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7 Attorneys for Howard M. Ehrenberg, Chapter 11 Trustee

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

11 In re

12 BEVERLY COMMUNITY HOSPITAL  
ASSOCIATION, dba BEVERLY  
13 HOSPITAL, a nonprofit public benefit  
corporation,<sup>1</sup>

14 Debtor.

Case No. 2:23-bk-12359-SK

Chapter 11

Jointly administered with:

Case No. 2:23-bk-12360-SK

Case No. 2:23-bk-12361-SK

**NOTICE OF CHAPTER 11 TRUSTEE'S  
MOTION TO APPROVE SETTLEMENT  
BY AND BETWEEN BEVERLY  
COMMUNITY HOSPITAL ASSOCIATION  
AND HOOPER LUNDY & BOOKMAN,  
P.C.**

**Fed. R. Bankr. P. 9019(a) and Loc.  
Bankr. R. 9013-1(o)**

**NO HEARING REQUIRED UNLESS  
REQUESTED**

- 15  Affects all Debtors  
16  
17  Affects Beverly Community Hospital  
18 Association  
19  
20  Affects Montebello Community Health  
21 Services, Inc.  
22  
23  Affects Beverly Hospital Foundation  
24

25  
26  
27 <sup>1</sup> The debtors in these chapter 11 cases, along with the last four digits of each debtor's federal tax  
28 identification number, are: Beverly Community Hospital Association d/b/a Beverly Hospital (6005),  
Montebello Community Health Services, Inc. (3550), and Beverly Hospital Foundation (9685). The mailing  
address for the Debtors is 309 W. Beverly Boulevard, Montek

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1 **TO THE HONORABLE SANDRA KLEIN, UNITED STATES BANKRUPTCY JUDGE,**  
2 **THE OFFICE OF THE UNITED STATES TRUSTEE, AND INTERESTED PARTIES:**

3 **PLEASE TAKE NOTICE** that Howard M. Ehrenberg, (the “Trustee”), the duly  
4 appointed, qualified, and acting chapter 11 trustee for the bankruptcy estates of the jointly  
5 administered debtors Beverly Community Hospital Association, dba Beverly Hospital, a  
6 nonprofit public benefit corporation (the “Hospital”), Montebello Community Health  
7 Services, Inc. (“Montebello”), and Beverly Hospital Foundation (the “Foundation”) (and  
8 sometimes jointly referred to as the “Debtors”), has filed his “*Chapter 11 Trustee’s Motion*  
9 *to Approve Settlement By and Between Beverly Community Hospital Association and*  
10 *Hooper Lundy and Bookman, P.C.; Memorandum of Points and Authorities and*  
11 *Declaration of Howard M. Ehrenberg in Support Thereof*” (the “Motion”).

12 As more particularly set forth therein, the Motion seeks an order approving a  
13 Settlement Agreement, a copy of which is attached to the Motion as Exhibit 1, by and  
14 between the Trustee and Hooper Lundy and Bookman, P.C. (“HLB”), with regard to a  
15 \$105,000 payment made by the Hospital to HLB the day before the bankruptcy case for  
16 invoices dating back to September, 2022 and for a post petition retainer (the “Payment”).  
17 The Trustee contends the Payment should be avoided in total as both an avoidable  
18 preferential payment and a refundable retainer for post petition services for which HLB  
19 was never properly employed. HLB disputes the Trustee's contention that the payment  
20 should be avoided based on its assertion of defenses such as ordinary course and  
21 reliance which the Trustee disputes are viable under the circumstances of this case.  
22 Before filing litigation, the parties agreed to settle this matter for a payment by HLB to the  
23 estate of \$65,000, plus HLB waiver of its claim pursuant to 11 U.S.C. §502(h) based on  
24 the settlement payment. The Parties are also exchanging mutual releases solely with  
25 respect the facts giving rise to the payment.

26 The Trustee submits that the settlement is fair and equitable, in the best interest of  
27 the estate and its creditors and in his best business judgment. The Settlement avoids  
28 costly and time consuming litigation over a claim. In this case, any attorneys fees

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1 incurred are not recoverable, thus, even if after litigation, the Trustee is granted a  
2 judgment for the full amount of his claim, the net benefit may be less than the settlement  
3 amount.

4 **PLEASE TAKE FURTHER NOTICE THAT** this Motion is brought in accordance  
5 with Federal Rule of Bankruptcy Procedure 9019(a) and Local Bankruptcy Rule 9013-  
6 1(o)(1) and is made on the ground that Trustee has determined in his best business  
7 judgment that it is in the best interests of the bankruptcy estate to settle this matter on the  
8 terms set forth in the Motion.

