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

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

10 In re

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

13 Debtors and Debtors In Possession.

- 14 Affects All Debtors
- 15 Affects Verity Health System of California, Inc.
- 16 Affects O'Connor Hospital
- 17 Affects Saint Louise Regional Hospital
- 18 Affects St. Francis Medical Center
- 19 Affects St. Vincent Medical Center
- 20 Affects Seton Medical Center
- 21 Affects O'Connor Hospital Foundation
- 22 Affects Saint Louise Regional Hospital Foundation
- 23 Affects St. Francis Medical Center of Lynwood Foundation
- 24 Affects St. Vincent Foundation
- 25 Affects St. Vincent Dialysis Center, Inc.
- 26 Affects Seton Medical Center Foundation
- 27 Affects Verity Business Services
- 28 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. Judge Ernest M. Robles

**SUPPLEMENTAL INSURANCE MOTION FOR
AUTHORIZATION TO MAKE CAPITAL
CONTRIBUTION TO MARILLAC
INSURANCE COMPANY, LTD.;**
**MEMORANDUM OF POINTS AND
AUTHORITIES AND DECLARATION OF
RICHARD G. ADCOCK IN SUPPORT
THEREOF**

[RELATED DOCKET NO. 24, 131]

HEARING:
Date: July 24, 2019
Time: 10:00 a.m.
Place: Courtroom 1568

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



1 **PLEASE TAKE NOTICE** that, at **10:00 am (prevailing Pacific Time), on July 24 2019**,
2 before the Honorable Ernest M. Robles, in Courtroom 1568 of the United States Bankruptcy Court
3 for the Central District of California, Roybal Federal Building, 255 E. Temple Street, Los Angeles,
4 CA 90012, Verity Health System Of California, Inc. (“VHS”) and the above-referenced affiliated
5 debtors and debtors in possession in the above captioned chapter 11 bankruptcy cases (collectively,
6 the “Debtors”), will request entry of an order, *nunc pro tunc* to July 1, 2019, authorizing the Debtors
7 to make a capital contribution to the Debtors’ wholly-owned captive insurer, Marillac Insurance
8 Company, Ltd. (“Marillac”), so that the Debtors can provide sufficient collateral to secure a
9 Replacement Letter of Credit (as defined in the annexed Memorandum) necessary to renew the
10 Debtors’ workers’ compensation and employer’s liability insurance policy provided by Old
11 Republic Insurance Company, for the policy period from July 1, 2018 to July 1, 2019.

12 **PLEASE TAKE FURTHER NOTICE** that this Motion is based on this Notice of Motion
13 and Motion, the Memorandum, the attached Declaration Of Richard G. Adcock, supporting
14 statements, arguments and representations of a counsel who will appear at the hearing on the Motion,
15 the record in this case, and any other evidence properly brought before the Court in all other matters
16 of which this Court may properly take judicial notice.

17 **PLEASE TAKE FURTHER NOTICE** that any party opposing or responding to the
18 Motion must file and serve the response (“Response”) on the moving party and the United States
19 Trustee not later than 14 days before the date designated for the hearing. A Response must be a
20 complete written statement of all reasons in opposition thereto or in support, declarations and copies
21 of all evidence on which the responding party intends to rely, and any responding memorandum of
22 points and authorities.

23 **PLEASE TAKE FURTHER NOTICE** that, pursuant to LBR 9013-1(h), the failure to file
24 and serve a timely objection to the Motion may be deemed by the Court to be consent to the relief
25 requested herein.

