Docket #0001 Date Filed: 2/5/2019

Steven J. Kahn (CA Bar No. 76933)
PACHULSKI STANG ZIEHL & JONES LLP
10100 Santa Monica Blvd., 13th Floor
Los Angeles, California 90067
Telephone: 310/277-6910
Facsimile: 310/201-0760
E-mail: skahn@pszjlaw.com

Co-Counsel to Chapter 11 Debtors and
Debtors In Possession

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

Hon. Ernest M. Robles

Adversary No. _____

COMPLAINT FOR [redacted] TURNOVER, UNJUST ENRICHMENT, DAMAGES FOR VIOLATION OF THE AUTOMATIC STAY AND INJUNCTIVE RELIEF

[REDACTED—UNREDACTED VERSION TO BE FILED UNDER SEAL]

PACHULSKI STANG ZIEHL & JONES LLP
ATTORNEYS AT LAW
LOS ANGELES, CALIFORNIA

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VERITY HEALTH SYSTEM OF CALIFORNIA, INC., a California nonprofit public benefit corporation, ST. VINCENT MEDICAL CENTER, a California nonprofit public benefit corporation and ST. FRANCIS MEDICAL CENTER, a California nonprofit public benefit corporation,

Plaintiffs,

v.

HERITAGE PROVIDER NETWORK, INC., a California corporation,

Defendant.

Plaintiffs Verity Health System of California, Inc., St. Vincent Medical Center and St. Francis Medical Center, for their Complaint against Heritage Provider Network, Inc., allege as follows:

JURISDICTION AND VENUE

1. The Court has jurisdiction over this adversary proceeding (the "Action") pursuant to 28 U.S.C. §§ 157 and 1334.

2. The Action is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).

3. Venue is proper pursuant to 28 U.S.C. § 1409 because the Action arises in, and is related to, the bankruptcy cases encaptioned above pending in the United States Bankruptcy Court for the Central District of California, Los Angeles Division.

4. Plaintiffs consent to the entry of final orders or judgments by the Bankruptcy Court even if it is determined that, absent consent of the parties, the Bankruptcy Court cannot enter final orders or judgments in this proceeding.

THE PARTIES

5. Debtor and Plaintiff Verity Health System of California, Inc. ("VHS") is a California nonprofit public benefit corporation and the sole corporate member of St. Vincent Medical Center and St. Francis Medical Center.

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6. Debtor and Plaintiff St. Vincent Medical Center ("St. Vincent") is a California nonprofit public benefit corporation doing business in the County of Los Angeles providing hospital and ancillary medical services on an inpatient and outpatient basis.

7. Debtor and Plaintiff St. Francis Medical Center ("St. Francis," and together with St. Vincent, the "Plaintiff Hospitals") is a California nonprofit public benefit corporation doing business in the County of Los Angeles providing hospital and ancillary medical services on an inpatient and outpatient basis.

8. Defendant Heritage Provider Network, Inc. ("Heritage") is a California corporation doing business in the County of Los Angeles as a limited Knox-Keene licensee providing health services under contractual arrangements with Knox-Keene HealthCare Services Plans, such as the Health Net Medi-Cal HMO and plans under the Covered California Exchange Program ("HCSPs"), for enrollees or members of such HCSPs by contracting for medical services with hospitals, physicians, and other health care providers.

BANKRUPTCY BACKGROUND

9. On August 31, 2018 ("Petition Date"), each of the above encaptioned debtors (each a "Debtor" and collectively the "Debtors") filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code").[1] The cases are currently being jointly administered before the Bankruptcy Court [Docket No. 17]. Since the commencement of these cases, the Debtors have been operating their businesses as debtors in possession pursuant to §§ 1107 and 1108 of the Bankruptcy Code.

10. VHS and its affiliated entities (collectively, the "Verity Health System") operate as an integrated nonprofit health care system, with approximately 1,680 inpatient beds, six active emergency rooms, a trauma center, eleven medical office buildings, and a host of medical specialties, including tertiary and quaternary care.

11. On September 14, 2018, the Office of the United States Trustee appointed an Official Committee of Unsecured Creditors in these cases.

