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

9 In re:

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

12 Debtors and Debtors In
13 Possession.

14 Affects:

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

Lead Case No. 18-20151-ER

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

Chapter 11 Cases

Hon. Ernest M. Robles

Date: August 12, 2020
Time: 10:00 a.m. (PST)
Location: Courtroom 1568
255 E. Temple Street
Los Angeles, CA 90012

**TOYON ASSOCIATES, INC.'S LIMITED OBJECTION TO CONFIRMATION OF
SECOND AMENDED JOINT CHAPTER 11 PLAN OF LIQUIDATION (DATED JULY 2,
2020) OF THE DEBTORS, THE PREPETITION SECURED CREDITORS, AND THE
COMMITTEE**



TABLE OF CONTENTS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

INTRODUCTION..... 1

FACTUAL BACKGROUND 2

A. Description of Toyon 2

B. Description of Appeal Services..... 4

a. SSI Realignment (Reopening) and DSH Additional Days
(Reopening)..... 4

b. SSI Ratio/Remand Appeals..... 5

c. SSI Accuracy Appeals..... 5

d. Outlier Appeals 6

e. IME Payment Managed Care Appeal and GME Payment Managed
Care Appeal..... 6

f. Dual Eligible Part C Days Appeals 6

g. Dual Eligible Part A Days Appeals..... 7

h. DSH-Code 2 & 3 Medicaid Eligible Days Appeals..... 7

i. Other Individual Appeals 8

C. O’Connor and St. Louise Sale..... 8

D. St. Francis and Seton Pending Sales 10

1. Seton Withdrawn Appeals..... 11

2. St. Francis Withdrawn Appeals..... 12

3. St. Vincent Withdrawn Appeals..... 13

ARGUMENT 15

A. Administrative Claims Must be Paid in Full to Confirm the Plan 15

B. Toyon’s Administrative Claim Should be Allowed Under the OCP
Employment Order..... 16

C. Toyon’s Administrative Claim Should be Allowed Under Section
503(b)(1)(A)..... 17

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

D. Toyon’s Administrative Claim Should be Allowed Under Section
503(b)(3)(D)..... 18

CONCLUSION.....21

TABLE OF AUTHORITIES

CASES

Azar v. Allina Health Services, 587 U.S. ___, 139 S.Ct. 1804 (2019)..... 6

Cellular 101, Inc. v. Channel Communications, Inc. (In re Cellular 101, Inc.), 377 F.3d 1092 (9th Cir. 2004)..... 19, 20

Christian Life Center Litigation Defense Comm. v. Silva (In re Christian Life Center), 821 F.2d 1370 (9th Cir. 1987) 19

Compare, Speights & Runyan v. Celotex Corp. (In re Celotex Corp.), 227 F.3d 1336 (11th Cir. 2000)..... 19

Empire Health Foundation v. Azar (9th Cir. May 5, 2020) Case No. 18-35845, 18-35872) 7

Hall Fin. Group v. DP Partners Ltd. P'ship (In re DP Partners Ltd. P'ship), 106 F.3d 667 (5th Cir. 1997)..... 19

Haskins v. United States (In re Lister), 846 F.2d 55 (10th Cir. 1988)..... 20

In re 1250 Oceanside Partners, 519 B.R. 802 (Bankr. D. Haw. 2014)..... 19

In re 9085 E. Mineral Office Bldg., Ltd., 119 B.R. 246 (Bankr. D. Colo. 1990)..... 20

In re D.W.G.K. Restaurants, Inc. 84 B.R. 684 (Bankr. S.D. Cal. 1988)..... 20

In re Garcia, 2016 Bankr. LEXIS 4344, *18-19 (Bankr. E.D. Cal. 2016)..... 19

In re Pizza of Hawaii, Inc., 40 B.R. 1014 (D. Haw. 1984), *aff'd*, 761 F.2d 1374 (9th Cir. 1985)..... 16

Lebron v. Mechem Fin. Inc., 27 F.3d 937 (3d Cir. 1994);..... 19

Microsoft Corp. v. DAK Indus. (In re DAK Indus.), 66 F.3d 1091 (9th Cir. 1995)..... 18

Pierson & Gaylen v. Creel & Atwood (In re Consol. Bancshares, Inc.), 785 F.2d 1249 (5th Cir. 1986)..... 19

Sherman v. Harbin (In re Harbin), 486 F.3d 510 (9th Cir. 2007) 16

STATUTES

11 U.S.C. §101 1

11 U.S.C. §1129(a)(11)..... 1, 16

11 U.S.C. §1129(a)(9)(A) 1, 2, 15, 16

1 11 U.S.C. §330.....2, 3
2 11 U.S.C. §502(c) 16
3 11 U.S.C. §503(b) 15, 17
4 11 U.S.C. §503(b)(1)..... 3
5 11 U.S.C. §503(b)(1)(A) 17
6 11 U.S.C. §503(b)(3)..... 20
7 11 U.S.C. §503(b)(3)(D) 18
8 11 U.S.C. §503(b)(4)..... 2, 3, 18, 20
9 11 U.S.C. §507(a)(2)..... 15
10

11 **OTHER AUTHORITIES**

12 *Collier on Bankruptcy*, ¶ 503.10 (16th ed. 2013)..... 19
13
14
15
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1 Toyon Associates, Inc. (the “Toyon”) hereby files this limited objection (“Limited
2 Objection”) to confirmation of the Debtors’ Second Amended Joint Chapter 11 Plan of
3 Liquidation (Dated July 2, 2020) (the “Plan”) and in support of Toyon’s requests for allowance of
4 an administrative claim (“Toyon Administrative Claim”) in the Debtors’ cases.¹ This Limited
5 Objection also is supported by the Declaration of Thomas P. Knight filed herewith (“Knight
6 Declaration”).

7 INTRODUCTION

8 Toyon is pre-petition a creditor, a Court-approved ordinary course professional, and a
9 post-petition creditor in the jointly administered Chapter 11 proceedings of the Verity Health
10 System of California, Inc. (“Verity”), O’Connor Hospital (“O’Connor”), Saint Louise Regional
11 Hospital (“St. Louise”), St. Francis Medical Center (“St. Francis”), St. Vincent Medical Center
12 (“St. Vincent”) and Seton Medical Center (“Seton”) (collectively, the “Debtors”). Toyon’s
13 declaration in support of the Debtors’ retention of Toyon as an ordinary course professional was
14 filed at Docket No. 900. Toyon currently has numerous contracts in place with Verity (and
15 previously Daughters of Charity) and its subsidiaries for Appeal Services and Non-Appeal
16 Services, as defined below.

17 Toyon asserts this Limited Objection to confirmation of the Plan to ensure that its
18 substantial administrative claim in excess of \$12.5 million will be paid as required by section
19 1129(a)(9)(A).² Failure to so provide also creates a feasibility issue under section 1129(a)(11).
20 The Debtors’ Plan provides for the creation of an Administrative Claims Reserve consisting of
21 Cash in an aggregate amount sufficient to fund a reserve for the payment of all unpaid Allowed
22 Administrative Claims. The Plan provides that the amount of the Administrative Claims Reserve
23 shall be determined and approved by the Court at the Confirmation Hearing. Toyon contends that
24 the Administrative Claims Reserve must be sufficient to provide for payment in full of the
25 approximately \$12.5 million Toyon Administrative Claim. The Debtors must provide

26
27 ¹ Capitalized terms not otherwise defined herein shall have the meaning attributed in the Debtors’
Plan.

28 ² All references herein shall be to the Bankruptcy Code at 11 U.S.C. § 101, et. seq. unless
otherwise indicated.

1 information and evidence to show that the proposed \$72 million Administrative Claims Reserve
2 is sufficient to pay Toyon’s Administrative Claim in full. That disclosure should require the
3 Debtors to specify the amount of the reserve for each Administrative Claim, including the full
4 amount of the Toyon Administrative Claim.

5 As explained in more detail below, Toyon asserts an administrative claim in excess of
6 \$12.5 million based on compensation earned and due to it under (i) its contracts with the Debtors,
7 (ii) the ordinary course professionals employment order, and (iii) Bankruptcy Code sections 330,
8 503(b)(1)(A), 503(b)(3)(D) and 503(b)(4) for appeals prosecuted by Toyon on behalf of the
9 Debtors that were later withdrawn as part of the O’Connor Sale (as defined below) and are
10 expected to be withdrawn as part of the Seton Sale and the St. Francis Sale (as defined below).
11 Toyon timely filed its administrative claims in accordance with the Court approved deadlines,
12 which claims are filed at Docket Nos. 3286 and 5242 (collectively, the “Toyon Administrative
13 Claim”). Toyon has been in communication with Debtors’ counsel to attempt to resolve these
14 issues with respect to the Toyon Administrative Claim and payment of the claim as required by
15 section 1129(a)(9)(A), but files this Limited Objection to assert and preserve its rights.

16 **FACTUAL BACKGROUND**

17 **A. Description of Toyon**

18 Toyon is the preeminent healthcare reimbursement consulting firm helping hospitals like
19 the Debtors obtain additional reimbursement from the Medicare and Medi-Cal Programs. Since
20 2003, Toyon has represented and continues to represent the Debtors as consultants on Medicare
21 reimbursement matters. Knight Declaration at ¶ 6.

22 Toyon provides two types of services to the Debtors. First, Toyon prepares and files cost
23 reports, patient eligibility listings, and certain other reimbursement related services, typically on a
24 flat fee or hourly basis (“Non-Appeal Services”). Second, Toyon protects the rights of the
25 hospitals operated by the Debtors, challenges Medicare policy positions, and disputes audit
26 adjustments through the filing of appeals to the Provider Reimbursement Review Board
27 (“PRRB”) and submits cost report reopening requests, typically on a contingency fee basis
28 (“Appeal Services”). Knight Declaration at ¶ 7.

1 On October 29, 2018, the Debtors were authorized to retain and compensate Toyon in the
2 ordinary course of business *nunc pro tunc* to August 31, 2018, pursuant to pre- and post-petition
3 fee agreements (“OCP Employment Order”). Docket No. 693. Toyon holds a post-petition claim
4 for payment of fees that are due to Toyon post-petition pursuant to (i) its contracts with the
5 Debtors, (ii) the ordinary course professionals employment order, and (iii) Bankruptcy Code
6 sections 330, 503(b)(1), 503(b)(3)(D) and 503(b)(4) for appeals that were prosecuted by Toyon at
7 the Debtors’ request that were later withdrawn as part of the O’Connor Sale (as defined below)
8 and are expected to be withdrawn as part of the Seton Sale and the St. Francis Sale (as defined
9 below) (collectively, the “Withdrawn Appeals”). Knight Declaration at ¶ 8.

10 The Toyon Administrative Claim for post-petition services rendered for the estate
11 pursuant to the Debtors’ contracts with Toyon totals \$12,567,893.65, as shown in its filed
12 administrative claims at Docket Nos. 3286 and 5242. Knight Declaration at ¶ 9.

13 In addition, Toyon has filed general unsecured claims for pre-petition services rendered
14 pursuant to its contracts with the Debtors as follows:

- 15 a. O’Conner Pre-petition Claim \$927,281.50 (Claim No. 8119);
- 16 b. Seton Pre-Petition Claim \$2,721,884.25 (Claim No. 5327);
- 17 c. St. Francis Pre-Petition Claim Unknown (Claim No. 5323);
- 18 d. St. Louise Pre-Petition Claim Unknown (Claim No. 5322);
- 19 e. St. Vincent Pre-Petition Claim (Claim No. 5320); and
- 20 f. Verity Pre-Petition Claim \$5,764,176.40 (Claim No. 5325).³

21 Knight Declaration at ¶ 10.

22 As Toyon’s contracts remain viable, Toyon reserves all rights to assert additional post-
23 petition claims against the Debtors incurred in the ordinary course of their business of Non-
24 Appeal Services as well as Appeal Services, including such rights arising after the date of this
25 Limited Objection. Knight Declaration at ¶ 11.

26 //

27 _____
28 ³ Because Verity is the parent company to the other Debtors and a co-party to particular contracts,
Toyon filed a claim in the Verity case. Therefore, some claims may overlap.

1 **B. Description of Appeal Services**

2 As part of its Appeal Services, Toyon files the Debtors' Medicare appeals to challenge
3 Medicare audits of Medicare cost reports that result in an adverse adjustment of the Debtors'
4 rights to Medicare payments. The PRRB is the administrative entity established by Congress to
5 hear and decide Medicare cost report appeals. The appeal is to protect the Debtors and challenge
6 the adjustment to the Debtors' right to payment made by Medicare before the PRRB, as this is the
7 only venue to seek recovery for reimbursement due the provider (a hospital). Toyon is
8 responsible for all aspects and phases of the Debtors' Medicare appeal projects through final
9 resolution, including selecting and paying for all legal related services needed to pursue the
10 appeal projects on behalf of the Debtors. Toyon is paid a contingency of 20% or 25% of the total
11 recovery, or additional reimbursement received, after the cash is received by the provider. Knight
12 Declaration at ¶ 12.

