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5
6 Attorneys for the Chapter 11 Debtors and
Debtors In Possession

7
8 **UNITED STATES BANKRUPTCY COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA - LOS ANGELES DIVISION**

10 In re

Lead Case No. 2:18-bk-20151-ER

11 VERITY HEALTH SYSTEM OF
CALIFORNIA, INC., *et al.*,

Jointly Administered With:
CASE NO.: 2:18-bk-20162-ER
CASE NO.: 2:18-bk-20163-ER
CASE NO.: 2:18-bk-20164-ER
CASE NO.: 2:18-bk-20165-ER
CASE NO.: 2:18-bk-20167-ER
CASE NO.: 2:18-bk-20168-ER
CASE NO.: 2:18-bk-20169-ER
CASE NO.: 2:18-bk-20171-ER
CASE NO.: 2:18-bk-20172-ER
CASE NO.: 2:18-bk-20173-ER
CASE NO.: 2:18-bk-20175-ER
CASE NO.: 2:18-bk-20176-ER
CASE NO.: 2:18-bk-20178-ER
CASE NO.: 2:18-bk-20179-ER
CASE NO.: 2:18-bk-20180-ER
CASE NO.: 2:18-bk-20181-ER

12 Debtors and Debtors In Possession.

- 13 Affects All Debtors
- 14 Affects Verity Health System of California, Inc.
- 15 Affects O'Connor
- 16 Affects Saint Louise Regional Hospital
- 17 Affects St. Francis Medical Center
- 18 Affects St. Vincent Medical Center
- 19 Affects Seton Medical Center
- 20 Affects O'Connor Hospital Foundation
- 21 Affects Saint Louise Regional Hospital Foundation
- 22 Affects St. Francis Medical Center of Lynwood Foundation
- 23 Affects St. Vincent Foundation
- 24 Affects St. Vincent Dialysis Center, Inc.
- 25 Affects Seton Medical Center Foundation
- 26 Affects Verity Business Services
- 27 Affects Verity Medical Foundation
- 28 Affects Verity Holdings, LLC
- Affects De Paul Ventures, LLC
- Affects De Paul Ventures - San Jose Dialysis, LLC

Chapter 11 Cases

DEBTORS' APPLICATION FOR ENTRY OF AN ORDER AUTHORIZING EMPLOYMENT OF KANSAS CITY SERIES OF LOCKTON COMPANIES, LLC, AS ADVISOR TO THE DEBTORS IN THE DISPOSITION OF MARILLAC INSURANCE COMPANY, LTD. NUNC PRO TUNC TO SEPTEMBER 6, 2019

[No Hearing Required Unless Requested Pursuant to Local Bankruptcy Rule 2014-1]

Debtors and Debtors In Possession.

Verity Health System Of California, Inc. ("VHS") and the above-referenced affiliated debtors, the debtors and debtors in possession in the above-captioned chapter 11 bankruptcy cases

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182015119111300000000008

1 (collectively, the “Debtors”), hereby file the *Debtors’ Application for Entry of an Order*
2 *Authorizing Employment of Kansas City Series of Lockton Companies, LLC, as Advisor to the*
3 *Debtors in the Disposition of Marillac Insurance Company, Ltd. Nunc Pro Tunc to September 6,*
4 *2019* (this “Application”), pursuant to section 327(a) of title 11 of the United States Bankruptcy
5 Code, 11 U.S.C. §§ 101, *et seq.* (the “Bankruptcy Code”),¹ Rules 2014 and 2016(a) of the Federal
6 Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and Rules 2014 and 2016(b) of the
7 Local Bankruptcy Rules of the United States Bankruptcy Court for the Central District of
8 California (the “LBR”), with compensation approved under § 328(a). As set forth in the notice
9 concurrently filed herewith, any response or request for hearing must be filed and served on the
10 Debtors’ counsel at the address provided at the top of this page and on the Office of the United
11 States Trustee (the “U.S. Trustee”) not later than fourteen (14) days from the date of service of
12 notice of this Application. LBR 2014-1(b)(3)(E). In support of this Application, the Debtors state
13 as follows:

14 **I. Jurisdiction and Venue**

15 1. This Court has jurisdiction to consider and determine this matter pursuant to 28
16 U.S.C. § 1334. Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409. This
17 is a core proceeding pursuant to 28 U.S.C. § 157(b).

18 **II. General Background**

19 2. On August 31, 2018 (“Petition Date”), the Debtors each filed a voluntary petition
20 for relief under chapter 11 of the Bankruptcy Code. The Debtors continue to operate their
21 remaining businesses and manage their remaining properties as debtors in possession as
22 authorized by §§ 1107(a) and 1108.

23 3. On August 31, 2018, this Court entered an order authorizing the joint
24 administration of the Debtors’ chapter 11 cases (the “Cases”) pursuant to Bankruptcy Rule
25 1015(b) and LBR 1015-1 and 9013-1(q).

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28 ¹ All references to “§” or “section” herein are to sections of the Bankruptcy Code.

1 payment of the Debtors' deductible obligations under a Workers' Compensation Policy with Old
2 Republic Insurance Company.

3 11. Kansas City Series of Lockton Companies, LLC ("Lockton") served as the
4 Debtors' insurance broker prior to the Petition Date and has been retained in these Cases as an
5 ordinary course professional in that capacity.

6 12. Upon closing of the sale of the remaining Hospitals, the Debtors will no longer
7 have a need for certain insurance coverage issued by Marillac and Marillac will lose the bulk of
8 its revenue as its sole customer, the Debtors, will no longer operate care facilities. Accordingly,
9 the Debtors will need to determine how to administer their interests in Marillac for the benefit of
10 the bankruptcy estate and seek to retain Lockton to assist in making that determination and
11 effectuating any disposition, by sale or otherwise.

