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Attorneys for Healthcare Conglomerate Associates, LLC and
 Vi Healthcare Finance, Inc.

**UNITED STATES BANKRUPTCY COURT
 EASTERN DISTRICT OF CALIFORNIA, FRESNO DIVISION**

In re:
 SOUTHERN INYO HEALTHCARE
 DISTRICT,

Debtor.

Case No.: 16-10015-A-9
 Chapter 9
 DC No.: KDG-4
 Date: November 14, 2018
 Time: 1:30 p.m.
 Place: United States Bankruptcy Court
 2500 Tulare Street, Fifth Floor
 Department A, Courtroom 11
 Fresno, California
 Judge: Honorable Fredrick E. Clement

**DECLARATION OF YORAI BENZEEVI, M.D. IN SUPPORT OF MOTION TO
 DISQUALIFY ASHLEY M. MCDOW AND FOLEY & LARDNER AS ATTORNEYS
 FOR DEBTOR**

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I, YORAI (BENNY) BENZEEVI, M.D., declare as follows:

1. I am an adult over the age of 18.

2. I make this declaration based on my own personal knowledge. If called upon to do so, I could and would testify competently to the matters stated in this declaration.

3. I make this declaration in support of the Motion of Healthcare Conglomerate Associates, LLC (“HCCA”) and Vi Healthcare Finance, Inc. (“Vi”) to disqualify the law firm of Foley & Lardner and Ashley McDow from representation of Debtor in the above entitled Chapter 9 case.

4. I am the Managing Member of HCCA. HCCA is a California Limited Liability Company with its principal place of business in Los Angeles and was the Manager of debtor Southern Inyo Healthcare District (“Inyo” or “Debtor”). I have overall responsibility for the management of HCCA. I am also the President of Vi, a finance company which extended a line of credit to Debtor in July 2017. I received my medical degree at the University of California, Davis and I am board certified by the American Board of Emergency Medicine and I hold the status of Fellow of the American College of Emergency Medicine. Based on the foregoing positions, I have extensive knowledge of HCCA’s contracts and the performance thereunder, the relationship between HCCA, and its affiliate entities, and the law firm of Baker Hostetler, the relationship between Inyo and HCCA, and the relationship between Inyo and Vi.

5. In 2009, I retained the firm of Baker Hostetler (“Baker”) to advise and assist me in the formation of a professional corporation. Between 2009 and 2017, Baker’s engagement expanded far beyond the initial engagement to the formation of, and legal services to several other health-care related entities, including HCCA, Medflow, PC, Vi, and Tulare Asset Management (collectively, the “Benzeevi Group”). In 2013 and 2014, Baker advised HCCA concerning the drafting and negotiation of a Management Services Agreement (“Tulare MSA”) with Tulare Local Healthcare District (“TLHD”) and then continued to advise HCCA concerning the management of TLHD while it also undertook to advise TLHD. In 2013, Baker assisted and advised me in forming Medflow, PC. Baker also provided legal services relating

1 to trademark and personnel issues, including drafting numerous employment and independent
2 contractor agreements for physicians and other professionals affiliated with my businesses.
3 Baker essentially functioned as outside general counsel for all of the businesses I was forming
4 and operating between 2009 and 2017, and I communicated with them frequently, and at
5 certain times, multiple times per day. Bruce Greene was my primary contact at Baker, but
6 Ashley McDow and Fahim Farivar also worked on HCCA matters. I communicated significant
7 amounts of confidential information to Baker concerning all aspects of the business of the
8 Benzeevi Group, including financial information and business strategies and goals.
9 Throughout Baker's representation, the Benzeevi Group paid Baker at least hundreds of
10 thousands of dollars for its legal services.

11 6. In December 2015 and January 2016, Baker advised HCCA in negotiating and
12 drafting a Management Services Agreement with Inyo (the "Inyo MSA"). A true and correct
13 copy of the Inyo MSA is attached hereto as **Exhibit A**. Ashley McDow, a partner at Baker,
14 was heavily involved, along with Mr. Greene, in these negotiations and drafting, with particular
15 emphasis on advising HCCA concerning how the contemplated Chapter 9 proceedings, to be
16 initiated by Inyo, would affect HCCA's rights under the Inyo MSA. I spoke multiple times per
17 day during this period with both Mr. Greene and Ms. McDow concerning the Inyo MSA and
18 shared substantial confidential information with them concerning HCCA's strategies and goals
19 with respect to the Inyo MSA. Ms. McDow was the attorney representing HCCA who
20 appeared on behalf of HCCA at the January 2, 2016 meeting of the Inyo Board where the Inyo
21 MSA, the January 2, 2016 purported "Waiver of Conflict" and the retainer agreement between
22 Baker and Inyo letter (**Exhibits B and C**, discussed in paragraph 7) were all approved. The
23 Inyo Board was represented by separate counsel Scott Nave in negotiating the Inyo MSA.

24 7. Following execution of the Inyo MSA by Inyo and myself, on behalf of HCCA,
25 Baker began representing Inyo in commencing this Chapter 9 proceeding. In connection with
26 this dual representation, Baker presented to HCCA and Inyo a purported "Waiver of Conflict"
27 letter dated January 2, 2016. A true and correct copy of this January 2, 2016 letter signed by
28 Bruce Greene, but not Inyo or HCCA, is attached hereto as **Exhibit B**. I have been unable to

1 locate a copy of the January 2, 2016 "Waiver of Conflict" letter counter-signed by Inyo and
2 HCCA in the files in my possession. Baker also provided to Inyo an "Engagement of
3 Counsel" letter to Inyo also dated January 2, 2016. A true and correct copy of the January 2,
4 2016 "Engagement of Counsel Letter" is attached hereto as **Exhibit C**. As part of the Board
5 approval process for the Inyo MSA, the "Waiver of Conflict Letter" and the "Engagement of
6 Counsel" Letter were posted at the Inyo facilities, as well as uploaded along with the Agenda
7 for the January 2, 2016 Board meeting where the Inyo Board considered approval of the MSA,
8 the retention of Baker by Inyo, and the purported "Waiver of Conflict." The Inyo MSA was
9 executed by Inyo and HCCA sometime in early January 2016.

10 8. The Inyo MSA required that HCCA provide a Chief Restructuring Officer to
11 manage the hospital. HCCA appointed HCCA representative Alan Germany to serve as Chief
12 Restructuring Officer. Between January 2016 and September 2017, Ms. McDow
13 communicated with Mr. Germany and myself concerning Chapter 9 issues for Inyo. I
14 understood that after Baker began representing Inyo in the Chapter 9 proceedings, Baker would
15 continue to advise HCCA concerning the Chapter 9 proceedings and with regard to the Inyo
16 MSA, and in fact Baker did exactly that. Baker and Ms. McDow continued to advise HCCA
17 with regard to its duties and responsibilities as the manager of Inyo and in relation to the
18 Chapter 9 proceedings, Baker also continued to perform legal services on other matters it
19 continued to handle for HCCA and the Benzeevi Group. At no time was I told that if the
20 interests of HCCA and Inyo became in conflict, that Baker could continue to represent Inyo
21 adverse to any member of the Benzeevi Group. To the contrary, it was my understanding that
22 if an actual conflict developed, Baker would terminate its representation of Inyo and continue
23 representing the Benzeevi Group, including as to the Inyo MSA.

24 9. In the summer of 2017, Baker undertook another project related to Inyo, the
25 formation of Vi Healthcare Finance, Inc. ("Vi"). Baker drafted the formation documents for
26 Vi and the transaction documents whereby Vi extended a line of credit to Inyo, and Baker
27 advised me concerning this entity. I am the President of Vi. In connection with Vi, Baker
28 provided another purported "Waiver of Conflict" Letter dated July 19, 2017. A true and correct

1 copy of this letter, signed by Bruce Greene of Baker, as well as myself on behalf of HCCA and
2 Vi, and Inyo Board member Richard Fedchenko, for Inyo, is attached hereto as **Exhibit D**.

3 10. In the summer of 2017, a dispute erupted between HCCA and the Inyo Board
4 concerning the financial situation of Inyo and HCCA's management of Inyo.

5 11. On September 29, 2017, I received a letter from Mr. Greene at Baker stating that
6 Baker was commencing termination of its representation of all entities of the Benzeevi Group.
7 A true and correct copy of Baker's September 29, 2017 letter is attached hereto as **Exhibit E**.
8 Neither orally, nor in this September 29, 2017 letter, did Baker disclose to me that an actual
9 conflict had developed. Baker also did not seek a waiver of an actual conflict between any
10 entity of the Benzeevi Group and Inyo. Baker did not seek my consent to continue representing
11 Inyo and had it requested such consent I would have declined to grant such consent. Baker's
12 conduct was directly contrary to my expectation and understanding that Baker would continue
13 to represent the Benzeevi Group if a conflict developed with Inyo.

14 12. Then, approximately two and a half weeks later, on October 17, 2017, Ms.
15 McDow filed on behalf of Inyo in the Chapter 9 proceedings an Emergency Motion seeking
16 rejection of the Inyo MSA which was highly prejudicial to the Benzeevi Group. I received no
17 advance notice that Baker intended to file this motion, that Ms. McDow would support the
18 motion with her own declaration, or that Ms. McDow would appear at the hearing on this
19 Emergency Motion and make statements adverse to the interest of the Benzeevi Group. Instead,
20 I received an e-mail the same day the motion was filed that a hearing would occur on the
21 Emergency Motion that same day.

22 13. Prior to the problem arising with Inyo, a dispute had arisen between TLHD and
23 HCCA. This dispute arose after a new Board was elected for TLHD in November 2016. Baker
24 had represented HCCA with regard to the Tulare MSA both before and after execution of the
25 Tulare MSA and also represented TLHD. However, in the summer of 2017 the TLHD claimed
26 to have retained new counsel, the McCormick Barstow firm, to replace Baker. Mr. Greene of
27 Baker disputed the TLHD Board's authority to hire new counsel. One example of this position
28 is reflected in an e-mail from Mr. Greene to several members of the TLHD Board dated August

1 8, 2017 wherein he stated “any law firm that the three of you may have selected will not be
2 considered to lawfully represent the District.” A true and correct copy of Mr. Greene’s August
3 8, 2017 e-mail is attached hereto as **Exhibit F**.

4 14. When Ms. McDow left Baker and joined the firm of Foley & Lardner, she did
5 not seek my consent to have Foley & Lardner or herself, represent Inyo in these proceedings.
6 Had my consent been sought, I would not have granted consent for Foley or Ms. McDow to
7 represent Inyo.

8 I declare under penalty of perjury that the foregoing statements are true and correct and
9 that if called as a witness herein I could and would competently testify thereto, and that this
10 declaration was executed on October 14, 2018 at Los Angeles, California.

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13 YORAI BENZEEVI, M.D.
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1 Michael J. Lampe #82199
Michael P. Smith #206927
2 LAW OFFICES OF MICHAEL J. LAMPE
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3 Visalia, California 93291
Telephone (559) 738-5975
4 Facsimile (559) 738-5644
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5 Attorneys for Plaintiff

Exempt from filing fees
Government Code §6103

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 IN AND FOR THE COUNTY OF KERN

11 TULARE LOCAL HEALTH CARE DISTRICT
12 dba Tulare Regional Medical Center, a Public
Agency

13 Plaintiff,

14 vs.

15 BRUCE R. GREENE; BAKER & HOSTETLER
16 LLP, a limited liability partnership; PARMOD
KUMAR, M.D., LINDA WILBOURN, RICHARD
17 TORREZ; and Does 1 through 50, inclusive,

18 Defendants.

Case No. BCV-19-103514

DECLARATION OF DENNIS A.
MEDEROS RE: MOTION TO
DETERMINE PRIVILEGE CLAIMS
ASSERTED UNDER CODE OF CIVIL
PROCEDURE §2031.285

Date: March 20, 2020
Time: 8:30 a.m.
Dept. 17

19
20 I, Dennis A. Mederos, declare:

21 1. I am an attorney licensed to practice in the State of California, and became legal
22 counsel for Senovia Gutierrez ("Gutierrez") on or about July 21, 2017.

23 2. Gutierrez was elected to the Board of Directors of the Tulare Local Healthcare
24 District in a Special Recall Election held on July 11, 2017.

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DECLARATION OF DENNIS A. MEDEROS RE: MOTION
TO DETERMINE PRIVILEGE CLAIMS ASSERTED
UNDER CODE OF CIVIL PROCEDURE §2031.285

1 3. The Tulare County Registrar of Voters certified Gutierrez as the winner of the
2 Special Recall Election on July 21, 2017. A true and correct copy of the Certificate of Election is
3 attached hereto as Exhibit 1.

4 4. Gutierrez was sworn into office by Tulare County Superior Court Judge Walter
5 Gorelick at a public ceremony on July 25, 2017. A true and correct copy of the Gutierrez Oath
6 of Office is attached hereto as Exhibit 1.

7 5. The Regular Meeting Agenda for the Board meeting of July 26, 2017, contained the
8 following Chair Announcement:

9 *“As a result of the recent special election on July 11, 2017, Senovia Gutierrez will*
10 *replace Dr. Parmod Kumar as a Board member.”*

11 A true and correct copy of the July 26, 2017, agenda is attached hereto as Exhibit 2.

12 6. I attended the July 26, 2017, Board meeting. Prior to the commencement of the
13 meeting Board Chair Linda Wilbourn advised both myself and Gutierrez that Gutierrez would not
14 be seated as a Board member at this meeting because the item was not properly “agendized,”
15 and as a result of this “agenda issue,” she would be seated at the next regularly scheduled Board
16 meeting in August.

17 7. The foregoing statements are within my personal knowledge and, if sworn as a
18 witness, I can testify completely thereto.

19 8. I declare under penalty of perjury under the laws of the State of California that the
20 foregoing is true and correct.

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24 Dated: February 11, 2020


DENNIS A. MEDEROS

CERTIFICATE OF ELECTION

EXHIBIT

1

exhibitsicker.com

State of California)
) ss.
County of Tulare)

I, Michelle Baldwin, Registrar of Voters of the County of Tulare, State of California, do hereby certify that, at the Special Recall Election held on the 11th day of July, 2017, Senovia Gutierrez was elected to the office of Director, of the Tulare Local Healthcare District-Area 3 in the County of Tulare, State of California to expire on December 7, 2018, as shown in the official record of the results of said election on file in my office.

IN WITNESS WHEREOF, I have hereunto affixed my hand and official seal

This 21st day of July, 2017

Michelle Baldwin, Registrar of Voters

Michelle Baldwin

OATH OF OFFICE

State of California)
) ss.
County of Tulare)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

I, Senovia Gutierrez, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic; that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter.

Director
of the Tulare Local Healthcare District Area-3

Senovia Gutierrez

(Candidate Signature)

Subscribed and sworn to (or affirmed) before me, this 25 day of July, 2017.

FILED

JUL 26 2017

TULARE COUNTY
REGISTRAR OF VOTERS

Proved to me on the basis of satisfactory evidence to be the person who appeared before me.

Walter J. Joubert

(Signature of Person Administering Oath)

Judge

FILED

JUL 26 2017

WASCO COUNTY
CLERK OF VOTERS

 COPY

2017
JUL 26 2017
WASCO COUNTY
CLERK OF VOTERS

**Tulare Local Health Care District
Board of Directors
Regular Meeting Agenda**

**Wednesday, July 26, 2017
Board Convenes at 4:00 p.m.**



**Evolutions Fitness & Wellness Center
Conference Room
1425 E. Prosperity Ave.
Tulare, CA 93274**

I. CALL TO ORDER
-Chair of the Board

II. CHAIR ANNOUNCEMENT
- As a result of the recent special election on July 11, 2017, Senovia Gutierrez will replace Dr. Parmod Kumar as a Board member.

III. CITIZEN REQUESTS/PUBLIC COMMENTS

IV. APPROVAL OF MINUTES

- Regular Board Meeting Minutes of June 28, 2017

Proposed Action: Approval of Minutes for the June 28, 2017 Regular Board Meeting

V. OPEN SESSION AGENDA

A. Consent Agenda

1. Request to approve the following Medical Executive Committee Policies:

None

2. Request to approve the following Tulare Local Health Care District (TLHCD) Hospital Policies:

None

B. Report by Administration - HCCA Management

1. Finance

a. Quarterly Financial Update

Board of Directors:

Linda Wilbourn
Chairman and President

Parmod Kumar, MD
Vice Chairman

Richard Torrez
Treasurer

Michael Jamaica
Secretary

Kevin Northcraft
Board Member

Proposed Action: Acceptance of Quarterly Financial Statement

2. Other

a. Fiscal Year 2018 Budget Presentation

Proposed Action: Approval of Fiscal Year 2018 Budget

C. Board of Directors Discussion/Action Items

1. Board Member Reports

D. Medical Staff Report – Ronald Ostrom, D.O., Chief of Medical Staff (or MEC representative)

1. MEC Recommendations to the Board and Report of Actions

Proposed Action: Acceptance of MEC Recommendations

VI. SUSPEND OPEN SESSION - ADJOURN TO CLOSED SESSION

VII. CLOSED SESSION

Location: Administration Office, 869 N. Cherry St., Tulare, CA 93274

**A. Medical Executive Committee Report of Hospital Medical Audit or Quality Assurance Activities
- Ronald Ostrom, D.O., Chief of Medical Staff (or MEC representative)**

MEC Reports relating to Peer Review, Credentialing, and Quality Assurance, pursuant to Health and Safety Code section 32155.

