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6 *Counsel for the Official Committee of*
7 *Unsecured Creditors of Verity Health System of*
8 *California, Inc., et al.*

9 **UNITED STATES BANKRUPTCY COURT**
CENTRAL DISTRICT OF CALIFORNIA – LOS ANGELES DIVISION

10 In re:
11 VERITY HEALTH SYSTEM OF CALIFORNIA,
12 INC., *et al.*,
13 Debtors and Debtors In 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
24 Foundation
25 St. Francis Medical Center of
26 Lynwood Foundation
27 St. Vincent Foundation
28 St. Vincent Dialysis Center, Inc.
 Seton Medical Center Foundation
 Verity Business Services
 Verity Medical Foundation
 Verity Holdings, LLC
 De Paul Ventures, LLC
 De Paul Ventures - San Jose Dialysis, LLC

Debtors and Debtors In Possession.

Lead Case No. 18-20151
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 Case No. 2:20-ap-01001-ER

**OFFICIAL COMMITTEE OF UNSECURED
CREDITORS’ OPPOSITION TO STRATEGIC
GLOBAL MANAGEMENT, INC.’S
EMERGENCY MOTION TO STAY
ADVERSARY PROCEEDING;
DECLARATION OF JAMES C. BEHRENS IN
SUPPORT THEREOF**

**[RE-FILING IN ADVERSARY PROCEEDING
PER COURT ORDER]**

Hearing:
Date: February 11, 2020
Time: 10:00 a.m.
Location: Courtroom 1568



182015120012300000000005

1 The Official Committee of Unsecured Creditors of Verity Health System of California, Inc.,
2 *et al.* (the “Committee”) appointed in connection with the chapter 11 cases of the above-captioned
3 debtors and debtors-in-possession (the “Debtors”), hereby submits this opposition (the “Opposition”)
4 to *Strategic Global Management, Inc.’s Emergency Motion to Stay Adversary Proceedings* (the
5 “Emergency Motion”) [Docket No. 3949] filed by Strategic Global Management, Inc. (“SGM”). In
6 opposition to the Emergency Motion, the Committee respectfully represents as follows.

7 **OPPOSITION**

8 **1. SGM’s Emergency Motion Should Be Denied Because SGM Has Failed to**
9 **Justify the Setting of a Hearing on Less than 48 Hours’ Notice**

10 SGM has failed to justify the setting of a hearing on less than 48 hours’ notice and, on this
11 basis alone, its Emergency Motion should be denied. The matter could have been set for regular
12 notice and heard timely on February 4 or 5 had SGM filed its motion on January 14. SGM proffers
13 no reason why it did not do so. Similarly, SGM could have filed its motion on shortened notice
14 rather than on an emergency basis.

15 Waiting for the regular notice deadline to pass before filing one’s motion is generally not
16 considered an emergency, nor has SGM provided a reason why it should be considered an
17 emergency in this instance. Remarkably, nowhere in SGM’s Emergency Motion does SGM explain
18 why it failed to do the prudent thing: going ahead and filing its stay motion on January 14 or 15 and
19 asking the Debtors for an extension of the February 5 response deadline. In fact, as the exhibits to
20 the Emergency Motion indicate, SGM sent a letter to the Debtors on January 14 seeking to extend
21 the February 5 deadline by 30 days, and the Debtors responded on January 15 by saying that they
22 would accommodate SGM by agreeing to a 7-day extension of the February 5 deadline. However,
23 rather than pursue the obvious paths of either agreeing to the 7-day extension of the Feb. 5 deadline
24 or going ahead and filing its stay motion on January 15 in order to have the stay motion heard on
25 February 5, SGM decided to wait a day and file its stay motion on January 16—thereby creating an
26 “emergency.”

27 It bears noting that, although SGM is seeking to stay the adversary until the appeals are
28 resolved, SGM has not sought to expedite its appeals. Quite to the contrary, on January 14, SGM

1 sent a separate letter to the counsel for the Debtors, counsel for the California Attorney General, and
2 Counsel for the Committee asking that they agree to slow down the appeals by delaying the
3 submission date for SGM’s opening briefs by 30 days.¹

4 SGM’s actions in these bankruptcy cases have indeed saddled SGM with a rather shallow
5 reservoir of goodwill: SGM breached its Court-approved contractual obligation to purchase hospital
6 assets from the Debtors for \$610 million, and, as a direct consequence of SGM’s failure to close that
7 sale, the Debtors have lost tens of millions of dollars, have had to begin the process of closing one
8 hospital and laying off its employees, have had to move patients from that hospital to other facilities,
9 and may have to close additional hospitals in the next few months. Given this context, SGM should
10 have provided more justification for seeking a hearing on less than 48 hours’ notice.

