Docket #0001 Date Filed: 12/27/2018

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☐ *Individual appearing without attorney Proposed*
■ *Counsel for: Official Committee of Unsecured Creditors of Verity Health System of California, Inc., et al.*

FOR COURT USE ONLY

FILED
CLERK, U.S. DISTRICT COURT
12/27/18
CENTRAL DISTRICT OF CALIFORNIA
BY: CS DEPUTY

CV18-10675-RGK

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

In re:

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

Debtor(s).

CASE NO.: 2:18-bk-20151-ER

ADVERSARY NO.:
(*if applicable*)

CHAPTER: 11

Plaintiff(s) (*if applicable*).

vs.

NOTICE OF APPEAL AND STATEMENT OF ELECTION

Part 1: Identify the appellant(s)

1. Name(s) of appellant(s): Official Committee of Unsecured Creditors of Verity Health System of California, Inc., *et al.*

2. Position of appellant(s) in the adversary proceeding or bankruptcy case that is the subject of this appeal:

For appeals in an adversary proceeding.

☐ Plaintiff
☐ Defendant
☐ Other (*describe*):

For appeals in a bankruptcy case and not in an adversary proceeding.

☐ Debtor
☐ Creditor
☐ Trustee
■ Other (*describe*): Official Committee of Unsecured Creditors

8853001906120000000000001

Part 2: Identify the subject of this appeal

1. Describe the judgment, order, or decree appealed from:

   Paragraphs 2(d), 2(h), 5(d), 5(f), 19, and 28(e) of the *Final Order (I) Authorizing Postpetition Financing, (II) Authorizing Use of Cash Collateral, (III) Granting Liens and Providing Superpriority Administrative Expense Status, (IV) Granting Adequate Protection, (V) Modifying Automatic Stay, and (VI) Granting Related Relief* (the "Final DIP Order") [Docket No. 409] solely with respect to the Prepetition Secured Creditors (as defined in the Final DIP Order).

2. The date the judgment, order, or decree was entered: 10/4/2018

Part 3: Identify the other parties to the appeal

List the names of all parties to the judgment, order, or decree appealed from and the names, addresses, and telephone numbers of their attorneys (*attach additional pages if necessary*):

1. Party: Debtors Verity Health System of California, Inc., et al.

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2. Party:

   Attorney:

Part 4: Optional election to have appeal heard by District Court (applicable only in certain districts)

If a Bankruptcy Appellate Panel is available in this judicial district, the Bankruptcy Appellate Panel will hear this appeal unless, pursuant to 28 U.S.C. § 158(c)(1), a party elects to have the appeal heard by the United States District Court. If an appellant filing this notice wishes to have the appeal heard by the United States District Court, check below. Do not check the box if the appellant wishes the Bankruptcy Appellate Panel to hear the appeal.

☐ Appellant(s) elect to have the appeal heard by the United States District Court rather than by the Bankruptcy Appellate Panel.

Part 5: Sign below

James C. Behrens

Signature of attorney for appellant(s) (or appellant(s) if not represented by an attorney)

Date: 11/29/2018

Fee waiver notice: If appellant is a child support creditor or its representative and appellant has filed the form specified in § 304(g) of the Bankruptcy Reform Act of 1994, no fee is required.

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*): ***NOTICE OF APPEAL AND STATEMENT OF ELECTION*** 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*) November 29, 2018, 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*) November 29, 2018, 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*) November 29, 2018, 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.

November 29, 2018	Ricky Windom	/s/ Ricky Windom
Date	*Printed Name*	*Signature*

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Proposed Attorneys for the Chapter 11 Debtors and Debtors In Possession

FILED & ENTERED

OCT 04 2018

CLERK U.S. BANKRUPTCY COURT
Central District of California
BY gonzalez DEPUTY CLERK

CHANGES MADE BY COURT

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 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. 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-20171-ER

Chapter 11 Cases

Hon. Ernest M. Robles

FINAL ORDER (I) AUTHORIZING POSTPETITION FINANCING, (II) AUTHORIZING USE OF CASH COLLATERAL, (III) GRANTING LIENS AND PROVIDING SUPERPRIORITY ADMINISTRATIVE EXPENSE STATUS, (IV) GRANTING ADEQUATE PROTECTION, (V) MODIFYING AUTOMATIC STAY, AND (VI) GRANTING RELATED RELIEF

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Upon the emergency motion (the "***DIP Motion***")[1], dated August 31, 2018, filed by Verity Health System of California, Inc., O'Connor Hospital, Saint Louise Regional Hospital, St. Francis Medical Center, St. Vincent Medical Center, Seton Medical Center, Verity Holdings, LLC, Verity Medical Foundation, O'Connor Hospital Foundation, Saint Louise Regional Hospital Foundation, St. Francis Medical Center of Lynwood Medical Foundation, St. Vincent Foundation, St. Vincent Dialysis Center, Inc., Seton Medical Center Foundation, Verity Business Services, DePaul Ventures, LLC, and DePaul Ventures - San Jose Dialysis, LLC (collectively, the "***Debtors***"), as debtors and debtors in possession in the above captioned chapter 11 cases (collectively, the "***Chapter 11 Cases***"), pursuant to sections 105, 361, 362, 363, 364(c)(1), 364(c)(2), 364(c)(3), 364(d)(1), 364(e) and 507 of title 11 of the United States Code (the "***Bankruptcy Code***"), Rules 2002, 4001, 6004 and 9014 of the Federal Rules of Bankruptcy Procedure (the "***Bankruptcy Rules***") and Rule 4001-2 of the Local Bankruptcy Rules for the United States Bankruptcy Court for the Central District of California (the "***Local Rules***" or "***LBR***"), for entry of an emergency order (the "***Interim Order***") following conclusion of the interim hearing (the "Interim Hearing") authorizing the Debtors, on an interim basis, and following the conclusion of a final hearing (the "***Final Hearing***") on the DIP Motion, for entry of a final order (the "***Final Order***") authorizing the Debtors, on a final basis to, among other things: ~~*inter alia:*~~

(i) Obtain senior secured post-petition financing (the "***DIP Financing***" or "***DIP Facility***") pursuant to the terms and conditions of the DIP Financing Agreements (as defined below), the Interim Order, and this Final Order, pursuant to sections 364(c)(1), 364(d), and 364(e) of the Bankruptcy Code and Rule 4001(c) of the Bankruptcy Rules;

(ii) Enter into a Debtor-in-Possession Credit Agreement (the "***DIP Credit Agreement***"), substantially in the form attached as Exhibit 2 to the Supplemental Chou Declaration ("**Supp. Chou Decl**.") [Docket 309-2], and other related financing documents (together with the DIP Credit Agreement and DIP Security Agreement, the "***DIP Financing Agreements***"), by and among each

[1] Capitalized terms used herein and not otherwise defined shall have the meaning ascribed in the DIP Motion.

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of the Debtors and Ally Bank ("***Ally***"), in its capacity as agent ("***DIP Agent***") and in its capacity as lender ("***DIP Lender***,") under the DIP Credit Agreement;

(iii) Borrow, on an interim basis, pursuant to the DIP Financing Agreements, postpetition financing of up to $30,000,000 on a revolving basis (the "***Interim DIP Loan***") and seek other financial accommodations from the DIP Agent and DIP Lender pursuant to the DIP Credit Agreement, the other DIP Financing Agreements and the Interim Order;

(iv) Borrow, on a final basis, pursuant to the DIP Financing Agreements, post-petition financing of up to an additional $155,000,000, for a total of up to $185,000,000, on a revolving basis, which includes the Interim DIP Loan (the "***Final DIP Loan***," and together with the Interim DIP Loan, the "***DIP Loan***") and seek other financial accommodations from the DIP Agent and DIP Lender pursuant to the DIP Credit Agreement, the other DIP Financing Agreements, and this Final Order;

(v) Execute and deliver the DIP Credit Agreement and the other DIP Financing Agreements;

(vi) Grant the DIP Agent and DIP Lender allowed super-priority administrative expense claims, pursuant to section 364(c)(1) of the Bankruptcy Code, in each of the Chapter 11 Cases and any Successor Cases (as defined below) for the DIP Financing and all obligations of the Debtors owing under the DIP Financing Agreements (collectively, and including all "***Obligations***" of the Debtors as defined and described in the DIP Credit Agreement, the "***DIP Obligations***") subject only to the Carve Out (defined below) as set forth below;

(vii) Grant the DIP Agent and DIP Lender automatically perfected first priority senior security interests in and liens on all of the DIP Collateral (as defined below) pursuant to section 364(d)(1) of the Bankruptcy Code, which liens shall not be subordinate to any other liens, charges, security interests or surcharges under section 506(c) or any other section of the Bankruptcy Code, with the exception of the Carve Out (defined below) as set forth below;

(viii) Obtain authorization to use the proceeds of the DIP Financing in all cases in accordance with the 13 week budget, as updated from time to time attached as Exhibit 1, Supp.

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Chou Decl. (the "***DIP Budget***") and as otherwise provided in the DIP Financing Agreements, the Interim Order and this Final Order;

(ix) Provide adequate protection to certain of the Prepetition Secured Creditors (defined herein) and McKesson (defined herein) pursuant to the terms of this Final Order for any diminution in value of their respective interests in the Prepetition Collateral or VMF Collateral (each as defined herein) resulting from the DIP Liens (as defined herein) on the Prepetition Collateral or VMF Collateral, subordination to the Carve Out (as defined herein), or Debtors' use, sale, or lease of Prepetition Collateral or VMF Collateral, including cash collateral within the meaning of 11 U.S.C. §363(a) (such cash collateral that is Prepetition Collateral or VMF Collateral hereafter defined as "***Cash Collateral***");

(x) Grant authorization based upon the consent of the Prepetition Secured Creditors and McKesson to use of Cash Collateral in accordance with the DIP Budget upon the terms and conditions set forth herein;

(xi) Vacate and modify the automatic stay imposed by section 362 of the Bankruptcy Code solely to the extent necessary to implement and effectuate the terms of the DIP Financing Agreements, the Interim Order, and this Final Order;

(xii) Following the conclusion of a final hearing (the "***Final Hearing***") to consider entry of an order (the "***Final Order***") granting all other relief requested in the DIP Motion on an interim and final basis; and

(xiii) Waive any applicable stay as provided in the Bankruptcy Rules (expressly including Rule 6004) and provide for immediate effectiveness of this Final Order.