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Dated: July 3, 2019

DENTONS US LLP
SAMUEL R. MAIZEL
TANIA M. MOYRON

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

Attorneys for the Chapter 11 Debtors and
Debtors In Possession

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I.**

3 **INTRODUCTION**

4 As a supplement to the Insurance Motion (a First-Day Motion and defined below) and in
5 furtherance of the relief requested therein, Verity Health System Of California, Inc. (“VHS”), and
6 the above-referenced affiliated debtors and debtors in possession in the above captioned chapter 11
7 bankruptcy cases (collectively, the “Debtors”), request authority to make a capital contribution to
8 VHS’s wholly-owned captive insurer, Marillac Insurance Company, Ltd. (“Marillac”), so that the
9 Debtors can provide sufficient collateral to secure a Replacement Letter of Credit (defined herein)
10 necessary to renew the Debtors’ Workers’ Compensation Policy (defined herein) with Old Republic
11 Insurance Company (“Old Republic”). The current coverage expires on July 1, 2019, and Old
12 Republic has agreed to continue to provide coverage through January 1, 2020, if the Debtors file a
13 motion for approval of certain accommodations by July 1, 2019; and obtain approval thereof,¹ and
14 provide an Replacement Letter of Credit (defined herein) and pay the applicable premiums.
15 Accordingly, the Debtors request entry of an order, *nunc pro tunc* to July 1, 2019, authorizing the
16 Debtors to pay the Capital Contribution (defined herein) to Marillac to provide sufficient required
17 collateral for the Replacement Letter of Credit necessary to renew the Debtors’ Workers’
18 Compensation Policy.
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20

21 **II.**

22 **JURISDICTION AND VENUE**

23 This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§157 and 1334.
24 This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before this Court pursuant
25 to 28 U.S.C. §§ 1408 and 1409.
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28 ¹ On July 1, 2019, the Debtors filed a motion to approve certain accommodations to Old Republic
[Docket No. 2654].

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III.

BACKGROUND

A. General Background

1. On August 31, 2018 (“Petition Date”), the Debtors each filed a voluntary petition for relief under chapter 11. Since the commencement of their cases, the Debtors have been operating their businesses as debtors in possession pursuant to §§ 1107 and 1108.²

2. On the Petition Date, Debtor VHS, a California nonprofit public benefit corporation, was the sole corporate member of the following five Debtor California nonprofit public benefit corporations that operate or operated six acute care hospitals, O’Connor Hospital, Saint Louise Regional Hospital, St. Francis Medical Center, St. Vincent Medical Center, Seton Medical Center, and Seton Medical Center Coastside (collectively, the “Hospitals”) and other facilities in the state of California. First-Day Decl., at 4, ¶ 11. Seton Medical Center and Seton Medical Center Coastside operate under one consolidated acute care license. *Id.*

3. On the Petition Date, VHS, the Hospitals, and their affiliated entities (collectively, “Verity Health System”) operated 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. First-Day Decl., at 4, ¶ 12. A sale of O’Connor Hospital and Saint Louise Regional Hospital to Santa Clara County closed in February 2019.

4. Each of the Debtors is exempt from federal income taxation as an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986 (the “IRC”), except for Verity Holdings, LLC, DePaul Ventures, LLC, and DePaul Ventures - San Jose Dialysis, LLC. First-Day Decl., at 6, ¶ 21.

5. On September 17, 2018, the Office of the United States Trustee appointed an Official Committee of Unsecured Creditors in these cases. [Docket No. 197.]

² All references to “§” or “section” herein are to the Bankruptcy Code, 11 U.S.C. §§ 101, et seq., as amended.

1 **B. Background Relevant to the Motion**

2 *i. Workers' Compensation Policy*

3 6. As of the Petition Date, Old Republic provided workers' compensation and
4 employer's liability insurance to certain of the Debtors, through a policy of insurance, for the policy
5 period from July 1, 2018 to July 1, 2019 (the "Workers' Compensation Policy"). The Workers'
6 Compensation Policy provides coverage up to \$1 million for each workers' compensation claim and
7 includes a \$500,000 deductible for each claim.

8 7. In turn, the deductible obligation is insured under a Deductible Liability Protection
9 Policy issued by Marillac, in which Marillac agreed to provide coverage for the deductible
10 obligations under the Debtors' Workers' Compensation Policy.³ Marillac (a non-debtor) is the
11 Debtors' captive insurer, and is organized in the Cayman Islands. VHS is the sole owner of Marillac.

