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**Case No. 2:19-cv-10356-DSF<sup>1</sup>**

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

In re:  
VERITY HEALTH SYSTEM OF  
CALIFORNIA, INC., *et al.*,<sup>2</sup>

Debtors and Debtors in  
Possession.

STRATEGIC GLOBAL  
MANAGEMENT, INC.,

On Appeal from the United States  
Bankruptcy Court for the Central District  
of California (Bankr. Lead Case No.:  
2:18-bk-20151-ER)

**DECLARATION OF GARY E.  
KLAUSNER IN SUPPORT OF  
STRATEGIC GLOBAL  
MANAGEMENT, INC.'S NOTICE OF  
MOTION AND MOTION FOR**

<sup>1</sup> SGM has filed a motion to consolidate this appeal (2:19-cv-10352-DSF) with the following related appeals: 2:19-cv-10354-DSF and 2:19-cv-10356-DSF.

<sup>2</sup> The other Debtors in the chapter 11 cases, being jointly administered under Lead Case No. 2:18-bk-20151-ER, are O'Connor Hospital 2:18-bk-20168-ER, Saint Louise Regional Hospital 2:18-bk-20162-ER, St. Francis Medical Center 2:18-cv-20165-ER, St. Vincent Medical Center 2:18-bk-20164-ER, Seton Medical Center 2:18-cv-20167-ER, O'Connor Hospital Foundation 2:18-bk-20179-ER, Saint Louise Regional Hospital Foundation 2:18-cv-20172-ER, St. Francis Medical Center of Lynwood Foundation 2:18-cv-20178-ER, St. Vincent Foundation 2:18-cv-20180-ER, St. Vincent Dialysis Center, Inc. 2:18-cv-20171-ER Seton Medical Center Foundation 2:18-cv-20175-ER, Verity Business Services 2:18-cv-20173-ER, Verity Medical Foundation 2:18-cv-20169-ER, Verity Holdings, LLC 2:18-cv-20163-ER, DePaul Ventures, LLC 2:18-cv-20176-ER, and DePaul Ventures – San Jose Dialysis, LLC 2:18-cv-20181-ER.



182015120010900000000021

1 Appellant,  
2 v.  
3 STATE OF CALIFORNIA; VERITY  
4 HEALTH SYSTEM OF  
5 CALIFORNIA, INC., *et al.*

6 Appellees.

**ORDER DIRECTING THE PARTIES  
TO: (1) COMPLY WITH GENERAL  
ORDER NO. 11-10, § 5, AND  
DISTRICT COURT LOCAL RULE  
16-15; AND (2) PARTICIPATE IN  
ADR PROCESS**

Date: [TBD]

Time: [TBD]

Judge: Hon. Dale S. Fischer

Place: Courtroom 7D, 350 W. First  
Street, Los Angeles, CA 90012

**DECLARATION OF GARY E. KLAUSNER**

I, Gary E. Klausner, declare as follows:

1. I am over 18 years of age. I have personal knowledge of the facts set forth below and, if called to testify, would and could competently testify thereto.

2. I am a partner of Levene, Neale, Bender, Yoo & Brill L.L.P. (“LNBYB”), bankruptcy counsel for Strategic Global Management, Inc. (“SGM”). I am licensed to practice law in the State of California and before this court.

3. I submit this Declaration in support of SGM’s “*Motion For Order Directing The Parties To: (1) Comply With General Order No. 11-10, § 5, And District Court Local Rule 16-15; And (2) Participate In ADR Process*” (the “Motion”). Unless otherwise indicated, all capitalized but undefined terms herein shall have the same meanings ascribed to them in the Motion.

**Relevant Background Regarding Appeals**

4. SGM and the Debtors are parties to three appeals currently pending in this Court; Case Nos. 2:19-cv-10352-DSF; 2:19-cv-10354-DSF; 2:19-cv-10356-DSF (collectively, the “Appeals”).