12 IV. Relief Requested

13 13. Pursuant to this Application, the Debtors seek entry of an order, pursuant to §§
14 327(a) and 328(a), Bankruptcy Rule 2014(a) and LBR 2014-1, authorizing the employment and
15 retention of Lockton, as advisor to the Debtors in connection with the administration and/or
16 disposition of Marillac, *nunc pro tunc* to September 6, 2019, as supported by the declaration of
17 Peggy J. Opp (the "Opp Declaration"), attached hereto, and in accordance with the terms set
18 forth in the Fee for Services Agreement, dated as of September 6, 2019, by and between the
19 Debtors and Lockton attached hereto as Exhibit A (the "Engagement Letter").

20 III. Services to Be Rendered

21 14. The employment of Lockton is appropriate and necessary to enable the Debtors to
22 administer and/or dispose of Marillac in the manner best for the bankruptcy estate. Subject to
23 further order of this Court, Lockton is prepared to render the following services in these Cases as
24 advisor to the Debtors:²

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28 ² The Debtors previously retained Cain Brothers as their investment banker. Cain Brothers has agreed that it will not be paid any fee(s) or expense(s) in connection with the administration and/or disposition of Marillac.

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- 1 a. Analyze and make recommendations on administration or disposition of Marillac
2 or its assets. Assist in the completion of same;
- 3 b. Determine exact timing for transaction consummation based on sale of the
4 Hospitals;
- 5 c. Complete due diligence of current captive program to determine that all potential
6 issues and outstanding action items have been resolved, identified and quantified;
- 7 d. Determine any outstanding regulatory compliance and reporting requirements;
- 8 e. Determine timing for any program cancellation or expiration – midterm vs. policy
9 continuation through expiration dates;
- 10 f. Verify insurance programs and other captive obligations are documented and fully
11 disclosed. Policy register of all policies – direct and reinsurance;
- 12 g. Determine if there are other obligations of Marillac that will need to be transferred
13 or approved by third parties;
- 14 h. Recommend firms to approach for potential captive sale transaction;
- 15 i. Review any proposals received, recommend any changes, negotiate same with
16 those providing the proposal, and determine which firms to include in any process;
- 17 j. Work with firms to provide information for due diligence including claims review;
- 18 k. Obtain proposals from firms and review terms and compare;
- 19 l. Determine finalists and negotiate best terms and conditions including handling of
20 any prospective business;
- 21 m. Notify ORIC and Reinsurance companies of any decision to sell the captive and
22 determine willingness to negotiate change in captive ownership;
- 23 n. Identify if older program years should be closed out or commuted rather than part
24 of a disposition;
- 25 o. Confirm changes to prospective claim handling with reinsurers;
- 26 p. Confirm ORIC continued acceptance of new agreement as needed;
- 27 q. Obtain draft agreements for agreed upon option(s) considered;
- 28 r. Identify parties to execute on behalf of each party to the transaction;
- s. Finalize agreements incorporating comments from all constituents;
- t. Obtain CIMA approval for change in ownership as needed in transaction; and
- u. Assist the Debtors in obtaining approval of any transaction by the Bankruptcy
Court, including providing an affidavit and/or live testimony in support thereof.

1 15. It is necessary for the Debtors to employ Lockton to render the foregoing
2 professional services in order to administer and/or dispose of Marillac in the manner most
3 beneficial to the bankruptcy estates. Therefore, the Debtors have requested that Lockton perform
4 the services set forth herein and, subject to this Court's approval of this Application, Lockton has
5 stated its desire, willingness, and ability to act in these Cases and to render such professional
6 services as advisor to the Debtors.

7 **IV. Qualifications and Selection of Lockton**

8 16. Lockton is familiar with the Debtors' insurance policies and carriers as it has
9 served as the Debtors' insurance broker since July 1, 2017 and continues to serve in that capacity
10 as an ordinary course professional. As a result, Lockton is uniquely positioned to assist the
11 Debtors in administering and/or disposing of their captive insurer, Marillac. Accordingly,
12 retaining Lockton is an efficient and cost effective manner in which the Debtors may obtain
13 necessary advisory services.

14 17. An experienced advisor, Lockton fulfills a critical need that complements the
15 services offered by the Debtors' other restructuring professionals. The Debtors desire to employ
16 Lockton to act as the Debtors' insurance advisor postpetition because, among other reasons,
17 Lockton consulted on the sale and wind-down of dozens of captive insurance companies; has
18 assisted many clients in bankruptcy to negotiate favorable terms regarding collateral with
19 applicable insurers; and, has developed the appropriate program run-off mechanisms once
20 programs are off risk. Absent the retention of Lockton as of September 6, 2019, the Debtors will
21 suffer immediate and irreparable harm because the services provided by Lockton are necessary to
22 an effective and efficient administration and/or disposition of Marillac.

23 **V. Lockton's Compensation**

24 18. Pursuant to § 328(a), the Debtors may retain Lockton on any reasonable terms and
25 conditions. The Debtors therefore request that, pursuant to § 328(a), compensation be granted in
26 accordance with the Engagement Letter and not subject to review or evaluated under § 330.

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1 19. As more fully described in the Engagement Letter, in consideration of the services
2 provided, the Debtors have agreed to pay Lockton as follows (the “Fee Structure”):³

3 (i) \$50,000 due upon execution of the Agreement;

4 (ii) \$25,000 due December 1, 2019; and

5 (iii) \$25,000 due February 1, 2020 or upon completion of the project
6 (whichever comes first).

7 20. The Fee Structure in the Engagement Letter and above is consistent with the
8 typical arrangement Lockton and other advisory firms enter into when rendering similar services
9 under similar circumstances and is the product of arm’s-length negotiations. (See retention of
10 Cain Brothers in these Cases). The Fee Structure is no less favorable than the fee structure
11 customarily employed by Lockton and generally accepted by its clients for these types of
12 services. The Debtors believe the Fee Structure is reasonable, market-based, and designed to
13 compensate Lockton for its work in a fair and equitable manner. The Debtors believe the benefit
14 of Lockton’s services cannot be measured by reference to number of hours to be expended by
15 Lockton’s professionals.

