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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 ASC, 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' OPPOSITION TO AMENDED
MOTION FOR SPECIFIED PERIOD TO
ASSUME OR REJECT EXECUTORY
CONTRACT BETWEEN ST. VINCENT
MEDICAL CENTER AND SEOUL
MEDICAL GROUP, INC.; DECLARATION
OF ANITA CHOU**

Hearing:

Date: July 10, 2019

Time: 10:00 a.m.

Place: Courtroom 1568

255 East Temple Street

Los Angeles, California 90012

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Verity Health System Of California, Inc. (“VHS”), St. Vincent Medical Center (“St. Vincent”), and the above-referenced affiliated debtors and debtors in possession in the above captioned chapter 11 bankruptcy cases (collectively, the “Debtors”), hereby file their opposition (the “Opposition”) to the *Amended Motion for Specified Period to Assume or Reject Executory Contract Between St. Vincent Medical Center and Seoul Medical Group* [Docket No. 2579] (the “Motion”) filed by Seoul Medical Group, Inc. (the “Group”). In support of the Opposition, the Debtors refer to the *Declaration of Richard G. Adcock in Support of First-Day Motions* [Docket No. 8] (the “First-Day Declaration”), submit the *Declaration of Anita Chou* (the “Chou Declaration”) attached hereto, and respectfully state as follows:

I.

INTRODUCTION¹

The Motion—at its core—is a procedural request to shorten the Debtors’ statutory period to assume or reject a Healthcare Risk Sharing Agreement (the “Agreement”), allegedly an executory contract. Despite the limited nature of the relief sought, the Group sets forth a litany of inaccurate and extraneous factual allegations and, in so doing, the Motion morphs into a premature and factually misguided attempt to litigate the substance of the Group’s views on how the Debtors’ Cases have proceeded and why the Debtors should assume the Agreement. The Group admits that only three allegations raised in the Motion bear on its request to shorten the time to assume or reject the Agreement. Unfortunately, these allegations are based on inaccurate facts and, even if true, would be insufficient to support a request to shorten the Debtors’ deadline to assume or reject the Agreement.

First, the Group claims that it needs “certainty regarding its operations and wants to continue to offer St. Vincent as an option for its patients to receive medical services ***in the future.***” Mot. at 16 (emphasis added). The Group provides services to patients of the Central Health Plan (“CHP”) under a Capitated Physician Group Services Agreement (the “Capitation Agreement”). St. Vincent ***formerly*** provided care for the Group’s capitated patients that came to

¹ Capitalized terms not otherwise defined in this Introduction have the definitions set forth elsewhere in this Opposition.

1 the hospital. But, in August 2018, CHP terminated its relationship with St. Vincent and
2 transferred all of its member-patients away from St. Vincent. St. Vincent ceased providing in-
3 network care to the Group's patients since the CHP termination.² The Group received all the
4 clarity it needed in August 2018, when CHP terminated its relationship with St. Vincent. It
5 cannot expect more from expedited assumption or rejection.

6 **Second**, the Group apparently believes that an alleged default—failure to provide a
7 written report or final settlement—obligates the Debtors to pay nearly \$4 million in excess risk
8 pool funds before the Agreement is “inevitably” assumed and assigned. The Agreement is not a
9 guarantee of payment, but an opportunity for a bonus type payment from risk pool funds. The
10 Group receives payments from the risk sharing pool only if certain criteria is met relating to the
11 Group's efficient management of St. Vincent patient facility use and patient treatment. Those
12 outstanding payments, if any, are limited to services provided between January 2018 and August
13 2018 only and are subject to reconciliation. The Group does not identify the interrelationship
14 between the alleged default and the obligation to pay excess risk pool proceeds as a cure payment.