12 *ii. Letter of Credit*

13 8. The Workers' Compensation Policy required the Debtors to provide Old Republic a
14 letter of credit as security for the Debtors' obligations under the Workers' Compensation Policy.
15 *See* Workers' Compensation Policy - Program Agreement Endorsement, § 9.1. To satisfy this
16 security requirement under the Workers' Compensation Policy, an irrevocable, fully-collateralized,
17 letter of credit was issued by City National Bank with Old Republic as the named beneficiary (the
18 "Letter of Credit"). Marillac is the applicant on the Letter of Credit, and the Letter of Credit is fully
19 secured by Marillac assets—\$34,087,296 of liquid securities. The Letter of Credit, in the amount
20 of \$34,087,296, fully secures the Debtors' obligations to Old Republic under the current Workers'
21 Compensation Policy, as well as prior policies.⁴

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25 _____
26 ³ Marillac has agreed to renew the Deductible Liability Protection Policy if the Workers'
27 Compensation Policy is renewed.

28 ⁴ Workers' compensation claims can be paid over years and may take years to run off. In addition,
incurred but not reported claims (IBNR) may be reported months (or more) after the policy period.

1 *iii. The Workers' Compensation Insurance Renewal Proposal*⁵

2 9. Given the July 1, 2019, expiration of the existing Workers' Compensation Policy,
3 Old Republic has proposed a policy renewal (the "Renewal Proposal") whereby Old Republic will
4 continue to provide workers' compensation insurance coverage to the Debtors for the policy period
5 from July 1, 2019 to January 1, 2020 (the "Renewed Workers' Compensation Policy"). Generally,
6 except as noted below, the terms of the Renewed Workers' Policy will be substantially similar to
7 the Workers' Compensation Policy issued to the Debtors for the policy period from July 1, 2018 to
8 July 1, 2019.

9 10. Among the notable provisions that Old Republic has included in the proposal for the
10 Renewed Workers' Compensation Policy are the following:

11 a. The Renewed Workers' Compensation Policy includes an increase in
12 premiums to \$1,311,970, which must be paid in full by July 1, 2019. This represents a 33% increase
13 on an annualized basis.

14 b. The Debtors shall provide Old Republic with an replacement to the Letter of
15 Credit whereby the amount of the Letter of Credit is increased by \$4,253,638 to \$38,340,934 (the
16 "Replacement Letter of Credit"). The Replacement Letter of Credit will be issued by U.S. Bank.

17 11. Old Republic's proposed Renewed Workers' Compensation Policy is superior to any
18 alternative insurance coverage. The Debtors, through their broker, Lockton Companies, Inc., sought
19 proposals for a renewal of the Workers' Compensation Policy from twenty-two carriers in addition
20 to Old Republic. Twenty-one of those carriers declined. The California Compensation Insurance
21 Fund (the "Fund") submitted a renewal proposal which estimated the annual premium to be
22 \$16,238,980 - many times the premium included in Old Republic's Renewal Proposal.

23 12. As stated, the collateral securing the Letter of Credit is Marillac's assets. To provide
24 for the additional required collateral to secure the Replacement Letter of Credit, a capital
25

26 _____
27 ⁵ The Debtors' entry into the Renewed Workers' Compensation Policy (defined below) is authorized
28 under the Insurance Order. Information regarding the Renewal Proposal is only included because of
its relevance to the relief requested herein.

1 contribution to Marillac is necessary in the amount of \$4,253,638 (the “Capital Contribution”). In
2 the event that claim development indicates excess collateral,⁶ such collateral would be returned to
3 Marillac. VHS is separately evaluating its options regarding Marillac. One option is sale of VHS’s
4 shares in Marillac. In that event, the infusion of \$4.2 million to Marillac to increase the Letter of
5 Credit may increase the value of the Marillac shares.