11
12 **2. SGM’s Emergency Motion Should Be Denied Because SGM Failed to Seek a
Stay of Enforcement of the Orders that SGM Is Appealing**

13 SGM’s Emergency Motion should also be denied because it is procedurally flawed.
14 Specifically, SGM has not sought to stay enforcement of the orders that SGM is appealing.
15 Accordingly, those orders are in effect and remain controlling at this time.² That the orders may or
16 may not be reversed ultimately—and, if so, possibly years from now—is no reason to delay
17 indefinitely litigation critical to the Debtors’ estates, given SGM’s failure to close the Court-
18 approved sale (or even provide timely notice that it had no intention and/or ability to close the sale,
19 such that the Debtors could have sought to mitigate damages and pivot to an alternative sooner).

20 At this point, SGM should timely file its answer to the complaint so that the Court and parties
21 in interest can see which allegations SGM denies and what defenses SGM provides for its failure to
22 close the sale per the terms of the APA. Indeed, the Committee is not aware of any basis for the
23 failure to close except for SGM’s seemingly frivolous contention that its own appeal of the order
24 regarding the Attorney General settlement—an order obtained to facilitate the closing—somehow
25 excuses SGM from closing altogether. It cannot be the case that SGM’s obligations under the APA

26
27 ¹ A true and correct copy of this letter is attached as Exhibit A to the Declaration of James C. Behrens, which is annexed
to this Opposition.

28 ² The Committee would vehemently oppose any attempt to stay the orders. However, that does not justify SGM’s failure
to follow the appropriate procedures.

1 were effectively illusory. If there are other bases upon which SGM denies the allegations set forth in
2 the complaint, SGM should come forward with those bases at this time. No meaningful justification
3 for any delay is offered in the Emergency Motion.

4 **RESERVATION OF RIGHTS**

5 The Committee filed this Opposition on an expedited basis because of the purported
6 “emergency” nature of the Emergency Motion. The Committee reserves all rights with respect to
7 arguments related to the underlying relief requested in the Emergency Motion, including the
8 Committee’s right to supplement this Opposition at a later date. Accordingly, nothing contained
9 herein is intended or shall be construed as a waiver of the Committee’s rights to dispute, object to, or
10 otherwise challenge the substantive relief sought in the Emergency Motion.

11 **CONCLUSION**

12 For the reasons set forth above, the Committee respectfully requests that the Court deny the
13 Emergency Motion.

14
15 DATED: January 17, 2020

MILBANK LLP

16 /s/ Mark Shinderman
17 GREGORY A. BRAY
18 MARK SHINDERMAN
19 JAMES C. BEHRENS

20 Counsel for the Official Committee of
21 Unsecured Creditors of Verity Health System of
22 California, Inc., et al.
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28

1 DECLARATION OF JAMES C. BEHRENS

2 I, James C. Behrens, submit this declaration in support of the *Official Committee of*
3 *Unsecured Creditors' Opposition to Strategic Global Management, Inc.'s Emergency Motion to Stay*
4 *Adversary Proceeding*, and I hereby declare as follows:

5 1. I have personal knowledge of the facts stated in this declaration, except as to those
6 stated on information and belief, and, as to those, I am informed and believe them to be true. If
7 called as a witness, I could and would competently testify to the matters stated herein.
8

9 2. I am an associate attorney at Milbank LLP, at 2029 Century Park East, 33rd Floor,
10 Los Angeles, California 90067, and I am one of the attorneys primarily responsible for representing
11 the Official Committee of Unsecured Creditors of Verity Health System of California, Inc., *et al.*,
12 appointed in connection with the chapter 11 cases of the above-captioned debtors and debtors-in-
13 possession pending in the United States Bankruptcy Court for the Central District of California.
14

15 3. On January 14, 2020, Gary E. Klausner, counsel to Strategic Global Management,
16 Inc. ("SGM"), sent a letter addressed to counsel for the Debtors, counsel for the California Attorney
17 General, and Counsel for the Committee. In the letter, Mr. Klausner sought an agreement to delay
18 the submission date for SGM's opening briefs in its District Court appeals by 30 days. A true and
19 correct copy of the letter is attached hereto as Exhibit A.
20

21 I declare under penalty of perjury under the laws of the United States that the foregoing is
22 true and correct.

23 Executed this 17th day of January, 2020, in Los Angeles, California.

24 

25 _____
26 James C. Behrens

EXHIBIT A

January 14, 2020

Sonia R. Martin, Esq.
Dentons US, LLP
One Market Plaza Spear Tower
24th Floor
San Francisco, CA 94105