15 The Group's claims instead evidence the fact that the Agreement is non-executory. The
16 Group was discharged from its obligations “to audit and to ensure the high quality required by the
17 Plan” when CHP terminated the Capitation Agreement and moved the Group's patients from
18 St. Vincent prepetition. The Group merely seeks payment of any outstanding amounts under the
19 Agreement. Therefore, by the Group's own description, the Agreement is necessarily non-
20 executory and not subject to assumption because the sole remaining obligations under the
21 Agreement relate to payment of money.

22 **Third**, the Group suggests that the Debtors have mishandled risk pool funds. The Group
23 does not cite to any evidence in support of this serious assertion. The Debtors continue to comply
24 diligently with their obligations as debtors-in-possession and under the Agreement. The Court
25 should ignore the Group's baseless claim.

26 The Group's true motivation is preferential treatment over other contract counterparties.

27
28 ² St. Vincent continues to provide care to the Group's patients under fee-for-service payor
arrangements not subject to the terms of the Agreement.

This desire, alone, is inadequate to force the Debtors to assume or reject the Agreement on an expedited basis, even assuming, *arguendo*, that the Agreement is executory. Further, the decision to assume is largely contingent on the intentions of SGM. SGM is entitled to additional time to review the contracts of which it intends to take assignment. Accordingly, the Group's Motion should be denied in its entirety.

II.

STATEMENT OF RELEVANT FACTS

A. General Background

1. On August 31, 2018 (the "Petition Date"), each of the Debtors filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code"). The Debtors' chapter 11 cases (the "Debtors' Cases") are being jointly administered. Since the commencement of the Debtors' Cases, the Debtors have been operating their businesses as debtors in possession pursuant to Sections 1107 and 1108 of the Bankruptcy Code.

2. On September 17, 2018, the Office of the United States Trustee appointed an Official Committee of Unsecured Creditors in the Debtors' Cases. *See* Docket No. 197.

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

4. VHS, the Hospitals, and their affiliated entities (collectively, "Verity Health System") operate as a nonprofit health care system, with approximately 1,680 inpatient beds, six active emergency rooms, a trauma center, eleven medical office buildings, and a host of medical specialties, including tertiary and quaternary care. *See* First-Day Decl., ¶ 12 at 4. On the Petition Date, the Debtors had approximately 850 inpatients. *Id.*, ¶ 17 at 6. The scope of the services provided by the Verity Health System are exemplified by the fact that in 2017, the Hospitals provided medical services to over 50,000 inpatients and approximately 480,000 outpatients. *Id.*, ¶ 12 at 4.

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5. St. Vincent was founded as the first hospital in Los Angeles in 1856. *See* First-Day Decl., ¶ 34 at 8. In 1971, a new facility was constructed at St. Vincent’s current location at 2131 West Third Street, Los Angeles, CA 90057. *See id.* St. Vincent has expanded to a 366 licensed bed, regional acute care, tertiary referral facility, specializing in cardiac care, cancer care, total joint and spine care, and multi-organ transplant services. *See id.* St. Vincent serves both local residents and residents from Los Angeles, San Bernardino, Riverside, and Orange Counties. *See id.* As a provider of healthcare services for a high percentage of elderly patients, many of the hospital’s services and programs are focused on the treatment of various chronic diseases. *See id.*

6. On May 2, 2019, the Court entered an order [Docket No. 2306] (the “Sale Order”) approving the sale of substantially all of the assets of St. Vincent, among other Debtors, to Strategic Global Management, Inc. (“SGM”). *See* Docket No. 2306. The sale has yet to close. The Sale Order provides that SGM can continue to consider whether to request that executory contracts be assumed and assigned or rejected during this pre-closing period. *See id.*

7. Additional background facts on the Debtors, including an overview of the Debtors’ business, information on the Debtors’ capital structure and additional events leading up to the Debtors’ Cases, are contained in the First-Day Declaration.