13 Toyon has worked (and continues to work) diligently and in good faith on the Debtors'
14 appeals pursuant to the Debtors' request for these services, many of them for several years, for
15 which Toyon has not yet been paid even though Toyon has incurred substantial time and expense.
16 Toyon has fulfilled all of its contractual obligations to the Debtors with the express agreement
17 and understanding that the Debtors will compensate Toyon for its successful appeal efforts. As
18 more fully described herein, Toyon's efforts have resulted in the Debtors prevailing in the various
19 stages of the appeals. The following is a description of the various types of open appeals and
20 status with respect to the Withdrawn Appeals:

21 a. **SSI Realignment (Reopening) and DSH Additional Days (Reopening):** These
22 cases are reopenings that were required because Toyon successfully prevailed in its appeal efforts
23 brought on behalf of the Debtors. While there is no longer a pending appeal (underlying appeals
24 are closed once reopenings are initiated), this is money that the Center for Medicare and Medicaid
25 Services ("CMS") either has paid or owes to the Debtors as a result of Toyon's successful appeals
26 work. A breakdown of the charges for Withdrawn Appeals related to these classifications are set
27 forth in the charts attached to the Knight Declaration as Exhibits A and B. Toyon's success on
28 these matters benefitted the Debtors (in this case specifically St. Francis Medical Center and

1 Seton Medical Center) by obtaining payment awards for the Debtors in the amount of \$432,747
2 and \$57,615, respectively, resulting in fees owed to Toyon of \$98,072.40. Knight Declaration at
3 ¶ 13.

4 b. **SSI Ratio/Remand Appeals:** These cases are appeals in which Toyon
5 successfully prevailed on behalf of the Debtors based on the fact that the government unlawfully
6 established an SSI ratio for calculating reimbursement without any transparency as to how that
7 ratio was created. When the federal district court agreed with the position asserted by the Debtors
8 and other providers, all cases were remanded for recalculation of payment pursuant to the new
9 ratio. The Debtors are now simply waiting to be paid the money they are legally owed by
10 Medicare which has not yet been paid. Toyon is in the process of filing a complaint in federal
11 court for the Debtors on this issue on the basis that the government is not in compliance with the
12 prior court order. A breakdown of the charges for Withdrawn Appeals related to this
13 classification is set forth in the chart attached to the Knight Declaration as Exhibit C. Toyon's
14 success on these matters benefitted the Debtors (in this case specifically O'Connor Hospital,
15 Seton Medical Center, and St. Vincent) by obtaining payment awards for the Debtors in the
16 amount of \$2,169,249, resulting in fees owed to Toyon of \$542,312.25. Knight Declaration at ¶
17 13.

18 c. **SSI Accuracy Appeals:** When the Debtors won the litigation that resulted in the
19 SSI Ratio/Remand payments, part of the litigation revolved around the argument that the ratio
20 was inaccurate, based on the very limited knowledge as to how the SSI ratio was created. When
21 the government created the new SSI ratio, it still failed to "lift the curtain" on what data the
22 government used to calculate the new SSI ratio, so Toyon again appealed on behalf of the
23 Debtors, asking that the government inform the Debtors of the basis for its new SSI ratio. A
24 breakdown of the charges for Withdrawn Appeals related to this classification is set forth in the
25 chart attached to the Knight Declaration as Exhibit D. Toyon's efforts on these matters benefitted
26 the Debtors (in this case specifically O'Connor Hospital, Seton Medical Center, St. Francis
27 Medical Center and St. Vincent) by preserving rights to expected payment awards for the Debtors
28

1 in the amount of \$2,310,536, resulting in fees owed to Toyon of \$500,165.55. Knight Declaration
2 at ¶ 13.

3 d. **Outlier Appeals:** These appeals involve the arbitrary and capricious methodology
4 of the Secretary of the United States Department of Health & Human Services (“HHS”) for
5 calculating outlier payments that resulted in underpayments for the Debtors’ hospitals. These
6 cases are all pending at the PRRB. A breakdown of the charges for Withdrawn Appeals related to
7 this classification is set forth in the chart attached to the Knight Declaration as Exhibit E.
8 Toyon’s efforts on these matters benefitted the Debtors (in this case specifically O’Connor
9 Hospital and Seton Medical Center) by preserving rights to expected payment awards for the
10 Debtors in the amount of \$489,084, resulting in fees owed to Toyon of \$99,750.50. Knight
11 Declaration at ¶ 13.

12 e. **IME Payment Managed Care Appeal and GME Payment Managed Care**
13 **Appeal:** These appeals involve the Medicare IME and GME payment calculations applicable to
14 Medicare managed care beneficiaries. CMS failed to adhere to its requirements to collect patient
15 encounter data from Medicare managed care plans for all enrollee discharges on or after January
16 1, 1998. Providers have prevailed at the federal district court on this issue, and the Debtors
17 should also prevail in their appeals on this issue. A breakdown of the charges for Withdrawn
18 Appeals related to these classifications are set forth in the charts attached to the Knight
19 Declaration as Exhibits F and G. Toyon’s success on these matters benefitted the Debtors (in this
20 case specifically O’Connor Hospital) by obtaining expected payment awards for the Debtors in
21 the amount of \$14,299, resulting in fees owed to Toyon of \$3,574.75. Knight Declaration at ¶ 13.

22 f. **Dual Eligible Part C Days Appeals:** These appeals are related to the appeal that
23 was recently won at the United States Supreme Court, *Azar v. Allina Health Services*, 587 U.S.
24 ___, 139 S.Ct. 1804 (2019). In *Allina*, the Supreme Court held that the CMS could not calculate
25 the SSI Ratio and the Medicare Ratio in the manner in which it did. Specifically, CMS
26 wrongfully included Medicare Part C Days (with the unpaid and paid Part A Days) in the SSI
27 Ratio and excluded Dual Eligible Part C Days from the Medicaid Ratio. All hospitals involved in
28 this appeal, including the Debtors, are legally due a recalculation and increase in reimbursement

1 pending settlement negotiations and potential audits by CMS. A breakdown of the charges for
2 Withdrawn Appeals related to this classification is set forth in the chart attached to the Knight
3 Declaration as Exhibit H. Toyon's success on these matters benefitted the Debtors (in this case
4 specifically O'Connor Hospital, Seton Medical Center, St. Francis Medical Center and St.
5 Vincent) by obtaining payment awards for the Debtors in the amount of \$39,220,936, resulting in
6 fees owed to Toyon of \$8,896,059.10. Knight Declaration at ¶ 13.

7 g. **Dual Eligible Part A Days Appeals:** These appeals are somewhat linked to the
8 successful *Allina* case in that the Debtors assert that only paid Part A Days should be included in
9 the SSI Ratio and that dual eligible unpaid Part A Days should be included in the Medicaid Ratio.
10 These appeals are all currently at the PRRB pending a request for expedited judicial review. The
11 Ninth Circuit Court of Appeals recently ruled in favor of other hospitals pursuing this same
12 appeal issue (*Empire Health Foundation v. Azar* (9th Cir. May 5, 2020) Case No. 18-35845, 18-
13 35872), and the Debtors' appeals are to be moved to court pending PRRB approval. The
14 government on July 14, 2020, filed a petition for rehearing *en banc* in the appeal. A breakdown
15 of the charges for Withdrawn Appeals related to this classification is set forth in the chart
16 attached to the Knight Declaration as Exhibit I. Toyon's success on these matters benefitted the
17 Debtors (in this case specifically O'Connor Hospital, Seton Medical Center, St. Francis Medical
18 Center and St. Vincent) by obtaining expected payment awards for the Debtors in the amount of
19 \$8,181,706, resulting in fees owed to Toyon of \$1,899,447.05. Knight Declaration at ¶ 13.

20 h. **DSH-Code 2 & 3 Medicaid Eligible Days Appeals:** These appeals involve
21 CMS' wrongfully excluding additional Medicaid eligible patient days in calculating the
22 Disproportionate Share Payment (DSH). These cases are pending at the PRRB. A breakdown of
23 the charges for Withdrawn Appeals related to this classification is set forth in the chart attached to
24 the Knight Declaration as Exhibit J. Toyon's efforts on these matters benefitted the Debtors (in
25 this case specifically O'Connor Hospital, Seton Medical Center, and St. Vincent) by preserving
26 rights to expected payment awards for the Debtors in the amount of \$1,329,088, resulting in fees
27 owed to Toyon of \$276,170.80. Knight Declaration at ¶ 13.

28

1 i. **Other Individual Appeals:** These appeals involve various Medicare
2 reimbursement issues that are specific to the facts of those particular cost reports and cost
3 reporting periods in dispute. They are being actively pursued at the PRRB. A breakdown of the
4 charges for Withdrawn Appeals related to this classification is set forth in the chart attached to the
5 Knight Declaration as Exhibit K. Toyon’s success on these matters benefitted the Debtors (in this
6 case specifically O’Connor Hospital, Seton Medical Center, St. Francis Medical Center and St.
7 Vincent) by obtaining expected payment awards for the Debtors in the amount of \$1,088,502,
8 resulting in fees owed to Toyon of \$252,341.50. Knight Declaration at ¶ 13.

9 **C. O’Connor and St. Louise Sale**

10 As part of the consideration for the sale of O’Connor and Saint Louise hospitals in this
11 bankruptcy proceeding (“O’Connor Sale”), O’Connor, St. Louise, and the Secretary of HHS on
12 behalf of the CMS entered into a Stipulation re: Assumption and Assignment of Medicare
13 Provider Agreements [Docket No. 1662] (“O’Connor Sale Stipulation”). Pursuant to paragraph 9
14 of the O’Connor Sale Stipulation, O’Connor, St. Louise and Verity agreed to withdraw any
15 appeals before the PRRB, including all of the pending appeals for which O’Connor and Verity
16 had engaged Toyon (“O’Connor Withdrawn Appeals”). Knight Declaration at ¶ __.

17 As detailed in the O’Connor Sale Stipulation, the O’Connor Sale Debtors had Medicare
18 provider agreements (“O’Connor Provider Agreements”) with the U.S. Department of Health and
19 Human Services and Centers for Medicare and Medicaid Services (collectively, “DHHS”) which
20 enabled them to receive Medicare payments for services provided to Medicare beneficiaries. And
21 DHHS asserted that the O’Connor Provider Agreements must be treated as executory contracts
22 and assumed by the Debtors and assigned to the buyer, Santa Clara County.

23 Based on the terms of the O’Connor Sale Stipulation, to facilitate the O’Connor Sale and
24 resolve the DHHS’s objections to the sale, the claims of the Debtors against DHHS for any
25 liability arising under the O’Connor Provider Agreements on or before date of the sale closing,
26 whether known or unknown, were discharged and released under the O’Connor Sale Stipulation.⁴

27 _____
28 ⁴ The O’Connor Sale Stipulation provides one exception to this broad release for services
provided during the cost reporting period beginning July 1, 2017 and ending on June 30, 2018,
and the cost reporting period beginning July 1, 2018 and ending on the date the sale closed.

1 The O’Connor Sale Stipulation also specifically provided that the Debtors will “withdraw any
2 appeals related to the Provider Agreements that are pending either administratively (including but
3 not limited to the appeals before the Provider Reimbursement Review Board (“PRRB”) or the
4 Departmental Appeals Board) or before any Federal court, and agree not to bring any further
5 appeals thereafter, relating to the events and cost-reporting periods beginning prior to the
6 Effective Date.” O’Connor Sale Stipulation, paragraph 9.

7 Prior to the O’Connor Sale Stipulation, Toyon had successfully pursued the O’Connor
8 Withdrawn Appeals before the PRRB, in federal district court and in the court of appeals on
9 behalf of the Debtors. As a result of the Debtors’ releases and withdrawals provided by the
10 O’Connor Sale Stipulation, through no fault of its own, Toyon is no longer able to pursue the
11 O’Connor Withdrawn Appeals to completion and obtain its contracted contingency fee
12 notwithstanding the fact that Toyon had expended significant time and money pursuing the
13 O’Connor Withdrawn Appeals prior to entry of the O’Connor Sale Stipulation. Toyon’s fees
14 earned for services provided to the Debtors for the O’Connor Withdrawn Appeals are
15 \$3,829,235.85, calculated as follows and set forth in more detail in the exhibits attached to the
16 Knight Declaration:

Exhibit	Type of Appeal	Outstanding Toyon Fees
C	SSI Ratio/Remand Appeals	\$419,497.75
D	SSI Accuracy Appeals	\$128,056.05
E	Outlier Appeals	\$82,652.10
F	IME Payment Managed Care Appeals	\$2,650.50
G	GME Payment Managed Care Appeals	\$924.25
H	Dual Eligible Part C Days Appeals	\$2,166,901.30
I	Dual Eligible Part A Days Appeals	\$597,742.55
J	DSH-Code 2 & 3 Medicaid Eligible Days Appeals	\$264,105.60
K	Individual Appeals	\$166,705.75
	O’Connor Withdrawn Appeals Total	\$3,829,235.85

26 The O’Connor Sale Stipulation permitted Debtors to close the O’Connor Sale, which
27 according to the Debtors’ disclosure statement [Docket No. 4994], provided net sale proceeds to
28 the estate of \$184.38 million.