[1] All references to "§" or "section" herein are to the Bankruptcy Code, 11 U.S.C. §§ 101, *et seq.*, as amended.

12. The claims set forth herein relate to

13. On or about July 1, 2016,

A true and correct copy of the

is attached hereto and incorporated herein by reference as **Exhibit "A"**

14. On or about June 1, 2017,

A true and correct copy of the Capitation Agreement is attached hereto and incorporated herein by reference as **Exhibit "B"**

15.

health care services.

16. Pursuant to

In the event of

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[redacted]

17. Pursuant to [redacted]

18. This Action stems from Heritage's [redacted] all to the direct and significant harm of the Plaintiff Hospitals.

FIRST CLAIM FOR RELIEF

(For [redacted] Against Defendant)

19. Plaintiffs refer to and incorporate herein by reference each and every allegation contained in Paragraphs 1 through 18, above, as though fully set forth herein.

20. [redacted] Heritage to provide [redacted]

21. Heritage [redacted]

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[redacted] during 2018.

22. By reason of Heritage's [redacted]

23. Pursuant to [redacted]

24. Heritage has further [redacted]

25. Rather, Heritage [redacted]

26. No [redacted]

27. Plaintiffs have [redacted]

28. By reason of the aforesaid [redacted] Plaintiffs have been damaged in a sum according to proof, but including the amount of the [redacted] and the additional losses caused by reason of Heritage's [redacted] plus interest thereon at the legal rate and attorneys' fees according to proof.

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SECOND CLAIM FOR RELIEF

(For [redacted] Against Defendant)

29. Plaintiffs refer to and incorporate herein by reference each and every allegation contained in Paragraphs 1 through 28, above, as though fully set forth herein.

30. Pursuant to [redacted]

31. Heritage is required [redacted]

32. No [redacted]

33. Indeed, [redacted]

34. Despite these prohibitions and [redacted] on August 15, 2018 and August 22, 2018, Heritage improperly [redacted]

35. Thereafter, on September 17, 2018, Heritage improperly [redacted] (the Post-

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Petition Offsets")

36. Heritage has further indicated an intent to

37. Plaintiffs have

38. By reason of Heritage's Plaintiffs have been damaged in the sum of $4,102,810, plus the amount of any other interest thereon at the legal rate and attorneys' fees according to proof.

THIRD CLAIM FOR RELIEF

(For Turnover Against Defendant)

39. Plaintiffs refer to and incorporate herein by reference each and every allegation contained in Paragraphs 1 through 38, above, as though fully set forth herein.

40. Pursuant to § 541 of the Bankruptcy Code,

41. Section 542 of the Bankruptcy Code requires that any entity in possession, custody, or control of property that the debtor may use, sell or lease under § 363 of the Bankruptcy Code shall deliver such property or the value of same to the debtor.

42. Pursuant to § 542(b) of the Bankruptcy Code, an entity that owes a matured debt that is property of the bankruptcy estate, shall pay such debt to the debtor.

43. Plaintiffs made demand on Heritage to turnover the amounts owed to

44. Despite such demand, Defendant has failed and continues to fail and refuse to turnover the sums owed to the Plaintiff Hospitals

45. Plaintiff is entitled to an order directing Heritage to immediately pay the amounts and owing to the Plaintiff Hospitals, plus interest at the legal rate from

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[redacted] through the date of judgment, plus interest thereon at the legal rate, according to proof.

FOURTH CLAIM FOR RELIEF

(For Unjust Enrichment Against Defendant)

46. Plaintiffs refer to and incorporate herein by reference each and every allegation contained in Paragraphs 1 through 45, above, as though fully set forth herein.

47. The Plaintiff Hospitals [redacted]

48. The Plaintiff Hospitals [redacted]

49. Heritage has obtained the benefit [redacted] and has been unjustly enriched thereby to the detriment of Plaintiffs.

50. By reason thereof, Plaintiffs are entitled to an order directing Heritage to disgorge not less than $4,102,810, plus [redacted] interest thereon at the legal rate and attorneys' fees according to proof.