B. Conference With Legal Counsel

Significant exposure to litigation pursuant to Subdivision (d)(2) of Government Code section 54956.9:

- One (1) potential action

C. Conference With Legal Counsel

Existing Litigation pursuant to subdivision (d)(1) of Government Code section 54956.9:

Discussion regarding *Ibarra v. Tulare Regional Med Center, David Smith, Douglas Middleton, Family Health Care Network, David Larios, and DOES 1 to 10*
United States District Court, Eastern District of California Case No.: 1:16-cv-0039-LJO-BAM

D. Conference With Legal Counsel

Existing Litigation pursuant to subdivision (d)(1) of Government Code section 54956.9:

Discussion regarding *Opper v. Tulare Regional Medical Center, et al.*
Tulare County Superior Court Case No.: 263554

E. Conference With Legal Counsel

Existing Litigation pursuant to subdivision (d)(1) of Government Code section 54956.9:

Discussion regarding *Lori Brooks v. Tulare Regional Medical Center*
Tulare County Superior Court Case No.: VCU266862

F. Conference With Legal Counsel

Existing Litigation pursuant to subdivision (d)(1) of Government Code section 54956.9:

Discussion regarding *Juanita Cabrera v. Tulare Regional Medical Center*
Tulare County Superior Court Case No.: VCU268660

G. Conference With Legal Counsel

Existing Litigation pursuant to subdivision (d)(1) of Government Code section 54956.9:

Board of Directors:

Linda Wilbourn
Chairman and President

Parmod Kumar, MD
Vice Chairman

Richard Torrez
Treasurer

Michael Jamaica
Secretary

Kevin Northcraft
Board Member

Discussion regarding *Graham Prewett, Inc. v. Tulare Local Healthcare District*
Tulare County Superior Court Case No.: VCU269517

VIII. ADJOURN CLOSED SESSION/RECONVENE OPEN SESSION

Location: Evolutions Fitness & Wellness Center, Conference Room
1425 E. Prosperity Ave., Tulare, CA 93274

- Public report of action taken in closed session, pursuant to Government Code section 54957.1

IX. ADJOURNMENT

NOTICE TO THE PUBLIC

Tulare Regional Medical Center does not discriminate against any person on the basis of gender, religion, race, color, national origin, disability, or age in admission, treatment, or participation in its programs, services and activities, or in employment. For further information about this policy, contact: Bruce Greene of Baker & Hostetler LLP at telephone number (310) 442-8834 or by e-mail at bgreene@bakerlaw.com.

PUBLIC COMMENT PERIOD FOR REGULAR MEETINGS

At this time, members of the public may comment on any item of interest to the public that is within the subject matter jurisdiction of the Board (Gov't Code, § 54954.3(a)). Provided, however, the Board shall not take action on any item not appearing on the agenda unless the action is otherwise authorized by law. Any person addressing the Board will be limited to a maximum of three (3) minutes so that all interested parties have an opportunity to speak. If any individual causes disruption of the meeting, the Chair of the Board, after warning the speaker, may declare that the speaker is disrupting, disturbing, or impeding the orderly conduct of the meeting and order the speaker to leave the meeting room.

OPEN SESSION AGENDA ITEMS

All writings, materials and information provided to the Board for their consideration relating to any Open Session Agenda item of the meeting are available for public inspection during regular business hours at the Administration Office of the District located at 869 Cherry Street, Tulare, California.

CLOSED SESSION AGENDA ITEMS

As provided in the Ralph M. Brown Act, Government Code §54950 et seq., the Board may meet in closed session with members of its staff, employees and its attorneys. These sessions are not open to the public and may not be attended by members of the public. The matters the Board will meet on in closed session are identified in the Regular Meeting agenda. Any public reports of action taken in the closed session will be made in accordance with Government Code § 54957.1.

COMPLIANCE WITH ADA

The agenda shall be made available upon request in alternative formats to persons with a disability, as required by the Americans with Disabilities Act of 1990 (42 U.S.C. § 12132) and the Ralph M. Brown Act (Cal. Gov't Cod. § 54954.2). Persons requesting a disability related modification or accommodation in order to participate in the meeting should contact the Executive Office at (559) 685-3462, during regular business hours.

Board of Directors:

Linda Wilbourn
Chairman and President

Parmod Kumar, MD
Vice Chairman

Richard Torrez
Treasurer

Michael Jamaica
Secretary

Kevin Northcraft
Board Member

1 Michael J. Lampe #82199
Michael P. Smith #206927
2 LAW OFFICES OF MICHAEL J. LAMPE
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3 Visalia, California 93291
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mjl@lampe-law.com

5 Attorneys for Plaintiff

Exempt from filing fees
Government Code §6103

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 IN AND FOR THE COUNTY OF KERN

11 TULARE LOCAL HEALTH CARE DISTRICT
12 *dba* Tulare Regional Medical Center, a Public
Agency

13 Plaintiff,

14 vs.

15 BRUCE R. GREENE; BAKER & HOSTETLER
16 LLP, a limited liability partnership; PARMOD
KUMAR, M.D., LINDA WILBOURN, RICHARD
17 TORREZ; and Does 1 through 50, inclusive,

18 Defendants.

Case No. BCV-19-103514

DECLARATION OF KEVIN
NORTHCRAFT RE: MOTION TO
DETERMINE PRIVILEGE CLAIMS
ASSERTED UNDER CODE OF CIVIL
PROCEDURE §2031.285

Date: March 20, 2020
Time: 8:30 a.m.
Dept. 17

20 I, Kevin Northcraft, declare:

21 1. I am currently the President of the Board of Directors of the Tulare Local Healthcare
22 District ("the District").

23 2. On May 6, 2015, Defendants Bruce R. Greene ("Greene") and Baker & Hostetler
24 LLP ("Baker") were retained as general legal counsel for the District. At all times herein
25 mentioned, Benny Benzeevi was the CEO of the District.

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27
28 DECLARATION OF KEVIN NORTHCRAFT RE:
MOTION TO DETERMINE PRIVILEGE CLAIMS
ASSERTED UNDER CODE OF CIVIL PROCEDURE
§2031.285

1 3. On June 20, 2017, former Board members Parmod Kumar, Linda Wilbourn, and
2 Richard Torrez voted to adopt District Resolution 852. Directors Northcraft and Jamaica voted
3 no. A true and correct copy of Resolution 852 is attached hereto as Exhibit 3.

4 4. On July 11, 2017, Board member Kumar was recalled in a Special Recall Election
5 by 81.09% of the voters residing in his district. Senovia Gutierrez (“Gutierrez”) was elected to
6 replace Kumar, garnering 76.40% of the vote.

7 5. Gutierrez was sworn into office on July 25, 2017, by Tulare County Superior Court
8 Judge Walter Gorelick.

9 6. On July 26, 2017, Board members Northcraft, Jamaica and Gutierrez noticed a
10 Special Board Meeting for July 27, 2017.

11 7. At 7:58 p.m. on July 26, 2017, Greene sent an email to all District Board members
12 which read, in part, as follows:

13 “Mr Northcraft - I have been advised that you, Mr. Jamaica and Ms. Gutierrez have
14 signed something purporting to be an agenda for a special meeting of the Board of
15 Directors of the Tulare Local Healthcare District to be held at 6:30 PM tomorrow,
16 July 27, 2017. I am also advised that you have posted and otherwise distributed the
17 purported agenda.”

18 Any actions which you, Mr. Jamaica and Ms Gutierrez may take, should you elect
19 to proceed with your meeting tomorrow, will be if no legal force or effect. The
20 District has no intention of providing you with any assistance in holding this
21 unauthorized meeting.”

19 A true and correct copy of Greene’s July 26 email is attached hereto as Exhibit 4.

20 8. On July 27, 2017, at a duly noticed Special Board Meeting, the following actions
21 were taken by Directors Northcraft, Jamaica and Gutierrez:

- 22 (A) Resolution 852 was rescinded;
- 23 (B) The legal services of Greene and Baker were terminated; and
- 24 (C) The McCormick Barstow law firm was named new general counsel to the
25 Board.

26 A true and correct copy of the July 27, 2017, minutes are attached hereto as Exhibit 5.

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DECLARATION OF KEVIN NORTHCRAFT RE:
MOTION TO DETERMINE PRIVILEGE CLAIMS
ASSERTED UNDER CODE OF CIVIL PROCEDURE
§2031.285

1 9. Between July 27 and September 26, 2017, Greene and Baker refused to recognize
2 the actions taken by the Board on July 27, continued to represent themselves as legal counsel
3 for the District, and refused to turn over District records and papers to the McCormick firm.

4 10. Between July 27 and September 26, 2017, Greene and Baker were actively working
5 with Benzeevi to sell District assets under various sale-leaseback arrangements.

6 11. On August 23, 2017, a regular meeting of the Board was scheduled to be held,
7 commencing at 4:00 p.m. The August 23 agenda contained the following Item:

8 *“Declaration of Senovia Gutierrez as a Board Member pursuant to Elections Code*
9 *section 15400.”*

10 A true and correct copy of the August 23, 2017, agenda is attached hereto as Exhibit 6.

11 12. At 3:07 p.m. on August 23, 2017, Greene notified Board members by email that
12 Wilbourn had resigned from the Board effective noon that day. Greene then purported to cancel
13 the August 23 Board meeting, as follows:

14 “Attached is a letter from Linda Wilbourn resigning from the Board effective as of
15 noon today. I have also received word from Richard Torrez that he will not be
attending the Board meeting which is scheduled for this afternoon.

16 Accordingly, there can be no quorum of the Board at the scheduled meeting, and
17 the meeting will be cancelled. Notice of cancellation will be duly posted.”

18 A true and correct copy of Greene’s August 23, 2017, email transmitted at 3:07 p.m. is attached
19 hereto as Exhibit 7.

20 13. Under District bylaws, two of three acting Directors constitute a quorum of the Board,
21 and both myself and Director Jamaica were present at the August 23, 2017, Board meeting.

22 14. At 4:00 p.m. on August 23, 2017, Greene notified Board members by email that
23 Director Wilbourn had “intended” her resignation to be effective as of 8:00 a.m. on August 24, as
24 follows:

25 “I was just advised by Linda that she intended her resignation to be effective
26 tomorrow at 8AM, not today. So as of today, she is still a Board member. However,
she is not able to attend the meeting this afternoon, and there is no quorum
27 possible.”

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DECLARATION OF KEVIN NORTHCRAFT RE:
MOTION TO DETERMINE PRIVILEGE CLAIMS
ASSERTED UNDER CODE OF CIVIL PROCEDURE
§2031.285

1 A true and correct copy of Greene’s August 23, 2017, email transmitted at 4:00 p.m. is attached
2 hereto as Exhibit 8.

3 15. On or about August 28, 2017, Baker delivered an opinion of counsel letter to Celtic
4 Leasing Corporation, representing that Resolution 852 was “valid and binding” against the District,
5 and further representing that Benzeevi had authority to execute documents relating to a sale-
6 leaseback of District assets for \$3 million. A true and correct copy of this opinion letter is attached
7 hereto as Exhibit 9.

8 16. On September 26, 2017, Baker “resigned” as legal counsel for the District, effective
9 immediately. A true and correct copy of the correspondence signed by Greene is attached hereto
10 as Exhibit 10.

11 17. On September 28, 2017, Benzeevi recorded a Short Form Deed of Trust with the
12 Tulare County Recorder, instrument no. 2017-0059339, encumbering District real property in the
13 amount of \$10,233,950.05. A true and correct copy of this Deed of Trust is attached hereto as
14 Exhibit 11.

15 18. On September 30, 2017, the District filed a Chapter 9 Bankruptcy petition. A true
16 and correct copy of this petition is attached hereto as Exhibit 12.

17 19. On January 23, 2020, the Tulare County District Attorney served a Search Warrant
18 upon the District, seeking documents and communications relating to Greene and Baker. A true
19 and correct copy of this Search Warrant, executed by Tulare County Superior Court Judge Nathan
20 G. Leedy, is attached here as Exhibit 13.

21 20. The District’s Board has unanimously waived the attorney-client privilege with
22 respect to communications with the Baker law firm, and intends to fully comply with the Search
23 Warrant served upon the District.

24 21. The foregoing statements are within my personal knowledge and, if sworn as a
25 witness, I can testify completely thereto.

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DECLARATION OF KEVIN NORTHCRAFT RE:
MOTION TO DETERMINE PRIVILEGE CLAIMS
ASSERTED UNDER CODE OF CIVIL PROCEDURE
§2031.285

1 22. I declare under penalty of perjury under the laws of the State of California that the
2 foregoing is true and correct.

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6 Dated: February 18, 2020



KEVIN NORTHCRAFT

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DECLARATION OF KEVIN NORTHCRAFT RE:
MOTION TO DETERMINE PRIVILEGE CLAIMS
ASSERTED UNDER CODE OF CIVIL PROCEDURE
§2031.285

**RESOLUTION NO. 852 OF THE BOARD OF DIRECTORS OF
TULARE REGIONAL MEDICAL CENTER**

WHEREAS, the Board of Directors (the "Board") of Tulare Local Healthcare District dba Tulare Regional Medical Center (the "District") has determined that it is necessary and appropriate, and in the best interests of the District to borrow funds to cover operating cash flow; and

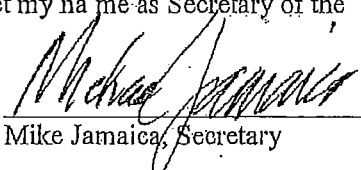
WHEREAS, the Board has determined that it is necessary and appropriate, and in the best interests of the District, to have its manager, Healthcare Conglomerate Associates, LLC ("HCCA"), acting through its Chairman, Benny Benzeevi, M.D. ("Authorized Representative") seek to obtain a loan for the purposes of payment of operating expenses of the Hospital, repayment of debt, payment of ongoing costs of construction of the Tower project, and for other Hospital purposes.

NOW, THEREFORE, BE IT RESOLVED THAT the District's Authorized Representative is authorized and directed to prepare, execute and submit to potential lenders applications for a commitment to make a loan, or other agreement for the extension of credit to the District, in an amount of up to \$22,000,000, upon such terms and at such interest rate as the District's Authorized Representative determines to be fair and consistent with the marketplace for the purposes stated above.

FURTHER RESOLVED, that if a loan commitment is obtained, the Authorized Representative is authorized and directed to take any further actions and to execute, in the name of and on behalf of the District, any instruments and documents required by the lender to obtain such loan, including, without limitation, promissory notes, security instruments and other customary loan documents (which includes sale/leaseback documents which are used for financing purposes), it being the intention of the Board that the Authorized Representative shall have absolute, full and complete power and authority to execute and deliver to the lender any and all documents and instruments required to obtain and consummate such loan, and to take any further actions required to obtain and consummate such loan.

FURTHER RESOLVED, that the Board acknowledges and agrees that except to the extent prohibited by applicable law and any existing Bond documents, all property (real and personal), equipment, revenues, deposit accounts and other assets of the District may be used as security for any loan obtained pursuant to this Resolution.

IN WITNESS WHEREOF, I have hereto set my name as Secretary of the District, this 20 day of June, 2017.



Mike Jamaica, Secretary

From: Greene, Bruce R. <bgreene@bakerlaw.com>
 To: northee <northee@aol.com>; Mike Jamaica <mikejamaica@sbcglobal.net>; senovia <senovia@live.com>
 Cc: Linda Wilbourn <linda.wilbourn@comcast.net>; Richard Torrez <tacboxing@gmail.com>; benny <benny@healthcca.com>
 Sent: Wed, Jul 26, 2017 7:58 pm
 Subject: Purported Board Meeting scheduled for July 27, 2017

Mr Northcraft - I have been advised that you, Mr. Jamaica and Ms. Gutierrez have signed something purporting to be an agenda for a special meeting of the Board of Directors of the Tulare Local Healthcare District to be held at 6:30 PM tomorrow, July 27, 2017. I am also advised that you have posted and otherwise distributed the purported agenda.

The District's Bylaws provide, in Article II Section 1 b, that special meetings of the Board may be called by any three Board members.

California Elections Code Sect. 15400 provides as follows: The governing body shall declare elected or nominated to each office voted on at each election under its jurisdiction the person having the highest number of votes for that office, or who was elected or nominated under the exceptions noted in Section 15452. The governing board shall also declare the results of each election under its jurisdiction as to each measure voted on at the election.

Until EC Sect 15400 is complied with, the person having the highest number of votes after a recall election is NOT a member of the Board. As you are well aware, the Board has not declared Ms. Gutierrez elected to the Board, and therefore she is not a member of the Board at this time. Accordingly, her signature on the purported agenda is of no legal significance, and to the extent that the purported agenda was intended to call for a special meeting, it is likewise of no legal significance.

Any actions which you, Mr. Jamaica and Ms Gutierrez may take, should you elect to proceed with your meeting tomorrow, will be if no legal force or effect. The District has no intention of providing you with any assistance in holding this unauthorized meeting.

