

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Ernest Robles, Presiding
Courtroom 1568 Calendar**

Wednesday, September 5, 2018

Hearing Room 1568

10:00 AM

2:18-20151 Verity Health System of California, Inc.

Chapter 11

#20.00 Hearing
RE: [23] Emergency motion of Debtors for Authority to: (1) Continue Using Existing Cash Management System, Bank Accounts and Business Forms; (2) Implement Changes to the Cash Management System in the Ordinary Course of Business; (3) Continue Intercompany Transactions; (4) Provide Administrative Expense Priority for PostPetition Intercompany Claims; and (5) Obtain Related Relief

Docket 23

Matter Notes:

9/5/2018

**The tentative ruling will be the order.
Party to lodge order: Movant**

Tentative Ruling:

9/4/2018

See Cal. No. 17, above, incorporated in full by reference.

Party Information

Debtor(s):

Verity Health System of California,

Represented By
Samuel R Maizel
John A Moe
Tania M Moyron



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#17.00 Hearing

RE: [20] Debtors Emergency Motion (A) Approving The Debtors Filing A Consolidated List Of Fifty Largest General Unsecured Creditors For All Cases; (B) Approving The Debtors Filing A Consolidated Master Mailing Matrix For All Cases; And (C) Permitting The Debtors Claims And Noticing Agent To Maintain The Master Mailing Matrix

Docket 20

Matter Notes:

9/5/2018

The tentative ruling will be the order.
Party to lodge order: Movant

POST PDF OF TENTATIVE RULING TO CIAO

Tentative Ruling:

9/5/2018

Subject to any opposition which may be presented at the hearing, the Court is prepared to (1) authorize the Debtors to retain Kurtzman Carson Consultants as their claims and noticing agent; (2) authorize the Debtors to limit the scope of notice; (3) authorize the Debtors to maintain their existing cash management system; and (4) approve the filing of a consolidated list of the fifty largest unsecured creditors of all seventeen Debtors, in lieu of a list of the twenty largest unsecured creditors for each individual Debtor.

Pleadings Filed and Reviewed:

- 1) Debtors' Emergency Application for an Order (A) Appointing Kurtzman Carson Consultants LLC as Claims and Noticing Agent and (B) Approving the Form and

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Manner of Notice of Case Commencement [Doc. No. 27]

- 2) Emergency Motion of Debtors for Entry of an Order Limiting Scope of Notice [Doc. No. 25]
- 3) Emergency Motion of Debtors for Authority to: (1) Continue Using Existing Cash Management System, Bank Accounts and Business Forms; (2) Implement Changes to the Cash Management System in the Ordinary Course of Business; (3) Continue Intercompany Transactions; (4) Provide Administrative Expense Priority for Postpetition Intercompany Claims; and (5) Obtain Related Relief [Doc. No. 23] (the "Cash Management Motion")
 - a) Combined Reservation of Rights of U.S. Bank National Association, as Series 2015 Note Trustee and Series 2017 Note Trustee, to Emergency Motion of Debtors for Authority to: (1) Continue Using Existing Cash Management System, Bank Accounts and Business Forms; (2) Implement Changes to the Cash Management System in the Ordinary Course of Business; (3) Continue Intercompany Transactions; (4) Provide Administrative Expense Priority for Postpetition Intercompany Claims; and (5) Obtain Related Relief [Doc. No. 68]
 - b) Supplement to Emergency Motion of Debtors for Authority to: (1) Continue Using Existing Cash Management System, Bank Accounts and Business Forms; (2) Implement Changes to the Cash Management System in the Ordinary Course of Business; (3) Continue Intercompany Transactions; (4) Provide Administrative Expense Priority for Postpetition Intercompany Claims; and (5) Obtain Related Relief [Doc. No. 70]
- 4) Debtors' Emergency Motion (A) Approving the Debtors Filing a Consolidated List of Fifty Largest General Unsecured Creditors for all Cases; (B) Approving the Debtors Filing a Consolidated Master Mailing Matrix for all Cases; and (C) Permitting the Debtors' Claims and Notice Agent to Maintain the Master Mailing Matrix [Doc. No. 20]

I. Facts and Summary of Pleadings

Background information on the Debtors is set forth in the tentative ruling on the Debtors' emergency motion for authorization to obtain secured credit and to authorize the use of cash collateral, and is not repeated here.