FIFTH CLAIM FOR RELIEF

(For Damages for Violation of the Automatic Stay Against Defendant)

51. Plaintiffs refer to and incorporate herein by reference each and every allegation contained in Paragraphs 1 through 50, above, as though fully set forth herein.

52. Defendant had actual notice of the bankruptcy filings by the Debtors and of the imposition of the automatic stay by virtue of the *Notice of Case Commencement of Chapter 11 Cases and Meeting of Creditors Pursuant to Section 341 of the Bankruptcy Code* that was served on Defendant. [Docket No.185; 271] On August 31, 2018, Defendant was also sent an email informing Lloyd B. Wilensky, whom Plaintiffs are informed and believe to be Vice President of [redacted] of Defendant, of the Debtors' bankruptcy filings. A copy of that email is attached hereto as **Exhibit "C"**.

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53. Notwithstanding its knowledge of the bankruptcy filings, Defendant made the [redacted] and unauthorized Post-Petition Offsets for amounts [redacted]

54. Pursuant to § 541 of the Bankruptcy Code, [redacted] constitute property of the Plaintiffs' estates.

55. The Post-Petition Offsets were not authorized under the Bankruptcy Code or applicable non-bankruptcy law and no prior approval was received from the Court by Defendant prior to effectuating the Post-Petition Offsets.

56. By effectuating the Post-Petition Offsets, Defendant violated the automatic stay provisions in at least the following ways: (i) exercising control over property of the Plaintiff Hospitals' estates within the meaning of § 362(a)(3) of the Bankruptcy Code; (ii) [redacted] within the meaning of § 362(a)(6) of the Bankruptcy Code; and (iii) setting off a debt [redacted] within the meaning of § 362(a)(7) of the Bankruptcy Code.

57. Plaintiffs are entitled to a determination that Heritage's acts of effectuating the Post-Petition Offsets violate the automatic stay and that the Plaintiff Hospitals are entitled to return of not less than $1,387,885 and any other amounts [redacted] and for other compensatory damages according to proof.

SIXTH CLAIM FOR RELIEF

(For Injunctive Relief Against Defendant)

58. Plaintiffs refer to and incorporate herein by reference each and every allegation contained in Paragraphs 1 through 57, above, as though fully set forth herein.

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59. Plaintiffs are entitled to an order pursuant to §§ 105(a) and 362 of the Bankruptcy Code enjoining the Defendant from engaging in any further setoffs [redacted]

60. To the extent Heritage continues to setoff sums [redacted] Plaintiffs reserve the right to amend this Complaint to seek punitive damages for intentional violation of the automatic stay.

PRAYER

WHEREFORE, Plaintiffs pray for entry of judgment against Defendant as follows:

On the First Claim for Relief:

a. For damages according to proof;

b. For interest thereon at the legal rate until paid in full;

c. For attorneys' fees and costs according to proof; and

d. For such further and other relief the Court deems just and proper.

On the Second Claim for Relief:

a. For damages in the sum of not less than $4,102,810, plus the amount of any other unauthorized Post-Petition Offsets taken after September 17, 2018;

b. For interest thereon at the legal rate [redacted] until paid in full;

c. For attorneys' fees and costs according to proof; and

d. For such further and other relief the Court deems just and proper.

On the Third Claim for Relief:

a. For disgorgement of the sum of not less than $4,102,810;

b. For interest thereon at the legal rate [redacted] until paid in full;

c. For attorneys' fees and costs according to proof; and

d. For such further and other relief the Court deems just and proper.

On the Fourth Claim for Relief:

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a. For disgorgement of the sum of not less than $4,102,810, plus the amount of any other unauthorized Post-Petition Offsets taken after September 17, 2018;

b. For interest thereon at the legal rate from [redacted] until paid in full;

c. For attorneys' fees and costs according to proof; and

d. For such further and other relief the Court deems just and proper.

On the Fifth Claim for Relief:

a. For a determination that Defendant's [redacted] violated the automatic stay, and for an award of not less than $1,387,885 plus the amount of any other unauthorized [redacted] taken after September 17, 2018, and other compensatory damages, according to proof;

b. For attorneys' fees and costs according to proof; and

c. For such further and other relief the Court deems just and proper.