Bruce Greene
 Partner

BakerHostetler
 11601 Wilshire Boulevard | Suite 1400
 Los Angeles, CA 90025-0509
 T +1.310.442.8834
 M +1.310.308.1003

bgreene@bakerlaw.com
 bakerlaw.com



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**Tulare Local Health Care District
Board of Directors
Special Meeting Minutes
Thursday, July 27, 2017
6:30 p.m.
Tulare City Council Chambers
475 North M Street, Tulare CA 93274**

Members Present

**Kevin Northcraft
Mike Jamaica
Senovia Gutierrez
Richard Torrez – absent
District 5 – vacant**

I. Call to order

Meeting called to order at 6:40 p.m. by Mike Jamaica

II. Citizen Requests/Public Comments

III. Open Session

A. Discussion to rescind Resolution No. 844, Confirmation of HCCA's Authority to Engage and Terminate Legal Counsel
Motion made by Kevin Northcraft, seconded by Senovia Gutierrez
Resolution rescinded 3-0

B. Discussion regarding rescinding resolutions 851 and 852 regarding loans.

Motion made by Kevin Northcraft, seconded by Senovia Gutierrez
Resolution rescinded 3-0

C. Discussion of legal services provided by Bruce Green and Baker Hostetler as Board General Counsel

Motion made by Kevin Northcraft, seconded by Senovia Gutierrez
Bruce Greene and Baker Hostetler dismissed 3-0

D. Discussion regarding appointment of McCormick Barstow of Fresno as Board General Council

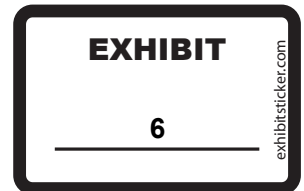
Motion made by Kevin Northcraft, seconded by Senovia Gutierrez
Appointment passed 3-0

- E. Request to terminate all authorization for public funding of private lawsuits and seek to recover all funds expended to date
Motion made by Kevin Northcraft, seconded by Senovia Gutierrez
Authorization terminated 3-0
- F. Discussion regarding orientation of current and future new members of the Board. Orientation to include tour, introductions to staff, financial information and budget, status of projects, etc.
Motion made by Kevin Northcraft, seconded by Kevin Northcraft
Motion approved for staff to prepare orientation 3-0
- G. Request to set the time of all regular board meetings at 6:30 p.m. at the Tulare City Council Chambers, when available
Motion made by, Kevin Northcraft seconded by Senovia Gutierrez
Motion approved 3-0
- H. Request to rescind the re-approval of minutes of the January 27, 2017 Board meeting
Motion made by Kevin Northcraft, seconded by Senovia Gutierrez
Original unanimous approval of January 27, 2017 minutes restored
- I. Discussion to hold a special Board meeting at 6:30 p.m., August 9, 2017 in the Tulare City Council Chambers, if available
Motion made by Kevin Northcraft, seconded by Senovia Gutierrez
Approved subject to availability of room 3-0

VI. Adjournment

**Tulare Local Health Care District
Board of Directors
Regular Meeting Agenda**

**Wednesday, August 23, 2017
Board Convenes at 4:00 p.m.**



**Evolutions Fitness & Wellness Center
Conference Room
1425 E. Prosperity Ave.
Tulare, CA 93274**

I. CALL TO ORDER
-Chair of the Board

II. CITIZEN REQUESTS/PUBLIC COMMENTS

III. APPROVAL OF MINUTES

- Regular Board Meeting Minutes of June 28, 2017

Proposed Action: Approval of Minutes for the June 28, 2017 Regular Board Meeting

IV. OPEN SESSION AGENDA

A. Board of Directors Discussion/Action Items

- 1. Declaration of Senovia Gutierrez as a Board Member pursuant to Elections Code section 15400**
- 2. Board Member Reports**

B. Consent Agenda

1. Request to approve the following Medical Executive Committee Policies:

- | | |
|------------------|--|
| 12-3015.1 | Code Blue Malignant Hyperthermia Response Time |
| 20-8003 | Isolation Precautions for Infection Control |
| 20-8013 | The Tuberculosis Prevention Plan |

Proposed Action: Approval of Consent Agenda Items

C. Report by Administration - *HCCA Management*

1. Finance

Board of Directors:

Linda Wilbourn
Chairman and President

Richard Torrez
Treasurer

Michael Jamaica
Secretary

Kevin Northcraft
Board Member

- a. Quarterly Financial Update

Proposed Action: Acceptance of Quarterly Financial Statement

2. Other

- a. Fiscal Year 2018 Budget Presentation

Proposed Action: Approval of Fiscal Year 2018 Budget

D. Medical Staff Report – Ronald Ostrom, D.O., Chief of Medical Staff (or MEC representative)

1. MEC Recommendations to the Board and Report of Actions

Proposed Action: Acceptance of MEC Recommendations

V. SUSPEND OPEN SESSION - ADJOURN TO CLOSED SESSION

VI. CLOSED SESSION

Location: Administration Office, 869 N. Cherry St., Tulare, CA 93274

**A. Medical Executive Committee Report of Hospital Medical Audit or Quality Assurance Activities
- Ronald Ostrom, D.O., Chief of Medical Staff (or MEC representative)**

MEC Reports relating to Peer Review, Credentialing, and Quality Assurance, pursuant to Health and Safety Code section 32155.

B. Conference With Legal Counsel

Significant exposure to litigation pursuant to Subdivision (d)(2) of Government Code section 54956.9:

- One (1) potential action

C. Conference With Legal Counsel

Existing Litigation pursuant to subdivision (d)(1) of Government Code section 54956.9:

Discussion regarding *Graham Prewett, Inc. v. Tulare Local Healthcare District*
Tulare County Superior Court Case No.: VCU269517

D. Conference With Legal Counsel

Existing Litigation pursuant to subdivision (d)(1) of Government Code section 54956.9:

Discussion regarding *Ibarra v. Tulare Regional Med Center, David Smith, Douglas Middleton, Family Health Care Network, David Larios, and DOES 1 to 10*
United States District Court, Eastern District of California Case No.: 1:16-cv-0039-LJO-BAM

E. Conference With Legal Counsel

Existing Litigation pursuant to Subdivision (d)(1) of Government Code section 54956.9

Discussion regarding *Tulare Regional Medical Center Medical Staff v. Tulare Local Healthcare District*

Tulare County Superior Court Case No.: VCU264227

F. Conference With Legal Counsel

Existing Litigation pursuant to subdivision (d)(1) of Government Code section 54956.9:

Discussion regarding *Deanne Martin-Soares and Emily Yenigues v. Tulare Local Health Care District, et al.*

Tulare County Superior Court Case No.: VCU266902

Board of Directors:

Linda Wilbourn
Chairman and President

Richard Torrez
Treasurer

Michael Jamaica
Secretary

Kevin Northcraft
Board Member

G. **Conference With Legal Counsel**

Existing Litigation pursuant to subdivision (d)(1) of Government Code section 54956.9:

Discussion regarding *Drilling, et al. v. Bell, et al.*

Tulare County Superior Court Case No.: VCU267051

H. **Conference With Legal Counsel**

Existing Litigation pursuant to subdivision (d)(1) of Government Code section 54956.9:

Discussion regarding *Phelps, et al. v. Tulare Local Healthcare District, et al.*

Tulare County Superior Court Case No.: VCU270681

VII. **ADJOURN CLOSED SESSION/RECONVENE OPEN SESSION**

Location: Evolutions Fitness & Wellness Center, Conference Room
1425 E. Prosperity Ave., Tulare, CA 93274

- Public report of action taken in closed session, pursuant to Government Code section 54957.1

VIII. **ADJOURNMENT**

Board of Directors:

Linda Wilbourn
Chairman and President

Richard Torrez
Treasurer

Michael Jamaica
Secretary

Kevin Northcraft
Board Member

NOTICE TO THE PUBLIC

Tulare Regional Medical Center does not discriminate against any person on the basis of gender, religion, race, color, national origin, disability, or age in admission, treatment, or participation in its programs, services and activities, or in employment. For further information about this policy, contact: Bruce Greene of Baker & Hostetler LLP at telephone number (310) 442-8834 or by e-mail at bgreene@bakerlaw.com.

PUBLIC COMMENT PERIOD FOR REGULAR MEETINGS

At this time, members of the public may comment on any item of interest to the public that is within the subject matter jurisdiction of the Board (Gov't Code, § 54954.3(a)). Provided, however, the Board shall not take action on any item not appearing on the agenda unless the action is otherwise authorized by law. Any person addressing the Board will be limited to a maximum of three (3) minutes so that all interested parties have an opportunity to speak. If any individual causes disruption of the meeting, the Chair of the Board, after warning the speaker, may declare that the speaker is disrupting, disturbing, or impeding the orderly conduct of the meeting and order the speaker to leave the meeting room.

OPEN SESSION AGENDA ITEMS

All writings, materials and information provided to the Board for their consideration relating to any Open Session Agenda item of the meeting are available for public inspection during regular business hours at the Administration Office of the District located at 869 Cherry Street, Tulare, California.

CLOSED SESSION AGENDA ITEMS

As provided in the Ralph M. Brown Act, Government Code §54950 et seq., the Board may meet in closed session with members of its staff, employees and its attorneys. These sessions are not open to the public and may not be attended by members of the public. The matters the Board will meet on in closed session are identified in the Regular Meeting agenda. Any public reports of action taken in the closed session will be made in accordance with Government Code § 54957.1.

COMPLIANCE WITH ADA

The agenda shall be made available upon request in alternative formats to persons with a disability, as required by the Americans with Disabilities Act of 1990 (42 U.S.C. § 12132) and the Ralph M. Brown Act (Cal. Gov't Cod. § 54954.2). Persons requesting a disability related modification or accommodation in order to participate in the meeting should contact the Executive Office at (559) 685-3462, during regular business hours.

Board of Directors:

Linda Wilbourn
Chairman and President

Richard Torrez
Treasurer

Michael Jamaica
Secretary

Kevin Northcraft
Board Member

From: Greene, Bruce R. <bgreene@bakerlaw.com> on behalf of Greene, Bruce R.
Sent: Wednesday, August 23, 2017 3:07 PM
To: Kevin Northcraft (northee@aol.com); Mike Jamaica (mikejamaica@sbcglobal.net); Richard Torrez (tacboxing@gmail.com)
Cc: benny@healthcca.com
Subject: TRMC Board Meeting Aug 23, 2017
Attachments: TRMC Resignation Letter Signed.pdf

Attached is a letter from Linda Wilbourn resigning from the Board effective as of noon today. I have also received word from Richard Torrez that he will not be attending the Board meeting which is scheduled for this afternoon.

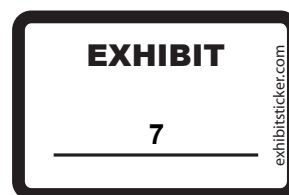
Accordingly, there can be no quorum of the Board at the scheduled meeting, and the meeting will be cancelled. Notice of cancellation will be duly posted.

Bruce Greene
Partner

BakerHostetler

11601 Wilshire Boulevard | Suite 1400
Los Angeles, CA 90025-0509
T +1.310.442.8834
M +1.310.308.1003

bgreene@bakerlaw.com
bakerlaw.com



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Linda Wilbourn
12499 Colony Ave
Tulare, CA93274

August 23, 2017 12:00 noon

Tulare Local Healthcare District
Board of Directors
Dr. Benny Benzeevi, CEO
Healthcare Conglomerate Associates
Bruce Greene, Baker & Hostetler LLP
TRMC Legal Counsel

Dear Bruce;

As I now serve as the Chairman of the Tulare Local Healthcare District Board of Directors, and this letter would be normally sent to the Chairman of the Board, I am sending it to you as legal counsel for the board. As of this date, noon, I am resigning my position as Chairman and as Director of Zone 5 of the Tulare Local Healthcare District.

When I was elected as Zone 5 Director, my only goal and agenda was to further the completion of the new tower project to bring our hospital into California state earthquake compliance before the 2030 state deadline. To my mind the every penny spent on or in the hospital hinges on the district finishing that tower. The very existence of the hospital is tied to the tower completion. Every day since I was elected to this board, I have worked towards that goal. Since November 2016, the board makeup has significantly changed their direction and agenda. My goals do not seem to mesh with theirs any longer. The completion of the Tower has now taken a back seat to personal agendas and egos. These agendas are not in the best interest of the District, the hospital, or the people who depend on our hospital for their healthcare, and I will not be a part of this takeover and I refuse to be caught in the quagmire of legal issues that I see coming very quickly.


I will be moving out of Zone 5 by the end of this year and I think it would be best if I leave the Board at this time.

Let it be known to all that EVERY and I repeat EVERY vote I have cast in both open and closed sessions have what I feel has been best for Tulare Regional Medical Center, the employees of that hospital and for all the people of Tulare Local Healthcare District. My votes have never been influenced by others, but what I felt were the best for TRMC. I have always believed that the unique partnership between the District and HCCA was an innovative solution to the success of our hospital. This could be the model for collaboration between private and public entities to save many District hospitals in California and even the US, if everyone opens their minds and starts thinking out of the box.

Please accept my resignation and pass it on to whoever is necessary to receive it. I give my sincere apologies to the folks in Zone 5 for not fulfilling my commitment. I have been their neighbor and friend for 41 years and I know there are some very good and bright people who can easily take my place.

I wish everyone connected with TRMC the best, especially the dedicated employee who make TRMC the wonderful hospital that it is. My family and I will always be supporters of TRMC and Tulare Hospital Foundation.

My best to you also. I know with your help and the firm of Baker & Hostetler's help, you have saved the District millions of dollars, and I personally thank you.

Sincerely,

Linda Willbourn

From: Greene, Bruce R. <bgreene@bakerlaw.com> on behalf of Greene, Bruce R.
Sent: Wednesday, August 23, 2017 4:00 PM
To: Kevin Northcraft (northee@aol.com); Mike Jamaica (mikejamaica@sbcglobal.net); Richard Torrez (tacboxing@gmail.com)
Cc: benny@healthcca.com
Subject: TRMC Board Meeting Aug 23, 2017
Attachments: TRMC Resignation Letter Signed.pdf

I was just advised by Linda that she intended her resignation to be effective tomorrow at 8AM, not today. So as of today, she is still a Board member. However, she is not able to attend the meeting this afternoon, and there is no quorum possible.

I apologize for any misunderstanding .

Attached is a letter from Linda Wilbourn resigning from the Board effective as of noon today. I have also received word from Richard Torrez that he will not be attending the Board meeting which is scheduled for this afternoon.

Accordingly, there can be no quorum of the Board at the scheduled meeting, and the meeting will be cancelled. Notice of cancellation will be duly posted.

Bruce Greene
Partner

BakerHostetler

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BakerHostetler

Baker & Hostetler LLP

11601 Wilshire Boulevard
Suite 1400
Los Angeles, CA 90025-0509

T 310.820.8800
F 310.820.8859
www.bakerlaw.com

August 28, 2017

Celtic Leasing Corp.
4 Park Plaza, Suite 300
Irvine, CA 92614

Re: *Lease Schedule No. 3826A01 (the "Schedule") to Master Lease No. 3826A (the "Lease") by and between Celtic Leasing Corp. ("Lessor") and Tulare Local Healthcare District ("Lessee")*

Ladies and Gentlemen:

We have acted as special California counsel to Healthcare Conglomerate Associates, LLC, the Manager of Lessee, in connection with the above-referenced Lease between Lessee and Lessor.

In such capacity, we have reviewed the Lease and Lease Schedule (including Addendum A).

In rendering our opinion, we have also examined such certificates of public officials, organizational documents of Lessee, and other certificates and instruments as we have deemed necessary for the purposes of the opinions herein expressed. As to certain questions of fact material to our opinion, we have relied upon the certificate of an officer of the Lessee (the "Opinion Certificate") and the representations of the Lessee contained in the Lease. As to certain matters involving California election law, we have relied upon the opinion of Michael L Allan, Esq, Allan Law Office, a copy of which is attached hereto and made a part hereof by reference.

We express no opinion with respect to the effect of any law other than the laws of the State California (the "State"), including, without limitation, the California Uniform Commercial Code (the "UCC"), and the federal law of the United States (together with the laws of the State, "Applicable Law").

Whenever our opinion herein is qualified by the phrase "to the best of our knowledge" (or similar phrase), it is intended to indicate that the current, actual

Atlanta Chicago Cincinnati Cleveland Columbus Costa Mesa Denver
Houston Los Angeles New York Orlando Philadelphia Seattle Washington, DC

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knowledge of the attorneys within the Los Angeles office of this firm engaged in the representation of Lessee in connection with the Lease transaction is not inconsistent with that portion of the opinion which such phrase qualifies. Except as expressed herein, we have made no independent investigation of any such matters and we have not made any other examination of Lessee.

Based on the foregoing, and subject to the qualifications and exceptions herein contained, we are of the opinion that:

1. Lessee is a political subdivision of the State, to wit, a local healthcare district, duly organized and existing under the laws of the State, and specifically Section 32000 et seq of the California Health & Safety Code.

2. The UCC and no other statute of the State, governs the creation, perfection, priority and enforcement of any security interest created by the Lease.

3. Within the meaning of the UCC, Lessee is an unregistered organization, having its sole place of business or its chief executive office in the State. Lessee's true and correct legal name is stated above.

4. Lessee is authorized and has power under State law to own its properties and incur and pay its obligations, to enter into the Lease, to lease the property described in the Lease and to carry out its obligations thereunder and the transactions contemplated thereby, including, without limitation, payment of all rental payments set forth in the Lease.

5. Benny Benzeevi, M.D. is qualified and authorized to execute, on behalf of Lessee, any and all documents related to the Lease and Lease Schedule.

6. Based upon Resolution No. 852 of the Lessee, which was adopted by the Board of Directors of the Lessee on June 20, 2017 (a copy of which is attached hereto), the Lease, including the lease of the property subject thereto and Lessee's obligations thereunder, has been duly authorized, approved, executed and delivered by and on behalf of the Lessee and is a valid and binding contract of Lessee, enforceable against Lessee in accordance with its terms.

7. To the best of our knowledge, the authorization, approval and execution of the Lease and all other proceedings of Lessee relating to the transactions contemplated thereby have been performed in accordance with all open meeting, public bidding and other applicable laws, rules and regulations of the State.

8. The execution of the Lease and the appropriation of moneys to pay the payments coming due under the Lease do not result in the violation of any constitutional, statutory or other governmental limitation relating to the manner, form or amount of indebtedness which may be incurred by Lessee.

9. The accrual and payment by Lessee, and collection from Lessee, of the charges provided for in the Lease, including rental, interest, late fees, attorney's fees and other charges, do not and will not violate the constitution or any law of the State.

We express no opinion with respect to any documents other than the Lease and the Lease Schedule.

