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UNITED STATES BANKRUPTCY COURT

CENTRAL DISTRICT OF CALIFORNIA, LOS ANGELES DIVISION

In re

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

Debtors and Debtors in Possession.

☐ Affects All Debtors
☐ Affects Verity Health System of California, Inc.
☐ Affects O'Connor Hospital
☐ Affects Saint Louise Regional Hospital
☒ Affects St. Francis Medical Center
☒ Affects St. Vincent Medical Center
☐ Affects Seton Medical Center
☐ Affects O'Connor Hospital Foundation
☐ Affects Saint Louise Regional Hospital Foundation
☐ Affects St. Francis Medical Center of Lynwood Foundation
☐ Affects St. Vincent Foundation
☐ Affects St. Vincent Dialysis Center, Inc.
☐ Affects Seton Medical Center Foundation
☐ Affects Verity Business Services
☐ Affects Verity Medical Foundation
☐ Affects Verity Holdings, LLC
☐ Affects De Paul Ventures, LLC
☐ Affects De Paul Ventures - San Jose Dialysis, LLC

Debtors and Debtors In Possession.

Lead Case No. 2:18-bk-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

Adv. Proc. No. 2:19-ap-01002-ER

REPLY BRIEF IN SUPPORT OF MOTION FOR ENTRY OF ORDER DISMISSING COMPLAINT OR, IN THE ALTERNATIVE, MOTION FOR ENTRY OF ORDER STAYING TRIAL OF ADVERSARY PROCEEDING

Date: April 3, 2019
Time: 10:00 A.M.
Judge: Hon. Ernest M. Robles
Courtroom: 1568



1820151190327000000000011

ST. VINCENT MEDICAL CENTER, a California nonprofit public benefit corporation and ST. FRANCIS MEDICAL CENTER, a California nonprofit public benefit corporation,

Plaintiffs,

v.

LOCAL INITIATIVE HEALTH AUTHORITY FOR LOS ANGELES COUNTY DBA L.A. CARE HEALTH PLAN, an independent local public agency,

Defendant.

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I. INTRODUCTION

Plaintiffs St. Vincent Medical Center ("SV") and St. Francis Medical Center ("SF" and, together with SV, the "Plaintiffs") filed this adversary proceeding against Defendant Local Initiative Health Authority for Los Angeles County, a California local public agency operating as L.A. Care Health Plan ("L.A. Care") seeking, in the aggregate, more than $25.7 million in damages. *L.A. Care emphatically denies that it is liable to the Plaintiffs, or either of them, in any amount, much less the staggering sum that they now claim.*

Plaintiffs' various Claims for Relief, and the appropriate bases for dismissal of those claims, are briefly summarized in the following table:

CLAIM	PLTF	LEGAL THEORY	ALLEGED DAMAGES	BASIS FOR DISMISSAL
First	SV	Breach of Contract	$4.3M	(1) failure to comply with Gov't Claims Act (2) failure to plead compliance (3) failure to arbitrate (4) failure to state a claim for breach of contract
Fifth	SF	Breach of Contract	$21M	Same as for First Claim for Relief
Second	SV	Turnover	$4.3M	(1) failure to comply with Gov't Claims Act (2) failure to plead compliance (3) failure to arbitrate (4) turnover not applicable to disputed, unmature, unliquidated claims
Sixth	SF	Turnover	$21M	Same as for Second Claim for Relief
Third	SV	Unjust Enrichment	$4.3M	(1) failure to comply with Gov't Claims Act (2) failure to plead compliance (3) failure to arbitrate (4) may not sue public entity under quasi-contract (5) may not sue where, as here, both parties acknowledge existence of controlling contract
Seventh	SF	Unjust Enrichment	$21M	Same as for Third Claim for Relief
Fourth	SV	Wrongful Setoff	$89K	(1) failure to comply with Gov't Claims Act (2) failure to plead compliance (3) failure to arbitrate (4) recoupment, not setoff
Eighth	SF	Wrongful Setoff	$269K	Same as for Fourth Claim for Relief
Ninth	SV/SF	Injunctive Relief	None	injunctive relief is a remedy, not a cause of action

Each of Plaintiffs' purported Claims for Relief should be dismissed because Plaintiffs failed to comply with the Government Claims Act and failed to allege compliance with the Government Claims Act. Notably, in their Opposition to Motion for Entry of Order Dismissing Complaint or, in the Alternative, Motion for Entry of Order Staying Trial of Adversary Proceeding ("Opposition"), Plaintiffs seek to rectify their pleading errors by attaching some 16 pages of documents and exhibits that were neither attached to nor referenced in the Complaint. A plaintiff may not amend its complaint through its opposition to a motion to dismiss, however. Moreover, the documents that Plaintiffs now inappropriately seek to put into the record actually support L.A. Care's contention that Plaintiffs have failed to comply with the Government Claims Act, as these new documents do not come close to constituting proper Government Claims. Notably also, each of Plaintiffs' Claims for Relief is subject to mandatory arbitration under the arbitration clauses in the contracts between L.A. Care and Plaintiffs.

Plaintiffs' arguments in support of their turnover claims (the Second and Sixth Claims for Relief) are based on a fundamental *misstatement* of the law with respect to turnover. Under settled law, turnover proceedings involve the return of *undisputed* assets, and L.A. Care disputes it is liable to Plaintiffs and disputes Plaintiffs' claimed damages. This Adversary Proceeding is not an attempt to recover embezzled funds or stolen property. It is not even an attempt to collect a liquidated, matured debt, like a debt arising under a promissory note. In an inappropriate attempt to avoid arbitration, however, Plaintiffs have transparently attempted to turn a non-core contract dispute, where the issues of liability and damages are in substantial doubt and contention, into a "core" turnover proceeding. They cannot, as a matter of settled law, do this.

Similarly, Plaintiffs' arguments in support of their Third and Seventh Claims for Relief rely on an erroneous application of the law with respect to unjust enrichment. Under settled California law, one may not sue a public entity under a quasi-contract theory such as unjust enrichment. Moreover, one may not bring an unjust enrichment claim in circumstances where, as here, *both parties acknowledge the existence of a*

controlling contract.