On the Sixth Claim for Relief:

a. For injunctive relief pursuant to Bankruptcy Code §§ 105(a) and 362 prohibiting Defendant from effectuating any further setoffs [redacted] in violation of the automatic stay;

b. For attorneys' fees and costs according to proof; and

c. For such further and other relief the Court deems just and proper.

PACHULSKI STANG ZIEHL & JONES LLP

Dated: February 5, 2019

/s/ Steven J. Kahn
Steven J. Kahn
Co-Counsel to Chapter 11 Debtors and Debtors in Possession

PACHULSKI STANG ZIEHL & JONES LLP
ATTORNEYS AT LAW
LOS ANGELES, CALIFORNIA

EXHIBIT A

REDACTED—UNREDACTED COPY

TO BE FILED UNDER SEAL

EXHIBIT B

REDACTED—UNREDACTED COPY

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EXHIBIT C

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B1040 (FORM 1040) (12/15)

ADVERSARY PROCEEDING COVER SHEET (Instructions on Reverse)	**ADVERSARY PROCEEDING NUMBER** (Court Use Only)

PLAINTIFFS	**DEFENDANTS**
VERITY HEALTH SYSTEM OF CALIFORNIA, INC., a California nonprofit public benefit corporation, ST. VINCENT MEDICAL CENTER, a California nonprofit public benefit corporation and ST. FRANCIS MEDICAL CENTER, a California nonprofit public benefit corporation,	HERITAGE PROVIDER NETWORK, INC., a California corporation,
ATTORNEYS (Firm Name, Address, and Telephone No.) Steven J. Kahn PACHULSKI STANG ZIEHL & JONES LLP 10100 Santa Monica Blvd., 13th Floor Los Angeles, California 90067 Telephone: 310/277-6910	**ATTORNEYS** (If Known) Leslie A. Cohen Leslie Cohen Law PC 506 Santa Monica Blvd., Suite 200 Santa Monica, CA 90402
PARTY (Check One Box Only) ☒ Debtor ☐ U.S. Trustee/Bankruptcy Admin ☐ Creditor ☐ Other ☐ Trustee	**PARTY** (Check One Box Only) ☐ Debtor ☐ U.S. Trustee/Bankruptcy Admin ☒ Creditor ☐ Other ☐ Trustee

CAUSE OF ACTION (WRITE A BRIEF STATEMENT OF CAUSE OF ACTION, INCLUDING ALL U.S. STATUTES INVOLVED)
COMPLAINT FOR DAMAGES, TURNOVER, UNJUST ENRICHMENT, FOR VIOLATION OF THE AUTOMATIC STAY AND INJUNCTIVE RELIEF

NATURE OF SUIT

(Number up to five (5) boxes starting with lead cause of action as 1, first alternative cause as 2, second alternative cause as 3, etc.)

FRBP 70 01(1) – Recovery of Money/Property
- ☒ 11-Recovery of money/propert y - §542 turnover of property
- ☐ 12-Recovery of money/property - §547 preference
- ☐ 13-Recovery of money/property - §548 fraudulent transfer
- ☐ 14-Recovery of money/property - other

FRBP 70 01 (2) – Validity, Priority or Extent of Lien
- ☐ 21-Validity, priority or extent of lien or other interest in property

FRBP 7001(3) – Approval of Sale of Property
- ☐ 31-Approval of sale of property of estate and of a co-owner - §363(h)

FRBP 7001(4) – Objection/ Revocation of Discharge
- ☐ 41-Objection/re vocation of discharge - §727(c),(d),(e)

FRBP 7001(5) – Revocation of Confirmation
- ☐ 51-Revocation of confirmation

FRBP 7001(6) – Dischargeability
- ☐ 6 6 -Dischargeability - §523(a)(1),(14),(14A) priority tax claims
- ☐ 62-Dischargeability - §523(a)(2), false pretenses, false representation, actual fraud
- ☐ 67-Dischargeability - §523(a)(4), fraud as fiduciary, embezzlement, larceny

(continued next column)