1 Dismissal of pending Medicare appeals, including all of the appeals being pursued by
2 Toyon for the O’Conner hospital, was required by the O’Connor Sale Stipulation in order for the
3 provider agreements to be assumed and assigned as part of the O’Connor Sale and that the
4 assumption and assignment of the provider agreements was a condition to closing by the County
5 of Santa Clara. The O’Conner Sale Asset Purchase Agreement in Section 8 entitled, “Conditions
6 Precedent to Obligations of Purchaser” specifically contained a provision at section 8.8 requiring
7 as a condition to the sale that the Debtors shall have obtained agreements with the Medicare
8 agencies with respect to the assumption and assignment of the Medicare provider agreements
9 with such agencies, which agreements had to be acceptable to the Purchaser. See Docket No.
10 365-1, which is Exhibit A to the Debtors motion to approve the O’Conner Sale; see also, Section
11 1.8.2 of the O’Conner Sale Asset Purchase Agreement, which includes as part of the assets being
12 sold the Medicare provider agreement.

13 The jointly administered bankruptcy estates of the Debtors obtained significant benefits by
14 having the provider agreements assigned to the purchaser as a result of the O’Connor Sale
15 Stipulation.

16 **D. St. Francis and Seton Pending Sales**

17 According to the Debtors’ disclosure statement, the transfer of the Debtors’ two Medicare
18 Provider Agreements pursuant to: (a) the Seton Asset Purchase Agreement, dated March 30, 2020
19 [Docket No. 4360], entered into by and between AHMC, as buyer, and Seton and certain other
20 Debtors, as sellers; and (b) the St. Francis Medical Center Asset Purchase Agreement, dated April
21 3, 2020 [Docket No. 4471], entered into by and between Prime, as buyer, and SFMC and certain
22 other Debtors, as sellers, is the subject of ongoing settlement discussions and negotiations
23 between DHHS and the Debtors. See Disclosure Statement for the Debtors’ Second Amended
24 Plan at Docket No. 4994 at pg. 60 of 144.

25 Toyon has been informed by the Debtors’ counsel that an agreement like the O’Connor
26 Sale Stipulation may be entered into as part of the consideration for the pending Seton and
27 St. Francis sales and may require the withdrawal of additional appeals pending (“Seton
28 Withdrawn Appeals” and “St. Francis Withdrawn Appeals”), all of which Toyon is pursuing on

1 the Debtors’ behalf. Like the O’Connor Withdrawn Appeals, Toyon successfully litigated the
2 Debtors’ Seton Withdrawn Appeals and St. Francis Withdrawn Appeals before the PRRB and
3 through two federal courts, which has preserved the Debtors’ rights to recovery of the amounts at
4 issue in these matters.

5 **1. Seton Withdrawn Appeals**

6 Toyon’s fees based on the Seton Withdrawn Appeals are \$5,912,340.60, calculated as
7 follows and set forth in more detail in the exhibits attached to the Knight Declaration:

Exhibit	Type of Appeal	Outstanding Toyon Fees
A	SSI Realignment (Reopening)	\$0.00
B	DSH Additional Days (Reopening)	\$11,523.00
C	SSI Ratio/Remand Appeals	\$118,102.75
D	SSI Accuracy Appeals	\$214,111.10
E	Outlier Appeals	\$17,098.40
H	Dual Eligible Part C Days Appeals	\$4,794,146.50
I	Dual Eligible Part A Days Appeals	\$744,507.45
J	DSH-Code 2 & 3 Medicaid Eligible Days Appeals	\$7,078.00
K	Individual Appeals	\$5,773.40
Seton Withdrawn Appeals Total		\$5,912,340.60

16
17 The Seton Sale involves a purchase price of approximately \$40 million. Dismissal of
18 pending Medicare appeals for the Seton hospital, including all of the appeals being pursued by
19 Toyon for the Seton hospital, is likely to be required in order for the provider agreements to be
20 assumed and assigned as part of the Seton Sale and that the assumption and assignment of the
21 provider agreements is a condition to closing by AMHC.

22 The Seton Sale Asset Purchase Agreement in Section 8 entitled, “Conditions Precedent to
23 Obligations of Purchaser” goes even further than the O’Conner Sale Asset Purchase Agreement.
24 Section 8.6 specifically contains a provision requiring as a condition to the sale that the Seton
25 Debtor enter into a settlement agreement with the Centers for Medicare and Medicaid Services
26 “which has the effect of allowing Hospital Seller to transfer its Medicare provider agreements”
27 and results in the “resolution of all outstanding financial defaults under Hospital Seller’s
28 Medicare and Medi-Cal provider agreements, and (ii) full satisfaction, discharge, and release of

1 any claims under the Medicare or Medi-Cal provider agreements, whether known or unknown,
2 that CMS or DHCS, as applicable, has against Hospital Seller or Purchaser for monetary liability
3 arising under the Medicare or Medi-Cal provider agreements before the Effective Time” See
4 Seton Asset Purchase Agreement, dated March 30, 2020 at Docket No. 4360; see also, Section
5 1.7(b) of the Seton Sale Asset Purchase Agreement, which includes as part of the assets being
6 sold the Medicare provider agreement.

7 The jointly administered bankruptcy estates of the Debtors are expected to obtain
8 significant benefits by having the provider agreements assigned with respect to the Seton Sale and
9 any dismissal of the Seton Withdrawn Appeals.

10 **2. St. Francis Withdrawn Appeals**

11 Toyon’s fees based on the Debtors’ St. Francis Withdrawn Appeals are \$2,273,553.45,
12 calculated as follows and set forth in more detail in the exhibits attached to the Knight
13 Declaration:

Exhibit	Type of Appeal	Outstanding Toyon Fees
A	SSI Realignment (Reopening)	\$86,549.40
B	DSH Additional Days (Reopening)	\$0.00
C	SSI Ratio/Remand Appeals	\$0.00
D	SSI Accuracy Appeals	\$19,616.60
E	Outlier Appeals	\$0.00
H	Dual Eligible Part C Days Appeals	\$1,615,422.90
I	Dual Eligible Part A Days Appeals	\$542,922.00
J	DSH-Code 2 & 3 Medicaid Eligible Days Appeals	\$0.00
K	Individual Appeals	\$9,042.55
	St. Francis Withdrawn Appeals Total	\$2,273,553.45

23 The St. Francis Sale involves a purchase price of approximately \$200 million. Dismissal
24 of pending Medicare appeals for the St. Francis hospital, including all of the appeals being
25 pursued by Toyon for the St. Francis hospital, is likely to be required in order for the provider
26 agreements to be assumed and assigned as part of the St. Francis Sale and that the assumption and
27 assignment of the provider agreements is a condition to closing by Prime Healthcare Services,
28 Inc.

1 The St. Francis Sale Asset Purchase Agreement in Section 8 entitled, “Conditions
2 Precedent to Obligations of Purchaser” at section 8.6 specifically contains a provision requiring
3 as a condition to the sale that the St. Francis Debtor:

4 shall have obtained agreements with CMS and DHCS or an order from the
5 Bankruptcy Court that has not been stayed with respect to the transfer of the
6 Medicare Provider Agreement and/or the Medi-Cal Provider Agreement, such that
7 (a) all liabilities, obligations and Encumbrances under the Medicare/Medi-Cal
8 Agreements are fully satisfied, discharged, and released with regard to any claims
9 under the Medicare/Medi-Cal Agreements, whether known or unknown, that
10 CMS or DHCS has against the Sellers or Purchaser for liabilities and obligations
11 arising under the Medicare/Medi-Cal Agreements before the Effective Time, and
12 (b) the Medicare/Medi-Cal Agreements will be transferred to Purchaser as of the
13 Effective Time free and clear of such pre-Closing liabilities, obligations and
14 Encumbrances

15 See St. Francis Medical Center Asset Purchase Agreement, dated April 3, 2020 at Docket No.
16 4471; see also, Section 1.7(e) of the St. Francis Sale Asset Purchase Agreement, which includes
17 as part of the assets being sold the Medicare provider agreement.

18 The jointly administered bankruptcy estates of the Debtors are expected to obtain
19 significant benefits by having the provider agreements assigned with respect to the St. Francis
20 Sale and any dismissal of the St. Francis Withdrawn Appeals.

21 **3. St. Vincent Withdrawn Appeals**

22 Toyon is unclear as to whether any appeals related to St. Vincent Medical Center were or
23 will be required to be withdrawn in connection with the Court-approved sale of that facility.
24 Toyon assert claims for compensation for pursuing the appeals related to St. Vincent Medical
25 Center. If the Debtors’ appeals involving St. Vincent Medical Center are withdrawn, the
26 compensation due to Toyon for such appeals is \$552,763.75, as set forth on the exhibits to the
27 Knight Declaration.

28 Toyon conferred a substantial benefit to the Debtors’ estates by performing extensive
amounts of work and incurring significant expenses pursuing the O’Connor, Seton and St. Francis
Withdrawn Appeals. However, the requirement that the O’Connor Withdrawn Appeals be
dismissed as part of the O’Connor Sale prevented Toyon from completing its Appeal Services for
Verity, O’Connor and St. Louise. The same can be said for the Seton and St. Francis Appeals if
they are required to be withdrawn in connection with those sales.

1 Toyon should be compensated for its work maximizing and preserving the Debtors' rights
2 to payment through numerous appeals, especially given the substantial benefit to the Debtors'
3 estates from the withdrawal of the appeals. If Toyon does not receive compensation, the Debtors
4 will be unjustly enriched by having received the benefit of Toyon's successful consulting services
5 for the Debtors before the PRRB and through two federal court levels and then preventing Toyon
6 from receiving the expected compensation for its consulting services by withdrawing those
7 appeals to facilitate the asset sales and realize the substantial benefits to the estate from those
8 sales.

9 Pursuit of complex appeals such as those Toyon pursued for the Debtors takes a
10 tremendous amount of expertise, painstaking attention to detail, complex reimbursement
11 calculations and recalculations over time, negotiations with auditors, and continuous work over
12 literally dozens of years, not to mention bearing litigation costs and expenses. For each of the
13 Debtors' appeals at issue, Toyon's highly experienced and valuable consultants reviewed and
14 analyzed countless hospital records, working with both the Debtors' hospitals and the auditors to
15 obtain and organize the data necessary to calculate accurately the owed reimbursement amounts.
16 Further, Toyon's consultants then analyzed relevant regulations, statutes, and Medicare policies,
17 closely tracking all potential rule and law changes, gathering support and putting together
18 arguments for the Debtors' appeals. On behalf of the Debtors, Toyon drafted and filed appeal
19 hearing requests, jurisdictional documentation, responses to information requests from the PRRB,
20 preliminary position papers, responses to jurisdictional challenges and final position papers.
21 Toyon closely monitored and tracked all of the Debtors' appeal deadlines and relevant litigation
22 and worked closely with the PRRB and the auditors to prepare and perfect the Debtors' appeal
23 documentation, a process that took many months. Moreover, Toyon sought, evaluated, and
24 retained the best legal counsel for the Debtors' appeals, worked directly with such counsel to
25 prepare all litigation filings and supportive evidence, and bore all attorneys' fees and expenses
26 incurred in pursuing the Debtors' appeals in court. Toyon's efforts directly resulted in the
27 success of the Debtors' appeals, and Toyon performed the services discussed briefly above for
28

1 more than 75 appeals for the Debtors for more than 12 years, without up-front compensation and
2 in reliance on the contingency contracts with the Debtors.

3 In sum, Toyon is entitled to compensation for its work on Appeal Services in the amount
4 of \$12,567,893.65, plus attorneys' fees and costs.

5 ARGUMENT

6 A. Administrative Claims Must be Paid in Full to Confirm the Plan

7 To confirm a chapter 11 plan, section 1129(a)(9)(A) requires that claims entitled to
8 priority under section 507(a)(2) be paid in full in cash, except to the extent a holder of a particular
9 claim has agreed to a different treatment. 11 U.S.C. §1129(a)(9)(A). Claims entitled to priority
10 under section 507(a)(2) include administrative expenses allowed under section 503(b). Toyon's
11 Administrative Claims for the substantial services maximizing and preserving the Debtors' rights
12 to Medicare payments are asserted under section 503(b), and therefore must be paid in full in cash
13 pursuant to the Plan.

14 Moreover, the Plan defines an Administrative Claim in section 1.13 and it includes the
15 compensation claims of Ordinary Course Professionals such as Toyon's Administrative Claim.
16 See Docket No 900 (Toyon's Ordinary Course Professional Declaration).

17 Plan section 1.15 provides for an Administrative Claim Reserve pursuant to which Cash is
18 to be set aside by the Debtors on the Effective Date in an aggregate amount sufficient to fund a
19 reserve for the payment of all unpaid Allowed Administrative Claims that will be paid after the
20 Effective Date and all Administrative Claims that are not yet Allowed as of the Effective Date.
21 The Plan provides that the amount of such reserve shall be determined and approved by the
22 Bankruptcy Court at the Confirmation Hearing in accordance with the procedures established in
23 Plan section 15.3. The Administrative Claim Reserve must include reserves for payment of the
24 full amount of the asserted Toyon Administrative Claim.

