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12 *Proposed Attorneys for the Chapter 11*  
13 *Debtor and Debtor In Possession*

14 **UNITED STATES BANKRUPTCY COURT**  
15 **SOUTHERN DISTRICT OF CALIFORNIA**

16 In re

17 **BORREGO COMMUNITY HEALTH**  
18 **FOUNDATION, a California nonprofit**  
19 **public benefit corporation,**

20 Debtor and Debtor in Possession.

21 **BORREGO COMMUNITY HEALTH**  
22 **FOUNDATION, a California nonprofit**  
23 **public benefit corporation,**

24 Plaintiff,

25 v.

26 **CALIFORNIA DEPARTMENT OF**  
27 **HEALTH CARE SERVICES, by and**  
28 **through its Director, Michelle Baass,**

Defendant.

Case No. 22-02384-LT11

Chapter 11 Case

Adv. Pro. No. 22-90056-LT

**DECLARATION OF SAMUEL R. MAIZEL IN SUPPORT  
OF DEBTOR'S RESPONSE TO OBJECTIONS AND  
MOTIONS TO STRIKE INITIAL RUBIN DECLARATION  
IN SUPPORT OF EMERGENCY MOTION [DOCKET NO.  
34] AND THE OBJECTIONS AND MOTIONS TO STRIKE  
SUPPLEMENTAL RUBIN DECLARATION IN SUPPORT  
OF EMERGENCY MOTION [DOCKET NO. 35]**

Judge: Honorable Laura S. Taylor

Date: October 6, 2022

Time: 2:00 p.m.

Place: Jacob Weinberger U.S. Courthouse

Department 3 – Room 129

325 West F. St.

San Diego, CA 92101



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**DECLARATION OF SAMUEL R. MAIZEL**

I, Samuel R. Maizel, hereby state and declare as follows:

1. I am a partner in the law firm of Dentons US LLP (“Dentons”), located at 601 S. Figueroa Street, Suite No.2500, Los Angeles, CA 900017, and have been duly admitted to practice law in the Commonwealth of Pennsylvania and the State of California and the United States District Court for the Southern District of California.

2. I am one of the attorneys representing Borrego Community Health Foundation, the debtor and debtor-in-possession in the above-captioned chapter 11 case and plaintiff in this adversary proceeding (the “Debtor”). Dentons is the proposed counsel to the Debtor.

3. I am providing this declaration to apprise the Court of certain facts relevant to the pending *Debtor’s Response to Objections and Motions to Strike Initial Rubin Declaration in Support of Emergency Motion [Docket No. 34]* and the *Objections and Motions to Strike Supplemental Declaration in Support of Emergency Motion [Docket No. 35]* (collectively, the “Objections”).

4. On September 28, 2022, at 12:30 p.m., at the request of Dr. Nathan Rubin, the Patient Care Ombudsman in the chapter 11 case of the Debtor, Tania Moyron, my partner and another Dentons’ attorney, emailed Frank Stevens, of Berkeley Research Group, and DHCS’s monitor (the “Monitor”), and asked to set up a call between the Monitor and Dr. Rubin to discuss patient care issues.

5. On September 28, 2022, at 2:08 p.m., the Monitor responded by email that he had “discussed with DHCS and they ok’d the call as long as the attendees excluded counsel.” I am informed and believe that this call never occurred.

6. On September 29, 2022, Dr. Rubin sent the Monitor an email request for information regarding the Monitor’s role and observations about patient care.

7. On October 2, 2022, at 7:37 a.m., counsel for Dr. Rubin followed up with an email to Kenneth Wang, counsel for DHCS, asking for the requested information. Mr. Wang replied: “As you are aware, BRG is retained by Borrego, not by the Department of Health Care Services. In

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1 addition, my office does not represent BRG.” Counsel for DHCS made this assertion despite express  
2 language (a) in the agreement between BRG and Borrego (the “Monitor Agreement”) that “BRG  
3 will report directly to DHCS, and DHCS is not obligated to share BRG’s reports with [Borrego],”  
4 and that “[t]he work undertaken by Monitor and BRG in connection with this matter is part of the  
5 DHCS’s work product;” and (b) in the final settlement agreement between DHCS and Borrego (the  
6 “DHCS Agreement”) that “Borrego agrees that the independent monitor shall take direction from  
7 and work exclusively for the benefit of DHCS. Borrego agrees that monitor shall report directly to  
8 DHCS.”

9 8. Nonetheless, based on counsel for DHCS’s assertion, counsel for Dr. Rubin then  
10 emailed counsel for the Debtor, repeating the request for information. Tania Moyron, counsel for  
11 the Debtor, promptly forwarded the request for information to the Monitor, with an express notation  
12 that the information was “critical” and should be “provided as soon as possible.”

13 9. The Monitor responded on October 2, 2022, that he and BRG “work directly for  
14 DHCS under privilege, we cannot provide anything without their approval. Our key contacts at  
15 DHCS were out last week and not returning till this week, which was part of our delay in  
16 responding.” Mr. Stevens goes on to say “Once we receive a formal directive from DHCS, we will  
17 comply with the stated directive.”

18 10. No response has been received to the requests for a conference call or production of  
19 documents from the Monitor.

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

22 Executed this 4<sup>th</sup> day of October 2022, at Los Angeles, California.

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Samuel R. Maizel