FRBP 70 01(6) – Dischargeability (continued)
- ☐ 61 -Dischargeability- §523(a)(5), domestic support
- ☐ 68-Dischargeability - §523(a)(6), willful and malicious injury
- ☐ 63-Dischargeability - §523(a)(8), student loan
- ☐ 64-Dischargeability - §523(a)(15), divorce or separation obligation (other than domestic support)
- ☐ 6 5 -Dischargeability - other

FRBP 70 01(7) – Injunctive Relief
- ☒ 71 -Injunctive relief- imposition of stay
- ☐ 72-Injunctive relief - other

FRBP 70 01(8) Subordination of Claim or Interest
- ☐ 81 -Subordination of claim or interest

FRBP 70 01(9) Declaratory Judgment
- ☐ 91 -Declaratory judgment

FRBP 70 01(10) Deter mi nation of Remove d Act ion
- ☐ 01 -Determination of removed claim or cause

Other
- ☐ SS-SIPA Case - 15 U.S.C. §§78aaa *et.seq.*
- ☐ 02-Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy case)

☒ Check if this case involves a substantive issue of state law	☐ Check if this is asserted to be a class action under FRCP 23
☐ Check if a jury trial is demanded in complaint	☒ Demand $ 4,102,810 +

Other Relief Sought
Other damages according to proof and injunction.

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B1040 (FORM 1040) (12/15)

BANKRUPTCY CASE IN WHICH THIS ADVERSARY PROCEEDING ARISES		
NAME OF DEBTOR VERITY HEALTH SYSTEM OF CALIFORNIA, INC., *et al.*,	BANKRUPTCY CASE NO. 2:18-bk-20151-ER (Jointly administered)	
DISTRICT IN WHICH CASE IS PENDING CENTRAL DISTRICT	DIVISION OFFICE LOS ANGELES DIVISION	NAME OF JUDGE HON. ERNEST M. ROBLES
RELATED ADVERSARY PROCEEDING (IF ANY)		
PLAINTIFF	DEFENDANT	ADVERSARY PROCEEDING NO.
DISTRICT IN WHICH ADVERSARY IS PENDING	DIVISION OFFICE	NAME OF JUDGE
SIGNATURE OF ATTORNEY (OR PLAINTIFF) */s/ Steven J. Kahn*		
DATE February 5, 2019	PRINT NAME OF ATTORNEY (OR PLAINTIFF) STEVEN J. KAHN	

INSTRUCTIONS

The filing of a bankruptcy case creates an "estate" under the jurisdiction of the bankruptcy court which consists of all of the property of the debtor, wherever that property is located. Because the bankruptcy estate is so extensive and the jurisdiction of the court so broad, there may be lawsuits over the property or property rights of the estate. There also may be lawsuits concerning the debtor's discharge. If such a lawsuit is filed in a bankruptcy court, it is called an adversary proceeding.

A party filing an adversary proceeding must also must complete and file Form 1040, the Adversary Proceeding Cover Sheet, unless the party files the adversary proceeding electronically through the court's Case Management/Electronic Case Filing system (CM/ECF). (CM/ECF captures the information on Form 1040 as part of the filing process.) When completed, the cover sheet summarizes basic information on the adversary proceeding. The clerk of court needs the information to process the adversary proceeding and prepare required statistical reports on court activity.

The cover sheet and the information contained on it do not replace or supplement the filing and service of pleadings or other papers as required by law, the Bankruptcy Rules, or the local rules of court. The cover sheet, which is largely self-explanatory, must be completed by the plaintiff's attorney (or by the plaintiff if the plaintiff is not represented by an attorney). A separate cover sheet must be submitted to the clerk for each complaint filed.

Plaintiffs and **Defendants.** Give the names of the plaintiffs and defendants exactly as they appear on the complaint.

Attorneys. Give the names and addresses of the attorneys, if known.

Party. Check the most appropriate box in the first column for the plaintiffs and the second column for the defendants.

Demand. Enter the dollar amount being demanded in the complaint.

Signature. This cover sheet must be signed by the attorney of record in the box on the second page of the form. If the plaintiff is represented by a law firm, a member of the firm must sign. If the plaintiff is pro se, that is, not represented by an attorney, the plaintiff must sign.