25 The Debtors' Disclosure Statement appears to propose that the amount of the
26 Administrative Claim Reserve should be \$72 million. See Disclosure Statement Exhibit A at
27 Docket No. 4994. Whether that is sufficient is unknown at this time because the deadline for
28 filing Administrative Claims just recently passed. In any event, the Debtors should be required to

1 specify the amount of the reserve for each Administrative Claim, including the full amount of the
2 Toyon Administrative Claim.⁵

3 Plan section 15.3 purports to place the risk of non-payment in full of an Allowed
4 Administrative Claim on the claimant by limiting recourse for any deficiency in the payment of
5 an Administrative Claim to the Administrative Claim Reserve. Toyon objects to this provision of
6 section 15.3 as inconsistent with the requirement of section 1129(a)(9)(A) that all allowed
7 administrative claims be paid in full in cash in order for a chapter 11 plan to be confirmed. A
8 deficiency only exists if the claims are not paid in full. Plan section 15.3's attempt to avoid
9 compliance with section 1129(a)(9)(A) by limiting recourse for any deficiency in payment of an
10 Administrative Claim violates section 1129(a)(9)(A)'s requirement of payment in full.

11 The Plan also has to be feasible to be confirmed. 11 U.S.C. § 1129(a)(11). If the Plan
12 does not provide sufficient funds to pay Administrative Claims in full, then it is not feasible. *See*
13 *e.g.*, *Sherman v. Harbin (In re Harbin)*, 486 F.3d 510 (9th Cir. 2007) (Ninth Circuit affirmed
14 district court's order vacating confirmation of the debtor's plan because bankruptcy court failed to
15 consider consequences of a creditor's potential success on appeal in his state court action against
16 the debtor, and as such, the bankruptcy court failed to discharge its obligations under Section
17 1129(a)(11)) and *In re Pizza of Hawaii, Inc.*, 40 B.R. 1014 (D. Haw. 1984), *aff'd*, 761 F.2d 1374
18 (9th Cir. 1985) (Ninth Circuit ruled that a bankruptcy court could not confirm a plan without
19 estimating value of a contingent and unliquidated claim and utilizing the estimate in
20 determination of feasibility of plan under Section 1129(a)(11)).

21 **B. Toyon's Administrative Claim Should be Allowed Under the OCP Employment**
22 **Order**

23 As noted above, Toyon's valuable work for the Debtors created, maximized and preserved
24 over \$55 million in receivables for the Debtors and provided the basis for the Debtors to be able

25
26 ⁵ The Debtors appear to be proposing that the Court may estimate Administrative Claims using
27 section 502(c), however, that intention is not fully apparent from the Disclosure Statement. If the
28 Debtors seek to do so with regard to Toyon's Administrative Claim, Toyon reserves all rights to
object and present further evidence and argument to oppose any estimation of Toyon's
Administrative Claim below the amount asserted herein and in its Second Request for
Administrative Claim filed at Docket No. 5242.

1 to negotiate stipulations with the DHHS to the assumption and assignment of the Medicare
2 provider agreements necessary to the completion of the O’Conner Sale, the Seton Sale and the St.
3 Francis Sale, which all together have generated over \$420 million for the estates.⁶ The Debtors
4 used the Toyon victories in the various appeals, and its substantial services to earn those victories,
5 as consideration for the assumption and assignment agreements with DHHS. Toyon should be
6 compensated for its work on behalf of the Debtors under the OCP several provisions of the
7 Bankruptcy Code.

8 Toyon is a Court-approved Ordinary Course Professional as that term is defined in the
9 Plan. As such, Toyon is entitled to compensation pursuant to paragraph 6 of the OCP
10 Employment Order. Paragraph 6 provides that the Debtors are authorized to pay, without formal
11 application to and an order from the Court, one hundred percent of the fees and expenses of each
12 Ordinary Course Professional. Paragraph 7 authorizes the Debtors to pay each Ordinary Course
13 Professional, but subject to the limits in Exhibit A to the motion. Exhibit A to the motion
14 authorizes the Debtors to pay Toyon its 25% contingency fee for Appeal Services and up to
15 \$25,000 per month for Non-Appeal Services. Toyon’s Administrative Claim is for its
16 contingency fee for the Appeal Services. Thus, the Debtors are authorized to pay Toyon’s
17 Administrative Claim in full without further order of the Court and the Debtors should be
18 required to pay Toyon’s Administrative Claim for the Appeal Services as required condition for
19 confirmation of the Debtors’ Plan.

20 **C. Toyon’s Administrative Claim Should be Allowed Under Section 503(b)(1)(A)**

21 Additional grounds exist for the payment of Toyon’s Administrative Claim in section
22 503(b). Section 503(b)(1)(A) provides for an allowed administrative claim for actual, necessary
23 costs and expenses of preserving the estate. A two-part test is used to determine whether a claim
24 qualifies as an allowable administrative expense. The claimant must show that the debt asserted to
25 be an administrative expense: (1) arose from a transaction with the debtor-in-possession as
26 opposed to the preceding entity (or, alternatively, that the claimant gave consideration to the

27 ⁶ See Toyon Second Request for Allowance of Administrative Claim filed at Docket No. 5242.
28 The \$55 million number comes from the total reimbursement amounts in Exhibits A-K, upon
which Toyon’s 20% or 25% contingency fee is calculated.

1 debtor-in-possession); and (2) directly and substantially benefitted the estate. *Microsoft Corp. v.*
2 *DAK Indus. (In re DAK Indus.)*, 66 F.3d 1091, 1094 (9th Cir. 1995).

3 In this case, the first element required to allow Toyon's Administrative Claim is clearly
4 satisfied because Toyon is a Court-approved ordinary course professional performing the post-
5 petition Non-Appeal Services and Appeal Services pursuant to this Court's OCP Employment
6 Order. Toyon's Administrative Claim arises from the post-petition transaction with the Debtors
7 approved by order of this Court.

8 The second element required to allow Toyon's Administrative Claim also is satisfied
9 because Toyon's services have directly and substantially benefitted the estate by both (i) creating,
10 maximizing and preserving over \$55 million in Medicare receivables, and (ii) providing the
11 opportunity for the Debtors to use Toyon's successes for the Debtors in the pending Appeals as
12 consideration to negotiate the assumption and assignment of the O'Connor Provider Agreements
13 and the provider agreements for the Seton and St. Francis Sales. Toyon's work has provided a
14 substantial benefit to the estate in allowing sales worth over \$420 million to be consummated.
15 Denying Toyon's Administrative Claim will unjustly enrich the Debtors because they have
16 received the benefit of Toyon's successful Appeal Services before the PRRB and in federal court.
17 Toyon should not be prevented from receiving its expected compensation by the Debtors
18 withdrawing the appeals to facilitate the asset sales while they realize the substantial benefits to
19 the estate from those sales. Toyon should be compensated for its consulting work pursuant to
20 Section 503(b)(1)(A).

21 **D. Toyon's Administrative Claim Should be Allowed Under Section 503(b)(3)(D)**

22 Section 503(b)(3)(D) provides for an allowed administrative claim for actual, necessary
23 expenses incurred by a creditor in making a substantial contribution in a chapter 11 case.⁷
24 While the Bankruptcy Code does not define the term "substantial contribution," case law has
25

26 ⁷ Section 503(b)(4) allows an administrative claim for the reasonable compensation for
27 professional services rendered by an attorney of an entity whose expense is allowable under
28 subparagraph (D) based on the time, nature, extent and value of such services. Toyon asserts that
its attorneys' fees and costs incurred in this matter are part of its Administrative Claim as set forth
herein.

1 developed criteria for courts to consider in deciding whether an applicant has satisfied the
2 requirements of Sections 503(b)(3)(D) and (4).

3 “The principal test of substantial contribution is ‘the extent of the benefit to the estate.’”
4 *Cellular 101, Inc. v. Channel Communications, Inc. (In re Cellular 101, Inc.)* (“*Cellular*
5 *101*”), 377 F.3d 1092, 1096 (9th Cir. 2004) (quoting *Christian Life Center Litigation Defense*
6 *Comm. v. Silva (In re Christian Life Center)*, 821 F.2d 1370, 1373 (9th Cir. 1987)). The benefits
7 conferred “must foster and enhance, rather than retard or interrupt progress o[f] the
8 reorganization” and must be direct and not “incidental” or “minimal”. *Cellular 101*, 377 F.3d at
9 1096-1098 (quoting *Pierson & Gaylen v. Creel & Atwood (In re Consol. Bancshares, Inc.)*, 785
10 F.2d 1249, 1253 (5th Cir. 1986)).

11 Other factors considered by courts include: (a) whether the services were undertaken
12 solely for the benefit of the party itself or for the benefit of all parties in the case; (b) whether the
13 services were actions that would have been taken by the party on its own behalf, absent an
14 expectation of reimbursement from the estate; (c) whether the party can demonstrate that its
15 actions provided a direct, significant and demonstrable benefit to the estate; (d) whether the
16 benefit conferred upon the estate exceeds the costs sought to obtain that benefit; and (e) whether
17 the actions were duplicative of those being taken by other parties in the case, such as the debtor, a
18 trustee or an official committee. *In re Garcia*, 2016 Bankr. LEXIS 4344, *18-19 (Bankr. E.D.
19 Cal. 2016) (citing *Collier on Bankruptcy*, ¶ 503.10 (16th ed. 2013)); see also *In re 1250*
20 *Oceanside Partners*, 519 B.R. 802, 807 (Bankr. D. Haw. 2014).

21 The Ninth Circuit has not decided the issue of whether a creditor acting in its own self-
22 interest may obtain an award under section 503(b)(3)(D). *Cellular 101*, 377 F.3d at 1097; *In re*
23 *1250 Oceanside Partners*, 519 B.R. at 807 (Bankr. D. Haw. 2014). Some circuits have held that a
24 creditor's motives are not relevant; other circuits have held that expenses intended primarily to
25 serve a creditor's interests are not compensable under 503(b)(3)(D). (Compare, *Speights &*
26 *Runyan v. Celotex Corp. (In re Celotex Corp.)*, 227 F.3d 1336, 1338 (11th Cir. 2000); and *Hall*
27 *Fin. Group v. DP Partners Ltd. P'ship (In re DP Partners Ltd. P'ship)*, 106 F.3d 667, 673 (5th
28 Cir. 1997); with *Lebron v. Mechem Fin. Inc.*, 27 F.3d 937, 944 (3d Cir. 1994); and *Haskins v.*

1 *United States (In re Lister)*, 846 F.2d 55, 57 (10th Cir. 1988)). However, the Ninth Circuit has
2 said that the extent of the benefits conferred on the estate can outweigh concerns about the
3 claimant's self-interest. *Cellular 101*, 377 F.3d at 1097-1098. Regardless of the creditor's
4 motive, the court should allow compensation for those particular services which actually
5 benefitted the estate and the creditors generally. See *In re D.W.G.K. Restaurants, Inc.* 84 B.R.
6 684 (Bankr. S.D. Cal. 1988); *In re 9085 E. Mineral Office Bldg., Ltd.*, 119 B.R. 246, 254 (Bankr.
7 D. Colo. 1990).

8 Section 503(b)(4) provides for "reasonable compensation for professional services
9 rendered by an attorney or an accountant of an entity whose expense is allowable" under section
10 503(b)(3).

11 In this case, Toyon's services included successful advocacy on behalf of the Debtors
12 before the PRRB and in federal court. Toyon did not provide its services solely for its own
13 benefit; rather, its services directly contributed to the Debtors' assets by creating, maximizing and
14 preserving over \$55 million in receivables which were available to use as consideration for the
15 Debtors to be able to meet the requirements of the buyers in the asset purchase agreements for the
16 O'Conner, Seton and St. Francis sales. The Debtors' subsequent withdrawals of the appeals were
17 used as significant consideration for assumption and assignment of the provider agreements
18 necessary for the sales of the Debtors' assets, which all together have (or will have) generated
19 over \$420 million for the estates. The Debtors or the Creditors' Committee could not have
20 performed Toyon's services on their own which this Court recognized by issuing the order
21 approving Toyon as an ordinary course professional.

22 Toyon's administrative claim in excess of \$12.5 million based on compensation earned
23 and due to it under its contracts amounts to less than three percent (3%) of the \$420 million
24 generated from the O'Connor, Seton and St. Francis sales. If Toyon is not compensated for its
25 work which was a substantial contribution to Debtors' cases, the Debtors will be unjustly
26 enriched by having received the benefit of Toyon's successful services. Toyon should not be
27 prevented from receiving its expected compensation by the Debtors' withdrawal of the appeals to
28 facilitate the asset sales while the rest of the Debtors' creditors realize the substantial benefits

1 from those sales. Toyon therefore should be compensated for its consulting work pursuant to
2 section 503(b)(3)(D) and its attorneys' fees and costs incurred should be included in Toyon's
3 Administrative Claim pursuant to section 503(b)(4).

4 **CONCLUSION**

5 The Debtors must establish a sufficient Administrative Claim Reserve to pay Toyon's
6 Administrative Claim in full. The Debtors must provide information and evidence to show that
7 the amount of the Administrative Claims Reserve for Toyon's Administrative Claim is sufficient
8 to it in full. If the Debtors seek to estimate Toyon's Administrative Claim in a different amount
9 than as asserted herein, Toyon reserves all rights to object and present further evidence and
10 argument to oppose any estimation of Toyon's Administrative Claim below the amount asserted
11 herein and in its Second Request for Administrative Claim. In the absence of a sufficient
12 Administrative Claim Reserve to ensure full payment of Toyon's Administrative Claim, the Plan
13 cannot be confirmed.