9 **PLEASE TAKE FURTHER NOTICE THAT** this Motion is based on this Notice, the  
10 Motion, attached memorandum of points and authorities and declaration of Howard M.  
11 Ehrenberg in support hereof and the exhibit attached thereto filed concurrently herewith,  
12 the pleadings and records on file with the Court and such other argument or law as will  
13 be presented in further briefing or at the hearing on this Motion.

14 **PLEASE TAKE FURTHER NOTICE** that the Motion, with all supporting papers,  
15 has been filed electronically with the United States Bankruptcy Court and may be viewed  
16 through the Court's Case Management/Electronic Case Files System or at the Clerk's  
17 office at 255 East Temple Street, Los Angeles, CA 90012. You may also obtain a copy of  
18 the Motion by contacting the Trustee's counsel in writing at the e-mail address at the  
19 upper left corner of the first page of this Notice.

20 **PLEASE TAKE FURTHER NOTICE** that any opposition to the Application, and  
21 request for a hearing, must (1) be in the form required by Local Bankruptcy Rule 9013-  
22 1(f)(1), (2) be filed with the Clerk of the Court, (3) be served upon the Trustee's counsel  
23 (whose name and contact information are indicated on the upper left-hand corner of the  
24 first page of this notice), and the United States Trustee fourteen days (14) days after  
25 service of this notice, plus an additional 3 days unless this notice was served upon you  
26 by personal delivery or posting as described in Federal Rule of Civil Procedure  
27 5(b)(2)(A)-(B).

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1           **PLEASE TAKE FURTHER NOTICE** that If any response and request for hearing  
2 is timely filed, the Trustee will set a hearing date at least 14 days in advance of the  
3 hearing and send out notice thereof. No hearing will be held if no response and request  
4 for hearing is received.

5           **PLEASE TAKE FURTHER NOTICE** that, pursuant to Local Bankruptcy Rule  
6 9013-1(h), the failure to timely file and serve an opposition to the Application may be  
7 deemed as your consent to the granting of the Application. If you do not oppose the  
8 Application, you need not take any further action.

9 DATED: March 13, 2024

Respectfully Submitted,

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**GREENSPOON MARDER LLP**

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By: /s/ Elissa D. Miller

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Elissa D. Miller

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Attorneys for Howard M. Ehrenberg,  
Chapter 11 Trustee

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Date of Mailing: March 13, 2024

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## 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 1875 Century Park East, Suite 1900, Los Angeles, CA 90067.

A true and correct copy of the foregoing document entitled (*specify*): **NOTICE OF CHAPTER 11 TRUSTEE'S MOTION TO APPROVE SETTLEMENT BY AND BETWEEN BEVERLY COMMUNITY HOSPITAL ASSOCIATION AND HOOPER LUNDY & BOOKMAN, P.C.** 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*) March 13, 2024 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:

- **Megan M Adeyemo** madeyemo@grsm.com, asoto@grsm.com
- **David E Ahdoot** dahdoot@bushgottlieb.com, kprestegard@bushgottlieb.com
- **Joseph M Ammar** ammar@millercanfield.com
- **Scott E Blakeley** seb@blakeleyllp.com, ecf@blakeleyllp.com
- **Joseph P Buchman** jbuchman@bwsllaw.com, gmitchell@bwsllaw.com
- **Adrian Butler** abutler@bushgottlieb.com
- **Augustus Curtis** augustus.t.curtis@usdoj.gov
- **Howard M Ehrenberg (TR)** ehrenbergtrustee@gmlaw.com, ca25@ecfbis.com;C123@ecfbis.com;howard.ehrenberg@ecf.courtdrive.com;Karen.Files@gmlaw.com
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Service information continued on attached page.

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

On *(date)* March 13, 2024, 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.

Gary Torrell, Esq.  
Hooper Lundy & Bookman, P.C.  
1875 Century Park East, Suite 1600  
Los Angeles, CA 90067

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) March 13, 2024, 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.