B. Facts Relevant To Motion

8. St. Vincent formerly provided care to capitated patients of CHP. Both St. Vincent and the Group separately entered into capitated agreements with CHP. *See* Chou Decl., ¶ 4 at 1; Mot., ¶ 3 at 3. California regulations provide that health plans can transfer risk for professional services provided by an IPA by entering into a capitation agreement with an IPA; and health plans can transfer risk for facility services by entering into a capitation agreement with a hospital. *See* Chou Decl., ¶ 4 at 1-2.

9. Under the CHP capitation agreement with St. Vincent, St. Vincent agreed to assume the risk for facility services for patients assigned to them. *See* Chou Decl., ¶ 5 at 2. To minimize its risk for the amount of dollars spent on patient care, St. Vincent entered into the Agreement with the Group to manage patient care. *See id.* Under the Agreement, the funds

received by St. Vincent from CHP were placed in a “pool” from which St. Vincent and third-party providers of facility services were paid. *See id.*

10. The Agreement provided for a split between St. Vincent and the Group of CHP funds for patient facility services remaining at the end of each risk year. *See* Chou Decl., ¶ 6 at 2. When there were funds remaining, the Group received a “bonus” payment from the risk pool as a reward for their efforts in managing the patients’ facility services. *See id.* In turn, if the pool was in deficit, the Group was required to pay their share of the deficit back to the pool. *See id.*

11. In August 2018, before the Petition Date, CHP terminated its relationship with St. Vincent and transferred all CHP member-patients from St. Vincent. *See* Chou Decl., ¶ 7 at 2. St. Vincent has not treated CHP member-patients since that time and has not received any capitation revenue from CHP since the relationship terminated. *See id.* St. Vincent continues to reconcile and hold risk pool funds in accordance with the Agreement.

III.

ARGUMENT

The Group cannot demonstrate that its interests in an expedited assumption or rejection determination outweigh those of the Debtors and their bankruptcy estates. The Group attempts to meet its burden by (i) falsely claiming a need for certainty in patient care though St. Vincent has not provided care for the Group’s patients since August 2018, (ii) presuming that the Agreement will be assumed without adequately demonstrating that the Agreement is even executory, and (iii) claiming, without any support, that the Debtors have inappropriately handled risk pool funds. The Group’s bald assertions and false allegations fall far short of carrying its burden.

A. The Group Has the Burden to Demonstrate It Is Equitable to Expedite the Assumption Deadline.

Section 365(d)(2) of the Bankruptcy Code provides that a debtor may assume or reject an executory contract “at any time prior to the confirmation of a plan of reorganization.” 11 U.S.C. § 365(d)(2). “Permitting the debtor to make its decision as late as the plan confirmation date enables the debtor to carefully evaluate the possible benefits and burdens of an [executory contract]. It is vitally important to all interested parties that the debtor make a prudent

1 assumption or rejection decision. . . .” *In re Physician Health Corp.*, 262 B.R. 290, 292 (Bankr.
2 D. Del. 2001) (citing *In re Wheeling-Pittsburgh Steel Corp.*, 54 B.R. 385, 388 (Bankr. W.D. Pa.
3 1985)). Until assumption or rejection, an executory contract remains in existence, “enforceable
4 by the debtor [against the non-debtor party] but not against the debtor.” *In re S.N.A. Nut Co.*,
5 191 B.R. 117, 120 (Bankr. N.D. Ill. 1996).