The Fourth and Eighth Claims for Relief should also be dismissed because they are based on an erroneous application of the law with respect to recoupment and setoff. This is a textbook example of a recoupment, not a setoff. Under the contracts between the parties, in specified circumstances, L.A. Care had the absolute right to deduct overpayments from "*any future payments*." Consequently, the recoupment/setoff issue can resolved based on the parties' contracts and without reference to any bankruptcy law or cases. In addition, these claims involve less than $360,000 in claimed damages, while Plaintiffs' claims for breach of contract involve aggregate damages allegedly in excess of $25.4 million. There is no reason why the recoupment issue (which represents less than 1/70th of Plaintiffs' claimed damages) cannot be decided by an arbitrator.

Finally, Plaintiffs misapprehend L.A. Care's argument on the Ninth Claim for Relief. L.A. Care does not question this Court's authority to issue injunctions, but that does not transform the remedy of injunctive relief into a cause of action. Plaintiffs have not and cannot state a cause of action for injunctive relief because no such cause of action exists.

For all of the foregoing reasons, and the reasons set forth in L.A. Care's Motion for Entry of Order Dismissing Complaint or, in the Alternative, Motion for Entry of Order Staying Trial of Adversary Proceeding, and Memorandum of Points and Authorities in Support Thereof ("Motion"), L.A. Care respectfully requests that this Court dismiss the Complaint or such parts of the Complaint as the Court deems appropriate to dismiss and/or, in the alternative, stay this Adversary Proceeding pending arbitration.

II. LEGAL ARGUMENT

A. Plaintiffs Did Not Plead Compliance With the Government Claims Act and Cannot Cure Their Defective Pleading By Introducing New Allegations In an Opposition to a Motion to Dismiss.

Plaintiffs were required to satisfy the Government Claims Act's claims presentation requirements before filing this lawsuit and were required to plead specific facts demonstrating they did so. *Easley v. County of El Dorado Probation Dept.*, 478 Fed.Appx. 447, 447-48 (9th Cir. 2012); *California v. Super. Ct.*, 32 Cal.4th 1234, 1243

(2004). Because Plaintiffs neither complied with nor pled compliance with the Government Claims Act, the Complaint must be dismissed in its entirety.

In a tardy attempt to demonstrate that they presented L.A. Care with a Government Claim before filing this Adversary Proceeding, Plaintiffs now attach to their Opposition and rely upon some 16 pages of documents that are not mentioned in, summarized in, or attached to the Complaint. "[I]t is axiomatic that the complaint may not be amended by the briefs in opposition to a motion to dismiss." *Car Carriers, Inc. v. Ford Motor Co.*, 745 F.2d 1101, 1107 (7th Cir. 1984). In this Circuit, at the request of a *defendant* in support of a motion to dismiss under Rule 12(b)(6), "courts may take into account '*documents whose contents are alleged in a complaint* and whose authenticity no party questions, but which are not physically attached to the [plaintiff's] pleading.'" *Davis v. HSBC Bank Nevada, N.A.*, 691 F.3d 1152, 1159-60 (9th Cir. 2012) (emphasis added; citations omitted). That is not the case here, however. The 16 pages of documents that *Plaintiffs* now append to their Opposition are not mentioned in, referred to, summarized in, or attached to the Complaint. Nor are the documents properly before this Court because Plaintiffs never moved to have this Court take judicial notice of them or even attempted to present them by way of an affirmation or declaration under oath. *See* Fed. R. Civ. Pro. 43(c) (as incorporated by Fed. R. Bankr. Pro. 9017); Fed. R. Evid. 201, 901 (same); Local Bankr. R. 9013-1(i).

Plaintiffs' apparent need to resort to materials that are utterly outside the Complaint to substantiate their claims is an admission that the Complaint itself fails to state a claim. This Court should therefore dismiss the Complaint in its entirety.

B. Plaintiffs' Newly-Attached Materials Demonstrate that Amendment of the Complaint Would Be Futile.

Having failed to comply with and having failed to plead compliance with the Government Claims Act's presentation requirements, Plaintiffs instead proffer three arguments for why their failures should be overlooked: (1) their claims fall within an exception to the Government Claims Act; (2) they substantially complied with the

Government Claims Act's presentation requirements; and (3) the September 26, 2018 and November 2, 2018 letters they attached to their Opposition should be deemed Government Claims "as presented." None of these arguments has merit. As set forth in greater detail below, the Plaintiffs' claimed exception does not apply, and those two letters are not proper Government Claims, do not substantially comply with the Government Claims Act's requirements, and cannot be deemed Government Claims "as presented." If the September 26, 2018 and November 2, 2018 letters are Plaintiffs' best purported example of compliance with the Government Claims Act, amendment of the Complaint would be utterly futile, and the Complaint should be dismissed with prejudice. *See Jackson v. Bank of Hawaii*, 902 F.2d 1385, 1387 (9th Cir.1990) (leave to amend should not be granted where the amendment is futile).

1. Plaintiffs' claims do not fall within an exception to the Government Claims Act.

Plaintiffs argue that their claims for more than $25 million in money and damages from L.A. Care are somehow exempted from the Government Claims Act because their claims (for breach of contract, turnover, unjust enrichment, and wrongful setoff) are actually "claims for goods, services, provisions or other assistance rendered for or on behalf of any recipient of any form of public assistance." Cal. Gov. Code § 905(e). Plaintiffs are mistaken for several reasons.

First, Plaintiffs' reading of the statute is wrong. Section 905(e)'s exemption only applies to parties filing applications or claims for public assistance under the Welfare and Institutions Code and claims for *goods*, *services*, and *provisions* rendered for or on behalf of any recipient of public assistance. That is not this case here: Plaintiffs' claims fall squarely within the Government Claims Act because they are suing for *money* and *damages*.

Indeed, the exceptions provided under Government Code § 905 are extremely limited and strictly construed. *See Nasrawi v. Buck Consultant LLC*, 231 Cal. App. 4th 328, 339 (2014) ("statutory exceptions specified in section 905 are given a strict

construction"); *Dalton v. East Bay Mun. Utility Dist.*, 18 Cal. App. 4th 1566, 1573 (1993) ("The legislative history of section 905 indicates the scope of the enumerated exceptions to presenting claims was intended to be extremely limited.").

