray, LLP located in Boston, Massachusetts.

2. I make this declaration in connection with the *Debtors' Objection To The Motion of Lynn C. Morris, Hilda Daily and Noe Guzman For Authorization to File Class Proof of Claim on Behalf of Claimants Allegedly Similarly Situated* (the "Objection"). Capitalized terms not defined herein are defined in the Objection.

3. I obtained a B.A. in Mathematics from Harvard College in 1985. Among my professional credentials I am an Enrolled Actuary. In addition, I am an Associate, Society of Actuaries, a Member, American Academy of Actuaries and Fellow, Conference of Consulting Actuaries. In addition, I have been a presenter at various national actuarial conferences (including the Enrolled Actuaries Meeting and the annual meetings of the Conference of Consulting Actuaries and Society of Actuaries), Former Member, Enrolled Actuaries Meeting Program Committee (Chairman of 2009 Meeting). I previously served on the Pension Committee of the Actuarial Standards Board.

4. I have personally worked with and advised the Daughters of Charity Health System ("DCHS") and Verity Health System ("VHS" or "Verity") since 2002. Others at Ropes & Gray have worked with DCHS and Verity since 2001.

5. My understanding is that the Debtors retained certain obligations with respect to the DB Plan following the recapitalization and restructuring of DCHS to become Verity. My understanding is that, prior to the takeover, the DCHS was obligated under the RPHE and a predecessor of the Verity Plan A that was a single employer non-ERISA "Church Plan." Upon Verity's investment in the system, it converted the Church Plan into the ERISA-compliant Verity Health System Retirement Plan ("Verity Plan"), which allowed for it to become partially insured by the Pension Benefit Guaranty Corporation ("PBGC") for which the Debtors paid PBGC premiums.



1           6.     On December 28, 2016, the Board of Directors of VHS converted the Verity  
2 Plan into Plan A and created Plan B. I was present for the December 28, 2016, Special  
3 Session of the Board of Directors of VHS (a telephonic meeting) which approved the  
4 creation and funding of the Verity Plan B.

5           7.     In the planning and implementation of Plan B, the Ropes & Gray team,  
6 including licensed lawyers and myself, worked in conjunction with Verity and the advisors  
7 of WillisTowersWatson.

8           8.     To my knowledge, the purpose of Plan B was to minimize insurance  
9 obligations that would be owed to the PBGC for Plan A, which was underfunded. My  
10 understanding is that the most significant factor in the selection of persons who were placed  
11 in Plan B was the value of their benefit; that is, Verity chose the greatest number of  
12 employees with the lowest benefit value for Plan B in order to have the greatest impact on  
13 reducing insurance premiums (which are based on the Plan A participant count). To my  
14 knowledge, union members were not transferred to Plan B due to concerns about  
15 restrictions of collective bargaining agreements.

16          9.     I, along with my colleagues, William Littell, and Sam J. Alberts of Dentons  
17 (Verity's bankruptcy counsel), assisted Verity in responding to the Fourth Set of  
18 Information Requests by SEIU United Healthcare Workers - West with respect to  
19 information provided on Plan B and other pension-related information.

20          10.    On January 22, 2019, in response to a request from Mr. Bill Sokol of the law  
21 firm of Weinberg, Roger & Rosenfeld, I joined a call with Mr. Sokol. My colleagues  
22 William Littell and Sam J. Alberts of Dentons (Verity's bankruptcy counsel) also  
23 participated on that call. During that call, I and Mr. Littell discussed the formation and  
24 funding of Plan B, as well as the legal support for the creation and funding of Plan B. We  
25 explained to Mr. Sokol why persons were selected for Plan B; that is, they held benefits  
26 with the lowest values, which permitted more of them to transfer to Plan B, in turn reducing  
27 the insurance costs for Plan A.

28

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Bruce C. Gaffney  
Bruce C. Gaffney

# **Exhibit 1**

**Odum, Lori L.**

---

**From:** Littell, William M. <William.Littell@ropesgray.com>  
**Sent:** Monday, April 22, 2019 2:59 PM  
**To:** Alberts, Sam J.  
**Subject:** FW: Verity Plan Discussion

**Bill Littell**

Senior Consultant

**ROPES & GRAY LLP**

T +1 617 951 7092

Prudential Tower, 800 Boylston Street

Boston, MA 02199-3600

[william.littell@ropesgray.com](mailto:william.littell@ropesgray.com)

[www.ropesgray.com](http://www.ropesgray.com)

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**From:** Littell, William M.  
**Sent:** Tuesday, January 22, 2019 5:41 PM  
**To:** 'Bill Sokol' <BSokol@unioncounsel.net>  
**Subject:** RE: Verity Plan Discussion

Bill, I'm glad it helped. We're happy to discuss any follow up questions you might have – particularly in light of the fact that the spinoff was in no way designed to favor executives.

Best,  
Bill

---

**From:** Bill Sokol <[BSokol@unioncounsel.net](mailto:BSokol@unioncounsel.net)>  
**Sent:** Tuesday, January 22, 2019 4:28 PM  
**To:** Littell, William M. <[William.Littell@ropesgray.com](mailto:William.Littell@ropesgray.com)>  
**Subject:** RE: Verity Plan Discussion

Thanks for the clarity.....frankly, I think the folks we represent will take issue because they see executives taking care of themselves at the cost of workers who are already substantially underfunded. The legal issue, of course, if they pursue this will be whether it's a 404 problem  
Bill Sokol

---

**From:** Littell, William M. [<mailto:William.Littell@ropesgray.com>]  
**Sent:** Tuesday, January 22, 2019 12:07 PM  
**To:** Bill Sokol  
**Subject:** RE: Verity Plan Discussion

Happy to, thanks

**William M. Littell**  
**ROPES & GRAY LLP**

T +1 617 951 7092  
Prudential Tower, 800 Boylston Street  
Boston, MA 02199-3600  
[william.littell@ropesgray.com](mailto:william.littell@ropesgray.com)  
[www.ropesgray.com](http://www.ropesgray.com)

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**From:** Bill Sokol <[BSokol@unioncounsel.net](mailto:BSokol@unioncounsel.net)>  
**Sent:** Tuesday, January 22, 2019 2:42 PM  
**To:** Littell, William M. <[William.Littell@ropesgray.com](mailto:William.Littell@ropesgray.com)>  
**Subject:** RE: Verity Plan Discussion

Thanks for setting this up.  
Bill Sokol

-----Original Appointment-----

**From:** [Martha.Hardy@ropesgray.com](mailto:Martha.Hardy@ropesgray.com) [<mailto:Martha.Hardy@ropesgray.com>] **On Behalf Of** Littell, William M.  
**Sent:** Tuesday, January 22, 2019 9:11 AM  
**To:** Alberts, Sam J.; Bill Sokol; Chesley, John O.; Caitlin E. Gray; Emily Rich; Kirchner, David A.; Gaffney, Bruce C.; Odum, Lori L.  
**Subject:** Verity Plan Discussion  
**When:** Tuesday, January 22, 2019 4:00 PM-5:00 PM (UTC-05:00) Eastern Time (US & Canada).  
**Where:** 888-352-5988, passcode 2317780596#, or quickdial 888-352-5988,,2317780596#

**DECLARATION OF CARLOS DE LA PARRA**

I, Carlos De la Parra, declare, that if called as a witness, I would and could competently testify thereto based on my own personal knowledge, as follows:

1. I am a Director for Willis Towers Watson (“WTW”), actuary to the Debtors for the Verity Health System Plan A and Verity Health System Plan B (the “Plans”).<sup>1</sup>

2. I make this declaration in support of the *Debtors’ Objection To The Motion of Lynn C. Morris, Hilda Daily and Noe Guzman For Authorization to File Class Proof of Claim on Behalf of Claimants Allegedly Similarly Situated* (the “Objection”), which I have read and, with respect to the statements concerning the Debtors’ defined benefit plans, agree. Capitalized terms not defined herein are defined in the Response.

3. I obtained a B.S. in Actuarial Sciences from Instituto Tecnológico Autonomo de Mexico. Before joining WTW, I was a compensation analyst at Hewitt Associates from 2004 to 2005.

4. WTW has provided actuarial services for the Verity Health System, Inc. (“VHS,” formerly Daughters of Charity Health System) since 1995.

5. I have worked on WTW’s file for the Debtors since 2011, and I have been an Enrolled Actuary for the VHS pension plans since their conversion to ERISA status in 2015.

6. The Debtors are obligated under two single employer defined benefit plans – a large “Verity Plan A” and a small “Verity Plan B” (collectively the “A/B Plans”) -- and a large multiple employer defined benefits plan called the “RPHE” and a small defined benefit plan with the Stationary Engineers Local 39 (collectively the “DB Plans”). The Debtors are also obligated under several defined contribution plans (the “DC Plans”).

7. The Debtors’ obligations with respect to the DB Plans arose when they took effective control of the hospital system from the Daughters of Charity (the “DCHS”). Prior

---

<sup>1</sup> All capitalized terms not defined herein shall have the same meaning as those in the Debtors’ Omnibus Response to Objections to Motion to Pay Employee Wages and Salaries.

1 to the takeover, the DCHS was obligated under the RPHE and a predecessor of the Verity  
2 Plan A that was a single employer non-ERISA “Church Plan.” Upon Verity’s investment  
3 in the system, it converted the Church Plan into the ERISA-compliant Verity Health System  
4 Retirement Plan (“Verity Plan”), which allowed for it to become partially insured by the  
5 Pension Benefit Guaranty Corporation (“PBGC”) for which the Debtors paid PBGC  
6 premiums.

7 8. The DB Plans were significantly underfunded when Verity took them over  
8 on December 14, 2015.

9 9. Effective December 31, 2016, the Board of Directors of VHS converted the  
10 Verity Plan into Plan A and created Plan B. Plan B was funded with approximately  
11 \$7,966,440 from the corpus of the Verity Plan. The assets of the Verity Plan before the  
12 creation of Plan B was \$274,549,560. The amount transferred to Plan B was a dollar  
13 amount equal to the liabilities attributable to such beneficiaries (measured using actuarial  
14 assumptions consistent with the Treasury Regulations for this type of transaction) that were  
15 also shifted to Plan B.

16 10. Based upon my experience, plan restructurings, including plan mergers and  
17 the establishment of spin-off plans (such as Plan B) are not uncommon activities for plan  
18 sponsors to undertake. In establishing Plan B, I and others at Willis Towers Watson  
19 worked with Verity and outside legal counsel and advisors at Ropes & Gray.

20 11. Since taking over the Church Plan, converting it into Plan A, through to July  
21 31, 2018, VHS made all required contributions, which collectively total approximately  
22 \$95.9 million. Of that amount, approximately \$13.2 million was paid to the PBGC for  
23 insurance; and approximately \$41.68 million and \$7.73 million were contributed to Plan A  
24 during the fiscal years ended June 30, 2017 and 2016, respectively.

25 12. Since August 31, 2018 (the “Petition Date”), the Debtors have made  
26 contributions to the DB Plans with respect to CNA Actives, as well as related administrative  
27 expenses in the amounts set forth under the Court’s wage order in these cases [Docket No.  
28 612], which total \$1,135,036. Of the estimated remaining \$10.12 million for Postpetition

1 2018 and the expected \$35.53 million for 2019 contributions to Verity Plan A,  
2 approximately \$8.10 million and \$28.05 million, respectively, is for make-up of  
3 underfunded amounts that arose prior to VHS' acquisition of the plans from the DCHS.


4 13. The estimated underfunding of Plan A was \$106.1 million (under HAFTA  
5 accounting treatment, disregarding at-risk assumptions as of January 1, 2018) or \$198.6  
6 million (under ASC 715 treatment as of June 30, 2018) (and underfunding of the RPHE  
7 was \$65.3 million as of January 1, 2018).

8 14. Based upon information and belief, the PBGC is in the process of  
9 terminating Verity Plan A and Plan B. As such, in addition to amounts for underfunding,  
10 the PBGC has sought termination and other damages with respect to the A/B Plans under  
11 several proofs of claim. In addition, the RPHE has filed proofs of claim for underfunding  
12 and withdrawal liability.

13 I declare under penalty of perjury that the foregoing is true and correct.

14 Executed this 23rd day of April, 2019, in San Francisco, California:

15  
16 CARLOS DE LA PARRA  
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**DECLARATION OF SAM J. ALBERTS**

I, Sam J. Alberts, declare, that if called as a witness, I would and could competently testify thereto based on my own personal knowledge, as follows.

1. I am an attorney at law, licensed to practice in the Commonwealth of Virginia, the District of Columbia, the State of Washington and by reason of admission *pro hac vice* to the United States District Court for the Central District of California, in the United States Bankruptcy Court for the Central District of California.

2. I submit this declaration ("Declaration") in support of the *Debtors' Objection To The Motion of Lynn C. Morris, Hilda Daily and Noe Guzman For Authorization to File Class Proof of Claim on Behalf of Claimants Allegedly Similarly Situation* (the "Objection"). All capitalized terms not defined herein have the meaning ascribed to them in the Objection.

3. On January 14, 2019, I received from Caitlin E. Gray of the law firm of Weinberg, Rodger & Rosenfeld a *Fourth Set of Information and Document Requests by SEIU United Healthcare Workers-West (the "Union")* (the "Fourth Request"). The Fourth Request was served in the context of the §1113 relief being sought in this Bankruptcy Case connection with the then pending sale of assets to Santa Clara County. A true and correct copy of the service email from Ms. Gray is attached hereto as **Exhibit 1**.

4. On January 17, 2019, I served Verity's responses to the Fourth Request, with a slightly corrected version thereof to correct a typo ("production" rather than "reduction")) on the morning of January 18, 2019 (the "Response"). A true and correct of the transmittal e-mail in response and the Response, are attached hereto as **Exhibit 2** and **Exhibit 3**, respectively.

5. Attached hereto are true and correct copies of proofs of claim filed by the Pension Benefit Guaranty Corporation referred by designated claim number and exhibit number Proofs of Claim Nos. 4318 (**Exhibit 4**), 4325 (**Exhibit 5**), 4327 (**Exhibit 6**) (collectively, the "PBGC Plan A Claims"); 4281 (**Exhibit 7**), 4282 (**Exhibit 8**), 4287 (**Exhibit 9**) (collectively, the "PBGC Plan B Claims").

6. Attached hereto as **Exhibit 10** is a true and correct copy of the cover page and § 7.3 of the System Restructuring and Support Agreement by and among Daughters of Charity Ministry

DENTONS US LLP  
601 SOUTH FIGUEROA STREET, SUITE 2500  
LOS ANGELES, CALIFORNIA 90017-5704  
(213) 623-9300

DENTONS US LLP  
601 SOUTH FIGUEROA STREET, SUITE 2500  
LOS ANGELES, CALIFORNIA 90017-5704  
(213) 623-9300

1 Services Corporation, a California Nonprofit Religious Corporation, Daughters of Charity Health  
2 System, a California Nonprofit Religious Corporation, Certain Funds Managed by BlueMountain  
3 Capital Management, LLC, a Delaware Limited Liability Company, and Integrity Healthcare,  
4 LLC, a Delaware Limited Liability Company, dated as of July 17, 2015.

5 7. SEIU United Healthcare Workers-West ("SEIU") filed proofs of claim, referred by  
6 designated claim numbers 4718, 4719, 4722, 4723, 4725, 4726, 5117, 5137, 5140, 5150, 5158,  
7 5160, 6186, 6221 against the Debtors. Some of these are duplicative and/or amended. The proofs  
8 of claim filed against Debtors Verity Health System of California, Inc. ("VHS"), St. Louise  
9 Regional Hospital, St. Vincent Medical Center, St. Francis Medical Center and O'Connor Hospital  
10 include claims for liability under the corresponding collective bargaining agreements for Plan A  
11 contributions. As one example, attached hereto is a true and correct copy of the proof of claim,  
12 without the exhibits to the Summary of Claim, filed by SEIU against VHS referred by designated  
13 claim number and exhibit number Proof of Claim No. 4318 (**Exhibit 11**).

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

16 Executed this 23rd day of April, 2019, in Washington, DC.

17  
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24  
25  
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28



---

SAM J. ALBERTS

# **Exhibit 1**

**Alberts, Sam J.**

---

**From:** Caitlin E. Gray <CGray@unioncounsel.net>  
**Sent:** Monday, January 14, 2019 9:20 PM  
**To:** Alberts, Sam J.; Emily Rich  
**Cc:** Bruce Harland; Maizel, Samuel R.; Moyron, Tania M.; Doherty, Casey W.; Odum, Lori L.  
**Subject:** RE: Verity: Section 1113 Motion requests for information from UHW  
**Attachments:** DOCSNT-#1005619-v1-4th\_set\_of\_info\_requests.docx

Please find attached a set of information requests following up on the responses provided so far. Because our response to Verity's 1113 motion is due on the 16th, we would appreciate responses as soon as possible.

Thank you,

Caitlin & Emily

-----Original Message-----

From: Alberts, Sam J. [mailto:sam.alberts@dentons.com]  
Sent: Saturday, January 12, 2019 8:55 AM  
To: Emily Rich; Caitlin E. Gray  
Cc: Bruce Harland; Maizel, Samuel R.; Moyron, Tania M.; Doherty, Casey W.; Odum, Lori L.  
Subject: Re: Verity: Section 1113 Motion requests for information from UHW

Dear Emily and Caitlin,

Attached please find responses to your Third Information Request. Have a nice day.

Regards,

Sam

From: <Alberts>, Sam Alberts <sam.alberts@dentons.com<mailto:sam.alberts@dentons.com>>  
Date: Friday, January 11, 2019 at 7:57 PM  
To: Emily Rich <ERich@unioncounsel.net<mailto:ERich@unioncounsel.net>>  
Cc: Bruce Harland <bharland@unioncounsel.net<mailto:bharland@unioncounsel.net>>, Samuel Maizel <samuel.maizel@dentons.com<mailto:samuel.maizel@dentons.com>>, "Moyron, Tania M." <tania.moyron@dentons.com<mailto:tania.moyron@dentons.com>>, Casey Doherty <casey.doherty@dentons.com<mailto:casey.doherty@dentons.com>>, "Caitlin E. Gray" <CGray@unioncounsel.net<mailto:CGray@unioncounsel.net>>  
Subject: Re: Verity: Section 1113 Motion requests for information from UHW

Emily,

Per your request, Attached is a form of NDA. Please execute and return it to me at your earliest convenience. Thank you.

Regards,

Sam

# **Exhibit 2**

**Alberts, Sam J.**

---

**From:** Alberts, Sam J.  
**Sent:** Friday, January 18, 2019 11:12 AM  
**To:** Caitlin E. Gray  
**Cc:** Emily Rich; Bruce Harland; Doherty, Casey W.  
**Subject:** RE: Verity: Responses to Fourth Requests  
**Attachments:** Verity - SEIU-UHW Fourth Request Corrected.pdf

Caitlin,

Attached please find a substitute response to your Fourth Request. After sending out the response last night I noticed a typo in the General Response on page 1 (should have been "production" rather than "reduction"). Sorry for an inconvenience.

Regards,



Sam J. Alberts  
Partner

D +1 202 408 7004 | M +1 202 321 0777 | US Internal 27004  
sam.alberts@dentons.com  
Bio | Website

Dentons US LLP  
1900 K Street, NW, Washington, DC 20006

Hamilton Harrison & Mathews > Mardemootoo Balgobin > HPRP > Zain & Co. > Delany Law > Dinner Martin > Maclay Murray & Spens > Gallo Barrios Pickmann > Muñoz > Cardenas & Cardenas > Lopez Velarde > Rodyk > Boekel > OPF Partners > 大成

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**From:** Alberts, Sam J. <sam.alberts@dentons.com>  
**Sent:** Thursday, January 17, 2019 5:47 PM  
**To:** Caitlin E. Gray <CGray@unioncounsel.net>  
**Cc:** Doherty, Casey W. <casey.doherty@dentons.com>; Emily Rich <ERich@unioncounsel.net>; Bruce Harland <bharland@unioncounsel.net>; Maizel, Samuel R. <samuel.maizel@dentons.com>  
**Subject:** Verity: Responses to Fourth Requests

Please see the attached responses to SEIU's Fourth Requests.

Regards,

Sam

# **Exhibit 3**

**Fourth Set of Information and Document Requests  
by SEIU United Healthcare Workers - West (the "Union")**

For the Union's consideration of your Proposal, please provide the most complete and reliable information available as to the following topics.

Please provide specific, enumerated responses to each request and sub-part. To the extent that documents are necessary to fully respond, please provide those documents and identify which document or documents are responsive to each request and sub-part.

**General Response: The Debtors object to these requests as being irrelevant to the Proposal and pending 1113 Motions and not likely to lead to relevant information, and to the requests for confidential information the production of which could hinder the Debtors' ability to sell assets or otherwise liquidate. The Debtors have provided the Union with a form of confidentiality agreement that, if properly executed, will facilitate the production of confidential (although not privilege or work product) documents request.**

Please note that, to the extent any of the information requested is confidential, the Union is open to entering a confidentiality agreement covering sensitive information.

23. What entity created Verity Health System Retirement Plan B? **Response: The Debtors object to this request on the basis that the information sought is irrelevant to their proposal to modify the Union's collective bargaining agreement and the related 1113 Motion. Notwithstanding this objection, Verity Health System created Verity Health System Retirement Plan B.**

24. When was Verity Health System Retirement Plan B created? **Response: The Debtors object to this request on the basis that the information sought is irrelevant to their proposal to modify the Union's collective bargaining agreement and the related 1113 Motion. Notwithstanding this objection, Verity Health System Retirement Plan B was established December 31, 2016.**

25. How was Verity Health System Retirement Plan B funded? **Response: The Debtors object to this request on the basis that the information sought is irrelevant to their proposal to modify the Union's collective bargaining agreement and the related 1113 Motion. Notwithstanding this objection, Verity Health System Retirement Plan B was funded through a de minimis spin-off of assets and liabilities from Verity Health System Retirement Plan A. The de minimis spin-off was conducted pursuant to regulations issued under Internal Revenue Code section 414(I), which required that the assets spun off to Verity Health System Retirement Plan B amount to no more than 3% of the total Verity Health System Retirement Plan A assets before the de minimis spinoff. By regulation, the assets spun off to Verity Health System Retirement Plan B were equal to the liabilities spun off, making Verity Health System Retirement Plan B fully funded on an ongoing basis.**

**As a result of the de minimis spinoff, Verity Health System Retirement Plan A and Verity Health System Retirement Plan B paid significantly lower premiums – approximately \$1,000,000 less in total for 2017 and 2018 – to the Pension Benefit Guaranty**



Corporation ("PBGC") than would have been paid in the absence of a de minimis spin-off, with no impact on the PBGC insurance coverage for either plan. Moreover, because the de minimis spin-off initially lowered the funded percentage of the original Verity Health System Retirement Plan A by approximately 1%, in accordance with ERISA, Verity Health System was required to increase its cash funding contributions to Verity Health System Retirement Plan A by \$267,000 in 2017 and \$280,000 in 2018.

The individuals whose benefit liabilities and assets were spun-off from Verity Health System Retirement Plan A to Verity Health System Retirement Plan B were participants (none of whom was a Union member) with the smallest frozen benefits in Verity Health System Retirement Plan A, whose aggregate accrued benefits were not more than 3% of total Verity Health System Retirement Plan A assets.

26. What contributions, on a yearly basis, have been made to Verity Health System Retirement Plan B by any of the Debtors? **Response:** The Debtors object to this request on the basis that the information sought is irrelevant to their proposal to modify the Union's collective bargaining agreement and the related 1113 Motion. Notwithstanding this objection, the Debtors state the following. Because the spun-off Verity Health System Retirement Plan B was fully funded on an ongoing basis, no additional contributions have been made to Verity Health System Retirement Plan B since the original December 31, 2016 spin-off of assets and liabilities from Verity Health System Retirement Plan A.

By contrast, significant contributions have been made on a yearly basis to Verity Health System Retirement Plan A. For the 2016 plan year, Verity Health System contributed \$37.9 million to Verity Health System Retirement Plan A. For the 2017 plan year, Verity Health System contributed \$38.2 million to Verity Health System Retirement Plan A. For the 2018 plan year, Verity Health System contributed \$17.5 million to Verity Health System Retirement Plan A.

27. What contributions, on a yearly basis, if any, have been made by the Participants in Verity Health System Retirement Plan B? **Response:** The Debtors object to this request on the basis that the information sought is irrelevant to their proposal to modify the Union's collective bargaining agreement and the related 1113 Motion. Notwithstanding this objection, no contributions have ever been made by participants to Verity Health System Retirement Plan B (nor do participants make contributions to Verity Health System Retirement Plan A). These are employer-funded defined benefit pension plans.

28. Produce the written indications of interest submitted by the four potential bidders for the entire Verity Hospital System. **Response:** The Debtors object to this request on the basis that the information sought is irrelevant to their proposal to modify the Union's collective bargaining agreement and the related 1113 Motion. Notwithstanding this objection, the Debtors have provided the Union with a form of confidentiality agreement that, if executed, will facilitate the production of these requested indications of interest.