6 Section 365(d)(2) also permits the Court, at the request of a Trustee or DIP to allow a
7 “reasonable time” to decide whether to assume or reject. *See In re Wheeling-Pittsburgh Steel*
8 *Corp.*, 54 B.R. 385, 388 (Bankr. W.D. Pa. 1985); *Theater Holding Corp. v. Mauro*, 681 F.2d 102,
9 105 (2d Cir. 1982). What constitutes “reasonable time” is left to bankruptcy court’s discretion in
10 light of all the circumstances of the case. *Wheeling-Pittsburgh*, 54 B.R. at 388; *see also In re*
11 *Beker Indus.*, 64 B.R. 890, 896-97 (Bankr. S.D.N.Y. 1986). Creditors will frequently argue that
12 the debtor must assume the contract or lease because of its essential nature to the debtor or that
13 the debtor must reject the contract or lease because the debtor cannot cure the defaults and
14 therefore can never assume the contract or lease. However, the reasonable time afforded to a
15 debtor is not solely to analyze the benefits and burdens of the contract. The debtor must also
16 decide whether the assumption on rejection would be “beneficial to an effective reorganization.”
17 Thus, waiting until a plan can be devised may be essential to evaluating a contract. *In re*
18 *Whitcomb & Keller Mortgage Co.*, 715 F.2d 375, 379 (7th Cir. 1983); *see also DJS Properties,*
19 *L.P. v. Simplot*, 397 B.R. 493, 500 (D. Idaho 2008) (denying motion to expedite assumption or
20 rejection of executory contract and allowing debtor to assume or reject post-confirmation). A
21 court may not, however, order the debtor to assume the contract. *Stevens v. CSA, Inc.*, 271 B.R.
22 410, 412 (D. Mass. 2001).

23 In deciding whether to accelerate a debtor’s decision respecting a given executory
24 contract, the court must balance the interests of the contracting party against those of the debtor
25 and its bankruptcy estate. *Physician Health*, 262 B.R. at 292 (finding that balance favored
26 debtors and refusing to shorten deadline); *In re Mayer Pollock Steel Corp.*, 157 B.R. 952, 965
27 (Bankr. E.D. Pa. 1993) (refusing to shorten deadline for assumption or rejection when balance of
28 factors favors the debtor). In determining whether a debtor must elect to assume or reject an

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1 executory contract prior to plan confirmation, “the bankruptcy court essentially balances the
2 interests of the bankruptcy estate and its creditors against the interests of the movant.” *In re*
3 *EnCap Golf Holdings, LLC*, 2008 WL 5955350 at *3 (Bankr. D.N.J. Dec. 24, 2008). Courts
4 examine multiple factors in determining whether to shorten the period of assumption or rejection,
5 including: (i) the importance of the contract to the debtor’s business or reorganization, (ii) the
6 debtor’s failure or ability to satisfy post-petition obligations, (iii) the nature of the interest at
7 stake, (iv) the balance of hurt to the litigants and the good to be achieved, (v) whether the debtor
8 has had sufficient time to appraise its financial situation and the potential value of its assets in
9 formulating a plan, (vi) the safeguards afforded the litigants, (vii) the damages the non-debtor will
10 suffer beyond compensation available under the Bankruptcy Code, (viii) whether there is a need
11 for judicial determination as to whether an executory contract exists, (ix) whether a debtor’s
12 exclusive period to file a plan and solicit acceptances thereof has been terminated, (x) whether the
13 action to be taken is in derogation of Congress’ scheme, and (xi) the purpose of chapter 11, which
14 is to permit successful rehabilitation. *In re Dana Corp.*, 350 B.R. 144, 147 (Bankr. S.D.N.Y.
15 2006); *see also In re Adelphia Communications Corp.*, 291 B.R. 283, 293 (Bankr. S.D.N.Y.
16 2003) (compelling debtors to assume or reject prepetition contract within 90 days); *In re Enron*
17 *Corp.*, 279 B.R. 695, 702 (Bankr. S.D.N.Y. 2002) (setting a 4-month time period for the debtors
18 to assume or reject prepetition contract); *In re Dunes Casino Hotel*, 63 B.R. 939, 949 (D.N.J.
19 1986). No one factor is controlling and the analysis is conducted on a case-by-case basis. In
20 fashioning this balancing of factors, the movant seeking the order to compel assumption or
21 rejection on an accelerated basis bears the burden of demonstrating its entitlement to relief under
22 section 365(d)(2). *Mayer Pollock*, 157 B.R. at 964.