A. Motion to Appoint Kurtzman Carson Consultants as Claims and Noticing Agent

Debtors request an order authorizing and approving the appointment of Kurtzman

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Carson Consultants LLC ("KCC") as Claims and Noticing Agent. KCC will provide the following services:

- 1) Prepare and serve required notices in this Chapter 11 case, including:
 - a) Notice of the commencement of the case and the initial meeting of creditors;
 - b) Notice of the claims bar date;
 - c) Notices of transfers of claims;
 - d) Notice of objections to claims;
 - e) Notices of any hearings on a disclosure statement and confirmation of a Chapter 11 Plan; and
 - f) Notice of the effective date of any Chapter 11 Plan.
- 2) Maintain an official copy of the Debtors' schedules of assets and liabilities and statement of financial affairs.
- 3) Maintain (a) a list of potential creditors and other parties-in-interest and (b) a "core" mailing list consisting of all parties described in Bankruptcy Rule 2002.
- 4) Within five business days after the service of a particular Notice, file with the Clerk's Office a declaration of service that includes (i) an alphabetical list of persons on whom KCC served the Notice, along with their addresses, and (ii) the date and manner of service;
- 5) Maintain a post office box or address for the purpose of receiving claims and returned mail, and process all mail received;
- 6) Process all proofs of claim received, including those received by the Clerk's office, check said processing for accuracy, and maintain the original proofs of claim in a secure area;
- 7) Maintain copies of all proofs of claim and proofs of interest filed in this case at a location other than where the originals are maintained;
- 8) Maintain an official claims register for each debtor (the "Claims Register") in this case by docketing all proofs of claim and proofs of interest in a claims database;
- 9) Implement necessary security measures to ensure the completeness and integrity of the claims register as approved by the Clerk of the Court;
- 10) Periodically audit the claims information to assure the Clerk's Office that the claims information is being appropriately and accurately recorded in the official claims register;
- 11) Furnish a notice to all potential creditors of the last date for the filing of proofs of claim and a form for the filing of a proof of claim, after such notice and

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- form are approved by the Court, and notify said potential creditors of the existence, amount, and classification of their respective claims as set forth in the Schedules, which may be effected by inclusion of such information (or the lack thereof, in cases where the Schedules indicate no debt due to the subject party) on a customized proof of claim form provided to potential creditors;
- 12) Transmit to the Clerk's Office a copy of the claims register on a weekly basis or at such other times as the Clerk's Office may direct;
 - 13) Relocate, by messenger or overnight delivery, all of the court-filed proofs of claim to the offices of KCC, not less than weekly;
 - 14) Maintain an up-to-date mailing list for all entities that have filed proofs of claim or proofs of interest and make such list available upon request to the Clerk's Office or any party in interest;
 - 15) Allow the Clerk's Office to inspect KCC's premises at any time during regular business hours;
 - 16) Record all transfers of claims pursuant to Federal Bankruptcy Rule 3001(e) and provide notice of such transfers as required by Federal Bankruptcy Rule 3001(e);
 - 17) Assist in the dissemination of information to the public and respond to requests for administrative information regarding these chapter 11 cases, as directed by the Debtors or the Court, including through the use of a case website and call center;
 - 18) If the case is converted to chapter 7, contact the Clerk's Office within three (3) days of the notice to KCC of entry of the order converting the case;
 - 19) Thirty days prior to the close of these chapter 11 cases, to the extent practicable, request that the Debtors submit to the Court a proposed order dismissing KCC and terminating KCC's services of such agent upon completion of its duties and responsibilities and upon the closing of these cases;
 - 20) At the close of these chapter 11 cases, box and transport all original documents, in proper format, as provided by the Clerk's office, to (i) Riverside Federal Records Center, 23123 Cajalco Road, Perris, CA 92570, or (ii) any other location requested by the Clerk's office;
 - 21) Comply with applicable federal, state, municipal and local statutes, ordinances, rules, regulations, orders and other requirements;
 - 22) Promptly comply with such further conditions and requirements as the Clerk's Office or the Court may at any time prescribe; and

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- 23) Provide such other claims processing, noticing, and related administrative services as may be requested from time to time by the Debtors.

