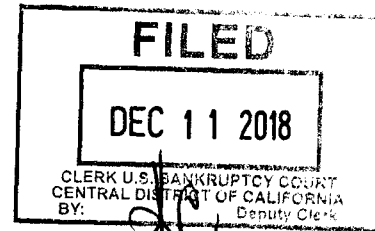


MONICA A. BLUT, ESQ. (SBN 162360)
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923 E. Valley Blvd., Ste. 268
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Attorney for Plaintiff,
BAORU XUE



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.

BAORU XUE

Plaintiff,

vs.

**VERITY HEALTH SYSTEM OF CALIFORNIA,
INC. AND ST. FRANCIS MEDICAL CENTER**

Defendants.

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

(Joint Administered)
Chapter 11 Cases

**ADVERSARY PROCEEDING
COMPLAINT**

Hon. Judge Ernest M. Robles



182015119062000000000016

1 **ADVERSARY PROCEEDING COMPLAINT**

2 Plaintiff Baoru XUE ("Plaintiff") by and through undersigned counsel, on behalf herself, as and
3 for her complaint against Defendants, alleges as follows:

4
5 **JURISDICTION AND VENUE**

- 6 1. This Court has jurisdiction over this adversary proceeding pursuant to 28 U.S.C §§ 157,
7 1331, 1334 and 1367.
8 2. This is a core proceeding pursuant to 28 U.S.C §§ 157(b)(2)(A), (B) and (O).

9
10 **NATURE OF THE ACTION**

- 11 3. This is an action for the recovery by Plaintiff employee of the Defendant employer of
12 damages in the amount of \$29,133.47 by reason of Defendant's violation of the Plaintiff's
13 rights under the Fair Labor Standards Act, 29 U.S.C § 203 et seq. ("FLSA"). The Plaintiff
14 has been an employee of the Debtor since 08/21/2012 to the present. Defendant violated
15 the FLSA by failing to pay Plaintiff proper wages as required by FLSA. As a consequence,
16 the Plaintiff is entitled under FLSA to recover from the Defendant her proper wages and
17 overtime benefits, none of which has been paid.

18 **PARTIES**

- 19 4. Upon information and belief, at all relevant times, Debtor Verity Health System of CA,
20 Inc. ("Verity" or "Debtor") maintained a facility at St. Francis Medical Center
21 ("Defendant" or "St. Francis").
22 5. Plaintiff worked at St. Francis as a respiratory therapist from 08/21/12 to the present.
23 6. On or about September 07, 2018 Defendant filed with this Court a voluntary petition for
24 relief under Chapter 11 of the United States Bankruptcy Code.
25 7. Plaintiff was and currently is an employee of Defendant.

26 **THE CLAIM FOR RELIEF**

- 1 8. At all relevant times, the Defendant employed 100 or more employees (exclusive of part-
2 time employees, i.e., those employees who had worked fewer than 6 of the 12 months prior
3 to the date notice was required to be given or who had worked fewer than an average of 20
4 hours per week during the 60 day period prior to the date notice was required to be given
5 (the "Part-Time Employees")), or employed 100 or more employees who in the aggregate
6 worked at least 4,000 hours per week exclusive of hours of overtime within the United
7 States.
- 8 9. At all relevant times, Defendant was an "employer", as that term is defined in FLSA and
9 continues to operate as a medical facility business.
- 10 10. On or about August 21, 2012 and thereafter, to and including the present the Defendant
11 employed Plaintiff as a respiratory therapist.
- 12 11. On or about March 2017, Plaintiff realized she was being underpaid for her hourly wages
13 and for overtime work, so advised Defendant.
- 14 12. On or about March 2017, Defendant admitted to underpaying Plaintiff, and paid her
15 \$10,725.29 in back-pay, representing that that was all she was owed.
- 16 13. The Plaintiff thereafter realized she still had not been properly compensated for wages,
17 salary, and overtime owed, that additional back-pay was owed.
- 18 14. The Defendant was required by FLSA to pay Plaintiff her proper salary and overtime, and
19 to compensate her according to an accurate pay rate and wage scale.
- 20 15. The Defendant failed to properly categorize Plaintiff on their wage scale.
- 21 16. The Plaintiff was improperly categorized by Defendant's on Defendant's wage scale,
22 resulting in unpaid and underpaid wages.
- 23 17. The Defendant failed to pay the Plaintiff her proper wages, salary, and overtime from
24 August 21, 2012 to present.
- 25 18. Since the Defendant underpaid Plaintiff's wages, the Plaintiff is entitled to administrative
26 priority status pursuant to 11 U.S.C § 503(b)(1)(A)(ii).
- 27 19. The relief sought in this proceeding is equitable in nature.