The Court, having considered the DIP Motion, the Declarations of Anita M. Chou, Chief Financial Officer filed in support of the DIP Motion and Rich Adcock, Chief Executive Office filed in support of the First Day Motions each as Officers of the Debtors, in Support of Chapter 11 Petitions and First Day Pleadings, the DIP Motion, the DIP Financing Documents, and the Supplemental Declaration of Anita Chou in Support of Debtors' Reply in Support of the DIP Motion, and the exhibits attached thereto, and the evidence submitted or adduced and the arguments of counsel made at the Interim Hearing and the *Final Hearing*; and due and proper notice of the

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DIP Motion, the Interim Hearing, entry of the Interim Order, and Final Hearing having been provided in accordance with Bankruptcy Rules 2002, 4001(b) and (d), and 9014 and LBR 4001-2 and no other or further notice being required under the circumstances; and the Interim Hearing and Final Hearing having been held and concluded; and it appearing that approval of the final relief requested in the DIP Motion is necessary to avoid immediate and irreparable harm to the Debtors and is otherwise fair and reasonable and in the best interests of the Debtors, their estates and their creditors, and is essential for the preservation of the value of the Debtors' assets; and the Court having considered the *Objection to Debtor's Proposed Form of Order on Motion of Debtors for Final Order (A) Authorizing the Debtors to Obtain Post Petition Financing (B) Authorizing the Debtors to Use Cash Collateral and (C) Granting Adequate Protection to Prepetition Secured Creditors Pursuant to 11 U.S.C. §§ 105, 363, 364, 1107 and 1108* [Doc. No. 398] filed by UMB Bank, N.A. ("UMB Bank"), the *Response of U.S. Bank National Association, as Series 2017 Note Trustee, to Objection to Debtors' Proposed Form of Order on Motion of Debtors for Final Order (A) Authorizing the Debtors to Obtain Post Petition Financing (B) Authorizing the Debtors to Use Cash Collateral and (C) Granting Adequate Protection to Prepetition Secured Creditors Pursuant to 11 U.S.C. §§ 105, 363, 364, 1107 and 1108* [Doc. No. 401] (the "UMB Objection"), and the *Response of Verity MOB Financing LLC and Verity MOB Financing II LLC With Respect to Objection to Debtors' Proposed Form of Order on Motion of Debtors for Final Order (A) Authorizing the Debtors to Obtain Post Petition Financing (B) Authorizing the Debtors to Use Cash Collateral and (C) Granting Adequate Protection to Prepetition Secured Creditors Pursuant to 11 U.S.C. §§ 105, 363, 364, 1107 and 1108* [Doc. No. 402]; and the Court having overruled the UMB Objection to entry of this Final Order[2]; and any other objections ~~all objections, if any,~~ to the entry of this Final Order having been withdrawn, resolved or overruled by the Court; and for the

[2] At the Final Hearing, the Debtors read into the record proposed language intended to resolve the objections asserted by UMB Bank. UMB Bank's counsel stated that the proposed language was acceptable. After the Debtors lodged a proposed form of order incorporating the language that the Debtors had read into the record, UMB filed the UMB Objection. The Court finds that by assenting to the proposed language on the record at the Final Hearing, UMB Bank has waived its ability to object to the form of this Final Order.

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reasons set forth in the Court's tentative ruling [Doc. No. 392], incorporated herein by reference; and after due deliberation and consideration, and for good and sufficient cause appearing therefor:

BASED UPON THE RECORD ESTABLISHED AT THE INTERIM AND FINAL HEARINGS, THE COURT MAKES THE FOLLOWING FINDINGS OF FACT AND CONCLUSIONS OF LAW:[3]

A. **Petition Date**. On August 31, 2018 (the "***Petition Date***"), each of the Debtors filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code with the United States Bankruptcy Court for the Central District of California (the "***Court***"). The Debtors have continued in the management and operation of their businesses and properties as debtors in possession pursuant to sections 1107 and 1108 of the Bankruptcy Code.

B. **Jurisdiction and Venue**. This Court has jurisdiction over the Cases, the DIP Motion and the parties and property affected hereby pursuant to 28 U.S.C. §§ 157(b) and 1334(b), and over the persons and property affected hereby. Consideration of the DIP Motion constitutes a core proceeding as defined in 28 U.S.C. § 157(b)(2). Venue for these Chapter 11 Cases and proceedings on the DIP Motion is proper before this district pursuant to 28 U.S.C. §§ 1408 and 1409.

C. **Committee Formation.** The Office of the United States Trustee (the "***U.S. Trustee***") provided notice of the appointment of an official committee of unsecured creditors in these Cases pursuant to section 1102 of the Bankruptcy Code, the members of which are identified by the Office of the United States Trustee in that Notice of Appointment and Appointment of Committee of Creditors Holding Unsecured Claims dated September 17, 2018 [Docket No 197] (the "***Committee***").

D. **Notice**. The Court entered the Interim Order on September 6, 2018 [Docket 86]. Notice of entry of the Interim Order and Notice of the Final Hearing on the DIP Motion [Docket

[3] The findings and conclusions set forth herein constitute the Court's findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this proceeding pursuant to Bankruptcy Rule 9014. To the extent that any of the following findings of fact constitute conclusions of law, they are adopted as such. To the extent any of the following conclusions of law constitute findings of fact, they are adopted as such.

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201] has been provided by the Debtors to: (i) the Office of the United States Trustee for the Central District of California (the "***U.S. Trustee***"); (ii) the United States Securities and Exchange Commission; (iii) the Office of the United States Attorney for the Central District of California; (iv) the Internal Revenue Service; (v) the Debtors' fifty (50) largest unsecured creditors on a consolidated basis; (vi) counsel to each of the Prepetition Secured Creditors (as defined below); (vii) counsel to the DIP Agent and the DIP Lender; (viii) the Office of the Attorney General for the State of California, Charities Division; (ix) proposed counsel to the Committee; and (x) all other parties known to assert a lien on any of the Debtors' assets. Under the circumstances, such notice of the Final Hearing and the DIP Motion constitute due, sufficient and appropriate notice and complies with sections 102(1) and 363 of the Bankruptcy Code, Bankruptcy Rules 2002 and 4001(b), and the Local Rules, and no other or further notice is required under the circumstances.

E. **Findings Regarding Corporate Authority**. As set forth in the resolutions accompanying the Petitions and the Adcock Declaration, each Debtor has all requisite corporate power and authority to execute and deliver the DIP Financing Agreements to which it is a party, to grant the DIP Liens (as defined herein) and to perform its obligations thereunder.

F. **Intercreditor Agreement**. Pursuant to section 510(a) of the Bankruptcy Code, the Second Amended and Restated Intercreditor Agreement dated December 1, 2017 (the "***Intercreditor Agreement***") and any other applicable intercreditor or subordination provisions contained in any of the Prepetition Secured Documents (i) shall remain in full force and effect, with respect to prepetition and post-petition assets of the Debtors as provided thereunder, (ii) shall continue to govern the relative priorities, rights and remedies of the Prepetition Secured Creditors (including the relative priorities, rights and remedies of such parties with respect to the Prepetition Replacement Liens and Adequate Protection Superpriority Claims granted, or amounts payable, by the Debtors under the Interim Order, this Final Order or otherwise and the modification of the automatic stay), and (iii) shall not be deemed to be amended, altered or modified by the terms of this Final Order or the DIP Financing Agreements, unless expressly set forth herein.

G. **Prepetition Secured Credit Facilities**. As of the Petition Date, the Debtors were indebted and liable to the Prepetition Secured Creditors as follows:

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(i) UMB Bank, N.A., ("***UMB Bank***") as successor Master Trustee (in such capacity, the "***Master Trustee***") under the Master Trust of Trust dated as of December 1, 2001, as amended and supplemented (the "***Master Indenture***") with respect to the MTI Obligations (defined below) securing the repayment by the Obligated Group (defined below) of its loan obligations with respect to (1) the California Statewide Communities Development Authority Revenue Bonds (Daughters of Charity Health System) Series 2005 A, G and H (the "***2005 Bonds***"), (2) the California Public Finance Authority Revenue Notes (Verity Health System) Series 2015 A, B, C and D (the "***2015 Working Capital Notes***"), and (3) the California Public Finance Authority Revenue Notes (Verity Health System) Series 2017 A and B (the "***2017 Working Capital Notes***" and, collectively with the 2015 Working Capital Notes, the "***Working Capital Notes***"). The joint and several obligations issued under the Master Indenture by Verity Health System of California, Inc., O'Connor Hospital, Saint Louise Regional Hospital, St. Francis Medical Center, St. Vincent Medical Center and Seton Medical Center (collectively, the "***Obligated Group***") in respect of the 2005 Bonds and the Working Capital Notes are collectively referred to as the "***MTI Obligations***". Wells Fargo Bank National Association ("***Wells Fargo***") serves as bond indenture trustee under the bond indentures relating to the 2005 Bonds. U.S. Bank National Association ("***U.S. Bank***") serves as the note indenture trustee and as the collateral agent under each of the note indentures relating to the 2015 Working Capital Notes and the 2017 Working Capital Notes, respectively. The MTI Obligations are secured by, inter alia, security interests granted to the Master Trustee in the prepetition accounts of, and mortgages on the principal real estate assets of, the members of the Obligated Group.

In addition to the security provided to the Master Trustee to secure the MTI Obligations, U.S. Bank, as Note Trustee for the 2015 Working Capital Notes and the 2017 Working Capital Notes is secured by prepetition first priority liens upon and security interests in the Obligated Group's accounts and deeds of trust on the principal real estate assets of Saint Louise Regional Hospital and St. Francis Medical Center (collectively, the "***Priority Collateral***"). U.S. Bank as Notes Trustee for the 2017 Working Capital Notes has also been granted a deed of trust,

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dated as of December 1, 2017, by Verity Holdings in certain real property located in San Mateo California (the "***Moss Deed of Trust***") to further secure the 2017 Working Capital Notes.

(ii) Verity MOB Financing, LLC and Verity MOB Financing II, LLC (together, the "***MOB Lenders***") hold security interests in Verity Holdings' accounts, including rents arising from the prepetition MOB Financing, and mortgages on medical office buildings owned by Verity Holdings (the "***MOB Financing***").

The Master Trustee, Wells Fargo as bond indenture trustee for the 2005 Notes, U.S. Bank as Note Trustee for the Working Capital Notes, and the MOB Lenders are collectively hereafter referred to as the "***Prepetition Secured Creditors***;" the MTI Obligations, the Obligated Group's loan obligations with respect to the Working Capital Notes and the MOB Financing are hereinafter referred to as the "***Prepetition Secured Obligations***;" the prepetition interests (including the liens and security interests) of each Prepetition Secured Creditor in the property and assets of the Debtors are hereinafter referred to as the "***Prepetition Liens***;" and the documents, writings and agreements evidencing the Prepetition Secured Obligations are hereinafter referred to as the "***Prepetition Secured Documents***".

H. **Prepetition Secured Trade Vendor Arrangement**. Prior to the Petition Date, Debtor Verity Medical Foundation ("***VMF***") entered into agreements for the sole source purchasing of certain critical chemotherapy and other pharmaceutical products and medical-surgical products with McKesson Corporation and certain affiliates ("***McKesson***"), and on or about March 27, 2018 granted to McKesson a prepetition perfected security interest ("***VMF Liens***") in VMF tangible and intangible personal property, including accounts (the "***VMF Collateral***"), but such perfected security interest excluded VMF cash (to the extent such cash does not represent proceeds of the VMF Collateral), personal property requiring possession for perfection and real property interests. As of the Petition Date, McKesson was owed approximately $3,055,000.00 (the "***McKesson Prepetition Debt***"). Postpetition, and subject to McKesson's internal credit review and approval process, McKesson has agreed to resume providing certain secured trade credit to VMF and the physician practices ordering through VMF for the purchase of pharmaceutical and medical-surgical

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products on 30 days from invoice payment terms (the "***McKesson Post-Petition Trade Credit***"). The McKesson Post-Petition Trade Credit will continue to be secured by the VMF Liens.

I. **Prepetition Collateral**. In order to secure the Prepetition Secured Obligations and the Prepetition Secured Trade Vendor Arrangement (as described in paragraph H above), the Debtors, excluding the Philanthropic Foundations, granted the Prepetition Liens and the VMF Liens to the Prepetition Secured Creditors and McKesson, respectively as provided and described in the Prepetition Secured Documents and the documents pertaining to the VMF Collateral. The assets subject to the Prepetition Liens (the "***Prepetition Collateral***") and the VMF Collateral constitute substantially all of the assets of the Debtors, excluding cash and assets of the Philanthropic Foundations.