The Debtors request that the undisputed fees and expenses incurred by KCC in the performance of these services be treated as an administrative expense of the Debtors' chapter 11 estates pursuant to 28 U.S.C. §156(c) and §503(b)(1)(A) and be paid in the ordinary course of business without further application to or order of the Court.

B. Cash Management Motion

The Debtors move for authority to maintain their existing cash management system, and make the following arguments and representations in support of the Cash Management Motion:

Debtors seek authority to (1) continue using their cash management system, (2) implement changes to the system in the ordinary course of business, (3) continue to perform and honor intercompany transactions in the ordinary course of business, and (4) provide administrative expense priority for postpetition intercompany claims. The Debtors request that the Court authorize the financial institutions at which the Debtors maintain various bank accounts to (1) continue to maintain, service and administer the Debtors' bank accounts, and (2) debit the bank accounts in the ordinary course of business.

The Debtors use an integrated cash management system to collect, concentrate and disburse funds generated by operations. The cash management system is broadly similar to systems used by other large businesses. The cash management system meets the Debtors' operating needs as the operator of a large health system.

The cash management system currently comprises 63 accounts, with five commercial banks. The cash management system provides significant benefits to the Debtors, including the ability to control corporate and Hospital funds, ensure maximum available of funds where necessary, and reduce costs and administrative expenses.

1. U.S. Bank's Reservation of Rights

U.S. Bank, in its capacity as the 2015 Note Trustee and the 2017 Note Trustee, responds to the Cash Management Motion as follows:

The Notes Trustee does not, on an interim basis, object to the majority of the relief

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requested in the Cash Management Motion, including the Debtors' continued use of their existing cash management system and bank accounts and business forms. The Notes Trustee requests that any relief on the Cash Management Motion be granted only on an interim basis subject to a final hearing.

In the Motion, the Debtors seek authority to continue to perform under and honor intercompany transactions in the ordinary course of business, in their business judgment and sole discretion. The Notes Trustee is still evaluating the potential impact of this request in light of the related issues presented by the Debtors' use of cash collateral and postpetition debtor in possession loan proceeds. The Notes Trustee wants to ensure that its liens and security interests are adequately protected, and that the Debtors do not improperly use revenues from certain Hospitals or Debtors and to fund or subsidize losses incurred by other Hospitals or Debtors. The Notes Trustee is still analyzing whether granting administrative expense priority to all postpetition intercompany claims is appropriate.

2. Debtors' Supplement to Cash Management Motion

The Debtors filed a Supplement to the Cash Management Motion, in which the Debtors make the following arguments and representations:

In an abundance of caution, and in response to informal comments by the UST, the Debtors wish to address the applicability of §345(b) to the Cash Management Motion. Section 345 requires that the Debtors deposit funds in accounts that will "yield the maximum reasonable net return" on such funds. For deposits or investments not insured or guaranteed by the United States, §345(b) requires that the estate obtain a bond in favor of the United States to secure the repayment of such deposits. The bond requirement imposed by §345(b) can be waived "for cause."

All except two of the Debtors' deposit accounts are ordinary depository accounts maintained for operational and not investment purposes. At times, the individual balance in the accounts may exceed the current limits of government insurance. Therefore, these accounts may be subject to §345(b)'s bonding requirement unless it is waived.

The Debtors request that the Court waive the requirements of §345(b) and permit the Debtors to maintain their deposits in the accounts in accordance with existing deposit practices. The Debtors' existing deposit practices are significantly less burdensome and more appropriately tailored to their business needs than the practices

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otherwise required under both the Bankruptcy Code and by the UST Guidelines. The Debtors submit that strict compliance with § 345(b) would be overly burdensome and restrict the Debtors' banking options to the detriment of their Estates and creditors.