The foregoing opinions are subject to the following qualifications, limitations and exceptions:

(a) The effect of bankruptcy, insolvency, fraudulent conveyance or transfer, reorganization, arrangement, moratorium or other similar laws relating to or affecting the rights, powers, privileges, remedies and interests of creditors, obligees or sureties including, without limitation, the effect of Sections 547 and 548 of the Federal Bankruptcy Code and comparable provisions of the laws of the State;

(b) The effect of the limitations imposed by Applicable Law or rules or principles (of equity, public policy or otherwise) affecting the enforcement of obligations generally, whether considered at law, in equity or otherwise, including (without limitation) those pertaining to specific performance, injunctive relief, materiality, good faith, fair dealing, diligence, reasonableness, unconscionability, impossibility of performance, redemption or other cure, suretyship rights or defenses, waiver, laches, estoppel, or judicial deference or other equitable remedies;

(c) The enforceability of any term or provision of the Lease that purportedly grants to a party or authorizes or permits a party or other person to exercise or otherwise enforce or pursue specific rights, powers, privileges, remedies or interests in a manner impermissible under or otherwise inconsistent with Applicable Law or public policy of the State from time to time in effect;

(d) The unenforceability under certain circumstances of provisions in the Lease to the effect that rights or remedies are not exclusive, that every right or remedy is cumulative and may be exercised in addition to or with any other right or remedy, that election of a particular remedy or remedies does not preclude recourse to one or more other remedies, and that any right or remedy may be exercised without notice or an opportunity to cure;

(e) The unenforceability under certain circumstances of any term or provision in the Lease indemnifying a party against liability for its own wrongful or negligent acts or where such indemnification is contrary to public policy or prohibited by Applicable Law;

(f) The enforceability of any term or provision in the Lease purporting to assign contractual rights, to the extent such provisions are limited by requirements of notice to and consent of any third parties to such contracts or other interested parties, or any other restrictions as to the assignability of such contractual rights;

(g) The effect of the provisions of the UCC which require a secured party, in any disposition of personal property collateral, to act in good faith or in a commercially reasonable manner;

(h) Any rights under the Lease which are governed by the UCC are subject to the limitations and restrictions of the UCC which such statute provides cannot be waived;

(i) We express no opinion as to the existence, validity, binding effect, enforceability, attachment, perfection or priority of any security interest or lien created or purported to be created under the Lease;

(j) There may be limitations on the exercise of the Lessor's remedies arising out of any failure by the Lessor to comply with statutory requirements or judicial decisions thereunder in the actual exercise of its rights in connection with the foreclosure, sale or other enforcement of its security interests in any of the Equipment;

(k) We express no opinion as to whether or not the Lease transaction will be treated for federal and state income tax purposes as a true lease, or as a financing transaction.

(l) Our opinions in Paragraphs 5 and 6 above are based solely upon the Opinion Certificate and the Allan Law Office opinion.

In our opinion, the foregoing qualifications, limitations and exceptions do not render the Lease invalid as a whole, and there exist, in the Lease or pursuant to Applicable Law, legally adequate remedies for a realization of the principal benefits and/or security intended to be provided by the Lease.

We advise Lessor that circumstances can occur after the perfection of a security interest in personal property which could cause the security interest to become unperfected, including, without limitation, the fact that a financing statement lapses after five years; the UCC creates certain limitations on the rights to proceeds; a change in the name of the debtor or the location of the debtor will result in the security interest in certain property to become unperfected unless appropriate steps are taken; and a secured party's rights are subject to the rights of certain purchasers of the collateral to acquire the collateral free of the security interest.

To the extent that the obligations of Lessee may be dependent upon such matters, we assume that: Lessor is duly formed, validly existing and in good standing under the laws of its jurisdiction of formation; Lessor has the requisite power and authority to execute and deliver the Lease and to perform its obligations under the Lease; the Lease has been duly executed and delivered by Lessor, and constitutes the legally valid and binding obligation of Lessor, enforceable against Lessor in accordance with its terms; there are no other documents, understandings, or agreements (whether written or oral) between or among the parties which would expand, modify or otherwise affect the obligations of the parties under the Lease, the documents submitted to us contain therein all the terms intended by the parties.

We have also assumed that:

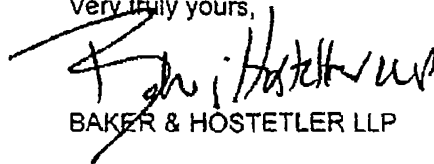
(1) The Lease transaction is not being entered into for any personal, family or household purposes.

(2) Lessee has "rights" (within the meaning of Section 9203 of the UCC) in the Equipment, and value has been given by the Lessor to Lessee in connection with the transactions contemplated by the Lease.

This opinion is intended solely for the benefit of the Lessor and its successors and assigns in connection with the Lease transaction. No part of this opinion may be relied upon by any other person or for any other purpose, be incorporated, quoted or otherwise referred to in any other document or communication or be filed with or otherwise furnished to any governmental authority or other person without our prior written consent, except that our prior written consent is not needed to furnish a copy of this opinion: (a) in connection with any proceedings relating to the Lease or the enforcement thereof; and (b) to accountants and legal counsel for the Lessor (each of whom may rely upon this opinion as though it had been addressed and delivered to them as of the date of this opinion). In all cases, reliance upon this opinion is conditioned upon acceptance of all of the qualifications, exceptions, assumptions, definitions, exclusions and other limitations set forth herein.

This opinion speaks only as of the date hereof, and to its addressees and their successors and assigns, and we have no responsibility or obligation to update this opinion, to consider its applicability or correctness to anyone other than its addressees, and their successors and assigns, or to take into account changes in law, facts or any other developments of which we may later become aware.

Very truly yours,



BAKER & HOSTETLER LLP

Baker & Hostetler LLP

11601 Wilshire Boulevard
Suite 1400
Los Angeles, CA 90025-0509

T 310.820.8800
F 310.820.8859
www.bakerlaw.com

Bruce R. Greene
direct dial: 310.442.8834
bgreene@bakerlaw.com

September 26, 2017

VIA EMAIL

Board of Directors
Tulare Local Healthcare District
869 North Cherry Street
Tulare, CA 93274

Re: Resignation of Baker Hostetler, LLP

Gentlemen:

Please be advised that Baker Hostetler, LLP is resigning as legal counsel for the Tulare Local Healthcare District, effective immediately.

We will commence the process of delivering the District's files to new counsel. Unless we are notified to the contrary, we will assume that the District's new counsel is the McCormick, Barstow firm.

We are counsel of record to the District in one pending litigation matter entitled Firstsource Solutions USA, LLC v. Tulare Regional Medical Center, United States District Court, Eastern District of California, Case No. 1:15-CV-01136-DAD-EPG. We enclose a brief description of the case and its status. We will forward a substitution of attorney in the next few days.

We will cooperate with new counsel to effectuate as smooth a transition of the work as possible.

Sincerely,



Bruce R. Greene

cc: Benny Benzeevi, M.D./HCCA

Greene, Bruce R.

From: Greene, Bruce R.
Sent: Monday, September 25, 2017 11:33 AM
To: Greene, Bruce R.
Subject: Firstsource v TRMC

Firstsource Solutions USA, LLC v. Tulare Regional Medical Center, United States District Court, Eastern District of California, Case No. 1:15-cv-01136-DAD-EPG

On February 21, 2015, Firstsource Solutions USA LLC ("Firstsource") filed a complaint against the District alleging breach of contract involving accounts receivable management and business office services, which Firstsource agreed to render to the District. Firstsource seeks damages in excess of \$724,385.08. On October 13, 2015, the District filed an Answer and Counterclaim for breach of contract. The District claims damages of at least \$6,500,000.00 and an offset against Firstsource's claim, due to Firstsource's failure to adequately collect accounts receivable on behalf of the District. After the close of fact discovery, Firstsource filed a motion for summary judgment ("MSJ") on its claim and the District's counterclaim, which the District opposed. At the January 19, 2017 hearing on the MSJ, the Court took the MSJ under submission. It is unknown when the Court will rule on the MSJ, but it may be some time, as the court system in the Eastern District of California tends to be extremely overcrowded. Pending the Court's ruling on the MSJ, the trial and all other dates for the case have been vacated. Baker has identified and vetted a highly qualified expert witness on behalf of the District (Coding Continuum based in Tucson, Arizona), who may be engaged to opine on the cause and amount of all under-collections, if and when the MSJ is denied.

On Sept 12, while the MSC was pending, the Court issued an OSC as to why the entire case should not be dismissed for lack of diversity jurisdiction. Briefs were filed by both sides last week and we await a determination.

Bruce Greene
Partner

BakerHostetler
11601 Wilshire Boulevard | Suite 1400
Los Angeles, CA 90025-0509
T +1.310.442.8834
M +1.310.308.1003

bgreene@bakerlaw.com
bakerlaw.com





2017-0059339

4
g

RECORDING REQUESTED BY:
Chicago Title Company
Order No.:

Recorded	REC FEE	51.00
Official Records	COPY - RECORDE	6.00
County of Tulare		
ROLAND P. HILL Clerk Recorder		
	JD	
08:01AM 28-Sep-2017	Page 1 of 4	

2 H
copy

When Recorded Mail Document To:

Healthcare Conglomerate Associates, LLC
10940 Wilshire Boulevard
Suite 1600
Los Angeles, CA 90024

SPACE ABOVE THIS LINE FOR RECORDER'S USE

SHORT FORM DEED OF TRUST AND ASSIGNMENT OF RENTS

THIS DEED OF TRUST, is made as of September 27, 2017 by **Tulare Local Healthcare District, d/b/a Tulare Regional Medical Center**, herein called TRUSTOR, whose address is 869 N Cherry Street, Tulare, California 93274

to Chicago Title Company, a California corporation, herein called TRUSTEE, for the benefit of **Healthcare Conglomerate Associates, LLC**, herein called BENEFICIARY,

WITNESSETH That Trustor IRREVOCABLY GRANTS, TRANSFERS AND ASSIGNS to TRUSTEE IN TRUST, WITH POWER OF SALE, that property in the County of Tulare, State of California, commonly known as 1425 East Prosperity Avenue, Tulare, California, 93274, as more particularly described as

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

TOGETHER WITH the rents, issues and profits thereof, SUBJECT, HOWEVER, to the right, power and authority given to and conferred upon Beneficiary by paragraph ten (10) of the provisions incorporated herein by reference to collect and apply such rents, issues and profits

For the Purpose of Securing:

- 1 Performance of each agreement of Trustor incorporated by reference or contained herein
- 2 Payment of the indebtedness evidenced by those certain Promissory Notes dated as of 7/31/2015, 7/31/2016; 12/21/2016, 12/28/2016, 12/29/2016, 12/30/2016, 12/30/2016 B, 3/31/2017, 7/21/2017, and 7/31/2017, in the total original principal sum of Ten Million Two Hundred Thirty-Three Thousand Nine Hundred and Fifty Dollars And 05/100 Dollars (\$10,233,950 05) executed by Trustor in favor of Beneficiary or order
3. Payment of such further sums as the then record owner of said property hereafter may borrow from Beneficiary, when evidenced by another note (or notes) reciting it is so secured



SHORT FORM DEED OF TRUST AND ASSIGNMENT OF RENTS
(continued)

To Protect the Security of this Deed of Trust, Trustor Agrees: By the execution and delivery of this Deed of Trust and the note secured hereby, that provisions one (1) to fourteen (14), inclusive, of the fictitious deed of trust recorded in Santa Barbara County and Sonoma County October 18, 1961, and in all other counties October 23, 1961, in the book and at the page of Official Records in the office of the county recorder of the county where said property is located, noted below opposite the name of such county, viz:

COUNTY	BOOK	PAGE	COUNTY	BOOK	PAGE	COUNTY	BOOK	PAGE	COUNTY	BOOK	PAGE
Alameda	435	684	Kings	792	833	Placer	895	301	Sierra	29	335
Alpine	1	250	Lake	362	39	Plumas	151	5	Siskiyou	468	181
Amador	104	348	Lassen	171	471	Riverside	3005	523	Solano	1105	182
Butte	1145	1	Los Angeles	72055	899	Sacramento	4331	62	Sonoma	1851	689
Calaveras	145	152	Madera	810	170	San Benito	271	383	Stanislaus	1715	456
Colusa	296	617	Marin	1508	339	San Bernardino	5567	61	Sutter	572	297
Contra Costa	3978	47	Mariposa	77	292	San Francisco	A332	905	Tehama	401	289
Del Norte	78	414	Mendocino	579	530	San Joaquin	2470	311	Trinity	93	366
El Dorado	568	456	Merced	1547	538	San Luis Obispo	1151	12	Tulare	2294	275
Fresno	4626	572	Modoc	184	851	San Mateo	4078	420	Tuolumne	135	47
Glenn	422	184	Mono	52	429	Santa Barbara	1878	860	Ventura	2062	386
Humboldt	657	527	Monterey	2194	538	Santa Clara	5336	341	Yolo	653	245
Imperial	1091	501	Napa	639	86	Santa Cruz	1431	494	Yuba	334	486
Inyo	147	598	Nevada	305	320	Shasta	684	528			
Kern	3427	60	Orange	5889	611	San Diego	Series 2 Book 1961, Page 183887				

which provisions, identical in all counties, (printed on the attached unrecorded pages) are hereby adopted and incorporated herein and made a part hereof as fully as though set forth herein at length; that Trustor will observe and perform said provisions, and that the references to property, obligations and parties in said provisions shall be construed to refer to the property, obligations, and parties set forth in this Deed of Trust

The undersigned Trustor requests that a copy of any Notice of Default and of any Notice of Sale hereunder be mailed to him at his address hereinbefore set forth.

IN WITNESS WHEREOF, the undersigned has executed this document on the date set forth below

Tulare Local Healthcare District, d/b/a Tulare Regional Medical Center

By:  _____ *CS*

Dated: 9.22.2017

SHORT FORM DEED OF TRUST AND ASSIGNMENT OF RENTS
(continued)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy or validity of that document

State of California)
County of Tulare)

On September 27, 2017 before me, Melissa S. Arend, Notary Public (here insert name and title of the officer), personally appeared Yorai Benny Benzeevi, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/~~she~~/they executed the same in his/~~her~~/their authorized capacity(ies), and that by his/~~her~~/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct

WITNESS my hand and official seal

Signature Melissa S. Arend (Seal)



SHORT FORM DEED OF TRUST AND ASSIGNMENT OF RENTS
(continued)

EXHIBIT "A"
Legal Description

Real property in the City of Tulare, County of Tulare, State of California, described as follows:

PARCEL 1 AND REMAINDER OF PARCEL MAP NO. 4531, IN THE CITY OF TULARE, COUNTY OF TULARE, STATE OF CALIFORNIA, AS PER MAP RECORDED AUGUST 23, 2002 IN BOOK 46, PAGE 36 OF PARCEL MAPS, TULARE COUNTY RECORDS.

EXCEPTING THEREFROM AN UNDIVIDED ONE-HALF OF ALL THE MINERALS, GAS, OILS, PETROLEUM, NAPHTHA AND OTHER HYDROCARBON SUBSTANCES IN, ON OR UNDER SAID LAND, TOGETHER WITH ALL RIGHTS INCIDENTAL TO THE DEVELOPMENT OF SAME, AS EXCEPTED IN THE DEED FROM SECURITY-FIRST NATIONAL BANK OF LOS ANGELES, A NATIONAL BANKING ASSOCIATION, TO C. E. SWEARINGEN AND CLARA B. SWEARINGEN, HUSBAND AND WIFE, DATED SEPTEMBER 29, 1936, RECORDED NOVEMBER 30, 1936 IN BOOK 704, PAGE 316 OF OFFICIAL RECORDS.

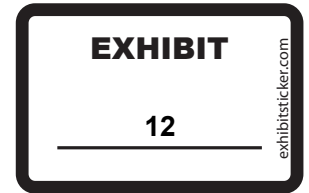
APN:

171-300-015-000 as to Parcel 1 171-300-016-000 as to Remainder

Fill in this information to identify your case:

United States Bankruptcy Court for the:
EASTERN DISTRICT OF CALIFORNIA

Case number (if known) _____ Chapter 9



Check if this an amended filing

Official Form 201

Voluntary Petition for Non-Individuals Filing for Bankruptcy

4/16

If more space is needed, attach a separate sheet to this form. On the top of any additional pages, write the debtor's name and case number (if known). For more information, a separate document, *Instructions for Bankruptcy Forms for Non-Individuals*, is available.

1. Debtor's name Tulare Local Healthcare District

2. All other names debtor used in the last 8 years
Include any assumed names, trade names and doing business as names
dba Tulare Regional Medical Center

3. Debtor's federal Employer Identification Number (EIN) 94-6002897

4. Debtor's address
Principal place of business: 869 N. Cherry St. Tulare, CA 93274
Number, Street, City, State & ZIP Code
Tulare
County
Mailing address, if different from principal place of business: _____
P.O. Box, Number, Street, City, State & ZIP Code
Location of principal assets, if different from principal place of business: _____
Number, Street, City, State & ZIP Code

5. Debtor's website (URL) https://sites.google.com/view/tlhcd

6. Type of debtor
 Corporation (including Limited Liability Company (LLC) and Limited Liability Partnership (LLP))
 Partnership (excluding LLP)
 Other. Specify: Municipality/Government Entity

Debtor Tulare Local Healthcare District
Name

Case number (if known) _____

7. Describe debtor's business A. Check one:

- Health Care Business (as defined in 11 U.S.C. § 101(27A))
- Single Asset Real Estate (as defined in 11 U.S.C. § 101(51B))
- Railroad (as defined in 11 U.S.C. § 101(44))
- Stockbroker (as defined in 11 U.S.C. § 101(53A))
- Commodity Broker (as defined in 11 U.S.C. § 101(6))
- Clearing Bank (as defined in 11 U.S.C. § 781(3))
- None of the above

B. Check all that apply

- Tax-exempt entity (as described in 26 U.S.C. §501)
- Investment company, including hedge fund or pooled investment vehicle (as defined in 15 U.S.C. §80a-3)
- Investment advisor (as defined in 15 U.S.C. §80b-2(a)(11))

C. NAICS (North American Industry Classification System) 4-digit code that best describes debtor.
See <http://www.uscourts.gov/four-digit-national-association-naics-codes>.

6221

8. Under which chapter of the Bankruptcy Code is the debtor filing? Check one:

- Chapter 7
- Chapter 9
- Chapter 11. Check all that apply:

- Debtor's aggregate noncontingent liquidated debts (excluding debts owed to insiders or affiliates) are less than \$2,566,050 (amount subject to adjustment on 4/01/19 and every 3 years after that).
- The debtor is a small business debtor as defined in 11 U.S.C. § 101(51D). If the debtor is a small business debtor, attach the most recent balance sheet, statement of operations, cash-flow statement, and federal income tax return or if all of these documents do not exist, follow the procedure in 11 U.S.C. § 1116(1)(B).
- A plan is being filed with this petition.
- Acceptances of the plan were solicited prepetition from one or more classes of creditors, in accordance with 11 U.S.C. § 1126(b).
- The debtor is required to file periodic reports (for example, 10K and 10Q) with the Securities and Exchange Commission according to § 13 or 15(d) of the Securities Exchange Act of 1934. File the attachment to Voluntary Petition for Non-Individuals Filing for Bankruptcy under Chapter 11 (Official Form 201A) with this form.
- The debtor is a shell company as defined in the Securities Exchange Act of 1934 Rule 12b-2.