6 ***iv. Insurance Motion and Order***

7 13. On the Petition Date, the Debtors filed an *Emergency Motion for Entry of an Order*
8 *(I) Authorizing the Debtors to (A) Maintain Insurance Program, (B) Pay Insurance Premiums in*
9 *the Ordinary Course and (C) Pay All Obligations Associated Therewith; and (II) Preventing*
10 *Insurance Companies from Enforcing Ipso Facto Clauses or Giving Any Notice of Termination or*
11 *Otherwise Modifying Any Insurance Policy Without Obtaining Relief from the Automatic Stay*
12 [Docket No. 24] (the “Insurance Motion”). On September 7, 2018, the Court entered an Order
13 granting the Insurance Motion [Docket No. 131] (the “Insurance Order”). Pursuant to the Insurance
14 Order, the Debtors are authorized to, among other things, continue to administer insurance coverage
15 currently in effect and pay insurance premiums, self-insured retentions, broker fees and deductibles
16 in the ordinary course of business, and revise, extend, supplement, renew or change insurance
17 coverage as needed. The Insurance Motion and Insurance Order did not expressly address the
18 collateral requirement in connection with policy renewals. Therefore, to the extent (if any) not
19 authorized by the Insurance Motion and Insurance Order, the Debtors seek authority by this Motion
20 to contribute necessary funds to Marillac to collateralize the Replacement Letter of Credit.

21 _____
22 ⁶ The issue of required collateral for the Old Republic coverage, and a reduction (or increase) thereof
23 is dealt with in Section 9 of the Program Agreement Endorsement to the Old Republic Policy. Per
24 Section 9.2 of the Program Agreement Endorsement:

25 [A]t such times as the Company deems it appropriate or necessary, but at least
26 annually, and until all liability with respect to the insured’s Obligations has been
27 paid or otherwise concluded, the Company shall, applying generally accepted
28 actuarial and credit review principles, review the security requirement. The
Company shall have the sole right to determine the adequacy of the amount of
security to be held.

1 IV.

2 **DISCUSSION AND RELIEF REQUESTED**

3 The Insurance Motion and Insurance Order authorized the Debtors to continue to administer
4 insurance coverage currently in effect and pay insurance premiums, self-insured retentions, broker
5 fees and deductibles in the ordinary course of business, and revise, extend, supplement, renew or
6 change insurance coverage as needed. However, the Insurance Motion and Insurance Order did not
7 specifically take into account that additional collateral may be needed to renew existing insurance
8 coverage. Thus, by this Motion, the Debtors specifically request entry of an order authorizing the
9 Debtors to make a Capital Contribution to Marillac to effectuate the required collateralization. The
10 Debtors submit that payment of this Capital Contribution to Marillac is appropriate pursuant to §§
11 105(a) and 363(b).

12 **A. Payment of the Capital Contribution is appropriate under § 363.**

13 Section 363(b) provides that “[t]he trustee, after notice and a hearing, may use, sell, or lease,
14 other than in the ordinary course of business, property of the estate.” 11 U.S.C. § 363(b). Under
15 applicable law, if a debtor’s proposed use of the debtor’s assets pursuant to § 363(b) is supported
16 by the debtor’s reasonable business judgment, such use should be approved. *See, e.g., 240 N. Brand*
17 *Partners v. Colony GFP Partners, Ltd. P’ship (In re 240 N. Brand Partners)*, 200 B.R. 653, 659
18 (B.A.P. 9th Cir. 1996); *Myers v. Martin (In re Martin)*, 91 F.3d 389, 395 (3d Cir. 1996) (*citing In*
19 *re Schipper (Fulton State Bank v. Schipper)*, 933 F.2d 513, 515 (7th Cir. 1991)); *Stephens Indus.,*
20 *Inc. v. McClung*, 789 F.2d 386, 390 (6th Cir. 1986); *In re Lionel Corp. (Comm. of Equity Security*
21 *Holder v. Lionel Corp.)*, 722 F.2d 1063, 1070 (2d Cir. 1983).