C. Motion to Limit Scope of Notice

The Debtors move for authority to limit the scope of notice, and make the following arguments and representations in support of the Motion:

The Debtors mailing matrix has tens of thousands of creditors. The Debtors seek to limit the scope of service of all notices relating to any of the following matters:

- 1) any proposed use, sale, or lease of property of the estate pursuant to § 363 and Bankruptcy Rules 2002(a)(2), 4001(b), and 6004;
- 2) any proposed debtor in possession financing or use of cash collateral;
- 3) any proposed extension of the Debtors' exclusive time to file a plan of reorganization and solicit acceptance thereof (including, without limitation, the time to file a disclosure statement) pursuant to § 1121 and Bankruptcy Rule 3016;
- 4) any proposed approval of a compromise or settlement of a controversy pursuant to Bankruptcy Rules 2002(a)(3) and 9019 and/or § 363;
- 5) any proposed abandonment or disposition of property of the estate pursuant to § 554 and Bankruptcy Rules 6007(a) or (c);
- 6) any proposed assumption, assumption and assignment or rejection of contracts or leases pursuant to § 365 and Bankruptcy Rule 6006(a) or (c);
- 7) any proposal to prohibit or condition the use, sale or lease of property pursuant to § 363 or Bankruptcy Rule 4001(a);
- 8) any proposed objections to claims pursuant to § 502 or Bankruptcy Rules 3002, 3003 or 3007;
- 9) any verified statement filed by any entity or committee (other than those appointed pursuant to §§ 1102 or 1104) representing more than one creditor pursuant to Bankruptcy Rule 2019(a) and any motion filed in respect thereof pursuant to Bankruptcy Rule 2019(b);
- 10) any proposed application for employment of professionals pursuant to §§ 327, 1103 or 1104 or Bankruptcy Rule 2014;
- 11) any proposed application for compensation or reimbursement of expenses of professionals, pursuant to §§ 328, 329, 330, or 331 and Bankruptcy Rules 2002(a)(6), 2016, 2017, and 6005; except as provided by other orders of this

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Court;

- 12) any a hearing on any other contested matter in this Case that requires notice to all creditors or equity holders pursuant to the Bankruptcy Code, Bankruptcy Rule 9014, or the LBR; and
- 13) all other pleadings, papers, and requests for relief or other order of the Court, except as limited below.

However, all creditors will receive notice of the following:

- 1) the date fixed for filing proofs of claim;
- 2) the time fixed for filing objections to any disclosure statement and any hearing to consider approval of any disclosure statement;
- 3) the time fixed for accepting, rejecting, or objecting to confirmation of a plan or any modification thereof and the hearing thereon;
- 4) the entry of an order confirming a plan; and
- 5) a hearing regarding the dismissal or conversion of this Case (the "Complete Notice Matters").

Pursuant to Bankruptcy Rule 2002, the Court has authority to limit notice. Given that there are tens of thousands of creditors, requiring notice of every matter upon all creditors would impose a large administrative and economic burden upon the Debtors.

D. Motion for Authorization to File Consolidated List of Fifty Largest General Unsecured Creditors

The Debtors seek authorization to file a consolidated list of the fifty largest general unsecured creditors, and making the following arguments and representations in support of the Motion:

Rather than filing a list of the twenty largest unsecured creditors in each of these seventeen related cases, the Debtors seek authorization to file a consolidated list of the fifty general unsecured creditors for all seventeen Debtors and a consolidated Master Mailing Matrix for all seventeen Debtors.

Debtors have over \$1 billion in liabilities and there are over 40,000 potential creditors and parties in interest in these seventeen Chapter 11 cases. Preparing an individual list of the twenty largest unsecured creditors in each of the seventeen cases would be an exceptionally burdensome task.

The Debtors' businesses are highly integrated. If the Debtors filed separate lists of

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the twenty largest unsecured creditors in each of the seventeen cases, there would be substantial overlap. The Debtors believe that a consolidated list of the fifty largest creditors would be more representative of the parties in interest.