J. **Prepetition Agreements to Pay Special Assessments.** Seton Medical Center, a Debtor, ("***SMC***") and California Statewide Communities Development Authority ("***CSCDA***") entered into an (i) Agreement to Pay Assessment and Finance Improvements dated May 11, 2017 under the CSCDA CaliforniaFirst Program ("***Clean Fund Agreement to Pay Assessment***"), and (ii) Agreement to Pay Assessment and Finance Improvements dated May 18, 2017 under the CSCDA CaliforniaFirst Program ("***Petros Agreement to Pay Assessment***", collectively, with Clean Fund Agreement to Pay Assessment, the "***Assessment Agreements*** "), each for the limited purpose of providing financing for certain renewable energy, energy efficiency, water efficiency and seismic improvements permanently affixed to real property owned by SMC located in Daly City, California under the CSCDA CaliforniaFirst Program in the aggregate amount of $40,000,000. As of the Petition Date, after payment of tax exempt bond issuance fees for the Clean Fund Bonds and the NR2 Petros Bonds (each as defined in the DIP Motion) and retention of capitalized interest reserves approximately $34,379,450 is being held for authorized improvements (the "***Program Funds***") by Wilmington Trust N.A. ("***WTNA***") as indenture trustee, pursuant to, *inter alia*, the terms of two Indentures between CSCDA and WTNA dated as of May 11, 2017 and May 18, 2017 and the Assessment Agreements. Notwithstanding SMC's status as a tax exempt California not for profit corporation, SMC agreed and consented to the CSCDA special tax assessments imposed pursuant to and under the Assessment Agreements (the "***CSCDA Special Assessments***"). The Debtors

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acknowledge that the CSCDA Special Assessments have the same lien priority and methods of collection as general municipal taxes on real property. Notices of Assessment and Payment of the Special Assessments were recorded in the official records of the County of San Mateo against the real property owned by SMC and consented to by the Prepetition Secured Creditors. The Debtors acknowledge that the Program Funds and other proceeds of the issuance of the Clean Fund Bonds or NR2 Petros Bond which are being held by WTNA are not property of the Debtors' estates, and are not subject to the Prepetition Liens, the DIP Liens, or the Prepetition Replacement Liens.

K. **Findings Regarding the Postpetition Financing**.

(i) **Consensual Priming of the Prepetition Liens**. The priming of the Prepetition Liens of the Prepetition Secured Creditors on the Prepetition Collateral, and the VMF Liens on the VMF Collateral under section 364(d) of the Bankruptcy Code, as contemplated by the DIP Financing Agreements, as authorized by the Interim Order and this Final Order, and as further described below, is consented to by the Prepetition Secured Creditors and McKesson, and will enable the Debtors to continue borrowing under the DIP Facility and to continue operating their businesses for the benefit of their estates and creditors. The Prepetition Secured Creditors and McKesson are each entitled to receive adequate protection as set forth in this Final Order pursuant to sections 361, 363, and 364 of the Bankruptcy Code, for any Diminution in Value (as defined herein) of each of their respective interests in the Prepetition Collateral (including Cash Collateral) or VMF Collateral.

(ii) **Good Cause; Need for Postpetition Financing**. Good cause has been shown for the entry of this Final Order. An immediate and continuing need exists for the Debtors to obtain funds from the DIP Loan in order to continue operations, continue to serve the Debtors mission to provide vital, lifesaving patient care for vulnerable populations and to administer and preserve the value of their estates. The ability of the Debtors to finance their operations, to preserve and maintain the value of the Debtors' assets and to maximize a return for all creditors requires the availability of working capital from the DIP Loan, the absence of which would immediately and irreparably harm the Debtors, their estates and their creditors and the possibility for a successful

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reorganization or sale of the Debtors' assets as a going concern or otherwise. The proposed DIP Loan is in the best interests of the Debtors, their estates, and their creditors.

(iii) **No Credit Available on More Favorable Terms**. The Debtors have been unable to obtain (a) unsecured credit allowable under section 503(b)(1) of the Bankruptcy Code as an administrative expense, (b) credit for money borrowed secured solely by a lien on property of the estate that it not otherwise subject to a lien, (c) credit for money borrowed secured by a junior lien on property of the estate which is subject to a lien, (d) or credit otherwise on more favorable terms and conditions than those provided in the DIP Credit Agreement and this Final Order. The Debtors are unable to obtain credit for borrowed money without granting to the DIP Agent and DIP Lender the DIP Protections (as defined below).

L. **Use of Proceeds of the DIP Facility.** Proceeds of the DIP Facility (net of any amounts used to pay fees, costs and expenses under the DIP Financing Agreements) are to be utilized by the Debtors until the DIP Facility Termination Date in accordance with the DIP Budget and in a manner consistent with the terms and conditions of the DIP Credit Agreement, and this Final Order.

M. **Application of Sale Proceeds of DIP Collateral.** As provided by the Interim Order, this Final Order and the DIP Credit Agreement, the DIP Liens shall attach as first priority liens and security interests, pursuant to section 364(d) of the Bankruptcy Code and the DIP Financing Agreements, to all proceeds of any sale or other disposition of the Debtors' property, including, without limitation, the Healthcare Facilities (as defined in the DIP Credit Agreement) and any other DIP Collateral (as defined below) (the "***Sale Proceeds***"). The Sale Proceeds shall be held in escrow in one or more deposit accounts subject to a deposit account control agreement in favor of the DIP Agent (the "***Escrow Deposit Account***"). Any funds held in the Escrow Deposit Account shall not be commingled with any other funds of the selling Debtor, the Sale Proceeds of any other Debtor or otherwise. The DIP Agent is granted a first priority lien on the Escrow Deposit Account and all Sale Proceeds, including any deposit provided by any buyer in connection with any asset sale, and such proceeds, deposits, and the Escrow Deposit Account shall constitute Collateral under the DIP Credit Agreement and DIP Collateral under this Final Order. On the Revolving Loan Termination

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Date (as defined in the DIP Credit Agreement), the DIP Agent and the DIP Lender shall apply any and all amounts remaining on deposit in the Escrow Deposit Account to the outstanding principal amount of the DIP Loan, together with accrued and unpaid DIP Obligations, with any remaining balance to be delivered to the Debtors subject to any Prepetition Liens, VMF Liens, Prepetition Replacement Liens and VMF Replacement Liens; provided, however, that upon any Debtor's request and with the consent of the DIP Agent and DIP Lender (which consent may, for the avoidance of doubt, be withheld in its sole discretion), any Sale Proceeds and deposits provided in connection with any asset sale may be disbursed to the Prepetition Secured Creditors or McKesson on terms and conditions that are acceptable to the DIP Agent and DIP Lender in its sole discretion and upon further order of this Court.

N. **Adequate Protection for Prepetition Secured Creditors and McKesson.** The priming of the Prepetition Secured Creditors' Prepetition Liens and the VMF Liens to the extent set forth in the Interim Order and this Final Order, pursuant to section 364(d) of the Bankruptcy Code is necessary to obtain the DIP Financing. In exchange for the priming of the Prepetition Liens and the VMF Liens set forth below, the Prepetition Secured Creditors and McKesson shall be entitled to receive adequate protection, as set forth in this Final Order, pursuant to sections 361, 363 and 364 of the Bankruptcy Code, for any diminution in the value of their respective interests in the Prepetition Collateral or VMF Collateral resulting from, among other things, the subordination to the Carve Out (as defined herein) and to the DIP Liens (as defined herein), the Debtors' use, sale or lease of such Prepetition Collateral or VMF Collateral, including Cash Collateral, and the imposition of the automatic stay from and after the Petition Date (collectively, and solely to the extent of such diminution in value, the "***Diminution in Value***"). As to the VMF Collateral, any adequate protection, as set forth in this Final Order, pursuant to sections 361, 363 and 364 of the Bankruptcy Code, for any Diminution in Value of Prepetition Secured Creditors' interests in the Prepetition Collateral are subordinated to any similar adequate protection provided to McKesson. VMF shall also pay McKesson (A) $3,055,000.00 in satisfaction of the balance of McKesson's Prepetition Secured Debt on the following schedule: (1) October 5, 2018 - $1,700,000.00; (2) October 26, 2018 - $700,000.00; and (3) November 2, 2018 - $655,000.00 (plus

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McKesson's attorneys' fees and costs incurred through October 31, 2018) (the "***McKesson Secured Payments***"). The McKesson Secured Payments will be included within the DIP Budget line item for Debtors' critical vendor program. Payment of McKesson's attorneys' fees will be included in the DIP Budget line item for Prepetition Secured Creditor Adequate Protection Payments. The Prepetition Secured Creditors have negotiated in good faith regarding the Debtors' use of the Prepetition Collateral to help fund the administration of the Debtors' estates along with the proceeds of the DIP Financing. Based on the DIP Motion and the record presented to the Court at the Interim Hearing and the Final Hearing, the terms of the proposed adequate protection arrangements are fair and reasonable, reflect the Debtors' prudent exercise of business judgment and constitute reasonably equivalent value and fair consideration for the consent of the Prepetition Secured Creditors and McKesson; provided, however, that nothing herein shall limit the rights of any of the Prepetition Secured Creditors or McKesson to hereafter seek new, additional, or different adequate protection; provided further, that nothing herein shall limit the rights of all parties in interest to assert or challenge any determination or assertion with respect to the existence or quantification of any Diminution of Value.

O. **Extension of Financing**. The DIP Agent and DIP Lender have indicated a willingness to provide financing to the Debtors in accordance with the DIP Credit Agreement.

P. **Business Judgment and Good Faith Pursuant to Section 364(e).**

(i) The terms and conditions of the DIP Facility and the DIP Financing Agreements, and the fees paid and to be paid thereunder are fair, reasonable, and the best available under the circumstances, reflect the Debtors' exercise of prudent business judgment consistent with their fiduciary duties, and are supported by reasonably equivalent value and consideration;

(ii) The DIP Financing Agreements were negotiated in good faith and at arms' length between the Debtors, the DIP Agent and the DIP Lender;

(iii) The proceeds to be extended under the DIP Facility will be so extended in good faith, and for valid business purposes and uses; and

(iv) Each of the DIP Agent and DIP Lender has acted to date and is acting in good faith with respect to the DIP Facility and the terms and conditions of the DIP Credit

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Agreement and the other DIP Financing Agreements. The DIP Agent's and DIP Lender's claims, superpriority claims, security interests and liens and other protections granted pursuant to the Interim Order, this Final Order and the DIP Financing Agreements will not be affected or avoided by any subsequent reversal or modification of this Final Order, as provided in section 364(e) of the Bankruptcy Code.

Q. **Relief Essential; Best Interest; Good Cause**. The relief requested in the DIP Motion (and as provided in this Final Order) is necessary, essential, and appropriate for the preservation of the Debtors' assets, business and property. It is in the best interest of the Debtors' estates to be allowed to establish the DIP Facility contemplated by the DIP Credit Agreement. Good cause has been shown for the relief requested in the DIP Motion (and as provided in this Final Order).

R. **Consent to Use of Cash Collateral**. Each of the Prepetition Secured Creditors and McKesson have consented to the use of their respective interests in Cash Collateral, subject to the terms and conditions set forth in this Order.

NOW, THEREFORE, on the DIP Motion and the record before this Court with respect to the DIP Motion, including the record created during the Interim Hearing and the Final Hearing, and with the consent of the Debtors, the Prepetition Secured Creditors and the DIP Agent and DIP Lender to the form and entry of this Final Order, and good and sufficient cause appearing therefor,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

1. **Motion Granted**. The DIP Motion is granted on a final basis in accordance with the terms and conditions set forth in this Final Order and the DIP Credit Agreement. Any objections to the DIP Motion with respect to entry of this Final Order to the extent not withdrawn, waived or otherwise resolved, and all reservations of rights included therein, are hereby denied and overruled.

2. **DIP Financing Agreements.**

(a) **Approval of Entry into DIP Financing Agreements**. The Debtors are authorized, empowered and directed to execute and deliver the DIP Financing Agreements and to incur and to perform the DIP Obligations in accordance with, and subject to, the terms of this Final

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Order and the DIP Financing Agreements, and to execute and deliver all instruments and documents which may be required or necessary for the performance by the Debtors under the DIP Financing Agreements and the creation and perfection of the DIP Liens described in and provided for by this Final Order and the DIP Financing Agreements. The Debtors are hereby authorized and directed to do and perform all acts, pay the principal, interest, fees, expenses, indemnities and other amounts described in the DIP Financing Agreements as such amounts become due and payable without need to obtain further Court approval, including closing fees, unused line fees, administrative agent's fees, collateral agent's fees, and the reasonable fees and disbursements of the DIP Agent's and the DIP Lenders' respective attorneys, advisors, accountants, and other consultants, whether or not such fees arose before or after the Petition Date, and whether or not the transactions contemplated hereby are consummated, to implement all applicable reserves and to take any other actions that may be necessary or appropriate, all to the extent provided in this Final Order or the DIP Financing Agreements. All collections and proceeds, whether from ordinary course collections, asset sales, debt or equity issuances, insurance recoveries, condemnations or otherwise, will be deposited and applied as required by this Final Order and the DIP Financing Agreements. The DIP Financing Agreements represent valid and binding obligations of the Debtors, enforceable against each of the Debtors and their estates in accordance with their terms, including, without limitation, commitment fees and reasonable attorneys' fees and disbursements as provided for in the DIP Credit Agreement, which amounts shall not otherwise be subject to approval of this Court,. The Debtors shall pay the deferred balance of the commitment fee required by section 2.9(a) of the DIP Credit Agreement upon entry of this Final Order.