16 21. In agreeing to seek Lockton’s retention under § 328(a), the Debtors acknowledge
17 that they believe that Lockton’s general experience and expertise will inure to the benefit of the
18 Debtors in pursuing administration and/or disposition of Marillac, that the value to the Debtors of
19 Lockton’s services derives in substantial part from that expertise and experience and that,
20 accordingly, the Fee Structure is reasonable regardless of the number of hours to be expended by
21 Lockton’s professionals in the performance of the services to be provided hereunder, and that the
22 deferred fees shall not be considered to be “bonuses” or fee enhancements under applicable law.

23 22. Accordingly, Lockton and the Debtors have agreed to the Fee Structure in
24 anticipation that a substantial commitment of professional time and effort will be required, and
25 because (a) Lockton’s sizable commitment to the instant matters may foreclose other

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27 ³ To the extent there is any inconsistency between the summary of the Fee Structure set forth in this Application
28 and the Fee Structure as set forth in the Engagement Letter, the terms of the Engagement Letter, as modified by
any order of this Court, shall control. Capitalized terms used but not otherwise defined herein shall have the
meanings ascribed to such terms in the Engagement Letter.

1 opportunities that would otherwise be available to Lockton and (b) the actual time commitment
2 required by Lockton may vary considerably throughout the proceedings. Lockton will maintain
3 records to support and document actual and necessary costs and expenses incurred in connection
4 with its services in these Cases. The Debtors respectfully request this Court excuse Lockton from
5 the requirement to maintain time records, provided that Lockton will maintain a log of its
6 activities.

7 23. The Debtors request—and Lockton understands—that all advisory fees and related
8 costs incurred by the Debtors on account of services rendered by Lockton will be paid as
9 administrative expenses in accordance with the Bankruptcy Code and applicable Orders entered
10 in these Cases.

11 24. At the conclusion of these Cases, Lockton will file an appropriate application
12 seeking allowance of all fees and costs, regardless of whether interim compensation has been
13 paid.

14 25. The Engagement Letter contains terms for indemnification as set forth in
15 Paragraph 4.4 of the Engagement Letter. The Debtors and Lockton have agreed to indemnify
16 each other and each of their directors, officers, employees, agents and representatives from or
17 against any and all claims damages, losses, or expenses incurred by one party as the result of (i) a
18 material breach by the other party of any of its obligations under the Engagement Letter or (ii)
19 any negligent conduct of the other party, as more fully set forth in Paragraph 4.4 of the
20 Engagement Letter.

21 VI. Lockton's Disclosures

22 26. As set forth above, Lockton understands the provisions of §§ 327 and 328(a),
23 Bankruptcy Rules 2014(a) and 2016, and LBR 2014-1(b) and 2016-1, which require, among other
24 things, Court approval of the Debtors' employment of it as insurance advisor.

25 27. Section 327(a) incorporates a general disinterestedness standard, and Bankruptcy
26 Rule 2014 requires that an application for employment disclose all connections with the Debtors,
27 their estates, the professionals, and the U.S. Trustee. Lockton has conducted an extensive conflict
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1 search within its database and has not identified any actual conflicts and/or connections with any
2 of the parties which would disqualify it from serving as advisor to the Debtors.⁴

3 28. As described in detail in the Opp Declaration, Lockton has, among other things,
4 searched its client databases to determine whether it represents, or has represented, certain of the
5 Debtors' creditors or other parties in interest in matters wholly unrelated to these proceedings,
6 and all potential associations for ongoing services are listed in the Opp Declaration. Except as
7 may be described in the Opp Declaration, Lockton does not, to its knowledge, represent any party
8 with an interest materially adverse to the Debtors or the estate.

9 29. Lockton has not received and will not receive any lien or any other interest in
10 property of the Debtors or of a third party to secure payment of its fees. Lockton intends to apply
11 to this Court in conformity with the Bankruptcy Code and applicable rules, the guidelines for
12 compensation and reimbursement for fees incurred and costs advanced in this matter and any
13 orders of the Court governing application and allowance of compensation in these Cases.

14 30. Except as set forth in the Opp Declaration, Lockton: (a) does not, beyond its
15 employment as the Debtors' insurance broker, have any prior connection with the Debtors, any
16 creditors of the Debtors or their estates, any equity security holders, or any other party in interest
17 in these Cases, or their respective attorneys or accountants (other than professional connections
18 and relationships), or these Cases; (b) does not hold or represent an interest materially adverse to
19 the estates or of any class of creditors or equity security holders, by reason of any direct or
20 indirect relationship to, connection with, or interest in, the Debtors or a financial advisor for any
21 security of the Debtors, or for any other reason; (c) as of the Petition Date, Lockton was not a
22 creditor, equity holder or insider of the Debtors or their estates; (d) Lockton was not, within two
23 (2) years before the Petition Date, a director, officer or employee of the Debtors; (e) Lockton has
24 not shared or agreed to share its compensation with any other person; (f) Lockton has no
25 prepetition claims against the Debtors; (g) Lockton has not received a retainer; (h) Lockton is not
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27 ⁴ Lockton is continuing to conduct a further conflict search within its database and will disclosure the results of that
28 search, including any actual conflicts and/or connections with any of the parties which would disqualify it from
serving as financial advisor to the Debtors, prior to the hearing on this Application.

1 related to any judge of the United States Bankruptcy Court for the Central District of California,
2 the United States Trustee, or to any person employed by the Office of the United States Trustee.

3 31. In view of the foregoing, the Debtors submit that Lockton is “a disinterested
4 person” as that term is defined in § 101(14), as modified by § 1107(b) and as required under §
5 327(a).