23 Where a debtor is current in its post-petition obligations on an executory contract, courts
24 have been reluctant to compel assumption or rejection earlier than the normal deadline of
25 confirmation. *See Physician Health*, 262 B.R. at 294; *Whitcomb & Keller*, 715 F.2d at 379; *In re*
26 *Wheeling-Pittsburgh Steel Corp.*, 54 B.R. 385, 388 (Bankr. W.D. Pa. 1985) (finding it
27 “significant that [the debtor] is not in post-petition default” of the executory contract at issue); *In*
28 *re New York Deli, Ltd.*, 41 B.R. 198, 200 (Bankr. D. Haw. 1984) (declining to shorten deadline

for assumption or rejection based in part on finding that debtor was paying rent post-petition).

B. The Three Allegations Cited By the Group Do Not Satisfy the Group's Burden.

The Group cites to three allegations in support of their request to expedite the Debtors' assumption or rejection determination. Aside from the factual inaccuracies in the Motion, the Group fails to analyze the allegations with respect to any of the factors considered by courts. The allegations fall far short of the Group's burden.

1. Assumption or Rejection Will Have No Impact on the Group's Patients.

The Group's interest is in preferential treatment over other contract counterparties—not out of concern for patient wellbeing. The Group suggests that it “needs certainty regarding its operations and wants to continue to offer SVMC as an option for its patients to receive medical services in the future.” Mot., at 16. But, the Group has not treated member-patients at St. Vincent since CHP terminated its relationship with St. Vincent in August 2018. *See* Chou Decl., ¶ 7 at 2. Rather, the Group admits that it is primarily interested in receiving priority consideration as SGM reviews and negotiates assignment of executory contracts. *See* Mot. at 16 (requesting “an order granting this Motion so that negotiations with the purchaser of the hospital may take place as soon as possible while the purchaser has sufficient resources, *not after it has gone through hundreds of other executory contracts to consider* [sic]”) (emphasis added). The reference to patient interests is, rather, an effort to obfuscate the non-urgent and self-serving nature of the Group's request.

On the contrary, the interests of the estate are best served by allowing SGM to consider treatment of executory contracts as provided by the Sale Order. *See* Sale Order, ¶ 15 at 17-18 (granting SGM time to consider assumption and assignment of executory contracts prior to the sale closing). The Group's desire to advance its interests above those of other similarly-situated counterparties does not merit expedited relief.

2. The Group Fails to Demonstrate that the Agreement Is Executory and, If It Is, the Basis for the Group's Entitlement to a Cure.

The Group admits that outstanding risk pool payments (if any) represent the only remaining unperformed obligation under the Agreement. As noted by the Group, a contract is

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1 executory only where “the obligations of both the bankrupt and the other party to the contract are
2 so far unperformed that the failure of either to complete performance would constitute a material
3 breach excusing the performance of the other.” *See Pac. Express, Inc. v. Teknekron Infoswitch*
4 *Corp. (In re Pac. Express, Inc.)*, 780 F.2d 1482, 1487 (9th Cir. 1986) (citation and internal
5 quotations omitted). That test is not met where one party has substantially performed such that
6 any future failure to perform does not excuse payment. *See id.* at 1487-88 (“even though
7 payment from Pacific was still due, Teknekron had substantially performed, and no future failure
8 to perform on Teknekron’s part would have excused Pacific from its obligation to pay for the
9 delivered equipment”); *see also In re Cornwall Hill Realty, Inc.*, 128 B.R. 378, 381 (Bankr.
10 S.D.N.Y. 1991) (“Generally the performance on both sides must be significant.”).