Chapter 12

9. Were prior bankruptcy cases filed by or against the debtor within the last 8 years? No. Yes.

If more than 2 cases, attach a separate list.

District _____	When _____	Case number _____
District _____	When _____	Case number _____

10. Are any bankruptcy cases pending or being filed by a business partner or an affiliate of the debtor? No. Yes.

List all cases. If more than 1, attach a separate list

Debtor _____	Relationship _____
District _____	When _____ Case number, if known _____

Debtor Tulare Local Healthcare District
Name

Case number (if known) _____

11. Why is the case filed in this district?

Check all that apply:

- Debtor has had its domicile, principal place of business, or principal assets in this district for 180 days immediately preceding the date of this petition or for a longer part of such 180 days than in any other district.
- A bankruptcy case concerning debtor's affiliate, general partner, or partnership is pending in this district.

12. Does the debtor own or have possession of any real property or personal property that needs immediate attention?

No

Yes. Answer below for each property that needs immediate attention. Attach additional sheets if needed.

Why does the property need immediate attention? (Check all that apply.)

It poses or is alleged to pose a threat of imminent and identifiable hazard to public health or safety.

What is the hazard? Narcotics / Nuclear Medicines / Preservation of Patient Records/Patients

It needs to be physically secured or protected from the weather.

It includes perishable goods or assets that could quickly deteriorate or lose value without attention (for example, livestock, seasonal goods, meat, dairy, produce, or securities-related assets or other options).

Other _____

Where is the property?

See Attached

Number, Street, City, State & ZIP Code

Is the property insured?

No

Yes. Insurance agency _____

Contact name _____

Phone _____

Statistical and administrative information

13. Debtor's estimation of available funds

Check one:

Funds will be available for distribution to unsecured creditors.

After any administrative expenses are paid, no funds will be available to unsecured creditors.

14. Estimated number of creditors

1-49

50-99

100-199

200-999

1,000-5,000

5001-10,000

10,001-25,000

25,001-50,000

50,001-100,000

More than 100,000

15. Estimated Assets

\$0 - \$50,000

\$50,001 - \$100,000

\$100,001 - \$500,000

\$500,001 - \$1 million

\$1,000,001 - \$10 million

\$10,000,001 - \$50 million

\$50,000,001 - \$100 million

\$100,000,001 - \$500 million

\$500,000,001 - \$1 billion

\$1,000,000,001 - \$10 billion

\$10,000,000,001 - \$50 billion

More than \$50 billion

16. Estimated liabilities

\$0 - \$50,000

\$50,001 - \$100,000

\$100,001 - \$500,000

\$500,001 - \$1 million

\$1,000,001 - \$10 million

\$10,000,001 - \$50 million

\$50,000,001 - \$100 million

\$100,000,001 - \$500 million

\$500,000,001 - \$1 billion

\$1,000,000,001 - \$10 billion

\$10,000,000,001 - \$50 billion

More than \$50 billion

Debtor Tulare Local Healthcare District
Name

Case number (if known) _____

Request for Relief, Declaration, and Signatures

WARNING -- Bankruptcy fraud is a serious crime. Making a false statement in connection with a bankruptcy case can result in fines up to \$500,000 or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

17. Declaration and signature of authorized representative of debtor

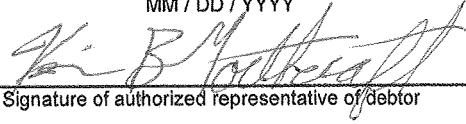
The debtor requests relief in accordance with the chapter of title 11, United States Code, specified in this petition.

I have been authorized to file this petition on behalf of the debtor.

I have examined the information in this petition and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

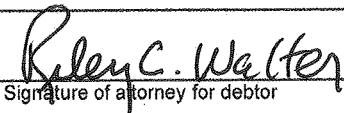
Executed on 9/29/2017
MM / DD / YYYY

X 
Signature of authorized representative of debtor

Kevin B. Northcraft
Printed name

Title Chairperson

18. Signature of attorney

X 
Signature of attorney for debtor

Date Sept. 30, 2017
MM / DD / YYYY

Riley C. Walter
Printed name

Walter Wilhem Law Group
Firm name

A Professional Corporation
205 E. River Park Circle, Ste. 410
Fresno, CA 93720-1563
Number, Street, City, State & ZIP Code

Contact phone (559) 435-9800 Email address rileywalter@w2lg.com

91839
Bar number and State

Attachment to Chapter 9 Petition #12, Location of Property Needing Attention

**Tulare Local Healthcare District
dba Tulare Regional Medical Center
869 N. Cherry Street
Tulare, CA 93274**

**Hillman Healthcare Center
1062 South K Street
Tulare, CA 93274**

**West Street Medical Office
325 N. West Street
Tulare, CA 93274**

**Women's Pavilion
1437 E. Prosperity Ave.
Tulare, CA 93274**

**Earlimart School-Based Medical Office
398 S. Church Street
Earlimart, CA 93219**

**Mineral King Toxicology Lab
880 E. Merritt, Suite 107
Tulare, CA 93274**

**Evolutions Fitness & Wellness Center
1425 E. Prosperity Ave.
Tulare, CA 93274**

DECLARATION OF FISCAL EMERGENCY AND ADOPTION OF RESOLUTION

Tulare Local Healthcare District, dba Tulare Regional Medical Center

WHEREAS, the Board of Directors of the Tulare Local Healthcare District, dba Tulare Regional Medical Center ("TRMC") has placed the financial condition of TRMC on the agenda of a noticed public hearing which took place on September 29, 2017.

WHEREAS, at the noticed public hearing the following factual findings, among others, were made:

1. TRMC is or will be unable to pay its obligations within the next 60 days;
2. According to the report of TRMC's Manager Healthcare Conglomerate Associates ("HCCA") and CEO Dr. Benny Benzeevi, the Tulare Local Healthcare District has zero cash in its bank accounts, is in a dire financial situation, and is suffering from a critical cash shortage;
3. On September 28, 2017, HCCA failed or was otherwise unable to fund the entire gross payroll for employees staffing TRMC, citing the cash shortage by the Tulare Local Healthcare District as the cause;
4. The Tulare Local Healthcare District's inability to pay vendors has resulted in significant liabilities, and vendors critical to the operation of the District have discontinued service to TRMC;
5. The Tulare Local Healthcare District has insufficient cash to purchase adequate medical supplies for the operation of TRMC;
6. The cash shortage of the Tulare Local Healthcare District poses a risk to public health and safety;
7. There is an imminent risk of closure of the hospital;
8. The fiscal condition of TRMC constitutes a fiscal emergency;
9. Absent a Chapter 9 filing, the fiscal condition of TRMC puts the health, safety, and welfare of its patients in jeopardy;

THEREFORE, whereas the Board of Directors has determined it is in the best interests of the Tulare Local Healthcare District, dba Tulare Regional Medical Center, its creditors, bondholders, citizens, taxpayers, patients and employees and other interested parties that a petition be filed commencing a Chapter 9 bankruptcy under Title 11, United States Code.

RESOLVED that the form of the Petition for relief under Chapter 9, Title 11 of the United States Code, presented to this meeting is approved and adopted in all respects; and be it further

RESOLVED that Kevin B. Northcraft is hereby authorized and directed to execute and verify a petition for relief and to cause the same to be filed with the United States Bankruptcy Court for the Eastern District of California; and be it further

RESOLVED that Kevin B. Northcraft is authorized to execute and file all schedules, lists and other papers and to take any and all actions which they may deem necessary or proper in connection with proceedings under Chapter 9; and be it further

RESOLVED that the District retain and employ Walter Wilhelm Law Group and McCormick Barstow LLP as counsel for the District in these proceedings.

DATED: September 29, 2017



Kevin B. Northcraft, Chairperson

STATE of CALIFORNIA, COUNTY of TULARE, SEARCH WARRANT and AFFIDAVIT (AFFIDAVIT)

Your Affiant **Rodney Klassen** swears under oath that the facts expressed by him in the attached and incorporated **Statement of Probable Cause** are true and that based thereon he has probable cause to believe and does believe that the articles, property, and persons described below are lawfully seizable pursuant to Penal Code Section 1524 et seq., as indicated below, and are now located at the locations set forth below. Wherefore, Affiant requests that this Search Warrant be issued.


(Signature of Affiant)

ORDER TO SEAL REQUESTED: YES NO
NIGHT SEARCH REQUESTED: YES NO

(SEARCH WARRANT)

THE PEOPLE OF THE STATE OF CALIFORNIA TO ANY PEACE OFFICER IN THE COUNTY OF TULARE: proof by affidavit, having been this day made before me by **Peace Officer Rodney Klassen** that there is probable cause to believe that the property or person described herein may be found at the location(s) set forth herein and that it is lawfully seizable pursuant to Penal Code Section 1524 et seq., as indicated below by ""(s), in that:

- property was stolen or embezzled;
- property or things were used as the means of committing a felony;
- property or things are in the possession of any person with the intent to use them as a means of committing a public offense, or in the possession of another to whom he or she may have delivered them for the purpose of concealing them or preventing their being discovered;
- property or things to be seized consist of any item or constitute any evidence that tends to show a felony has been committed, or tends to show that a particular person has committed a felony;

You are Therefore **COMMANDED to SEARCH:** (premises, vehicles, persons)

The **Tulare Regional Medical Center** located at 869 N. Cherry Street, City of Tulare, County of Tulare, CA. This hospital is further described as a multi-story community hospital facility located at the northwest corner of the intersection of Cherry Street and Merritt Avenue in Tulare.

Service accepted via email: sormonde@tulareregional.org cc to Todd.Wynkoop@mccormickbarstow.com

For the **FOLLOWING PROPERTY, THING(s) or PERSON(s):**

Evidence of criminal activity related to this investigation described further in **Attachment A.**

AND TO SEIZE IT / THEM IF FOUND and bring it / them forthwith before me, or this court, at the courthouse of this court. This **Search Warrant** and **Affidavit** and attached and incorporated **Statement of Probable Cause** were sworn to as true and subscribed before me on this 23rd day of January, **2020**, at 2:56 **A.M. / P.M.** Wherefore, I find probable cause for the issuance of this Search Warrant and do issue it.


(Signature of Magistrate)

ORDER TO SEAL APPROVED: YES NO
NIGHT SEARCH APPROVED: YES NO

Judge of the Superior Court of California, County of Tulare

Nathan G. Leedy
(Magistrate's Printed Name)

Nathan G. Leedy



STATEMENT of PROBABLE CAUSE

TCDA BOI case 17-01-000407

Attachment A

Items to be searched for

Items to be searched for shall include, but not be limited to, evidence as it relates to this investigation and the allegations of embezzlement and misappropriation of funds and/or property, California Penal Code section 503 – 515, a felony; misappropriation of public funds, California Penal Code section 424(a)1, a felony; procure an unlawful loan, California Penal Code section 424(a)2, a felony; false account, entry, or erasure, California Penal Code section 424(a)3, a felony; fraudulently altering accounts, California Penal Code section 424(a)4, a felony; unlawful willful refusal to pay, California Penal Code section 424(a)5, a felony; unlawful willful refusal to transfer public funds, California Penal Code section 424(a)6, a felony; unlawful willful refusal to pay or transfer public funds to an officer, California Penal Code section 424(a)7, a felony; theft of money/property under false pretense, California Penal Code section 487(a), a felony; money laundering, California Penal Code section 186.10, a felony; conspiracy to defraud, California Penal Code section 182, a felony; filing false documents, California Penal Code section 115, a felony; conflict of interest GC 1090; knowingly present false documents for financial gain, California Penal Code section 532(a), a misdemeanor; knowingly influence a government decision for financial gain, Government Code section 87100, a misdemeanor.

Items to be searched for shall include:

The Tulare Local Healthcare District (TLHCD) shall provide to the investigating officer (Affiant) a complete and accurate copy of the following listed documents, to the extent that the requested documents come under the parameters of TLHCD's predetermined waiver of attorney/client privilege for any representation of TLHCD by the law firm of Baker Hostetler and/or any attorneys from this law firm who represented TLHCD in any capacity, including, but not limited to, Bruce Greene (communications include any and all communications involving the TLHCD board of directors or any third party and Baker

STATEMENT of PROBABLE CAUSE

TCDA BOI case 17-01-000407

1 Hostetler/Bruce Greene in their capacity as General Council representing
2 TLHCD):

3
4 1. Any records of the May 6, 2015, closed session meeting permitting Dr.
5 Benzeevi to hire General Counsel for the Board of Directors (Resolution
6 844).

7 2. Conflict of Interest Code, as required by GC 87300

8 a. Each conflict of interest Code in effect from May 1, 2014, through
9 December 30, 2017.

10 b. Any communications with Baker Hostetler regarding the conflict of
11 interest code.

12 c. Any communications with Baker Hostetler regarding the filling of
13 Form 700 by Dr. Benzeevi, Baker Hostetler, or Bruce Greene.

14 **NOTE:** Baker Hostetler invoices indicate research into this issue in
15 June of 2015 (Baker Hostetler billing invoice number 50123870,
16 invoice date July 24, 2015, pages 5-6).

17 3. Lawsuit vs. Dr. Betre VCU265230

18 a. Any documentation or communications regarding the Board of
19 Director's vote to fund the lawsuit on behalf of Dr. Benzeevi and Dr.
20 Kumar, including any documents or communications presented to
21 the Board to aid their decisions.

22 b. Any notes, records, or other documentation that indicate Dr.
23 Benzeevi was or was not present during the closed session
24 meeting.

25 c. Communications to the Board of Directors from Baker Hostetler,
26 regarding this lawsuit from March 25, 2016, to March 25, 2017.

27 d. Communications from Levinson, Arshonky & Kurtz to the District
28 regarding this lawsuit, including payments and debts owed for work
29 performed.

30 e. Any communications from Baker Hostetler, or Levinson, Arshonky,
31 & Kurtz regarding the payment of the appellate bond (\$78,000).

STATEMENT of PROBABLE CAUSE

TCDA BOI case 17-01-000407

- 1 f. Any closed session notes or other documentation regarding the
2 posting of the appellate bond on case VCU265230 provided to the
3 Board of Directors. If no record of Board of Director's approval
4 exists, we would like a certification that there is no record of the
5 Board of Directors approving this action.
- 6 4. Any documents presented to the Board regarding the loans made to
7 Southern Inyo Hospital District (SIHD) using Tulare Regional Medical
8 Center (TRMC) money.
 - 9 a. Any and all documents or communications from Baker Hostetler or
10 Bruce Greene relating to loans made to SIHD using TRMC funds.
- 11 5. Any documents relating to the Calculation of the HCCA management
12 fee/employee surcharge, by Bob Wolin, of Baker Hostetler, in 2017, as
13 referenced in the Baker Hostetler billing statements on February 20, 2017.
 - 14 a. All communications from Baker Hostetler relating to the calculation
15 of this fee.
- 16 6. Any and all documentation, notes or communications relating to the April,
17 2017, closed session presentation of the 2016 audit to the Board.
- 18 7. Any and all documents and/or communications regarding the June 20,
19 2017, meeting including any communications regarding the creation of the
20 agenda, conduct of the meeting and the writing of Resolution 852 by
21 Baker Hostetler.
- 22 8. Any and all documents and/or communications regarding debts due from
23 TRMC to Baker Hostetler from December 1, 2016, through December 1,
24 2017.
- 25 9. The July, 2017, memo sent to the Board of Directors prior to the July 26,
26 2017, meeting (Baker Hostetler billing invoice number 50408475, invoice
27 date August 9, 2017, page 6).
- 28 10. Any and all documents and/or communications with Baker Hostetler
29 regarding the election of Senovia Gutierrez and her status as a member of
30 the Board of Directors prior to December 1, 2017.

STATEMENT of PROBABLE CAUSE

TCDA BOI case 17-01-000407

- 1 11. Any and all documents and/or communications with Baker Hostetler, Dr.
2 Benzeevi, Alan Germany, and Claudia Razo regarding the agenda for the
3 July 26, 2017, Board of Directors meeting.
- 4 12. Any and all documents and/or communications from Baker Hostetler
5 regarding the Board of Directors meetings held on July 27, 2017, and
6 August 9, 2017.
- 7 13. Any and all documents and/or communications from Baker Hostetler and
8 Bruce Greene regarding the preparation and execution of Linda
9 Wilbourn's Resignation from the TLHCD Board of Directors on August 23,
10 2017.
- 11 14. Any and all documents and/or communications from Baker Hostetler and
12 Bruce Greene regarding the cancellation of the August 23rd, 2017, Board
13 of Directors meeting.
- 14 15. All communications from Baker Hostetler regarding the Celtic Leasing
15 transaction from June 1, 2017, through December 1, 2017.
 - 16 a. Any and all documents and/or communications from Baker
17 Hostetler regarding the Opinion Letter submitted to Celtic Leasing
18 from June 1, 2017, through December 1, 2017.
 - 19 b. A copy of the Celtic Leasing **Opinion Certificate** document signed
20 by Linda Wilbourn on the morning of August 23, 2017, prior to her
21 resignation going into effect.
 - 22 c. All communications with attorney Michael Allan regarding the
23 Opinion Letter submitted to Celtic Leasing and the election of
24 Senovia Gutierrez to the Board of Directors.
 - 25 d. Any communications from Baker Hostetler regarding payments to
26 them or others from the proceeds of the Celtic Leasing transaction.
- 27 16. Any and all documents and/or communications from Baker Hostetler
28 regarding promissory notes created by Dr. Benzeevi purporting to
29 document lending funds from HCCA to TRMC.
- 30 17. Any and all documents and/or communications from Baker Hostetler
31 relating to the Deed of Trust filed by HCCA on September 28, 2017.