28 WHEREFORE, Plaintiff demands judgment, against Defendant as follows:

- A. An allowed administrative priority claim pursuant to 11 U.S.C § 503(b)(1)(A)(ii) against
the Defendant in favor of the Plaintiff equal to the sum of: (a) unpaid wages, salary, and
overtime, that would have been paid under the then applicable employee wage scale for the

1 period from August 21, 2012 to present, all determined in accordance with FLSA 29 U.S.C
2 § 203, which Plaintiff believes to be \$29,133.47.

3 B. An allowed administrative priority claim against the Defendant under 11 U.S.C § 503 for
4 the reasonable attorneys' fees and the costs and disbursements that the Plaintiff incurs in
5 prosecuting this action, as authorized by FLSA, 29 U.S.C § 203; and

6 C. Such other and further relief as this Court may deem just and proper, including attorney's
7 fees and costs as permitted by FLSA.

8 Respectfully submitted,

9 DATED: December 11, 2018

10 DEMIDCHIK LAW FIRM

11
12 By: 

13 Monica Blut, Esq.
14 Attorneys for Plaintiff,
15 BAORU XUE
16
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RECEIVED


DEC 11 2018

CLERK U.S. BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
BY: [Signature] Deputy Clerk

B1040 (FORM 1040) (12/15)

ADVERSARY PROCEEDING COVER SHEET (Instructions on Reverse)		ADVERSARY PROCEEDING NUMBER (Court Use Only)
PLAINTIFFS Baoru XUE		DEFENDANTS Verity Health System of California, Inc. & St. Francis Medical Center
ATTORNEYS (Firm Name, Address, and Telephone No.) Demidchik Law Firm; 923 E. Valley Blvd. Ste 268, San Gabriel, CA 91776; 626-317-		ATTORNEYS (If Known) Dentons US LLP, 601 S. Figueroa St, 0033 Ste 2500, Los Angeles, CA 90017
PARTY (Check One Box Only) <input type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin <input checked="" type="checkbox"/> Creditor <input type="checkbox"/> Other <input type="checkbox"/> Trustee		PARTY (Check One Box Only) <input checked="" type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin <input type="checkbox"/> Creditor <input type="checkbox"/> Other <input type="checkbox"/> Trustee
CAUSE OF ACTION (WRITE A BRIEF STATEMENT OF CAUSE OF ACTION, INCLUDING ALL U.S. STATUTES INVOLVED) VIOLATION OF FAIR LABOR STANDARDS ACT (FLSA) [29 U.S.C §203 et seq.]		
NATURE OF SUIT		
(Number up to five (5) boxes starting with lead cause of action as 1, first alternative cause as 2, second alternative cause as 3, etc.)		
FRBP 7001(1) – Recovery of Money/Property <input checked="" type="checkbox"/> 11-Recovery of money/property - §542 turnover of property <input checked="" type="checkbox"/> 12-Recovery of money/property - §547 preference <input type="checkbox"/> 13-Recovery of money/property - §548 fraudulent transfer <input type="checkbox"/> 14-Recovery of money/property - other FRBP 7001(2) – Validity, Priority or Extent of Lien <input type="checkbox"/> 21-Validity, priority or extent of lien or other interest in property FRBP 7001(3) – Approval of Sale of Property <input type="checkbox"/> 31-Approval of sale of property of estate and of a co-owner - §363(h) FRBP 7001(4) – Objection/Revocation of Discharge <input type="checkbox"/> 41-Objection / revocation of discharge - §727(c),(d),(e) FRBP 7001(5) – Revocation of Confirmation <input type="checkbox"/> 51-Revocation of confirmation FRBP 7001(6) – Dischargeability <input checked="" type="checkbox"/> 66-Dischargeability - §523(a)(1),(14),(14A) priority tax claims <input type="checkbox"/> 62-Dischargeability - §523(a)(2), false pretenses, false representation, actual fraud <input type="checkbox"/> 67-Dischargeability - §523(a)(4), fraud as fiduciary, embezzlement, larceny (continued next column)		FRBP 7001(6) – Dischargeability (continued) <input type="checkbox"/> 61-Dischargeability - §523(a)(5), domestic support <input type="checkbox"/> 68-Dischargeability - §523(a)(6), willful and malicious injury <input type="checkbox"/> 63-Dischargeability - §523(a)(8), student loan <input type="checkbox"/> 64-Dischargeability - §523(a)(15), divorce or separation obligation (other than domestic support) <input type="checkbox"/> 65-Dischargeability - other FRBP 7001(7) – Injunctive Relief <input type="checkbox"/> 71-Injunctive relief – imposition of stay <input type="checkbox"/> 72-Injunctive relief – other FRBP 7001(8) Subordination of Claim or Interest <input type="checkbox"/> 81-Subordination of claim or interest FRBP 7001(9) Declaratory Judgment <input type="checkbox"/> 91-Declaratory judgment FRBP 7001(10) Determination of Removed Action <input type="checkbox"/> 01-Determination of removed claim or cause Other <input type="checkbox"/> SS-SIPA Case – 15 U.S.C. §§78aaa et seq. <input checked="" type="checkbox"/> 02-Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy case)
<input checked="" type="checkbox"/> Check if this case involves a substantive issue of state law		<input type="checkbox"/> Check if this is asserted to be a class action under FRCP 23
<input type="checkbox"/> Check if a jury trial is demanded in complaint		Demand \$ 29,133.47
Other Relief Sought		