Plaintiffs are seeking monetary damages from L.A. Care for breach of contract, turnover, unjust enrichment, and wrongful setoff. These claims do not fall within the purview of the § 905(e) exemption, as Plaintiffs are not seeking public assistance or goods, services or provisions for a recipient of public assistance. They are large corporate entities seeking monetary relief for themselves or on their own behalves for medical services they allegedly provided to L.A. Care members pursuant to contracts Plaintiffs entered into with L.A. Care.

Second, Plaintiffs assume, without any supporting evidence, that just because L.A. Care was established "to provide health coverage to low-income Los Angeles County residents," the services they allegedly provided to L.A. Care's members were provided "'for or on behalf of' any public assistance recipient." (Opp. at 7-8.) Plaintiffs make no effort to define what "public assistance" means under the statute. Furthermore, while many of L.A. Care's members are Medi-Cal beneficiaries, not all of them are.

Lastly, and importantly, under Plaintiffs' interpretation of the statute, essentially all claims against L.A. Care would be exempt from the Government Claims Act's claim presentation requirements. But in authorizing the creation of L.A. Care, the Legislature expressly sought that "[a]ll claims for money damages against the commission [L.A. Care] shall be governed by Part 3 (commencing with Section 900) and Part 4 (commencing with Section 940) of [the Government Claims Act] … except as otherwise provided by other statutes or regulations that expressly apply to the commission." Cal. Welf. & Inst. Code § 14087.9685(c). Thus, contrary to Plaintiffs' assertions, the Welfare and Institutions Code specifically requires Plaintiffs to comply with the Government Claims Act's claim presentment requirements. *Id.*

2. Plaintiffs cannot allege substantial compliance with the Government Claims Act.

While a plaintiff may not supplement a complaint with materials that are outside the record in response to a motion to dismiss, *a defendant may refer to those documents in support of its motion to dismiss*. *See Davis*, 691 F.3d at 1159-60. In their Opposition,[1] Plaintiffs argue that they substantially complied with the claims presentation requirements by sending two letters to L.A. Care's Chief Operating Officer, one dated September 26, 2018 and another dated November 2, 2018. Contrary to Plaintiffs' assertion, however, the two letters actually show that Plaintiffs made absolutely no effort to substantially comply with the requirements of the Government Claims Act.

"Where a claimant has attempted to comply with the claim requirements but the claim is deficient in some way, the doctrine of substantial compliance may validate the claim if it substantially complies with all of the statutory requirements . . . even though it is technically deficient in one or more particulars." *Connelly v. County of Fresno*, 146 Cal. App. 4th 29, 38 (2006) (internal quotations omitted). Substantial compliance is a two part test: the claim must demonstrate at least "some compliance with ***all*** of the statutory requirements," and if so, the compliance with each of the statutory requirements "must be sufficient to constitute substantial compliance." *City of San Jose v. Super. Ct.*, 12 Cal. 3d 447, 456–57 (1974) (emphasis added); *see also Del Real v. City of Riverside*, 95 Cal. App. 4th 761, 769 (2002). But "[t]he doctrine of substantial compliance . . . cannot cure [a] total omission of an essential element from the claim or remedy a plaintiff's failure to comply meaningfully with the statute." *Connelly*, 146 Cal. App. 4th at 38.

The two letters look nothing like a Government Claim. Neither of them mentions a

[1] As discussed above, Plaintiffs were required to allege compliance in their pleadings and cannot do so in an opposition to a motion to dismiss. *See Sanchez v. City of Fresno*, 914 F. Supp. 2d 1079, 1119 (E.D. Cal. 2012) (granting motion to dismiss where the complaint did not reference the Government Claims Act and did not allege compliance with the statute or excuse from compliance); *Robinson v. Alameda County*, 875 F. Supp. 2d 1029, 1044 (N.D. Cal. 2012) (same).

Government Claim or the Government Claims Act either in the "re" line or the body of the letters. Both letters appear to be standard business correspondence and are addressed to L.A. Care's Chief Operating Officer. Government Claims, in contrast must be sent to the public agency's clerk, secretary, auditor or board. Cal. Govt. Code § 915(a). Most importantly, both letters lack several requirements that must be included in a government claim. Cal. Govt. Code § 910.

Government Code section 915(a) imposes the duty for correctly addressing and presenting claims on the claimants, not the public entity. *Westcon Constr. Corp. v. County of Sacramento*, 152 Cal.App.4th 183, 200-03 (2007). If a claimant fails to deliver or mail the claim to one of the specified recipients, the claim does not "substantially comply with the act" even "if it is given to a person or department whose functions include the management or defense of claims against the defendant entity." *DiCampli-Mintz v. County of Santa Clara*, 55 Cal. 4th 983, 987 (2012). To find compliance under the Government Claims Act when a claimant sends the claim to anyone other than the public entity's "clerk, secretary, auditor or board" would create too many problems and uncertainties. *Westcon*, 152 Cal.App.4th at 201; *see also Dicampli-Mintz*, 55 Cal. 4th at 997 ("Misdirected claims may be received by various departments or employees and forwarded to multiple people and places, making it difficult to determine whether the claims were actually delivered to, or received by, a department or employee charged with the overall management of claims against the county. . . . This result is contrary to the Government Claims Act's goal of eliminating uncertainty in the claims-presentation requirements.").

Plaintiffs have presented evidence (however improperly) that they delivered their so-called claim solely to L.A. Care's Chief Operating Officer. (Opp. Exhs. A & B.) It goes without saying that L.A. Care's Chief Operating Officer is not L.A. Care's "clerk, secretary, auditor or board." Therefore, it is undisputed that Plaintiffs failed to present their so-called claim to L.A. Care's statutorily designated recipient. Cal. Govt. Code § 915(a). Plaintiffs don't allege that the "clerk, secretary, auditor or board" ever actually received

the so-called claims. "Thus, neither Government Code Section 915(a)'s specific requirements for compliance, nor Section 915(e)(1)'s provision deeming actual receipt to constitute compliance, were satisfied." *Dicampli-Mintz*, 55 Cal. 4th at 991-992; *see also Life v. County of L.A.*, 227 Cal. App. 3d 894, 900 (1991) ("[T]there is no evidence to show that Life's claim actually reached the appropriate officials or board. Thus, as a matter of law, there was no substantial compliance with the claims statute.")