11 The Group’s sole alleged outstanding obligation is far from significant. The Group claims
12 that the Debtors’ “failure to perform its obligation to provide a written report and data supporting
13 it to SMG constitutes a material breach excusing the performance of SMG to conduct its audit
14 and to ensure the high quality required by the Plan.” *See Mot.* at 16. But, as noted above, the
15 Group is no longer providing care at St. Vincent for CHP members. *See Chou Decl.*, ¶ 7 at 2.
16 Further, the Group’s ongoing requirements to audit and provide quality care have no bearing on
17 the Debtors’ obligation to make risk pool payments (to the extent the Group is entitled to any) for
18 the 2018 period during which the Group provided services at St. Vincent. Given that the Group
19 solely provided prepetition services to capitated members, the Group substantially performed
20 under the Agreement as of the Petition Date and the Agreement is not executory. *See In re*
21 *Munple, Ltd.*, 868 F.2d 1129, 1130 (9th Cir. 1989) (“when a party has “substantially performed”
22 its side of the bargain, such that the party's failure to perform further would not constitute a
23 material breach excusing performance by the other party, a contract is not executory”).

24 Even if the Agreement is executory, the Group makes no connection between the alleged
25 default and need to expedite payment of a nearly \$4 million cure payment. The Group suggests,
26 without citation, that the Debtors’ reporting defaults render a \$4 million risk pool agreement
27
28

1 immediately due and owing.³ *See* Mot. at 16. The Group notes that the Agreement cannot be
2 assumed without a cure of existing defaults (a basic point uncontested by the Debtors), *see id.*
3 at 17, but the Motion does not explain why an eventual cure obligation (common to all assumed
4 contracts) requires expedited consideration of the Agreement. Indeed, given that the Group no
5 longer performs services at St. Vincent for CHP capitated members, assumption of the Agreement
6 on an expedited basis offers little benefit to the parties. Unlike certain agreements essential to a
7 reorganization, little suggests that the Agreement deserves special treatment. Indeed, the Group’s
8 own admissions demonstrate that the Agreement is non-executory and not subject to assumption
9 or rejection in the first instance.

10 3. **The Court Should Ignore the Group’s Unsupported Claim Concerning**
11 **Misappropriation of Risk Pool Funds.**

12 The Group’s claim that the Debtors “have been mishandling and misappropriating the
13 Risk Pool Funds” is false. *See* Mot. at 17. The Group’s misappropriation claim is entirely
14 unsupported—notwithstanding the two declarations and pages of extraneous allegations
15 submitted in support of the Motion. The Court should disregard these unsupported allegations.
16 *See, e.g., In re Johnson*, 236 B.R. 510, 523 (D.D.C. 1999) (affirming bankruptcy court’s decision
17 to strike where “bald allegations and inferences of the Trustee’s misconduct are unsupported by
18 any reasonable interpretation of the record”). These bare assertions cannot support the relief
19 requested by the Group. *See In re Mayer Pollock Steel Corp.*, 157 B.R. 952, 964 (Bankr. E.D. Pa.
20 1993) (“we do not believe that London has met its burden of establishing its entitlement to relief
21 under 11 U.S.C. § 365(d)(2)”).

22 The Group failed to put forth facts adequate to demonstrate entitlement to expedited
23 assumption or rejection of the Agreement. Indeed, the Motion suggests that the Agreement may
24 not be executory in the first instance. Accordingly, the Court should deny the Motion in its
25 entirety.

27 ³ The Debtors dispute the alleged amount of the risk pool payments to which the Group may be
28 entitled. The Debtors reserve all rights with respect to the reconciliation and calculation of
any risk pool payments.

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IV.

RESERVATION OF RIGHTS

The Debtors dispute the allegations set forth in the Motion. Many of the allegations are irrelevant to the relief requested in the Motion and, accordingly, are not addressed in this Opposition. The Debtors reserve all rights with respect to the allegations set forth in the Motion. Nothing contained in this Opposition shall be construed as (i) a waiver of any of the Debtors' rights, arguments, or defenses with respect to the allegations, or (ii) an admission with respect to the allegations.

Further, the Motion includes the Group's substantive arguments concerning assumption or rejection of the Agreement, which are not relevant to the relief requested in the Motion. Nothing contained in this Opposition shall be construed as a waiver any of the Debtors' rights, arguments, or defenses with respect to assumption or rejection of the Agreement.