5. The Appeals all relate to disputes and controversies between the Debtors and SGM in connection with: (1) the “Asset Purchase Agreement” dated January 8, 2019 [Bankr. Doc. No. 2305] (the “APA”) for the sale of four hospitals (the “Hospitals”), approved by an order of the Bankruptcy Court entered on May 2, 2019 [Bankr. Doc. No. 2306] (the “Sale Order”); and (2) whether the Debtors satisfied all of the conditions for SGM to be obligated to close the sale (the “Sale”) of the Hospitals pursuant to the APA on December 5, 2019.

6. The Official Committee of Unsecured Creditors (“Committee”) in the Debtors’ bankruptcy cases has intervened in Case No. 2:19-cv-10352-DSF, and has requested permission to intervene in the other two appeals. This Motion will be served on SGM and the Committee

1           7.     On December 6, 2019, the Court entered the “*Notice[s] To Parties Of*  
2 *Court-Directed ADR Program*”<sup>3</sup> (the “ADR Notices”).

3           8.     On December 20, 2019, the Court entered three orders denying the  
4 Debtors motions to dismiss each of the Appeals.<sup>4</sup>

5           9.     The resolution of the Appeals, or any one of them, will have a  
6 significant impact on the adjudication of the disputes and controversies between  
7 the Parties. The Debtors contend that SGM is in breach of the APA, and has  
8 purported to terminate the APA effective December 27, 2019. SGM disputes the  
9 Debtors’ claims and has consistently reserved all of its rights regarding the APA  
10 and its claims against the Debtors. On January 3, 2020, the Debtors filed a  
11 Complaint against SGM and other parties and initiated an adversary proceeding in  
12 the Bankruptcy Court regarding claims relating to the APA.

13           **The November 14, November 18, and November 27 Orders.**

14           10.    The November 14 Order approved a settlement and compromise  
15 between the Debtors and the California Attorney General (“AG”) – which SGM  
16 opposed by, among other things, filing its objection [Bankr. Doc. No. 3582] (the  
17 “SGM Objection”) to the Debtors’ proposed form of order granting the “*Debtors’*  
18 *Emergency Motion [For Order] Enforcing the Order Authorizing the Sale . . . .*”  
19 [Bankr. Doc. No. 3188]. The November 14 Order and the subsequent November  
20 18 Order both involved the question of whether the Debtors had satisfied the  
21 conditions set forth in Section 8.6 of the APA. Accordingly, any determination by  
22 this Court that the November 14 and November 18 Orders, or either of them, were  
23 in error will substantially affect the outcome of any litigation between the Parties  
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26           <sup>3</sup> Docket numbers 7, 6, and 5 in case numbers 2:19-cv-10352-DSF, 2:19-cv-10354-  
27 DSF, and 2:19-cv-10356-DSF respectively.

28           <sup>4</sup> Docket numbers 19, 16, and 14 in case numbers 2:19-cv-10352-DSF, 2:19-cv-  
10354-DSF, and 2:19-cv-10356-DSF respectively.

1 because, among other reasons, the satisfaction of the conditions set forth in Section  
2 8.6 is a prerequisite to the Debtors' requiring SGM to close the APA.

3 11. Similarly, the reversal or vacation of the November 27 Order would  
4 also have a significant impact on the adjudication of the claims and disputes  
5 between the Parties because that order, entered *sua sponte*, purported to obligate  
6 SGM to close the APA transaction on December 5, 2019; and SGM's failure to  
7 close on that date was a basis for the Debtors' purported termination of the APA on  
8 December 27, 2019.

9 **The ADR Process, And Mediation Is In The Best Interest Of All Parties.**

10 12. SGM believes that mediation is in the best interests of the Parties  
11 because, absent a settlement or resolution of the claims and disputes between SGM  
12 and the Debtors, the Parties will continue to litigate the pending Appeals and,  
13 depending upon the outcome of the Appeals, there may be further appellate  
14 litigation in the Ninth Circuit. In addition, mediation of the Appeals will likely  
15 impact the lawsuit which the Debtors filed against SGM and other defendants on  
16 January 3, 2020, which is based on SGM's alleged breach of the APA by failing to  
17 close the sale on December 5, 2019.