14 Dated: July 30, 2020

FELDERSTEIN FITZGERALD
WILLOUGHBY PASCUZZI & RIOS LLP

15
16
17 By: /s/ Jason E. Rios
18 JASON E. RIOS
19 Attorneys for Toyon Associates, Inc.
20
21
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27
28

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: 500 Capitol Mall, Suite 2250, Sacramento, CA 95814.

A true and correct copy of the foregoing document entitled

• **TOYON ASSOCIATES, INC.'S LIMITED OBJECTION TO CONFIRMATION OF SECOND AMENDED JOINT CHAPTER 11 PLAN OF LIQUIDATION (DATED JULY 2, 2020) OF THE DEBTORS, THE PREPETITION SECURED CREDITORS, AND THE COMMITTEE**

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 July 30, 2020, 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:

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This form is mandatory. It has been approved for use by the United States Bankruptcy Court for the Central District of California.

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Service information continued on attached page

2. SERVED BY UNITED STATES MAIL:

On July 30, 2020, 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.

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Attorneys for the Debtors and Debtors-In-Possession

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Los Angeles, CA 90017

Master Trustee and Series 2005 bond Trustee

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Committee

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MOB Lenders

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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 July 30, 2020 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.

Served by overnight mail
The Honorable Ernest M. Robles
US Bankruptcy Court
255 E. Temple St., Suite 1560
Los Angeles, CA 90012

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.

7/30/20
Date

Susan R. Darms
Printed Name

/s/ Susan R. Darms
Signature

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6 Attorneys for Toyon Associates, Inc.

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

9 In re:

10 VERITY HEALTH SYSTEM OF
CALIFORNIA, INC., et al.,

11 Debtors and Debtors In
12 Possession.

13 Affects:

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

Lead Case No. 18-20151-ER

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

Chapter 11 Cases

Hon. Ernest M. Robles

Date: August 12, 2020
Time: 10:00 a.m. (PST)
Location: Courtroom 1568
255 E. Temple Street
Los Angeles, CA 90012

**DECLARATION OF THOMAS P. KNIGHT IN SUPPORT OF TOYON ASSOCIATES,
INC.'S LIMITED OBJECTION TO CONFIRMATION OF SECOND AMENDED JOINT
CHAPTER 11 PLAN OF LIQUIDATION (DATED JULY 2, 2020) OF THE DEBTORS,
THE PREPETITION SECURED CREDITORS, AND THE COMMITTEE**

1 I, Thomas P. Knight, hereby declare as follows:

2 1. I am the President of Toyon Associates, Inc. (the “Toyon”), which maintains
3 offices at 1800 Sutter St, Suite 600, Concord, CA 94520. As President, I am personally familiar
4 with Toyon’s day-to-day operations, business affairs, books and records, and in particular
5 Toyon’s relationship and services provided to the Debtors.

6 2. All facts set forth in this Declaration are based on my personal knowledge, upon
7 information supplied to me by people who report to me, upon information supplied to me by
8 Toyon’s professionals and consultants, upon my review of relevant documents, or upon my
9 opinion based on my experience and knowledge with respect to Toyon’s operations, financial
10 condition and related business issues. The documents submitted herewith, referenced herein or
11 otherwise relied upon by me for purposes of this Declaration are the business records of Toyon,
12 prepared and kept in ordinary and regularly conducted business activity of Toyon, and used by
13 me for those purposes. If I were called upon to testify, I could and would testify competently to
14 the facts set forth herein, and I am authorized to submit this Declaration on behalf of Toyon.

15 3. This Declaration is submitted in connection Toyon’s limited objection to
16 confirmation of the Debtors’ chapter 11 plan (“Limited Objection”) and in support of Toyon’s
17 request for allowance of an administrative claim (“Toyon Administrative Claim”) in the Debtors’
18 cases.

19 4. Toyon is pre-petition a creditor, a Court-approved ordinary course professional,
20 and a post-petition creditor in the jointly administered Chapter 11 proceedings of the Verity
21 Health System of California, Inc. (“Verity”), O’Connor Hospital (“O’Connor”), Saint Louise
22 Regional Hospital (“St. Louise”), St. Francis Medical Center (“St. Francis”), St. Vincent Medical
23 Center (“St. Vincent”) and Seton Medical Center (“Seton”) (collectively, the “Debtors”). My
24 declaration in support of the Debtor’s retention of Toyon as an ordinary course professional was
25 filed at Docket No. 900.

26 5. Toyon currently has numerous contracts in place with Verity (and previously
27 Daughters of Charity) and its subsidiaries for Appeal Services and Non-Appeal Services,
28 including but not limited to the list of contracts attached to my ordinary course declaration.

1 **A. Description of Toyon**

2 6. Toyon is the preeminent healthcare reimbursement consulting firm helping
3 hospitals like the Debtors obtain additional reimbursement from the Medicare and Medi-Cal
4 Programs. Since 2003, Toyon has represented and continues to represent the Debtors as
5 consultants on Medicare reimbursement matters.

6 7. Toyon provides two types of services to the Debtors. First, Toyon prepares and
7 files cost reports, patient eligibility listings, and certain other reimbursement related services,
8 typically on a flat fee or hourly basis (“Non-Appeal Services”). Second, Toyon protects the rights
9 of the hospitals operated by the Debtors, challenges Medicare policy positions, and disputes audit
10 adjustments through the filing of appeals to the Provider Reimbursement Review Board
11 (“PRRB”) and submits cost report reopening requests, typically on a contingency fee basis
12 (“Appeal Services”).

13 8. On October 29, 2018, the Debtors were authorized to retain and compensate
14 Toyon in the ordinary course of business *nunc pro tunc* to August 31, 2018, pursuant to pre- and
15 post-petition fee agreements (“OCP Employment Order”). Docket No. 693. Toyon holds a post-
16 petition claim for payment of fees that are due to Toyon post-petition pursuant to its contracts
17 with the Debtors, the ordinary course professionals order, and Bankruptcy Code sections 330,
18 503(b)(1), 503(b)(3)(D) and 503(b)(4 for appeals that were pursued by Toyon at the Debtors’
19 request that were later withdrawn as part of the O’Connor Sale (as defined below) and are
20 expected to be withdrawn as part of the Seton Sale and the St. Francis Sale (as defined below)
21 (collectively, the “Withdrawn Appeals”).

22 9. The Toyon Administrative Claim for post-petition services rendered for the estate
23 pursuant to the Debtors’ contracts with Toyon totals \$12,567,893.65, as shown in its filed
24 administrative claims at Docket Nos. 3286 and 5242.

25 10. In addition, Toyon has filed general unsecured claims for pre-petition services
26 rendered pursuant to its contracts with the Debtors as follows:

- 27 a. O’Conner Pre-petition Claim \$927,281.50 (Claim No. 8119);
28 b. Seton Pre-Petition Claim \$2,721,884.25 (Claim No. 5327);

- c. St. Francis Pre-Petition Claim Unknown (Claim No. 5323);
- d. St. Louise Pre-Petition Claim Unknown (Claim No. 5322);
- e. St. Vincent Pre-Petition Claim (Claim No. 5320); and
- f. Verity Pre-Petition Claim \$5,764,176.40 (Claim No. 5325).¹

11. As Toyon's contracts remain viable, Toyon reserves all rights to assert additional post-petition claims against the Debtors incurred in the ordinary course of their business of Non-Appeal Services as well as Appeal Services, including such rights arising after the date of this Declaration.

B. Description of Appeal Services

12. As part of its Appeal Services, Toyon files the Debtors' Medicare appeals based upon Medicare audits of Medicare cost reports that result in an adverse adjustment. The PRRB is the administrative entity established by Congress to hear and decide Medicare cost report appeals. The appeal is to protect the Debtors and challenge the adjustment to the Debtors' right to payment made by Medicare before the PRRB as this is the only venue to seek recovery for reimbursement due the provider (a hospital). Toyon is responsible for all aspects and phases of the Debtors' Medicare appeal projects through final resolution, including selecting and paying for all legal related services needed to pursue the appeal projects on behalf of the Debtors. Toyon is paid a contingency of 20% or 25% of the total recovery, or additional reimbursement received, after the cash is received by the provider.

13. Toyon has worked (and continues to work) diligently and in good faith on the Debtors' appeals pursuant to the Debtors' request for these services, many of them for several years, for which Toyon has not yet been paid even though Toyon has incurred substantial time and expense. Toyon has fulfilled all of its contractual obligations to the Debtors with the express agreement and understanding that the Debtors will compensate Toyon for its successful appeal efforts. As more fully described herein, Toyon's efforts have resulted in the Debtors prevailing in

¹ Because Verity is the parent company to the other Debtors and a co-party to particular contracts, Toyon filed a claim in the Verity case. Therefore, some claims may overlap.

1 the various stages of the appeals. The following is a description of the various types of open
2 appeals and status with respect to the Withdrawn Appeals:

3 a. **SSI Realignment (Reopening) and DSH Additional Days (Reopening):**

4 These cases are reopenings that were required because Toyon successfully prevailed in its
5 appeal efforts brought on behalf of the Debtors. While there is no longer a pending appeal
6 (underlying appeals are closed once reopenings are initiated), this is money that the Center
7 for Medicare and Medicaid Services (“CMS”) either has paid or owes to the Debtors as a
8 result of Toyon’s successful appeals work. A breakdown of the charges for Withdrawn
9 Appeals related to these classifications are set forth in the charts attached hereto as
10 Exhibits A and B. Toyon’s success on these matters benefitted the Debtors (in this case
11 specifically St. Francis Medical Center and Seton Medical Center) by obtaining payment
12 awards for the Debtors in the amount of \$432,747 and \$57,615, respectively, resulting in
13 fees owed to Toyon of \$98,072.40.

14 b. **SSI Ratio/Remand Appeals:** These cases are appeals in which Toyon
15 successfully prevailed on behalf of the Debtors based on the fact that the government
16 unlawfully established an SSI ratio for calculating reimbursement without any
17 transparency as to how that ratio was created. When the federal district court agreed with
18 the position asserted by the Debtors and other providers, all cases were remanded for
19 recalculation of payment pursuant to the new ratio. The Debtors are now simply waiting
20 to be paid the money they are legally owed by Medicare which has not yet been paid.
21 Toyon is in the process of filing a complaint in federal court for the Debtors on this issue
22 on the basis that the government is not in compliance with the prior court order. A
23 breakdown of the charges for Withdrawn Appeals related to this classification is set forth
24 in the chart attached hereto as Exhibit C. Toyon’s success on these matters benefitted the
25 Debtors (in this case specifically O’Connor Hospital, Seton Medical Center, and St.
26 Vincent) by obtaining payment awards for the Debtors in the amount of \$2,169,249,
27 resulting in fees owed to Toyon of \$542,312.25.

28 c. **SSI Accuracy Appeals:** When the Debtors won the litigation that resulted

1 in the SSI Ratio/Remand payments, part of the litigation revolved around the argument
2 that the ratio was inaccurate, based on the very limited knowledge as to how the SSI ratio
3 was created. When the government created the new SSI ratio, it still failed to “lift the
4 curtain” on what data the government used to calculate the new SSI ratio, so Toyon again
5 appealed on behalf of the Debtors, asking that the government inform the Debtors of the
6 basis for its new SSI ratio. A breakdown of the charges for Withdrawn Appeals related to
7 this classification is set forth in the chart attached hereto as Exhibit D. Toyon’s efforts on
8 these matters benefitted the Debtors (in this case specifically O’Connor Hospital, Seton
9 Medical Center, St. Francis Medical Center and St. Vincent) by preserving rights to
10 expected payment awards for the Debtors in the amount of \$2,310,536, resulting in fees
11 owed to Toyon of \$500,165.55.

12 d. **Outlier Appeals:** These appeals involve the arbitrary and capricious
13 methodology of the Secretary of the United States Department of Health & Human
14 Services (“HHS”) for calculating outlier payments that resulted in underpayments for the
15 Debtors’ hospitals. These cases are all pending at the PRRB. A breakdown of the charges
16 for Withdrawn Appeals related to this classification is set forth in the chart attached hereto
17 as Exhibit E. Toyon’s efforts on these matters benefitted the Debtors (in this case
18 specifically O’Connor Hospital and Seton Medical Center) by preserving rights to
19 expected payment awards for the Debtors in the amount of \$489,084, resulting in fees
20 owed to Toyon of \$99,750.50.

21 e. **IME Payment Managed Care Appeal and GME Payment Managed**
22 **Care Appeal:** These appeals involve the Medicare IME and GME payment calculations
23 applicable to Medicare managed care beneficiaries. CMS failed to adhere to its
24 requirements to collect patient encounter data from Medicare managed care plans for all
25 enrollee discharges on or after January 1, 1998. Providers have prevailed at the federal
26 district court on this issue, and the Debtors should also prevail in their appeals on this
27 issue. A breakdown of the charges for Withdrawn Appeals related to these classifications
28 are set forth in the charts attached hereto as Exhibits F and G. Toyon’s success on these

1 matters benefitted the Debtors (in this case specifically O'Connor Hospital) by obtaining
2 expected payment awards for the Debtors in the amount of \$14,299, resulting in fees owed
3 to Toyon of \$3,574.75.