(b) **Authorization to Borrow and/or Guarantee**. To enable them to continue to preserve the value of their estates and dispose of their assets in an orderly fashion, during the period prior to termination of the DIP Credit Agreement and subject to the terms and conditions of this Final Order, upon the execution of the DIP Credit Agreement and the other DIP Financing Agreements the Debtors are hereby authorized to borrow the DIP Loan up to a total committed amount of $185,000,000 under the DIP Financing Agreements.

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(c) **Conditions Precedent.** Neither the DIP Agent nor the DIP Lender have any obligation to make the DIP Loan or any loan or advance under the DIP Credit Agreement unless the conditions precedent to making such loan under the DIP Credit Agreement have been satisfied in full or waived by the DIP Agent and DIP Lender in their sole discretion.

(d) **DIP Collateral; DIP Liens**. Effective immediately upon the entry of this Final Order, on account of the DIP Loan, the DIP Agent shall be and is hereby granted first-priority security interests and liens (which shall immediately be valid, binding, permanent, continuing, enforceable, perfected and non-avoidable) on all of the Debtors' property, including, without limitation, the Sale Proceeds and the Escrow Deposit Account, whether arising before or after the Petition Date (collectively, the "***DIP Collateral***," and all such liens and security interests granted on or in the DIP Collateral pursuant to this Final Order and the DIP Financing Agreements, the "***DIP Liens***"), but shall exclude the Program Funds, and proceeds of the Clean Fund Bonds and NR2 Petros Bonds held by WTNA, donor restricted funds held at Philanthropic Foundations, Avoidance Actions (defined below) and any proceeds thereof and any funds held by the Prepetition Secured Creditors (set forth on **Exhibit 1** to the Chou Decl.), provided, however, for the avoidance of doubt, any amounts held in accounts owned by the Debtors, whether or not such accounts are subject to control agreements in favor of the Prepetition Secured Creditors, shall constitute DIP Collateral. The DIP Collateral shall not be subject to any surcharge under section 506(c) or any other provision of the Bankruptcy Code or other applicable law, nor by order of this Court.

(e) **DIP Lien Priority**. Subject only to the Carve Out (as defined below) and the prepetition tax lien arising in connection with the CSCDA Special Assessments, the DIP Liens shall, pursuant to section 364(d)(1) of the Bankruptcy Code, be perfected, continuing, enforceable, non-avoidable first priority senior priming liens and security interests on the DIP Collateral, and shall prime all other liens and security interests on the DIP Collateral, including any liens and security interests in existence on the Petition Date against the Prepetition Collateral and VMF Collateral, and any other current or future liens granted on the DIP Collateral, including any adequate protection or replacement liens granted on the DIP Collateral (collectively, the "***Primed Liens***") (other than the Debtors' claims and causes of action under sections 502(d), 544, 545, 547,

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548, 549, 550 and 553 of the Bankruptcy Code, and any other avoidance or similar actions under the Bankruptcy Code or similar state law (the "***Avoidance Actions***"), whether received by judgment, settlement or otherwise. Without limiting the foregoing, the DIP Liens shall not be made subject to, subordinate to, or *pari passu* with any lien or security interest by any court order heretofore or hereafter granted in the Chapter 11 Cases. The DIP Liens shall be valid and enforceable against any trustee appointed in the Chapter 11 Cases, upon the conversion of any of the Chapter 11 Cases to a case under Chapter 7 of the Bankruptcy Code or in any other proceedings related to any of the foregoing (any "***Successor Cases***"), and/or upon the dismissal of any of the Chapter 11 Cases or Successor Cases. Other than the Carve Out, no costs, expenses, claims, or liabilities that have been or may be incurred by Debtors during these Chapter 11 Case, or in any Successor Cases, will be senior to, prior to, or on parity with the DIP Liens.

(f) **Enforceable Obligations**. The DIP Financing Agreements shall constitute and evidence the valid and binding obligations of the Debtors, which obligations shall be enforceable against the Debtors, their estates and any successors thereto and their creditors or representatives thereof, in accordance with their terms.

(g) **Protection of DIP Agent, DIP Lender and Other Rights**. From and after the Petition Date, the Debtors shall use the proceeds of the extensions of credit under the DIP Facility only for the purposes specifically set forth in the DIP Credit Agreement and this Final Order and in strict compliance with the DIP Budget (subject to any variances thereto permitted by the DIP Credit Agreement).

(h) **Additional Protections of DIP Agent and DIP Lender: Superpriority Administrative Claim Status**. Subject to the Carve Out (as defined below), all DIP Obligations shall constitute an allowed superpriority administrative expense claim (the "***DIP Superpriority Claim***" and, together with the DIP Liens, the "***DIP Protections***") with priority in all of the Chapter 11 Cases and Successor Cases over all other administrative expense claims under sections 364(c)(1), 503(b) and 507(b) of the Bankruptcy Code and otherwise over all administrative expense claims and unsecured claims against the Debtors or their estates, now existing or hereafter arising, of any kind or nature whatsoever, including, without limitation, administrative expenses of the

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kinds specified in or ordered pursuant to sections 105, 326, 328, 330, 331, 365, 503(a), 503(b), 506(c), 507(a), 507(b), 546(c), 546(d), 1113 and 1114 and any other provision of the Bankruptcy Code except as otherwise set forth herein, whether or not such expenses or claims may become secured by a judgment lien or other non-consensual lien, levy or attachment. The DIP Superpriority Claim shall be payable from and have recourse to all prepetition and post-petition property of the Debtors and all proceeds thereof. Without limiting the foregoing, the DIP Superpriority Claim shall not be made subject to, subordinate to, or *pari passu* with any other administrative claim in the Chapter 11 Cases or Successor Cases, except for the Carve Out (as defined below). Other than the Carve Out, no costs, expenses, claims, or liabilities that have been or may be incurred by Debtors during these Chapter 11 Cases, or in any Successor Cases, will be senior to, prior to, or on parity with the DIP Superpriority Claim.

3. **Authorization to Use Proceeds of DIP Facility**. Pursuant to the terms and conditions of this Final Order, the DIP Credit Agreement and the other DIP Financing Agreements, and in accordance with the DIP Budget and the variances thereto set forth in the DIP Credit Agreement, the Debtors are authorized to use the advances under the DIP Credit Agreement during the period commencing immediately after the entry of this Final Order and terminating upon the termination of the DIP Credit Agreement in accordance with its terms and subject to the provisions hereof.

4. **Application of Sale Proceeds of DIP and Prepetition Secured Creditor Collateral.** The DIP Liens shall attach as first priority liens and security interests, pursuant to section 364(d) of the Bankruptcy Code, the Interim Order, this Final Order and the DIP Financing Agreements, to the Sale Proceeds. The Sale Proceeds shall be allocated by Debtors and held in escrow in the Escrow Deposit Accounts. Funds held in any Escrow Deposit Account shall not be commingled with any other funds of the applicable Debtor or any of the other Debtors and, without limitation of the rights of the DIP Agent and DIP Lender under the DIP Financing Agreements and this Final Order with respect to the Sale Proceeds and Escrow Deposit Account, including, without limitation, following the occurrence of an Event of Default or the Revolving Loan Termination Date (as defined in the DIP Credit Agreement), the Debtors shall not be permitted to use Cash Collateral of any of the Prepetition Secured Creditors held in any Escrow Deposit Account for any purpose without first

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obtaining the consent of the applicable Prepetition Secured Creditor or obtaining an order of the Court pursuant to Section 363 of the Bankruptcy Code after notice and a hearing. The DIP Agent is granted a first priority lien on the Escrow Deposit Accounts and all Sale Proceeds, including any deposit provided by any buyer in connection with any asset sale, and such proceeds, deposits, and the Escrow Deposit Account shall constitute Collateral under the DIP Credit Agreement and DIP Collateral under this Final Order. On the Revolving Loan Termination Date (as defined in the DIP Credit Agreement), the DIP Agent may apply amounts held in Escrow Deposit Accounts to the outstanding DIP Obligations due under the DIP Credit Agreement. Without limiting the foregoing, and subject and subordinate in all respects to the first priority priming DIP Lien and Prepetition Replacement Liens to the extent set forth in this Final Order, the Prepetition Secured Creditors' Prepetition Liens shall be deemed to attach to the Escrow Deposit Accounts and the Sale Proceeds with the same relative priority, validity, force, extent and effect as the Prepetition Liens attached to the Prepetition Collateral giving rise to such Sale Proceeds. Each of the Prepetition Secured Creditors shall have the right to seek a declaration of their respective rights in and to any of the Sale Proceeds and funds held in a Deposit Escrow Account, consistent with and subject to the terms and conditions of this Final Order and the DIP Financing Agreements, and the Court shall determine all such disputes in accordance with this Final Order, the DIP Financing Agreements, the Prepetition Secured Documents, and applicable law.

5. **Adequate Protection for Prepetition Secured Creditors**. As adequate protection for the interests of the Prepetition Secured Creditors in the Prepetition Collateral and McKesson in the VMF Collateral, on account of the granting of the DIP Liens, subordination to the Carve Out (as defined below), any Diminution in Value arising out of the Debtors' use, sale, or disposition or other depreciation of the Prepetition Collateral, including Cash Collateral or the VMF Collateral, resulting from the automatic stay, the Prepetition Secured Creditors and McKesson shall receive adequate protection as follows:

(a) **Adequate Protection Replacement Liens**. To the extent of the Diminution in Value of the interest of the respective Prepetition Secured Creditors in Prepetition Collateral that secures their respective claims, each of the affected Prepetition Secured Creditors shall be granted,

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subject to the terms and conditions set forth below, pursuant to sections 361, 363(e), and 364(d) of the Bankruptcy Code additional valid, perfected and enforceable replacement security interests and Liens in the DIP Collateral, (the "***Prepetition Replacement Liens***"), which Prepetition Replacement Liens shall be junior only to (1) the Carve Out, (2) ~~to~~ the DIP Liens, (3) the VMF Liens in VMF Collateral and (4) any perfected, unavoidable, prepetition liens granted by Holdings pursuant to those certain deeds of trust issued in connection with the MOB Financing and that certain Deed of Trust with Fixture Filing and Security Agreement and Assignment of Leases and Rents by Holdings in favor of U.S. Bank as 2017 Note Trustee and Deed of Trust Beneficiary, dated as of September 15, 2017, as further amended or modified (the "***Moss Deed of Trust***") to secure the Series 2017 Working Capital Notes; *provided, however*, that any Prepetition Replacement Liens granted to the 2015 Note Trustee and/or 2017 Note Trustee on account of the Diminution in Value of the Priority Assets as defined in the Intercreditor Agreement shall be senior to the Prepetition Replacement Liens granted to any other Prepetition Secured Creditors and junior to (i) the Carve Out, (ii) the DIP Liens securing the DIP Obligations, and (iii) perfected, unavoidable, prepetition liens granted by Holdings pursuant to those certain deeds of trust issued in connection with the MOB Financing and the Moss Deed of Trust, and *further provided* that any Prepetition Replacement Liens granted to the holders of deeds of trust issued in connection with the MOB Financing and the Moss Deed of Trust, on account of the Diminution in Value of such Prepetition Collateral shall be senior to the Prepetition Replacement Liens granted to any other Prepetition Secured Creditors and junior to (x) the Carve Out, (y) the DIP Liens securing the DIP Obligations, and (z) perfected, unavoidable, prepetition liens of the Master Trustee, the 2015 Note Trustee and/or the 2017 Note Trustee on property other than the property subject to the Moss Deed of Trust. With respect to the Prepetition Collateral that is subject to the Intercreditor Agreement, any proceeds of such Prepetition Collateral or Prepetition Replacement Liens related thereto shall be allocated among the Prepetition Secured Creditors in accordance with the terms of the Second Amended and Restated Intercreditor Agreement. Unless otherwise ordered by the Court, the Intercreditor Agreement shall not be deemed to be amended, altered or modified by the terms of this Final Order or the DIP Financing Agreements. With respect to the VMF Collateral, McKesson

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shall be entitled to a replacement lien on the postpetition assets of VMF, excluding Avoidance Actions ("***VMF Replacement Lien***"), to the extent of (1) any Diminution in Value in such VMF Collateral, and (2) any McKesson Post-Petition Trade Credit, which amounts shall be senior to the Prepetition Replacement Liens, but junior to the (m) Carve Out, and (n) the DIP Liens.