STATEMENT of PROBABLE CAUSE

TCDA BOI case 17-01-000407

- 1 a. Any documents or claims provided by HCCA or Baker Hostetler
- 2 purporting to support the debt claimed on the Deed of Trust filed on
- 3 September 28, 2017.
- 4 18. All engagement letters with Baker Hostetler from January 1, 2014, through
- 5 December 1, 2017.
- 6 19. All conflict of interest waivers signed by the Board of Directors with Baker
- 7 Hostetler or Bruce Greene.
- 8 20. Documentation of any conflict of interest trainings provided by Baker
- 9 Hostetler to the Board of Directors from May 1, 2015 through October 1,
- 10 2017, and any and all working documents related to the preparation and
- 11 completion of the Tulare Local Healthcare District's Conflict of Interest
- 12 policy.
- 13 21. Detailed Accounts Receivable documents, whether reconciled or
- 14 unreconciled, for Southern Inyo District Hospital, to include:
- 15 a. Accounts Receivable for TRMC staff working at SIHD.
- 16 b. Accounts Receivable for TRMC management working at SIHD.
- 17 c. Accounts Receivable for supplies and equipment sent from TRMC
- 18 to SIHD.
- 19 d. Accounts Receivable for TRMC employee travel expense claims for
- 20 travel to SIHD.
- 21 22. Any and all documents and/or communications regarding the transaction
- 22 and/or negotiations for the transaction between the district or HCCA acting
- 23 on behalf of the district and Leasing Innovations Inc.
- 24 23. Any and all documents/Excel spreadsheets used for calculating the 30%
- 25 payroll premium payable to HCCA under the MSA contract. These Excel
- 26 spreadsheets are known to be used as supporting documents for journal
- 27 entries and it is known that there are two separate calculations for this
- 28 30% premium. One calculation includes a deduction of all employee
- 29 benefits and the second calculation includes only a deduction of statutory
- 30 benefits. This practice would have started in late 2016.
- 31

STATEMENT of PROBABLE CAUSE

TCDA BOI case 17-01-000407

1 The custodian of records shall provide a letter of certification to accompany
2 the requested documents to certify that they are true and accurate copies of the
3 original documents, to verify that they do not possess certain requested
4 documents and/or to verify that they do not wish to waive privilege on a particular
5 requested document.

6
7 The custodian of records is asked to provide requested documents in digital
8 PDF format wherever possible or in printed hard copy if the preferred format is
9 not available.

10
11 **Note:** In compliance with Penal Code Section 1524(c)(1) it is ordered that the
12 evidence turned over in response to this search warrant be turned over to the
13 appointed Special Master for review prior to being surrendered to the District
14 Attorney.

15
16
17 **End of Attachment A**

STATE of CALIFORNIA, COUNTY of TULARE,
Office of the District Attorney Bureau of Investigations
Order for Extension of Date for Return to Search Warrant

Search warrant Information:

DABOI Case **17-01-000407**, original search warrant reviewed and authorized by the Honorable **Nathan G. Leedy**, in Department **3** of the Tulare County Superior Court on _____, 2020.

Description of location to be searched:

The **Tulare Regional Medical Center** located at 869 N. Cherry Street, City of Tulare, County of Tulare, CA. This hospital is further described as a multi-story community hospital facility located at the northwest corner of the intersection of Cherry Street and Merritt Avenue in Tulare. Service accepted via email: sormonde@tulareregional.org cc to Todd.Wynkoop@mccormickbarstow.com


Addendum Application

Your Affiant, Rodney Klassen, swears under oath that the facts expressed by him in the following **Statement of Probable Cause** are true.

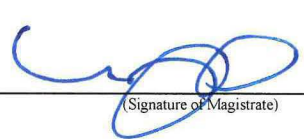
Due to the large volume of documents requested from the Tulare Local Healthcare District, it is highly unlikely that the District and its legal representation will be able to provide a response to this search warrant within the normal 10 day response time.

Based on the aforementioned facts, Your Affiant is asking for a **30** day extension to be granted to the existing search warrant, allowing enough time for the documents to be compiled and submitted by the Tulare Regional Medical Center.

I pray that the search warrant be amended based upon the above stated facts, for the seizure of said information, or articles thereof, between the hours of 7:00 A.M. and 10:00 P.M., good cause being shown thereof, and the same be brought before this magistrate pursuant to Section 1536 of the Penal Code.


(Signature of Affiant), 23 day of Jan, 2020, at 2:56 AM/PM

Good cause appearing from the Affidavit accompanying this order, the Court extends the date for Return to Search Warrant to **10th** day of **February**, 2020.


(Signature of Magistrate), 23rd day of Jan, 2020, at 2:56 AM/PM

Judge of the Superior Court of California, County of Tulare, Dept. 3.

NATHAN G. LEEDY
(Magistrate's Printed Name)



1 Michael J. Lampe #82199
Michael P. Smith #206927
2 LAW OFFICES OF MICHAEL J. LAMPE
108 West Center Avenue
3 Visalia, California 93291
Telephone (559) 738-5975
4 Facsimile (559) 738-5644
mjl@lampe-law.com

5 Attorneys for Plaintiff

Exempt from filing fees
Government Code §6103

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 IN AND FOR THE COUNTY OF KERN

11 TULARE LOCAL HEALTH CARE DISTRICT
12 dba Tulare Regional Medical Center, a Public
Agency

13 Plaintiff,

14 vs.

15 BRUCE R. GREENE; BAKER & HOSTETLER
16 LLP, a limited liability partnership; PARMOD
KUMAR, M.D., LINDA WILBOURN, RICHARD
17 TORREZ; and Does 1 through 50, inclusive,

18 Defendants.

Case No. BCV-19-103514

DECLARATION OF TERESA
JACQUES RE: MOTION TO
DETERMINE PRIVILEGE CLAIMS
ASSERTED UNDER CODE OF CIVIL
PROCEDURE §2031.285

Date: March 20, 2020
Time: 8:30 a.m.
Dept. 17

19
20 I, Teresa Jacques, declare:

- 21 1. I am the Interim Controller for Plaintiff Tulare Local Healthcare District ("the District").
22 2. District records reflect that between December 2, 2014, and September 25, 2017,
23 Defendant Baker & Hostetler LLP ("Baker") was paid \$3,388,642.15 for legal services provided
24 to the District. A true and correct summary of these payments is attached hereto as Exhibit 14.
25 3. District records reflect that no payments were made to Baker between April 14,
26 2017, and September 9, 2017.

27
28 DECLARATION OF TERESA JACQUES RE: MOTION
TO DETERMINE PRIVILEGE CLAIMS ASSERTED
UNDER CODE OF CIVIL PROCEDURE §2031.285

1 4. District records reflect that on July 31, 2017, the District had an unpaid balance with
2 the Baker firm in the amount of \$814,386.00.

3 5. On August 31, 2017, the Celtic Leasing transaction closed with a \$3 million wire
4 transfer to Tulare Asset Management, LLC, a California limited liability company owned by
5 Benzeevi. A true and correct copy of the incoming wire transfer is attached hereto as Exhibit 15.

6 6. On September 11, 2017, Baker was paid \$499,727.93 from the proceeds of the
7 Celtic Leasing transaction. A true and correct copy of the check paid to Baker is attached hereto
8 as Exhibit 16.

9 7. The foregoing statements are within my personal knowledge and, if sworn as a
10 witness, I can testify completely thereto.

11 8. I declare under penalty of perjury under the laws of the State of California that the
12 foregoing is true and correct.

13
14
15
16 Dated: February 17, 2020


TERESA JACQUES

BAKER HOSTETLER PAYMENTS FROM 12/2014-9/2017

EXHIBIT

14

exhibitsticker.com

Check #	Check Date	Cleared Date	Amount Paid
33247	12/02/14	12/15/2014	\$ 40,080.50
33492	12/29/14	1/16/2015	\$ 88,970.11
33758	01/16/15	1/28/2015	\$ 25,072.00
33839	02/02/15	2/9/2015	\$ 27,115.00
34483	03/20/15	3/25/2015	\$ 28,636.01
34805	02/16/15	4/12/2015	\$ 14,898.80
35967	03/13/15	5/13/2015	\$ 18,406.48
36307	04/10/15	6/16/2015	\$ 9,251.06
36627	06/12/15	6/17/2015	\$ 5,655.00
38142	09/16/15	9/21/2015	\$ 52,861.37
38324	09/28/15	10/5/2015	\$ 438,874.12
39607	12/09/15	1/5/2016	\$ 124,789.38
40068	01/27/16	2/1/2016	\$ 203,036.64
ACH 1126	02/04/16	2/4/2016	\$ 35,000.00
40891	03/14/16	3/9/2016	\$ 34,925.53
41038	03/11/16	3/17/2016	\$ 70,464.33
41446	04/06/16	4/12/2016	\$ 76,718.52
42001	05/05/16	5/10/2016	\$ 102,278.57
42810	06/20/16	6/27/2016	\$ 47,662.10
42926	06/24/16	7/6/2016	\$ 24,417.80
43361	07/22/16	8/1/2016	\$ 29,373.31
43548	07/28/16	8/5/2016	\$ 228,748.03
44094	08/30/16	5/13/2016	\$ 142,592.81
44351	09/29/16	10/5/2016	\$ 487,099.95
1290	12/28/16	12/28/2016	\$ 104,600.53
46468	02/27/17	3/10/2017	\$ 154,317.37
46735	03/16/17	3/29/2017	\$ 106,179.91
46843	03/22/17	3/29/2017	\$ 8,500.00
ACH1604	04/04/17	4/4/2017	\$ 59,774.44
1350	04/13/17	4/13/2017	\$ 59,969.55
1400	09/10/17	9/13/2017	\$ 499,727.93
Cashiers	09/14/17	9/14/2017	\$ 10,000.00
1402	09/18/17	9/18/2017	\$ 10,000.00
1403	09/18/17	9/18/2017	\$ 5,000.00
1405	09/25/17	9/25/2017	\$ 13,645.00
Total Baker Hostetler			\$ 3,388,642.15

Details for TULARE ASSET MGMT (...5915)

Present Balance	\$23,556.73	Uncollected funds - Total	\$0.00
Available Balance	\$23,556.73		
Available Credit	\$0.00		
Available Plus Credit	\$23,556.73		

See full account number



Transaction Results (1 - 16) for TULARE ASSET MGMT (...5915)

[View checks by check number](#) | [Search Transactions](#)



Date	Type	Description	Debit	Credit	Balance
09/13/2017	Misc. Debit	TRANSFER TO CHK XXXXXX8699	\$2,400,000.00		\$23,556.73
09/11/2017	Misc. Debit	CHECK # (view)	\$499,727.93		\$2,423,556.73
09/07/2017	Outgoing Wire Transfer	DOMESTIC WIRE TRANSFER VIA: BK SIERRA PORTE R/121137027 A/C: TULARE REGIONAL MEDICAL CENTER REF: LI IMAD: 0907B1QGC08C025078 TRN: 5190400250ES 09/07	\$133,526.38		\$2,923,284.66
08/31/2017	Incoming Wire Transfer	FEDWIRE CREDIT VIA: MB FINANCIAL BANK, N.A./071001737 B/O: CELTIC LEASING CORP IRVINE CA 92614-8511 REF: CHASE NYC/CTR/BNF=TULARE ASSET MANAGEMENT, LLC VISALIA, CA 932919046/A C-000000008981 RFB=TULARE LOCAL HEA OBI=CONVENIENCE FUNDING OF ITEMS 1 -77 ATTN: ACCOUNTS RECEIVABLE CML-3 826A01- TULARE LOCAL HE IMAD: 0831G1QFB23C000985 TRN: 6180909243FF		\$3,000,000.00	\$3,056,811.04

06-Dec-17

06Dec17-1288

THIS ITEM IS PART OF A LEGAL STATEMENT RECONSTRUCTION
GROUP ID G06Dec17-1288

Sequence number 004790375877 Posting date 13-Sep-17 Amount 499727.93

	JPMorgan Chase Bank, N.A.	0 9 1 0 2 0 1 7 DATE M M C D Y Y Y Y	1400
Pay To: Baker&Hosteler			
Amount:	FOUR HUNDRED NINETY NINE THOUSAND SEVEN HUNDRED TWENTY SEVEN AND 00/100**		
	Void after 90 days		
Memo:	<p style="font-size: x-small;">HCCA Loan to TRAC to cover TRAC's... 583(14453,14450,23541,24012,24011,25558,24012) 00 09,24008,34079,34080,34081,34082,34079,34083,34110 0,34101,34083,34084,34040,45039,48037,48038,48043 34484,35463,53117,60884)</p>		
	13222746274	550578897*	499727934

DDA 000354931000237 Lbx 0070189 CLE Batch 0670527 Seq 000008 Date 20170913

<p>PLEASE SIGNATURE HERE</p> <p>FOR DEPOSIT ONLY - NOT FOR CASH DEPOSIT ONLY - NOT FOR CASH DEPOSIT ONLY - NOT FOR CASH</p>	<p>CREDIT TO DDA BILLING ACCOUNT ENDORSEMENT GUARANTEED FRANK LA NATIONAL ASSOCIATION 0070189>000354931000237<CLE</p>	<p>PROCEED WITH CAUTION</p> <p>FOR DEPOSIT ONLY - NOT FOR CASH DEPOSIT ONLY - NOT FOR CASH DEPOSIT ONLY - NOT FOR CASH</p>
---	--	--

1 Michael J. Lampe #82199
Michael P. Smith #206927
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5 Attorneys for Plaintiff

Exempt from filing fees
Government Code §6103

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 IN AND FOR THE COUNTY OF KERN

11 TULARE LOCAL HEALTH CARE DISTRICT
12 *dba* Tulare Regional Medical Center, a Public
Agency

13 Plaintiff,

14 vs.

15 BRUCE R. GREENE; BAKER & HOSTETLER
16 LLP, a limited liability partnership; PARMOD
KUMAR, M.D., LINDA WILBOURN, RICHARD
17 TORREZ; and Does 1 through 50, inclusive,

18 Defendants.

Case No. BCV-19-103514

MEET AND CONFER DECLARATION
OF MICHAEL J. LAMPE RE: MOTION
TO DETERMINE PRIVILEGE CLAIMS
ASSERTED UNDER CODE OF CIVIL
PROCEDURE §2031.285

Date: March 20, 2020
Time: 8:30 a.m.
Dept. 17

19
20 I, Michael J. Lampe, declare:

21 1. I am counsel of record in this matter for Plaintiff Tulare Local Healthcare District (“the
22 District”).

23 2. On January 22, 2020, counsel for Defendants Bruce R. Greene (“Greene”) and
24 Baker & Hostetler LLP (“Baker”) took the deposition of District Board member Senovia Gutierrez.

25 3. During the Gutierrez deposition, Baker’s counsel produced Exhibits 14 and 14(A)
26 (filed under seal herewith).

27
28 MEET AND CONFER DECLARATION OF MICHAEL J.
LAMPE RE: MOTION TO DETERMINE PRIVILEGE
CLAIMS ASSERTED UNDER CODE OF CIVIL
PROCEDURE §2031.285

1 4. After Exhibits 14 and 14(A) were marked, Baker's counsel asked to claw both
2 exhibits back. The parties agreed to meet and confer regarding the request.

3 5. On January 28, 2020, I received written notification from counsel that Baker intended
4 to claw these exhibits back under the provisions of Code of Civil Procedure §2031.285. A true
5 and correct copy of this correspondence is attached hereto as Exhibit 17.

6 6. Later that day, I responded to Baker's claw back demand on behalf of the District.
7 A true and correct copy of this response is attached hereto as Exhibit 18 (with attached exhibits).


8 7. On February 11, 2020, Geoffrey Macbride and I discussed various discovery issues
9 by telephone. I requested by telephone that Mr. Macbride let me know if Baker intended to stand
10 on its privilege claims with respect to Exhibits 14 and 14(A), as my office would need to begin
11 preparing a motion under Code of Civil Procedure §2031.285(d)(1). Mr. Macbride responded later
12 that day by email that Baker would stand on its privilege claims. A true and correct copy of Mr.
13 Macbride's email is attached hereto as Exhibit 19.

14 8. On November 1, 2019, Baker belatedly provided the District with 103 documents
15 relating to the Celtic Loan transaction. One of the documents produced is an email from Greene
16 to Alan Germany, the District's former CFO, demanding payment from the Celtic Loan proceeds.
17 A true and correct copy of this email is attached hereto as Exhibit 20.

18 9. The foregoing statements are within my personal knowledge and, if sworn as a
19 witness, I can testify completely thereto.

20 10. I declare under penalty of perjury under the laws of the State of California that the
21 foregoing is true and correct.

22
23
24
25 Dated: February 17, 2020



MICHAEL J. LAMPE

26
27
28 MEET AND CONFER DECLARATION OF MICHAEL J.
LAMPE RE: MOTION TO DETERMINE PRIVILEGE
CLAIMS ASSERTED UNDER CODE OF CIVIL
PROCEDURE §2031.285



MURPHY PEARSON
BRADLEY & FEENEY

A Professional Corporation

WWW.MPBF.COM

EXHIBIT

17

exhibitsticker.com

88 Kearny Street, Suite 1000
San Francisco, CA 94108
Telephone 415-788-1900
Facsimile 415-393-8087

January 28, 2020

Sent via Email and U.S. Mail

Michael J. Lampe
Law Office of Michael J. Lampe
108 West Center Avenue
Visalia, California 93291
Email: mjl@lampe-law.com

Dirk B. Paloutzian
Baker Manock & Jensen, PC
Peter G. Fashing
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Sean T. O'Rourke
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Thomas P. Feher
LeBeau Thelen
5001 E. Commercenter Drive, Suite 300
P.O. Box 12092
Bakersfield, CA 93389-2092
Email: tfeher@lebeauthelen.com

Re: Tulare Local v. Greene
Our File No.: XBHZ.119108.1

To Whom It May Concern:

I write to clawback the privileged portion of Exhibits 14 and 14a that were inadvertently produced at the deposition of Senovia Gutierrez, taken on January 22, 2020. For Exhibit 14, the

privileged portion of the exhibit are all emails in the chain other than the email sent on July 21, 2017 at 5:27 p.m. from Kevin Northcraft to Benny Benzeevi and Linda Wilbourn. For Exhibit 14a, the privileged portion of the exhibit is all emails except for the email sent on July 21, 2017 at 5:27 p.m. from Mr. Northcraft to Dr. Benzeevi and Ms. Wilbourn. The privileged portion of Exhibit 14 and 14a are collectively referred to as the “Privileged Communications”. These emails are attorney-client communications between Mr. Benzeevi and Bruce Greene or Lucas Paule. They are also Mr. Greene or Mr. Paule’s work product. The depositions focused on the non-privileged portions of the Privileged Communications and redaction of the privileged portions of the email will not require a change in the deposition transcript.