18 13. By letter dated January 3, 2020, a copy of which is attached as  
19 **Exhibit A** hereto, I requested that the Debtors agree to participate in an ADR  
20 process consistent with the Court's ADR Notices, and gave notice to Debtors  
21 counsel that this Motion would be filed on or after January 6, 2020. As of the  
22 filing of this Motion, SGM has not received any response to my letter of January 3,  
23 2020.

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1 I declare under penalty of perjury under the laws of the United States of  
2 America that the foregoing is true and correct. Executed January 8, 2020, at Los  
3 Angeles, California.

4  
5 /s/ Gary E. Klausner  
6 GARY E. KLAUSNER  
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# **EXHIBIT A**



January 3, 2020

**VIA EMAIL**

Samuel R. Maizel  
Dentons US LLP  
601 S. Figueroa Street  
Suite 2500  
Los Angeles, CA 90017-5704

Re: In re Verity Health Systems of California, Inc., et al., Debtors  
Strategic Global Management, Inc.  
District Court Appeals/Mediation

Dear Sam:

I assume that you have received the District Court's Notice to Parties of Court Directed ADR Program ("Notice") which the Court has filed in each of the three currently pending appeals. As I understand the Court's Notice, and after having reviewed Local Rule 16-15, the Court is requiring that the parties participate in an ADR process. The Notice also provides that ADR can either be court directed or privately conducted.

In order to comply with the Notice, our client is proposing to participate with Verity, and the Creditors Committee if it chooses to participate, in a mediation with either a sitting judge or private mediator. We believe, given the anticipated cost and expense of the pending appeals, trial and potential appeals to the Ninth Circuit, and given the delay in the ultimate resolution of the disputes and controversies between our respective clients, that mediation may provide an efficient and cost effective process for resolution. To that end, we have put together a list of prospective mediators, which is on the attached schedule.

We would appreciate your reviewing our list with your client and counsel for the Committee and advising us as to whether your client and the Committee would agree to participate in mediation with any of the persons on the attached list or, if you have other suggestions, we would be happy to consider them.



L N B Y & B

Samuel R. Maizel  
January 3, 2020  
Page 2

In the event that your client is unwilling to participate in mediation we will file a motion with the District Court and request that the District Court order the parties to do so. Would you please provide us with a response no later than close of business on Monday, January 6, 2020.

Very truly yours



Gary E. Klausner

**PROPOSED MEDIATORS**

Ret. Bankruptcy Judge Gregg Zive;

Ret. Bankruptcy Judge Meredith Jury;

Ret. U.S. District Judge Layn Phillips;

Professor Kenneth N. Klee, UCLA Law School

**CERTIFICATE OF SERVICE**

1. I hereby certify that on January 8, 2020, I electronically filed the foregoing document with the Clerk of the Court for the United States District Court for the Central District of California using the CM/ECF system.

2. I further certify that parties of record to this appeal who either are registered CM/ECF users, or who have registered for electronic notice, or who have consented in writing to electronic service, will be served through the CM/ECF system.

3. I further certify that some of the parties of record to this appeal may not have not consented to electronic service. I have served the foregoing documents by the means set forth below:

**Courtesy Copies via Personal Delivery**

Chambers of the Hon. Dale S. Fischer  
First Street Courthouse  
350 West 1<sup>st</sup> Street  
Courtroom 7D  
Los Angeles, California 90012

**Served Via Email**

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Los Angeles, California 90017-5704  
Samuel.maizel@dentons.com

Dated: January 8, 2020

/s/ Gary E. Klausner

GARY E. KLAUSNER