(b) **Adequate Protection Payments and Protections**. So long as there is no Default or Event of Default under the Interim Order, this Final Order, or the DIP Financing Agreements, the Debtors are also authorized and directed to provide (I) to the Prepetition Secured Creditors monthly adequate protection payments equal to (A) the amount of postpetition, non-default contractual interest on the outstanding balances of the Prepetition Secured Obligations, provided that reference to the non-default contractual rate of interest shall not include any Penalty Rate, Default Rate or the Tax Rate as defined in the Prepetition Secured Documents, plus (B) monthly payment of reasonable trustee fees for each of (1) Wells Fargo, (2) UMB Bank as Master Trustee, (3) U.S. Bank as 2015 Note Trustee, and (4) U.S. Bank as 2017 Note Trustee, respectively, and (C) reimbursement of reasonable attorney's fees for one set of attorneys for (1) Wells Fargo as the successor indenture trustee for the 2005 Bonds, (2) UMB Bank as Master Trustee, (3) U.S. Bank as 2015 Note Trustee, (4) U.S. Bank as 2017 Note Trustee, and (5) MOB Financing and reimbursement of reasonable financial advisor fees for one set of financial advisors for (1) Wells Fargo as the successor indenture trustee for the 2005 Bonds and UMB Bank as Master Trustee, (2) U.S. Bank as 2015 Note Trustee and 2017 Note Trustee and (3) MOB Financing; and (II) payments by the Debtors to McKesson consistent with certain terms of the interim and final orders authorizing the Critical Vendor Program (as defined in the Debtors First Day Motions) in an amount of $3,055,000.00 (collectively I and II are the "***Prepetition Adequate Protection Payments***"). Notwithstanding the foregoing, to the extent the Court enters a final and non-appealable order that determines, pursuant to sections 506(a) or (b) of the Bankruptcy Code, that the Prepetition Adequate Protection Payments under (I) and (II) above are not properly entitled to payment of interest and fees on one or more of the respective Prepetition Secured Obligations to which they were made, the Prepetition Adequate Protection Payments may be re-characterized as payment(s) applied to the principal amount of the respective Prepetition Secured Obligations.

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(c) **McKesson Secured Payments.** As set forth herein, so long as no Revolving Loan Termination Event has occurred under the DIP Credit Agreement, the Debtors are hereby authorized and directed to make all McKesson Secured Payments on or before their respective due dates and are authorized to make payments on McKesson's Post-Petition Trade Credit, on the terms agreed to between McKesson and the Debtors provided herein.

(d) **Prepetition Superpriority Claim**. To the extent of the Diminution in Value of the interest of the respective Prepetition Secured Creditors in Prepetition Collateral, each of the affected Prepetition Secured Creditors shall be granted, subject to the terms and conditions set forth below, an allowed superpriority administrative expense claim (the "***Prepetition Superpriority Claims***"), which shall have priority (except with respect to (i) the DIP Liens, (ii) the DIP Superpriority Claim, (iii) the Carve Out, and (iv) any claims granted by Holdings pursuant to those certain deeds of trust issued in connection with the MOB Financing and the Moss Deed of Trust) in the Chapter 11 Cases under sections 363(c)(1), 503(b) and 507(b) of the Bankruptcy Code and otherwise over all administrative expense claims and unsecured claims against the Debtors and their estates, now existing or hereafter arising of any kind or nature whatsoever including, without limitation, administrative expenses of the kind specified or ordered pursuant to sections 105, 326, 328, 330, 331, 503(a), 503(b), 507(a), 507(b), 546(c), 546(d) 552, 726, 1113 and 1114 of the Bankruptcy Code, and upon entry of this Final Order, section 506(c) of the Bankruptcy Code, whether or not such expenses or claims may become secured by a judgment Lien or other non-consensual Lien, levy or attachment; *provided, however*, that any Prepetition Superpriority Claim granted to the 2015 Note Trustee and/or 2017 Note Trustee on account of the Diminution in Value of the Priority Assets as defined in the Intercreditor Agreement shall have priority over the Prepetition Superpriority Claims granted to any other Prepetition Secured Creditors (except with respect to (i) the DIP Liens, (ii) the DIP Superpriority Claim, (iii) the Carve Out, and (iv) claims associated with the MOB Financing and the Moss Deed of Trust) and *further provided* that any Prepetition Superpriority Claim granted to the holders of those certain deeds of trust issued in connection with the MOB Financing and the Moss Deed of Trust, on account of the Diminution in Value of such Prepetition Collateral shall be senior to the Prepetition Superpriority Claims granted

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to any other Prepetition Secured Creditors (except with respect to (i) the DIP Liens, (ii) the DIP Superpriority Claim, (iii) the Carve Out, and (iv) the claims of the Master Trustee, the 2015 Note Trustee and/or the 2017 Note Trustee on property other than the property subject to the Moss Deed of Trust). With respect to the Prepetition Collateral that is subject to the Second Amended and Restated Intercreditor Agreement, any proceeds of such Prepetition Collateral or Prepetition Superpriority Claim related thereto shall be allocated among the Prepetition Secured Creditors in accordance with the terms of the Second Amended and Restated Intercreditor Agreement.

(e) **Validity, Perfection and Amount of Prepetition Liens**. The Debtors further acknowledge and agree that, as of the Petition Date, (a) the Prepetition Liens securing the Prepetition Secured Obligations on the Prepetition Collateral and the VMF Liens on the VMF Collateral were valid, binding, enforceable, non-avoidable, and properly perfected and were granted to, or for the benefit of, the Prepetition Secured Creditors and McKesson, (b) the Prepetition Liens were senior in priority over any and all other Liens on the Prepetition Collateral except the prepetition tax lien arising in connection with the CSCDA Special Assessments, and (c) the VMF Liens were senior in priority over any and all other Liens on VMF Collateral. The findings and stipulations set forth in this Final Order with respect to the validity, enforceability and amount of the Prepetition Secured Obligation and the Prepetition Liens shall be binding on any subsequent trustee, responsible person, examiner with expanded powers, any other estate representative, and all creditors and parties in interest and all of their successors in interest and assigns, including the Committee, unless, and solely to the extent that, a party in interest with requisite standing and authority (other than the Debtors, as to which any Challenge (as defined below) is irrevocably waived and relinquished) has timely filed the appropriate pleadings, and timely commenced the appropriate proceeding required under the Bankruptcy Code and Bankruptcy Rules, including as required pursuant to Part VII of the Bankruptcy Rules (in each case subject to the limitations set forth in this paragraph 4(d)) challenging the Prepetition Liens (each such proceeding or appropriate pleading commencing a proceeding or other contested matter, a "***Challenge***") within ninety (90) days from the formation of the Committee (the "***Challenge Deadline***"); *provided* that for purposes of filing a Challenge, the Committee shall be deemed to have standing to file the requisite pleading

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without further ~~a~~ order of the Court; and *provided further*, that the "Challenge Deadline" for matters solely relating to the value of the Prepetition Collateral may be further extended to such time as may be agreed by stipulation among the Debtors, the Committee and the Prepetition Secured Creditors or as further ordered by the Court. The foregoing limitation on use of Prepetition Collateral or its proceeds shall only be amended upon further order of this Court and the consent of both the Prepetition Secured Creditors, the DIP Agent and the DIP Lender. The Debtors shall not use the Prepetition Collateral, VMF Collateral or their proceeds to investigate or prosecute claims against the Prepetition Secured Creditors or McKesson, including Avoidance Actions, *provided however* that the Committee may investigate the existence of such claims and have allowed fees paid from the Prepetition Collateral or VMF Collateral and the proceeds of the DIP Facility up to the amount of $250,000, *provided further however* that no Prepetition Collateral or VMF Collateral, the proceeds thereof or the proceeds of the DIP Facility may be used to prosecute claims against Prepetition Secured Creditors or McKesson. For the avoidance of doubt, the Debtors, on behalf of their estates, do not release or indemnify the Prepetition Secured Creditors or McKesson from any Challenge raised by third parties, including the Committee, to the validity, amount or enforceability of the Prepetition Secured Obligations and the Prepetition Liens or the VMF Liens.

(f) **Sections 506(c) and 552(b)**. In light of the Prepetition Secured Creditors' and McKesson's' agreements that their Prepetition Liens and VMF Liens, respectively, shall be subject to the Carve Out and subordinate to the DIP Liens, the Prepetition Secured Creditors and McKesson are each entitled to a waiver of any "equities of the case" exception under section 552(b) of the Bankruptcy Code, and a waiver of the provisions of section 506(c) of the Bankruptcy Code.

(g) Nothing contained in this Final Order shall prevent the Prepetition Secured Creditors from application or use of the funds held thereby that are not DIP Collateral in accordance with the Prepetition Secured Documents. Each of the Prepetition Secured Creditors reserves the right to seek additional or further adequate protection from the Court. The Debtors and the Committee each reserves the right to object to any such request for additional or further adequate protection.

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6. **Budget Maintenance**. The proceeds of the DIP Loan under the DIP Facility and the use of Cash Collateral shall be subject to, and in accordance with, the terms and conditions of the DIP Financing Agreements and the DIP Budget. The DIP Budget shall be delivered to the DIP Agent with such supporting documentation as reasonably requested by the DIP Agent. The DIP Budget shall be prepared in good faith based upon assumptions that the Debtors believe to be reasonable. A copy of any DIP Budget shall be delivered to counsel for the Committee and the U.S. Trustee and counsel for the Prepetition Secured Creditors after it has been approved in accordance with the DIP Financing Agreements. The Debtors shall provide at least two (2) business days' notice to counsel for the Committee and the Prepetition Secured Creditors prior to the effective date of any change in the DIP Budget.

7. **Budget Compliance and Reporting**. The proceeds of the DIP Facility and the use of Cash Collateral shall be subject to, and used in accordance with, the terms and conditions of the DIP Financing Agreement and the DIP Budget (subject to the variances set forth therein). Debtors acknowledge and confirm that the DIP Budget includes the payment of CSCDA Special Assessments. The Debtors shall provide all reports and other information as required in the DIP Credit Agreement (subject to the grace periods provided therein), with copies delivered substantially contemporaneously to counsel for the Prepetition Secured Creditors and counsel to the Committee, such information to include reasonably complete details on the payments contemplated by the Critical Vendors Motion and the Utilities Motion, as defined in the Adcock Declaration, and such information to be timely provided, sufficient for the Prepetition Secured Creditors to file an objection with this Court on two business days' notice. The Debtors' failure to comply with the DIP Budget (including the variances set forth in the DIP Credit Agreement) or to provide the reports and other information required in the DIP Credit Agreement shall constitute an Event of Default (as defined herein), following the expiration of any applicable grace period set forth in the DIP Credit Agreement. Subject to the execution and continuation of valid and binding confidentiality agreements, the Debtors shall provide to the DIP Agent, the DIP Lender, the Prepetition Secured Creditors and the Committee information concerning (i) the Debtors' efforts to obtain debtor in possession financing proposals, including any proposals the Debtors received, and

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(ii) the Debtors' ongoing efforts to market their assets, including all marketing materials used by the Debtors in this process, information identifying the parties the Debtors have contacted, copies of any proposals or expressions of interest, and other information concerning these matters as the DIP Agent or the Prepetition Secured Creditors may reasonably request.