29. Produce the written indications of interest submitted by Santa Clara County, Alternate Bidder A (with the name of Alternate Bidder A redacted), and Alternate Bidder B.

**Response:** The Debtors object to this request on the basis that the information sought is irrelevant to their proposal to modify the Union's collective bargaining agreement and the related 1113 Motion. Notwithstanding this objection, it should be noted that neither of these parties actually submitted a bid. Alternative Bidder A submitted an indication of interest during the initial review period but after more extensive due diligence elected not to submit a letter of intent or a bid prior to the auction process. After the filing and approval of the bidding procedures, Alternative Bidder B requested access to the due diligence materials. After reviewing the due diligence materials, Alternate Bidder B elected not to pursue any of the Santa Clara County assets and did not submit any written offer, indication of interest or a bid prior to the auction. Further, the Debtors have provided the Union with a form of confidentiality agreement that, if executed, will facilitate the production of the requested indications of interest with respect to Bidder A (in redacted form as that bidder has advised the Debtors it wishes to keep its name confidential).

# **Exhibit 4**

Fill in this information to identify the case:

Claim #4318 Date Filed: 3/27/2019

Debtor 1 Verity Health System of California, Inc., et al.  
Debtor 2 \_\_\_\_\_  
(Spouse if filing)  
United States Bankruptcy Court for the: Central District of California  
(State)  
Case number 18-20151 (jointly administered)

Official Form 410

**Proof of Claim**

12/15

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. Do not send original documents; they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.

**Part 1: Identify the Claim**

1. Who is the current creditor?	<u>Pension Benefit Guaranty Corporation</u> Name of the current creditor (the person or entity to be paid for this claim) Other names the creditor used with the debtor _____	
2. Has this claim been acquired from someone else?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. From whom? _____	
3. Where should notices and payments to the creditor be sent?  Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)	Where should notices to the creditor be sent?  <u>Office of the General Counsel, Attn: Cameo M. Kaisler</u> Name <u>1200 K Street, N.W., Suite 340</u> Number Street <u>Washington, DC 20005-4026</u> City State ZIP Code  Contact phone <u>202-326-4020, x6912</u> Contact email <u>Salembier.Cameo@pbgc.gov</u>	Where should payments to the creditor be sent? (if different)  Name _____ Number Street _____ City State ZIP Code _____  Contact phone _____ Contact email _____
RECEIVED MAR 27 2019 KURTZMAN CARSON CONSULTANTS		
4. Does this claim amend one already filed?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Claim number on court claims registry (if known) _____ Filed on _____ MM / DD / YYYY	
5. Do you know if anyone else has filed a proof of claim for this claim?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Who made the earlier filing? _____ <input checked="" type="checkbox"/> Date Stamped Copy Returned <input type="checkbox"/> No self addressed stamped envelope <input type="checkbox"/> No copy to return	



**Part 2: Give Information About the Claim as of the Date the Case Was Filed**

6. Do you have any number you use to identify the debtor?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: _____
7. How much is the claim?	\$ 310,300,000 Does this amount include interest or other charges? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).
8. What is the basis of the claim?	Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card. Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c). Limit disclosing information that is entitled to privacy, such as health care information.  <u>Statutory Liability under 29 U.S.C. §§ 1362 and 1368 for unfunded benefit liabilities of the Verity Health System Retirement Plan A. See attached statement.</u>
9. Is all or part of the claim secured?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. The claim is secured by a lien on property.  Nature of property: <input type="checkbox"/> Real estate. If the claim is secured by the debtor's principal residence, file a <i>Mortgage Proof of Claim Attachment</i> (Official Form 410-A) with this <i>Proof of Claim</i> . <input type="checkbox"/> Motor vehicle <input type="checkbox"/> Other. Describe: _____  Basis for perfection: _____ Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)  Value of property: \$ _____ Amount of the claim that is secured: \$ _____ Amount of the claim that is unsecured: \$ _____ (The sum of the secured and unsecured amounts should match the amount in line 7.)  Amount necessary to cure any default as of the date of the petition: \$ _____  Annual Interest Rate (when case was filed) _____ % <input type="checkbox"/> Fixed <input type="checkbox"/> Variable
10. Is this claim based on a lease?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Amount necessary to cure any default as of the date of the petition. \$ _____
11. Is this claim subject to a right of setoff?	<input checked="" type="checkbox"/> No See attached statement. <input type="checkbox"/> Yes Identify the property: _____

RECEIVED

MAR 27 2019

KURTZMAN CARSON CONSULTANTS

12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)? ☐ No ☒ Yes. Check all that apply:

A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.

	Amount entitled to priority
<input type="checkbox"/> Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).	\$ _____
<input type="checkbox"/> Up to \$2,775* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).	\$ _____
<input type="checkbox"/> Wages, salaries, or commissions (up to \$12,475*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).	\$ _____
<input checked="" type="checkbox"/> Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).	\$ <u>unliquidated</u>
<input type="checkbox"/> Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).	\$ _____
<input checked="" type="checkbox"/> Other. Specify subsection of 11 U.S.C. § 507(a)(2) that applies.	\$ <u>unliquidated</u>

\* Amounts are subject to adjustment on 4/01/16 and every 3 years after that for cases begun on or after the date of adjustment.

**Part 3: Sign Below**

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

- ☐ I am the creditor.  
☒ I am the creditor's attorney or authorized agent.  
☐ I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.  
☐ I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 03/26/2019  
MM / DD / YYYY

Signature

Print the name of the person who is completing and signing this claim:

Name Lori A. Butler  
First name Middle name Last name  
Title Assistant General Counsel  
Company Pension Benefit Guaranty Corporation  
Identify the corporate servicer as the company if the authorized agent is a servicer.  
Address 1200 K Street, N.W., Suite 340  
Number Street  
Washington, DC 20005-4026  
City State ZIP Code  
Contact phone 202-326-4020 Email Butler.Lori@pbgc.gov

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MAR 27 2019

KURTZMAN CARSON CONSULTANTS



Pension Benefit Guaranty Corporation  
1200 K Street, N.W., Washington, D.C. 20005-4026

VIA FEDERAL EXPRESS

**MAR 26 2019**

Verity Claims Processing Center  
c/o KCC  
2335 Alaska Avenue  
El Segundo, CA 90245

Re: Verity Health System of California, Inc., *et al.*  
Case No. 2:18-bk-20151-ER (Jointly Administered)

To Whom It May Concern:

Enclosed for filing in the above-referenced proceeding are six separate Proof of Claim forms (with attached Statements in Support) of the Pension Benefit Guaranty Corporation, a United States government agency.

Pursuant to the attached Order Approving Stipulation Permitting PBGC to File Consolidated Claims Under a Single Case Number (Docket No. 1782), entered by the Court on March 12, 2019, and the attached Stipulation (Docket No. 1772), each proof of claim shall be deemed to constitute the filing of a proof of claim against each and every Debtor, asserted as a joint and several liability, in this jointly administered proceeding.

Please return a file-stamped copy of the claims, noting any numbers assigned to the claims, to me in the enclosed self-addressed stamped envelope. Thank you for your assistance.

If you have any questions or need further information, please contact me at (202) 326-4020, extension 3019, or my colleague, Cameo Kaisler, at extension 6912.

Regards,

Melissa T. Ngo, Esq.  
Office of the General Counsel

Enclosures

Case 2:18-bk-20151-ER Doc 1782 Filed 03/12/19 Entered 03/12/19 17:01:32 Desc  
Main Document Page 1 of 2

SAMUEL R. MAIZEL (Bar No. 189301)  
samuel.maizel@dentons.com  
TANIA M. MOYRON (Bar No. 235736)  
tania.moyron@dentons.com  
DENTONS US LLP  
601 South Figueroa Street, Suite 2500  
Los Angeles, California 90017-5704  
Tel: (213) 623-9300 / Fax: (213) 623-9924  
  
Attorneys for the Chapter 11 Debtors and  
Debtors In Possession

FILED & ENTERED

MAR 12 2019

CLERK U.S. BANKRUPTCY COURT  
Central District of California  
BY gonzalez DEPUTY CLERK

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

In re

Lead Case No. 18-bk-20151-ER

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

Jointly Administered With:

Debtors and Debtors In Possession.

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

☒ Affects All Debtors

Hon. Ernest M. Robles

- ☐ 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 ASC,  
LLC

ORDER APPROVING STIPULATION PERMITTING  
PBGC TO FILE CONSOLIDATED PROOFS OF CLAIM  
UNDER A SINGLE CASE NUMBER

Debtors and Debtors In Possession.

DENTONS US LLP  
601 SOUTH FIGUEROA STREET, SUITE 2500  
LOS ANGELES, CALIFORNIA 90017-5704  
(213) 623-9300



Case 2:18-bk-20151-ER Doc 1782 Filed 03/12/19 Entered 03/12/19 17:01:32 Desc  
Main Document Page 2 of 2

The Court, having reviewed the *Stipulation Permitting PBGC to File Consolidated Proofs of Claims under a Single Case Number* (the "Stipulation"), filed as Docket Number No. 1772, entered into between Verity Health System Of California, Inc. and the above-referenced affiliated debtors, the debtors and debtors in possession in the above-captioned chapter 11 bankruptcy cases, on one hand, and the Pension Benefit Guaranty Corporation, on the other, and good cause appearing,

HEREBY ORDERS AS FOLLOWS:

1. The Stipulation is approved.

IT IS SO ORDERED.

###

Date: March 12, 2019



Ernest M. Robles  
United States Bankruptcy Judge

DENTONS US LLP  
601 SOUTH FIGUEROA STREET, SUITE 2500  
LOS ANGELES, CALIFORNIA 90017-5704  
(213) 623-9300

Case 2:18-bk-20151-ER Doc 1772 Filed 03/12/19 Entered 03/12/19 08:12:34 Desc  
Main Document Page 1 of 5

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SAM J. ALBERTS (Admitted Pro Hac Vice)  
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DENTONS US LLP  
601 South Figueroa Street, Suite 2500  
Los Angeles, California 90017-5704  
Tel: (213) 623-9300 / Fax: (213) 623-9924

Attorneys for the Chapter 11 Debtors and  
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. Judge Ernest M. Robles

**STIPULATION PERMITTING PBGC TO  
FILE CONSOLIDATED PROOFS OF  
CLAIM UNDER A SINGLE CASE  
NUMBER**

DENTONS US LLP  
601 SOUTH FIGUEROA STREET, SUITE 2500  
LOS ANGELES, CALIFORNIA 90017-5704  
(213) 623-9300

Case 2:18-bk-20151-ER Doc 1772 Filed 03/12/19 Entered 03/12/19 08:12:34 Desc  
Main Document Page 2 of 5

1 This stipulation and agreement (the "Stipulation") is entered into by and among Verity  
2 Health System of California, Inc. and certain of its affiliates, as debtors and debtors in possession  
3 in the above-captioned chapter 11 cases (collectively, the "Debtors"), and the Pension Benefit  
4 Guaranty Corporation ("PBGC," and, together with the Debtors, the "Parties"). The Parties have  
5 agreed that PBGC will be permitted to file consolidated proofs of claim (the "Proofs of Claim"),  
6 which will be deemed to have been filed in each of the Debtors' cases identified in such Proofs of  
7 Claim, for the reasons and on the terms and conditions set forth below:

8 RECITALS

9 On August 31, 2018 (the "Commencement Date"), each of the Debtors filed a voluntary  
10 petition under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") in the  
11 United States Bankruptcy Court for the Central District of California (the "Bankruptcy Court" or  
12 "Court"). The Debtors' chapter 11 cases have been consolidated for procedural purposes only  
13 and are being jointly administered under Chapter 11 Case No. 18-20151 (ER), pursuant to Rule  
14 1015(b) of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"). The Debtors  
15 are authorized to operate their businesses and manage their properties as debtors in possession  
16 pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee or examiner has been  
17 appointed in these chapter 11 cases.

18 On February 11, 2019, the Court entered an order (the "Bar Date Order") fixing, among  
19 other things, April 1, 2019, as the deadline for filing proofs of claim against the Debtors (the  
20 "General Bar Date"). The Modified Proof of Claim Form attached as Exhibit A-1 to the notice of  
21 bar date ("Bar Date Notice") specifically requires the filing of a separate proof of claim form  
22 against each Debtor against whom a claimant asserts a claim.

23 PBGC is a wholly owned United States Government corporation that administers the  
24 pension insurance program under Title IV of the Employee Retirement Income Security Act of  
25 1974, 29 U.S.C. §§ 1301–1461 ("ERISA"). The Title IV termination insurance program covers  
26 the following two pension plans: (i) Verity Health System Retirement Plan A ("Plan A"), and (ii)  
27 Verity Health System Retirement Plan B ("Plan B," and together with Plan A, the "Pension  
28 Plans").

DENTONS US LLP  
601 SOUTH FIGUEROA STREET, SUITE 2500  
LOS ANGELES, CALIFORNIA 90017-5704  
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Case 2:18-bk-20151-ER Doc 1772 Filed 03/12/19 Entered 03/12/19 08:12:34 Desc  
Main Document Page 3 of 5

PBGC asserts that each of the Debtors is either a contributing sponsor of the Pension Plans or a member of the contributing sponsor's controlled group. See 29 U.S.C. §§ 1301(a)(13), (14).

PBGC has concluded that it may be required to file three separate claims for each of the Pension Plans, which PBGC asserts are for: (i) unfunded benefit liabilities to PBGC under 29 U.S.C. § 1362(b); (ii) unpaid minimum funding contributions to the Pension Plans required by 29 U.S.C. §§ 412, 430 (and, if the Pension Plans terminate, to PBGC under 29 U.S.C. § 1342); and (iii) unpaid premiums owed to PBGC under 29 U.S.C. §§ 1306, 1307. PBGC asserts joint and several liability for these claims against each of the Debtors. See 29 U.S.C. §§ 1301(a)(13), (14). Therefore, PBGC believes that compliance with the Modified Proof of Claim Form would require it to file 102 separate proofs of claims. These multiple claims would impose a significant administrative burden on the Debtors, PBGC, the Court, and Kurtzman Carson Consultants LLC (the Debtors' claims and noticing agent). As a result, the Parties have agreed on an approach, as discussed below, which will permit PBGC to file consolidated claims against all Debtors.

#### AGREEMENT

NOW, THEREFORE, all of the Parties hereby stipulate and agree as follows:

Notwithstanding any provision of the Bankruptcy Code, the Bankruptcy Rules, the Local Bankruptcy Rules for the Central District of California, any order of this Court (including the Bar Date Order), the Bar Date Notice, or any approved proof of claim form that otherwise would require PBGC to file separate proofs of claim against each of the Debtors, it expressly is agreed herein, subject to approval of this Stipulation by the Court, that the filing of consolidated Proofs of Claim by PBGC on its own behalf or on behalf of the Pension Plans in the chapter 11 case of Verity Health System of California, Inc., Case No. 18-20151 (ER) (the "Lead Case") on or before the General Bar Date, shall be deemed filed by PBGC in the Lead Case and will be deemed to have been filed in each of the Debtors' cases identified in such Proofs of Claim.

This Stipulation is intended solely for the purpose of administrative convenience and shall not affect the substantive rights of the Debtors, PBGC, or any other party in interest including, without limitation, the allowance, amount, or priority of PBGC's claims or any objection,

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601 SOUTH FIGUEROA STREET, SUITE 2500  
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Case 2:18-bk-20151-ER Doc 1772 Filed 03/12/19 Entered 03/12/19 08:12:34 Desc  
Main Document Page 4 of 5

1 defense, offset, disallowance, subordination, or counterclaim with respect thereto.

2 The terms of this Stipulation also shall apply to any amendments that PBGC may make  
3 with respect to any timely-filed proof of claim against any of the Debtors.

4 This Stipulation may be executed in counterparts, each of which shall be deemed an  
5 original but all of which together shall constitute one and the same instrument. A signature  
6 transmitted by facsimile or other electronic copy shall be deemed an original signature for  
7 purposes of this Stipulation.

8 This Stipulation contains the entire agreement by and among the Parties with respect to  
9 the subject matter hereof, and all prior understandings or agreements, if any, are merged into this  
10 Stipulation.

11 This Stipulation may be changed, modified or otherwise altered in a writing executed by  
12 the Parties to this Stipulation. Oral modifications are not permitted.

13 This Stipulation shall be effective immediately upon approval by the Bankruptcy Court.

14 The Bankruptcy Court shall retain jurisdiction to hear any matters or disputes arising from  
15 or relating to this Stipulation.

16 Nothing herein shall constitute an acknowledgement or finding as to whether the Debtors  
17 are liable to PBGC, and all Parties reserve all rights with respect to the Debtors' liability to  
18 PBGC.

19  
20 [SIGNATURES ON NEXT PAGE]  
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25  
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27  
28

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601 SOUTH FIGUEROA STREET, SUITE 2500  
LOS ANGELES, CALIFORNIA 90017-5704  
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DENTONS US LLP  
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LOS ANGELES, CALIFORNIA 90017-5704  
(213) 623-9300

1 Dated: March 7, 2019  
2 Los Angeles, CA  
3 By: /s/ Tania M. Moyron  
4 Samuel R. Maizel  
Tania M. Moyron  
Sam J. Alberts  
5 DENTONS US LLP  
6 601 South Figueroa Street, Suite 2500  
Los Angeles, California 90017-5704  
7 Tel: (213) 623-9300  
Fax: (213) 623-9924  
8 *Attorneys for Debtors*  
*and Debtors in Possession*

Dated: March 7, 2019  
Washington, DC  
By: Melissa  
Judith Starr, General Counsel  
Charles L. Finke, Deputy General Counsel  
Lori A. Butler, Assistant General Counsel  
Cameo M. Kaisler, Attorney (VA 83222)  
Melissa T. Ngo, Attorney (VA 87854)  
PENSION BENEFIT GUARANTY  
CORPORATION  
1200 K Street, N.W.  
Washington, D.C. 20005  
Telephone: (202) 326-4020 ext. 6912  
Facsimile: (202) 326-4112

*Office of the General Counsel*  
*Pension Benefit Guaranty Corporation*

By: Elan S. Levey  
Nicola T. Hanna  
United States Attorney  
David M. Harris  
Assistant United States Attorney  
Chief, Civil Division  
Joanna S. Osinoff  
Assistant United States Attorney  
Chief, Civil Section  
Elan S. Levey  
Assistant United States Attorney

*Local Counsel for Pension Benefit Guaranty Corporation*

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

In re:	)	Chapter 11
	)	
VERITY HEALTH SYSTEM OF	)	Case No. 2:18-bk-20151-ER
CALIFORNIA, INC. <i>et al.</i> <sup>1</sup> ,	)	
	)	Jointly Administered
Debtors.	)	

**STATEMENT OF THE PENSION BENEFIT GUARANTY CORPORATION  
IN SUPPORT OF ITS CLAIM FOR UNFUNDED BENEFIT LIABILITIES**

The Pension Benefit Guaranty Corporation (“PBGC”) hereby submits this Statement in Support of its claim against Verity Health System of California, Inc. and its affiliated debtors and debtors-in-possession (each a “Debtor,” and collectively, the “Debtors”), for the unfunded benefit liabilities of the Verity Health System Retirement Plan A (“Pension Plan”), stating:

1. PBGC is a wholly-owned United States government corporation, and an agency of the United States, that administers the defined benefit pension plan termination insurance program under Title IV of the Employee Retirement Income Security Act of 1974, *as amended*, 29 U.S.C. §§ 1301-1461 (2012, Supp. V 2017) (“ERISA”). PBGC guarantees the payment of certain pension benefits upon the termination of a single-employer pension plan covered by Title IV of ERISA. When an underfunded plan terminates, PBGC generally becomes trustee of the plan and, subject to certain statutory limitations, pays the plan's unfunded benefits with its insurance funds. *See* 29 U.S.C. §§ 1321-1322, 1342, 1361.

---

<sup>1</sup> The Debtors in these Chapter 11 cases are: Verity Health System of California, Inc.; O'Connor Hospital; St. Louise Regional Hospital; St. Francis Medical Center; St. Vincent Medical Center; Seton Medical Center; O'Connor Hospital Foundation; St. Louise Regional Hospital Foundation; St. Francis Medical Center of Lynwood Foundation; St. Vincent Foundation; Seton Medical Center Foundation; St. Vincent Dialysis Center, Inc.; Verity Medical Foundation; Verity Business Services; Verity Holdings, LLC; De Paul Ventures, LLC; and De Paul Ventures – San Jose Dialysis, LLC.

2. The Pension Plan is a single-employer defined benefit pension plan covered by Title IV of ERISA. *See* 29 U.S.C. § 1321.

3. Each of the Debtors is a contributing sponsor of the Pension Plan, 29 U.S.C. § 1301(a)(13), or a member of a contributing sponsor's controlled group, 29 U.S.C. § 1301(a)(14).

4. On August 31, 2018, each of the Debtors filed a voluntary petition under Chapter 11 of the Bankruptcy Code. By Order of this Court, the Debtors' cases are consolidated for procedural purposes only, and are being jointly administered under case number 18-20151 (ER).

5. This claim is contingent on termination of the Pension Plan. *See* 29 U.S.C. §§ 1341-1342. For purposes of this claim, it is assumed that the Pension Plan terminated on March 31, 2019. If and when the Pension Plan terminates, PBGC will amend this claim as necessary.

6. If the Pension Plan terminates, the assets of the Pension Plan may be insufficient to cover the benefit liabilities of the Pension Plan. This insufficiency is the amount of the Pension Plan's unfunded benefit liabilities. *See* 29 U.S.C. § 1362(b).

7. Upon termination of the Pension Plan, its contributing sponsor and each member of the contributing sponsor's controlled group become jointly and severally liable to PBGC for the total amount of the Pension Plan's unfunded benefit liabilities. 29 U.S.C. § 1362(a), (b); *see* 29 U.S.C. § 1301(a)(18).

8. The estimated amount of the Pension Plan's unfunded benefit liabilities is \$310,300,000.

9. If any person liable to PBGC under 29 U.S.C. § 1362 fails to pay the liability after demand, a lien arises in favor of PBGC as of the termination date of the plan. The amount of the lien is limited to 30% of the collective net worth of all the liable parties. 29 U.S.C. § 1368(a). For



purposes of the Bankruptcy Code, the lien is “treated in the same manner as a tax due and owing to the United States.” 29 U.S.C. § 1368(c)(2).

10. This claim is an administrative expense entitled to priority as a tax incurred by the estate, in an amount up to 30% of the controlled group’s collective net worth. 11 U.S.C. §§ 503(b)(1)(B), 507(a)(2); 29 U.S.C. § 1368(a), (c)(2). Independently, it also meets the definition of a “tax” for bankruptcy purposes because it is an involuntary pecuniary burden imposed on individuals or their property for public purposes, including to defray the government’s expenses.

11. Alternatively, this claim is entitled to tax priority under 11 U.S.C. § 507(a)(8), in an amount up to 30% of the controlled group’s collective net worth.

12. Any amount not entitled to priority is asserted as a general unsecured claim.

13. By filing this claim, PBGC asserts its contingent claim and demands payment of the unfunded benefit liabilities of the Pension Plan upon the Pension Plan’s termination date.

14. Documents supporting this claim include the Pension Plan document with applicable amendments; relevant collateral agreements, if any; United States Internal Revenue Service Form 5500s; and annual actuarial valuation reports for the Pension Plan. On information and belief, the Debtors or members of their controlled group have in their possession and control copies or originals of these documents.

15. PBGC’s investigation of this matter is continuing. The agency reserves the right to amend, modify and supplement this proof of claim and/or to file additional proofs of claim. This claim may be subject to a right of setoff by PBGC as an agency of the United States government, and the right of the United States to withhold subject to offset amounts due from other federal entities. The filing of this proof of claim is not intended to be and shall not be construed as (1) an

election of remedy or (2) a waiver or limitation of any rights of PBGC, the Pension Plan or any of its beneficiaries or participants.

16. Pursuant to the Order Approving Stipulation Permitting PBGC to File Consolidated Claims Under a Single Case Number (Docket No. 1782), entered by the Court on March 12, 2019, this single proof of claim shall be deemed to constitute the filing of a proof of claim against each and every Debtor, asserted as a joint and several liability, in this jointly administered proceeding.

Dated: Washington, D.C.  
March 26, 2019

Lori A. Butler  
Assistant General Counsel  
Cameo M. Kaisler  
Melissa T. Ngo  
Attorneys  
Office of the General Counsel  
PENSION BENEFIT GUARANTY CORPORATION  
1200 K Street, N.W.  
Washington, D.C. 20005-4026  
(202) 326-4020 ext. 6912  
FAX: (202) 326-4112

# **Exhibit 5**

Claim #4325 Date Filed: 3/27/2019

**Fill in this information to identify the case:**

Debtor 1 Verity Health System of California, Inc., et al.  
Debtor 2 \_\_\_\_\_  
(Spouse, if filing)  
United States Bankruptcy Court for the: Central District of California  
(State)  
Case number 18-20151 (jointly administered)

Official Form 410

**Proof of Claim**

12/15

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. Do not send original documents; they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.