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www.FormsWorkFlow.com

Steven J. Kahn (CA Bar No. 76933)
PACHULSKI STANG ZIEHL & JONES LLP
10100 Santa Monica Blvd., 13th Floor
Los Angeles, California 90067
Telephone: 310/277-6910
Facsimile: 310/201-0760
E-mail: skahn@pszjlaw.com

Co-Counsel to Chapter 11 Debtors and
Debtors In Possession

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 Hon. Ernest M. Robles Adversary No. _____ **NOTICE OF REQUIRED COMPLIANCE WITH LOCAL BANKRUPTCY RULE 7026-1**

Plaintiff hereby provides this notice of the requirement of Local Bankruptcy Rule 7026-1 ("LBR 7026-1") and Federal Rule of Bankruptcy Procedure 7026 (collectively, the "Rules") that the parties meet and confer as required by and for the purposes set forth in those Rules. The text of LBR 7026-1 is attached hereto as **Exhibit A**.

PACHULSKI STANG ZIEHL & JONES LLP

Dated: February 5, 2019

/s/ Steven J. Kahn
Steven J. Kahn
Co-Counsel to Chapter 11 Debtors and
Debtors in Possession

EXHIBIT A

EXHIBIT A

NOTICE OF REQUIRED COMPLIANCE UNDER LBR 7026-1 AND FEDERAL RULE OF BANKRUPTCY PROCEDURE

LBR 7026-1. DISCOVERY

(a) **General**. Compliance with FRBP 7026 and this rule is required in all adversary proceedings.

(1) Notice. The plaintiff must serve with the summons and complaint a notice that compliance with FRBP 7026 and this rule is required.

(2) Proof of Service. The plaintiff must file a proof of service of this notice together with the proof of service of the summons and complaint.

(b) **Discovery Conference and Disclosures**.

(1) Conference of Parties. Unless all defendants default, the parties must conduct the meeting and exchange the information required by FRBP 7026 within the time limits set forth therein.

(2) Joint Status Report. Within 7 days after such meeting, the parties must prepare a joint status report containing the information set forth in LBR 7016-1(a)(2). The joint status report will serve as the written report of the meeting required by FRBP 7026.

(c) **Failure to Make Disclosures or Cooperate in Discovery.**

(1) General. Unless excused from complying with this rule by order of the court for good cause shown, a party must seek to resolve any dispute arising under FRBP 7026-7037 or FRBP 2004 in accordance with this rule.

(2) Meeting of Counsel. Prior to the filing of any motion relating to discovery, counsel for the parties must meet in person or by telephone in a good faith effort to resolve a discovery dispute. It is the responsibility of counsel for the moving party to arrange the conference. Unless altered by agreement of the parties or by order of the court for cause shown, counsel for the opposing party must meet with counsel for the moving party within 7 days of service upon counsel of a letter requesting such meeting and specifying the terms of the discovery order to be sought.

(3) Moving Papers. If counsel are unable to resolve the dispute, the party seeking discovery must file and serve a notice of motion together with a written stipulation by the parties.

(A) The stipulation must be contained in 1 document and must identify, separately and with particularity, each disputed issue that remains to be determined at the hearing and the contentions and points and authorities of each party as to each issue.

(B) The stipulation must not simply refer the court to the document containing the discovery request forming the basis of the dispute. For example, if the sufficiency of an answer to an interrogatory is in issue, the stipulation must contain, verbatim, both the interrogatory and the allegedly insufficient answer, followed by each party's contentions, separately stated.

(C) In the absence of such stipulation or a declaration of counsel of noncooperation by the opposing party, the court will not consider the discovery motion.

(4) Cooperation of Counsel; Sanctions. The failure of any counsel either to cooperate in this procedure, to attend the meeting of counsel, or to provide the moving party the information necessary to prepare the stipulation required by this rule within 7 days of the meeting of counsel will result in the imposition of sanctions, including the sanctions authorized by FRBP 7037 and LBR 9011-3.

(5) Contempt. LBR 9020-1 governing contempt proceedings applies to a discovery motion to compel a non-party to comply with a deposition subpoena for testimony and/or documents under FRBP 7030 and 7034.