<u>March 13, 2024</u>	<u>Cheryl Caldwell</u>	<u>/s/Cheryl Caldwell</u>
<i>Date</i>	<i>Printed Name</i>	<i>Signature</i>

SERVICE LIST (via First Class Mail)

Description	CreditorName	CreditorNoticeName	Address1	Address2	Address3	City	State	Zip
TOP 30	Abbott Laboratories Inc	Nathan Scott	100 Abbot Park Road			Abbot Park	IL	60064
TOP 30	Advantis Medical Staffing	Elayne Goldmane	13155 Noel Road Suite 300			Dallas	TX	75240
Counsel for Advantis Medical Staffing	Akerman LLP	Evelina Gentry and Anthony D. Sbardellati	601 West Fifth Street, Suite 300			Los Angeles	CA	90071
TOP 30	Allied Universal Security Services	Moises Rodriguez	161 Washington St Suite 600			Conshohocken	PA	19428
TOP 30	Arthrex, Inc	Carla Pitcher	2825 Airview Boulevard			Kalamazoo	MI	49002
Office of the Attorney General of the United States	Attorney General of the United States	U.S. Department of Justice	950 Pennsylvania Avenue, NW			Washington	DC	20530-0001
TOP 30	Boston Scientific Corp	Kathleen Homsab	300 Boston Scientific Way			Marlborough	MA	01752-1234
Counsel for Sodexo	Brown McGarry Nimeroff LLC	Jami B. Nimeroff	Two Penn Center, Suite 610	1500 John F. Kennedy Boulevard		Philadelphia	PA	19102
Counsel for United Nurses Associations of California/Union of Health Care Professionals	Bush Gottlieb, A Law Corporation	David E. Ahdoot, Kirk M. Prestegard and Adrian R. Butler	801 North Brand Boulevard	Suite 950		Glendale	CA	91203
TOP 30	California Department Of Health Care	Tomas J. Aragon	1501 Capitol Avenue, Suite 4510			Sacramento	CA	95814
California Department of Health Care Services	California Department of Health Care Services	Jennifer Kent, Director	1501 Capitol Avenue, Suite 4510			Sacramento	CA	95814
California Department of Public Health	California Department of Public Health	Stephanie Spich	PO Box 997377 MS 0500			Sacramento	CA	95899-7377
California Secretary of State	California Secretary of State		1500 11th Street			Sacramento	CA	95814
California State Board of Pharmacy	California State Board of Pharmacy		1625 North Market Boulevard			Sacramento	CA	95834
California Statewide Communities Development Authority	California Statewide Communities Development Authority	Chair	1100 K Street, Suite 101			Sacramento	CA	95814
California Statewide Communities Development Authority	California Statewide Communities Development Authority	James Hamill	1700 N. Broadway, Suite 405			Walnut Creek	CA	94596
Center for Medicare and Medicaid Services	Center for Medicare and Medicaid Services	Steven Chickering, the Associate Regional Administrator	90 - 7th Street, Suite 5-300			San Francisco	CA	94103-6706
TOP 30	Cepheid Inc.	Susan Jose	904 E Caribbean Dr			Sunnyvale	CA	94089
TOP 30	Cloudwave	Loraine Sarno	100 Crowley Dr.			Marlborough	MA	01752
TOP 30	Constellation New Energy-Gas	Zachary Keczykecy	9400 Bunsen Parkway Suite 100			Louisville	KY	40220
Counsel to the Official Committee of Unsecured Creditors	Dentons US LLP	Tania M. Moyron, Samuel R. Maizel and Rebecca M. Wicks	601 South Figueroa Street, Suite 2500			Los Angeles	CA	90017-5704
Department of Health Care Services	Department of Health Care Services	Tanya Homman, Chief of Provider Enrollment Division	MS 4704, P.O. Box 997412			Sacramento	CA	95899-7412
Employment Development Dept.	Employment Development Dept.		722 Capitol Mall, MIC 92E			Sacramento	CA	95814
TOP 30	First Financial Holdings Lc	Ricardo Oseguera	750 The City Drive South, Suite 300			Orange	CA	92868
TOP 30	Huntington Technology Finance	Brent McQueen	2285 Franklin Road			Bloomfield Hills	MI	48302
IRS	Internal Revenue Service	Attn Susanne Larson	31 Hopkins Plz Rm 1150			Baltimore	MD	21201
IRS	Internal Revenue Service	Centralized Insolvency Operation	P.O. Box 7346			Philadelphia	PA	19101-7346
IRS	Internal Revenue Service	Centralized Insolvency Operation	2970 Market St			Philadelphia	PA	19104
IRS	Internal Revenue Service		300 North Los Angeles Street			Los Angeles	CA	90012
IRS	Internal Revenue Service		600 Arch Street			Philadelphia	PA	19101
Counsel to Medline Industries, LP	Lowenstein Sandler LLP	Robert M. Hirsh and Phillip Khezri	1251 Avenue of the Americas			New York	NY	10020
TOP 30	Medical Information Technology, Inc	Goretti Medeiros	7 Blue Hill River Road			Canton	MA	02021
TOP 30	Medline Industries Inc	Brent Fogel	Three Lakes Drive			Northfield	IL	60093
TOP 30	Medstar Anesthesia Services Inc	Robert Resnick	9251 Wedgewood St			Temple City	CA	91780
National Association of Attorneys General	National Association of Attorneys General		1850 M Street NW, 12th Floor			Washington	DC	20036
TOP 30	Noridian Healthcare Solutions, LLC	Theresa Pachel	900 42nd Street S			Fargo	ND	58103
Attorney General of California	Office of the Attorney General	Emilio Varanini, Supervising Deputy Attorney General	455 Golden Gate Ave., Suite 11000			San Francisco	CA	94102
Attorney General of California	Office of the Attorney General	Neli Palma and Melissa Hamill	1300 I Street P.O. Box 944255			Sacramento	CA	94244-2550
Attorney General of California	Office of the Attorney General	Roma Patel, Deputy Attorney General	300 South Spring Street, Suite 7505			Los Angeles	CA	90013-1230
Office of the Attorney General of California	Office of the Attorney General of California	Consumer Law Section	Attn Bankruptcy Notices	455 Golden Gate Ave., Suite 11000		San Francisco	CA	94102
Deputy General Counsel to California Department of Health Care Services	Office of the California Attorney General	Department of Justice	Kenneth K. Wang	300 South Spring Street, Suite 1702		Los Angeles	CA	90013
		Dr. Lawrence L. Cohen	c/o Stanley Martin Cohen	5081 Lansdowne Drive		Solon	OH	44139