**Part 1: Identify the Claim**

1. Who is the current creditor?	<u>Pension Benefit Guaranty Corporation</u> Name of the current creditor (the person or entity to be paid for this claim) Other names the creditor used with the debtor _____	
2. Has this claim been acquired from someone else?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. From whom? _____	
3. Where should notices and payments to the creditor be sent? Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)	Where should notices to the creditor be sent? <u>Office of the General Counsel, Attn: Cameo M. Salembier</u> Name <u>1200 K Street, N.W., Suite 340</u> Number Street <u>Washington, DC 20005-4026</u> City State ZIP Code Contact phone <u>202-326-4020, x6912</u> Contact email <u>Salembier.Cameo@pbgc.gov</u>	Where should payments to the creditor be sent? (if different) Name Number Street City State ZIP Code Contact phone Contact email
<div>RECEIVED MAR 27 2019</div> <div>KURTZMAN CARSON CONSULTANTS</div> <div>Uniform claim identifier for electronic payments in chapter 13 (if you use one): _____</div>		
4. Does this claim amend one already filed?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Claim number on court claims registry (if known) _____ Filed on _____ MM / DD / YYYY	
5. Do you know if anyone else has filed a proof of claim for this claim?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes Who made the earlier filing? _____ <input checked="" type="checkbox"/> Date Stamped Copy Returned <input type="checkbox"/> No self addressed stamped envelope <input type="checkbox"/> No copy to return	



**Part 2: Give Information About the Claim as of the Date the Case Was Filed**

6. Do you have any number you use to identify the debtor?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: _____
7. How much is the claim?	\$ 30,600,374 Does this amount include interest or other charges? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).
8. What is the basis of the claim?	Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card. Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c). Limit disclosing information that is entitled to privacy, such as health care information.  Statutory Liability to the Verity Health System Retirement Plan A for unpaid minimum funding contributions under 26 U.S.C. §§ 412 and 430, 29 U.S.C. §§ 1082, 1342 and 1362(c). See attached statement.
9. Is all or part of the claim secured?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. The claim is secured by a lien on property. <b>Nature of property:</b> <input type="checkbox"/> Real estate. If the claim is secured by the debtor's principal residence, file a <i>Mortgage Proof of Claim Attachment</i> (Official Form 410-A) with this <i>Proof of Claim</i> . <input type="checkbox"/> Motor vehicle <input type="checkbox"/> Other. Describe: _____  <b>Basis for perfection:</b> _____ Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)  <b>Value of property:</b> \$ _____ <b>Amount of the claim that is secured:</b> \$ _____ <b>Amount of the claim that is unsecured:</b> \$ _____ (The sum of the secured and unsecured amounts should match the amount in line 7.)  <b>Amount necessary to cure any default as of the date of the petition:</b> \$ _____  <b>Annual Interest Rate</b> (when case was filed) _____ % <input type="checkbox"/> Fixed <input type="checkbox"/> Variable
10. Is this claim based on a lease?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Amount necessary to cure any default as of the date of the petition. \$ _____
11. Is this claim subject to a right of setoff?	<input checked="" type="checkbox"/> No See attached statement <input type="checkbox"/> Yes Identify the property: _____

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MAR 27 2019  
KURTZMAN CARSON CONSULTANTS

12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)? ☐ No ☒ Yes. Check all that apply:

A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.

	Amount entitled to priority
<input type="checkbox"/> Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).	\$ _____
<input type="checkbox"/> Up to \$2,775* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).	\$ _____
<input type="checkbox"/> Wages, salaries, or commissions (up to \$12,475*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).	\$ _____
<input type="checkbox"/> Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).	\$ _____
<input checked="" type="checkbox"/> Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).	\$ 1,278,575
<input checked="" type="checkbox"/> Other. Specify subsection of 11 U.S.C. § 507(a)(2) that applies.	\$ 4,401,712

\* Amounts are subject to adjustment on 4/01/16 and every 3 years after that for cases begun on or after the date of adjustment.

**Part 3: Sign Below**

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

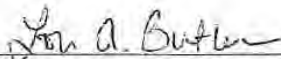
- ☐ I am the creditor.  
☒ I am the creditor's attorney or authorized agent.  
☐ I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.  
☐ I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 03/26/2019  
MM / DD / YYYY

  
Signature

Print the name of the person who is completing and signing this claim:

Name Lori A. Butler  
First name Middle name Last name

Title Assistant General Counsel

Company Pension Benefit Guaranty Corporation  
Identify the corporate servicer as the company if the authorized agent is a servicer

Address 1200 K Street, N.W., Suite 340  
Number Street

Washington, DC 20005-4026  
City State ZIP Code

Contact phone 202-326-4020 Email Butler.Lori@pbgc.gov

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MAR 27 2019

KURTZMAN CARSON CONSULTANTS



Pension Benefit Guaranty Corporation  
1200 K Street, N.W., Washington, D.C. 20005-4026

VIA FEDERAL EXPRESS

**MAR 26 2019**

Verity Claims Processing Center  
c/o KCC  
2335 Alaska Avenue  
El Segundo, CA 90245

Re: Verity Health System of California, Inc., *et al.*  
Case No. 2:18-bk-20151-ER (Jointly Administered)

To Whom It May Concern:

Enclosed for filing in the above-referenced proceeding are six separate Proof of Claim forms (with attached Statements in Support) of the Pension Benefit Guaranty Corporation, a United States government agency.

Pursuant to the attached Order Approving Stipulation Permitting PBGC to File Consolidated Claims Under a Single Case Number (Docket No. 1782), entered by the Court on March 12, 2019, and the attached Stipulation (Docket No. 1772), each proof of claim shall be deemed to constitute the filing of a proof of claim against each and every Debtor, asserted as a joint and several liability, in this jointly administered proceeding.

Please return a file-stamped copy of the claims, noting any numbers assigned to the claims, to me in the enclosed self-addressed stamped envelope. Thank you for your assistance.

If you have any questions or need further information, please contact me at (202) 326-4020, extension 3019, or my colleague, Cameo Kaisler, at extension 6912.

Regards,

Melissa T. Ngo, Esq.  
Office of the General Counsel

Enclosures

Case 2:18-bk-20151-ER Doc 1782 Filed 03/12/19 Entered 03/12/19 17:01:32 Desc  
Main Document Page 1 of 2

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601 South Figueroa Street, Suite 2500  
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Tel: (213) 623-9300 / Fax: (213) 623-9924  
  
Attorneys for the Chapter 11 Debtors and  
Debtors In Possession

FILED & ENTERED

MAR 12 2019

CLERK U.S. BANKRUPTCY COURT  
Central District of California  
BY gonzalez DEPUTY CLERK

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.

Lead Case No. 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  
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Case No. 2:18-bk-20180-ER  
Case No. 2:18-bk-20181-ER

Hon. Ernest M. Robles

ORDER APPROVING STIPULATION PERMITTING  
PBGC TO FILE CONSOLIDATED PROOFS OF CLAIM  
UNDER A SINGLE CASE NUMBER

☒ 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 ASC,  
LLC

Debtors and Debtors In Possession.

DENTONS US LLP  
601 SOUTH FIGUEROA STREET, SUITE 2500  
LOS ANGELES, CALIFORNIA 90017-5704  
(213) 623-9300



Case 2:18-bk-20151-ER Doc 1782 Filed 03/12/19 Entered 03/12/19 17:01:32 Desc  
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1 The Court, having reviewed the *Stipulation Permitting PBGC to File Consolidated Proofs*  
2 *of Claims under a Single Case Number* (the "Stipulation"), filed as Docket Number No. 1772,  
3 entered into between Verity Health System Of California, Inc. and the above-referenced affiliated  
4 debtors, the debtors and debtors in possession in the above-captioned chapter 11 bankruptcy  
5 cases, on one hand, and the Pension Benefit Guaranty Corporation, on the other, and good cause  
6 appearing,

7 HEREBY ORDERS AS FOLLOWS:

8 1. The Stipulation is approved.

9 **IT IS SO ORDERED.**

11 ###

24 Date: March 12, 2019

23 

Ernest M. Robles  
United States Bankruptcy Judge

DENTONS US LLP  
601 SOUTH FIGUEROA STREET, SUITE 2500  
LOS ANGELES, CALIFORNIA 90017-5704  
(213) 623-9300

Case 2:18-bk-20151-ER Doc 1772 Filed 03/12/19 Entered 03/12/19 08:12:34 Desc  
Main Document Page 1 of 5

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Attorneys for the Chapter 11 Debtors and  
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. Judge Ernest M. Robles

**STIPULATION PERMITTING PBGC TO  
FILE CONSOLIDATED PROOFS OF  
CLAIM UNDER A SINGLE CASE  
NUMBER**

DENTONS US LLP  
601 SOUTH FIGUEROA STREET, SUITE 2500  
LOS ANGELES, CALIFORNIA 90017-5704  
(213) 623-9300

Case 2:18-bk-20151-ER Doc 1772 Filed 03/12/19 Entered 03/12/19 08:12:34 Desc  
Main Document Page 2 of 5

1 This stipulation and agreement (the "Stipulation") is entered into by and among Verity  
2 Health System of California, Inc. and certain of its affiliates, as debtors and debtors in possession  
3 in the above-captioned chapter 11 cases (collectively, the "Debtors"), and the Pension Benefit  
4 Guaranty Corporation ("PBGC," and, together with the Debtors, the "Parties"). The Parties have  
5 agreed that PBGC will be permitted to file consolidated proofs of claim (the "Proofs of Claim"),  
6 which will be deemed to have been filed in each of the Debtors' cases identified in such Proofs of  
7 Claim, for the reasons and on the terms and conditions set forth below:

8 RECITALS

9 On August 31, 2018 (the "Commencement Date"), each of the Debtors filed a voluntary  
10 petition under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") in the  
11 United States Bankruptcy Court for the Central District of California (the "Bankruptcy Court" or  
12 "Court"). The Debtors' chapter 11 cases have been consolidated for procedural purposes only  
13 and are being jointly administered under Chapter 11 Case No. 18-20151 (ER), pursuant to Rule  
14 1015(b) of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"). The Debtors  
15 are authorized to operate their businesses and manage their properties as debtors in possession  
16 pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee or examiner has been  
17 appointed in these chapter 11 cases.

18 On February 11, 2019, the Court entered an order (the "Bar Date Order") fixing, among  
19 other things, April 1, 2019, as the deadline for filing proofs of claim against the Debtors (the  
20 "General Bar Date"). The Modified Proof of Claim Form attached as Exhibit A-1 to the notice of  
21 bar date ("Bar Date Notice") specifically requires the filing of a separate proof of claim form  
22 against each Debtor against whom a claimant asserts a claim.

23 PBGC is a wholly owned United States Government corporation that administers the  
24 pension insurance program under Title IV of the Employee Retirement Income Security Act of  
25 1974, 29 U.S.C. §§ 1301–1461 ("ERISA"). The Title IV termination insurance program covers  
26 the following two pension plans: (i) Verity Health System Retirement Plan A ("Plan A"), and (ii)  
27 Verity Health System Retirement Plan B ("Plan B," and together with Plan A, the "Pension  
28 Plans").

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DENTONS US LLP  
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LOS ANGELES, CALIFORNIA 90017-5704  
(213) 623-9300

Case 2:18-bk-20151-ER Doc 1772 Filed 03/12/19 Entered 03/12/19 08:12:34 Desc  
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PBGC asserts that each of the Debtors is either a contributing sponsor of the Pension Plans or a member of the contributing sponsor's controlled group. See 29 U.S.C. §§ 1301(a)(13), (14).

PBGC has concluded that it may be required to file three separate claims for each of the Pension Plans, which PBGC asserts are for: (i) unfunded benefit liabilities to PBGC under 29 U.S.C. § 1362(b); (ii) unpaid minimum funding contributions to the Pension Plans required by 26 U.S.C. §§ 412, 430 (and, if the Pension Plans terminate, to PBGC under 29 U.S.C. § 1342); and (iii) unpaid premiums owed to PBGC under 29 U.S.C. §§ 1306, 1307. PBGC asserts joint and several liability for these claims against each of the Debtors. See 29 U.S.C. §§ 1301(a)(13), (14). Therefore, PBGC believes that compliance with the Modified Proof of Claim Form would require it to file 102 separate proofs of claims. These multiple claims would impose a significant administrative burden on the Debtors, PBGC, the Court, and Kurtzman Carson Consultants LLC (the Debtors' claims and noticing agent). As a result, the Parties have agreed on an approach, as discussed below, which will permit PBGC to file consolidated claims against all Debtors.

#### AGREEMENT

NOW, THEREFORE, all of the Parties hereby stipulate and agree as follows:

Notwithstanding any provision of the Bankruptcy Code, the Bankruptcy Rules, the Local Bankruptcy Rules for the Central District of California, any order of this Court (including the Bar Date Order), the Bar Date Notice, or any approved proof of claim form that otherwise would require PBGC to file separate proofs of claim against each of the Debtors, it expressly is agreed herein, subject to approval of this Stipulation by the Court, that the filing of consolidated Proofs of Claim by PBGC on its own behalf or on behalf of the Pension Plans in the chapter 11 case of Verity Health System of California, Inc., Case No. 18-20151 (ER) (the "Lead Case") on or before the General Bar Date, shall be deemed filed by PBGC in the Lead Case and will be deemed to have been filed in each of the Debtors' cases identified in such Proofs of Claim.

This Stipulation is intended solely for the purpose of administrative convenience and shall not affect the substantive rights of the Debtors, PBGC, or any other party in interest including, without limitation, the allowance, amount, or priority of PBGC's claims or any objection,

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601 SOUTH FIGUEROA STREET, SUITE 2500  
LOS ANGELES, CALIFORNIA 90017-5704  
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Case 2:18-bk-20151-ER Doc 1772 Filed 03/12/19 Entered 03/12/19 08:12:34 Desc  
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1 defense, offset, disallowance, subordination, or counterclaim with respect thereto.

2 The terms of this Stipulation also shall apply to any amendments that PBGC may make  
3 with respect to any timely-filed proof of claim against any of the Debtors.

4 This Stipulation may be executed in counterparts, each of which shall be deemed an  
5 original but all of which together shall constitute one and the same instrument. A signature  
6 transmitted by facsimile or other electronic copy shall be deemed an original signature for  
7 purposes of this Stipulation.

8 This Stipulation contains the entire agreement by and among the Parties with respect to  
9 the subject matter hereof, and all prior understandings or agreements, if any, are merged into this  
10 Stipulation.

11 This Stipulation may be changed, modified or otherwise altered in a writing executed by  
12 the Parties to this Stipulation. Oral modifications are not permitted.

13 This Stipulation shall be effective immediately upon approval by the Bankruptcy Court.

14 The Bankruptcy Court shall retain jurisdiction to hear any matters or disputes arising from  
15 or relating to this Stipulation.

16 Nothing herein shall constitute an acknowledgement or finding as to whether the Debtors  
17 are liable to PBGC, and all Parties reserve all rights with respect to the Debtors' liability to  
18 PBGC.

19  
20 [SIGNATURES ON NEXT PAGE]  
21  
22  
23  
24  
25  
26  
27  
28

DENTONS US LLP  
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(213) 623-9300

1 Dated: March 7, 2019  
2 Los Angeles, CA

3 By: /s/ Tania M. Moyron  
4 Samuel R. Maizel  
5 Tania M. Moyron  
6 Sam J. Alberts

7 DENTONS US LLP  
8 601 South Figueroa Street, Suite 2500  
9 Los Angeles, California 90017-5704  
10 Tel: (213) 623-9300  
11 Fax: (213) 623-9924

12 *Attorneys for Debtors*  
13 *and Debtors in Possession*

Dated: March 7, 2019  
Washington, DC

By: [Signature]  
Judith Starr, General Counsel  
Charles L. Finke, Deputy General Counsel  
Lori A. Butler, Assistant General Counsel  
Cameo M. Kaisler, Attorney (VA 83222)  
Melissa T. Ngo, Attorney (VA 87854)  
PENSION BENEFIT GUARANTY  
CORPORATION  
1200 K Street, N.W.  
Washington, D.C. 20005  
Telephone: (202) 326-4020 ext. 6912  
Facsimile: (202) 326-4112

*Office of the General Counsel*  
*Pension Benefit Guaranty Corporation*

By: [Signature]  
Nicola T. Hanna  
United States Attorney  
David M. Harris  
Assistant United States Attorney  
Chief, Civil Division  
Joanna S. Osinoff  
Assistant United States Attorney  
Chief, Civil Section  
Elan S. Levey  
Assistant United States Attorney

*Local Counsel for Pension Benefit Guaranty*  
*Corporation*

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

In re:	)	Chapter 11
	)	
VERITY HEALTH SYSTEM OF	)	Case No. 2:18-bk-20151-ER
CALIFORNIA, INC. <i>et al.</i> <sup>1</sup> ,	)	
	)	Jointly Administered
Debtors.	)	

**STATEMENT OF THE PENSION BENEFIT GUARANTY CORPORATION  
IN SUPPORT OF ITS CLAIM FOR MINIMUM FUNDING  
CONTRIBUTIONS DUE TO THE PENSION PLAN**

The Pension Benefit Guaranty Corporation (“PBGC”), on behalf of the Verity Health System Retirement Plan A (the “Pension Plan”), hereby submits its Statement in Support of its claim for minimum funding contributions that are due to the Pension Plan, against Verity Health System of California, Inc. and its affiliated debtors and debtors-in-possession (each a “Debtor,” and collectively, the “Debtors”), stating:

1. PBGC is a wholly owned United States government corporation, and an agency of the United States, that administers the defined benefit pension plan termination insurance program under Title IV of the Employee Retirement Income Security Act of 1974, *as amended*, 29 U.S.C. §§ 1301-1461 (2012, Supp. V 2017) (“ERISA”). PBGC guarantees the payment of certain pension benefits upon the termination of a single-employer pension plan covered by Title IV of ERISA. When an underfunded plan terminates, PBGC generally becomes trustee of the plan and, subject to certain statutory limitations, pays the plan’s unfunded benefits with its insurance funds. *See* 29 U.S.C. §§ 1321-1322, 1342, 1361.

---

<sup>1</sup> The Debtors in these Chapter 11 cases are: Verity Health System of California, Inc.; O’Connor Hospital; St. Louise Regional Hospital; St. Francis Medical Center; St. Vincent Medical Center; Seton Medical Center; O’Connor Hospital Foundation; St. Louise Regional Hospital Foundation; St. Francis Medical Center of Lynwood Foundation; St. Vincent Foundation; Seton Medical Center Foundation; St. Vincent Dialysis Center, Inc.; Verity Medical Foundation; Verity Business Services; Verity Holdings, LLC; De Paul Ventures, LLC; and De Paul Ventures – San Jose Dialysis, LLC.

2. The Pension Plan is a single-employer defined benefit pension plan covered by Title IV of ERISA. *See* 29 U.S.C. § 1321.

3. Each of the Debtors is a contributing sponsor of the Pension Plan, 29 U.S.C. § 1301(a)(13), or a member of a contributing sponsor's controlled group, 29 U.S.C. § 1301(a)(14).

4. On August 31, 2018, each of the Debtors filed a voluntary petition under Chapter 11 of the Bankruptcy Code. By Order of this Court, the Debtors' cases are consolidated for procedural purposes only, and are being jointly administered under case number 18-20151 (ER).

5. The contributing sponsor of the Pension Plan and each member of its controlled group are jointly and severally liable to the Pension Plan for contributions necessary to satisfy the minimum funding standards under sections 412 and 430 of the Internal Revenue Code ("IRC") and sections 302 and 303 of ERISA. IRC § 412(c)(11) (2007) (effective for pension plan years beginning on or before Dec. 31, 2007); *see also* 29 U.S.C.A. § 1082(c)(11) (2007) (same); and IRC § 412(b)(1) & (2) (2009) (effective for pension plan years beginning after Dec. 31, 2007); *see also* 29 U.S.C.A. § 1082(b)(1) & (2) (2009) (same).<sup>2</sup> If the Pension Plan terminates, this liability may be owed to PBGC as the trustee appointed under 29 U.S.C. § 1342. *See* 29 U.S.C. § 1342(d)(1)(B)(ii) (a trustee appointed under § 1342(b) has the power "to collect for the plan any amounts due the plan, including but not limited to the power to collect from the persons obligated to meet the requirements of section 1082 of this title or the terms of the plan") and 29 U.S.C. § 1362(c). Also, the Debtors may be contractually obligated to contribute to the Pension Plan.

6. This is an estimated claim for contributions that are owed to the Pension Plan.

---

<sup>2</sup> References to the IRC, or to 29 U.S.C.A. §§ 1082 and 1083, with a date of 2007 refer to the pre-PPA 2006 provisions in effect for pension plan years beginning *on or before* December 31, 2007. References with a date of 2009 refer to the PPA 2006 provisions in effect for pension plan years beginning *after* December 31, 2007.



PBGC estimates the claim to be \$30,600,374. It is entitled to priority as follows:

- (a) The normal cost portions of contributions attributable to the post-petition period are entitled to administrative priority as ordinary course business expenses. 11 U.S.C. §§ 503(b), 507(a)(2). PBGC estimates that the normal cost of portions of contributions attributable to the post-petition period is \$4,401,712.
- (b) The normal cost portion of contributions attributable to the 180-days immediately preceding the petition filing date (or cessation of the debtor's business if earlier) are entitled to priority under 11 U.S.C. § 507(a)(5). PBGC estimates that the normal cost of contributions attributable to the 180-days immediately preceding the petition filing date is \$1,278,575.

7. Any contributions not entitled to priority are asserted as a general unsecured claim.

8. Documents supporting this claim include the Pension Plan document with

applicable amendments; relevant collateral agreements, if any; United States Internal Revenue Service Form 5500s; and annual actuarial valuation reports for the Pension Plan. On information and belief, the Debtors or a member of their controlled group has in its possession and control copies or originals of these documents.

9. PBGC is not aware of any other claim for these contributions having been filed by any person with responsibility for administering the affairs of the Pension Plan.

10. PBGC's investigation of this matter is continuing. The agency reserves the right to amend, modify and supplement this proof of claim and/or to file additional proofs of claim. The filing of this proof of claim is not intended to be and shall not be construed as (1) an election of remedy or (2) a waiver or limitation of any rights of PBGC, the Pension Plan or any of its beneficiaries or participants.

11. Pursuant to the Order Approving Stipulation Permitting PBGC to File Consolidated Claims Under a Single Case Number (Docket No. 1782), entered by the Court on March 12, 2019, this single proof of claim shall be deemed to constitute the filing of a proof of claim against

each and every Debtor, asserted as a joint and several liability, in this jointly administered proceeding.

Dated: Washington, D.C.  
March 26, 2019

Lori A. Butler  
Assistant General Counsel  
Cameo M. Kaisler  
Melissa T. Ngo  
Attorneys  
Office of the General Counsel  
PENSION BENEFIT GUARANTY CORPORATION  
1200 K Street, N.W.  
Washington, D.C. 20005-4026  
(202) 326-4020 ext. 6912  
FAX: (202) 326-4112

# **Exhibit 6**

**Fill in this information to identify the case:**

Debtor 1 Verity Health System of California, Inc., et al.

Debtor 2  
(Spouse, if filing) \_\_\_\_\_

United States Bankruptcy Court for the: Central District of California  
(State)

Case number 18-20151 (jointly administered)

Claim #4327 Date Filed: 3/27/2019

Official Form 410

## Proof of Claim

12/15

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. Do not send original documents; they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.

### Part 1: Identify the Claim

1. Who is the current creditor?	<u>Pension Benefit Guaranty Corporation</u> Name of the current creditor (the person or entity to be paid for this claim)  Other names the creditor used with the debtor _____	
2. Has this claim been acquired from someone else?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. From whom? _____	
3. Where should notices and payments to the creditor be sent?	Where should notices to the creditor be sent?	Where should payments to the creditor be sent? (if different)
Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)	Name <u>Office of the General Counsel, Attn: Cameo M. Kaisler</u> 1200 K Street, N.W., Suite 340 Number Street Washington, DC 20005-4026 City State ZIP Code Contact phone <u>202-326-4020, x6912</u> Contact email <u>Kaisler.Cameo@pbgc.gov</u>	Name _____ Number Street _____ City State ZIP Code Contact phone _____ Contact email _____
Uniform claim identifier for electronic payments in chapter 13 (if you use one): _____		
4. Does this claim amend one already filed?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Claim number on court claims registry (if known) _____ Filed on _____ MM / DD / YYYY	
5. Do you know if anyone else has filed a proof of claim for this claim?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Who made the earlier filing? _____ <input checked="" type="checkbox"/> Date Stamped Copy Returned <input type="checkbox"/> No self addressed stamped envelope <input type="checkbox"/> No copy to return	

Official Form 410

Proof of Claim



182015119032700000000039

**Part 2: Give Information About the Claim as of the Date the Case Was Filed**

6 Do you have any number you use to identify the debtor? ☒ No  
☐ Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: \_\_\_\_\_

7 How much is the claim? \$ 27,075,098.25 (est.) Does this amount include interest or other charges?  
☒ No  
☐ Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).