In addition, both letters also fail to include several key elements that must be included in every Government Claim. Cal. Govt. Code § 910. Specifically, a Government Claim must include "the name and post office address of the claimant" and "the post office address to which the person presenting the claim desires notices to be sent" and, "[i]f the amount claimed exceeds ten thousand dollars ($10,000), . . . [must] indicate whether the claim would be a limited civil case." *Id.*

Neither the September 26, 2018 letter nor the November 2, 2018 letter contained any of these mandatory elements.

3. The September 26, 2018 letter and November 2, 2018 letter are *not* Government Claims "as presented."

Lastly, Plaintiffs argue that they've made "written demands" on L.A. Care on September 26, 2018 and November 2, 2018, and that L.A. Care waived its ability to challenge the sufficiency of these demand letters as Government Claims because L.A. Care did not respond to them or give notice of insufficiency to Plaintiffs. (Opp. at 9, 11.) Plaintiffs are mistaken. Neither the September 26, 2018 letter nor the November 2, 2018 letter can be deemed a Government Claim "as presented," and even if they could, L.A. Care never waived any objection to the insufficiency of those letters because the letters do not provide the address for either of the Plaintiffs. *See* Cal. Govt. Code § 911 ("[N]o notice need be given and no waiver shall result when the claim as presented fails to state . . . an address of the claimant.").

Documents that do not substantially comply with the Government Claims Act, but which are still sufficiently cognizable as claims so as to require the public entity to comply

with the notice and defense-waiver statutes of the Government Claims Act, are called "claims as presented." *See Phillips v. Desert Hospital Dist.*, 49 Cal. 3d 699, 709 (1989) (notice and defense-waiver provisions in sections 910.8 and 911 of the Government Code use the phrase "claim as presented" to identify such claims).

To constitute a claim as presented, "the content of the correspondence to the recipient entity must at least be of such nature as to make it readily discernible by the entity that the intended purpose thereof is to convey the assertion of a compensable claim against the entity which, if not otherwise satisfied, will result in litigation." *Green v. State Ctr. Cmty. Coll. Dist.*, 34 Cal. App. 4th 1348, 1358 (1995); *see also Alliance Fin. v. City and County of S.F.*, 64 Cal. App. 4th 635, 643 (1998) ("A 'claim as presented' is a claim that is defective in that it fails to comply substantially with Government Code sections 910 and 910.2, but nonetheless puts the public entity on notice that the claimant is attempting to file a valid claim and that litigation will result if it is not paid or otherwise resolved."). Disclosing that the aggrieved party has a "claim which, if not satisfactorily resolved, will result in a lawsuit against the entity . . . is the most essential element of a 'claim as presented,' because it satisfies the primary purposes of the Government Claims Act: facilitating the investigation of disputes and their settlement without trial if appropriate." *City of Stockton v. Super. Ct.*, 42 Cal. 4th 730, 744 (2007).

The two so-called demand letters of September 26, 2018 and November 2, 2018 do nothing to put L.A. Care on notice that Plaintiffs are trying to file a valid claim and that litigation will result if the dispute is not resolved. *See e.g., Schaefer Dixon Assocs. v. Santa Ana Watershed Project Auth.*, 48 Cal. App. 4th 524, 536-37 (1996) (a letter from the lawyer for a contractor on a wastewater project to a watershed project authority demanding the contractor's "full invoiced fees" was held not to be a claim at all, because it was "never intended and never treated as the functional equivalent of a formal claim").

In fact, it is highly misleading to even call the September 26, 2018 a "demand" letter, since the letter doesn't demand anything from L.A. Care. The letter, which appears to be a form document, merely references Verity's August 31, 2018 bankruptcy filing and

states that Verity Health has identified "a number of fee for service claims" that L.A. Care either has not paid or underpaid. The letter asks L.A. Care to "review these claims and provide Verity with a response for each claim that will be used in our preparation of a filing with the bankruptcy court regarding the specific claims and claims amounts owed to Verity by [L.A. Care]." The letter then asks that the response be provided no later than November 30, 2018 and identifies two individuals who can answer L.A. Care's questions. Lastly, the letter closes with "[w]e appreciate your assistance and cooperation with the review of these claims issues using a process that minimizes the expenses of both Verity as the debtor and [L.A. Care]."

At no point does the September 26, 2018 letter demand any payment from L.A. Care or mention that litigation may ensue. *See Alliance*, 64 Cal. App. 4th at 646 (a Government Claim must "assert the existence of a right to damages and an intention to pursue that right" through litigation). The letter merely attaches a list of potentially underpaid fee for service claims and asks L.A. Care to review them. Also, as noted earlier, the letter was sent to L.A. Care's Chief Operating Officer (rather than any of the statutorily designated individuals), who would not have identified the letter as a potential claim. Nor does the letter provide much of the other necessary information. Indeed, neither of the Plaintiffs is even mentioned anywhere in the letter by name or by address. The letter fails to include any information regarding the "date, place, and other circumstances of the occurrence or transaction" giving rise to the claim, a description of the indebtedness, obligation, injury, damage, or loss incurred, as far as they were known when the alleged claim was presented, or either the amount claimed or a statement regarding whether the claim is to be a limited civil case Cal. Govt. Code § 910. While the letter indicates that an encrypted file was emailed with health plan claim information, this is insufficient because email transmittal is not a method of presentment under the Government Claims Act. *Id.* § 915(a) (requiring personal service or mail service).