4 f. **Dual Eligible Part C Days Appeals:** These appeals are related to the
5 appeal that was recently won at the United States Supreme Court, *Azar v. Allina Health*
6 *Services*, 587 U.S. ___, 139 S.Ct. 1804 (2019). In *Allina*, the Supreme Court held that the
7 CMS could not calculate the SSI Ratio and the Medicare Ratio in the manner in which it
8 did. Specifically, CMS wrongfully included Medicare Part C Days (with the unpaid and
9 paid Part A Days) in the SSI Ratio and excluded Dual Eligible Part C Days from the
10 Medicaid Ratio. All hospitals involved in this appeal, including the Debtors, are legally
11 due a recalculation and increase in reimbursement pending settlement negotiations and
12 potential audits by CMS. A breakdown of the charges for Withdrawn Appeals related to
13 this classification is set forth in the chart attached hereto as Exhibit H. Toyon's success
14 on these matters benefitted the Debtors (in this case specifically O'Connor Hospital, Seton
15 Medical Center, St. Francis Medical Center and St. Vincent) by obtaining payment awards
16 for the Debtors in the amount of \$39,220,936, resulting in fees owed to Toyon of
17 \$8,896,059.10.

18 g. **Dual Eligible Part A Days Appeals:** These appeals are somewhat linked
19 to the successful *Allina* case in that the Debtors assert that only paid Part A Days should
20 be included in the SSI Ratio and that dual eligible unpaid Part A Days should be included
21 in the Medicaid Ratio. These appeals are all currently at the PRRB pending a request for
22 expedited judicial review. The Ninth Circuit Court of Appeals recently ruled in favor of
23 other hospitals pursuing this same appeal issue (*Empire Health Foundation v. Azar* (9th
24 Cir. May 5, 2020) Case No. 18-35845, 18-35872), and Debtors' appeals are to be moved
25 to court pending PRRB approval. The government on July 14, 2020, filed a petition for
26 rehearing *en banc* in the appeal. A breakdown of the charges for Withdrawn Appeals
27 related to this classification is set forth in the chart attached hereto as Exhibit I. Toyon's
28 success on these matters benefitted the Debtors (in this case specifically O'Connor

1 Hospital, Seton Medical Center, St. Francis Medical Center and St. Vincent) by obtaining
2 expected payment awards for the Debtors in the amount of \$8,181,706, resulting in fees
3 owed to Toyon of \$1,899,447.05.

4 h. **DSH-Code 2 & 3 Medicaid Eligible Days Appeals:** These appeals
5 involve CMS' wrongfully excluding additional Medicaid eligible patient days in
6 calculating the Disproportionate Share Payment (DSH). These cases are pending at the
7 PRRB. A breakdown of the charges for Withdrawn Appeals related to this classification
8 is set forth in the chart attached hereto as Exhibit J. Toyon's efforts on these matters
9 benefitted the Debtors (in this case specifically O'Connor Hospital, Seton Medical Center,
10 and St. Vincent) by preserving rights to expected payment awards for the Debtors in the
11 amount of \$1,329,088, resulting in fees owed to Toyon of \$276,170.80.

12 i. **Other Individual Appeals:** These appeals involve various Medicare
13 reimbursement issues that are specific to the facts of those particular cost reports and cost
14 reporting periods in dispute. They are being actively pursued at the PRRB. A breakdown
15 of the charges for Withdrawn Appeals related to this classification is set forth in the chart
16 attached hereto as Exhibit K. Toyon's success on these matters benefitted the Debtors (in
17 this case specifically O'Connor Hospital, Seton Medical Center, St. Francis Medical
18 Center and St. Vincent) by obtaining expected payment awards for the Debtors in the
19 amount of \$1,088,502, resulting in fees owed to Toyon of \$252,341.50.

20 **C. O'Connor and St. Louise Sale**

21 14. As part of the consideration for the sale of O'Connor and Saint Louise in this
22 bankruptcy proceeding ("O'Connor Sale"), O'Connor, St. Louise, and the Secretary of HHS on
23 behalf of the CMS entered into a Stipulation re: Assumption and Assignment of Medicare
24 Provider Agreements [Docket No. 1662] ("O'Connor Sale Stipulation"). Pursuant to paragraph 9
25 of the O'Connor Sale Stipulation, O'Connor, St. Louise and Verity agreed to withdraw any
26 appeals before the PRRB, including pending appeals for which O'Connor and Verity had engaged
27 Toyon ("O'Connor Withdrawn Appeals").
28

1 15. I am informed and believe, based on the terms of the O'Connor Sale Stipulation,
2 that the O'Connor Sale Debtors had Medicare provider agreements ("O'Connor Provider
3 Agreements") with the U.S. Department of Health and Human Services and Centers for Medicare
4 and Medicaid Services (collectively, "DHHS") which enabled them to receive Medicare
5 payments for services provided to Medicare beneficiaries. I am informed and believe, based on
6 the terms of the O'Connor Sale Stipulation, that DHHS asserted that the O'Connor Provider
7 Agreements must be treated as executory contracts and assumed by the Debtors and assigned to
8 the buyer, Santa Clara County.

9 16. I am informed and believe, based on the terms of the O'Connor Sale Stipulation, to
10 facilitate the O'Connor Sale and resolve the DHHS's objections to the sale, the claims of the
11 Debtors against DHHS for any liability arising under the O'Connor Provider Agreements on or
12 before date of the sale closing, whether known or unknown, were discharged and released under
13 the O'Connor Sale Stipulation.² The O'Connor Sale Stipulation also specifically provided that
14 the Debtors will "withdraw any appeals related to the Provider Agreements that are pending
15 either administratively (including but not limited to the appeals before the Provider
16 Reimbursement Review Board ("PRRB") or the Departmental Appeals Board) or before any
17 Federal court, and agree not to bring any further appeals thereafter, relating to the events and
18 cost-reporting periods beginning prior to the Effective Date." O'Connor Sale Stipulation,
19 paragraph 9.

20 17. Prior to the O'Connor Sale Stipulation, Toyon had successfully pursued the
21 O'Connor Withdrawn Appeals before the PRRB, in federal district court and in the court of
22 appeals on behalf of the Debtors. As a result of the Debtors' releases and withdrawals provided
23 by the O'Connor Sale Stipulation, Toyon is no longer able to pursue the O'Connor Withdrawn
24 Appeals to completion and obtain its contracted contingency fee notwithstanding the fact that
25 Toyon had expended significant time and money pursuing the O'Connor Withdrawn Appeals
26 prior to entry of the Sale Stipulation. Toyon's fees earned for services provided to the Debtors

27 ² The O'Connor Sale Stipulation provides one exception to this broad release for services
28 provided during the cost reporting period beginning July 1, 2017 and ending on June 30, 2018,
and the cost reporting period beginning July 1, 2018 and ending on the date the sale closed.

1 for the O'Connor Withdrawn Appeals are \$3,829,235.85, calculated as follows and set forth in
 2 more detail in the exhibits attached to this Declaration:

3 Exhibit	Type of Appeal	Outstanding Toyon Fees
4 C	SSI Ratio/Remand Appeals	\$419,497.75
5 D	SSI Accuracy Appeals	\$128,056.05
6 E	Outlier Appeals	\$82,652.10
7 F	IME Payment Managed Care Appeals	\$2,650.50
8 G	GME Payment Managed Care Appeals	\$924.25
9 H	Dual Eligible Part C Days Appeals	\$2,166,901.30
10 I	Dual Eligible Part A Days Appeals	\$597,742.55
11 J	DSH-Code 2 & 3 Medicaid Eligible Days Appeals	\$264,105.60
12 K	Individual Appeals	\$166,705.75
	O'Connor Withdrawn Appeals Total	\$3,829,235.85

13 18. The O'Connor Sale Stipulation permitted Debtors to close the O'Connor Sale,
 14 which according to the Debtors' disclosure statement [Docket No. 4994], provided net sale
 15 proceeds to the estate of \$184.38 million.

16 19. It is Toyon's understanding that dismissal of pending Medicare appeals, including
 17 those being pursued by Toyon, was required by the O'Connor Sale Stipulation or otherwise in
 18 order for the provider agreements to be assumed and assigned as part of the O'Connor Sale and
 19 that the assumption and assignment of the provider agreements was a condition to closing by the
 20 County of Santa Clara.

21 20. The jointly administered bankruptcy estates of the Debtors obtained significant
 22 benefits by having the provider agreements assigned to the purchaser as a result of the O'Connor
 23 Sale Stipulation.

D. St. Francis and Seton Pending Sales

24 21. According to the Debtors' disclosure statement, the transfer of the Debtors' two
 25 Medicare Provider Agreements pursuant to: (a) the Seton Asset Purchase Agreement, dated
 26 March 30, 2020 [Docket No. 4360], entered into by and between AHMC, as buyer, and Seton and
 27 certain other Debtors, as sellers; and (b) the St. Francis Medical Center Asset Purchase
 28 Agreement, dated April 3, 2020 [Docket No. 4471], entered into by and between Prime, as buyer,

1 and SFMC and certain other Debtors, as sellers, is the subject of ongoing settlement discussions
2 and negotiations between DHHS and the Debtors. See Docket No. 4994 at pg. 60 of 144.

3 22. I am informed and believe that an agreement like the O'Connor Sale Stipulation
4 may be entered into as part of the consideration for the pending Seton and St. Francis sales and
5 may require the withdrawal of additional appeals pending ("Seton Withdrawn Appeals" and "St.
6 Francis Withdrawn Appeals"). Like the O'Connor Withdrawn Appeals, Toyon successfully
7 litigated the Debtors' Seton Withdrawn Appeals and St. Francis Withdrawn Appeals before the
8 PRRB and through two federal courts, which has preserved the Debtors' rights to recovery of the
9 amounts at issue in these matters. Toyon's fees based on the Seton Withdrawn Appeals are
10 \$5,912,340.60, calculated as follows and set forth in more detail in the exhibits attached to this
11 Declaration:

Exhibit	Type of Appeal	Outstanding Toyon Fees
A	SSI Realignment (Reopening)	\$0.00
B	DSH Additional Days (Reopening)	\$11,523.00
C	SSI Ratio/Remand Appeals	\$118,102.75
D	SSI Accuracy Appeals	\$214,111.10
E	Outlier Appeals	\$17,098.40
H	Dual Eligible Part C Days Appeals	\$4,794,146.50
I	Dual Eligible Part A Days Appeals	\$744,507.45
J	DSH-Code 2 & 3 Medicaid Eligible Days Appeals	\$7,078.00
K	Individual Appeals	\$5,773.40
	Seton Withdrawn Appeals Total	\$5,912,340.60

20 23. The Seton Sale involves a purchase price of approximately \$40 million. It is
21 Toyon's understanding that dismissal of pending Medicare appeals, including those being
22 pursued by Toyon, may be required as part of the Seton Sale.

23 24. The jointly administered bankruptcy estates of the Debtors are expected to obtain
24 significant benefits by having the provider agreements assigned with respect to the Seton Sale and
25 any dismissal of the Seton Withdrawn Appeals.
26
27
28

1 25. Toyon's fees based on the Debtors' St. Francis Withdrawn Appeals are
2 \$2,273,553.45, calculated as follows and set forth in more detail in the exhibits attached to this
3 Declaration:

Exhibit	Type of Appeal	Outstanding Toyon Fees
A	SSI Realignment (Reopening)	\$86,549.40
B	DSH Additional Days (Reopening)	\$0.00
C	SSI Ratio/Remand Appeals	\$0.00
D	SSI Accuracy Appeals	\$19,616.60
E	Outlier Appeals	\$0.00
H	Dual Eligible Part C Days Appeals	\$1,615,422.90
I	Dual Eligible Part A Days Appeals	\$542,922.00
J	DSH-Code 2 & 3 Medicaid Eligible Days Appeals	\$0.00
K	Individual Appeals	\$9,042.55
	St. Francis Withdrawn Appeals Total	\$2,273,553.45

12 26. The St. Francis Sale involves a purchase price of approximately \$200 million. It is
13 Toyon's understanding that dismissal of pending Medicare appeals, including those being
14 pursued by Toyon, may be required as part of the St. Francis Sale.

15 27. The jointly administered bankruptcy estates of the Debtors are expected to obtain
16 significant benefits by having the provider agreements assigned with respect to the St. Francis
17 Sale and any dismissal of the St. Francis Withdrawn Appeals.

18 28. Toyon is unclear as to whether any appeals related to St. Vincent Medical Center
19 were or will be required to be withdrawn in connection with the Court-approved sale of that
20 facility. Toyon reserves the right to assert claims if the Debtors withdraw appeals related to St.
21 Vincent Medical Center. If the Debtors' appeals involving St. Vincent Medical Center are
22 withdrawn, the compensation due to Toyon for such appeals is \$552,763.75, as set forth on the
23 exhibits to this Declaration.