II. Findings and Conclusions

A. Motion to Appoint Kurtzman Carson Consultants as Claims and Balloting Agent

The Motion to appoint KCC as claims and balloting agent is GRANTED. KCC is well-qualified to serve as the Debtors' claims and balloting agent, having provided such services in many of the largest Chapter 11 cases filed in the Bankruptcy Court for the Southern District of New York and the Bankruptcy Court for the District of Delaware. The services to be provided by KCC will help streamline the administration of the Debtors' estates and will assist the Debtors in monitoring claims and bringing these cases to a timely resolution.

Because KCC's services will benefit the estates and creditors, allowance of KCC's services as an administrative expense claim is appropriate. The Debtor is authorized to pay KCC's fees in the ordinary course of business without further application to order of the Court.

B. Cash Management Motion

The Court is prepared to grant the Cash Management Motion on an interim basis, subject to a Final Hearing to be held on **October 3, 2018, at 10:00 a.m.**

The Debtors are authorized to continue using their existing cash management system, to implement changes to the system in the ordinary course of business, to continue to honor intercompany transactions in the ordinary course of business, and to provide administrative expense priority for postpetition company claims.

Local Bankruptcy Rule 2015-2 requires that Debtors comply with the United States Trustee Guidelines. The UST Guidelines require that new bank accounts be opened at certain financial institutions designated as authorized depositories by the U.S. Trustee.

In this case, requiring the Debtors to close their existing bank accounts, and to open new ones, will disrupt the Debtors' business and cash flow, which could affect patient care. Transitioning to new bank accounts will also increase the workload upon the Debtors' accounting staff.

The Debtors' existing accounts are already at banks that are on the UST's list of authorized depositories. Under these circumstances, waiving the UST requirements regarding debtor-in-possession accounts is appropriate.

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To the extent necessary, the Court waives the bonding requirement imposed by § 345(b), “for cause.” The Debtors are authorized to maintain their deposits in the accounts in accordance with existing deposit practices. The Court is satisfied that the Debtors’ funds have been deposited with reputable financial institutions and that the funds on deposit are not at risk of loss.

The Court agrees with U.S. Bank, in its capacity as the Notes Trustee, that the Debtors’ request to honor intercompany transactions in the ordinary course of business should be subject to a Final Hearing. The Court notes that in a consolidated enterprise such as that operated by the Debtors, intercompany transactions often do not reflect the market price for the goods and/or services transferred. Of course, the Court makes no findings as to whether non-market price transfers are occurring in this case, as no relevant evidence is before the Court. However, it is possible that the transfer pricing used by the Debtors might not reflect economic reality, and thus could economically advantage one estate to the disadvantage of the others. Therefore, the Debtors’ request to continue honoring intercompany transactions could have real economic impact on the creditors of certain of the Debtors.

A Final Hearing on the Cash Management Motion shall take place on **October 3, 2018, at 10:00 a.m.** Opposition to the Cash Management Motion is due by no later than **September 19, 2018**. The Debtor’s Reply in support of the Cash Management Motion is due by **September 26, 2018**.

C. Motion to Limit the Scope of Notice

Bankruptcy Rule 2002 authorizes the Court to limit the scope of the notices that are required to be provided. Here, the Debtors have more than 40,000 creditors. Requiring notice of every matter upon every creditor would prove unduly burdensome and expensive. The Debtor is authorized to limit the scope of notice as set forth in the Motion.

D. Motion to File Consolidated List of Fifty Largest Unsecured Creditors

The Debtors’ motion for authorization to file a consolidated list of the fifty largest general unsecured creditors of all seventeen Debtors in each case (in lieu of a separate list of the twenty largest unsecured creditors for each Debtor) is GRANTED. The Debtors operated their businesses as a single consolidated enterprise. The Debtors have stated that it would be extremely burdensome to file separate lists of the twenty largest unsecured creditors in each of these seventeen jointly-administered cases, and that such lists would contain substantial overlap. The Court finds that a list of the fifty

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largest unsecured creditors of all seventeen Debtors, to be filed in each case, will
provide a more accurate representation of the creditor body.

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Debtor(s):

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John A Moe
Tania M Moyron