6 32. During the 90-day period prior to the commencement of these Cases, Lockton was
7 paid in the ordinary course per its employment as the Debtors’ insurance broker. Specifically, the
8 Debtors paid the following amounts to Lockton (including Risk Management Fee and insurance
9 premiums paid to Lockton which were forwarded to the relevant insurance carriers):

<u>Debtor</u>	<u>Date</u>	<u>Amount</u>	
VHS	6/15/2018	\$ 210,000.00	[[100%] Fee/[N/A] Premium)
	7/23/2018	\$ 664,770.75	[[N/A] Commission/[100%] Premium)
St. Francis Medical Center	6/8/2018	\$ 526.32	[[N/A] Commission/[100%] Premium)
	6/28/2018	\$ 70,428.56	[[10%] Commission/[90%] Premium)
	7/31/2018	\$ 68,762.42	[[10%] Commission/[90%] Premium)
	8/23/2018	\$ 69,091.73	[[10%] Commission/[90%] Premium)
St. Vincent Medical Center	7/12/2018	\$ 39,397.29	[[10%] Commission/[90%] Premium)
	7/31/2018	\$ 39,312.18	[[10%] Commission/[90%] Premium)
	8/23/2018	\$ 39,439.55	[[10%] Commission/[90%] Premium)
		\$ 1,201,728.80	

17 33. As set forth in the Opp Declaration, if any new material facts or relationships are
18 discovered or arise, Lockton will provide the Court with a supplemental declaration. The Debtors
19 believe that their employment of Lockton upon the terms and conditions set forth above is in the
20 best interest of the Debtors’ estates, their creditors, and other parties in interest.

21 **VII. Retroactive Relief**

22 34. The Debtors request that this Application be approved *nunc pro tunc* to September
23 6, 2019. In proper circumstances, the equitable aspects of bankruptcy proceedings permit the
24 court to retroactively approve the employment of professionals. *See, e.g., Atkins v. Wain, Samuel*
25 *& Co. (In re Atkins)*, 69 F.3d 970, 974-76 (9th Cir. 1995); *In re Mehdipour*, 202 BR 474, 479 (9th
26 Cir. B.A.P. 1996); *Gowan v. Lefkas Gen. Partners No. 1017 (In re Lefkas Gen. Partners No.*
27 *1017)*, 153 B.R. 804, 808 (N.D. Ill. 1993).

1 35. The Debtors submit that retroactive approval of Lockton's retention is appropriate
2 under the circumstances because of: (i) the short duration of time between the retention of
3 Lockton and the filing of this Application; and (ii) the need for Lockton's services immediately
4 after the date it was retained.

5 **VIII. Notice**

6 36. Concurrent with the filing of this Application, the Debtors are providing notice of
7 the Application to: (i) the U.S. Trustee; (ii) the Debtors' secured lenders; (iii) counsel to Ally
8 Bank, as administrative agent under the debtor in possession financing; (iv) the Committee and its
9 counsel; (v) the United States of America, and the State of California; and (vi) all parties that
10 filed with the Court and served upon the Debtors requests for notice of all matters in accordance
11 with Bankruptcy Rule 2002(i) as of the date of this Application. The Debtors respectfully submit
12 that, in light of the nature of the relief requested and the circumstances, no other or further notice
13 need be provided.

14 **IX. No Previous Relief**

15 37. No prior request for the relief sought herein has been made to this or any other
16 court.

17 **X. Conclusion**

18 WHEREFORE, the Debtors respectfully request an order (i) approving the employment
19 and retention of Lockton as advisor to the Debtors, on the terms set forth in the Engagement
20 Letter, *nunc pro tunc* to September 6, 2019, (ii) approving the compensation of Lockton at the
21 expense of the Debtors' estates on the terms set forth in the Engagement Letter, (iii) excusing
22 Lockton from maintaining time records with respect to the services to be rendered, and (iv)
23 granting such other and further relief as the Court deems just and proper.

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1 Dated: November 13, 2019

DENTONS US LLP
SAMUEL R. MAIZEL
TANIA M. MOYRON

2
3 By /s/ Tania M. Moyron
4 Tania M. Moyron

5 Attorneys for the Chapter 11 Debtors and
6 Debtors In Possession
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DECLARATION OF PEGGY J. OPP

I, Peggy J. Opp, hereby declare as follows:

1. I am a Vice President - Senior Account Executive for Kansas City Series of Lockton Companies, LLC (“Lockton”). I submit this declaration in support of the Debtors’ Application for Entry of an Order Authorizing Employment of Lockton, as Advisor to the Debtors in the Disposition of Marillac Insurance Company, Ltd. Nunc Pro Tunc to September 6, 2019 (the “Application”).⁵

2. Except as otherwise noted, I have personal knowledge of the matters set forth herein, and, if called as a witness, I would testify thereto. Certain of the disclosures herein, however, relate to matters within the personal knowledge of other professionals at Lockton and are based on information provided by such professionals.

LOCKTON’S QUALIFICATIONS

3. I believe that Lockton is uniquely qualified to advise the Debtors on the matters for which Lockton is proposed to be employed in a cost-effective, efficient and expert manner.

4. Lockton has consulted on the sale and wind-down of dozens of captive insurance companies; has assisted many clients in bankruptcy to negotiate favorable terms regarding collateral with applicable insurers; and, has developed the appropriate program run-off mechanisms once programs are off risk.

5. Lockton, moreover, has been engaged by the Debtors since July 1, 2017 as the Debtors’ insurance broker and, as a result, is familiar with the Debtors’ insurance policies and carriers, including Marillac.

CONNECTIONS WITH PARTIES IN INTEREST

6. To check potential connections with the Debtors and other parties in interest in these Cases, Lockton has searched to determine whether it has any relationships with the entities identified by the Debtors and its representatives as potential parties in interest listed on Exhibit B hereto (the “Potential Parties in Interest”). Specifically, the names of the Potential Parties in

⁵ All capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Application.