B1040 (FORM 1040) (12/15)

BANKRUPTCY CASE IN WHICH THIS ADVERSARY PROCEEDING ARISES		
NAME OF DEBTOR Verity Health System of California, Inc. & St. Francis Medical Center		BANKRUPTCY CASE NO. 2:18-bk-20151-ER
DISTRICT IN WHICH CASE IS PENDING CENTRAL DISTRICT OF CALIFORNIA	DIVISION OFFICE LA	NAME OF JUDGE Ernest M. Robles
RELATED ADVERSARY PROCEEDING (IF ANY)		
PLAINTIFF	DEFENDANT	ADVERSARY PROCEEDING NO.
DISTRICT IN WHICH ADVERSARY IS PENDING	DIVISION OFFICE	NAME OF JUDGE
SIGNATURE OF ATTORNEY (OR PLAINTIFF) 		
DATE 12/10/2018	PRINT NAME OF ATTORNEY (OR PLAINTIFF) Monica Blut	

INSTRUCTIONS

The filing of a bankruptcy case creates an "estate" under the jurisdiction of the bankruptcy court which consists of all of the property of the debtor, wherever that property is located. Because the bankruptcy estate is so extensive and the jurisdiction of the court so broad, there may be lawsuits over the property or property rights of the estate. There also may be lawsuits concerning the debtor's discharge. If such a lawsuit is filed in a bankruptcy court, it is called an adversary proceeding.

A party filing an adversary proceeding must also must complete and file Form 1040, the Adversary Proceeding Cover Sheet, unless the party files the adversary proceeding electronically through the court's Case Management/Electronic Case Filing system (CM/ECF). (CM/ECF captures the information on Form 1040 as part of the filing process.) When completed, the cover sheet summarizes basic information on the adversary proceeding. The clerk of court needs the information to process the adversary proceeding and prepare required statistical reports on court activity.

The cover sheet and the information contained on it do not replace or supplement the filing and service of pleadings or other papers as required by law, the Bankruptcy Rules, or the local rules of court. The cover sheet, which is largely self-explanatory, must be completed by the plaintiff's attorney (or by the plaintiff if the plaintiff is not represented by an attorney). A separate cover sheet must be submitted to the clerk for each complaint filed.

Plaintiffs and Defendants. Give the names of the plaintiffs and defendants exactly as they appear on the complaint.

Attorneys. Give the names and addresses of the attorneys, if known.

Party. Check the most appropriate box in the first column for the plaintiffs and the second column for the defendants.

Demand. Enter the dollar amount being demanded in the complaint.

Signature. This cover sheet must be signed by the attorney of record in the box on the second page of the form. If the plaintiff is represented by a law firm, a member of the firm must sign. If the plaintiff is pro se, that is, not represented by an attorney, the plaintiff must sign.