Production of the Privileged Communications at the deposition was inadvertent and did not constitute a waiver of either the attorney-client privilege or the protections provided by the work product doctrine. The communications are subject to the attorney-client communication privilege because they are confidential communications between a client and his attorney; in this case Dr. Benzeevi and Mr. Greene or Mr. Paule. (Evid. Code §§ 952, 954.)

Waiver of a privilege occurs when the holder of a privilege, without coercion, discloses a significant part of the communication or has consented to such disclosure. (Evid. Code § 912; *State Compensation Ins. Fund v. WPS, Inc.* (1999) 70 Cal.App.4th 644, 652.) A privilege can only be waived by the holder of the privilege. (*Id.*) The client is the holder of the attorney-client privilege. (Evid. Code § 953.) In regard to the clawed back emails, Dr. Benzeevi holds the privilege. He neither disclosed these communications nor consented to their disclosure. As such, a waiver did not occur and the emails remain privileged.

The emails are also Mr. Greene and Mr. Paule’s work product and are absolutely protected by the work product doctrine. (Code Civ. Proc. § 2018.030(a).) Writings that reflect an attorney’s impressions, conclusions, opinions, or legal research are not discoverable under any circumstances. (*Id.*) The Privileged Communications are absolutely protected because they contain Mr. Greene and Mr. Paule’s impressions, conclusions, and opinions.

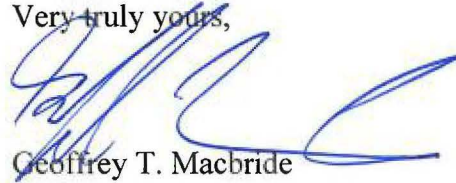
The attorney is the holder of work product protection. (*State Comp. Ins. Fund v. Superior Court* (2001) 91 Cal.App.4th 1080, 1091.) While there is no statutory codification of what constitutes waiver of work product protection, courts have applied the waiver doctrine applicable to the attorney-client privilege. (*Wells Fargo Bank, N.A. v. Superior Court* (2000) 22 Cal.4th 201, 2014.) The inadvertent disclosure by the holder’s attorney of documents protected by the work product doctrine does not constitute a waiver. (*State Comp. Ins. Fund v. WPS, Inc.* (1999) 70 Cal.App.4th 644, 654.) In this case, the inadvertent disclosure by an attorney at the deposition did not constitute a waiver.

Additionally, please consider this notice that the Privileged Communications have been clawed back pursuant to Code of Civil Procedure, section 2031.285 on the grounds they are protected by the attorney-client privilege and the work product doctrine as discussed above.

Michael J. Lampe
Tulare Local v. Greene
January 28, 2020
Page 3

I have attached redacted portions of Exhibit 14 and 14a which I will ask the reporter to substitute for the unredacted exhibits currently in the reporter's possession. Please destroy or return any unredacted copy of Exhibit 14 or 14a you may have.

Very truly yours,



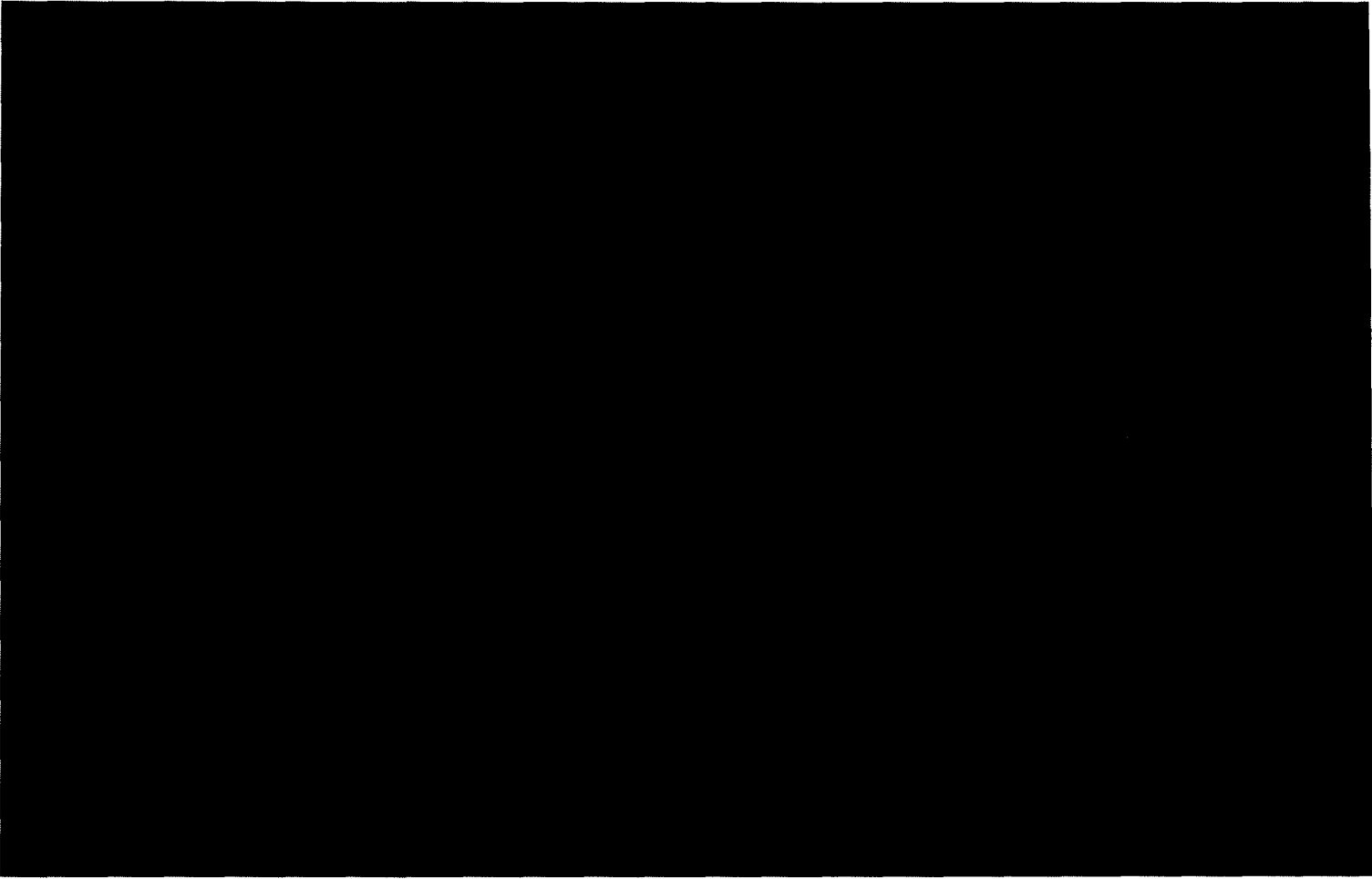
Geoffrey T. Macbride

Encl.

GTM.3652532.docx

REDACTED

Exhibit 14
Senovia Gutierrez
01-22-20
Dawn Thompson, CSR# 7517



Date: July 21, 2017 at 5:27:05 PM PDT

To: benny@healthcca.com, linda.wilbourn@comcast.net

Subject: new board member

Based on the certification today of the July 11 election, Senovia Gutierrez will be sworn in prior to the July 26 regular meeting and be in office.

If the meeting is held, please provide her the packet for 7/26 meeting. She can be reached at 559-553-5199, email senovia@live.com.

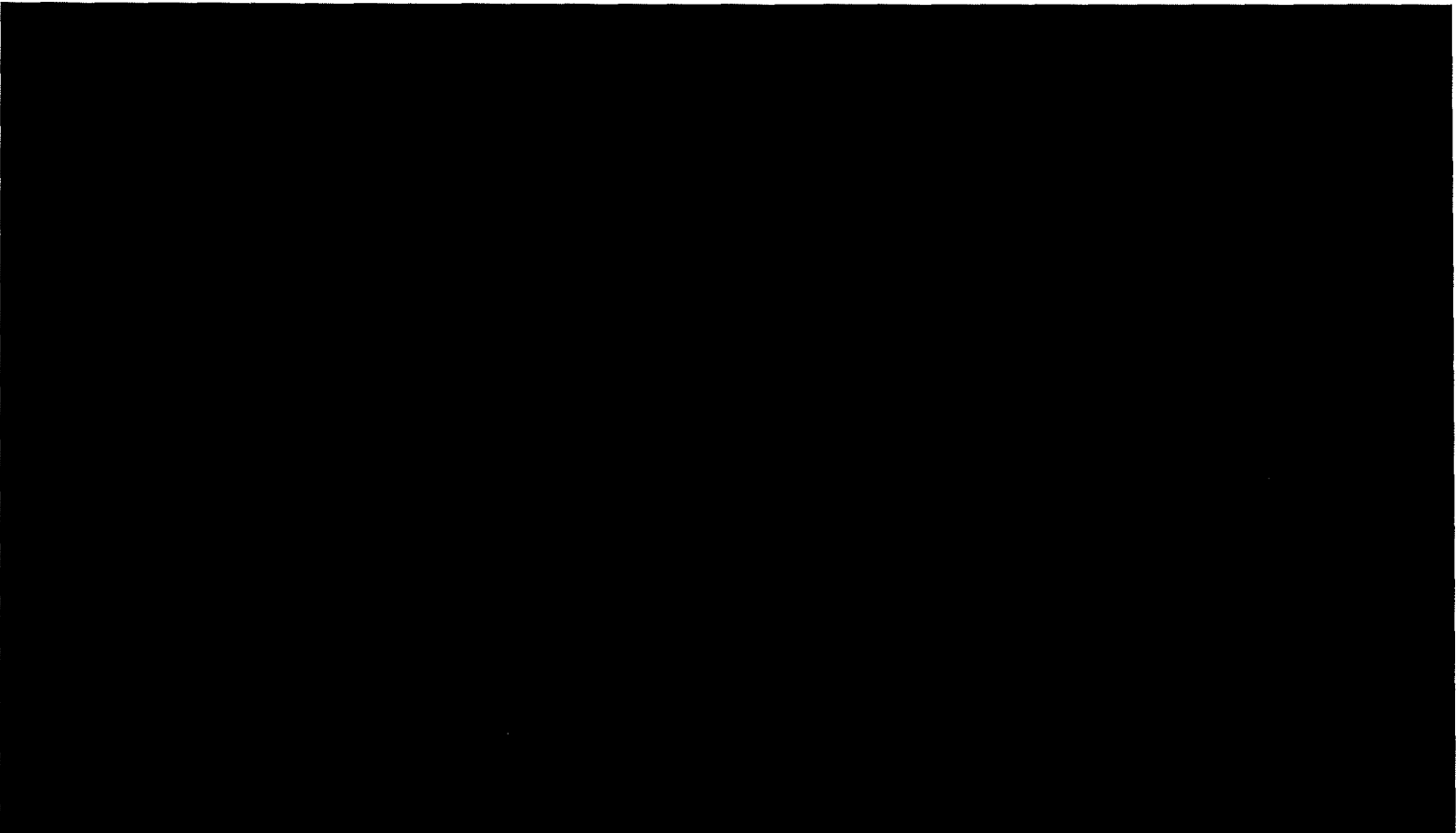
The July 26 agenda also should include an item to declare the results of the special election of July 11, 2017.

Thank you.

kevin northcraft

REDACTED

Exhibit 14A
Senovia Gutierrez
01-22-20
Dawn Thompson, CSR# 7517



From: northee@aol.com
Date: July 21, 2017 at 5:27:05 PM PDT
To: benny@hcahcca.com, linda.wilbourn@comcast.net
Subject: new board member

Based on the certification today of the July 11 election, Senovia Gutierrez will be sworn in prior to the July 26 regular meeting and be in office.

If the meeting is held, please provide her the packet for 7/26 meeting. She can be reached at 559-553-5199, email senovia@live.com.

The July 26 agenda also should include an item to declare the results of the special election of July 11, 2017.

Thank you.

kevin northcraft

(6)

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MICHAEL J. LAMPE
MICHAEL P. SMITH

VIA EMAIL

January 28, 2020

Geoffrey T. Macbride
James A. Murphy
Murphy Pearson Bradley & Feeney
88 Kearny Street, 10th Floor
San Francisco, California 94108

Re: Meet and Confer re: Baker Hostetler Clawback Request

Gentlemen:

Reference is made to Mr. Macbride's correspondence of today's date. Before addressing what I believe to be the untenable arguments advanced for the return of Exhibits 14 and 14(A) to the Gutierrez deposition, I would like to discuss what we believe to be the continuing failure of Baker Hostetler to comply with Rule 1.16(e)(1) of the California Rules of Professional Conduct.

History of Baker's Failure to Produce Client Documents:

On October 17, 2019, I advised Mr. Murphy in writing of the District's concern that Baker was withholding client records belonging to the District. (Exhibit 1)

On October 18, Mr. Murphy advised that he would discuss the District's concern with Tom Lucchesi, adding "... I was also told everything had been turned over." (Exhibit 2)

On October 28, Mr. Murphy reversed himself, and advised that documents relating to the Celtic Leasing transaction had not been produced, offering the following explanation:

“[T]he Celtic leasing documents are being accumulated and will be produced. These were initially deemed to be Benzeevi files, but upon reflection, we agree that they are properly considered part of the District’s client file.”
(Exhibit 3)

On November 1, Baker produced 103 separate documents relating to the Celtic Loan transaction, which closed more than two years earlier, on August 31, 2017. Neither your office nor the Baker firm have explained how Baker lawyers could possibly have concluded that a transaction involving the sale of \$3 million in *District* assets (of which over \$500,000 was later transferred to Baker) could possibly have been deemed to be a *Benzeevi* file, and therefore subject to the attorney-client privilege existing between Baker and Benzeevi.

On November 5, after reviewing the Celtic Loan documents, the District learned of other transactions that Benzeevi and Baker lawyers were pursuing, resulting in another request for the production of client files. (Exhibit 4)

On November 26, in response to my correspondence of November 5, Baker produced another 1,484 documents that belonged to the District. (Exhibit 5) These documents, as was the case with the Celtic documents, were client files that should have been delivered to the District more than two years prior to the actual production date.

As of the date of this correspondence, the District has not been furnished with a significant number of emails that can be discerned through Baker billing records. Two of these emails appear to be Exhibits 14 and 14(A), which Baker now seeks to recall.

The District has reluctantly concluded that Baker is intentionally withholding evidence in this case, and for the reasons set forth herein, cannot accede to the clawback demand of today’s date.

Work Product Contention:

Baker argues that the email communication between Bruce Greene and Lucas Paule contained in Exhibit 14 is protected by the attorney work product doctrine. There are many reasons why this contention is not well taken, the two most important of which are as follows:

(1) No Work Product Protection in Official Law Enforcement Investigation:

Pursuant to Code of Civil Procedure §2018.050, when a lawyer is suspected of knowingly participating in a crime or fraud, there is no protection of work product "... in any official investigation by a law enforcement agency or proceeding or action brought by a public prosecutor in the name of the people of the State of California if the services of the lawyer were sought or obtained to enable or aid anyone to commit or plan to commit a crime or fraud."

As you know, the Tulare County District Attorney is currently investigating the Celtic Loan transaction, as well as other transactions, which could not have been accomplished without the active assistance of Baker lawyers. Last week the District was served with a search warrant seeking documents in the District's possession, including communications with Bruce Greene and Baker Hostetler. (Exhibit 6) In our judgment, Exhibits 14 and 14(A), which Baker is now trying to remove from the record, are responsive to this search warrant, which the District has a legal obligation to comply with.

(2) No Work Product Protection in Action Between Attorney and Client Involving Attorney's Breach of Duty:

Code of Civil Procedure §2018.080 provides:

"In an action between an attorney and a client or a former client of the attorney, no work product privilege under this chapter exists if the work product is relevant to an issue of breach by the attorney of a duty to the client arising out of the attorney-client relationship."

The communication between Attorneys Greene and Paule goes to the heart of the District's case against Greene and the Baker firm. It directly speaks to both the alleged breach of fiduciary duty as well as the cause of action for professional negligence. For this reason, the work product privilege cannot be used by Baker to shield its wrongful conduct.

Attorney-Client Privilege:

Baker's contention that Exhibits 14 and 14(A) belong to Benzeevi, as opposed to the District, has no merit.

Exhibit 14(A), for example, is an email from the *District's general counsel* (Greene) to the *District's CEO* (Benzeevi), relating to a new *District Board member*. This email has nothing to do with Benzeevi individually or HCCA. Baker's contention that these emails belong to Benzeevi, as opposed to the District, is as flawed as Baker's earlier determination that the 1,587 documents produced last November belonged to Benzeevi.

January 28, 2020
Geoffrey T. Macbride
James A. Murphy
Murphy Pearson Bradley & Feeney
Page 4

Inapplicability of §2031.285 - Waiver:

The final issue to be addressed is Mr. Macbride's notice that Baker is attempting to claw back Exhibits 14 and 14(A) under the Electronically Stored Information (*ESI*) provisions of Code of Civil Procedure §2031.285. We believe that this notice is inappropriate, as both exhibits consist of a single page, voluntarily produced by your office at Ms. Gutierrez's deposition. These documents were not part of an ESI production where two single pages were inadvertently included in an electronic dump of information.