8 What is the basis of the claim? Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card.  
Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c).  
Limit disclosing information that is entitled to privacy, such as health care information.  
  
Statutory Liability under 29 U.S.C. § 1307 on account of the Verity Health System Retirement Plan A.  
See attached statement.

9 Is all or part of the claim secured? ☒ No  
☐ Yes. The claim is secured by a lien on property.  
**Nature of property:**  
☐ Real estate. If the claim is secured by the debtor's principal residence, file a *Mortgage Proof of Claim Attachment* (Official Form 410-A) with this *Proof of Claim*.  
☐ Motor vehicle  
☐ Other. Describe: \_\_\_\_\_  
  
**Basis for perfection:** \_\_\_\_\_  
Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)  
  
Value of property: \$ \_\_\_\_\_  
Amount of the claim that is secured: \$ \_\_\_\_\_  
Amount of the claim that is unsecured: \$ \_\_\_\_\_ (The sum of the secured and unsecured amounts should match the amount in line 7.)

RECEIVED

MAR 27 2019

KURTZMAN CARSON CONSULTANTS

Amount necessary to cure any default as of the date of the petition: \$ \_\_\_\_\_

Annual Interest Rate (when case was filed) \_\_\_\_\_ %  
☐ Fixed  
☐ Variable

10 Is this claim based on a lease? ☒ No  
☐ Yes. Amount necessary to cure any default as of the date of the petition: \$ \_\_\_\_\_

11 Is this claim subject to a right of setoff? ☒ No See attached statement.  
☐ Yes. Identify the property: \_\_\_\_\_

12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)? ☐ No ☒ Yes. Check all that apply:

A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.

	Amount entitled to priority
<input type="checkbox"/> Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).	\$ _____
<input type="checkbox"/> Up to \$2,775* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).	\$ _____
<input type="checkbox"/> Wages, salaries, or commissions (up to \$12,475*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).	\$ _____
<input checked="" type="checkbox"/> Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).	\$ 1,076,348.25
<input type="checkbox"/> Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).	\$ _____
<input checked="" type="checkbox"/> Other. Specify subsection of 11 U.S.C. § 507(a)(2) that applies	\$ 1,076,348.25

\* Amounts are subject to adjustment on 4/01/16 and every 3 years after that for cases begun on or after the date of adjustment.

**Part 3: Sign Below**

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

- ☐ I am the creditor.  
☒ I am the creditor's attorney or authorized agent.  
☐ I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.  
☐ I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 03/26/2019  
MM / DD / YYYY

Lori A. Butler  
Signature

Print the name of the person who is completing and signing this claim:

Name Lori A. Butler  
First name Middle name Last name

Title Assistant General Counsel

Company Pension Benefit Guaranty Corporation  
Identify the corporate servicer as the company if the authorized agent is a servicer.

Address 1200 K Street, N.W., Suite 340  
Number Street

Washington, DC 20005-4026  
City State ZIP Code

Contact phone 202-326-4020 Email Butler.Lori@pbgc.gov

RECEIVED

MAR 27 2019

KURTZMAN CARSON CONSULTANTS



Pension Benefit Guaranty Corporation  
1200 K Street, N.W., Washington, D.C. 20005-4026

VIA FEDERAL EXPRESS

**MAR 26 2019**

Verity Claims Processing Center  
c/o KCC  
2335 Alaska Avenue  
El Segundo, CA 90245

Re: Verity Health System of California, Inc., *et al.*  
Case No. 2:18-bk-20151-ER (Jointly Administered)

To Whom It May Concern:

Enclosed for filing in the above-referenced proceeding are six separate Proof of Claim forms (with attached Statements in Support) of the Pension Benefit Guaranty Corporation, a United States government agency.

Pursuant to the attached Order Approving Stipulation Permitting PBGC to File Consolidated Claims Under a Single Case Number (Docket No. 1782), entered by the Court on March 12, 2019, and the attached Stipulation (Docket No. 1772), each proof of claim shall be deemed to constitute the filing of a proof of claim against each and every Debtor, asserted as a joint and several liability, in this jointly administered proceeding.

Please return a file-stamped copy of the claims, noting any numbers assigned to the claims, to me in the enclosed self-addressed stamped envelope. Thank you for your assistance.

If you have any questions or need further information, please contact me at (202) 326-4020, extension 3019, or my colleague, Cameo Kaisler, at extension 6912.

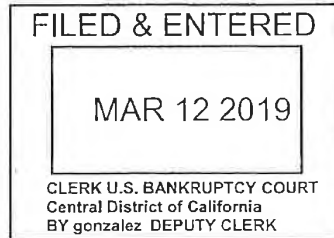
Regards,

Melissa T. Ngo, Esq.  
Office of the General Counsel

Enclosures

Case 2:18-bk-20151-ER Doc 1782 Filed 03/12/19 Entered 03/12/19 17:01:32 Desc  
Main Document Page 1 of 2

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Tel: (213) 623-9300 / Fax: (213) 623-9924  
5  
6 Attorneys for the Chapter 11 Debtors and  
Debtors In Possession



7  
8 **UNITED STATES BANKRUPTCY COURT**  
**CENTRAL DISTRICT OF CALIFORNIA - LOS ANGELES DIVISION**

9 In re

Lead Case No. 18-bk-20151-ER

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

Jointly Administered With:

11 Debtors and Debtors In Possession.

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

12 ☒ Affects All Debtors

Hon. Ernest M. Robles

- 13 ☐ Affects Verity Health System of  
California, Inc.  
14 ☐ Affects O'Connor Hospital  
15 ☐ Affects Saint Louise Regional Hospital  
16 ☐ Affects St. Francis Medical Center  
17 ☐ Affects St. Vincent Medical Center  
18 ☐ Affects Seton Medical Center  
19 ☐ Affects O'Connor Hospital Foundation  
20 ☐ Affects Saint Louise Regional Hospital  
Foundation  
21 ☐ Affects St. Francis Medical Center of  
Lynwood Foundation  
22 ☐ Affects St. Vincent Foundation  
23 ☐ Affects St. Vincent Dialysis Center, Inc.  
24 ☐ Affects Seton Medical Center Foundation  
25 ☐ Affects Verity Business Services  
26 ☐ Affects Verity Medical Foundation  
27 ☐ Affects Verity Holdings, LLC  
28 ☐ Affects De Paul Ventures, LLC  
☐ Affects De Paul Ventures - San Jose ASC,  
LLC

**ORDER APPROVING STIPULATION PERMITTING  
PBGC TO FILE CONSOLIDATED PROOFS OF CLAIM  
UNDER A SINGLE CASE NUMBER**

Debtors and Debtors In Possession.

DENTONS US LLP  
601 SOUTH FIGUEROA STREET, SUITE 2500  
LOS ANGELES, CALIFORNIA 90017-5704  
(213) 623-9300



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Main Document Page 2 of 2

The Court, having reviewed the *Stipulation Permitting PBGC to File Consolidated Proofs of Claims under a Single Case Number* (the "Stipulation"), filed as Docket Number No. 1772, entered into between Verity Health System Of California, Inc. and the above-referenced affiliated debtors, the debtors and debtors in possession in the above-captioned chapter 11 bankruptcy cases, on one hand, and the Pension Benefit Guaranty Corporation, on the other, and good cause appearing,

HEREBY ORDERS AS FOLLOWS:

1. The Stipulation is approved.

**IT IS SO ORDERED.**

###

Date: March 12, 2019



Ernest M. Robles  
United States Bankruptcy Judge

DENTONS US LLP  
601 SOUTH FIGUEROA STREET, SUITE 2500  
LOS ANGELES, CALIFORNIA 90017-5704  
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Case 2:18-bk-20151-ER Doc 1772 Filed 03/12/19 Entered 03/12/19 08:12:34 Desc  
Main Document Page 1 of 5

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Attorneys for the Chapter 11 Debtors and  
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. Judge Ernest M. Robles

**STIPULATION PERMITTING PBGC TO  
FILE CONSOLIDATED PROOFS OF  
CLAIM UNDER A SINGLE CASE  
NUMBER**

DENTONS US LLP  
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LOS ANGELES, CALIFORNIA 90017-5704  
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Case 2:18-bk-20151-ER Doc 1772 Filed 03/12/19 Entered 03/12/19 08:12:34 Desc  
Main Document Page 2 of 5

1 This stipulation and agreement (the “Stipulation”) is entered into by and among Verity  
2 Health System of California, Inc. and certain of its affiliates, as debtors and debtors in possession  
3 in the above-captioned chapter 11 cases (collectively, the “Debtors”), and the Pension Benefit  
4 Guaranty Corporation (“PBGC,” and, together with the Debtors, the “Parties”). The Parties have  
5 agreed that PBGC will be permitted to file consolidated proofs of claim (the “Proofs of Claim”),  
6 which will be deemed to have been filed in each of the Debtors’ cases identified in such Proofs of  
7 Claim, for the reasons and on the terms and conditions set forth below:

8 RECITALS

9 On August 31, 2018 (the “Commencement Date”), each of the Debtors filed a voluntary  
10 petition under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”) in the  
11 United States Bankruptcy Court for the Central District of California (the “Bankruptcy Court” or  
12 “Court”). The Debtors’ chapter 11 cases have been consolidated for procedural purposes only  
13 and are being jointly administered under Chapter 11 Case No. 18-20151 (ER), pursuant to Rule  
14 1015(b) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”). The Debtors  
15 are authorized to operate their businesses and manage their properties as debtors in possession  
16 pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee or examiner has been  
17 appointed in these chapter 11 cases.

18 On February 11, 2019, the Court entered an order (the “Bar Date Order”) fixing, among  
19 other things, April 1, 2019, as the deadline for filing proofs of claim against the Debtors (the  
20 “General Bar Date”). The Modified Proof of Claim Form attached as Exhibit A-1 to the notice of  
21 bar date (“Bar Date Notice”) specifically requires the filing of a separate proof of claim form  
22 against each Debtor against whom a claimant asserts a claim.

23 PBGC is a wholly owned United States Government corporation that administers the  
24 pension insurance program under Title IV of the Employee Retirement Income Security Act of  
25 1974, 29 U.S.C. §§ 1301–1461 (“ERISA”). The Title IV termination insurance program covers  
26 the following two pension plans: (i) Verity Health System Retirement Plan A (“Plan A”), and (ii)  
27 Verity Health System Retirement Plan B (“Plan B,” and together with Plan A, the “Pension  
28 Plans”).

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Case 2:18-bk-20151-ER Doc 1772 Filed 03/12/19 Entered 03/12/19 08:12:34 Desc  
Main Document Page 3 of 5

PBGC asserts that each of the Debtors is either a contributing sponsor of the Pension Plans or a member of the contributing sponsor's controlled group. See 29 U.S.C. §§ 1301(a)(13), (14).

PBGC has concluded that it may be required to file three separate claims for each of the Pension Plans, which PBGC asserts are for: (i) unfunded benefit liabilities to PBGC under 29 U.S.C. § 1362(b); (ii) unpaid minimum funding contributions to the Pension Plans required by 26 U.S.C. §§ 412, 430 (and, if the Pension Plans terminate, to PBGC under 29 U.S.C. § 1342); and (iii) unpaid premiums owed to PBGC under 29 U.S.C. §§ 1306, 1307. PBGC asserts joint and several liability for these claims against each of the Debtors. See 29 U.S.C. §§ 1301(a)(13), (14). Therefore, PBGC believes that compliance with the Modified Proof of Claim Form would require it to file 102 separate proofs of claims. These multiple claims would impose a significant administrative burden on the Debtors, PBGC, the Court, and Kurtzman Carson Consultants LLC (the Debtors' claims and noticing agent). As a result, the Parties have agreed on an approach, as discussed below, which will permit PBGC to file consolidated claims against all Debtors.

#### AGREEMENT

NOW, THEREFORE, all of the Parties hereby stipulate and agree as follows:

Notwithstanding any provision of the Bankruptcy Code, the Bankruptcy Rules, the Local Bankruptcy Rules for the Central District of California, any order of this Court (including the Bar Date Order), the Bar Date Notice, or any approved proof of claim form that otherwise would require PBGC to file separate proofs of claim against each of the Debtors, it expressly is agreed herein, subject to approval of this Stipulation by the Court, that the filing of consolidated Proofs of Claim by PBGC on its own behalf or on behalf of the Pension Plans in the chapter 11 case of Verity Health System of California, Inc., Case No. 18-20151 (ER) (the "Lead Case") on or before the General Bar Date, shall be deemed filed by PBGC in the Lead Case and will be deemed to have been filed in each of the Debtors' cases identified in such Proofs of Claim.

This Stipulation is intended solely for the purpose of administrative convenience and shall not affect the substantive rights of the Debtors, PBGC, or any other party in interest including, without limitation, the allowance, amount, or priority of PBGC's claims or any objection,

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Case 2:18-bk-20151-ER Doc 1772 Filed 03/12/19 Entered 03/12/19 08:12:34 Desc  
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1 defense, offset, disallowance, subordination, or counterclaim with respect thereto.

2 The terms of this Stipulation also shall apply to any amendments that PBGC may make  
3 with respect to any timely-filed proof of claim against any of the Debtors.

4 This Stipulation may be executed in counterparts, each of which shall be deemed an  
5 original but all of which together shall constitute one and the same instrument. A signature  
6 transmitted by facsimile or other electronic copy shall be deemed an original signature for  
7 purposes of this Stipulation.

8 This Stipulation contains the entire agreement by and among the Parties with respect to  
9 the subject matter hereof, and all prior understandings or agreements, if any, are merged into this  
10 Stipulation.

11 This Stipulation may be changed, modified or otherwise altered in a writing executed by  
12 the Parties to this Stipulation. Oral modifications are not permitted.

13 This Stipulation shall be effective immediately upon approval by the Bankruptcy Court.

14 The Bankruptcy Court shall retain jurisdiction to hear any matters or disputes arising from  
15 or relating to this Stipulation.

16 Nothing herein shall constitute an acknowledgement or finding as to whether the Debtors  
17 are liable to PBGC, and all Parties reserve all rights with respect to the Debtors' liability to  
18 PBGC.

19  
20 [SIGNATURES ON NEXT PAGE]  
21  
22  
23  
24  
25  
26  
27  
28

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1 Dated: March 7, 2019  
2 Los Angeles, CA

3 By: /s/ Tania M. Moyron

4 Samuel R. Maizel  
5 Tania M. Moyron  
6 Sam J. Alberts

7 **DENTONS US LLP**  
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9 Los Angeles, California 90017-5704  
10 Tel: (213) 623-9300  
11 Fax: (213) 623-9924

12 *Attorneys for Debtors*  
13 *and Debtors in Possession*

Dated: March 7, 2019  
Washington, DC

By: Melissa  
Judith Starr, General Counsel  
Charles L. Finke, Deputy General Counsel  
Lori A. Butler, Assistant General Counsel  
Cameo M. Kaisler, Attorney (VA 83222)  
Melissa T. Ngo, Attorney (VA 87854)  
**PENSION BENEFIT GUARANTY**  
**CORPORATION**  
1200 K Street, N.W.  
Washington, D.C. 20005  
Telephone: (202) 326-4020 ext. 6912  
Facsimile: (202) 326-4112

*Office of the General Counsel*  
*Pension Benefit Guaranty Corporation*

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David M. Harris  
Assistant United States Attorney  
Chief, Civil Division  
Joanna S. Osinoff  
Assistant United States Attorney  
Chief, Civil Section  
Elan S. Levey  
Assistant United States Attorney

*Local Counsel for Pension Benefit Guaranty*  
*Corporation*

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

In re:	)	Chapter 11
	)	
VERITY HEALTH SYSTEM OF	)	Case No. 2:18-bk-20151-ER
CALIFORNIA, INC. <i>et al.</i> <sup>1</sup> ,	)	
	)	Jointly Administered
Debtors.	)	

**STATEMENT OF THE PENSION BENEFIT GUARANTY CORPORATION  
IN SUPPORT OF ITS CLAIM FOR PENSION INSURANCE PREMIUMS**

The Pension Benefit Guaranty Corporation (“PBGC”) hereby submits this Statement in Support of its claim against Verity Health System of California, Inc. and its affiliated debtors and debtors-in-possession (each a “Debtor,” and collectively, the “Debtors”), for pension insurance premiums with respect to the Verity Health System Retirement Plan A (the “Pension Plan”), stating:

1. PBGC is a wholly-owned United States government corporation, and an agency of the United States, that administers the defined benefit pension plan termination insurance program under Title IV of the Employee Retirement Income Security Act of 1974, *as amended*, 29 U.S.C. §§ 1301-1461 (2012, Supp. V 2017) (“ERISA”). PBGC guarantees the payment of certain pension benefits upon the termination of a single-employer pension plan covered by Title IV of ERISA. When an underfunded plan terminates, PBGC generally becomes trustee of the plan and, subject to certain statutory limitations, pays the plan’s unfunded benefits with its insurance funds. *See* 29 U.S.C. §§ 1321-1322, 1342, 1361.

---

<sup>1</sup> The Debtors in these Chapter 11 cases are: Verity Health System of California, Inc.; O’Connor Hospital; St. Louise Regional Hospital; St. Francis Medical Center; St. Vincent Medical Center; Seton Medical Center; O’Connor Hospital Foundation; St. Louise Regional Hospital Foundation; St. Francis Medical Center of Lynwood Foundation; St. Vincent Foundation; Seton Medical Center Foundation; St. Vincent Dialysis Center, Inc.; Verity Medical Foundation; Verity Business Services; Verity Holdings, LLC; De Paul Ventures, LLC; and De Paul Ventures – San Jose Dialysis, LLC.

2. The Pension Plan is a single-employer defined benefit pension plan covered by Title IV of ERISA. *See* 29 U.S.C. § 1321.

3. Each of the Debtors is a contributing sponsor of the Pension Plan, 29 U.S.C. § 1301(a)(13), or a member of a contributing sponsor's controlled group, 29 U.S.C. § 1301(a)(14).

4. On August 31, 2018, each of the Debtors filed a petition for relief under Chapter 11 of the Bankruptcy Code. By Order of this Court, the Debtors' cases are consolidated for procedural purposes only, and are being jointly administered under case number 18-20151 (ER).

5. The contributing sponsor of the Pension Plan or the Pension Plan's Plan Administrator is the designated payor of PBGC insurance premiums. 29 U.S.C. § 1307(a), (e).

6. Each member of the contributing sponsor's controlled group is jointly and severally liable to PBGC for insurance premiums, interest, and penalties (collectively, "Premiums") with respect to the Pension Plan. 29 U.S.C. § 1307(e)(2). These Premiums include:

(a) Flat-Rate and Variable-Rate Premiums, *see* 29 U.S.C. § 1306(a)(3), 29 C.F.R. § 4006.3, and

(b) If the Pension Plan terminates in a distress termination pursuant to 29 U.S.C. §§ 1341(c)(2)(B)(ii) or (iii), or in an involuntary termination under 29 U.S.C. § 1342, Termination Premiums at the rate of \$1,250 per plan participant per year for three years. *See* 29 U.S.C. § 1306(a)(7), *as amended* by § 8101(b) the Deficit Reduction Act of 2005 (Pub. L. 109-171) and by §§ 401(b) and 402(g)(2)(B) of the Pension Protection Act of 2006 (Pub. L. 109-280).

7. This is an estimated claim for Premiums that the Debtors owe or will owe to PBGC, apportioned as follows:



(a) Flat-Rate and Variable-Rate Premiums arising after the petition date are administrative expenses entitled to priority under 11 U.S.C. §§ 503(b)(1) and 507(a)(2).

This claim includes Flat-Rate and Variable-Rate Premiums arising after the petition date in the amount of \$1,076,348.25. Alternatively, this claim is entitled to tax priority under 11 U.S.C. § 507(8).

(b) Flat-Rate and Variable-Rate Premiums arising before the petition date are general unsecured claims. This claim includes Flat-Rate and Variable-Rate Premiums arising before the petition date in an unliquidated amount.

(c) Any Termination Premiums other than that described in paragraph 8 is asserted as a general unsecured claim in the amount of \$25,998,750.

8. If the Pension Plan terminates in a distress termination pursuant to 29 U.S.C. § 1341(c)(2)(B)(ii) or in an involuntary termination under 29 U.S.C. § 1342 while the Debtors are attempting to reorganize in Chapter 11, and the Debtors ultimately obtain confirmation of a Chapter 11 plan of reorganization, the Debtors' obligation to PBGC for Termination Premiums does not exist until after the Chapter 11 plan is confirmed and the Debtors obtain a discharge. *See* 29 U.S.C. § 1306(a)(7)(B). Thus, under those circumstances, Termination Premiums are not a dischargeable claim or debt within the meaning of 11 U.S.C. §§ 101(5) and 1141.

9. Documents supporting this claim include the Pension Plan document with applicable amendments; relevant collateral agreements, if any; United States Internal Revenue Service Form 5500s; PBGC Annual Premium Payment forms; and annual actuarial valuation reports for the Pension Plan. On information and belief, the Debtors or a member of their controlled group has in its possession and control copies or originals of these documents.

10. PBGC's investigation of this matter is continuing. The agency reserves the right to amend, modify, and supplement this proof of claim and/or to file additional proofs of claim. This claim may be subject to a right of setoff by PBGC as an agency of the United States government, and the right of the United States to withhold subject to offset amounts due from other federal entities. The filing of this proof of claim is not intended to be and shall not be construed as (1) an election of remedy or (2) a waiver or limitation of any rights of PBGC, the Pension Plan or any of its beneficiaries or participants.

11. Pursuant to the Order Approving Stipulation Permitting PBGC to File Consolidated Claims Under a Single Case Number (Docket No. 1782), entered by the Court on March 12, 2019, this single proof of claim shall be deemed to constitute the filing of a proof of claim against each and every Debtor, asserted as a joint and several liability, in this jointly administered proceeding.

Dated: Washington, D.C.  
March 26, 2019

Lori A. Butler  
Assistant General Counsel  
Cameo M. Kaisler  
Melissa T. Ngo  
Attorneys  
Office of the General Counsel  
PENSION BENEFIT GUARANTY CORPORATION  
1200 K Street, N.W.  
Washington, D.C. 20005-4026  
(202) 326-4020 ext. 6912  
FAX: (202) 326-4112

# **Exhibit 7**

Fill in this information to identify the case:

Claim #4281 Date Filed: 3/27/2019

Debtor 1 Verity Health System of California, Inc., et al.  
Debtor 2 \_\_\_\_\_  
(Spouse, if filing)  
United States Bankruptcy Court for the: Central District of California  
(State)  
Case number 18-20151 (jointly administered)

Official Form 410

**Proof of Claim**

12/15

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. Do not send original documents; they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.

**Part 1: Identify the Claim**

1. Who is the current creditor?	<u>Pension Benefit Guaranty Corporation</u> Name of the current creditor (the person or entity to be paid for this claim) Other names the creditor used with the debtor _____	
2. Has this claim been acquired from someone else?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. From whom? _____	
3. Where should notices and payments to the creditor be sent?  Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)	Where should notices to the creditor be sent?  Office of the General Counsel, Attn: Cameo M. Kaisler Name <u>1200 K Street, N.W., Suite 340</u> Number Street <u>Washington, DC 20005-4026</u> City State ZIP Code Contact phone <u>202-326-4020, x6912</u> Contact email <u>Salembier.Cameo@pbgc.gov</u>	Where should payments to the creditor be sent? (if different)  Name Number Street City State ZIP Code Contact phone Contact email
RECEIVED MAR 27 2019 KURTZMAN CARSON CONSULTANTS		
4. Does this claim amend one already filed?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Claim number on court claims registry (if known) _____ Filed on _____ MM / DD / YYYY	
5. Do you know if anyone else has filed a proof of claim for this claim?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Who made the earlier filing? _____ <input checked="" type="checkbox"/> Date Stamped Copy Returned <input type="checkbox"/> No self addressed stamped envelope <input type="checkbox"/> No copy to return	



**Part 2: Give Information About the Claim as of the Date the Case Was Filed**

6. Do you have any number you use to identify the debtor? ☒ No  
☐ Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: \_\_\_\_\_

7. How much is the claim? \$ 2,400,000 Does this amount include interest or other charges?  
☒ No  
☐ Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).

8. What is the basis of the claim? Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card.  
Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c).  
Limit disclosing information that is entitled to privacy, such as health care information.  
Statutory Liability under 29 U.S.C. §§ 1362 and 1368 for unfunded benefit liabilities of the Verity Health System Retirement Plan B. See attached statement.