22 Under the business judgment standard, the debtor must establish that a valid business
23 purpose exists for the use of the debtor’s assets in a manner outside of the debtor’s ordinary course
24 of business. *See Lionel Corp.*, 722 F.2d at 1071. Once the debtor establishes a valid business
25 justification for the proposed use of the debtor’s assets, it is presumed that the decision was made
26 “on an informed basis, in good faith and in the honest belief that the action was in the best interests
27 of the company.” *In re Integrated Resources, Inc.*, 147 B.R. 650, 656 (S.D.N.Y. 1992) (*quoting*
28 *Smith v. Van Gorkom*, 488 A.2d 858, 872 (Del. 1985)). The business judgment rule therefore shields

1 a debtor's management from judicial second-guessing and mandates that a court approve a debtor's
2 business decision unless that decision is the product of bad faith or gross abuse of discretion. *See*
3 *id.*; *see also Committee of Asbestos-Related Litigants and/or Creditors v. Johns-Manville Corp. (In*
4 *re Johns-Manville Corp.)*, 60 B.R. 612, 615-16 (Bankr. S.D.N.Y. 1986) ("the Code favors the
5 continued operation of a business by a debtor and a presumption of reasonableness attaches to a
6 debtor's management decisions"); *see also Lubrizol Enters., Inc. v. Richmond Metal Finishers, Inc.*,
7 756 F.2d 1043, 1047 (4th Cir. 1985), *cert. denied*, 475 U.S. 1057 (1986).

8 As set forth in greater detail below, the Debtors submit that there is more than ample business
9 justification to authorize payment of the Capital Contribution. Old Republic has agreed to renew the
10 Workers' Compensation Policy, but, it agreed to do so only if an Replacement Letter of Credit is
11 provided, which requires the posting of additional collateral in the form of Marillac's assets.
12 Consequently, to provide the additional collateral to secure the Replacement Letter of Credit and
13 renew the Workers' Compensation Policy, the Debtors will make the Capital Contribution to
14 Marillac. There is no alternative workers' compensation coverage available, except the coverage
15 offered from the Fund at a significantly higher cost. Further, Debtors would incur substantial
16 disruption in the claims management process if they converted to a new carrier. In the first instance,
17 even with a new carrier, the Debtors would have no practical ability to expeditiously reduce the
18 amount of collateral held by Old Republic, which covers existing obligations, as well as those
19 obligations under the Renewed Workers' Compensation Policy. Further, converting to a new carrier
20 and possibly its claims processing system would be burdensome and costly, particularly in view of
21 the number of outstanding claims already being addressed.

22 Simply stated, the cost that may be incurred by making the Capital Contribution to secure
23 the Replacement Letter of Credit and renew the Workers' Compensation Policy with Old Republic
24 would be far outweighed by the monetary cost, administrative cost and dislocation that inevitably
25 would result in connection with establishing a new carrier, new systems, and possibly new claims
26 handling processes and procedures.

27 Additionally, the Debtors, as employers and operators of a non-profit healthcare system in
28 California, must maintain workers' compensation insurance coverage. *See, e.g.* Cal. Lab. Code §

1 3700 (requiring workers' compensation coverage). If the Debtors do not maintain workers'
2 compensation insurance coverage, the California Division of Labor Standards Enforcement may
3 issue a stop order prohibiting the use of employee labor until coverage is obtained. *See* Cal. Lab.
4 Code § 3722(b). If the Debtors fail to observe the stop order, they will be subject to imprisonment
5 or a fine, or both. *See id.*

6 The Capital Contribution is made to ensure that such coverage remains in place. Doing so
7 will support the pending sale of St. Francis Medical Center, St. Vincent Medical Center, St. Vincent
8 Dialysis Center, Inc. and Seton Medical Center and related assets, which has yet to close. In view
9 of these recognized benefits, and the costs, expenses, risks, and disruption that will inevitably occur
10 in the absence of payment of the Capital Contribution, the Debtors submit that approval of the relief
11 requested herein is clearly warranted.