8. **Postpetition Lien Perfection.** This Final Order shall be sufficient and conclusive evidence of the validity, perfection, and priority of the DIP Liens, the Prepetition Replacement Liens and the VMF Replacement Lien, and all rights granted in and to the Escrow Deposit Accounts and the Sale Proceeds, without the necessity of filing or recording any financing statement, deeds of trust, mortgages, or other instruments or documents which may otherwise be required under the law of any jurisdiction or the taking of any other action (including, for the avoidance of doubt, entering into any deposit account control agreement or obtaining possession of any possessory collateral) to validate or perfect the DIP Liens, Prepetition Replacement Liens or VMF Replacement Lien, or to entitle the DIP Liens, Prepetition Replacement Liens and VMF Replacement Lien the respective priorities granted herein. Notwithstanding and without limiting the foregoing, the DIP Agent may file such financing statements, mortgages, deeds of trust, notices of liens and other similar documents as it deems appropriate, and it is hereby granted relief from the automatic stay of section 362 of the Bankruptcy Code in order to do so, and all such financing statements, mortgages, deeds of trust, notices and other documents shall be deemed to have been filed or recorded at the time and on the date of the commencement of the Chapter 11 Cases. Notwithstanding and without limiting the foregoing provisions regarding the validity, perfection, and priority of the DIP Liens, the Debtors shall execute and deliver to the DIP Agent and DIP Lender all such financing statements, mortgages, deeds of trust, deposit account control agreements, notices and other documents as the DIP Agent and DIP Lender may reasonably request to evidence, confirm, validate or perfect, or to insure the contemplated priority of, the DIP Liens granted pursuant hereto and the DIP Financing Agreements. Any such financing statements, mortgages, deeds of trust, deposit account control agreements, notices and other documents shall be considered DIP Financing Agreements for all intents and purposes. The DIP Agent, in its discretion, may file a certified copy of this Final Order as a financing statement with any recording officer designated

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to file financing statements or with any registry of deeds or similar office in any jurisdiction in which any Debtor has real or personal property, and in such event, the recording officer shall be authorized to file or record such copy of this Final Order. To the extent that any Prepetition Secured Creditor is the secured party under any security agreement, mortgage, leasehold mortgage, landlord waiver, credit card processor notices or agreements, bailee letters, custom broker agreements, financing statement, account control agreements, or any other Prepetition Secured Documents or is listed as loss payee or additional insured under any of the Debtors' insurance policies, the DIP Agent shall also be deemed to be the secured party under such documents or to be the loss payee or additional insured, as applicable.

9. **Application of Proceeds of Collateral**. As a condition to the continued extension of credit under the DIP Facility and the continued authorization to use Cash Collateral, the Debtors have agreed that as of and commencing on the Closing Date the Debtors shall apply all advances under the DIP Facility, as follows: (i) *first*, to fund the day to day operations and general corporate purposes of the Debtors' estates; (ii) *second*, to pay the administrative expenses of the Chapter 11 Cases; and (iii) *third*, to make the Prepetition Adequate Protection Payments all in accordance with the DIP Budget.

10. **Proceeds of Subsequent Financing**. If the Debtors, any trustee, any examiner with expanded powers, or any responsible officer subsequently appointed in these Chapter 11 Cases or any Successor Cases, shall obtain credit or incur debt pursuant to Bankruptcy Code sections 364(b), 364(c), or 364(d) or in violation of the DIP Financing Agreements at any time prior to the indefeasible repayment in full of all DIP Obligations and Prepetition Secured Obligations (to the extent such remain outstanding), and the termination of the DIP Agent's and the DIP Lenders' obligation to extend credit under the DIP Facility, including subsequent to the confirmation of any chapter 11 plan of reorganization with respect to any or all of the Debtors and the Debtors' estates, and such facility is secured by any DIP Collateral, then all the cash proceeds derived from such credit or debit shall immediately be turned over to the DIP Agent to be applied in accordance with this Final Order and the DIP Financing Agreements.

11. **Cash Collection**.

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(a) From and after the date of the entry of this Final Order, all collections and proceeds of any DIP Collateral or Prepetition Collateral and all Cash Collateral that shall at any time come into the possession, custody, or control of any Debtor, or to which any Debtor is now or shall become entitled at any time, shall be promptly deposited in accounts as specified in the DIP Credit Agreement (or in such other accounts as are designated by the DIP Agent from time to time) (collectively, the "***Cash Collection Accounts***"), which accounts shall be subject to the sole dominion and control of the DIP Agent. It is understood and agreed by the Debtors and the DIP Agent that, unless a "Default" or an "Event of Default" under the DIP Credit Agreement has occurred and is continuing, for so long as there are no amounts outstanding under the DIP Facility, proceeds in the Cash Collection Accounts shall be returned to the Debtors and the Debtors shall be authorized to use such Cash Collateral in accordance with this Final Order. All proceeds and other amounts in the Cash Collection Accounts shall be remitted to the DIP Agent for application in accordance with the DIP Financing Agreements. Unless otherwise agreed to in writing by the DIP Agent and the Prepetition Secured Creditors or as set forth in this Final Order, the Debtors shall maintain no accounts except those identified in the interim cash management order entered by the Court with respect thereto (the "***Cash Management Order***"), whether now existing or hereafter established. The Debtors and the financial institutions where the Debtors' Cash Collection Accounts are maintained (including those accounts identified in the Cash Management Order), are authorized and directed to remit, without offset or deduction, funds in such Cash Collection Accounts upon receipt of any direction to that effect from the DIP Agent. To the extent that a Prepetition Secured Creditor's perfection in or control over bank accounts or investment accounts, including any funds or investments therein, may be affected by reason of the transfer of control to the DIP Agent or any agent of the DIP Lenders in accordance with this Final Order, the perfection and control rights of such Prepetition Secured Creditor therein shall be deemed to continue, subject to the senior, priming rights of the DIP Lender and the DIP Lien in such bank accounts or investment accounts, for so long as the DIP Obligations remain outstanding, and thereafter shall revert back to such Prepetition Secured Creditor.

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(b) Notwithstanding anything in this Final Order or any of the DIP Financing Agreements, from and after the date of the entry of this Final Order, all collections and proceeds of any DIP Collateral or Prepetition Collateral that shall at any time come into the possession, custody, or control of any Debtor, or to which any Debtor is now or shall become entitled at any time, shall promptly be deposited into a depository account furnished by a depository bank acceptable to the DIP Agent and such account shall be in the name of the DIP Agent and subject to the sole dominion and control of the DIP Agent (such account, the "***DIP Collateral Account***"). The Debtors' use of the proceeds in the DIP Collateral Account shall be subject to this Final Order and the DIP Financing Agreements.

12. **Maintenance of DIP Collateral**. Until the indefeasible payment in full of all DIP Obligations, all Prepetition Secured Obligations, and the termination of the DIP Agent's and the DIP Lenders' obligation to extend credit under the DIP Facility, the Debtors shall: (a) insure the DIP Collateral as required under the DIP Facility or the Prepetition Secured Documents, as applicable; and (b) maintain the cash management system in effect as of the Petition Date, as modified by the Cash Management Order and this Final Order, and maintain books and records sufficient to account for postpetition intercompany transfers in a manner required by the Cash Management Order and the DIP Credit Agreement at section 5.6 or as otherwise agreed to by the DIP Agent or otherwise required or permitted by the DIP Financing Agreements or this Final Order.

13. **DIP and Other Expenses**. The Debtors are authorized and directed to pay all reasonable and documented prepetition and postpetition fees and expenses of the (1) DIP Agent, (including the fees, expenses, and disbursements of Waller, Lansden, Dortch & Davis, LLP, as counsel to the DIP Agent), (2) the DIP Lenders in connection with the DIP Facility, as provided herein and in the DIP Financing Agreements, or, if requested by the Debtors, incurred with a proposed conversion of the DIP Facility into exit financing (including the preparation and negotiation of the documentation relating to the exit facility), and (3) the Prepetition Secured Creditors and McKesson, whether or not the transactions contemplated hereby are consummated, including attorneys' fees, monitoring and appraisal fees, financial advisory fees, fees and expenses of other consultants, and indemnification and reimbursement of fees and expenses. Payment of all

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such fees and expenses shall not be subject to allowance by the Court. Professionals for the DIP Agent, the DIP Lenders and the Prepetition Secured Creditors and McKesson shall not be required to comply with the U.S. Trustee fee guidelines; however, any time that such professionals seek payment of fees and expenses from the Debtors, each professional shall provide summary copies of its invoices to the U.S. Trustee contemporaneously with the delivery of such invoices to the Debtors. Any objections raised by the Debtors, the U.S. Trustee or the Committee, with respect to such invoices must be in writing and state with particularity the grounds therefor and must be submitted to the applicable professional within ten (10) days of the receipt of such invoice; if after ten (10) days such objection remains unresolved, it will be subject to resolution by the Court. Pending such resolution, the undisputed portion of any such invoice will be paid promptly by the Debtors. Notwithstanding the foregoing, the Debtors are authorized and directed to pay on the Closing Date all reasonable and documented fees, costs, and out-of-pocket expenses of the DIP Agent, the DIP Lenders and the Prepetition Secured Creditors incurred on or prior to such date without the need for any professional engaged by such parties to first deliver a copy of its invoice or other supporting documentation. No attorney or advisor to the DIP Agent, the DIP Lenders any Prepetition Secured Creditor or McKesson shall be required to file an application seeking compensation for services or reimbursement of expenses with the Court. Upon entry of this Final Order, any and all fees, costs, and expenses paid prior to the Petition Date by any of the Debtors to the (i) DIP Agent or the DIP Lenders in connection with or with respect to the DIP Facility, and (ii) Prepetition Secured Creditors and McKesson in connection with or with respect to these matters, were approved in full and shall not be subject to avoidance, disgorgement or any similar form of recovery by the Debtors or any other person.

14. **Indemnification**. The Debtors shall indemnify and hold harmless the DIP Agent and the DIP Lenders in accordance with the terms and conditions of the DIP Credit Agreement.

15. **Right to Credit Bid**. The DIP Lender shall have the right, but not the obligation, to "credit bid" the DIP Obligations during any sale of the DIP Collateral, including without limitation, sales occurring pursuant to section 363 of the Bankruptcy Code or included as part of any reorganization plan subject to confirmation under section 1129(b)(2)(A)(iii) of the Bankruptcy

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Code. Subject to the indefeasible payment in full of the DIP Obligations, the Prepetition Secured Creditors shall have the right but not the obligation to credit bid the Prepetition Secured Obligations during any sale of the Prepetition Collateral, including without limitation, sales occurring pursuant to section 363 of the Bankruptcy Code.

16. **Carve Out**. The DIP Liens, DIP Superpriority Claim, and Prepetition Replacement Liens are subordinate only to the following: (i) all fees required to be paid to the clerk of the Court and to the Office of the United States Trustee pursuant to 28 U.S.C. § 1930(a)(6) (the "***U.S. Trustee Fees***"), together with interest, if any, at the statutory rate; and (ii) all allowed claims for unpaid fees, costs and expenses incurred by persons or firms retained by the Debtors or the Committee, if any, whose retention is approved by the Court pursuant to any one or more of sections 327, 328, 363, and 1103 of the Bankruptcy Code, to the extent such claims for fees, costs and expenses are both (a) allowed by the Court pursuant to a final order, and (b) in accordance with, and solely up to the total respective amounts set forth in the DIP Budget for the applicable time frame (the "***Carve Out Expenses***"); provided that the aggregate amount of such Carve Out Expenses shall not exceed (a) $2,000,000 with respect to persons or firms retained by the Debtors, and (b) $150,000 with respect to persons or firms retained by the Committee (collectively, the "***Carve Out Amount***"). Any payment or reimbursement made after the Carve Out Trigger Date in respect of any Carve Out expenses shall permanently reduce the Carve Out Amount on a dollar-for-dollar basis.