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1 Interest were entered into a database containing the names of Lockton's current and former
2 clients. To the extent that this inquiry has revealed that certain Potential Parties in Interest were
3 current or former clients of Lockton within the past three years, these parties have been identified
4 on a list annexed hereto as Exhibit C (the "Client Match List"). Through the information
5 generated from the aforementioned inquiry and through follow-up inquiries to Lockton's
6 professionals responsible for certain clients listed on the Client Match List, Lockton has
7 determined that its representation of the clients on the Client Match List concerned matters
8 unrelated to the Debtors. As to the Potential Parties in Interest not identified on the Client Match
9 List, Lockton has not been employed by or rendered advisory services to any such parties within
10 the past three years. However, there are almost 8,000 vendors who do business with the Debtors.
11 If Lockton uncovers any additional connections, make subsequent disclosures of those
12 connections promptly.⁶

13 7. The Debtors have numerous creditors and relationships with a large number of
14 individuals and entities that may be parties in interest in these Cases. Consequently, although
15 every reasonable effort has been made to discover Lockton's connections with the Potential
16 Parties in Interest, Lockton is unable to state with certainty whether any of its clients or an
17 affiliated entity of a client holds a claim or otherwise is a party in interest in these Cases. If
18 Lockton discovers any information that is contrary or pertinent to the statements made herein,
19 Lockton will promptly disclose such information to the Court.

20 8. Lockton does not advise, has not advised and will not advise any entity other than
21 the Debtors in matters related to these Cases. Lockton will, however, continue to provide
22 professional services to entities or persons that may be creditors of the Debtors or parties in
23 interest in these Cases, provided that such services do not relate to, or have any direct connection
24 with, these Cases or the Debtors.

25 9. Except as otherwise set forth herein, to the best of my knowledge, information, and
26 belief, neither Lockton nor any employee of Lockton (i) is a creditor or an insider of the Debtors

27 _____
28 ⁶ Lockton is also continuing to run a conflict search of Potential Parties in Interest and will disclose those search results prior to the hearing on the Application.

1 or (ii) is or was, within two years before the Petition Date, a director, officer, or employee of any
 2 of the Debtors. In addition, none of the professionals expected to assist the Debtors in these Cases
 3 are related or connected to any United States Bankruptcy Judge for the Central District of
 4 California, the U.S. Trustee, or any person employed in the office of the U.S. Trustee.

5 **PROFESSIONAL COMPENSATION**

6 10. During the 90-day period prior to the commencement of these Cases, the Debtors
 7 paid Lockton as the Debtors' insurance broker and advisor, in the ordinary course certain
 8 insurance premium payments, which were forwarded to the relevant insurance carriers and
 9 Lockton's Risk Management Fee. Specifically, the Debtors paid the following amounts to
 10 Lockton:

<u>Debtor</u>	<u>Date</u>	<u>Amount</u>	
VHS	6/15/2018	\$ 210,000.00	([100%] Fee/[N/A] Premium)
	7/23/2018	\$ 664,770.75	([N/A] Commission/[100%] Premium)
St. Francis Medical Center	6/8/2018	\$ 526.32	([N/A] Commission/[100%] Premium)
	6/28/2018	\$ 70,428.56	([10%] Commission/[90%] Premium)
	7/31/2018	\$ 68,762.42	([10%] Commission/[90%] Premium)
	8/23/2018	\$ 69,091.73	([10%] Commission/[90%] Premium)
St. Vincent Medical Center	7/12/2018	\$ 39,397.29	([10%] Commission/[90%] Premium)
	7/31/2018	\$ 39,312.18	([10%] Commission/[90%] Premium)
	8/23/2018	\$ 39,439.55	([10%] Commission/[90%] Premium)
		\$ 1,201,728.80	

11 11. The Fee Structure and the indemnification obligations set forth in the Application
 12 are consistent with Lockton's typical fee for work of this nature. The fees are set at a level
 13 designed to compensate Lockton fairly for the work of its professionals and assistants and to
 14 cover fixed and routine overhead expenses. It is Lockton's policy to charge its clients for all
 15 disbursements and expenses incurred in the rendition of services.

16 12. It is not the general practice of advisory firms to keep detailed time records similar
 17 to those customarily kept by attorneys.

18 13. The Fee Structure is comparable to those generally charged by advisory firms of
 19 similar stature to Lockton and for comparable engagements, both in and out of court, and reflect a
 20 balance between a fixed and contingency amounts.

1 14. The Engagement Letter was negotiated at arm's length and in good faith and I
2 believe that the provisions contained therein are reasonable terms and conditions of Lockton's
3 employment by the Debtors. With respect to the Engagement Letter's indemnification
4 provisions, indemnification is a standard term of the market for advisors being retained for the
5 services proposed. The indemnity, moreover, is comparable to those generally obtained by
6 advisory firms of similar stature to Lockton and for comparable engagements, both in and out of
7 court.

8 15. Other than as set forth above and in the Engagement Letter, there is no proposed
9 arrangement between the Debtors and Lockton for compensation to be paid in these Cases.
10 Lockton has no agreement with any other person or entity to share any compensation received,
11 nor will any such agreement be made, except as permitted under section 504(b)(1) of the
12 Bankruptcy Code.

13 16. The foregoing constitutes the statement of Lockton pursuant to section 504 of the
14 Bankruptcy Code and Bankruptcy Rules 2014(a) and 5002.