12 **B. Section 105 provides a separate, additional basis for payment of the Capital**
13 **Contribution.**

14 The Debtor's proposed payment of the Capital Contribution also should be authorized under
15 the "doctrine of necessity," which is grounded in § 105(a). Pursuant to § 105, this Court "may issue
16 any order . . . that is necessary or appropriate to carry out the provisions" of the Bankruptcy Code.
17 11 U.S.C. § 105.

18 The Debtors submit that the payment of the Capital Contribution represents a sound exercise
19 of the Debtors' business judgment, is necessary to avoid immediate and irreparable harm to the
20 Debtors' estates, and is therefore justified under §§ 105(a) and 363(b). Paying the Capital
21 Contribution will benefit the Debtors' estates and their creditors by allowing the Debtors' business
22 operations to continue without interruption. Indeed, the Debtors believe that without the relief
23 requested herein, they will be unable to maintain their current workers' compensation insurance
24 coverage or find suitable replacement coverage. Without workers' compensation insurance
25 coverage the Debtors will be unable to maintain patient care, operate their business and successfully
26 complete the pending hospital sale or their bankruptcy cases.

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1 For the reasons discussed herein, payment of the Capital Contribution is necessary to ensure
2 that the Debtors are able to continue to treat patients and maintain operations postpetition. This
3 Court should exercise its equitable powers to grant the relief requested in this Motion.

4 V.

5 **CONCLUSION**

6 Based on the foregoing, the Debtors request the entry of an order: (i) granting the relief
7 requested herein; and (ii) granting such other and further relief as is just and proper.

8 Dated: July 3, 2019

DENTONS US LLP
SAMUEL R. MAIZEL
TANIA R. MOYRON

11 By: /s/Tania M. Moyron
TANIA M. MOYRON

12 Attorneys for Debtors

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DECLARATION OF RICHARD G. ADCOCK

1
2 I, Richard G. Adcock, declare, that if called as a witness, I would and could competently
3 testify thereto, of my own personal knowledge, as follows:

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

7
8 2. Except as otherwise indicated herein, this Declaration is based upon my personal
9 knowledge, my review of relevant documents, or my opinion based upon my experience,
10 knowledge, and information concerning the Debtors’ operations and the healthcare industry. If
11 called upon to testify, I would testify competently to the facts set forth in this Declaration.

12 3. This Declaration is in support of the Debtors’ *Supplemental Insurance Motion For*
13 *Authorization to Make Capital Contribution to Marillac Insurance Company, Ltd.* (the “Motion”)
14 and for all other purposes permitted by law.

15
16 4. As of the Petition Date, Old Republic provided workers’ compensation and
17 employer’s liability insurance to certain of the Debtors, through a policy of insurance, for the policy
18 period from July 1, 2018 to July 1, 2019 (the “Workers’ Compensation Policy”). The Workers’
19 Compensation Policy provides coverage up to \$1 million for each workers’ compensation claim and
20 includes a \$500,000 deductible for each claim.

21
22 5. In turn, the deductible obligation is insured under a Deductible Liability Protection
23 Policy issued by Marillac Insurance Company, Ltd. (“Marillac”), in which Marillac agreed to
24 provide coverage for the deductible obligations under the Debtors’ Workers’ Compensation Policy.
25 Marillac (a non-debtor) is the Debtors’ captive insurer, and is organized in the Cayman Islands.
26 VHS is the sole owner of Marillac.

27
28 6. The Workers’ Compensation Policy requires the Debtors to provide Old Republic a
letter of credit as security for the Debtors’ obligations under the Workers’ Compensation Policy.

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1 See Workers' Compensation Policy - Program Agreement Endorsement, § 9.1. To satisfy this
2 security requirement under the Workers' Compensation Policy, an irrevocable, fully-collateralized,
3 letter of credit was issued by City National Bank with Old Republic as the named beneficiary (the
4 "Letter of Credit"). The Letter of Credit, in the amount of \$34,087,296, fully secures the Debtors'
5 obligations to Old Republic under the current Workers' Compensation Policy, as well as prior
6 policies.