17. **Limitation of Use of Proceeds**. Notwithstanding anything set forth herein and except as provided in the following paragraph, the Carve Out shall exclude any fees and expenses incurred in connection with initiating or prosecuting any claims, causes of action, adversary proceedings, or other litigation against the DIP Agent, the DIP Lender or any of the Prepetition Secured Creditors, including, without limitation, the assertion or joinder in any claim, counterclaim, action, proceeding, application, motion, objection, defenses or other contested matter, the purpose of which is to seek any order, judgment, determination or similar relief (i) invalidating, setting aside, disallowing, avoiding, challenging or subordinating, in whole or in part, (a) the DIP Obligations, (b) the Prepetition Secured Obligations, (c) the Prepetition Liens, (d) the VMF Liens or (e) the DIP Liens, or (ii) preventing, hindering or delaying, whether directly or indirectly, the DIP Agent's, the DIP

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Lender's, the Prepetition Secured Creditors' or McKesson's assertion or enforcement of their liens or security interests or realization upon any DIP Collateral, Prepetition Collateral, or VMF Collateral, or (iii) prosecuting any Avoidance Actions against the DIP Agent, the DIP Lender, any Prepetition Secured Creditor or McKesson, or (iv) challenging the amount, validity, extent, perfection, priority, or enforceability of, or asserting any defense, counterclaim, or offset to, the Prepetition Secured Obligations, or the McKesson Prepetition Debt, or the adequate protection granted herein, *provided however*, that nothing in this Final Order shall limit the right of the Debtors to challenge the reasonableness of attorney and financial advisory fees paid or proposed to be paid to Prepetition Secured Creditors or McKesson as adequate protection payments.

18. **Payment of Compensation.** Nothing herein shall be construed as consent to the allowance of any professional fees or expenses of any of the Debtors or the Committee or shall affect the right of the DIP Agent, the DIP Lender, the Prepetition Secured Creditors or McKesson to object to the allowance and payment of such fees and expenses or to permit the Debtors to pay any such amounts not set forth in the DIP Budget.

19. **Section 506(c) Claims; Equities of the Case**. Nothing contained in this Final Order shall be deemed a consent by the DIP Agent, the DIP Lender or any Prepetition Secured Creditor to any charge, lien, assessment or claim against the DIP Collateral under Section 506(c) of the Bankruptcy Code or otherwise. The "equities of the case" exception under Section 552(b) of the Bankruptcy Code and surcharge powers under section 506(c) of the Bankruptcy Code are waived as to the Prepetition Creditors and all pre and postpetition collateral securing their claims.

20. **Collateral Rights.** Unless the DIP Agent and DIP Lender have provided their prior written consent or all DIP Obligations have been paid in full in cash (or will be paid in full in cash upon entry of an order approving indebtedness described in subparagraph (a) below), and all commitments by the DIP Agent and the DIP Lender to lend have terminated:

(a) The Debtors shall not seek entry, in these proceedings, or in any Successor Case, of any order which authorizes the obtaining of credit or the incurring of indebtedness that is secured by a security, mortgage, or collateral interest or other lien on all or any portion of the DIP Collateral and/or entitled to priority administrative status which is senior or *pari passu* to the DIP

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Liens granted to the DIP Lender pursuant to this Final Order, the DIP Financing Agreements or otherwise;

(b) The Debtors shall not consent to relief from the automatic stay by any person other than the DIP Agent with respect to all or any portion of the DIP Collateral without the express written consent of the DIP Agent and the DIP Lender;

(c) In the event that the Debtors seek entry of an order in violation of subsection (a) hereof, the DIP Agent and DIP Lender shall be granted relief from the automatic stay with respect to the DIP Collateral pursuant to the notice procedures set forth in this Order; and

(d) The Parties to the DIP Credit Agreement agree that the Final Order does not impair the claims, rights, or ability, if any, to recoup, setoff or otherwise recover Medicare overpayments related to prepetition services by a Debtor ("***Prepetition Medicare Overpayments***") of the United States, its agencies, departments, agents or entities (collectively, "***United States***") from the payments made to such Debtor for services rendered after the Petition Date ("***Postpetition Medicare Payments***"), in accordance with the Medicare statutes, regulations, policies and procedures. The Parties to the DIP Credit Agreement further agree that the Final Order does not impair the United States' claims, rights or ability, if any, to recoup, setoff or otherwise recover any other prepetition debt a Debtor may owe to the United States from the Postpetition Medicare Payments due such Debtor in accordance with applicable law.

21. **Commitment Termination Date.** All DIP Obligations of the Debtors to the DIP Agent and the DIP Lender shall be immediately due and payable, and the Debtors' authority to use the proceeds of the DIP Facility shall cease, on the date that is the earliest to occur of: (i) September 7, 2019 (the "***Scheduled Termination Date***"); (ii) the date of revocation of this Final Order, as applicable; (iii) the substantial consummation (as defined in Section 1101 of the Bankruptcy Code and which for purposes hereof shall be no later than the "*effective date*") of a plan of reorganization filed in the Chapter 11 Cases that is confirmed pursuant to an order entered by the Court; (iv) the consummation of a sale of all or substantially all of the DIP Collateral; (v) the date the Court orders the conversion of the Chapter 11 Cases to a Chapter 7 liquidation or the dismissal of the Chapter 11 Cases or the appointment of a trustee or examiner with expanded power in the Chapter 11 Cases;

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and (vi) the acceleration of the DIP Loan and the termination of the commitments with respect to the DIP Facility in accordance with the DIP Financing Agreements (the earliest of such dates, the "***Commitment Termination Date***"). The occurrence of the Commitment Termination Date, shall also constitute, subject to further Court order, termination of the Prepetition Secured Creditors' and McKesson consent to the Debtors' use of their prepetition Cash Collateral (the "**Carve Out Trigger Date**").

22. **Disposition of Collateral**. The Debtors shall not sell, transfer, lease, encumber or otherwise dispose of any portion of the DIP Collateral, without the prior written consent of the DIP Agent and the DIP Lender (and no such consent shall be implied, from any other action, inaction or acquiescence by the DIP Agent or the DIP Lender or an order of this Court), except as provided in the DIP Financing Agreements and this Final Order and approved by the Court to the extent required under applicable bankruptcy law. Nothing herein shall prevent the Debtors from making sales in the ordinary course of business to the extent consistent with the DIP Budget and as permitted in the DIP Financing Agreements.

23. **Events of Default.** The occurrence of a "Default" or an "Event of Default" pursuant to Section 9.1 the DIP Credit Agreement, including, without limitation, the "Bankruptcy Defaults" enumerated in Section 9.1(q) of the DIP Credit Agreement, shall constitute an event of default under this Final Order, unless expressly waived in writing in accordance with the consents required in the DIP Financing Agreements.

24. **Rights and Remedies Upon Event of Default.**

(a) Any otherwise applicable automatic stay is hereby modified so that after the occurrence of any Event of Default and at any time thereafter during the continuance of such Event of Default, the DIP Agent and the DIP Lender shall be entitled to exercise its rights and remedies with respect to the Debtors and the DIP Collateral provided in the DIP Financing Agreements and by applicable law, including, without limitation, foreclosing on and selling the DIP Collateral, without the need for further court approval or the consent of any other party.

(b) Notwithstanding the preceding paragraph, immediately following the giving of notice by the DIP Agent of the occurrence and continuance of an Event of Default, the DIP

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Agent shall have the right in its sole discretion to take any or all of the following actions: (i) declare the commitment of the DIP Lender to make the DIP Loan to be terminated; (ii) declare the unpaid principal amount of all outstanding DIP Loans, all interest accrued and unpaid thereon, and all other amounts owing or payable hereunder or under any other DIP Financing Agreements to be immediately due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived by any Debtor; (iii) reduce the advance rates in respect of Eligible Accounts (as defined in the DIP Credit Agreement) or take additional reserves against or otherwise modify the Borrowing Base; and (iv) exercise all rights and remedies available to the DIP Agent and the DIP Lenders under the DIP Financing Agreements, including any right of set-off under Section 11.21 of the DIP Credit Agreement, or under the UCC or any other applicable law; *provided, however*, that upon the occurrence of an Event of Default under the DIP Credit Agreement, the obligation of the DIP Lenders to make the DIP Loan shall automatically terminate, the unpaid principal amount of all outstanding DIP Loans and other DIP Obligations and all interest and other amounts as aforesaid shall automatically become due and payable without further act of the DIP Agent or any DIP Lender.

(c) Nothing included herein shall prejudice, impair, or otherwise affect the DIP Agent's or the DIP Lender's rights to seek any other or supplemental relief in respect of the DIP Agent's and the DIP Lender's rights, as provided in the DIP Credit Agreement.

25. **Limitation on Lender Liability**. Nothing in this Final Order, any of the DIP Financing Agreements, or any other documents related thereto shall in any way be construed or interpreted to impose or allow the imposition upon the DIP Agent, the DIP Lenders or the Prepetition Secured Parties Creditors of any liability for any claims arising from any activities by the Debtors in the operation of their businesses or in connection with the administration of these Cases. The DIP Agent, the DIP Lenders and the Prepetition Secured Creditors shall not, solely by reason of having made loans under the DIP Facility, be deemed in control of the operations of the Debtors or to be acting as a "responsible person" or "owner or operator" with respect to the operation or management of the Debtors (as such terms, or any similar terms, are used in the United States Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§

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9601 et seq., as amended, or any similar federal or state statute). Nothing in this Final Order or the DIP Financing Agreements shall in any way be construed or interpreted to impose or allow the imposition upon the DIP Agent, the DIP Lenders, or any of the Prepetition Secured Creditors of any liability for any claims arising from the prepetition or postpetition activities of any of the Debtors.

26. **Insurance Proceeds and Policies**. As of the entry of this Final Order and to the fullest extent provided by applicable law, the DIP Agent (on behalf of the DIP Lenders) and the Prepetition Secured Creditors, shall be, and shall be deemed to be, without any further action or notice, named as additional insured and as lender's loss payee with the priority as to all rights and remedies as set forth herein and in the DIP Credit Agreement.

27. **Proofs of Claim**. Neither the DIP Agent nor the DIP Lender will be required to file proofs of claim in the Chapter 11 Cases. Any proof of claim so filed shall be deemed to be in addition and not in lieu of any other proof of claim that may be filed by any of the Prepetition Secured Creditors.

28. **Other Rights and Obligations**.