<p>Attorney or Party Name, Address, Telephone & FAX Nos., State Bar No. & Email Address</p> <p>MONICA A. BLUT, ESQ. (SBN 162360) DEMIDCHIK LAW FIRM 923 E. Valley Blvd., Ste. 268 San Gabriel, CA 91776 Telephone (626) 317-0033 Facsimile (212) 810-7257 monica@demidchiklawfirm.com</p> <p><i>Attorney for Plaintiff</i></p>	<p>FOR COURT USE ONLY</p> <div data-bbox="828 262 1201 514"><p>RECEIVED</p><p>DEC 11 2018</p><p>CLERK U.S. BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA BY: <i>[Signature]</i> Deputy Clerk</p></div>
<p>UNITED STATES BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA - LOS ANGELES DIVISION</p>	
<p>In re:</p> <p>VERITY HEALTH SYSTEM OF CALIFORNIA, INC.</p> <p>Debtor(s).</p>	<p>CASE NO.: 2:18-bk-20151-ER CHAPTER: 11 ADVERSARY NO.:</p>
<p>BAORU XUE,</p> <p>Versus</p> <p>Plaintiff(s)</p> <p>VERITY HEALTH SYSTEM OF CALIFORNIA, INC., et al., and ST. FRANCIS MEDICAL CENTER</p> <p>Defendant(s)</p>	<p>SUMMONS AND NOTICE OF STATUS CONFERENCE IN ADVERSARY PROCEEDING [LBR 7004-1]</p>

TO THE DEFENDANT: A Complaint has been filed by the Plaintiff against you. If you wish to defend against the Complaint, you must file with the court a written pleading in response to the Complaint. You must also serve a copy of your written response on the party shown in the upper left-hand corner of this page. The deadline to file and serve a written response is _____. If you do not timely file and serve the response, the court may enter a judgment by default against you for the relief demanded in the Complaint.

A status conference in the adversary proceeding commenced by the Complaint has been set for:

Hearing Date: _____	Address:
Time: _____	<input checked="" type="checkbox"/> 255 East Temple Street, Los Angeles, CA 90012
Courtroom: _____	<input type="checkbox"/> 3420 Twelfth Street, Riverside, CA 92501
	<input type="checkbox"/> 411 West Fourth Street, Santa Ana, CA 92701
	<input type="checkbox"/> 1415 State Street, Santa Barbara, CA 93101
	<input type="checkbox"/> 21041 Burbank Boulevard, Woodland Hills, CA 91367

This form is mandatory. It has been approved for use in the United States Bankruptcy Court for the Central District of California.

You must comply with LBR 7016-1, which requires you to file a joint status report and to appear at a status conference. All parties must read and comply with the rule, even if you are representing yourself. You must cooperate with the other parties in the case and file a joint status report with the court and serve it on the appropriate parties at least 14 days before a status conference. A court-approved joint status report form is available on the court's website (LBR form F 7016-1.STATUS.REPORT) with an attachment for additional parties if necessary (LBR form F 7016-1.STATUS.REPORT.ATTACH). If the other parties do not cooperate in filing a joint status report, you still must file with the court a unilateral status report and the accompanying required declaration instead of a joint status report 7 days before the status conference. **The court may fine you or impose other sanctions if you do not file a status report. The court may also fine you or impose other sanctions if you fail to appear at a status conference.**

**KATHLEEN J. CAMPBELL
CLERK OF COURT**

Date of Issuance of Summons and Notice of Status Conference in Adversary Proceeding: _____

By: _____
Deputy Clerk

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:
Demidchik Law Firm, 923 E. Valley Blvd. Ste 268, San Gabriel, CA 91776

A true and correct copy (1) of the foregoing document entitled: **SUMMONS AND NOTICE OF STATUS CONFERENCE IN ADVERSARY PROCEEDING [LBR 7004-1]** and (2) the accompanying pleading(s) entitled:

Adversary Proceeding Complaint

will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

1. **TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF)**: Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (date) _____, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

☐ Service information continued on attached page

2. **SERVED BY UNITED STATES MAIL**:

On (date) 12/11/2018, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

Samuel R. Maizel, 601 S. Figueroa St. Ste 2500, Los Angeles, CA 90017

John A. Moe, II, 601 S. Figueroa St. Ste 2500, Los Angeles, CA 90017

Tania M. Moyron, 601 S. Figueroa St. Ste 2500, Los Angeles, CA 90017

Dentons US LLP, 601 S. Figueroa St. Ste 2500, Los Angeles, CA 90017

☒ Service information continued on attached page

3. **SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (state method for each person or entity served)**: Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (date) _____, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page

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

12/11/2018 Damien CUI

Date

Printed Name

Signature

This form is mandatory. It has been approved for use in the United States Bankruptcy Court for the Central District of California.

SERVICE LIST:

Hon. Judge Ernest M. Robles

United States Bankruptcy Court

Central District of California

Edward R. Roybal Federal Building and U.S. Courthouse

255 East Temple Street

Los Angeles, CA 90012