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22 by and through its Director Michelle Baass

23 **UNITED STATES BANKRUPTCY COURT**  
24 **SOUTHERN DISTRICT OF CALIFORNIA**

25 In re

26 **BORREGO COMMUNITY**  
27 **HEALTH FOUNDATION,**

Case No. 22-02384-11

Chapter 11 Case

Judge: Honorable Laura S. Taylor



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1 Debtor and Debtor In  
2 Possession.

**JOINT STATUS REPORT RE  
SETTLEMENT NEGOTIATIONS  
BETWEEN DEBTOR, THE  
CALIFORNIA DEPARTMENT OF  
HEALTH CARE SERVICES, AND THE  
OFFICIAL COMMITTEE OF  
UNSECURED CREDITORS**

**JOINT STATUS REPORT**

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6 Borrego Community Health Foundation, the debtor and debtor in possession  
7 (the “Debtor”) in the above-captioned chapter 11 bankruptcy case, the California  
8 Department of Health Care Services (“DHCS”), and the Official Committee of  
9 Unsecured Creditors (the “Committee,” collectively with Debtor and DHCS (the  
10 “Parties”) by and through their undersigned counsel, hereby file this *Joint Status*  
11 *Report* (the “Status Report”) and state as follows:

12 **I. GENERAL BACKGROUND**

13 1. On September 12, 2022 (“Petition Date”), the Debtor filed a voluntary  
14 petition for relief under chapter 11 of the Bankruptcy Code.

15 2. On September 26, 2022, the Debtor filed the *Debtor’s Complaint For*  
16 *Declaratory Judgment And Preliminary And Permanent Injunctive Relief, Or In The*  
17 *Alternative, For Writ Of Mandate Under Code Of Civil Procedure 1085* (the  
18 “Complaint”), commencing *Borrego Community Health Foundation v. California*  
19 *Department of Health Care Services*, Adv. Pro. No. 22-90056. On the same day, the  
20 Debtor filed its *Emergency Motion: (I) To Enforce The Automatic Stay Pursuant To*  
21 *11 U.S.C. § 362; Or, Alternatively (II) For Temporary Restraining Order* [Adv.  
22 Docket No. 3] (the “Motion to Enforce”), seeking (i) a ruling that DHCS’ threatened  
23 payment suspension (the “Payment Suspension”) violated the automatic stay  
24 imposed pursuant to § 362, or, alternatively, (ii) issuance of a temporary restraining  
25 order enjoining the Payment Suspension under Rule 7065.

26 3. DHCS filed an opposition to the Motion to Enforce [Adv. Docket No.  
27 30], and the Debtor filed its reply in support of the same [Adv. Docket No. 47].  
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1 settlement. The Parties have not reached a final agreement. In addition, the Parties  
2 have also had to revisit particular terms on which the Parties already had appeared to  
3 have reached a consensus, and it is anticipated that the Parties may continue to have  
4 to do that. The Parties, however, wanted to provide the Court an update as to some  
5 of the salient terms tentatively to be included in a term sheet in short order:

- 6 • DHCS to receive an allowed unsecured claim (the “DHCS Allowed  
7 Claim”), with DHCS retaining the right to submit supplemental proofs  
8 of claim, and an agreed extended bar date as to DHCS; in addition, the  
9 Allowed Claim amount is subject to upward and downward adjustment.
- 10 • DHCS to be permitted to offset amounts it is withholding otherwise  
11 payable with respect to the Debtor against the DHCS Allowed Claim;
- 12 • DHCS to receive a percentage of the net proceeds (net of \$16 million  
13 for the estimated administrative, priority, and secured claims) of the  
14 sale;
- 15 • DHCS to receive a share of third party litigation recoveries;
- 16 • DHCS’ remaining unpaid DHCS Allowed Claim (after the application  
17 of the offset and sale proceeds recovery and litigation recoveries  
18 described above) to be subordinated in payment to other general  
19 unsecured claims;
- 20 • An independent monitor is to remain in place from approval of sale by  
21 the Bankruptcy Court and until the Transfer Effective Date (to mean  
22 both HRSA, and Medi-Cal, and Medicare change of ownership  
23 approvals have been obtained, and all of the terms of the Buyer’s  
24 management services agreement with Debtor have been fulfilled);
- 25 • Medi-Cal Provider Agreements to be transferred as executory contracts  
26 pursuant to section 365 of the Bankruptcy Code;
- 27 • Resolution of the pending litigation between the Debtor and DHCS;
- 28

- Appropriate releases; and
- All terms and any settlement agreement remain subject to DHCS and the Debtor obtaining necessary final approvals.

The Parties anticipate filing a motion pursuant to Federal Rule of Bankruptcy Procedure 9019 and a corresponding joint motion to shorten time no later than February 27, 2023.

Dated: February 20, 2023

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

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 and Debtor In Possession

Dated: February 20, 2023

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1 Dated: February 20, 2023

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3 CALIFORNIA  
4 ROB BONTA  
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