(a) **Good Faith Under Section 364(e) of the Bankruptcy Code**. **No Modification or Stay of this Final Order.** The Debtors, the DIP Agent, the DIP Lender, the Prepetition Secured Creditors and McKesson have acted in good faith in connection with negotiating the DIP Financing Agreements, extending credit under the DIP Facility, and authorizing use of Cash Collateral and rely on this Final Order in good faith. Based on the findings set forth in this Final Order and the record made during the Interim Hearing and the Final Hearing, and in accordance with section 364(e) of the Bankruptcy Code, in the event any or all of the provisions of this Final Order are hereafter reversed, modified amended or vacated by a subsequent order of this or any other Court, the DIP Agent, DIP Lender, Prepetition Secured Creditors and McKesson are entitled to the protections provided in section 364(e) of the Bankruptcy Code. Any such reversal, modification, amendment or *vacatur* shall not affect the validity and enforceability of any advances made pursuant to this Final Order or the DIP Financing Agreements, nor shall it affect the validity, priority, enforceability, or perfection of the DIP Liens, the Prepetition Replacement Liens or the

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VMF Replacement Lien. Any claims or DIP Protections granted to the DIP Agent and the DIP Lender hereunder, or adequate protection granted to the Prepetition Secured Creditors and McKesson hereunder, arising prior to the effective date of such reversal, modification, amendment or *vacatur*, shall be governed in all respects by the original provisions of this Final Order, and the DIP Agent, the DIP Lender, Prepetition Secured Creditors and McKesson shall be entitled to all of the rights, remedies, privileges and benefits, including the DIP Protections and adequate protection granted herein, with respect to any such claims. Since the loans made pursuant to the DIP Credit Agreement are made in reliance on this Final Order, the obligations owed to the DIP Agent, the DIP Lender, the Prepetition Secured Creditors or McKesson prior to the effective date of any reversal or modification of this Final Order cannot, as a result of any subsequent order in the Chapter 11 Cases or in any Successor Cases, be subordinated, lose their lien priority or superpriority administrative expense claim status, or be deprived of the benefit of the status of the liens and claims granted to the DIP Agent, the DIP Lender, the Prepetition Secured Creditors or McKesson under this Final Order and/or the DIP Financing Agreements.

(b) **Binding Effect**. The provisions of this Final Order shall be binding upon and inure to the benefit of the DIP Agent, DIP Lender, the Debtors, the Prepetition Secured Creditors, McKesson, the Committee, all other Parties in Interest, and all creditors, and each of their respective successors and assigns (including any trustee or other fiduciary hereinafter appointed as a legal representative of the Debtors or with respect to the property of the estates of the Debtors) whether in the Chapter 11 Cases, in any Successor Cases, or upon dismissal of any such chapter 11 or chapter 7 case.

(c) **No Waiver**. The failure of the DIP Agent or the DIP Lender to seek relief or otherwise exercise its rights and remedies under the DIP Financing Agreements, the DIP Facility, this Final Order or otherwise, as applicable, shall not constitute a waiver of the DIP Agent's or the DIP Lender's rights hereunder, thereunder, or otherwise. Notwithstanding anything herein, the entry of this Final Order is without prejudice to, and does not constitute a waiver of, expressly or implicitly, or otherwise impair the DIP Agent or the DIP Lender under the Bankruptcy Code or under non-bankruptcy law, including without limitation, the rights of the DIP Agent and DIP

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Lender to (i) request conversion of the Chapter 11 Cases to cases under Chapter 7, dismissal of the Chapter 11 Cases, or the appointment of a trustee in the Chapter 11 Cases, (ii) propose, subject to the provisions of section 1121 of the Bankruptcy Code, a plan of reorganization, or (iii) exercise any of the rights, claims or privileges (whether legal, equitable or otherwise) the DIP Agent or DIP Lender may have pursuant to this Final Order, the DIP Financing Agreements, or applicable law. Nothing in this Final Order shall interfere with the rights of any party with respect to any non-Debtors.

(d) **No Third Party Rights**. Except as explicitly provided for herein, this Final Order does not create any rights for the benefit of any third party, creditor, equity holder or any direct, indirect, or incidental beneficiary.

(e) **No Marshaling**. The DIP Lender shall not be subject to the equitable doctrine of "marshaling" or any other similar doctrine with respect to any of the DIP Collateral.

(f) **Amendment.** The Debtors, the DIP Agent and the DIP Lender may amend or waive any provision of the DIP Financing Agreements, on notice to the Office of the U.S. Trustee, the Committee, the Prepetition Secured Creditors and McKesson. The Debtors shall give each Prepetition Secured Creditor and McKesson notice concurrent with giving such notice or request to the DIP Agent for any amendment or waiver of the DIP Financing Agreements and, without prejudice to the effectiveness of any such amendment or waiver, each Prepetition Secured Creditor shall have the right to file a motion objecting to such amendment. Nothing in this Final Order shall authorize the DIP Agent or DIP Lenders to increase the commitments in excess of the commitments set forth in this Final Order, increase the contract interest rate, defined in the DIP Credit Agreement as the Applicable LIBOR Margin, increase the Default Rate or extend the maturity date, defined in the DIP Credit Agreement as the "Scheduled Termination Date". Except as otherwise provided herein, no waiver, modification, or amendment of any of the provisions of the DIP Financing Agreements shall be effective unless set forth in writing, signed on behalf of all the Debtors, the DIP Agent and the DIP Lender, and, if material, approved by the Court. Nothing herein shall preclude the Debtors, the DIP Agent and the DIP Lender from implementing any amendment or waiver of any provision of the DIP Financing Agreements.

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(g) **Estate Subrogation**. Debtor Verity Holdings shall have an allowed unsecured superpriority administrative expense claim granted to it pursuant to section 364(c)(1), against each of the other Debtors that is a "Net Borrower" (as defined below) based on the consolidated cash management process and DIP Loan, which claim shall be subordinate to the DIP Obligations, including the DIP Superpriority Claim, and to the Adequate Protection Claims of the Prepetition Secured Creditors and McKesson, but shall have priority over all other administrative claims, in an amount equal to the sum of (a) the amount, if any, by which Debtor Verity Holdings' assets that are used to satisfy the DIP Loan, the Prepetition Replacement Liens or VMF Liens, exceeds the amount, if any, of any draws on the DIP Loan used by Verity Holdings plus interest, and (b) any postpetition net intercompany advances by Verity Holdings to any other Debtor. "Net Borrower" shall mean any Debtor for which the sum of all cash received from the concentration account or draws on the DIP Loan and its allocation of interest paid or payable under the DIP Loan based on amounts received by it and amounts received by other Debtors, exceeds any cash it has transferred to the concentration account during the Chapter 11 Cases.

29. **Survival of Final Order and Other Matters.** The provisions of this Final Order and any actions taken pursuant hereto shall survive entry of any order which may be entered in these Bankruptcy Cases, including without limitation, an order (i) confirming any Plan in the Chapter 11 Cases, (ii) converting any of the Chapter 11 Cases to a case under chapter 7 of the Bankruptcy Code or any Successor Cases, (iii) to the extent authorized by applicable law, dismissing any of the Chapter 11 Cases, (iv) withdrawing of the reference of any of the Chapter 11 Cases from this Court, or (v) providing for abstention from handling or retaining of jurisdiction of any of the Chapter 11 Cases in this Court. The terms and provisions of this Final Order including the DIP Protections granted pursuant to this Final Order and the DIP Financing Agreements, shall continue in full force and effect notwithstanding the entry of such order, and such DIP Protections shall maintain their priority as provided by this Final Order until all the Obligations of the Debtors to the DIP Agent and the DIP Lender pursuant to the DIP Financing Agreements have been indefeasibly paid in full and in cash and discharged (such payment being without prejudice to any terms or provisions contained in the DIP Financing Agreements which survive such discharge by

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their terms). The terms and provisions of this Final Order including any protections granted to the Prepetition Secured Creditors and McKesson, shall continue in full force and effect notwithstanding the entry of such order, and such protections for the Prepetition Secured Creditors and McKesson shall maintain their priority as provided by this Final Order until all the obligations of the Debtors to the Prepetition Secured Creditors and McKesson pursuant to applicable documentation have been discharged. The DIP Obligations shall not be discharged by the entry of an order confirming a plan of reorganization, the Debtors having waived such discharge pursuant to section 1141(d)(4) of the Bankruptcy Code.

(a) **Inconsistency**. In the event of any inconsistency between the terms and conditions of the DIP Financing Agreements and of this Final Order, the provisions of this Final Order shall govern and control.

(b) **Enforceability**. This Final Order shall constitute findings of fact and conclusions of law pursuant to the Bankruptcy Rule 7052 and shall take effect and be fully enforceable *nunc pro tunc* to the Petition Date immediately upon entry of this Final Order. Notwithstanding Bankruptcy Rules 4001(a)(3), 6004(h), 6006(d), 7062, 9024, or any other Bankruptcy Rule, or Rule 62(a) of the Federal Rules of Civil Procedure, this Final Order shall be immediately effective and enforceable upon its entry and there shall be no stay of execution or effectiveness of this Final Order.

(c) **Objections Overruled**. All objections to the DIP Motion to the extent not withdrawn or resolved, are hereby overruled.

(d) **No Waivers or Modification of Interim Order**. The Debtors irrevocably waive any right to seek any modification or extension of this Final Order without the prior written consent of the DIP Agent and the DIP Lender and no such consent shall be implied by any other action, inaction or acquiescence of the DIP Agent or the DIP Lender.

(e) **No Effect on Non-Debtor Collateral**. Notwithstanding anything set forth herein, neither the liens nor claims granted in respect of the Carve Out shall be senior to any liens or claims of the DIP Agent or the DIP Lender with respect to any other non-Debtor or any of their assets.

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601 SOUTH FIGUEROA STREET, SUITE 2500
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(213) 623-9300

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Date: October 4, 2018

Ernest M. Robles
United States Bankruptcy Judge

DENTONS US LLP
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PACER fee: Exempt

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General Docket
U. S. Bankruptcy Appellate Panel for the Ninth Circuit

Bankruptcy Appellate Panel Docket #: 18-1322 **Docketed:** 11/30/2018
Official Committee of Unsecure v. VERITY HEALTH SYSTEM OF CALIFO **Termed:** 12/21/2018
Appeal From: California Central - Los Angeles
Fee Status: fee paid

Case Type Information:
1) Bankruptcy
2) Chapter 11 Business
3) null

Originating Court Information:
District: 0973-2 : 2:18-bk-20151-ER
Trial Judge: Ernest M. Robles, U.S. Bankruptcy Judge
Date Filed: 08/31/2018

Date Order/Judgment:	Date NOA Filed:	Date Rec'd BAP:
10/04/2018	11/29/2018	11/30/2018

11/30/2018	1	Received NOTICE OF APPEAL filed in Bankruptcy Court on 11/29/2018. (CLS) [Entered: 11/30/2018 02:09 PM]
11/30/2018	2	Sent BRIEFING ORDER & NOTICE to appellant Official Committee of Unsecured Creditors of Verity Health System of California, Inc., et al.. Copies to all parties. Sent Bankruptcy Record Request Form to Bankruptcy Court. Appellant Official Committee of Unsecured Creditors of Verity Health System of California, Inc., et al.'s opening brief due 01/14/2019. (CLS) [Entered: 11/30/2018 02:36 PM]
12/03/2018	3	Received from Bankruptcy Court copy of NOTICE OF REFERRAL filed in Bk. Ct. 12/03/2018. (CLS) [Entered: 12/07/2018 02:16 PM]
12/14/2018	4	ORDER (Taylor) ;The briefing schedule in this appeal is ORDERED SUSPENDED. See attached order. (PI) [Entered: 12/14/2018 02:07 PM]
12/19/2018	5	Terminate from case: Attorney Samuel Maizel for Appellee VERITY HEALTH SYSTEM OF CALIFORNIA, INC., et al. in 18-1322 (CLS) [Entered: 12/19/2018 03:45 PM]
12/19/2018	6	Party: Add Attorney(s) Samuel Maizel for party(s) Appellee VERITY HEALTH SYSTEM OF CALIFORNIA, INC., et al., in case 18-1322. (CLS) [Entered: 12/19/2018 03:46 PM]
12/19/2018	7	Filed (ECF) Attorney Samuel Maizel for Appellee VERITY HEALTH SYSTEM OF CALIFORNIA, INC., et al.'s Objection to BAP jurisdiction; served on 12/19/2018 email - Attorney for Appellants: Behrens, Bray, Shinderman; Attorney for Appellees: Maizel, Maizel, Moe, Moyron. [18-1322] (SM) [Entered: 12/19/2018 03:55 PM]
12/21/2018	8	NOTICE sent 12/21/2018 to District Court transferring appeal per objection. (CLS) [Entered: 12/21/2018 12:02 PM]
12/21/2018	9	CLOSED: Case closed: Election without judicial action; 12/21/2018; 18-1322; Transferred by election. (CLS) [Entered: 12/21/2018 12:05 PM]