**SERVICE LIST (via First Class Mail)**

Description	CreditorName	CreditorNoticeName	Address1	Address2	Address3	City	State	Zip
Office of the CA Attorney General	Office of the California Attorney General	Department of Justice	Jennifer Kim	300 South Spring Street, Floor 9		Los Angeles	CA	90013
TOP 30	Outset Medical Inc	Andy Rabon	3052 Orchard Drive			San Jose	CA	95134
TOP 30	Philips Healthcare	Jose Rivera	222 Jacobs Street			Cambridge	MA	02141
Interested Party	Ready Refresh	BlueTriton Brands, Inc.	P.O. Box 30139			College Station	TX	77842
Counsel for California Statewide Communities Development Corporation dba CSDA	Richards, Watson & Gershon	Stephen D. Lee	350 South Grand Avenue, 37th Floor			Los Angeles	CA	90071
TOP 30	Shiftwise	Jennifer Folds	200 SW Market Street Suite 700			Portland	OR	97201
Proposed Counsel to the Official Committee of Unsecured Creditors	Sills Cummis & Gross P.C.	Andrew Sherman and Boris Mankovetskiy	One Riverfront Plaza			Newark	NJ	07102
TOP 30	Sodexo Inc & Affiliates	Luis Lunalluna	915 Meeting Stgreet, Suite 1500 Legal Department			North Bethesda	MD	20852
State of California Employment Development Department	State of California Employment Development Department	Bankruptcy Group MIC 92E	P. O. Box 826880			Sacramento	CA	94280-0001
TOP 30	Stryker Endoscopy	Joe Gallinatti	5900 Optical Ct			San Jose	CA	95138
TOP 30	Stryker Instruments	Donovan Reiley	4100 E. Milham Road			Kalamazoo	MI	49001
TOP 30	Stryker Orthopedics	Trent Zaks	325 Corporate Drive			Mahwah	NJ	07430
U.S. Department of Health & Human Services	U.S. Department of Health & Human Services	Alex M. Azar II, Secretary	200 Independence Avenue, S.W.			Washington	DC	20201
U.S. Department of Health and Human Services	U.S. Department of Health and Human Services	Angela M. Belgrove, Assistant Regional Counsel	Office of the General Counsel, Region IX	90 7th Street, Suite 4-500		San Francisco	CA	94103-6705
United States Attorney's Office	United States Attorneys Office	Central District of California	312 North Spring Street	Suite 1200		Los Angeles	CA	90012
United States Attorney's Office	United States Attorneys Office	Northern District of California	150 Almaden Boulevard	Suite 900		San Jose	CA	95113
U.S. Department of Health and Human Services, among other agencies and departments of the United States	United States Department of Justice	Civil Division	Augustus T. Curtis	P.O. Box 875	Ben Franklin Station	Washington	DC	20044-0875
United States Attorney General	United States Department of Justice	Ben Franklin Station	P. O. Box 683			Washington	DC	20044

SERVICE LIST (via Electronic Mail)

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Counsel for Advantis Medical Staffing	Akerman LLP	Evelina Gentry and Anthony D. Sbardellati	<a href="mailto:evelina.gentry@akerman.com">evelina.gentry@akerman.com</a>
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