9. Is all or part of the claim secured? ☒ No  
☐ Yes. The claim is secured by a lien on property.  
**Nature of property:**  
☐ Real estate. If the claim is secured by the debtor's principal residence, file a *Mortgage Proof of Claim Attachment* (Official Form 410-A) with this *Proof of Claim*.  
☐ Motor vehicle  
☐ Other. Describe: \_\_\_\_\_

**Basis for perfection:** \_\_\_\_\_  
Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)

**Value of property:** \$ \_\_\_\_\_

**Amount of the claim that is secured:** \$ \_\_\_\_\_

**Amount of the claim that is unsecured:** \$ \_\_\_\_\_ (The sum of the secured and unsecured amounts should match the amount in line 7.)

RECEIVED

MAR 27 2019

KURTZMAN CARSON CONSULTANTS

**Amount necessary to cure any default as of the date of the petition:** \$ \_\_\_\_\_

**Annual Interest Rate** (when case was filed) \_\_\_\_\_ %

☐ Fixed  
☐ Variable

10. Is this claim based on a lease? ☒ No  
☐ Yes. Amount necessary to cure any default as of the date of the petition. \$ \_\_\_\_\_

11. Is this claim subject to a right of setoff? ☒ No See attached statement.  
☐ Yes. Identify the property: \_\_\_\_\_

12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)? ☐ No ☒ Yes. Check all that apply:

A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.

	Amount entitled to priority
<input type="checkbox"/> Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).	\$ _____
<input type="checkbox"/> Up to \$2,775* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).	\$ _____
<input type="checkbox"/> Wages, salaries, or commissions (up to \$12,475*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).	\$ _____
<input checked="" type="checkbox"/> Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).	\$ <u>unliquidated</u>
<input type="checkbox"/> Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).	\$ _____
<input checked="" type="checkbox"/> Other. Specify subsection of 11 U.S.C. § 507(a)( <u>2</u> ) that applies	\$ <u>unliquidated</u>

\* Amounts are subject to adjustment on 4/01/16 and every 3 years after that for cases begun on or after the date of adjustment.

**Part 3: Sign Below**

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

- ☐ I am the creditor.  
☒ I am the creditor's attorney or authorized agent.  
☐ I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004  
☐ I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 03/26/2019  
MM / DD / YYYY

Signature

Print the name of the person who is completing and signing this claim:

Name Lori A. Butler  
First name Middle name Last name  
Title Assistant General Counsel  
Company Pension Benefit Guaranty Corporation  
Identify the corporate servicer as the company if the authorized agent is a servicer  
Address 1200 K Street, N.W., Suite 340  
Number Street  
Washington, DC 20005-4026  
City State ZIP Code  
Contact phone 202-326-4020 Email Butler.Lori@pbgc.gov

RECEIVED

MAR 27 2019

KURTZMAN CARSON CONSULTANTS



Pension Benefit Guaranty Corporation

1200 K Street, N.W., Washington, D.C. 20005-4026

VIA FEDERAL EXPRESS

**MAR 26 2019**

Verity Claims Processing Center  
c/o KCC  
2335 Alaska Avenue  
El Segundo, CA 90245

Re: Verity Health System of California, Inc., *et al.*  
Case No. 2:18-bk-20151-ER (Jointly Administered)

To Whom It May Concern:

Enclosed for filing in the above-referenced proceeding are six separate Proof of Claim forms (with attached Statements in Support) of the Pension Benefit Guaranty Corporation, a United States government agency.

Pursuant to the attached Order Approving Stipulation Permitting PBGC to File Consolidated Claims Under a Single Case Number (Docket No. 1782), entered by the Court on March 12, 2019, and the attached Stipulation (Docket No. 1772), each proof of claim shall be deemed to constitute the filing of a proof of claim against each and every Debtor, asserted as a joint and several liability, in this jointly administered proceeding.

Please return a file-stamped copy of the claims, noting any numbers assigned to the claims, to me in the enclosed self-addressed stamped envelope. Thank you for your assistance.

If you have any questions or need further information, please contact me at (202) 326-4020, extension 3019, or my colleague, Cameo Kaisler, at extension 6912.

Regards,

Melissa T. Ngo, Esq.  
Office of the General Counsel

Enclosures

Case 2:18-bk-20151-ER Doc 1782 Filed 03/12/19 Entered 03/12/19 17:01:32 Desc  
Main Document Page 1 of 2

1 SAMUEL R. MAIZEL (Bar No. 189301)  
samuel.maizel@dentons.com  
2 TANIA M. MOYRON (Bar No. 235736)  
tania.moyron@dentons.com  
3 DENTONS US LLP  
601 South Figueroa Street, Suite 2500  
4 Los Angeles, California 90017-5704  
Tel: (213) 623-9300 / Fax: (213) 623-9924

5 Attorneys for the Chapter 11 Debtors and  
6 Debtors In Possession

FILED & ENTERED

MAR 12 2019

CLERK U.S. BANKRUPTCY COURT  
Central District of California  
BY gonzalez DEPUTY CLERK

7  
8 UNITED STATES BANKRUPTCY COURT  
CENTRAL DISTRICT OF CALIFORNIA - LOS ANGELES DIVISION

9 In re

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

12 Debtors and Debtors In Possession.

Lead Case No. 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

ORDER APPROVING STIPULATION PERMITTING  
PBGC TO FILE CONSOLIDATED PROOFS OF CLAIM  
UNDER A SINGLE CASE NUMBER

- 13 ☒ Affects All Debtors  
14 ☐ Affects Verity Health System of  
California, Inc.  
15 ☐ Affects O'Connor Hospital  
16 ☐ Affects Saint Louise Regional Hospital  
17 ☐ Affects St. Francis Medical Center  
18 ☐ Affects St. Vincent Medical Center  
19 ☐ Affects Seton Medical Center  
20 ☐ Affects O'Connor Hospital Foundation  
21 ☐ Affects Saint Louise Regional Hospital  
Foundation  
22 ☐ Affects St. Francis Medical Center of  
Lynwood Foundation  
23 ☐ Affects St. Vincent Foundation  
24 ☐ Affects St. Vincent Dialysis Center, Inc.  
25 ☐ Affects Seton Medical Center Foundation  
26 ☐ Affects Verity Business Services  
27 ☐ Affects Verity Medical Foundation  
28 ☐ Affects Verity Holdings, LLC  
☐ Affects De Paul Ventures, LLC  
☐ Affects De Paul Ventures - San Jose ASC,  
LLC

Debtors and Debtors In Possession.

DENTONS US LLP  
601 SOUTH FIGUEROA STREET, SUITE 2500  
LOS ANGELES, CALIFORNIA 90017-5704  
(213) 623-9300



Case 2:18-bk-20151-ER Doc 1782 Filed 03/12/19 Entered 03/12/19 17:01:32 Desc  
Main Document Page 2 of 2

The Court, having reviewed the *Stipulation Permitting PBGC to File Consolidated Proofs of Claims under a Single Case Number* (the "Stipulation"), filed as Docket Number No. 1772, entered into between Verity Health System Of California, Inc. and the above-referenced affiliated debtors, the debtors and debtors in possession in the above-captioned chapter 11 bankruptcy cases, on one hand, and the Pension Benefit Guaranty Corporation, on the other, and good cause appearing,

HEREBY ORDERS AS FOLLOWS:

1. The Stipulation is approved.

**IT IS SO ORDERED.**

###

Date: March 12, 2019



Ernest M. Robles  
United States Bankruptcy Judge

DENTONS US LLP  
601 SOUTH FIGUEROA STREET, SUITE 2500  
LOS ANGELES, CALIFORNIA 90017-5704  
(213) 623-9300

Case 2:18-bk-20151-ER Doc 1772 Filed 03/12/19 Entered 03/12/19 08:12:34 Desc  
Main Document Page 1 of 5

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Tel: (213) 623-9300 / Fax: (213) 623-9924

Attorneys for the Chapter 11 Debtors and  
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. Judge Ernest M. Robles

**STIPULATION PERMITTING PBGC TO  
FILE CONSOLIDATED PROOFS OF  
CLAIM UNDER A SINGLE CASE  
NUMBER**

DENTONS US LLP  
601 SOUTH FIGUEROA STREET, SUITE 2500  
LOS ANGELES, CALIFORNIA 90017-5704  
(213) 623-9300

Case 2:18-bk-20151-ER Doc 1772 Filed 03/12/19 Entered 03/12/19 08:12:34 Desc  
Main Document Page 2 of 5

This stipulation and agreement (the “Stipulation”) is entered into by and among Verity Health System of California, Inc. and certain of its affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the “Debtors”), and the Pension Benefit Guaranty Corporation (“PBGC,” and, together with the Debtors, the “Parties”). The Parties have agreed that PBGC will be permitted to file consolidated proofs of claim (the “Proofs of Claim”), which will be deemed to have been filed in each of the Debtors’ cases identified in such Proofs of Claim, for the reasons and on the terms and conditions set forth below:

#### RECITALS

On August 31, 2018 (the “Commencement Date”), each of the Debtors filed a voluntary petition under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”) in the United States Bankruptcy Court for the Central District of California (the “Bankruptcy Court” or “Court”). The Debtors’ chapter 11 cases have been consolidated for procedural purposes only and are being jointly administered under Chapter 11 Case No. 18-20151 (ER), pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”). The Debtors are authorized to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee or examiner has been appointed in these chapter 11 cases.

On February 11, 2019, the Court entered an order (the “Bar Date Order”) fixing, among other things, April 1, 2019, as the deadline for filing proofs of claim against the Debtors (the “General Bar Date”). The Modified Proof of Claim Form attached as Exhibit A-1 to the notice of bar date (“Bar Date Notice”) specifically requires the filing of a separate proof of claim form against each Debtor against whom a claimant asserts a claim.

PBGC is a wholly owned United States Government corporation that administers the pension insurance program under Title IV of the Employee Retirement Income Security Act of 1974, 29 U.S.C. §§ 1301–1461 (“ERISA”). The Title IV termination insurance program covers the following two pension plans: (i) Verity Health System Retirement Plan A (“Plan A”), and (ii) Verity Health System Retirement Plan B (“Plan B,” and together with Plan A, the “Pension Plans”).

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Case 2:18-bk-20151-ER Doc 1772 Filed 03/12/19 Entered 03/12/19 08:12:34 Desc  
Main Document Page 3 of 5

PBGC asserts that each of the Debtors is either a contributing sponsor of the Pension Plans or a member of the contributing sponsor's controlled group. See 29 U.S.C. §§ 1301(a)(13), (14).

PBGC has concluded that it may be required to file three separate claims for each of the Pension Plans, which PBGC asserts are for: (i) unfunded benefit liabilities to PBGC under 29 U.S.C. § 1362(b); (ii) unpaid minimum funding contributions to the Pension Plans required by 26 U.S.C. §§ 412, 430 (and, if the Pension Plans terminate, to PBGC under 29 U.S.C. § 1342); and (iii) unpaid premiums owed to PBGC under 29 U.S.C. §§ 1306, 1307. PBGC asserts joint and several liability for these claims against each of the Debtors. See 29 U.S.C. §§ 1301(a)(13), (14). Therefore, PBGC believes that compliance with the Modified Proof of Claim Form would require it to file 102 separate proofs of claims. These multiple claims would impose a significant administrative burden on the Debtors, PBGC, the Court, and Kurtzman Carson Consultants LLC (the Debtors' claims and noticing agent). As a result, the Parties have agreed on an approach, as discussed below, which will permit PBGC to file consolidated claims against all Debtors.

#### AGREEMENT

NOW, THEREFORE, all of the Parties hereby stipulate and agree as follows:

Notwithstanding any provision of the Bankruptcy Code, the Bankruptcy Rules, the Local Bankruptcy Rules for the Central District of California, any order of this Court (including the Bar Date Order), the Bar Date Notice, or any approved proof of claim form that otherwise would require PBGC to file separate proofs of claim against each of the Debtors, it expressly is agreed herein, subject to approval of this Stipulation by the Court, that the filing of consolidated Proofs of Claim by PBGC on its own behalf or on behalf of the Pension Plans in the chapter 11 case of Verity Health System of California, Inc., Case No. 18-20151 (ER) (the "Lead Case") on or before the General Bar Date, shall be deemed filed by PBGC in the Lead Case and will be deemed to have been filed in each of the Debtors' cases identified in such Proofs of Claim.

This Stipulation is intended solely for the purpose of administrative convenience and shall not affect the substantive rights of the Debtors, PBGC, or any other party in interest including, without limitation, the allowance, amount, or priority of PBGC's claims or any objection,

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(213) 623-9300

Case 2:18-bk-20151-ER Doc 1772 Filed 03/12/19 Entered 03/12/19 08:12:34 Desc  
Main Document Page 4 of 5

1 defense, offset, disallowance, subordination, or counterclaim with respect thereto.

2 The terms of this Stipulation also shall apply to any amendments that PBGC may make  
3 with respect to any timely-filed proof of claim against any of the Debtors.

4 This Stipulation may be executed in counterparts, each of which shall be deemed an  
5 original but all of which together shall constitute one and the same instrument. A signature  
6 transmitted by facsimile or other electronic copy shall be deemed an original signature for  
7 purposes of this Stipulation.

8 This Stipulation contains the entire agreement by and among the Parties with respect to  
9 the subject matter hereof, and all prior understandings or agreements, if any, are merged into this  
10 Stipulation.

11 This Stipulation may be changed, modified or otherwise altered in a writing executed by  
12 the Parties to this Stipulation. Oral modifications are not permitted.

13 This Stipulation shall be effective immediately upon approval by the Bankruptcy Court.

14 The Bankruptcy Court shall retain jurisdiction to hear any matters or disputes arising from  
15 or relating to this Stipulation.

16 Nothing herein shall constitute an acknowledgement or finding as to whether the Debtors  
17 are liable to PBGC, and all Parties reserve all rights with respect to the Debtors' liability to  
18 PBGC.

19  
20 [SIGNATURES ON NEXT PAGE]  
21  
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28

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(213) 623-9300

1 Dated: March 7, 2019  
2 Los Angeles, CA

3 By: /s/ Tania M. Moyron  
4 Samuel R. Maizel  
5 Tania M. Moyron  
6 Sam J. Alberts

7 **DENTONS US LLP**  
8 601 South Figueroa Street, Suite 2500  
9 Los Angeles, California 90017-5704  
10 Tel: (213) 623-9300  
11 Fax: (213) 623-9924

12 *Attorneys for Debtors*  
13 *and Debtors in Possession*

Dated: March 7, 2019  
Washington, DC

By: [Signature]  
Judith Starr, General Counsel  
Charles L. Finke, Deputy General Counsel  
Lori A. Butler, Assistant General Counsel  
Cameo M. Kaisler, Attorney (VA 83222)  
Melissa T. Ngo, Attorney (VA 87854)  
**PENSION BENEFIT GUARANTY CORPORATION**  
1200 K Street, N.W.  
Washington, D.C. 20005  
Telephone: (202) 326-4020 ext. 6912  
Facsimile: (202) 326-4112

*Office of the General Counsel*  
*Pension Benefit Guaranty Corporation*

By: [Signature]  
Nicola T. Hanna  
United States Attorney  
David M. Harris  
Assistant United States Attorney  
Chief, Civil Division  
Joanna S. Osinoff  
Assistant United States Attorney  
Chief, Civil Section  
Elan S. Levey  
Assistant United States Attorney

*Local Counsel for Pension Benefit Guaranty Corporation*

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

In re:	)	Chapter 11
	)	
VERITY HEALTH SYSTEM OF	)	Case No. 2:18-bk-20151-ER
CALIFORNIA, INC. <i>et al.</i> <sup>1</sup> ,	)	
	)	Jointly Administered
Debtors,	)	

**STATEMENT OF THE PENSION BENEFIT GUARANTY CORPORATION  
IN SUPPORT OF ITS CLAIM FOR UNFUNDED BENEFIT LIABILITIES**

The Pension Benefit Guaranty Corporation (“PBGC”) hereby submits this Statement in Support of its claim against Verity Health System of California, Inc. and its affiliated debtors and debtors-in-possession (each a “Debtor,” and collectively, the “Debtors”), for the unfunded benefit liabilities of the Verity Health System Retirement Plan B (“Pension Plan”), stating:

1. PBGC is a wholly-owned United States government corporation, and an agency of the United States, that administers the defined benefit pension plan termination insurance program under Title IV of the Employee Retirement Income Security Act of 1974, *as amended*, 29 U.S.C. §§ 1301-1461 (2012, Supp. V 2017) (“ERISA”). PBGC guarantees the payment of certain pension benefits upon the termination of a single-employer pension plan covered by Title IV of ERISA. When an underfunded plan terminates, PBGC generally becomes trustee of the plan and, subject to certain statutory limitations, pays the plan's unfunded benefits with its insurance funds. *See* 29 U.S.C. §§ 1321-1322, 1342, 1361.

---

<sup>1</sup> The Debtors in these Chapter 11 cases are: Verity Health System of California, Inc.; O’Connor Hospital; St. Louise Regional Hospital; St. Francis Medical Center; St. Vincent Medical Center; Seton Medical Center; O’Connor Hospital Foundation; St. Louise Regional Hospital Foundation; St. Francis Medical Center of Lynwood Foundation; St. Vincent Foundation; Seton Medical Center Foundation; St. Vincent Dialysis Center, Inc.; Verity Medical Foundation; Verity Business Services; Verity Holdings, LLC; De Paul Ventures, LLC; and De Paul Ventures – San Jose Dialysis, LLC.

2. The Pension Plan is a single-employer defined benefit pension plan covered by Title IV of ERISA. *See* 29 U.S.C. § 1321.

3. Each of the Debtors is a contributing sponsor of the Pension Plan, 29 U.S.C. § 1301(a)(13), or a member of a contributing sponsor's controlled group, 29 U.S.C. § 1301(a)(14).

4. On August 31, 2018, each of the Debtors filed a voluntary petition under Chapter 11 of the Bankruptcy Code. By Order of this Court, the Debtors' cases are consolidated for procedural purposes only, and are being jointly administered under case number 18-20151 (ER).

5. This claim is contingent on termination of the Pension Plan. *See* 29 U.S.C. §§ 1341-1342. For purposes of this claim, it is assumed that the Pension Plan terminated on March 31, 2019. If and when the Pension Plan terminates, PBGC will amend this claim as necessary.

6. If the Pension Plan terminates, the assets of the Pension Plan may be insufficient to cover the benefit liabilities of the Pension Plan. This insufficiency is the amount of the Pension Plan's unfunded benefit liabilities. *See* 29 U.S.C. § 1362(b).

7. Upon termination of the Pension Plan, its contributing sponsor and each member of the contributing sponsor's controlled group become jointly and severally liable to PBGC for the total amount of the Pension Plan's unfunded benefit liabilities. 29 U.S.C. § 1362(a), (b); *see* 29 U.S.C. § 1301(a)(18).

8. The estimated amount of the Pension Plan's unfunded benefit liabilities is \$2,400,000.

9. If any person liable to PBGC under 29 U.S.C. § 1362 fails to pay the liability after demand, a lien arises in favor of PBGC as of the termination date of the plan. The amount of the lien is limited to 30% of the collective net worth of all the liable parties. 29 U.S.C. § 1368(a). For



purposes of the Bankruptcy Code, the lien is “treated in the same manner as a tax due and owing to the United States.” 29 U.S.C. § 1368(c)(2).

10. This claim is an administrative expense entitled to priority as a tax incurred by the estate, in an amount up to 30% of the controlled group’s collective net worth. 11 U.S.C. §§ 503(b)(1)(B), 507(a)(2); 29 U.S.C. § 1368(a), (c)(2). Independently, it also meets the definition of a “tax” for bankruptcy purposes because it is an involuntary pecuniary burden imposed on individuals or their property for public purposes, including to defray the government’s expenses.

11. Alternatively, this claim is entitled to tax priority under 11 U.S.C. § 507(a)(8), in an amount up to 30% of the controlled group’s collective net worth.

12. Any amount not entitled to priority is asserted as a general unsecured claim.

13. By filing this claim, PBGC asserts its contingent claim and demands payment of the unfunded benefit liabilities of the Pension Plan upon the Pension Plan’s termination date.

14. Documents supporting this claim include the Pension Plan document with applicable amendments; relevant collateral agreements, if any; United States Internal Revenue Service Form 5500s; and annual actuarial valuation reports for the Pension Plan. On information and belief, the Debtors or members of their controlled group have in their possession and control copies or originals of these documents.

15. PBGC’s investigation of this matter is continuing. The agency reserves the right to amend, modify and supplement this proof of claim and/or to file additional proofs of claim. This claim may be subject to a right of setoff by PBGC as an agency of the United States government, and the right of the United States to withhold subject to offset amounts due from other federal entities. The filing of this proof of claim is not intended to be and shall not be construed as (1) an

election of remedy or (2) a waiver or limitation of any rights of PBGC, the Pension Plan or any of its beneficiaries or participants.

16. Pursuant to the Order Approving Stipulation Permitting PBGC to File Consolidated Claims Under a Single Case Number (Docket No. 1782), entered by the Court on March 12, 2019, this single proof of claim shall be deemed to constitute the filing of a proof of claim against each and every Debtor, asserted as a joint and several liability, in this jointly administered proceeding.

Dated: Washington, D.C.  
March 26, 2019

Lori A. Butler  
Assistant General Counsel  
Cameo M. Kaisler  
Melissa T. Ngo  
Attorneys  
Office of the General Counsel  
PENSION BENEFIT GUARANTY CORPORATION  
1200 K Street, N.W.  
Washington, D.C. 20005-4026  
(202) 326-4020 ext. 6912  
FAX: (202) 326-4112

# **Exhibit 8**

Claim #4282 Date Filed: 3/27/2019

**Fill in this information to identify the case:**

Debtor 1 Verity Health System of California, Inc., et al.  
Debtor 2 \_\_\_\_\_  
(Spouse, if filing)  
United States Bankruptcy Court for the: Central District of: California  
(State)  
Case number 18-20151 (jointly administered)

Official Form 410

**Proof of Claim**

12/15

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. Do not send original documents; they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.

**Part 1: Identify the Claim**

1. Who is the current creditor?	<u>Pension Benefit Guaranty Corporation</u> Name of the current creditor (the person or entity to be paid for this claim) Other names the creditor used with the debtor _____	
2. Has this claim been acquired from someone else?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes From whom? _____	
3. Where should notices and payments to the creditor be sent?	Where should notices to the creditor be sent?	Where should payments to the creditor be sent? (if different)
Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)	Name <u>Office of the General Counsel, Attn: Cameo M. Salembier</u> <u>1200 K Street, N.W., Suite 340</u> Number Street <u>Washington, DC 20005-4026</u> City State ZIP Code Contact phone <u>202-326-4020, x6912</u> Contact email <u>Salembier.Cameo@pbgc.gov</u>	Name _____ Number Street _____ City State ZIP Code Contact phone _____ Contact email _____
Uniform claim identifier for electronic payments in chapter 13 (if you use one): _____		
4. Does this claim amend one already filed?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Claim number on court claims registry (if known) _____ Filed on _____ MM / DD / YYYY	
5. Do you know if anyone else has filed a proof of claim for this claim?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes Who made the earlier filing? _____ <input checked="" type="checkbox"/> Date Stamped Copy Returned <input type="checkbox"/> No self addressed stamped envelope <input type="checkbox"/> No copy to return	

Official Form 410

Proof of Claim



1820151190327000000000042

**Part 2: Give Information About the Claim as of the Date the Case Was Filed**

6. Do you have any number you use to identify the debtor? ☒ No  
☐ Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: \_\_\_\_\_
7. How much is the claim? \$ unliquidated Does this amount include interest or other charges?  
☒ No  
☐ Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).
8. What is the basis of the claim? Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card.  
Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c).  
Limit disclosing information that is entitled to privacy, such as health care information.  
  
Statutory Liability to the Verity Health System Retirement Plan B for unpaid minimum funding contributions under 26 U.S.C. §§ 412 and 430, 29 U.S.C. §§ 1082, 1342 and 1362(c). See attached statement.
9. Is all or part of the claim secured? ☒ No  
☐ Yes. The claim is secured by a lien on property.  
**Nature of property:**  
☐ Real estate. If the claim is secured by the debtor's principal residence, file a *Mortgage Proof of Claim Attachment* (Official Form 410-A) with this *Proof of Claim*.  
☐ Motor vehicle  
☐ Other. Describe: \_\_\_\_\_  
  
**Basis for perfection:** \_\_\_\_\_  
Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)  
  
**Value of property:** \$ \_\_\_\_\_  
**Amount of the claim that is secured:** \$ \_\_\_\_\_  
**Amount of the claim that is unsecured:** \$ \_\_\_\_\_ (The sum of the secured and unsecured amounts should match the amount in line 7.)  
  