7
8 7. Given the July 1, 2019, expiration of the existing Workers' Compensation Policy,
9 Old Republic has proposed a policy renewal (the "Renewal Proposal") whereby Old Republic will
10 continue to provide workers' compensation insurance coverage to the Debtors for the policy period
11 from July 1, 2019 to January 1, 2020 (the "Renewed Workers' Compensation Policy"). Generally,
12 except as noted below, the terms of the Renewed Workers' Policy will be substantially similar to
13 the Workers' Compensation Policy issued to the Debtors for the policy period from July 1, 2018 to
14 July 1, 2019.

15
16 8. Among the notable provisions that Old Republic has included in the proposal for the
17 Renewed Workers' Compensation Policy are the following:

18 a. The Renewed Workers' Compensation Policy includes an increase in
19 premiums to \$1,311,970, which must be paid in full by July 1, 2019. This represents a 33% increase
20 on an annualized basis.

21 b. The Debtors shall provide Old Republic with an replacement to the Letter of
22 Credit whereby the amount of the Letter of Credit is increased by \$4,253,638 to \$38,340,934 (the
23 "Replacement Letter of Credit"). The Replacement Letter of Credit will be issued by U.S. Bank.

24
25 9. Old Republic's proposed Renewed Workers' Compensation Policy is superior to any
26 alternative insurance coverage. The Debtors, through their broker, Lockton Companies, Inc., sought
27 proposals for a renewal of the Workers' Compensation Policy from twenty-two carriers in addition
28 to Old Republic. Twenty-one of those carriers declined. The California Compensation Insurance

1 Fund (the “Fund”) submitted a renewal proposal which estimated the annual premium to be
2 \$16,238,980 - many times the premium included in Old Republic’s Renewal Proposal.

3 10. As stated, the collateral securing the Letter of Credit is Marillac’s assets. To provide
4 for the additional required collateral to secure the Replacement Letter of Credit, a capital
5 contribution to Marillac is necessary in the amount of \$4,253,638 (the “Capital Contribution”). In
6 the event that claim development indicates excess collateral, such collateral would be returned to
7 Marillac. VHS is separately evaluating its options regarding Marillac. One option is sale of VHS’s
8 shares in Marillac. In that event, the infusion of \$4.2 million to Marillac to increase the Letter of
9 Credit will may increase the value of the Marillac shares.

11 11. I believe that there is more than ample business justification to authorize payment of
12 the Capital Contribution. Old Republic has agreed to renew the Workers’ Compensation Policy,
13 but, it agreed to do so only if an Replacement Letter of Credit is provided, which requires the posting
14 of additional collateral in the form of Marillac’s assets. Consequently, to provide the additional
15 collateral to secure the Replacement Letter of Credit and renew the Workers’ Compensation Policy,
16 the Debtors will make the Capital Contribution to Marillac. There is no alternative workers’
17 compensation coverage available, except the coverage offered from the Fund at a significantly
18 higher cost. Further, Debtors would incur substantial disruption in the claims management process
19 if they convert to a new carrier. In the first instance, even with a new carrier Debtors would have
20 no practical ability to expeditiously reduce the amount of collateral held by Old Republic, which
21 covers existing obligations as well as those obligations under the Renewed Workers’ Compensation
22 Policy. Further, converting to a new carrier and possibly its claims processing system would be
23 burdensome and costly, particularly in view of the number of outstanding claims already being
24 addressed. All of this would come with the risk of the pending sale of St. Francis Medical Center,
25 St. Vincent Medical Center, St. Vincent Dialysis Center, Inc. and Seton Medical Center and related
26 assets given the California law requirement to maintain workers’ compensation insurance coverage.
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I declare under penalty of perjury and of the laws in the United States of America, the foregoing is true and correct.

Executed this 2nd day of July, 2019, at Los Angeles, California.



RICHARD G. ADCOCK

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