24 **I. FURTHER EXPLANATION OF TOYON'S SERVICES**

25 29. Toyon conferred a substantial benefit to the Debtors' estates by performing
26 extensive amounts of work and incurring significant expenses pursuing the O'Connor, Seton and
27 St. Francis Withdrawn Appeals. However, the requirement that the O'Connor Withdrawn
28

1 Appeals be dismissed as part of the O'Connor Sale prevented Toyon from completing its Appeal
2 Services for Verity, O'Connor and St. Louise. The same can be said for the Seton and St. Francis
3 Appeals if they are required to be withdrawn in connection with those sales. Toyon should be
4 compensated for its work. If Toyon does not receive compensation, the Debtors will be unjustly
5 enriched by having received the benefit of Toyon's successful consulting services before the
6 PRRB and through two federal court levels and then preventing Toyon from receiving the
7 expected compensation for its consulting services by withdrawing those appeals to facilitate the
8 asset sales and realize the substantial benefits to the estate from those sales.

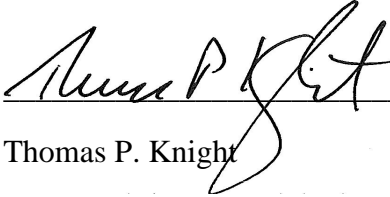
9 30. Pursuit of complex appeals such as those Toyon has pursued for Debtors takes a
10 tremendous amount of expertise, painstaking attention to detail, complex reimbursement
11 calculations and recalculations over time, negotiations with auditors, and continuous work over
12 literally dozens of years, not to mention bearing litigation costs and expenses. For each of the
13 Debtors' appeals at issue, Toyon's highly experienced and valuable consultants reviewed and
14 analyzed countless hospital records, working with both the Debtors' hospitals and the auditors to
15 obtain and organize the data necessary to calculate accurately the owed reimbursement amounts.
16 Further, our consultants then analyzed relevant regulations, statutes, and Medicare policies,
17 closely tracking all potential rule and law changes, gathering support and putting together
18 arguments for the Debtors' appeals. On behalf of the Debtors, Toyon drafted and filed appeal
19 hearing requests, jurisdictional documentation, responses to information requests from the PRRB,
20 preliminary position papers, responses to jurisdictional challenges and final position papers.
21 Toyon closely monitors and tracks all of the Debtors' appeal deadlines and relevant litigation and
22 works closely with the PRRB and the auditors to prepare and perfect the Debtors' appeal
23 documentation, a process that takes many months. Moreover, Toyon sought, evaluated, and
24 found the best legal counsel for Debtors' appeals, worked directly with the attorneys to prepare
25 all litigation filings and supportive evidence, and bore all attorneys' fees and expenses for
26 pursuing Debtors' appeals in court. Toyon's efforts directly resulted in the success of Debtors'
27 appeals, and Toyon performed the services discussed briefly above for more than 75 appeals for
28

1 Debtors, for more than 12 years, without up-front compensation and in reliance on the
2 contingency contracts with the Debtors.

3 31. In sum, Toyon is entitled to compensation for its work on Appeal Services in the
4 amount of \$12,567,893.65, plus attorneys' fees.

5 I declare under penalty of perjury under the laws of the United States of America that the
6 foregoing is true and correct. Executed on July 30, 2020, at Concord, California.

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Thomas P. Knight

EXHIBIT A

Verity Health System

EXHIBIT A

Summary of Open Appeals as of 6/11/2019

SSI Realignment (Reopening)

<u>Hospital</u>	<u>FYE</u>	<u>Reimbursement</u>	<u>Contingency Fee %</u>	<u>Amount Due Toyon</u>
St. Francis Medical Center	6/30/2010	\$87,590	20%	\$17,518.00
St. Francis Medical Center	6/30/2011	\$345,157	20%	\$69,031.40
		<u>\$432,747</u>		<u>\$86,549.40</u>

EXHIBIT B

Verity Health System
Summary of Open Appeals as of 6/11/2019
DSH Additional Days (Reopening)

EXHIBIT B

Hospital	FYE	Reimbursement	Contingency Fee %	Amount Due Toyon
Seton Medical Center	6/30/2014	<u>\$57,615</u>	20%	\$11,523.00
		<u>\$57,615</u>		<u>\$11,523.00</u>

EXHIBIT C

Verity Health System

EXHIBIT C

Summary of Open Appeals as of 6/11/2019

SSI Ratio (Remand)

Hospital	FYE	Case Number	Reimbursement	Contingency Fee %	Amount Due Toyon
O'Connor Hospital	6/30/2004	10-1344GC	\$666,894	25%	\$ 166,723.50
O'Connor Hospital	6/30/2003	09-1946GC	\$384,477	25%	\$ 96,119.25
O'Connor Hospital	6/30/2002	09-2103GC	\$15,269	25%	\$ 3,817.25
O'Connor Hospital	12/31/2001	08-2454GC	\$2,323	25%	\$ 580.75
O'Connor Hospital	6/30/2001	08-2454GC	\$62,864	25%	\$ 15,716.00
O'Connor Hospital	6/30/2000	08-2452GC	\$128,223	25%	\$ 32,055.75
O'Connor Hospital	6/30/1993	08-2656GC	\$166,109	25%	\$ 41,527.25
O'Connor Hospital	6/30/1992	08-2657GC	\$217,616	25%	\$ 54,404.00
O'Connor Hospital	6/30/1991	98-2853G	\$34,216	25%	\$ 8,554.00
			\$1,677,991	25%	\$ 419,497.75
Seton Medical Center	6/30/2004	10-1344GC	\$264,925	25%	\$ 66,231.25
Seton Medical Center	6/30/2003	09-1946GC	\$10,947	25%	\$ 2,736.75
Seton Medical Center	6/30/2002		\$26,531	25%	\$ 6,632.75
Seton Medical Center	6/30/2001	08-2454GC	\$43,961	25%	\$ 10,990.25
Seton Medical Center	6/30/2000	08-2452GC	\$18,288	25%	\$ 4,572.00
Seton Medical Center	6/30/1993	08-2656GC	\$39,393	25%	\$ 9,848.25
Seton Medical Center	6/30/1992	08-2657GC	\$68,366	25%	\$ 17,091.50
St. Vincent	6/30/1997		\$18,847	25%	\$ 4,711.75
			\$491,258	25%	\$ 122,814.50
			\$2,169,249	25%	\$ 542,312.25

EXHIBIT D

Verity Health System
Summary of Open Appeals as of 6/11/2019
SSI Accuracy (Appeal)

EXHIBIT D

Hospital	FYE	Case Number	Reimbursement	Contingency Fee %	Amount Due Toyon
O'Connor Hospital	6/30/2014	17-1444GC	\$38,601	20%	\$ 7,720.20
O'Connor Hospital	6/30/2013	17-0290GC	\$34,336	20%	\$ 6,867.20
O'Connor Hospital	6/30/2012	16-2060GC	\$63,649	20%	\$ 12,729.80
O'Connor Hospital	6/30/2011	16-1724GC	\$41,443	20%	\$ 8,288.60
O'Connor Hospital	6/30/2010	16-1312GC	\$19,597	25%	\$ 4,899.25
O'Connor Hospital	6/30/2009	14-2805GC	\$36,731	25%	\$ 9,182.75
O'Connor Hospital	6/30/2008	14-2809GC	\$60,484	25%	\$ 15,121.00
O'Connor Hospital	6/30/2007	14-0760GC	\$42,020	25%	\$ 10,505.00
O'Connor Hospital	6/30/2006	17-1939GC	\$64,249	25%	\$ 16,062.25
O'Connor Hospital	6/30/2015	19-0095GC	\$183,400	20%	\$ 36,680.00
			\$584,510		\$ 128,056.05
Seton Medical Center	6/30/2014	17-1444GC	\$54,644	20%	\$ 10,928.80
Seton Medical Center	6/30/2013	17-0290GC	\$67,244	20%	\$ 13,448.80
Seton Medical Center	6/30/2012	16-2060GC	\$69,823	20%	\$ 13,964.60
Seton Medical Center	6/30/2011	16-1724GC	\$63,997	20%	\$ 12,799.40
Seton Medical Center	6/30/2010	16-1312GC	\$74,197	25%	\$ 18,549.25
Seton Medical Center	6/30/2009	14-2805GC	\$145,964	25%	\$ 36,491.00
Seton Medical Center	6/30/2008	14-2809GC	\$76,243	25%	\$ 19,060.75
Seton Medical Center	6/30/2007	14-0760GC	\$50,180	25%	\$ 12,545.00
Seton Medical Center	6/30/2006	17-1939GC	\$191,502	25%	\$ 47,875.50
Seton Medical Center	6/30/2015	19-0095GC	\$142,240	20%	\$ 28,448.00
St. Francis Medical Center	6/30/2015	19-0095GC	\$5,680	20%	\$ 1,136.00
St. Francis Medical Center	6/30/2011	16-1724GC	Pending		
St. Francis Medical Center	6/30/2010	16-1312GC	Pending		
St. Francis Medical Center	6/30/2009	14-2805GC	\$8,273	20%	\$ 1,654.60
St. Francis Medical Center	6/30/2008	14-2809GC	\$24,193	20%	\$ 4,838.60
St. Francis Medical Center	6/30/2007	14-0760GC	\$59,937	20%	\$ 11,987.40
St. Vincent	6/30/2011	16-1724GC	\$691,909	20%	\$ 138,381.80
			\$1,726,026		\$ 372,109.50
			\$2,310,536		\$ 500,165.55

EXHIBIT E

Verity Health System

EXHIBIT E

Summary of Open Appeals as of 6/11/2019

Outlier (Appeal)

Hospital	FYE	Case Number	Reimbursement	Contingency Fee %	Amount Due Toyon
O'Connor Hospital	6/30/2015	19-0099GC	\$71,429	20%	\$ 14,285.80
O'Connor Hospital	6/30/2014	19-0060GC	\$108,394	20%	\$ 21,678.80
O'Connor Hospital	6/30/2013	18-1450GC	\$98,433	20%	\$ 19,686.60
O'Connor Hospital	6/30/2012	18-0175GC	\$86,662	20%	\$ 17,332.40
O'Connor Hospital	6/30/2009	16-0014GC	\$10,000	25%	\$ 2,500.00
O'Connor Hospital	6/30/2006	17-1937GC	\$28,674	25%	\$ 7,168.50
			\$403,592		\$ 82,652.10
Seton Medical Center	6/30/2015	19-0099GC	\$85,492	20%	\$ 17,098.40
			\$489,084		\$ 99,750.50

EXHIBIT F

Verity Health System
Summary of Open Appeals as of 6/11/2019
IME Payment Managed Care (Appeal)

EXHIBIT F

Hospital	FYE	Case Number	Reimbursement	Contingency Fee %	Amount Due Toyon
O'Connor Hospital	6/30/2006	17-1936GC	<u>\$10,602</u>	25%	<u>\$2,650.50</u>
			<u>\$10,602</u>		<u>\$2,650.50</u>

EXHIBIT G

Verity Health System

EXHIBIT G

Summary of Open Appeals as of 6/11/2019

GME Payment Managed Care (Appeal)

Hospital	FYE	Case Number	Reimbursement	Contingency Fee %	Amount Due Toyon
O'Connor Hospital	6/30/2006	17-1935GC	<u>\$3,697</u>	25%	\$ 924.25
			<u><u>\$3,697</u></u>		<u><u>\$ 924.25</u></u>

EXHIBIT H

Verity He+A1:H34alth System
Summary of Open Appeals as of 6/11/2019
Dual Eligible Part C Days (Appeal)

EXHIBIT H

Hospital	FYE	Case Number	Reimbursement	Contingency Fee %	Amount Due Toyon
O'Connor Hospital	6/30/2015	19-0093GC	\$277,664	20%	\$ 55,532.80
O'Connor Hospital	6/30/2014	17-1447GC	\$414,526	20%	\$ 82,905.20
O'Connor Hospital	6/30/1998	16-0279GC	\$107,669	25%	\$ 26,917.25
O'Connor Hospital	6/30/1996	16-0508GC	\$112,304	25%	\$ 28,076.00
O'Connor Hospital	6/30/1997	14-2026G	\$96,599	25%	\$ 24,149.75
O'Connor Hospital	6/30/1993	14-1708G	\$13,924	25%	\$ 3,481.00
O'Connor Hospital	6/30/2012	16-2064GC	\$1,053,612	20%	\$ 210,722.40
O'Connor Hospital	6/30/2011	16-1729GC	\$1,104,827	20%	\$ 220,965.40
O'Connor Hospital	6/30/2010	16-1311GC	\$1,162,973	25%	\$ 290,743.25
O'Connor Hospital	6/30/2013	17-0293GC	\$1,137,135	20%	\$ 227,427.00
O'Connor Hospital	6/30/2009	14-2803GC	\$1,466,568	25%	\$ 366,642.00
O'Connor Hospital	6/30/2008	14-2807GC	\$1,138,612	25%	\$ 284,653.00
O'Connor Hospital	6/30/2007	14-0765GC	\$1,156,116	25%	\$ 289,029.00
O'Connor Hospital	6/30/2006	17-1941GC	\$193,557	25%	\$ 48,389.25
O'Connor Hospital	6/30/1994	16-0287GC	\$29,072	25%	\$ 7,268.00
			\$9,465,158		\$ 2,166,901.30
Seton Medical Center	6/30/2015	19-2028GC	\$1,175,438	20%	\$ 235,087.60
Seton Medical Center	6/30/2014	17-1447GC	\$1,729,410	20%	\$ 345,882.00
Seton Medical Center	6/30/1998	16-0279GC	\$141,406	25%	\$ 35,351.50
Seton Medical Center	6/30/1996	16-0508GC	\$119,013	25%	\$ 29,753.25
Seton Medical Center	6/30/2012	16-2064GC	\$2,643,010	20%	\$ 528,602.00
Seton Medical Center	6/30/2011	16-1729GC	\$2,355,541	20%	\$ 471,108.20
Seton Medical Center	6/30/2010	16-1311GC	\$1,828,182	25%	\$ 457,045.50
Seton Medical Center	6/30/2013	17-0293GC	\$638,381	20%	\$ 127,676.20
Seton Medical Center	6/30/2009	14-2803GC	\$1,398,030	25%	\$ 349,507.50
Seton Medical Center	6/30/2008	14-2807GC	\$979,388	25%	\$ 244,847.00
Seton Medical Center	6/30/2007	14-0765GC	\$4,977,198	25%	\$ 1,244,299.50