**Amount necessary to cure any default as of the date of the petition:** \$ \_\_\_\_\_  
  
**Annual Interest Rate** (when case was filed) \_\_\_\_\_ %  
☐ Fixed  
☐ Variable
10. Is this claim based on a lease? ☒ No  
☐ Yes Amount necessary to cure any default as of the date of the petition. \$ \_\_\_\_\_
11. Is this claim subject to a right of setoff? ☒ No See attached statement.  
☐ Yes. Identify the property: \_\_\_\_\_

12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)? ☐ No ☒ Yes. Check all that apply:

A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.

	Amount entitled to priority
<input type="checkbox"/> Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).	\$ _____
<input type="checkbox"/> Up to \$2,775* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).	\$ _____
<input type="checkbox"/> Wages, salaries, or commissions (up to \$12,475*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).	\$ _____
<input type="checkbox"/> Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).	\$ _____
<input checked="" type="checkbox"/> Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).	\$ <u>unliquidated</u>
<input checked="" type="checkbox"/> Other. Specify subsection of 11 U.S.C. § 507(a)(2) that applies.	\$ <u>unliquidated</u>

\* Amounts are subject to adjustment on 4/01/16 and every 3 years after that for cases begun on or after the date of adjustment.

**Part 3: Sign Below**

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

- ☐ I am the creditor.  
☒ I am the creditor's attorney or authorized agent.  
☐ I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.  
☐ I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 03/26/2019  
MM / DD / YYYY

Lori A. Butler  
Signature

Print the name of the person who is completing and signing this claim:

Name Lori A. Butler  
First name Middle name Last name

Title Assistant General Counsel

Company Pension Benefit Guaranty Corporation  
Identify the corporate servicer as the company if the authorized agent is a servicer

Address 1200 K Street, N.W., Suite 340  
Number Street

Washington, DC 20005-4026  
City State ZIP Code

Contact phone 202-326-4020 Email Butler.Lori@pbgc.gov

RECEIVED

MAR 27 2019

KURTZMAN CARSON CONSULTANTS



Pension Benefit Guaranty Corporation  
1200 K Street, N.W., Washington, D.C. 20005-4026

VIA FEDERAL EXPRESS

**MAR 26 2019**

Verity Claims Processing Center  
c/o KCC  
2335 Alaska Avenue  
El Segundo, CA 90245

Re: Verity Health System of California, Inc., *et al.*  
Case No. 2:18-bk-20151-ER (Jointly Administered)

To Whom It May Concern:

Enclosed for filing in the above-referenced proceeding are six separate Proof of Claim forms (with attached Statements in Support) of the Pension Benefit Guaranty Corporation, a United States government agency.

Pursuant to the attached Order Approving Stipulation Permitting PBGC to File Consolidated Claims Under a Single Case Number (Docket No. 1782), entered by the Court on March 12, 2019, and the attached Stipulation (Docket No. 1772), each proof of claim shall be deemed to constitute the filing of a proof of claim against each and every Debtor, asserted as a joint and several liability, in this jointly administered proceeding.

Please return a file-stamped copy of the claims, noting any numbers assigned to the claims, to me in the enclosed self-addressed stamped envelope. Thank you for your assistance.

If you have any questions or need further information, please contact me at (202) 326-4020, extension 3019, or my colleague, Cameo Kaisler, at extension 6912.

Regards,

Melissa T. Ngo, Esq.  
Office of the General Counsel

Enclosures

Case 2:18-bk-20151-ER Doc 1782 Filed 03/12/19 Entered 03/12/19 17:01:32 Desc  
Main Document Page 1 of 2

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601 South Figueroa Street, Suite 2500  
Los Angeles, California 90017-5704  
Tel: (213) 623-9300 / Fax: (213) 623-9924  
  
Attorneys for the Chapter 11 Debtors and  
Debtors In Possession

FILED & ENTERED

MAR 12 2019

CLERK U.S. BANKRUPTCY COURT  
Central District of California  
BY gonzalez DEPUTY CLERK

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

In re

Lead Case No. 18-bk-20151-ER

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

Jointly Administered With:

Debtors and Debtors In Possession.

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

☒ Affects All Debtors

Hon. Ernest M. Robles

- ☐ 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 ASC,  
LLC

ORDER APPROVING STIPULATION PERMITTING  
PBGC TO FILE CONSOLIDATED PROOFS OF CLAIM  
UNDER A SINGLE CASE NUMBER

Debtors and Debtors In Possession.

DENTONS US LLP  
601 SOUTH FIGUEROA STREET, SUITE 2500  
LOS ANGELES, CALIFORNIA 90017-5704  
(213) 623-9300



Case 2:18-bk-20151-ER Doc 1782 Filed 03/12/19 Entered 03/12/19 17:01:32 Desc  
Main Document Page 2 of 2

1 The Court, having reviewed the *Stipulation Permitting PBGC to File Consolidated Proofs*  
2 *of Claims under a Single Case Number* (the "Stipulation"), filed as Docket Number No. 1772,  
3 entered into between Verity Health System Of California, Inc. and the above-referenced affiliated  
4 debtors, the debtors and debtors in possession in the above-captioned chapter 11 bankruptcy  
5 cases, on one hand, and the Pension Benefit Guaranty Corporation, on the other, and good cause  
6 appearing,

7 HEREBY ORDERS AS FOLLOWS:

8 1. The Stipulation is approved.

9 IT IS SO ORDERED.

11 ###

24 Date: March 12, 2019

23 

Ernest M. Robles  
United States Bankruptcy Judge

DENTONS US LLP  
601 SOUTH FIGUEROA STREET, SUITE 2500  
LOS ANGELES, CALIFORNIA 90017-5704  
(213) 623-9300

Case 2:18-bk-20151-ER Doc 1772 Filed 03/12/19 Entered 03/12/19 08:12:34 Desc  
Main Document Page 1 of 5

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Attorneys for the Chapter 11 Debtors and  
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. Judge Ernest M. Robles

**STIPULATION PERMITTING PBGC TO  
FILE CONSOLIDATED PROOFS OF  
CLAIM UNDER A SINGLE CASE  
NUMBER**

DENTONS US LLP  
601 SOUTH FIGUEROA STREET, SUITE 2500  
LOS ANGELES, CALIFORNIA 90017-5704  
(213) 623-9300

Case 2:18-bk-20151-ER Doc 1772 Filed 03/12/19 Entered 03/12/19 08:12:34 Desc  
Main Document Page 2 of 5

1 This stipulation and agreement (the "Stipulation") is entered into by and among Verity  
2 Health System of California, Inc. and certain of its affiliates, as debtors and debtors in possession  
3 in the above-captioned chapter 11 cases (collectively, the "Debtors"), and the Pension Benefit  
4 Guaranty Corporation ("PBGC," and, together with the Debtors, the "Parties"). The Parties have  
5 agreed that PBGC will be permitted to file consolidated proofs of claim (the "Proofs of Claim"),  
6 which will be deemed to have been filed in each of the Debtors' cases identified in such Proofs of  
7 Claim, for the reasons and on the terms and conditions set forth below:

8 RECITALS

9 On August 31, 2018 (the "Commencement Date"), each of the Debtors filed a voluntary  
10 petition under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") in the  
11 United States Bankruptcy Court for the Central District of California (the "Bankruptcy Court" or  
12 "Court"). The Debtors' chapter 11 cases have been consolidated for procedural purposes only  
13 and are being jointly administered under Chapter 11 Case No. 18-20151 (ER), pursuant to Rule  
14 1015(b) of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"). The Debtors  
15 are authorized to operate their businesses and manage their properties as debtors in possession  
16 pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee or examiner has been  
17 appointed in these chapter 11 cases.

18 On February 11, 2019, the Court entered an order (the "Bar Date Order") fixing, among  
19 other things, April 1, 2019, as the deadline for filing proofs of claim against the Debtors (the  
20 "General Bar Date"). The Modified Proof of Claim Form attached as Exhibit A-1 to the notice of  
21 bar date ("Bar Date Notice") specifically requires the filing of a separate proof of claim form  
22 against each Debtor against whom a claimant asserts a claim.

23 PBGC is a wholly owned United States Government corporation that administers the  
24 pension insurance program under Title IV of the Employee Retirement Income Security Act of  
25 1974, 29 U.S.C. §§ 1301–1461 ("ERISA"). The Title IV termination insurance program covers  
26 the following two pension plans: (i) Verity Health System Retirement Plan A ("Plan A"), and (ii)  
27 Verity Health System Retirement Plan B ("Plan B," and together with Plan A, the "Pension  
28 Plans").

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DENTONS US LLP  
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(213) 623-9300

Case 2:18-bk-20151-ER Doc 1772 Filed 03/12/19 Entered 03/12/19 08:12:34 Desc  
Main Document Page 3 of 5

PBGC asserts that each of the Debtors is either a contributing sponsor of the Pension Plans or a member of the contributing sponsor's controlled group. See 29 U.S.C. §§ 1301(a)(13), (14).

PBGC has concluded that it may be required to file three separate claims for each of the Pension Plans, which PBGC asserts are for: (i) unfunded benefit liabilities to PBGC under 29 U.S.C. § 1362(b); (ii) unpaid minimum funding contributions to the Pension Plans required by 26 U.S.C. §§ 412, 430 (and, if the Pension Plans terminate, to PBGC under 29 U.S.C. § 1342); and (iii) unpaid premiums owed to PBGC under 29 U.S.C. §§ 1306, 1307. PBGC asserts joint and several liability for these claims against each of the Debtors. See 29 U.S.C. §§ 1301(a)(13), (14). Therefore, PBGC believes that compliance with the Modified Proof of Claim Form would require it to file 102 separate proofs of claims. These multiple claims would impose a significant administrative burden on the Debtors, PBGC, the Court, and Kurtzman Carson Consultants LLC (the Debtors' claims and noticing agent). As a result, the Parties have agreed on an approach, as discussed below, which will permit PBGC to file consolidated claims against all Debtors.

#### AGREEMENT

NOW, THEREFORE, all of the Parties hereby stipulate and agree as follows:

Notwithstanding any provision of the Bankruptcy Code, the Bankruptcy Rules, the Local Bankruptcy Rules for the Central District of California, any order of this Court (including the Bar Date Order), the Bar Date Notice, or any approved proof of claim form that otherwise would require PBGC to file separate proofs of claim against each of the Debtors, it expressly is agreed herein, subject to approval of this Stipulation by the Court, that the filing of consolidated Proofs of Claim by PBGC on its own behalf or on behalf of the Pension Plans in the chapter 11 case of Verity Health System of California, Inc., Case No. 18-20151 (ER) (the "Lead Case") on or before the General Bar Date, shall be deemed filed by PBGC in the Lead Case and will be deemed to have been filed in each of the Debtors' cases identified in such Proofs of Claim.

This Stipulation is intended solely for the purpose of administrative convenience and shall not affect the substantive rights of the Debtors, PBGC, or any other party in interest including, without limitation, the allowance, amount, or priority of PBGC's claims or any objection,

110386827V-4

DENTONS US LLP  
601 SOUTH FIGUEROA STREET, SUITE 2500  
LOS ANGELES, CALIFORNIA 90017-5704  
(213) 623-9300

Case 2:18-bk-20151-ER Doc 1772 Filed 03/12/19 Entered 03/12/19 08:12:34 Desc  
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1 defense, offset, disallowance, subordination, or counterclaim with respect thereto.

2 The terms of this Stipulation also shall apply to any amendments that PBGC may make  
3 with respect to any timely-filed proof of claim against any of the Debtors.

4 This Stipulation may be executed in counterparts, each of which shall be deemed an  
5 original but all of which together shall constitute one and the same instrument. A signature  
6 transmitted by facsimile or other electronic copy shall be deemed an original signature for  
7 purposes of this Stipulation.

8 This Stipulation contains the entire agreement by and among the Parties with respect to  
9 the subject matter hereof, and all prior understandings or agreements, if any, are merged into this  
10 Stipulation.

11 This Stipulation may be changed, modified or otherwise altered in a writing executed by  
12 the Parties to this Stipulation. Oral modifications are not permitted.

13 This Stipulation shall be effective immediately upon approval by the Bankruptcy Court.

14 The Bankruptcy Court shall retain jurisdiction to hear any matters or disputes arising from  
15 or relating to this Stipulation.

16 Nothing herein shall constitute an acknowledgement or finding as to whether the Debtors  
17 are liable to PBGC, and all Parties reserve all rights with respect to the Debtors' liability to  
18 PBGC.

19  
20 [SIGNATURES ON NEXT PAGE]  
21  
22  
23  
24  
25  
26  
27  
28

DENTONS US LLP  
601 SOUTH FIGUEROA STREET, SUITE 2500  
LOS ANGELES, CALIFORNIA 90017-5704  
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LOS ANGELES, CALIFORNIA 90017-5704  
(213) 623-9300

1 Dated: March 7, 2019  
2 Los Angeles, CA  
3 By: /s/ Tania M. Moyron  
4 Samuel R. Maizel  
Tania M. Moyron  
Sam J. Alberts  
5 **DENTONS US LLP**  
601 South Figueroa Street, Suite 2500  
6 Los Angeles, California 90017-5704  
Tel: (213) 623-9300  
7 Fax: (213) 623-9924  
8 *Attorneys for Debtors*  
9 *and Debtors in Possession*

Dated: March 7, 2019  
Washington, DC  
By: [Signature]  
Judith Starr, General Counsel  
Charles L. Finke, Deputy General Counsel  
Lori A. Butler, Assistant General Counsel  
Cameo M. Kaisler, Attorney (VA 83222)  
Melissa T. Ngo, Attorney (VA 87854)  
**PENSION BENEFIT GUARANTY**  
**CORPORATION**  
1200 K Street, N.W.  
Washington, D.C. 20005  
Telephone: (202) 326-4020 ext. 6912  
Facsimile: (202) 326-4112

*Office of the General Counsel*  
*Pension Benefit Guaranty Corporation*

By: [Signature]  
Nicola T. Hanna  
United States Attorney  
David M. Harris  
Assistant United States Attorney  
Chief, Civil Division  
Joanna S. Osinoff  
Assistant United States Attorney  
Chief, Civil Section  
Elan S. Levey  
Assistant United States Attorney

*Local Counsel for Pension Benefit Guaranty*  
*Corporation*

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

In re:	)	Chapter 11
	)	
VERITY HEALTH SYSTEM OF	)	Case No. 2:18-bk-20151-ER
CALIFORNIA, INC. <i>et al.</i> <sup>1</sup> ,	)	
	)	Jointly Administered
Debtors.	)	

**STATEMENT OF THE PENSION BENEFIT GUARANTY CORPORATION  
IN SUPPORT OF ITS CLAIM FOR MINIMUM FUNDING  
CONTRIBUTIONS DUE TO THE PENSION PLAN**

The Pension Benefit Guaranty Corporation (“PBGC”), on behalf of the Verity Health System Retirement Plan B (the “Pension Plan”), hereby submits its Statement in Support of its claim for minimum funding contributions that are due to the Pension Plan, against Verity Health System of California, Inc. and its affiliated debtors and debtors-in-possession (each a “Debtor,” and collectively, the “Debtors”), stating:

1. PBGC is a wholly owned United States government corporation, and an agency of the United States, that administers the defined benefit pension plan termination insurance program under Title IV of the Employee Retirement Income Security Act of 1974, *as amended*, 29 U.S.C. §§ 1301-1461 (2012, Supp. V 2017) (“ERISA”). PBGC guarantees the payment of certain pension benefits upon the termination of a single-employer pension plan covered by Title IV of ERISA. When an underfunded plan terminates, PBGC generally becomes trustee of the plan and, subject to certain statutory limitations, pays the plan’s unfunded benefits with its insurance funds. *See* 29 U.S.C. §§ 1321-1322, 1342, 1361.

---

<sup>1</sup> The Debtors in these Chapter 11 cases are: Verity Health System of California, Inc.; O’Connor Hospital; St. Louise Regional Hospital; St. Francis Medical Center; St. Vincent Medical Center; Seton Medical Center; O’Connor Hospital Foundation; St. Louise Regional Hospital Foundation; St. Francis Medical Center of Lynwood Foundation; St. Vincent Foundation; Seton Medical Center Foundation; St. Vincent Dialysis Center, Inc.; Verity Medical Foundation; Verity Business Services; Verity Holdings, LLC; De Paul Ventures, LLC; and De Paul Ventures – San Jose Dialysis, LLC.

2. The Pension Plan is a single-employer defined benefit pension plan covered by Title IV of ERISA. *See* 29 U.S.C. § 1321.

3. Each of the Debtors is a contributing sponsor of the Pension Plan, 29 U.S.C. § 1301(a)(13), or a member of a contributing sponsor's controlled group, 29 U.S.C. § 1301(a)(14).

4. On August 31, 2018, each of the Debtors filed a voluntary petition under Chapter 11 of the Bankruptcy Code. By Order of this Court, the Debtors' cases are consolidated for procedural purposes only, and are being jointly administered under case number 18-20151 (ER).

5. The contributing sponsor of the Pension Plan and each member of its controlled group are jointly and severally liable to the Pension Plan for contributions necessary to satisfy the minimum funding standards under sections 412 and 430 of the Internal Revenue Code ("IRC") and sections 302 and 303 of ERISA. IRC § 412(c)(11) (2007) (effective for pension plan years beginning on or before Dec. 31, 2007); *see also* 29 U.S.C.A. § 1082(c)(11) (2007) (same); and IRC § 412(b)(1) & (2) (2009) (effective for pension plan years beginning after Dec. 31, 2007); *see also* 29 U.S.C.A. § 1082(b)(1) & (2) (2009) (same).<sup>2</sup> If the Pension Plan terminates, this liability may be owed to PBGC as the trustee appointed under 29 U.S.C. § 1342. *See* 29 U.S.C. § 1342(d)(1)(B)(ii) (a trustee appointed under § 1342(b) has the power "to collect for the plan any amounts due the plan, including but not limited to the power to collect from the persons obligated to meet the requirements of section 1082 of this title or the terms of the plan") and 29 U.S.C. § 1362(c). Also, the Debtors may be contractually obligated to contribute to the Pension Plan.

6. This is an unliquidated claim for contributions that may be owed to the Pension

---

<sup>2</sup> References to the IRC, or to 29 U.S.C.A. §§ 1082 and 1083, with a date of 2007 refer to the pre-PPA 2006 provisions in effect for pension plan years beginning *on or before* December 31, 2007. References with a date of 2009 refer to the PPA 2006 provisions in effect for pension plan years beginning *after* December 31, 2007.



Plan.

7. Any contributions not entitled to priority are asserted as a general unsecured claim.

8. Documents supporting this claim include the Pension Plan document with applicable amendments; relevant collateral agreements, if any; United States Internal Revenue Service Form 5500s; and annual actuarial valuation reports for the Pension Plan. On information and belief, the Debtors or a member of their controlled group has in its possession and control copies or originals of these documents.

9. PBGC is not aware of any other claim for these contributions having been filed by any person with responsibility for administering the affairs of the Pension Plan.

10. PBGC's investigation of this matter is continuing. The agency reserves the right to amend, modify and supplement this proof of claim and/or to file additional proofs of claim. The filing of this proof of claim is not intended to be and shall not be construed as (1) an election of remedy or (2) a waiver or limitation of any rights of PBGC, the Pension Plan or any of its beneficiaries or participants.

11. Pursuant to the Order Approving Stipulation Permitting PBGC to File Consolidated Claims Under a Single Case Number (Docket No. 1782), entered by the Court on March 12, 2019, this single proof of claim shall be deemed to constitute the filing of a proof of claim against each and every Debtor, asserted as a joint and several liability, in this jointly administered proceeding.

Dated: Washington, D.C.  
March 26, 2019

Lori A. Butler  
Assistant General Counsel  
Cameo M. Kaisler  
Melissa T. Ngo  
Attorneys  
Office of the General Counsel  
PENSION BENEFIT GUARANTY CORPORATION  
1200 K Street, N.W.  
Washington, D.C. 20005-4026  
(202) 326-4020 ext. 6912  
FAX: (202) 326-4112

# Exhibit 9

Fill in this information to identify the case:

Claim #4287 Date Filed: 3/27/2019

Debtor 1 Verity Health System of California, Inc., et al.  
Debtor 2  
(Spouse, if filing)  
United States Bankruptcy Court for the Central District of California  
(State)  
Case number 18-20151 (jointly administered)

Official Form 410

**Proof of Claim**

12/15

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. Do not send original documents; they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.

**Part 1: Identify the Claim**

1. Who is the current creditor?	<u>Pension Benefit Guaranty Corporation</u> Name of the current creditor (the person or entity to be paid for this claim) Other names the creditor used with the debtor _____	
2. Has this claim been acquired from someone else?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. From whom? _____	
3. Where should notices and payments to the creditor be sent?	Where should notices to the creditor be sent? Office of the General Counsel, Attn: Cameo M. Salembier Name <u>1200 K Street, N.W., Suite 340</u> Number <u>Washington, DC 20005-4026</u> Street City State ZIP Code Contact phone <u>202-326-4020, x6912</u> Contact email <u>Salembier.Cameo@pbgc.gov</u>	Where should payments to the creditor be sent? (if different) Name _____ Number _____ Street _____ City _____ State _____ ZIP Code _____ Contact phone _____ Contact email _____
RECEIVED MAR 27 2019 KURIZMAN CARSON CONSULTANTS		
4. Does this claim amend one already filed?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Claim number on court claims registry (if known) _____ Filed on _____ MM / DD / YYYY	
5. Do you know if anyone else has filed a proof of claim for this claim?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Who made the earlier filing? _____ <input checked="" type="checkbox"/> Date Stamped Copy Returned <input type="checkbox"/> No self addressed stamped envelope <input type="checkbox"/> No copy to return	

Official Form 410

Proof of Claim



1820151190327000000000043

**Part 2: Give Information About the Claim as of the Date the Case Was Filed**

6. Do you have any number you use to identify the debtor? ☒ No  
☐ Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: \_\_\_\_\_

7. How much is the claim? \$ 3,719,437.75 (est.) Does this amount include interest or other charges?  
☒ No  
☐ Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).

8. What is the basis of the claim? Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card  
Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c).  
Limit disclosing information that is entitled to privacy, such as health care information.  
  
Statutory Liability under 29 U.S.C. § 1307 on account of the Verity Health System Retirement Plan B.  
See attached statement.

9. Is all or part of the claim secured? ☒ No  
☐ Yes. The claim is secured by a lien on property.  
**Nature of property:**  
☐ Real estate. If the claim is secured by the debtor's principal residence, file a *Mortgage Proof of Claim Attachment* (Official Form 410-A) with this *Proof of Claim*.  
☐ Motor vehicle  
☐ Other. Describe: \_\_\_\_\_  
  
**Basis for perfection:** \_\_\_\_\_  
Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)  
  
**Value of property:** \$ \_\_\_\_\_  
**Amount of the claim that is secured:** \$ \_\_\_\_\_  
**Amount of the claim that is unsecured:** \$ \_\_\_\_\_ (The sum of the secured and unsecured amounts should match the amount in line 7.)

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MAR 27 2019

KURTZMAN CARSON CONSULTANTS

Amount necessary to cure any default as of the date of the petition: \$ \_\_\_\_\_

Annual Interest Rate (when case was filed) \_\_\_\_\_ %

☐ Fixed  
☐ Variable

10. Is this claim based on a lease? ☒ No  
☐ Yes. Amount necessary to cure any default as of the date of the petition. \$ \_\_\_\_\_

11. Is this claim subject to a right of setoff? ☒ No See attached statement.  
☐ Yes. Identify the property: \_\_\_\_\_

12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?

☐ No

☒ Yes. Check all that apply:

A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.

	Amount entitled to priority
<input type="checkbox"/> Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B)	\$ _____
<input type="checkbox"/> Up to \$2,775* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).	\$ _____
<input type="checkbox"/> Wages, salaries, or commissions (up to \$12,475*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).	\$ _____
<input checked="" type="checkbox"/> Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).	\$ 25,687.75
<input type="checkbox"/> Contributions to an employee benefit plan 11 U.S.C. § 507(a)(5).	\$ _____
<input checked="" type="checkbox"/> Other. Specify subsection of 11 U.S.C. § 507(a)(2) that applies.	\$ 25,687.75

\* Amounts are subject to adjustment on 4/01/16 and every 3 years after that for cases begun on or after the date of adjustment.

**Part 3: Sign Below**

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

- ☐ I am the creditor.
- ☒ I am the creditor's attorney or authorized agent.
- ☐ I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.
- ☐ I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 03/26/2019  
MM / DD / YYYY

Lori A Butler  
Signature

Print the name of the person who is completing and signing this claim.

Name Lori A. Butler  
First name Middle name Last name

Title Assistant General Counsel

Company Pension Benefit Guaranty Corporation  
Identify the corporate servicer as the company if the authorized agent is a servicer

Address 1200 K Street, N.W., Suite 340  
Number Street  
Washington, DC 20005-4026  
City State ZIP Code

Contact phone 202-326-4020 Email Butler.Lori@pbgc.gov

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MAR 27 2019

KURTZMAN CARSON CONSULTANTS



Pension Benefit Guaranty Corporation

1200 K Street, N.W., Washington, D.C. 20005-4026

VIA FEDERAL EXPRESS

**MAR 26 2019**

Verity Claims Processing Center  
c/o KCC  
2335 Alaska Avenue  
El Segundo, CA 90245

Re: Verity Health System of California, Inc., *et al.*  
Case No. 2:18-bk-20151-ER (Jointly Administered)

To Whom It May Concern:

Enclosed for filing in the above-referenced proceeding are six separate Proof of Claim forms (with attached Statements in Support) of the Pension Benefit Guaranty Corporation, a United States government agency.