15 In accordance with 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing
16 is true and correct.

17 Dated: November [//], 2019

KANSAS CITY SERIES OF
LOCKTON COMPANIES, LLC



Peggy J. Opp
Vice President - Senior Account
Executive for Kansas City Series of
Lockton Companies, LLC

DENTONS US LLP
601 SOUTH FIGUEROA STREET, SUITE 2500
LOS ANGELES, CALIFORNIA 90017-5704
(213) 623-9300

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EXHIBIT A
ENGAGEMENT AGREEMENT

DENTONS US LLP
601 SOUTH FIGUEROA STREET, SUITE 2500
LOS ANGELES, CALIFORNIA 90017-5704
(213) 623-9300



Fee for Services Agreement
VERITY HEALTH SYSTEM OF CALIFORNIA, INC.
and
KANSAS CITY SERIES OF LOCKTON COMPANIES, LLC

This Fee for Services Agreement (the "Agreement") made and entered into effective as of September 6, 2019 ("Effective Date"), between VERITY HEALTH SYSTEM OF CALIFORNIA, INC. ("Client") and the KANSAS CITY SERIES OF LOCKTON COMPANIES, LLC ("Lockton"). In consideration of the mutual promises contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. TERM. This Agreement will be effective September 6, 2019 and shall be terminated upon completion of the project or no later than March 31, 2020 (refer to Addendum A); provided, however, that Client's obligations under this Agreement are subject to, in all respects, receipt of an approval of this Agreement pursuant to an order of the court presiding over the bankruptcy proceeding captioned *In re Verity Health System of California, Inc.*, Case No. 18-20151 (Bankr. C.D. Cal.) (Jointly Administered) (the "Bankruptcy Court"). Within two days of full execution of this Agreement, Client shall file an application to retain Lockton as a professional in the above captioned bankruptcy proceeding pursuant to Sections 327 and 328(a) of Title 11 of the United States Code (the "Bankruptcy Code").

2. COMPENSATION, DISCLOSURE AND PAYMENT TERMS

2.1 Fee. All services set forth in Addendum A associated with the captive project for compensation in the form of a fee in the amount of \$100,000:

This Fee does not apply to travel expenses. Travel will be billed as the expense occurs. All expenses over \$1,000 must be pre-approved by Client in writing in order to be reimbursable.

2.2 Payment Schedule. Client shall pay the fee set forth above based on the following payment schedule:

Due upon execution of Agreement - \$50,000

Due December 1, 2019 - \$25,000

Due February 1, 2020 or completion of the project (whichever comes first) - \$25,000

Client will provide payment to Lockton for all fee invoices per payment schedule above and approval of Lockton's final fee application by order of the Bankruptcy Court.

3. CONFIDENTIALITY

3.1 Confidential Information. Lockton and Client acknowledge that the nature of Lockton's services provided to Client may result in either party (the "Disclosing Party") disclosing to the other party (the "Receiving Party") certain of Disclosing Party's or its affiliate's information ("Information"), some of which may be of a confidential or proprietary nature. For purposes of this Agreement, Information shall mean any and all nonpublic information provided to the Receiving Party, which may include the Disclosing Party's or its affiliate's product, marketing, pricing or financial strategies; customer information; employee information, proprietary business processes or technologies; financial information and/or trade secrets.

3.2 Exclusions. Information shall not include any information that: 1) is or becomes publicly known and generally available in the public domain through no wrongful action or disclosure by the Receiving Party; 2) becomes known by the Receiving Party without any obligation to hold such information in confidence; 3) is received from a third party without similar restrictions known to the Receiving Party; 4) is independently developed by the Receiving Party without use of or reference to the Information; or 5) the Receiving Party is required by law, regulation, summons, subpoena or similar judicial, regulatory or administrative order or proceeding to disclose, but only to the extent and for the purpose of such required disclosure, provided the Receiving Party, unless prohibited by law, gives the Disclosing Party prompt written notice of such required disclosure with sufficient time to enable the Disclosing Party to pursue protective measures.

3.3 Receiving Party's Confidentiality Duties. In consideration of Disclosing Party's disclosure of Information to the Receiving Party, the Receiving Party hereby agrees as follows:

A. The Receiving Party shall take all reasonable steps to protect the confidentiality of the Information, and shall not use the Information for any purpose other than the advancement of the services contemplated herein.

B. The Receiving Party shall not, without the prior written approval of the Disclosing Party, publish or disclose to others any of the Information except that Client expressly authorizes Lockton to disclose Client's Information to underwriters, insurers, insurance-related intermediaries and/or other third parties as necessary for the purpose of providing the services contemplated herein.

C. The parties acknowledge that any unauthorized disclosure or use of the Information in violation of this Agreement by a Receiving Party may cause irreparable harm, and that money damages alone, the amount of which might be difficult to ascertain, might be an inadequate remedy and, therefore, agree that the Disclosing Party shall have the right to seek injunctive relief in addition to any other remedies otherwise available to the Disclosing Party at law or in equity.

D. At the Disclosing Party's written request, the Receiving Party shall return to the Disclosing Party any and all records or documents constituting the Information, except that the Receiving Party shall be permitted to retain an archival copy of the Information pursuant to its record retention policy for legal regulatory compliance, archival, or evidentiary purposes. If return of the Information is not feasible, the Receiving Party shall maintain the Information pursuant to the terms and conditions of this Agreement.

4. GENERAL CONDITIONS

4.1 Cooperation. Client shall provide Lockton with reasonable cooperation and assistance necessary for Lockton to fulfill its service obligations to Client pursuant to the terms of this Agreement, including, without limitation, information and documents reasonably requested by the Disclosing Party and the cooperation of and access to certain of Client's personnel.

4.2 Assignment. Neither party shall assign any rights or duties herein set forth without the prior written consent of the other party.

4.3 Entire Agreement. The terms and conditions of this Agreement constitute the entire Agreement between the parties with respect to the subject matter hereof. This Agreement shall not be amended except by a written amendment signed and dated by both parties, and no promises, agreement or representations not herein set forth shall be of any force or effect between them. This Agreement shall serve to terminate and supersede all agreements and undertakings heretofore entered into between the parties on subjects covered by this Agreement; provided, however, that, notwithstanding anything contained in this Agreement, this Agreement does not concern and shall not impact or modify the Fee for Services Agreement between the parties made and entered into effective as of July 1, 2017, which constitutes a separate and distinct contract.