Hospital	FYE	Case Number	Reimbursement	Contingency	Amount Due
				Fee %	Toyon
Seton Medical Center	6/30/2006	17-1941GC	\$2,889,136	25%	\$ 722,284.00
Seton Medical Center	6/30/1994	16-0287GC	\$10,809	25%	\$ 2,702.25
St. Francis Medical Center	6/30/2015	19-0093GC	\$407,140	20%	\$ 81,428.00
St. Francis Medical Center	6/30/2014	17-1447GC	\$559,211	20%	\$ 111,842.20
St. Francis Medical Center	6/30/2012	16-2064GC	\$931,723	20%	\$ 186,344.60
St. Francis Medical Center	6/30/2011	16-1729GC	\$1,065,851	20%	\$ 213,170.20
St. Francis Medical Center	6/30/2010	16-1311GC	\$936,153	25%	\$ 234,038.25
St. Francis Medical Center	6/30/2013	17-0293GC	\$1,092,087	20%	\$ 218,417.40
St. Francis Medical Center	6/30/2009	14-2803GC	\$899,406	25%	\$ 224,851.50
St. Francis Medical Center	6/30/2008	14-2807GC	\$539,729	25%	\$ 134,932.25
St. Francis Medical Center	6/30/2007	14-0765GC	\$659,123	25%	\$ 164,780.75
St. Francis Medical Center	6/30/2006	17-1941GC	\$182,471	25%	\$ 45,617.75
St. Vincent	6/30/2011	16-1729GC	\$1,597,942	20%	\$ 319,588.40
			\$29,755,778		\$ 6,729,157.80
			\$39,220,936		\$ 8,896,059.10

EXHIBIT I

Verity Health System

EXHIBIT I

Summary of Open Appeals as of 6/11/2019

Dual Eligible Part A Days (Appeal)

Hospital	FYE	Case Number	Reimbursement	Contingency Fee %	Amount Due Toyon
O'Connor Hospital	6/30/1999	08-2450GC	\$16,670	25%	\$ 4,167.50
O'Connor Hospital	6/30/2015	19-0092GC	\$65,755	20%	\$ 13,151.00
O'Connor Hospital	6/30/2014	17-1446GC	\$214,983	20%	\$ 42,996.60
O'Connor Hospital	6/30/2013	17-0291GC	\$333,388	20%	\$ 66,677.60
O'Connor Hospital	6/30/2012	16-2062GC	\$326,789	20%	\$ 65,357.80
O'Connor Hospital	6/30/2011	16-1727GC	\$258,789	20%	\$ 51,757.80
O'Connor Hospital	6/30/2010	16-1309GC	\$441,518	25%	\$ 110,379.50
O'Connor Hospital	6/30/2009	14-2802GC	\$169,790	25%	\$ 42,447.50
O'Connor Hospital	6/30/2008	14-2806GC	\$111,842	25%	\$ 27,960.50
O'Connor Hospital	6/30/2007	14-0764GC	\$111,651	25%	\$ 27,912.75
O'Connor Hospital	6/30/2006	17-1940GC	\$211,972	25%	\$ 52,993.00
O'Connor Hospital	6/30/2004	10-1346GC	\$65,323	25%	\$ 16,330.75
O'Connor Hospital	6/30/1998	08-2618GC	\$28,904	25%	\$ 7,226.00
O'Connor Hospital	6/30/1994	08-2448GC	\$25,431	25%	\$ 6,357.75
O'Connor Hospital	6/30/1996	08-2449GC	\$27,265	25%	\$ 6,816.25
O'Connor Hospital	6/30/2003	09-1944GC	\$45,297	25%	\$ 11,324.25
O'Connor Hospital	6/30/2000	08-2451GC	\$60,616	25%	\$ 15,154.00
O'Connor Hospital	12/31/2001	08-2627GC	\$72,090	25%	\$ 18,022.50
O'Connor Hospital	6/30/2001	08-2627GC	\$42,838	25%	\$ 10,709.50
			\$2,630,911		\$ 597,742.55
Seton Medical Center	12/31/2001	08-2627GC	\$102,612	25%	\$ 25,653.00
Seton Medical Center	6/30/2015	19-2027GC	\$48,244	20%	\$ 9,648.80
Seton Medical Center	6/30/2014	17-1446GC	\$225,739	20%	\$ 45,147.80
Seton Medical Center	6/30/2013	17-0291GC	\$160,652	20%	\$ 32,130.40
Seton Medical Center	6/30/2012	16-2062GC	\$130,382	20%	\$ 26,076.40
Seton Medical Center	6/30/2011	16-1727GC	\$214,354	20%	\$ 42,870.80
Seton Medical Center	6/30/2010	16-1309GC	\$202,857	25%	\$ 50,714.25

Hospital	FYE	Case Number	Reimbursement	Contingency	Amount Due
				Fee %	Toyon
Seton Medical Center	6/30/2009	14-2802GC	\$169,790	25%	\$ 42,447.50
Seton Medical Center	6/30/2008	14-2806GC	\$232,656	25%	\$ 58,164.00
Seton Medical Center	6/30/2007	14-0764GC	\$196,298	25%	\$ 49,074.50
Seton Medical Center	6/30/2006	17-1940GC	\$465,628	25%	\$ 116,407.00
Seton Medical Center	6/30/2004	10-1346GC	\$173,797	25%	\$ 43,449.25
Seton Medical Center	6/30/1998	08-2618GC	\$60,255	25%	\$ 15,063.75
Seton Medical Center	6/30/1994	08-2448GC	\$229,460	25%	\$ 57,365.00
Seton Medical Center	6/30/1996	08-2449GC	\$86,830	25%	\$ 21,707.50
Seton Medical Center	6/30/2003	09-1944GC	\$185,283	25%	\$ 46,320.75
Seton Medical Center	6/30/2000	08-2451GC	\$86,666	25%	\$ 21,666.50
Seton Medical Center	6/30/2001	08-2627GC	\$91,596	25%	\$ 22,899.00
Seton Medical Center	6/30/1999	08-2450GC	\$70,806	25%	\$ 17,701.50
St. Francis Medical Center	6/30/2015	19-0092GC	\$61,389	20%	\$ 12,277.80
St. Francis Medical Center	6/30/2014	17-1446GC	\$260,853	20%	\$ 52,170.60
St. Francis Medical Center	6/30/2013	17-0291GC	\$205,471	20%	\$ 41,094.20
St. Francis Medical Center	6/30/2012	16-2062GC	\$181,137	20%	\$ 36,227.40
St. Francis Medical Center	6/30/2011	16-1727GC	\$160,290	20%	\$ 32,058.00
St. Francis Medical Center	6/30/2010	16-1309GC	Pending	25%	
St. Francis Medical Center	6/30/2009	14-2802GC	\$233,907	25%	\$ 58,476.75
St. Francis Medical Center	6/30/2008	14-2806GC	\$454,952	25%	\$ 113,738.00
St. Francis Medical Center	6/30/2007	14-0764GC	\$627,020	25%	\$ 156,755.00
St. Francis Medical Center	6/30/2006	17-1940GC	\$160,497	25%	\$ 40,124.25
St. Vincent	6/30/2011	16-1727GC	\$71,374	20%	\$ 14,274.80
			\$5,550,795		\$ 1,301,704.50
			\$8,181,706		\$ 1,899,447.05

EXHIBIT J

Summary of Open Appeals as of 6/11/2019

EXHIBIT J

Verity Health System

DSH - Code 2 & 3 Medicaid Eligible Days (Appeal)

Hospital	FYE	Case Number	Reimbursement	Contingency Fee %	Amount Due Toyon
O'Connor Hospital	6/30/2014	19-0059GC	\$236,296	20%	\$ 47,259.20
O'Connor Hospital	6/30/2013	18-1451GC	\$416,828	20%	\$ 83,365.60
O'Connor Hospital	6/30/2012	18-0176GC	\$408,574	20%	\$ 81,714.80
O'Connor Hospital	6/30/2006	17-1944GC	\$207,064	25%	\$ 51,766.00
			\$1,268,762		\$ 264,105.60
Seton Medical Center	6/30/2015	19-0097GC	\$35,390	20%	\$ 7,078.00
St. Vincent	6/30/2011	19-1374GC	\$24,936	20%	\$ 4,987.20
			\$60,326		\$ 12,065.20
			\$1,329,088		\$ 276,170.80

EXHIBIT K

Summary of Open Appeals as of 6/11/2019
Verity Health System
Individual Appeals

EXHIBIT K

Hospital	FYE	Case Number	Reimbursement	Contingency		Amount Due		Issues in Individual Appeals
				Fee %	Toyon	Toyon		
O'Connor Hospital	6/30/2010	14-1705	\$246,465	25%	\$	61,616.25	IME FTE Count, GME FTE Count	
O'Connor Hospital	6/30/2009	14-1111	\$420,358	25%	\$	105,089.50	IME FTE Count, GME FTE Count	
			\$666,823		\$	166,705.75		
Seton Medical Center	6/30/2013	16-1925	\$14,991	20%	\$	2,998.20	DSH eligible days	
Seton Medical Center	6/30/2015	19-0340	\$13,876	20%	\$	2,775.20	DSH eligible days	
St. Francis Medical Center	6/30/2010	14-0231	\$25,999	25%	\$	6,499.75	DSH eligible days	
St. Francis Medical Center	6/30/2015	18-1491	\$12,714	20%	\$	2,542.80	DSH eligible days	
St. Vincent	6/30/2011	18-1525	\$354,099	20%	\$	70,819.80	DSH eligible days, IME FTE, IME Managed Care, GME FTE, QAF, Kidney Acquisition Consulting	
			\$421,679		\$	85,635.75		
			\$1,088,502		\$	252,341.50		

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: 500 Capitol Mall, Suite 2250, Sacramento, CA 95814.

A true and correct copy of the foregoing document entitled

- **DECLARATION OF THOMAS P. KNIGHT IN SUPPORT OF TOYON ASSOCIATES, INC.'S LIMITED OBJECTION TO CONFIRMATION OF SECOND AMENDED JOINT CHAPTER 11 PLAN OF LIQUIDATION (DATED JULY 2, 2020) OF THE DEBTORS, THE PREPETITION SECURED CREDITORS, AND THE COMMITTEE**

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 July 30, 2020, 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:

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Service information continued on attached page

2. SERVED BY UNITED STATES MAIL:

On July 30, 2020, 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.

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Verity Health System of California, Inc.
Attn: Peter C. Chadwick
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Los Angeles, CA 90017

Attorneys for the Debtors and Debtors-In-Possession

Dentons US LLP
Attn: Tania M. Moyron
601 South Figueroa St., #2500
Los Angeles, CA 90017

Master Trustee and Series 2005 bond Trustee

Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, PC
Attn: Daniel S. Bleck
Paul J. Ricotta
One Financial Center
Boston, MA 02111

Committee

Milbank LLP
Attn: Mark Shinderman
2029 Century Park East, 33rd Fl.
Los Angeles, CA 90067

Series 2015 Notes Trustee

McDermott Will & Emery LLP
Attn: Nathan F. Coco
Megan Preusker
444 West Lake St., Suite 4000
Chicago, IL 60606

Series 2017 Notes Trustee

Maslon LLP
Attn: Clark Whitmore
3300 Wells Fargo Center
90 South Seventh St.
Minneapolis, MN 55402

MOB Lenders

Jones Day
Attn: Bruce Bennett
Benjamin Rosenblum
Peter Saba
250 Vesey Street
New York, NY 10281

U.S. Trustee
Office of the US Trustee
Attn: Hatty K. Yip
915 Wilshire Blvd., Suite 1850
Los Angeles, CA 90017

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 July 30, 2020 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.

Served by overnight mail

The Honorable Ernest M. Robles
US Bankruptcy Court
255 E. Temple St., Suite 1560
Los Angeles, CA 90012

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.

7/30/20

Date

Susan R. Darms

Printed Name

/s/ Susan R. Darms

Signature