David K. Eldan, Esq.
California Department of Justice
Office of the Attorney General
300 S. Spring Street, Suite 1702
Los Angeles, CA 90013

Mark Shinderman, Esq.
Gregory Bray, Esq.
Milbank, LLP
2029 Century Park East, 33rd Floor
Los Angeles, CA 90067

Re: In re Verity Health Systems, Inc., et al.
District Court Appeal Case Nos. 2:19-cv-10352-DSF;
2:19-cv-10354-DSF; 2:19-cv-10356-DSF (“Appeals”)

My understanding of the status of the above-referenced Appeals and pending motions in connection with the Appeals is as follows:

1. SGM’s Motion to Consolidate the Appeals has not been opposed and is scheduled for hearing on January 27, 2020 at 10:00 A.M.
2. The Creditors Committee’s Motion to Intervene in Case Nos. 2:19-cv-10354-DSF and 2:19-cv-10356-DSF is scheduled for hearing on January 27, 2020 at 10:00 A.M.
3. SGM’s Motion for an order directing the parties to participate in the District Court’s ADR Program has not been opposed nor has it been scheduled for hearing.
4. The Record on Appeal has been transmitted to the Clerk in the District Court and, accordingly, opening briefs by the Appellant are due on February 7, 2020.

We are requesting a 30-day extension of the date for filing opening briefs; i.e. until March 7, 2020. An extension is necessary for the following reasons. First, until the District Court rules on the Consolidation Motion, none of us knows whether there will be a consolidation and, accordingly, we will not know the number of briefs that each party will be allowed to file and the length of each party’s respective briefs. Obviously, learning the answer to those questions on January 27, 2020 would be too late. In addition, as of now we do not know whether the Committee will be intervening in the Appeals from the November 18 and November 27 Orders and for that additional reason, until January 27 we will not know whether the Committee will be participating in the briefing process and how that will affect the number of briefs and the number of pages that each party will be permitted. Third, the Court has not yet acted on SGM’s Motion regarding the District Court’s ADR Program. If the District Court were to order the parties to participate in that Program, the filing of appellate briefs should be delayed to

Sonia R. Martin, Esq.
David K. Eldan, Esq.
Mark Shinderman, Esq.
Gregory Bray, Esq.
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accommodate the opportunity for the parties to see if some settlement could be achieved through participation in that Program.

Finally, as of the date of this letter, SGM has not yet been given access to the sealed document ("Plan B"), which was filed with the Bankruptcy Court in advance of the November 26, 2019 Status Conference. Because that document had been reviewed by the Bankruptcy Court and presumably had some impact on the Bankruptcy Court's rulings, which were set forth its Memorandum of Decision and Order entered November 27, 2019 (which is the subject of one of the Appeals), until such as SGM has had an opportunity to review that document SGM will not be able to have the full record, which is essential to its preparation of its opening brief.

Would you please respond to this request no later than 5 o'clock p.m. on January 15, 2020. If all parties are in agreement, we will circulate a stipulation providing for the extension. If we do not have agreement by all parties as of that date and time, we will file a motion with the District Court and, given the time exigencies, we will seek an expedited decision on that motion.

Very truly yours,



Gary E. Klausner

cc: Sam Maizel, Dentons US, LLP
Tania Moyron, Dentons US, LLP

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:

2029 Century Park E, 33rd Floor, Los Angeles, CA 90067.

A true and correct copy of the foregoing document entitled (*specify*): OFFICIAL COMMITTEE OF UNSECURED CREDITORS' OPPOSITION TO STRATEGIC GLOBAL MANAGEMENT, INC.'S EMERGENCY MOTION TO STAY 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 (*date*) January 22, 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:

Service information continued on attached page

2. SERVED BY UNITED STATES MAIL:

On (*date*) January 22, 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.

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*) January 22, 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.

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.

January 22, 2020 James C. Behrens
Date Printed Name

/s/ James C. Behrens
Signature

SERVICE LIST

(Via NEF)

- **Gary E Klausner** gek@lnbyb.com
- **Jeffrey S Kwong** jsk@lnbyb.com, jsk@ecf.inforuptcy.com
- **Samuel R Maizel** samuel.maizel@dentons.com,
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- **United States Trustee (LA)** ustpreion16.la.ecf@usdoj.gov

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SERVICE LIST
(Via FedEx Overnight)

The Honorable Ernest M. Robles
United States Bankruptcy Court
Central District of California
Edward R. Roybal Federal Building and Courthouse
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Los Angeles, CA 90012-3300

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