Pursuant to the attached Order Approving Stipulation Permitting PBGC to File Consolidated Claims Under a Single Case Number (Docket No. 1782), entered by the Court on March 12, 2019, and the attached Stipulation (Docket No. 1772), each proof of claim shall be deemed to constitute the filing of a proof of claim against each and every Debtor, asserted as a joint and several liability, in this jointly administered proceeding.

Please return a file-stamped copy of the claims, noting any numbers assigned to the claims, to me in the enclosed self-addressed stamped envelope. Thank you for your assistance.

If you have any questions or need further information, please contact me at (202) 326-4020, extension 3019, or my colleague, Cameo Kaisler, at extension 6912.

Regards,

Melissa T. Ngo, Esq.  
Office of the General Counsel

Enclosures

Case 2:18-bk-20151-ER Doc 1782 Filed 03/12/19 Entered 03/12/19 17:01:32 Desc  
Main Document Page 1 of 2

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Tel: (213) 623-9300 / Fax: (213) 623-9924  
  
Attorneys for the Chapter 11 Debtors and  
Debtors In Possession

FILED & ENTERED

MAR 12 2019

CLERK U.S. BANKRUPTCY COURT  
Central District of California  
BY gonzalez DEPUTY CLERK

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

In re

Lead Case No. 18-bk-20151-ER

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

Jointly Administered With:

Debtors and Debtors In Possession.

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

☒ Affects All Debtors

Hon. Ernest M. Robles

- ☐ 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 ASC,  
LLC

ORDER APPROVING STIPULATION PERMITTING  
PBGC TO FILE CONSOLIDATED PROOFS OF CLAIM  
UNDER A SINGLE CASE NUMBER

Debtors and Debtors In Possession.

DENTONS US LLP  
601 SOUTH FIGUEROA STREET, SUITE 2500  
LOS ANGELES, CALIFORNIA 90017-5704  
(213) 623-9300



Case 2:18-bk-20151-ER Doc 1782 Filed 03/12/19 Entered 03/12/19 17:01:32 Desc  
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1 The Court, having reviewed the *Stipulation Permitting PBGC to File Consolidated Proofs*  
2 *of Claims under a Single Case Number* (the "Stipulation"), filed as Docket Number No. 1772,  
3 entered into between Verity Health System Of California, Inc. and the above-referenced affiliated  
4 debtors, the debtors and debtors in possession in the above-captioned chapter 11 bankruptcy  
5 cases, on one hand, and the Pension Benefit Guaranty Corporation, on the other, and good cause  
6 appearing,

7 HEREBY ORDERS AS FOLLOWS:

8 1. The Stipulation is approved.

9 **IT IS SO ORDERED.**

10  
11 ###  
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23

24 Date: March 12, 2019



Ernest M. Robles  
United States Bankruptcy Judge

DENTONS US LLP  
601 SOUTH FIGUEROA STREET, SUITE 2500  
LOS ANGELES, CALIFORNIA 90017-5704  
(213) 623-9300

Case 2:18-bk-20151-ER Doc 1772 Filed 03/12/19 Entered 03/12/19 08:12:34 Desc  
Main Document Page 1 of 5

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Tel: (213) 623-9300 / Fax: (213) 623-9924

Attorneys for the Chapter 11 Debtors and  
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. Judge Ernest M. Robles

**STIPULATION PERMITTING PBGC TO  
FILE CONSOLIDATED PROOFS OF  
CLAIM UNDER A SINGLE CASE  
NUMBER**

DENTONS US LLP  
601 SOUTH FIGUEROA STREET, SUITE 2500  
LOS ANGELES, CALIFORNIA 90017-5704  
(213) 623-9300

Case 2:18-bk-20151-ER Doc 1772 Filed 03/12/19 Entered 03/12/19 08:12:34 Desc  
Main Document Page 2 of 5

1 This stipulation and agreement (the “Stipulation”) is entered into by and among Verity  
2 Health System of California, Inc. and certain of its affiliates, as debtors and debtors in possession  
3 in the above-captioned chapter 11 cases (collectively, the “Debtors”), and the Pension Benefit  
4 Guaranty Corporation (“PBGC,” and, together with the Debtors, the “Parties”). The Parties have  
5 agreed that PBGC will be permitted to file consolidated proofs of claim (the “Proofs of Claim”),  
6 which will be deemed to have been filed in each of the Debtors’ cases identified in such Proofs of  
7 Claim, for the reasons and on the terms and conditions set forth below:

8 RECITALS

9 On August 31, 2018 (the “Commencement Date”), each of the Debtors filed a voluntary  
10 petition under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”) in the  
11 United States Bankruptcy Court for the Central District of California (the “Bankruptcy Court” or  
12 “Court”). The Debtors’ chapter 11 cases have been consolidated for procedural purposes only  
13 and are being jointly administered under Chapter 11 Case No. 18-20151 (ER), pursuant to Rule  
14 1015(b) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”). The Debtors  
15 are authorized to operate their businesses and manage their properties as debtors in possession  
16 pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee or examiner has been  
17 appointed in these chapter 11 cases.

18 On February 11, 2019, the Court entered an order (the “Bar Date Order”) fixing, among  
19 other things, April 1, 2019, as the deadline for filing proofs of claim against the Debtors (the  
20 “General Bar Date”). The Modified Proof of Claim Form attached as Exhibit A-1 to the notice of  
21 bar date (“Bar Date Notice”) specifically requires the filing of a separate proof of claim form  
22 against each Debtor against whom a claimant asserts a claim.

23 PBGC is a wholly owned United States Government corporation that administers the  
24 pension insurance program under Title IV of the Employee Retirement Income Security Act of  
25 1974, 29 U.S.C. §§ 1301–1461 (“ERISA”). The Title IV termination insurance program covers  
26 the following two pension plans: (i) Verity Health System Retirement Plan A (“Plan A”), and (ii)  
27 Verity Health System Retirement Plan B (“Plan B,” and together with Plan A, the “Pension  
28 Plans”).

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DENTONS US LLP  
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(213) 623-9300

Case 2:18-bk-20151-ER Doc 1772 Filed 03/12/19 Entered 03/12/19 08:12:34 Desc  
Main Document Page 3 of 5

PBGC asserts that each of the Debtors is either a contributing sponsor of the Pension Plans or a member of the contributing sponsor's controlled group. See 29 U.S.C. §§ 1301(a)(13), (14).

PBGC has concluded that it may be required to file three separate claims for each of the Pension Plans, which PBGC asserts are for: (i) unfunded benefit liabilities to PBGC under 29 U.S.C. § 1362(b); (ii) unpaid minimum funding contributions to the Pension Plans required by 26 U.S.C. §§ 412, 430 (and, if the Pension Plans terminate, to PBGC under 29 U.S.C. § 1342); and (iii) unpaid premiums owed to PBGC under 29 U.S.C. §§ 1306, 1307. PBGC asserts joint and several liability for these claims against each of the Debtors. See 29 U.S.C. §§ 1301(a)(13), (14). Therefore, PBGC believes that compliance with the Modified Proof of Claim Form would require it to file 102 separate proofs of claims. These multiple claims would impose a significant administrative burden on the Debtors, PBGC, the Court, and Kurtzman Carson Consultants LLC (the Debtors' claims and noticing agent). As a result, the Parties have agreed on an approach, as discussed below, which will permit PBGC to file consolidated claims against all Debtors.

#### AGREEMENT

NOW, THEREFORE, all of the Parties hereby stipulate and agree as follows:

Notwithstanding any provision of the Bankruptcy Code, the Bankruptcy Rules, the Local Bankruptcy Rules for the Central District of California, any order of this Court (including the Bar Date Order), the Bar Date Notice, or any approved proof of claim form that otherwise would require PBGC to file separate proofs of claim against each of the Debtors, it expressly is agreed herein, subject to approval of this Stipulation by the Court, that the filing of consolidated Proofs of Claim by PBGC on its own behalf or on behalf of the Pension Plans in the chapter 11 case of Verity Health System of California, Inc., Case No. 18-20151 (ER) (the "Lead Case") on or before the General Bar Date, shall be deemed filed by PBGC in the Lead Case and will be deemed to have been filed in each of the Debtors' cases identified in such Proofs of Claim.

This Stipulation is intended solely for the purpose of administrative convenience and shall not affect the substantive rights of the Debtors, PBGC, or any other party in interest including, without limitation, the allowance, amount, or priority of PBGC's claims or any objection,

DENTONS US LLP  
601 SOUTH FIGUEROA STREET, SUITE 2500  
LOS ANGELES, CALIFORNIA 90017-5704  
(213) 623-9300

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Case 2:18-bk-20151-ER Doc 1772 Filed 03/12/19 Entered 03/12/19 08:12:34 Desc  
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1 defense, offset, disallowance, subordination, or counterclaim with respect thereto.

2 The terms of this Stipulation also shall apply to any amendments that PBGC may make  
3 with respect to any timely-filed proof of claim against any of the Debtors.

4 This Stipulation may be executed in counterparts, each of which shall be deemed an  
5 original but all of which together shall constitute one and the same instrument. A signature  
6 transmitted by facsimile or other electronic copy shall be deemed an original signature for  
7 purposes of this Stipulation.

8 This Stipulation contains the entire agreement by and among the Parties with respect to  
9 the subject matter hereof, and all prior understandings or agreements, if any, are merged into this  
10 Stipulation.

11 This Stipulation may be changed, modified or otherwise altered in a writing executed by  
12 the Parties to this Stipulation. Oral modifications are not permitted.

13 This Stipulation shall be effective immediately upon approval by the Bankruptcy Court.

14 The Bankruptcy Court shall retain jurisdiction to hear any matters or disputes arising from  
15 or relating to this Stipulation.

16 Nothing herein shall constitute an acknowledgement or finding as to whether the Debtors  
17 are liable to PBGC, and all Parties reserve all rights with respect to the Debtors' liability to  
18 PBGC.

19  
20 [SIGNATURES ON NEXT PAGE]  
21  
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28

DENTONS US LLP  
601 SOUTH FIGUEROA STREET, SUITE 2500  
LOS ANGELES, CALIFORNIA 90017-5704  
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DENTONS US LLP  
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1 Dated: March 7, 2019  
2 Los Angeles, CA  
3 By: /s/ Tania M. Moyron  
4 Samuel R. Maizel  
Tania M. Moyron  
Sam J. Alberts  
5 **DENTONS US LLP**  
6 601 South Figueroa Street, Suite 2500  
Los Angeles, California 90017-5704  
7 Tel: (213) 623-9300  
Fax: (213) 623-9924  
8 *Attorneys for Debtors*  
9 *and Debtors in Possession*

Dated: March 7, 2019  
Washington, DC  
By: Melissa  
Judith Starr, General Counsel  
Charles L. Finke, Deputy General Counsel  
Lori A. Butler, Assistant General Counsel  
Cameo M. Kaisler, Attorney (VA 83222)  
Melissa T. Ngo, Attorney (VA 87854)  
**PENSION BENEFIT GUARANTY**  
**CORPORATION**  
1200 K Street, N.W.  
Washington, D.C. 20005  
Telephone: (202) 326-4020 ext. 6912  
Facsimile: (202) 326-4112

*Office of the General Counsel*  
*Pension Benefit Guaranty Corporation*

10 By: Elan S. Levey  
11 Nicola T. Hanna  
United States Attorney  
12 David M. Harris  
Assistant United States Attorney  
13 Chief, Civil Division  
Joanna S. Osinoff  
14 Assistant United States Attorney  
Chief, Civil Section  
15 Elan S. Levey  
Assistant United States Attorney

*Local Counsel for Pension Benefit Guaranty*  
*Corporation*

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

In re:	)	Chapter 11
	)	
VERITY HEALTH SYSTEM OF	)	Case No. 2:18-bk-20151-ER
CALIFORNIA, INC. <i>et al.</i> <sup>1</sup> ,	)	
	)	Jointly Administered
Debtors.	)	

**STATEMENT OF THE PENSION BENEFIT GUARANTY CORPORATION  
IN SUPPORT OF ITS CLAIM FOR PENSION INSURANCE PREMIUMS**

The Pension Benefit Guaranty Corporation (“PBGC”) hereby submits this Statement in Support of its claim against Verity Health System of California, Inc. and its affiliated debtors and debtors-in-possession (each a “Debtor,” and collectively, the “Debtors”), for pension insurance premiums with respect to the Verity Health System Retirement Plan B (the “Pension Plan”), stating:

1. PBGC is a wholly-owned United States government corporation, and an agency of the United States, that administers the defined benefit pension plan termination insurance program under Title IV of the Employee Retirement Income Security Act of 1974, *as amended*, 29 U.S.C. §§ 1301-1461 (2012, Supp. V 2017) (“ERISA”). PBGC guarantees the payment of certain pension benefits upon the termination of a single-employer pension plan covered by Title IV of ERISA. When an underfunded plan terminates, PBGC generally becomes trustee of the plan and, subject to certain statutory limitations, pays the plan’s unfunded benefits with its insurance funds. *See* 29 U.S.C. §§ 1321-1322, 1342, 1361.

---

<sup>1</sup> The Debtors in these Chapter 11 cases are: Verity Health System of California, Inc.; O’Connor Hospital; St. Louise Regional Hospital; St. Francis Medical Center; St. Vincent Medical Center; Seton Medical Center; O’Connor Hospital Foundation; St. Louise Regional Hospital Foundation; St. Francis Medical Center of Lynwood Foundation; St. Vincent Foundation; Seton Medical Center Foundation; St. Vincent Dialysis Center, Inc.; Verity Medical Foundation; Verity Business Services; Verity Holdings, LLC; De Paul Ventures, LLC; and De Paul Ventures – San Jose Dialysis, LLC.

2. The Pension Plan is a single-employer defined benefit pension plan covered by Title IV of ERISA. *See* 29 U.S.C. § 1321.

3. Each of the Debtors is a contributing sponsor of the Pension Plan, 29 U.S.C. § 1301(a)(13), or a member of a contributing sponsor's controlled group, 29 U.S.C. § 1301(a)(14).

4. On August 31, 2018, each of the Debtors filed a petition for relief under Chapter 11 of the Bankruptcy Code. By Order of this Court, the Debtors' cases are consolidated for procedural purposes only, and are being jointly administered under case number 18-20151 (ER).

5. The contributing sponsor of the Pension Plan or the Pension Plan's Plan Administrator is the designated payor of PBGC insurance premiums. 29 U.S.C. § 1307(a), (e).

6. Each member of the contributing sponsor's controlled group is jointly and severally liable to PBGC for insurance premiums, interest, and penalties (collectively, "Premiums") with respect to the Pension Plan. 29 U.S.C. § 1307(e)(2). These Premiums include:

(a) Flat-Rate and Variable-Rate Premiums, *see* 29 U.S.C. § 1306(a)(3), 29 C.F.R. § 4006.3, and

(b) If the Pension Plan terminates in a distress termination pursuant to 29 U.S.C. §§ 1341(c)(2)(B)(ii) or (iii), or in an involuntary termination under 29 U.S.C. § 1342, Termination Premiums at the rate of \$1,250 per plan participant per year for three years. *See* 29 U.S.C. § 1306(a)(7), *as amended* by § 8101(b) the Deficit Reduction Act of 2005 (Pub. L. 109-171) and by §§ 401(b) and 402(g)(2)(B) of the Pension Protection Act of 2006 (Pub. L. 109-280).

7. This is an estimated claim for Premiums that the Debtors owe or will owe to PBGC, apportioned as follows:



(a) Flat-Rate and Variable-Rate Premiums arising after the petition date are administrative expenses entitled to priority under 11 U.S.C. §§ 503(b)(1) and 507(a)(2). This claim includes Flat-Rate and Variable-Rate Premiums arising after the petition date in the amount of \$25,687.75. Alternatively, this claim is entitled to tax priority under 11 U.S.C. § 507(8).

(b) Flat-Rate and Variable-Rate Premiums arising before the petition date are general unsecured claims. This claim includes Flat-Rate and Variable-Rate Premiums arising before the petition date in an unliquidated amount.

(c) Any Termination Premiums other than that described in paragraph 8 is asserted as a general unsecured claim in the amount of \$3,693,750.

8. If the Pension Plan terminates in a distress termination pursuant to 29 U.S.C. § 1341(c)(2)(B)(ii) or in an involuntary termination under 29 U.S.C. § 1342 while the Debtors are attempting to reorganize in Chapter 11, and the Debtors ultimately obtain confirmation of a Chapter 11 plan of reorganization, the Debtors' obligation to PBGC for Termination Premiums does not exist until after the Chapter 11 plan is confirmed and the Debtors obtain a discharge. *See* 29 U.S.C. § 1306(a)(7)(B). Thus, under those circumstances, Termination Premiums are not a dischargeable claim or debt within the meaning of 11 U.S.C. §§ 101(5) and 1141.

9. Documents supporting this claim include the Pension Plan document with applicable amendments; relevant collateral agreements, if any; United States Internal Revenue Service Form 5500s; PBGC Annual Premium Payment forms; and annual actuarial valuation reports for the Pension Plan. On information and belief, the Debtors or a member of their controlled group has in its possession and control copies or originals of these documents.

10. PBGC's investigation of this matter is continuing. The agency reserves the right to amend, modify, and supplement this proof of claim and/or to file additional proofs of claim. This claim may be subject to a right of setoff by PBGC as an agency of the United States government, and the right of the United States to withhold subject to offset amounts due from other federal entities. The filing of this proof of claim is not intended to be and shall not be construed as (1) an election of remedy or (2) a waiver or limitation of any rights of PBGC, the Pension Plan or any of its beneficiaries or participants.

11. Pursuant to the Order Approving Stipulation Permitting PBGC to File Consolidated Claims Under a Single Case Number (Docket No. 1782), entered by the Court on March 12, 2019, this single proof of claim shall be deemed to constitute the filing of a proof of claim against each and every Debtor, asserted as a joint and several liability, in this jointly administered proceeding.

Dated: Washington, D.C.  
March 26, 2019

Lori A. Butler  
Assistant General Counsel  
Cameo M. Kaisler  
Melissa T. Ngo  
Attorneys  
Office of the General Counsel  
PENSION BENEFIT GUARANTY CORPORATION  
1200 K Street, N.W.  
Washington, D.C. 20005-4026  
(202) 326-4020 ext: 6912  
FAX: (202) 326-4112

# **Exhibit 10**

**SYSTEM RESTRUCTURING AND SUPPORT AGREEMENT**

**BY AND AMONG**

**DAUGHTERS OF CHARITY MINISTRY SERVICES CORPORATION,  
A CALIFORNIA NONPROFIT RELIGIOUS CORPORATION,**

**DAUGHTERS OF CHARITY HEALTH SYSTEM,  
A CALIFORNIA NONPROFIT RELIGIOUS CORPORATION,**

**CERTAIN FUNDS MANAGED BY BLUEMOUNTAIN CAPITAL MANAGEMENT,  
LLC, A DELAWARE LIMITED LIABILITY COMPANY,**

**AND**

**INTEGRITY HEALTHCARE, LLC  
A DELAWARE LIMITED LIABILITY COMPANY**

**DATED: AS OF JULY 17, 2015**

the extent that any such waiting periods were waived or satisfied under the corresponding DCHS Plan immediately prior to Closing.

(e) Subject to DCHS providing through usual and ordinary means at or shortly prior to the Closing Date the necessary information to reasonably allow Integrity to satisfy this Section (e)7.2(e), Integrity agrees to cause any eligible expenses incurred by a Continuing Employee and his or her covered dependents during the portion of the plan year prior to the Closing Date to be accounted for in the corresponding new or existing employee benefit plan of DCHS or the DCHS Affiliates after the Closing for purposes of satisfying all deductibles, coinsurance and maximum out-of-pocket requirements applicable to such employee and/or his or her covered dependents for the plan year in which the Closing Date occurs if such amounts had been paid for the corresponding benefit in accordance with such new or existing employee benefit plan.

(f) Nothing contained in this Section 7.2 is intended to be or shall be considered to be an amendment or adoption of any plan, program, agreement, arrangement or policy of DCHS, Integrity or any of their respective Affiliates, nor shall anything in this Section 7.2 interfere with or limit DCHS's right to amend, modify or terminate any DCHS Plan or any other benefit or compensation plan, program, agreement, policy, contract or arrangement, or to terminate the employment of any employee of DCHS for any reason, subject to the provisions contained in this Section 7.2.

### 7.3 Pension Liabilities.

(a) As of the Effective Time, subject to necessary DCHS board direction and approval, Integrity shall cause DCHS to (i) amend the Defined Benefit Church Plan and the Defined Contribution Church Plans as necessary to convert them each from a non-electing church plan defined in Section 3(33) of ERISA and Section 414(e) of the Code, to an employee pension benefit plan defined in Section 3(2) of ERISA that is not a church plan defined in Section 3(33) of ERISA and Section 414(e) of the Code, such that the Defined Benefit Church Plan and Defined Contribution Church Plans will accordingly be subject to and governed by Title I of ERISA; (ii) amend all other employee benefit plans maintained by DCHS as necessary to satisfy the requirements of ERISA and the Code; (iii) make application to the Pension Benefit Guaranty Corporation (the "PBGC") for coverage of the Defined Benefit Church Plan under the PBGC insurance program as soon as possible under applicable PBGC rules; (iv) administer and fund all such plans described in (i), (ii) and (iii) above in accordance with the terms of the applicable plan documents, and requirements of ERISA and the Code; and (v) make all contributions necessary to satisfy the funding and PBGC premium requirements of ERISA and the Code with respect to benefits accrued under the Defined Benefit Church Plan, whether the obligation to make such contributions results from the conversion of the Defined Benefit Church Plan to a plan that is not a "church plan" or a determination that the Defined Benefit Church Plan did not qualify as a "church plan" prior to the Closing Date.

(b) Effective as of the Effective Time, DCHS shall cause the Defined Benefit Church Plan and the Defined Contribution Church Plans to be amended as necessary to (i) ensure that such plans expressly state that they are subject to Title I of ERISA, (ii) satisfy the

requirements of ERISA and the Code, and (iii) ensure coverage of the Defined Benefit Church Plan by the PBGC; and, thereafter, shall administer and fund the plans and any successor plans in accordance with the requirements of ERISA and the Code. Following the Effective Time, DCHS shall continue to be bound by all of its liabilities and obligations, be they contingent, interim or otherwise, under the Defined Benefit Church Plan and the Defined Contribution Church Plans. The funding target of the Defined Benefit Church Plan as of the Effective Time shall be the present value of all benefits accrued or earned under the Defined Benefit Church Plan as of the Effective Time, without regard to any purported limitation based on the plan's assets, as computed in accordance with ERISA. For the avoidance of doubt, Integrity shall cause DCHS to make all contributions necessary to satisfy the funding requirements of ERISA and the Code with respect to benefits accrued under the Defined Benefit Church Plan, whether the Defined Benefit Church Plan is subject to Title I of ERISA by conversion or pursuant to a determination that the Defined Benefit Church Plan did not qualify as a "church plan" prior to the Effective Time. Integrity shall cause DCHS to maintain the Defined Benefit Church Plan as a separate, single-employer plan in accordance with the requirements of ERISA and the Code.

(c) Integrity, subject to necessary DCHS Board direction and approval, shall facilitate DCHS taking the following actions with respect to the Multiemployer Plans to which DCHS has made contributions prior to the Closing Date pursuant to the Collective Bargaining Agreements:

(i) Take any actions necessary with respect to the uninterrupted continuation of the DCHS obligations to the Multiemployer Plans as required by Collective Bargaining Agreements and continue to contribute to such Multiemployer Plans, as required by Collective Bargaining Agreements, for substantially the same number of contribution base units for which DCHS had an obligation to contribute to the Multiemployer Plans immediately prior to the Effective Time, as the base units may be modified by such Multiemployer Plans from time to time.

(ii) Provide funding for the Multiemployer Plans in accordance with the requirements of ERISA and the Code. DCHS shall continue to have responsibility for DCHS' portion of the liabilities, be they contingent, interim or otherwise, under the Multiemployer Plans as of the Effective Time.

(d) DCHS shall remain the sole and exclusive obligor for funding liabilities to the Defined Benefit Church Plan, the Multiemployer Plans, and all other DCHS Employee Pension Benefit Plans and Employee Welfare Benefit Plans. Neither BlueMountain nor Integrity nor any of their Affiliates shall have any liability or responsibility for funding or other DCHS liabilities to the Defined Benefit Church Plan, the Multiemployer Plans, or the other DCHS Employee Pension Benefit Plans and Employee Welfare Benefit Plans.