4.4 Indemnification. Lockton and Client shall indemnify, defend, and hold one another, their directors, officers, employees, agents, and representatives harmless from and against any and all claims, damages, losses, or expenses (including such parties' reasonable attorney, accountant, and expert witness fees and costs) incurred by one party as the result of (i) a material breach by the other party of any of its obligations under this Agreement or (ii) any negligent conduct of the other party.

4.5 Dispute Resolution. Any and all disputes between the parties arising out of or relating to this Agreement or the services provided pursuant to this Agreement shall be subject to the jurisdiction and adjudication of the Bankruptcy Court, and if ordered by the Bankruptcy Court, adjudicated and resolved exclusively through binding arbitration administered by the American Arbitration Association under its Commercial Arbitration Rules in effect at the time such arbitration is initiated. Any arbitration hereunder shall be conducted in Kansas City, Missouri, and the decision of the arbitrator shall be final and binding upon all parties. Each party shall be responsible to pay its own arbitration filing fees, arbitrator fees, attorney fees, and other related administrative costs and expenses incurred in the course of prosecuting or defending a claim in arbitration.

4.6 Limitation of Liability. IN NO EVENT SHALL A PARTY BE LIABLE TO (BY VIRTUE OF INDEMNITY OR OTHERWISE) THE OTHER FOR ANY INDIRECT, CONSEQUENTIAL, INCIDENTAL, EXEMPLARY, SPECIAL OR PUNITIVE DAMAGES (INCLUDING, WITHOUT LIMITATION, LOST PROFITS AND LOST BUSINESS), ARISING OUT OF OR RELATED TO THIS AGREEMENT, EVEN IF IT HAS BEEN ADVISED OR IS AWARE OF THE POSSIBILITY OF SUCH DAMAGES, AND REGARDLESS OF WHETHER ARISING IN TORT (INCLUDING NEGLIGENCE), CONTRACT, OR OTHER LEGAL THEORY. IN ANY EVENT, THE LIABILITY OF ONE PARTY TO THE OTHER FOR ANY REASON AND UPON ANY CAUSE OF ACTION SHALL BE LIMITED TO TEN MILLION DOLLARS (\$10,000,000.00). THIS LIMITATION APPLIES TO ALL CAUSES OF ACTION IN THE AGGREGATE. REFERENCES TO A PARTY IN THIS SECTION 5.6 INCLUDE SUCH PARTY'S DIRECTORS, OFFICERS, EMPLOYEES, AGENTS AND DOMESTIC AND INTERNATIONAL AFFILIATED ENTITIES.

4.7 DISCLAIMER OF WARRANTIES. EXCEPT AS EXPRESSLY SET FORTH HEREIN, NEITHER LOCKTON NOR ANY OF ITS

AFFILIATES MAKES ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, WARRANTIES OF NON-INFRINGEMENT OR PERFORMANCE, OR OTHER WARRANTIES ARISING FROM THE COURSE OF DEALING OR USAGE OF TRADE OR OTHERWISE, WITH RESPECT TO THE SERVICES OR OTHER DELIVERABLES PROVIDED HEREUNDER, INCLUDING THOSE SERVICES OR DELIVERABLES PROVIDED TO CLIENT BY AFFILIATES OF LOCKTON.

4.8 Accuracy and Completeness of Information. Client shall be solely responsible for the accuracy and completeness of all information furnished to Lockton and/or to underwriters, insurers, insurance-related intermediaries and/or other third parties as necessary for the services contemplated herein. Lockton shall not be responsible for independently verifying the accuracy or completeness of any information that Client provides, and Lockton shall be entitled to rely on such information. Lockton shall have no liability for any errors or omissions in any services provided to Client, that are the result of, arise from, or are based on inaccurate or incomplete information provided to Lockton.

4.9 No Reliance. Any reports or advice provided by Lockton should not be relied upon as accounting, legal, actuarial or tax advice. In all instances, Lockton recommends that Client seek independent advice on such matters from professional accounting, legal, actuarial and tax advisors.

4.10 Responsibility for Insurance Programs. Lockton will not be responsible for the adequacy or effectiveness of any insurance programs or policies implemented or placed by another broker, including, without limitation, any acts or omissions of another broker occurring prior or subsequent to Lockton's engagement pursuant to this Agreement.

4.11 Relationship between the Parties. Lockton will act as the Client's consultant with respect to the services in addendum A. The Client acknowledges and agrees that in no event shall Lockton owe any enhanced or special duties to the Client, express or implied, in fact or by law, whether referred to as a special relationship or fiduciary relationship or otherwise, except to the extent required by applicable law.

4.12 Notices. Any communication or notice required or which may be given hereunder shall be addressed to Client and to Lockton at their respective addresses as follows:

CLIENT

VERITY HEALTH SYSTEM OF CALIFORNIA, INC.
2040 E Mariposa Ave
El Segundo, CA 90245
Attn: Ty Conner, JD, CTP
Title: Vice President and Treasurer

LOCKTON

KANSAS CITY SERIES OF LOCKTON COMPANIES, LLC
444 West 47th Street, Suite 900
Kansas City, MO 64112-1906
Attn: Mark Henderson
Title: COO

4.13 Governing Law. This Agreement shall be governed for all purposes by the laws of the state of Missouri.

4.14 Severability. Any provision of this Agreement that is prohibited or unenforceable shall be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability shall not invalidate or render unenforceable such provision.

<The rest of this page is intentionally left blank. Signature page to follow>

In witness whereof, the parties hereto have executed the Agreement in duplicate intending each copy to serve as an original as of the day and year first written above.

KANSAS CITY SERIES OF LOCKTON COMPANIES, LLC

BY:




Frederick Flemig
Senior Vice President

DATE:

10/21/2019

VERITY HEALTH SYSTEM OF CALIFORNIA, INC.

BY:



Ty Conner, JD, CTP
Vice President and Treasurer

VERITY HEALTH SYSTEM OF CALIFORNIA, INC.