The November 2, 2018 letter is equally defective. Although the letter identifies St. Francis Medical Center, it does not mention St. Vincent Medical Center or provide the

address of either. The letter similarly fails to provide essential details regarding the "date, place, and other circumstances of the occurrence or transaction," a description of the indebtedness, obligation, injury, damage, or loss incurred, as far as they were known when the claim was allegedly presented, or either the amount claimed or a statement regarding whether the claim is to be a limited civil case. *Id.* § 910. The only issue raised in Exhibit B is the purported setoffs which, according to SF, amount to about $270,000. The letter says absolutely nothing about the remaining causes of action (for more than $25 million) Plaintiffs now assert. *See Fall River Joint Unified Sch. Dist. v. Super. Ct.*, 206 Cal. App. 3d 431, 435–36 (1988) (causes of action that "premise liability on an entirely different factual basis than what was set forth in the [Government Claim]" are subject to demurrer). The letter was also sent to L.A. Care's Chief Operating Officer, rather to the appropriate official. Cal. Govt. Code § 915(a). The only "demand" made in the November 2, 2018 letter is that "L.A. Care cease and desist any and all further setoff attempts unless and until there is an agreement between us or until L.A. Care obtains an order from the Bankruptcy Court authorizing it to do so." The letter also asks L.A. Care to provide information supporting the capitation deductions.

In addition, the November 2, 2018 letter demanded a response within 13 days – less than 1/3 of the time L.A. Care would have to respond if the letter were a Government Claim. Cal. Govt. Code § 912.4. For this reason alone, the November 2, 2018 letter should not be deemed a Government Claim "as presented." *Schaefer Dixon Assocs.*, 48 Cal. App. 4th at 536-37 (denying plaintiff leave to amend complaint to allege letters were claims "as presented" where the letters demanded a response sooner than required under the Government Claims Act).

Plaintiffs never presented a Government Claim, Plaintiffs did not substantially comply with the Government Claims Act, and neither of the letters Plaintiffs sent L.A. Care can be deemed Government Claims "as presented." Consequently, Plaintiffs cannot allege any of these necessary facts and any amendment would be futile. This Court should therefore dismiss the Complaint in its entirety without leave to amend.

C. Plaintiffs Failed to Plead Sufficient Facts to State a Claim for Breach of Contract.

L.A. Care argued in its Motion that the Complaint fails to allege that the damages Plaintiffs now seek are for covered services. (Motion at 14:1-6.) Plaintiffs do not dispute this in their Opposition. For this reason alone, Plaintiffs' breach of contract claims fail as a matter of law.

Plaintiffs do, however, assert in the Opposition that their allegation that they "performed all conditions" of the contract is sufficient to plead that element of their claim. It is not. Plaintiffs must plead facts, not legal conclusions. *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007) (a "formulaic recitation of a cause of action's elements" is not sufficient to defeat a motion to dismiss). Plaintiffs seek to sidestep this deficiency by asserting that "Exhibits B and D of the Complaint set forth the dates services were rendered and the dates claims relating to such services were submitted to L.A. Care, establishing their timeliness and propriety." (Opp. at 13:6-8.) They do not. Exhibits B and D provide only the dates upon which the medical claims were submitted; there is no "date of service" information on those exhibits.

D. Plaintiffs' So-Called Turnover Claims Do Not Seek to Recover a Matured, Liquidated, and Undisputed Debt and Therefore Fail as a Matter of Law.

Plaintiffs claim that the damages they seek from L.A. Care are a matured debt subject to turnover. (Opp. at 14:27-15:4.) Plaintiffs apparently believe that, by reciting the mantra that they "*believe* that there is no bona fide dispute as to liability," their breach of contract claim magically transforms itself into an action to collect a fully matured and liquidated debt. (*Id.*) "Such an approach is, however, fundamentally flawed. It would turn mere allegation into fact . . . . Unless and until [Plaintiffs'] claims against [L.A. Care] are liquidated in a court of competent jurisdiction or by agreement, they cannot be enforced here through a turnover order." *In re Satelco, Inc.*, 58 B.R. 781, 786 (Bankr. N.D. Tex. 1986). Under even cursory examination, Plaintiffs' theory falls apart because "under their rationale, every action brought by a trustee or debtor in possession could

conceivably be characterized as a turnover proceeding, effectively eradicating *Marathon*." *Beard v. Braunstein,* 914 F.2d 434, 444 (3d Cir. 1990) (quoting 1 *Collier on Bankruptcy* ¶ 3.01[2][b][iii] at 3-42-43 (15th ed. 1989).).

"It is settled law that the debtor cannot use the turnover provisions to liquidate contract disputes or otherwise demand assets whose title is in dispute." *United States v. Inslaw, Inc.*, 932 F.2d 1467, 1472 (D.C. Cir. 1991); *see also In re Ladder 3 Corp.*, 571 B.R. 525, 530 (2017) (Bankr. E.D.N.Y. 2017) ("A suit by a debtor against a non-creditor arising out of a state law cause of action is not a turnover action."); *In re Madison Williams & Co.*, 509 B.R. 791, 799 (Bankr. S.D.N.Y. 2014) (debtor "cannot use the turnover provision of the Bankruptcy Code to recover a disputed prepetition debt"). Nor do the turnover provisions apply to disputed amounts under an unjust enrichment theory. *In re Falzerano*, 686 F.3d 885, 887-88 (8th Cir. 2012). Turnover claims can be core proceedings only if their "purpose is the collection rather than the creation, recognition, or liquidation of a matured debt. . . . When a bona fide dispute exists as to liability involving state law, then the proceeding cannot be core under § 157(b)(2)(E)." *Acolyte Elec. Corp. v. City of N.Y.*, 69 B.R. 155, 172 (Bankr. E.D.N.Y. 1986). Indeed, "[m]ost courts require that the debt be undisputed for the action to be core"; otherwise, the claim is merely a non-core breach of contract claim. *In re DHP Holdings II Corp.*, 435 B.R. 264, 271 (Bankr. D. Del. 2010).

Because of the overwhelming body of law against them, Plaintiffs attempt to cobble together helpful language from isolated cases while ignoring controlling law. Plaintiffs have not and cannot state a turnover claim. In the Ninth Circuit, turnover applies only "to obtain *property of* the debtor" and not "to obtain *property owed to* the debtor." *In re Kincaid*, 917 F.2d 1162, 1165 (9th Cir. 1990) (emphasis in original); *see also In re Gurga*, 176 B.R. 196, 199 (B.A.P. 9th Cir. 1994) ("[T]urnover proceedings involve return of *undisputed* funds. … Here, the amounts, if any, owed to [Plaintiffs] by [L.A. Care] are in dispute and this dispute rests on breach of contract issues.").