(e) DCHS shall indemnify, defend and hold harmless DOCMSC and its Affiliates from any liability, be it contingent, interim or otherwise, resulting from any failure or alleged failure by DCHS to satisfy any reporting or funding obligations with respect to the Defined Benefit Church Plan or to contribute to any of the Multiemployer Plans. Solely for purposes of this subdivision, the term "Affiliate" shall include any person who may be held

jointly and severally liable for the funding of the Defined Benefit Church Plan or any of the Multiemployer Plans under any provision of ERISA.

7.4 Consents to Assignment. Integrity shall cooperate with DCHS as reasonably requested to obtain any consent to assign the Contracts and Real Estate Leases. Without DCHS' prior written consent, which consent will not be unreasonably withheld or delayed, Integrity shall not seek to obtain a consent from any party to any specific Contract.

7.5 Contact with Unions. Representatives of both DCHS and Integrity shall meet and confer from time to time as reasonably requested by either party to discuss strategic business options and alternative approaches in negotiating each such Collective Bargaining Agreement. Both DCHS and Integrity shall each participate in all union negotiations related to any specific Collective Bargaining Agreement. Promptly following the Effective Date, DCHS shall use commercially reasonable efforts to initiate discussions to renegotiate each Collective Bargaining Agreement currently in effect with each applicable union. Without the prior written consent of Integrity, DCHS will not enter into any Collective Bargaining Agreement with a duration in excess of 6 months or having economic terms and conditions that are not substantially similar to those in the Collective Bargaining Agreements in effect immediately prior to Closing. DCHS will not unreasonably withhold, condition or delay approval or implementation of any successfully renegotiated Collective Bargaining Agreement, subject at all times to DCHS' ultimate authority and control over the System.

7.6 Charity Care; Other Related Matters. (a) Integrity acknowledges that, following the Effective Time, DCHS will treat indigent patients and to provide charity care in the service area of the Hospitals to the extent required by Law and any Acceptable AG Condition with respect to the Transaction and will comply with all applicable Laws governing such matters. For a period of not less than five (5) years following the Effective Time, DCHS shall maintain policies for the treatment of indigent patients at the Hospitals similar to those currently in effect at such Hospitals (or replacement policies that are intended to provide a similar or greater benefit to the community), *provided* that for purposes of determining the amount of charity and indigent care provided at the Hospitals, DCHS must adhere to the definitions and methodology for calculating charity care costs established by the California Office of Statewide Health Planning and Development as set forth in the Accounting and Reporting Manual for California Hospitals and applicable Hospital Technical Letters issued in connection therewith.

(b) To ensure adequate access to Medicare and Medi-Cal patients, for a period of not less than five (5) years following the Effective Time, DCHS will continue to operate the Hospitals as general acute care hospitals under California Health and Safety Code Section 1250 and shall continue to offer an open emergency room, subject to the availability of physicians on the respective Hospital's medical staff qualified to support such services and subject further to such changes as may be necessary or appropriate based on community needs, market demand and the financial viability of such services, and as required under the Acceptable AG Conditions with respect to the Transaction. Integrity acknowledges that DCHS shall operate the Hospitals in accordance with all Laws, including adopting a policy to provide for an appropriate medical screening examination to any patient presented to the emergency room who has a medical emergency, or who, in the judgment of the staff physician, has an immediate emergency need.

No such patient shall be turned away because of age, race, religion, gender, sexual orientation, payment source or inability to pay.

(c) For a period of not less than five (5) years following the Effective Time, Integrity acknowledges that DCHS will maintain the existing chapels at the Hospitals to be used for the celebration of Catholic mass and other religious services, and provide an appropriately staffed and funded pastoral care service at the Hospitals.

7.7 Capital Commitment. After the Closing, DCHS shall reserve or expend the following amounts for capital expenditures in each of the successive five (5) years immediately following the Closing Date: \$40,000,000.00 in each of the first three (3) years immediately following the Closing Date, and \$30,000,000.00 in each of years 4 and 5 immediately following the Closing Date. Notwithstanding the preceding sentence, in the event that within the first five years post-Closing, one or more of the Hospitals is sold or otherwise disassociated from DCHS, any remaining annual Capital Commitments of the remaining DCHS thereafter as set forth above, shall be reduced pro-rata based on the net revenue for such sold or disassociated Hospital(s) as included in the most recently completed audited income statement.

7.8 Intellectual Property.

(a) Except as permitted under Section 6.13 of this Agreement, Integrity hereby covenants and agrees not to use the Hospital Trademarks in any manner or in any medium or form that includes or incorporates any Retained Marks (including, without limitation, the DCHS Names). Integrity further hereby covenants and agrees that all marketing and advertising using the Hospital Trademarks after the Effective Time will be in a form that integrates the use of the name "Integrity Health System, Inc." or similar branding in connection with the use of such Hospital Trademarks in such marketing or advertising materials.

(b) Except as permitted under Section 6.13, Integrity covenants not to use the Retained Marks or any marks or domain names that are confusingly similar to the Retained Marks, or any other Retained IP, in any manner and in any medium.

(c) Except as permitted under Section 6.13, Integrity shall, as of the Effective Time, (i) discontinue the use of all corporate and trade names, letterhead and business cards that contain any Retained Marks (including, without limitation, the DCHS Names), (ii) use commercially reasonable efforts to file appropriate name change amendments with the California Secretary of State, (iii) use commercially reasonable efforts to promptly replace or modify all exterior and interior fixtures that contain or comprise building signs to remove completely any Retained Marks (including, without limitation, the DCHS Names), and (iv) shall not subsequently change such names to (or otherwise use or employ) any names which contain any Retained Marks (including, without limitation, the DCHS Names).

7.9 Actions Related to Legal Opinion from Bond Counsel. BlueMountain agrees to cooperate with and provide Orrick, Herrington & Sutcliffe LLP ("*Orrick*") with all requested documentation in order to complete the opinion described in Section 8.9, including a 501(c)(3) opinion from a firm acceptable to Orrick, and BlueMountain shall obtain any valuations



# **Exhibit 11**

United States Bankruptcy Court for the Central District of California

Indicate Debtor against which you assert a claim by checking the appropriate box below. **(Check only one Debtor per claim form.)**

- |   |   |
|---|---|
| <input checked="" type="checkbox"/> Verity Health System of California, Inc. (Case No.18-20151) | <input type="checkbox"/> St. Francis Medical Center of Lynwood Foundation (Case No. 18-20178) |
| <input type="checkbox"/> De Paul Ventures – San Jose Dialysis, LLC (Case No. 18-20181)          | <input type="checkbox"/> St. Louise Regional Hospital (Case No.18-20162)                      |
| <input type="checkbox"/> De Paul Ventures, LLC (Case No. 18-20176)                              | <input type="checkbox"/> St. Vincent Dialysis Center, Inc. (Case No. 18-20171)                |
| <input type="checkbox"/> O'Connor Hospital (Case No. 18-20168)                                  | <input type="checkbox"/> St. Vincent Foundation (Case No. 18-20180)                           |
| <input type="checkbox"/> O'Connor Hospital Foundation (Case No. 18-20179)                       | <input type="checkbox"/> St. Vincent Medical Center (Case No. 18-20164)                       |
| <input type="checkbox"/> Saint Louise Regional Hospital Foundation (Case No. 18-20172)          | <input type="checkbox"/> Verity Business Services (Case No. 18-20173)                         |
| <input type="checkbox"/> Seton Medical Center (Case No. 18-20167)                               | <input type="checkbox"/> Verity Holdings, LLC (Case No. 18-20163)                             |
| <input type="checkbox"/> Seton Medical Center Foundation (Case No. 18-20175)                    | <input type="checkbox"/> Verity Medical Foundation (Case No. 18-20169)                        |
| <input type="checkbox"/> St. Francis Medical Center (Case No. 18-20165)                         |   |

## Official Form 410 Proof of Claim

04/16

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies or any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. **Do not send original documents;** they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed.

### Part 1: Identify the Claim

1. Who is the current creditor?	<u>SEIU United Healthcare Workers - West</u> Name of the current creditor (the person or entity to be paid for this claim)  Other names the creditor used with the debtor _____	
2. Has this claim been acquired from someone else?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. From whom? _____	
3. Where should notices and payments to the creditor be sent?  Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)	<b>Where should notices to the creditor be sent?</b> <u>Emily Rich, Weinberg, Roger &amp; Rosenfeld</u> Name <u>1001 Marina Village Parkway, Suite 200</u> Number Street <u>Alameda CA 94501</u> City State ZIP Code <u>USA</u> Country Contact phone <u>510-337-1001</u> Contact email <u>erich@unioncounsel.net</u>  Uniform claim identifier for electronic payments in chapter 13 (if you use one): _____	<b>Where should payments to the creditor be sent? (if different)</b> _____ Name _____ Number Street _____ City State ZIP Code _____ Country Contact phone _____ Contact email _____
4. Does this claim amend one already filed?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Claim number on court claims registry (if known) _____ Filed on _____ MM / DD / YYYY	
5. Do you know if anyone else has filed a proof of claim for this claim?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Who made the earlier filing? _____	

**Part 2:** Give Information About the Claim as of the Date the Case Was Filed

6. Do you have any number you use to identify the debtor?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: ____ _
7. How much is the claim? \$ 185,760,148.37	Does this amount include interest or other charges? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).
8. What is the basis of the claim?	Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card. Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c). Limit disclosing information that is entitled to privacy, such as health care information.  <u>Amounts owed under CBA, rejection damages, &amp; NLRA violations. See Ex. A.</u>
9. Is all or part of the claim secured?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. The claim is secured by a lien on property. <b>Nature of property:</b> <input type="checkbox"/> Real estate: If the claim is secured by the debtor's principal residence, file a <i>Mortgage Proof of Claim Attachment</i> (Official Form 410-A) with this <i>Proof of Claim</i> . <input type="checkbox"/> Motor vehicle <input type="checkbox"/> Other. Describe: _____  <b>Basis for perfection:</b> _____ Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)  <b>Value of property:</b> \$ _____ <b>Amount of the claim that is secured:</b> \$ _____ <b>Amount of the claim that is unsecured:</b> \$ _____ (The sum of the secured and unsecured amount should match the amount in line 7.)  <b>Amount necessary to cure any default as of the date of the petition:</b> \$ _____  <b>Annual Interest Rate</b> (when case was filed) _____ % <input type="checkbox"/> Fixed <input type="checkbox"/> Variable
10. Is this claim based on a lease?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Amount necessary to cure any default as of the date of the petition. \$ _____
11. Is this claim subject to a right of setoff?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Identify the property: _____

12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?

A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.

☐ No

☒ Yes. Check all that apply:

Amount entitled to priority

☐ Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).

\$ \_\_\_\_\_

☐ Up to \$2,850\* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).

\$ \_\_\_\_\_

☒ Wages, salaries, or commissions (up to \$12,850\*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).

\$ 12,586,938.16

☐ Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).

\$ \_\_\_\_\_

☐ Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).

\$ \_\_\_\_\_

☒ Other. Specify subsection of 11 U.S.C. § 507(a)(2) that applies.

\$ 4,611.25

\* Amounts are subject to adjustment on 4/01/19 and every 3 years after that for cases begun on or after the date of adjustment.

Part 3: Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

☐ I am the creditor.

☒ I am the creditor's attorney or authorized agent.

☐ I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.

☐ I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgement that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 03 / 27 / 2019  
MM / DD / YYYY

Signature

Print the name of the person who is completing and signing this claim:

Name Emily Platt Rich  
First name Middle name Last name

Title Attorney

Company Weinberg, Roger & Rosenfeld  
Identify the corporate servicer as the company if the authorized agent is a servicer.

Address 1001 Marina Village Parkway, Suite 200  
Number Street  
Alameda CA 94501 USA  
City State ZIP Code Country

Contact phone 510-337-1001 Email erich@unioncounsel.net

of 7

**IN RE VERITY HEALTH SYSTEMS OF CALIFORNIA**  
**U.S. BANKRUPTCY COURT, CENTRAL DISTRICT CALIFORNIA**  
**Case No. 18-bk-20151-ER**

# **EXHIBIT A**

**To SEIU-UHW's Proof of Claim**

*In re: Verity Health System of California, Inc., et al., Case Number 2:18-bk-20151-ER  
United States Bankruptcy Court, Central District of California, Los Angeles Division*

**EXHIBIT A**

(to Official Form 410, Proof of Claim)

**SUMMARY OF CLAIM**

*For Creditor*

**SEIU-United Healthcare Workers-West**

SEIU-United Healthcare Workers-West (“SEIU-UHW” or the “Union”) makes this claim in its own right and on behalf of all represented employees covered by the Collective Bargaining Agreements (“CBA”) between the Debtor and the Union. The Union is and was the authorized representative of all employees of the Debtor covered by the CBAs. The claim is for all amounts owing under the CBAs for work performed by represented employees and for rejection damages arising from the termination of all CBA provisions relating to O’Connor Hospital and Saint Louise Regional Hospital effective February 28, 2018.

This claim against Debtor Verity Health System includes:

- A) Amounts Due Under the CBAs. A true and correct copy of the CBA with O’Connor Hospital, Saint Louise Regional Hospital, St. Francis Medical Center, and St. Vincent Medical Center that was in effect from November 1, 2015 through October 31, 2018 is attached hereto as **Exhibit B**. A true and correct copy of the successor CBA with O’Connor Hospital, Saint Louise Regional Hospital, St. Francis Medical Center, and St. Vincent Medical Center is attached hereto as **Exhibit C**.<sup>1</sup> A true and correct copy of the CBA with Verity Medical Foundation in effect from April 1, 2016 through March 31, 2019 is attached hereto as **Exhibit D**. Verity Health System is jointly and severally liable for all amounts due under the CBAs, which include:

1. Payment on Unresolved Grievances: \$32,789,102.65 (\$10,232,502.42 priority)

The Debtors have refused to process outstanding Union grievances. Unresolved Union grievances and amounts claimed for violations of the CBA are listed in the following chart:

---

<sup>1</sup> For O’Connor Hospital and Saint Louise Regional Hospital, this CBA was only in effect from November 1, 2018 until its rejection effective February 28, 2018. For St. Francis Medical Center and St. Vincent Medical Center, this CBA is still in effect and is set to continue through its expiration on October 31, 2021.

Grievance	Grievant	Issue	Amount due
2016-09-06-1048	Lyra Radeen (St. Francis)	Failure to pay for all hours worked as a lead	\$23,520
2018-04-13-541	Sonia Madera (O'Connor)	Wrongful Termination	\$117,670 (\$12,850 priority)
2017-08-07-1255	Maria Sixton (O'Connor)	Wrongful Termination	\$88,560
2017-02-01-231	Joe Harrington (St. Francis)	Wrongful Termination	\$98,560
2017-02-01-232	Guillermo Garcia (St. Francis)	Wrongful Termination	\$98,560
2018-08-24-1302	All affected employees (all four hospitals)	Failure to implement agreed upon wages, paid time off, and seniority adjustments	\$32,362,232.65 (\$10,219,652.42 priority)

True and correct copies of the grievances are attached hereto as **Exhibit E1-6**.

A true and correct copy of the Union's calculations of damages for Grievance No. 2018-08-24-1302 is attached hereto as **Exhibit F**.

2. Contributions Due to Joint Employer Education Fund: \$9,407.14

The CBA requires the Employer to contribute 0.22% of the gross wages of the employees in the bargaining unit during the first year of the agreement (January 1, 2016 through December 31, 2016) to the Joint Employer Education Fund. Thereafter, in each successive year of the contract, the Employer is required to contribute the same dollar amount as contributed in the first contract year. See Exhibit B, Article 5 of the CBA.

Lindquist CPA, an outside audit firm, performed a payroll audit and determined that, from 2015 to 2018, St. Francis Medical Center underpaid by \$3,723.83, St. Vincent Medical Center underpaid by \$2,612.32, O'Connor Hospital underpaid by \$1,756.53, and Saint Louise Regional Hospital underpaid by \$1,314.46. As a result, \$9,407.14 is owed to the Joint Employer Education Fund. A true and correct copy of the audit is attached hereto as **Exhibit G**.

3. Contributions Due to Pension Plans: \$141,556,328

The CBA requires contributions to Verity Health System Retirement Plan A ("Verity Plan A") and the Retirement Plan for Hospital Employees ("RPHE") in order to ensure



that these pension plans are adequately funded and able to satisfy their liabilities to participants, including SEIU-UHW-represented employees. The CBA specifically provides that “during the term of this CBA, Verity Health System will take all necessary steps to comply with all laws and regulations applicable to the Plan, including but not limited to ... administering and funding such Plan in accordance with ERISA ... and making all contributions necessary to satisfy the funding and PBGC premium requirements of ERISA and the Code.” See Exhibits B and C, Article 28 of the CBA. The contract specifically requires Verity Health System to make these contributions, making it jointly and severally liable for the contributions.

Verity’s actuary, Carlos de la Parra, testified that the anticipated amount of required contributions to Verity Plan A attributable to prepetition labor<sup>2</sup> and due during the term of the CBA from September 15, 2018 through October 15, 2021 totaled \$109,624,323. Doc. 1507, p. 41. Carlos de la Parra also testified that the required contributions to the RPHE that were attributable to pre-petition labor and due during the term of the CBA from August 15, 2018 through August 15, 2021 totaled \$31,932,005. Doc. 1511, p. 4. SEIU-UHW understands that none of these contributions have been paid and that Verity does not intend to make these payments in the ordinary course as they come due. Verity Health System is liable for \$141,556,328 in contractually required contributions.<sup>3</sup>

4. Outstanding Checks from Prepetition: \$27,159.66 (\$12,850 entitled to priority)

SEIU-UHW-represented employee Dzmitry Kudzianau has outstanding checks for wages from prepetition in the amount of \$27,159.66. Of this amount, \$12,850 is entitled to priority under § 507(a)(4) because it arose within 180 days prior to the petition.

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<sup>2</sup> Carlos de la Parra has classified these amounts as attributable to prepetition labor because the contributions would fund benefits for participants whose retirement benefit accrued before the petition. SEIU-UHW contends that, even though the benefits accrued prepetition, these contributions came due and owing postpetition, and were required by the CBA as a term and condition of the continued employment of SEIU-UHW members who continued to perform labor postpetition. Consequently, SEIU-UHW believes that these contributions are appropriately characterized as an administrative expense. However, out of an abundance of caution, SEIU-UHW is bringing this claim for these amounts in case the Court adopts Verity’s position.

<sup>3</sup> Verity Health System is also liable for these contributions as rejection damages arising from the rejection of the agreement as to O’Connor Hospital and Saint Louise Regional Hospital. Amounts that would have been due under the contract if it had not been rejected effective February 28, 2019, but had instead continued until it expired on October 31, 2021 are owed as rejection damages. See *In re Continental Airlines Corp.*, 901 F.2d 1259, 1265 (5th Cir. 1990) (contract damages for rejection of a CBA under section 1113 should be treated as other contract rejection damages and classified as general unsecured claims under 11 U.S.C. § 365(g)).



A true and correct copy of an excerpt of Verity's responses to information requests, stating the amount of outstanding checks from prepetition, is attached hereto as **Exhibit H** (see pp. 155-56).

5. Unpaid Paid-Time Off Balances: \$2,471,137.91 (\$1,588,130.50 entitled to priority)

SEIU-UHW-represented employees at Saint Louise Regional Hospital, O'Connor Hospital, St. Vincent Medical Center, and St. Francis Medical Center have \$2,471,137.91 in unused paid-time off that accrued prior to the petition, \$1,588,130.50 of which accrued in the 180 days prior to the petition. Exhibit H (Verity's responses to information requests), pp. 23, 47, 97, 105.<sup>4</sup> SEIU-UHW has not been able to confirm whether any part of these amounts have been paid.

6. Retirement Plan, RPA, and 401a Contributions: \$7,816.06

In response to a request for information, Verity informed the Union that \$7,816.06 in Retirement Plan, RPA, and 401a Contributions on Prepetition PTO in excess of the \$12,850 cap is owed to SEIU-UHW represented employees at St. Vincent Medical Center. Exhibit H, pp. 152-55.

7. Severance Due Under the CBA:

When an employee is separated from employment with Verity, the CBA requires severance in the amount of 4 weeks' pay for employees with 7 to 9 years of service, 6 weeks' pay for employees with 10 through 14 years of service, and 8 weeks' pay for service of 15 years or more. Exhibits B and C, Article 15, Section H of the CBA.

a. O'Connor and Saint Louise: \$2,897,201.15 (\$89,748.43 entitled to priority)

All SEIU-UHW-represented employees working at O'Connor Hospital and Saint Louise Regional Hospital were separated from employment with Verity immediately before the closing of the sale to Santa Clara County on February 28, 2019.

The amount of severance they are due under the CBA is \$2,987,448.19.<sup>5</sup> The amount of these payments were earned based on prepetition service is \$2,897,201.15, and the

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<sup>4</sup> SEIU-UHW received this information in response to a request for information. Information about PTO accruals is kept by the Employer, not the Union. SEIU-UHW is still investigating apparent discrepancies in the information produced, given that the estimates in the response to the request for information are 19 to 56% lower than the estimates in the Galfus declaration (Doc. 1507, p. 36) filed by Verity. Verity has represented that the differences are the result of PTO usage between 1/22/2019 and 3/12/2019. SEIU-UHW is still in the process of investigating these differences, and reserves the right to amend this claim if it discovers new information.

<sup>5</sup> SEIU-UHW maintains that this amount is required by the CBA, which was in effect when the workers were terminated immediately prior to the closing of the sale to Santa Clara County.

amount of the payments earned based on service within 180 days prior to the petition is \$89,748.43.

A true and correct copy of the Union's calculations of these amounts is attached hereto as **Exhibit I**.

b. St. Francis and St. Vincent: \$4,728,406.26 (\$148,837.31 entitled to priority)

All SEIU-UHW-represented employees working at St. Francis Medical Center and St. Vincent Medical Center will be separated from employment prior to the closing of the anticipated sale of the hospital.

The amount of severance they will due under the CBA is \$5,030,215.26. The amount of these payments that was earned based on prepetition service is \$4,728,406.26, and the amount of the payments earned based on service within 180 days prior to the petition is \$148,837.31. Exhibit I.

B) Amounts Due for NLRA Violations: \$270,116.20

Verity Medical Foundation refused to engage in effects bargaining regarding the layoffs of all SEIU-UHW-represented employees who were employed at the Verity Medical Foundation clinics, in violation of Sections 8(a)(1) and 8(a)(5) of the National Labor Relations Act. As a result, it owes \$270,116.20, representing two weeks' pay for each worker. *Transmarine Navigation Corp.*, 170 N.L.R.B. 389 (1968).<sup>6</sup>

A true and correct copy of the unfair labor practice charge is attached hereto as **Exhibit J**. A true and correct copy of the Union's calculation of the *Transmarine* remedy is attached hereto as **Exhibit K**.

C) Amounts Not Yet Ascertained

The full and precise amount of the total claim has not yet been ascertained, and the amounts will be subject to reasonable investigation and discovery, based in part upon the payroll and employment records in the possession of the Debtor.

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Verity has claimed that the termination of the workers, the closing of the sale, and the termination of the collective bargaining agreement were simultaneous. If this position prevails, the \$2,987,448.19 in severance payments that would have been required under the contract are due as damages for rejection of the CBA. *See In re Continental Airlines Corp.*, 901 F.2d 1259, 1265 (5th Cir. 1990) (contract damages for rejection of a CBA under section 1113 should be treated as other contract rejection damages and classified as general unsecured claims under 11 U.S.C. § 365(g)).

<sup>6</sup> SEIU-UHW intends to file a motion for allowance of administrative claim for this amount, but is including the amount in this Claim out of an abundance of caution.

D) Attorney's Fees and Costs: \$4,611.25 (\$4,611.25 entitled to priority under § 507(a)(2))

SEIU-UHW has incurred at least \$4,611.25 in attorney's fees for researching and preparing this Proof of Claim. SEIU-UHW hereby asserts a claim for this amount, as priority administrative expenses under 11 U.S.C. § 507(a)(2), as allowed under *In re SNTL Corp.*, 571 F.3d 826, 843-45 (9th Cir. 2009).

E) Final Amounts Due and Owing

**The grand total due and owing by the Debtor as set forth herein is \$185,760,148.37, which includes reasonable attorney's fees and costs in the amount of \$4,611.25.**

**Priority is claimed under 11 U.S.C. § 507(a)(2) for attorney's fees in the amount of \$4,611.25. Priority is claimed under 11 U.S.C. § 507(a)(4) for wages (up to \$12,850) earned within 180 days of the petition, in a total amount not precisely ascertained but at least \$ 12,586,938.16.**

SEIU-UHW reserves its right to amend this proof of claim in order to claim additional amounts due and owing, if necessary, and intends to amend its proof of claim to claim interest on the unpaid amounts, once such amounts have been ascertained.

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