V.

CONCLUSION

WHEREFORE, the Debtors respectfully request that this Court (i) deny the Motion, (ii) disregard unsupported allegations concerning the Debtors' alleged mishandling or misappropriation of risk pool funds, and (iii) grant such other and further relief as the Court deems just and proper under the circumstances.

Dated: June 26, 2018

DENTONS US LLP
SAMUEL R. MAIZEL
TANIA M. MOYRON
NICHOLAS A. KOFFROTH

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

Attorneys for the Chapter 11 Debtors and
Debtors In Possession

DECLARATION OF ANITA CHOU

I, Anita Chou, hereby state and declare as follows:

1. I am the Chief Financial Officer (“CFO”) of Verity Health System of California, Inc. (“VHS”). I make this declaration (the “Declaration”) in support of the *Debtors’ Opposition to Amended Motion for Specified Period to Assume or Reject Executory Contract between St. Vincent Medical Center and Seoul Medical Group, Inc.* (the “Opposition”) filed concurrently herewith by the above-captioned debtors and debtors in possession (collectively, the “Debtors”). Any and all undefined capitalized terms used in this Declaration shall have the definitions set forth in the Application.

2. I have personal knowledge of the facts set forth herein based on my experience as the CFO of VHS, except for those facts set forth on information and belief, and, as to those facts, I am informed and believe them to be true. If called upon to testify, I could and would testify competently to the facts set forth in this Declaration.

3. I became the Debtors’ acting CFO on August 20, 2018 and on August 29, 2018, the board of directors appointed me as the CFO. Prior to my appointment as acting CFO, I served as the VHS SVP Hospital Finance, with oversight responsibilities over all of Verity Health System hospitals’ CFOs from February 1, 2018 until August 19, 2018, and as the St Vincent Medical Center CFO from March 2016 to February 2018. My career has included three years at Prospect Medical Holdings from March 2013 to March 2016 in various senior level corporate finance positions including Hospital System CFO, ten years as the controller for three different hospital and hospital systems (e.g., Saint John’s Health Center & Affiliates, Valley Presbyterian Hospital, and USC Kenneth Norris Jr. Cancer Hospital), and three years as a Financial Market Analyst for El Camino Hospital. I received my Masters in Health Administration from the University of Southern California in 2005, and my Bachelor of Science from University of California, San Diego in 1998.

4. St. Vincent formerly provided care to capitated patients of CHP. Both St. Vincent and the Group separately entered into capitated agreements with CHP. California regulations provide that health plans can transfer risk for professional services provided by an IPA by

1 entering into a capitation agreement with an IPA; and health plans can transfer risk for facility
2 services by entering into a capitation agreement with a hospital.

3 5. Under the CHP capitation agreement with St. Vincent, St. Vincent agreed to
4 assume the risk for facility services for patients assigned to them. To minimize its risk for the
5 amount of dollars spent on patient care, St. Vincent entered into the Agreement with the Group to
6 manage patient care. Under the Agreement, the funds received by St. Vincent from CHP were
7 placed in a "pool" from which St. Vincent and third-party providers of facility services were paid.

8 6. The Agreement provided for a split between St. Vincent and the Group of CHP
9 funds for patient facility services remaining at the end of each risk year. When there are funds
10 remaining, the Group received a "bonus" payment from the risk pool as a reward for their efforts
11 in managing the patients' facility services. In turn, if the pool is in deficit, the Group was
12 required to pay their share of the deficit back to the pool.

13 7. In August 2018, before the Petition Date, CHP terminated its relationship with St.
14 Vincent and transferred all CHP member-patients from St. Vincent. St. Vincent has not treated
15 CHP member-patients since that time and has not received any capitation revenue from CHP
16 since the relationship terminated.

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

19 Executed this 26th day of June 2019, at El Segundo, California.

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22 Anita Chou
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