Even the cases Plaintiffs rely upon do not support their theory. *In re Process Am.,*

Inc. is readily distinguishable because "[a]ll issues as to the breach of contract claims the parties had against each other . . . [were] litigated elsewhere to a final resolution." 588 B.R. 82, 101 (Bankr. C.D. Cal. 2018). *Process Am.* is unlike the case at bar because, in that case, there was no longer a dispute as to liability and/or damages. *In re Cambridge Capital, LLC* did not even involve a breach of contract dispute. 331 B.R. 47 (Bankr. E.D.N.Y. 2005). In *Cambridge*, the "manager and chief executive officer of Cambridge systematically looted Cambridge in excess of $1.5 million in assets." *Id.* at 56-57. Thus, *Cambridge* concerned the recovery of money that truly was property that the debtor had originally possessed but that someone wrongfully took from it. *Id.* That is a far different situation than the one presented here. In the case at bar, Plaintiffs are seeking turnover of money they never had in their possession and have no right to other than based on a disputed claim in contract.

Notably, Plaintiffs' arguments that the disputed debts of L.A. Care are really liquidated and matured, and hence subject to turnover, are belied by the very allegations of the Complaint. In paragraph 19 of the Complaint, Plaintiffs allege that "St. Vincent has been damaged in the sum of *not less than* $4,320,335.32, of which $1,895,994.64 constitutes systematic underpayments." In paragraph 46 of the Complaint, Plaintiffs allege that "St. Francis has been damaged in the sum of *not less than* $21,054,689.63, of which $12,502,651.97 constitutes systematic underpayments." While L.A. Care emphatically disputes the allegations that it owes any amount of money to the Plaintiffs, or either of them, it notes that Plaintiffs themselves appear unsure of the amounts allegedly owed. It notes also that Plaintiffs have failed to account for the vast disparity between the amounts of alleged "underpayments" and the amounts of claimed damages.

E. Plaintiffs Fail to State a Claim for Unjust Enrichment.

Plaintiffs cite a single case, the *Verisign* case, for their argument that they are entitled simultaneously to plead causes of action based upon both breach of contract and unjust enrichment. (Opp. at 13:6-8.)

The *Verisign* case is distinguishable for a number of reasons. For one, in *Verisign*,

the District Court favorably quoted from the Ninth Circuit's opinion in *McKesson HBOC, Inc. v. N.Y. State Common Ret. Fund, Inc.*, 339 F.3d 1087, 1091 (9th Cir. 2003): "[N]o action for unjust enrichment lies where a contract governs the parties' relationship to each other." The *Verisign* court went on to distinguish, or attempt to distinguish, *McKesson* by pointing out that, in the latter case, there was no contract between the parties: "While *McKesson* accurately states the rule that no action for unjust enrichment is possible where a contract governs the parties' relationship, that rule did not control the outcome of the case, *as there was no contract between the parties*." *In re Verisign, Inc. Derivative Litig.*, 531 F. Supp. 2d 1173, 1217 (N.D. Cal. 2007) (emphasis added). In the case at bar, neither party disputes the existence of a controlling contract. In this circumstance, Plaintiffs cannot possibly recover under an unjust enrichment theory. Why then, should Plaintiffs be permitted to plead a claim for unjust enrichment?

Moreover, as the plaintiffs argued and the court noted in *Verisign*, the plaintiffs in that case had rights that derived outside of the contract itself: "[Plaintiffs] submit that as officers and directors of the Company, defendants had fiduciary duties independent from their contractual obligation." *Id*. In the case at bar, Plaintiffs acknowledge that any rights and duties the parties had with respect to one another arose solely under the two subject contracts.

In its Motion, L.A. Care also points out that Plaintiffs' so-called unjust enrichment claims must be dismissed because, as a government entity, L.A. Care cannot be held liable under a quasi-contract theory. Plaintiffs futilely seek to distinguish the cases cited by L.A. Care by arguing that "[t]he cases cited by L.A. Care involved cities organized under charters and governed by specific statutes under Government Code section 34000 *et seq*. (Government of Cities), where the charters barred certain types of claims." (Opp. at 18:12-14.) In fact, in *Green Valley Landowners Assn. v. City of Vallejo*, 241 Cal. App. 4th 425 (2015), which L.A. Care cited in its Motion *and which Plaintiffs ignored* in their Opposition, the court *explicitly rejected* an identical attempt to limit this rule to circumstances in which charters expressly bar such quasi-contract claims. In *Green*

Valley, under a section of the opinion that is notably labelled (in bold typeface), "**Cities Cannot Be Sued Under an Implied Contract Theory**," the Court of Appeals of California said:

> Plaintiff seeks to distinguish, *Katsura, supra*, 155 Cal. App. 4th 104, because the operative charter in that case expressly required all city contracts to be in writing. Plaintiff asserts that if the City had "wanted the benefit of the *Katsura* rule, it could have adopted similar charter language." However, the holding in *Katsura* was that *all* implied contracts against public entities are barred because, by definition, they have not formally been approved by the entity. The court in that case did not limit its holding to cities with charters that expressly require all contracts to be in writing.

Id. at 438 (emphasis in original text). In short, Plaintiffs' attempt to distinguish *Katsura* is ill-founded. Plaintiffs may not bring a quasi-contract action against L.A. Care.[2]

F. Plaintiffs' Setoff Claims Should be Dismissed. If They Are Not Dismissed, They Should be Sent to Arbitration.

As L.A. Care points out in its Motion, this is a textbook example of a recoupment, not a setoff. Under the contracts between the parties, in specified circumstances, L.A. Care had the right to deduct overpayments from "*any future payments*." (Complaint at Exh. A § 2.6; *id*., at Exh. C § 3.6; emphasis added.) Moreover, under that same clause in the respective agreements, the parties agreed that "[i]f the parties fail to resolve contested overpayments, the matter shall be submitted to arbitration as set forth in this Agreement." (*Id*.)