DATE:

10/21/2019

Addendum A Captive Project

I. Project Description:

On August 31, 2018, Verity Health System of California, Inc. (Verity) filed voluntary petitions under Chapter 11 of the Bankruptcy Code. The goal of the filing is to reorganize and facilitate the sale of its hospitals and related healthcare business. Verity owns Marillac Insurance Company, Ltd. (Marillac); a Cayman Island based insurance company to fund exposure to loss from workers' compensation, and professional and general liability claims. This project includes Lockton's consulting services related to administering or disposing of Marillac and/or its assets, including, but not limited to, securing offers from third parties to acquire the stock or assets of Marillac and assisting in the acquisition of necessary approvals from insurers, reinsurers and regulators to close any sale. Approvals from required parties may be necessary to effect a sale and Lockton can not guarantee that all approvals will be received.

Additional fees for certified actuarial reports may be necessary and are outside of Lockton fees.

II. Scope of Services: As desired and instructed by Client:

- A. Analyze and make recommendations on administration or disposition of Marillac or its assets. Assist in the completion of same.
- B. Determine exact timing for transaction consummation based on sale of hospitals.
- C. Complete due diligence of current captive program to determine that all potential issues and outstanding action items have been resolved, identified and quantified.
- D. Determine any outstanding regulatory compliance and reporting requirements.
- E. Determine timing for any program cancellation or expiration – midterm vs. policy continuation through expiration dates.
- F. Verify insurance programs and other captive obligations are documented and fully disclosed. Policy register of all policies – direct and reinsurance.
- G. Determine if there are other obligations of Marillac that will need to be transferred or approved by third parties.
- H. Recommend firms to approach for potential captive sale transaction.
- I. Review any proposals received, recommend any changes, negotiate same with those providing the proposal, and determine which firms to include in any process.
- J. Work with firms to provide information for due diligence including claims review.
- K. Obtain proposals from firms and review terms and compare.
- L. Determine finalists and negotiate best terms and conditions including handling of any prospective business.
- M. Notify ORIC and Reinsurance companies of any decision to sell the captive and determine willingness to negotiate change in captive ownership.
- N. Identify if older program years should be closed out or commuted rather than part of a disposition.
- O. Confirm changes to prospective claim handling with reinsurers.
- P. Confirm ORIC continued acceptance of new agreement as needed.
- Q. Obtain draft agreements for agreed upon option(s) considered.
- R. Identify parties to execute on behalf of each party to the transaction.
- S. Finalize agreements incorporating comments from all constituents.
- T. Obtain CIMA approval for change in ownership as needed in transaction.
- U. Assist Client in obtaining approval of any transaction by the Bankruptcy Court, including providing an affidavit and/or live testimony in support thereof.

EXHIBIT B

POTENTIAL PARTIES IN INTEREST

ACE American Insurance Company
Aetna, Inc.
AHMC Healthcare Inc.
Allscripts Healthcare, LLC
Angeles IPA Inc. - A Medical Corporation
AppleCare Medical Group, Inc.
AppleCare Medical Group St. Francis Inc.
Bay Area Surgical Group, Inc.
Bay Area Surgical Management, LLC
California Department of Health Care Services
California Department of Tax and Fee Administration
California Nurses Association (CNA)
California Statewide Communities Development Authority
Central Health Plan of California, Inc.
Cigna HealthCare of California, Inc and Cigna Health and Life Insurance Company
Conifer Value-Based Care, LLC f/k/a Quality Medical Management, Inc.
County of San Mateo
DaVita Inc.
Department of the Treasury - Internal Revenue Service
Federal Insurance Company
Forest Ambulatory Surgical Associates, L.P.
Health Plan of San Mateo
HEALTHNOW ADMINISTRATIVE SERVICES
Hunt Spine Institute, Inc.
Illinois Union Insurance Company
Integrity Healthcare, LLC
Kaiser Foundation Hospitals, Kaiser Foundation Health Plan, Inc., Southern California
Permanente
Kaiser Permanente Medical Group
Knowles Surgery Center, LLC
L.A. Care Health Plan
Long Beach Memorial Medical Center
Los Altos Surgery Center, LP
Nant Capital, LLC
NantWorks, LLC
National Ambulatory Surgery Center, LLC
National Labor Relations Board
Old Republic Insurance Company
Pension Benefit Guaranty Corporation
PIH Health Hospital - Downey
PIH Health Hospital - Whittier
Premier Healthcare Alliance, L.P.

Premier Healthcare Solutions, Inc.
Premier Services, LLC
Premier, Inc., for itself and its consolidated subsidiaries
Prime Healthcare
Retirement Plan for Hospital Employees
San Jose Medical Group, Inc.
SEIU United Healthcare Workers - West
Seoul Medical Group Inc.
SOAR Surgery Center, LLC
Sodexo CTM LLC
Stationary Engineers Local 39 Trust Funds
Tenet Healthcare Corporation
U.S. Bank National Association, as Series 2015 Notes Trustee
UMB Bank, N.A., as Trustee
United Nurses Associations of California/Union of Health Care Professionals, NUHHCE,
AFSCME, AFL-CIO
Wells Fargo Bank, National Association, as Trustee

EXHIBIT C

CLIENT MATCH LIST

Aetna, Inc.*
AHMC Healthcare Inc.
Central Health Plan of California, Inc.
Healthnow Administrative Services*
Integrity Healthcare, LLC*
PIH Health Hospital Downey*
PIH Health Hospital Whittier*
Premier Healthcare Solutions, Inc.
San Jose Medical Group, Inc.*
Tenet Healthcare Corporation
UMB Bank, N.A., as Trustee*
Wells Fargo Bank, National Association, as Trustee*

*The names of current and former clients of Lockton are similar to the names of these Potential Parties in Interest. It is unknown whether these Potential Parties in Interest are affiliates or otherwise related to Lockton's current and former clients.