Plaintiffs seek a recovery of about $360,000 on their purported setoff claims. On their other Claims for Relief, Plaintiffs seek, in the aggregate, more than $25.4 million (seventy (70) times as much!!!). In addition, Plaintiffs never address, much less refute, L.A. Care's statement that "almost half of the purportedly wrongful 'setoffs' occurred in August 2018, before Plaintiffs even commenced these cases." (Motion at 17:16-18) In

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[2] Plaintiffs' unjust enrichment claims may also be barred because they are common law claims, and government entities can only be held liable for contract claims and claims specifically authorized by statute. Cal. Govt. Code §§ 814-815.

short, the setoff/recoupment issue involves less than $200,000, while Plaintiffs' breach of contract claims allege aggregate damages in excess of $25.4 million. The breach of contract claims are clearly and undisputedly subject to arbitration. For this reason alone, the Court should send this case to arbitration. The tail should not wag the dog.

Even if, as Plaintiffs argue (and we dispute), "L.A. Care's assertion that it is exercising valid recoupment rights conflicts with the allegations of the Complaint that L.A. Care is, in fact, making improper setoffs and the dispute cannot be determined from the face of the Complaint or L.A. Care's Motion" (Opp. at 17:7-10), *the dispute can be resolved by an arbitrator, as agreed by the parties*. Recoupment/setoff issues are often resolved with reference to non-bankruptcy law and cases. *See*, *e.g., Ashland Petroleum Co. v. Appel* (*In re B&L Oil Co*.), 782 F.2d 155 (10th Cir. 1986) (both the litigants and court rely heavily on non-bankruptcy, state law cases in a dispute over whether transaction was a recoupment or a setoff in a case in which the court ultimately found in favor of recoupment); *Sims v. U.S. Dept. of Health & Human Servs.* (*In re TLC Hosps., Inc*.), 224 F.3d 1008 (9th Cir. 2000) (court relied heavily upon non-bankruptcy law in determining that transaction was a recoupment). Here, the recoupment rights arise under the Plaintiffs' contracts with L.A. Care, and the trier of fact need not have any special bankruptcy expertise. Even if the Court were to conclude that the recoupment issue cannot be determined in the context of a motion to dismiss, there is no reason that the issue (the size of which is very small in relation to the size of the contract dispute between the parties) cannot be decided by an arbitrator.

G. Plaintiffs Cannot State a Claim for Injunctive Relief.

Plaintiffs claim that this Court has the authority to "issue any order that is necessary or appropriate to carry out the provisions of title 11." (Opp. at 19:6-7.) This is beside the point. L.A. Care does not question this Court's authority to issue injunctions, when it is appropriate to do so. The Court's authority to issue an injunction does not, however, transform the remedy of injunctive relief into a cause of action. Plaintiffs have not and cannot state a cause of action for injunctive relief because no such cause of

action exists. *Marcus v. ABC Signature Studios, Inc.*, 279 F. Supp. 3d 1056, 1073 (C.D. Cal. 2017) ("injunctive relief is a remedy and not, in itself, a cause of action"). Moreover, since the automatic stay already enjoins unlawful setoffs (we contend that the transactions in questions were a lawful exercise of recoupment rights), there is no reason to issue a separate injunction.

H. Plaintiffs' Arbitration Argument Turns the Arbitrability Standard on Its Head.

Plaintiffs insist that "the bankruptcy court has discretion to decline to enforce an arbitration provision if arbitration would conflict with the underlying purpose of the Bankruptcy Code." (Opp. at 3:1-3.) Plaintiffs self-servingly water down the proper standard. The presumption is very much in favor of arbitration, particularly of non-core claims like the contract dispute in this case. Where the parties have entered into an arbitration agreement, a bankruptcy court ***must*** order non-core claims to arbitration, ***must*** order core claims to arbitration if arbitration does not directly conflict with the underlying purposes of the Bankruptcy Code, and can only refuse to compel arbitration of a core claim if arbitration would conflict with the underlying purpose of the Bankruptcy Code. *In re Thorpe Insulation Co.*, 671 F.3d 1011, 1021 (9th Cir. 2012).

In *Thorpe*, the Ninth Circuit held, *inter alia*, "[i]n non-core proceedings, the bankruptcy court generally does not have discretion to deny enforcement of a valid prepetition arbitration agreement. … In core proceedings, by contrast, the bankruptcy court, at least when it sees a conflict with bankruptcy law, has discretion to deny enforcement of an arbitration agreement. … The rationale of the core/non-core distinction, as explained by the Second Circuit, is that non-core proceedings 'are unlikely to present a conflict sufficient to override by implication the presumption in favor of arbitration,' whereas core proceedings 'implicate more pressing bankruptcy concerns.'" *Id*. (citations omitted).

The Ninth Circuit went on to opine, "[h]owever, 'not all core bankruptcy proceedings are premised on provisions of the Code that 'inherently conflict' with the

Federal Arbitration Act; nor would arbitration of such proceedings necessarily jeopardize the objectives of the Bankruptcy Code. … We agree that the core/non-core distinction, though relevant, is not alone dispositive. We join our sister circuits in holding that, even in a core proceeding, the *McMahon* standard must be met, that is, a bankruptcy court has discretion to decline to enforce an otherwise applicable arbitration provision only if arbitration would conflict with the underlying purposes of the Bankruptcy Code." *Id*.

In *Thorpe,* Continental Insurance Company, a ***creditor***, filed a proof of claim based on an alleged breach of contract by Thorpe Insulation Company, the debtor, and then sought to have an arbitrator determine the validity and amount of its claim. *Id.* at 1016. Each of the debtor's purported breaches were "actions that Thorpe took to exercise its rights in bankruptcy," including assigning rights under various insurance agreements into a channeling trust formed under Section 524(g) of the Bankruptcy Code and attempting to seek confirmation of a reorganization plan that provided for the creation of such a trust. *Id.* at 1022. Under the almost unique circumstances present in *Thorpe*, where a creditor was claiming that the debtor's conduct in the administration of a complex chapter 11 case involving a huge volume (in number and aggregate amount) of unliquidated asbestos claims violated a prepetition agreement between the parties, the Ninth Circuit Court of Appeals declined to compel arbitration. The Court explained:

> Because Thorpe's alleged breaches of the Settlement Agreement were "inextricably intertwined" with its bankruptcy, the bankruptcy court determined that resolving Continental's claim required adjudication of "whether in conducting and administering these Chapter 11 cases and negotiating with the various constituencies involved in the case concerning the prospect of a consensual plan of reorganization, [Thorpe] has somehow run afoul of contractual provisions contained in a prepetition settlement agreement," and that "[a]s a matter of fundamental bankruptcy policy, only a Bankruptcy Court should decide whether the manner in which someone has administered a bankruptcy estate gives rise to a claim for damages." …
>
> We agree. The purpose of §524(g) is to consolidate a debtor's asbestos-related assets and liabilities into a single trust for the benefit of asbestos related claimants. … Congress intended that the trust/injunction mechanism be "available for use by any asbestos company facing …

> overwhelming liability." Congress tasked bankruptcy courts with ensuring that §524(g)'s "high standards" are met and gave them authority to implement and supervise this unique procedure. …A claim based on a debtor's efforts to seek for itself and third parties the protections of §524(g) implicates and tests the efficacy of the provision's underlying policies. Because Congress intended that the bankruptcy court oversee all aspects of a §524(g) reorganization, only the bankruptcy court should decide whether the debtor's conduct in the bankruptcy gives rise to a claim for breach of contract. Arbitration in this case would conflict with congressional intent.

Id. at 1022.

To attempt to analogize the case at bar to the *Thorpe* case, as Plaintiffs do, is (at best) utterly unreasonable. Unlike Continental in *Thorpe,* L.A. Care is not seeking to arbitrate a claim that it filed in the bankruptcy case. The claims in the case at bar are state law claims for breach of contract. Those claims are not "inextricably intertwined" with the Plaintiffs' bankruptcy cases. The issues in the case at bar do not involve the Plaintiffs' acts and omissions in their chapter 11 cases. The subject of the case at bar is not a §524(g) channeling trust created under special, and unique, provisions of the Bankruptcy Code. None of the public policy issues raised by the Ninth Circuit in *Thorpe* are present here. If anything, *Thorpe* stands for the proposition that a garden variety state law dispute under a contract that contains an arbitration clause should be dispatched to arbitration in accordance with the parties' contractual intent and the Federal Arbitration Act. *Thorpe* supports the contentions of L.A. Care in this case.

As the Supreme Court observed in *Marathon*, "the restructuring of debtor-creditor relations, which is at the core of the federal bankruptcy power, must be distinguished from the adjudication of state-created private rights, such as the right to recover contract damages that is at issue in this case." *N. Pipeline Constr. Co. v. Marathon Pipe Line Co.*, 458 U.S. 50, 71 (1982). While the resolution of a creditor's claim against the debtor's estate is a core function of bankruptcy, adjudicating a debtor's breach of contract is not – even if it would augment the debtor's estate. *Stern v. Marshall*, 564 U.S. 462, 495 (2011).

As in *Marathon*, *In re Gurga*, and countless other cases, Plaintiffs are ***debtors***

asserting breach of contract claims arising out of pre-petition contracts. *Marathon*, 458 U.S. at 56; *In re Gurga*, 176 B.R. at 199. At its very essence, this is a $25 million breach of contract action that Plaintiffs concede is non-core. (Plaintiffs' Response to Defendant's Memorandum of Points and Authorities Regarding Non-Core Designation [ECF No. 22], at 3:1-3. ("Plaintiffs do not dispute that their breach of contract claims . . . are non-core claims.").) As in *Gurga*, Plaintiffs' claims are subject to arbitration notwithstanding Plaintiffs' attempts to frame their breach of contract claims as turnover claims. *In re Gurga*, 176 B.R. at 199.

Even if Plaintiffs' so-called setoff causes of action were core claims (they are not) and those purported causes of action also actually stated valid claims (they do not), this Court should nonetheless compel that the alleged setoff claims be arbitrated because, in a separate and discreet section of each of the subject contracts, the parties expressly agreed that any setoff or recoupment claims would be arbitrated. Both contracts expressly provided that "[i]f the parties fail to resolve contested overpayments, the matter shall be submitted to arbitration as set forth in this Agreement." (Complaint at Exh. A § 2.6; *id.* at Exh. C § 3.6)

Moreover, this Court should compel arbitration because the alleged value of the so-called setoff claims (less than $360,000) is dwarfed by the purported value of the breach of contract claims ($25 million), and compelling arbitration will allow all of Plaintiffs' claims and L.A. Care's defenses (*i.e.* recoupment or setoff) to be adjudicated together.

III. CONCLUSION

Plaintiffs were required to satisfy the claims presentation requirements of the Government Claims Act, but have failed to do so. Plaintiffs were required to state sufficient facts demonstrating that they were plausibly entitled to the relief they seek, but have failed to do so. Plaintiffs agreed to arbitrate the claims asserted in the Complaint, but have failed to do so. For all of the foregoing reasons and those stated in L.A. Care's

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Motion, L.A. Care respectfully requests that this Court dismiss the Complaint or, in the alternative, stay this Adversary Proceeding pending arbitration.

DATED: March 26, 2019

HANSON BRIDGETT LLP

By: */s/ Neal L. Wolf*
NEAL L. WOLF
ANTHONY J. DUTRA
Attorneys for Local Initiative Health Authority for Los Angeles County operating as L.A. Care Health Plan

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: 425 Market Street, 26th Floor, San Francisco, California, 94105

A true and correct copy of the foregoing document entitled (*specify*):

REPLY IN SUPPORT OF MOTION FOR ENTRY OF ORDER DISMISSING COMPLAINT OR, IN THE ALTERNATIVE, MOTION FOR ENTRY OF ORDER STAYING TRIAL OF ADVERSARY PROCEEDING

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 March 26, 2019, 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:

Steven J Kahn skahn@pszyjw.com
United States Trustee (LA) ustpregion16.la.ecf@usdoj.gov

☐ Service information continued on attached page

2. SERVED BY UNITED STATES MAIL:
On March 26, 2019, 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.

Honorable Judge Ernest M. Robles
U.S. Bankruptcy Court
Roybal Federal Building
255 E. Temple Street
Suite 1560
Los Angeles, CA 90012

☐ 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 (*date*) _____, 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.

☐ 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.

March 26, 2019	Landa Chappell	Landa Chappell
Date	*Printed Name*	*Signature*