By invoking §2031.285, Baker seeks to place the burden on our office to file a motion with the court, in a limited time frame, to retain possession of two emails that in our view are clearly District property. This frankly strikes me as an abuse of the Discovery Act, and I would request that your office withdraw its claim that §2031.285 applies in this case.

I prefer not to engage in discovery battles, but we believe for the reasons set forth herein that Exhibits 14 and 14(A) must remain available to the District for use in this case.

I am available to discuss this by telephone if either of you think that will be helpful. Absent a change in Baker's position, or written confirmation from your office that Baker will withdraw its ESI clawback demand and pursue its own motion, it is my intention to begin preparing the District's motion to contest the legitimacy of Baker's privilege claims. Unfortunately, under the circumstances presented here, if we are forced to file this motion we will ask the court to award sanctions.

If you have any questions regarding the contents of this correspondence, please do not hesitate to contact my office.

Sincerely,

MICHAEL J. LAMPE
MJL/ml
cc: client
all counsel

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MICHAEL J. LAMPE
MICHAEL P. SMITH

VIA EMAIL

October 17, 2019

James A. Murphy
Murphy Pearson Bradley & Feeney
88 Kearny Street, 10th Floor
San Francisco, California 94108
jmurphy@mpbf.com

Re: Tulare Local Health Care District v. Bruce R. Greene, *et al.*
Tulare County Superior Court case no. 278333

Dear Mr. Murphy:

As you know from the mediation brief electronically served upon your office on October 10, the District contends that your clients continue to breach their fiduciary duty to the District by withholding "client materials and property" in violation of Rule 1.16(e)(1) of the California Rules of Professional Conduct. Rule 1.16(e)(1) provides that upon the termination of representation:

"... subject to any applicable protective order, non-disclosure agreement, statute or regulation, the lawyer promptly shall release to the client, at the request of the client, all client materials and property. 'Client materials and property' includes correspondence, pleadings, deposition transcripts, experts' reports and other writings, exhibits, and physical evidence, whether in tangible, electronic or other form, and other items reasonably necessary to the client's representation, whether the client has paid for them or not."



October 17, 2019
James A. Murphy
Murphy Pearson Bradley & Feeney
Page 2

Beginning in July of 2017, multiple requests were made by the McCormick Barstow firm for Baker Hostetler to turn over all District files, as required under then operative Rule 3-700 of the Rules of Professional Conduct. Baker Hostetler refused to deliver any files until long after the District's Board of Directors had terminated Baker Hostetler, at which time approximately 20 boxes of documents were delivered to the McCormick Barstow firm.

These 20 boxes contain 3,660 separate documents. A review of these records reflect that hundreds, perhaps thousands, of District-related documents are missing. There do not appear, for example, to be any records relating to the Celtic loan transaction, which generated the \$499,727 payment from HCCA to the Baker Hostetler law firm.

Additionally, there are hundreds of emails between Baker Hostetler lawyers and various individuals that can be identified through billing records that have not been produced.

On August 24, 2017, the McCormick firm sent a Demand for Preservation of Records to Bruce Greene and John F. Cermak, Jr., the managing partner at Baker Hostetler. We assume that Baker Hostetler lawyers have preserved all District records pursuant to this request.

Please advise my office by Monday, October 21, 2019, as to when Baker Hostetler will be in a position to produce all District records.

If Baker Hostetler contends that some District records are properly withheld pursuant to a protective order or non-disclosure agreement, please provide copies of the protective orders or non-disclosure agreements that Baker Hostetler relies upon.

If Baker Hostetler contends that some District records are properly withheld pursuant to a statute or regulation, please provide citations to the statutes or regulations upon which Baker Hostetler relies.

If you have any questions regarding the contents of this correspondence, please do not hesitate to contact my office.

Sincerely,

MICHAEL J. LAMPE
MJL/ml
cc: client

Michael Lampe

From: James Murphy <JMurphy@MPBF.com>
Sent: Friday, October 18, 2019 6:16 AM
To: Michael J. Lampe
Cc: Harlan Watkins
Subject: Re: Demand for Client Files

Mike I am out of state but will be discussing this with Tom Lucchesi today and will have a response on Monday. If files have not been produced I recognize our obligation but I was also told everything had been turned over. I will get to the bottom of this. Jim

On: 17 October 2019 14:48,
"Michael J. Lampe" <mjl@lampe-law.com> wrote:

Jim:

Please see the attached correspondence.

mjl

www.lampe-law.com

Michael J. Lampe
Law Offices of Michael J. Lampe
108 West Center Avenue
Visalia, California 93291
Telephone: 559-738-5975
Facsimile: 559-738-5644
mjl@lampe-law.com

This message is intended for the individual or entity to whom it is addressed and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If you are not the intended recipient of this message you are hereby notified that any use, dissemination, distribution or copying of this communication is strictly prohibited. If you have received this message in error, please notify us immediately by replying to this message, "Received in Error," in the subject heading and then delete the message from your system. Thank you.





MURPHY PEARSON
BRADLEY & FEENEY

WWW.MPBF.COM

A Professional Corporation

88 Kearny Street, Suite 1000
San Francisco, CA 94108
Telephone 415-788-1900
Facsimile 415-393-8087

October 28, 2019

Michael J. Lampe
Law Offices of Michael J. Lampe
108 West Center Avenue
Visalia, CA 93291

Re: *Tulare Local v. Greene*
Our File No.: XBHZ.119108.1

Dear Mr. Lampe:

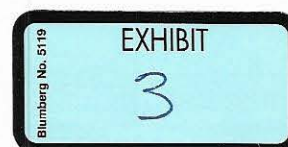
At your request, we have reviewed our prior production to determine whether all District client files were delivered to the District pursuant to its request.

We will be forwarding the Celtic Leasing documents that are District client files to which it is entitled. Let me explain how the District's files were accumulated and reviewed for delivery to McCormick Barstow.

First, keep in mind that, contemporaneous with the District's prior request for its file, Dr. Benzeevi and his related entities had also requested a return of their attorney-client files. In accumulating the documents for delivery to the respective clients, it was imperative under the Business & Professions Code to determine which files belonged to the District and which files belonged to the Benzeevi entities in order to protect the attorney-client privilege held by the District as well as the attorney-client privilege held by the Benzeevi entities. In this regard, all legal services performed prior to the date of the District's engagement of the firm were not deemed part of the District's client files and were not produced.

After the date on which Baker Hostetler became counsel to the District, any and all communications between the firm and the Board, as well as matters related to Tulare board resolutions, were considered part of the District's client files and were produced. Any documentation regarding legal matters performed directly for the District were also turned over as part of the District's client files.

Of the two categories of materials you identified, the Celtic Leasing documents are being accumulated and will be produced. These were initially deemed to be Benzeevi files, but upon reflection, we agree that they are properly considered part of the District's client file. You have



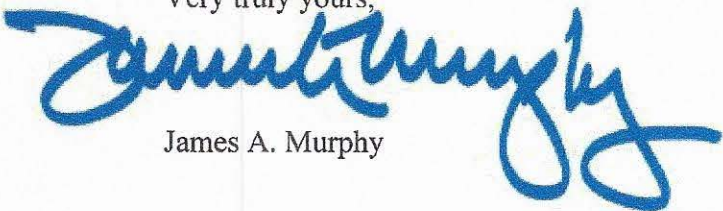
Michael J. Lampe
Tulare Local v. Greene
October 28, 2019
Page 2

also complained that certain email communications were improperly withheld from the production. It was always Baker's intent to produce to the District its client files. Although, we believe that all such correspondence has been provided, if you would identify specific billing entries or emails purportedly not produced, we will undertake a further review to determine whether those emails are part of the client's file and whether or not they have been produced.

Baker Hostetler takes its responsibility to turn over client files at the client's request very seriously and we are endeavoring to discharge that responsibility. However, the firm also further recognizes its responsibility to keep inviolate the confidences of other former clients as required by Business & Professions Code § 6068(e). I trust you do as well.

Thank you for your anticipated cooperation in working through these matters. If you have any questions or wish to discuss further, please do not hesitate to contact me.

Very truly yours,



James A. Murphy

JAM.3571770

cc: Thomas R. Lucchesi, Esq.

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Visalia, California 93291
Telephone 559.738.5975
Facsimile 559.738.5644
www.lampe-law.com

MICHAEL J. LAMPE
MICHAEL P. SMITH

VIA EMAIL

November 5, 2019

James A. Murphy
Murphy Pearson Bradley & Feeney
88 Kearny Street, 10th Floor
San Francisco, California 94108
jmurphy@mpbf.com

Re: Client Files - Tulare Local Healthcare District

Dear Mr. Murphy:

I am writing this letter regarding what we believe to be the continued failure of Baker Hostetler to produce client files belonging to Tulare Local Healthcare District (*the District*).

On October 17 I made a formal demand that all District files be delivered to my office. This demand followed previous demands from the McCormick Barstow law firm, and requested the following clarification regarding any potential bases for Baker Hostetler withholding documents pursuant to Rule 1.16(e)(1) of the Rules of Professional Conduct:

"If Baker Hostetler contends that some District records are properly withheld pursuant to a protective order or non-disclosure agreement, please provide copies of the protective orders or non-disclosure agreements that Baker Hostetler relies upon.



If Baker Hostetler contends that some District records are properly withheld pursuant to a statute or regulation, please provide citations to the statutes or regulations upon which Baker Hostetler relies.”

As of the date of this correspondence, Baker Hostetler has not identified any protective order, non-disclosure agreement, statute, or regulation which might justify the withholding of client records.

On October 18, you replied to my demand with the following email:

“Mike I am out of state but will be discussing this with Tom Lucchesi today and will have a response on Monday. If files have not been produced I recognize our obligation but I was also told everything had been turned over. I will get to the bottom of this. Jim”

On November 1, you forwarded to my office 103 separate documents relating to the Celtic Leasing transaction. While I do appreciate receiving these documents, I am troubled by the explanation for the delayed production. As articulated in your correspondence dated October 28:

“Of the two categories of materials you identified, the Celtic Leasing documents are being accumulated and will be produced. These were initially deemed to be Benzeevi files, but upon reflection, we agree that they are properly considered part of the District’s client file.”

The Celtic transaction closed on August 31, 2017, resulting in the sale of \$3 million in District assets. The contention that Baker Hostetler initially deemed the Celtic Leasing documentation to belong to Dr. Benzeevi is simply not credible.

Be that as it may, there are six additional categories of documents that I would like for Baker Hostetler to immediately search for and produce:

1. Any “writings” (including emails), as defined in Evidence Code §250, between any member of the Baker Hostetler law firm and Attorney Michael L. Allan that in any way address issues relating to alleged violations of the Brown Act by District Board members, the 2017 Special Recall Election, or other matters involving the District.
2. Any “writings” (including emails), as defined in Evidence Code §250, between any member of the Baker Hostetler law firm and Attorney Cary Davidson that in any way address issues relating to alleged violations of the Brown Act by District Board members, the 2017 Special Recall Election, or other matters involving the District.

3. Any "writings" (including emails), as defined in Evidence Code §250, between any member of the Baker Hostetler law firm and any member of the Nossaman law firm that in any way address issues relating to District affairs including, but not limited to, the defense of various legal actions commenced against the District.
4. Any "writings" (including emails), as defined in Evidence Code §250, between any member of the Baker Hostetler law firm and any member of the Orrick, Herrington & Sutcliffe law firm that in any way address issues relating to the Writ of Mandate proceeding commenced by the Tulare County District Attorney's Office in September of 2017.
5. Any "writings" (including emails), as defined in Evidence Code §250, between any member of the Baker Hostetler law firm and any individual or entity with regard to the "Leasing Innovations" transaction (or proposed transaction) identified in emails between Bruce Greene, Benny Benzeevi and Alan Germany.
6. Any "writings" (including emails), as defined in Evidence Code §250, between any member of the Baker Hostetler law firm and any individual or entity with regard to the "MedEquities Realty Trust" transaction (or proposed transaction) identified in emails between Bruce Greene, Benny Benzeevi and Alan Germany.

With respect to the significant number of email communications that we contend have not been produced, you advise in your October 28 correspondence that:

"Although, we believe that all such correspondence has been provided, if you would identify specific billing entries or emails purportedly not produced, we will undertake a further review to determine whether those emails are part of the client's file and whether or not they have been produced."

We believe that it is the responsibility of Baker Hostetler to identify and produce all District files in its possession. The District has 1,334 pages of billing records, with thousands of separate billing entries, and it is the District's position that it should not bear the burden of identifying individual email entries as a condition to receiving its client files. As you know, Baker Hostetler has billed the District over \$3.4 million for legal services, and the firm is in a much better position to identify client records than the District.

Without waiving our position on this matter, we reserve the right to identify additional individual documents that have not been produced as this litigation proceeds, but there appear to be a significant number of email communications between Baker Hostetler

November 5, 2019
James A. Murphy
Murphy Pearson Bradley & Feeney
Page 4

lawyers and Benny Benzeevi, Alan Germany, Kathleen Johnson, Claudia Razo and others that are identified in billing records never provided to the District.

If you have any questions regarding the contents of this correspondence, please do not hesitate to contact my office.

Sincerely,

MICHAEL J. LAMPE
MJL/ml
cc: client

Michael Lampe

From: Michael J. Lampe <mjl@lampe-law.com>
Sent: Wednesday, November 27, 2019 11:13 AM
To: 'James Murphy'
Cc: Todd Wynkoop; Jason Howard; Mike Smith
Subject: Delayed Document Production
Attachments: 2017 8-24 Tim Thomson demand for District files (citing Rule 3-310) (REL Doc 4540).pdf; 2017 8-24 Tim Thomson demand for preservation of records (to Greene re Benzeevi) (REL Doc 4538).pdf

Jim:

I received two zip files. One file contains 1.933 gigabytes of data; the other contains 3.4 megabytes.

The larger file contains 1,478 .pdf images; the smaller file contains 6 .pdf images.

Both contain "production export files," which I assume will allow data to be uploaded to Relativity or another search engine.

Please confirm that no other files were included in yesterday's production.

With respect to your representation that, "We believe all Tulare client files have now been delivered to you and/or the District," I offer the following comments:

1. These files should have been produced over two years ago (see attached demand from Tim Thompson);
2. I remain skeptical that we have received all of the emails that can be discerned from Baker Hostetler billing records, but I have obviously not had the time to go through yesterday's production; and
3. The District renews its demand for preservation of records contained in the attached correspondence from Tim Thompson dated August 24, 2017.

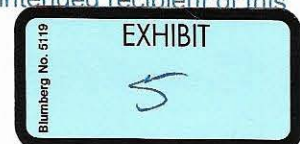
With this admonition, I do thank you for producing these documents.

mjl

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mjl@lampe-law.com

This message is intended for the individual or entity to whom it is addressed and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If you are not the intended recipient of this



STATE of CALIFORNIA, COUNTY of TULARE, SEARCH WARRANT and AFFIDAVIT (AFFIDAVIT)

Your Affiant **Rodney Klassen** swears under oath that the facts expressed by him in the attached and incorporated **Statement of Probable Cause** are true and that based thereon he has probable cause to believe and does believe that the articles, property, and persons described below are lawfully seizable pursuant to Penal Code Section 1524 et seq., as indicated below, and are now located at the locations set forth below. Wherefore, Affiant requests that this Search Warrant be issued.


(Signature of Affiant)

ORDER TO SEAL REQUESTED: YES NO
NIGHT SEARCH REQUESTED: YES NO

(SEARCH WARRANT)

THE PEOPLE OF THE STATE OF CALIFORNIA TO ANY PEACE OFFICER IN THE COUNTY OF TULARE: proof by affidavit, having been this day made before me by **Peace Officer Rodney Klassen** that there is probable cause to believe that the property or person described herein may be found at the location(s) set forth herein and that it is lawfully seizable pursuant to Penal Code Section 1524 et seq., as indicated below by "" (s), in that:

- property was stolen or embezzled;
- property or things were used as the means of committing a felony;
- property or things are in the possession of any person with the intent to use them as a means of committing a public offense, or in the possession of another to whom he or she may have delivered them for the purpose of concealing them or preventing their being discovered;
- property or things to be seized consist of any item or constitute any evidence that tends to show a felony has been committed, or tends to show that a particular person has committed a felony;

You are Therefore **COMMANDED to SEARCH:** (premises, vehicles, persons)

The **Tulare Regional Medical Center** located at 869 N. Cherry Street, City of Tulare, County of Tulare, CA. This hospital is further described as a multi-story community hospital facility located at the northwest corner of the intersection of Cherry Street and Merritt Avenue in Tulare.

Service accepted via email: sormonde@tulareregional.org cc to Todd.Wynkoop@mccormickbarstow.com

For the **FOLLOWING PROPERTY, THING(s) or PERSON(s):**

Evidence of criminal activity related to this investigation described further in **Attachment A.**

AND TO SEIZE IT / THEM IF FOUND and bring it / them forthwith before me, or this court, at the courthouse of this court. This **Search Warrant and Affidavit** and attached and incorporated **Statement of Probable Cause** were sworn to as true and subscribed before me on this 13th day of January, 2020, at 2:56 A.M. / P.M. Wherefore, I find probable cause for the issuance of this Search Warrant and do issue it.


(Signature of Magistrate)

ORDER TO SEAL APPROVED: YES NO
NIGHT SEARCH APPROVED: YES NO

Judge of the Superior Court of California, County of Tulare

Nathan G. Leedy
(Magistrate's Printed Name)

Nathan G. Leedy



STATEMENT of PROBABLE CAUSE

TCDA BOI case 17-01-000407

Attachment A

1

2

3 Items to be searched for

4 Items to be searched for shall include, but not be limited to, evidence as it
5 relates to this investigation and the allegations of embezzlement and
6 misappropriation of funds and/or property, California Penal Code section 503 –
7 515, a felony; misappropriation of public funds, California Penal Code section
8 424(a)1, a felony; procure an unlawful loan, California Penal Code section
9 424(a)2, a felony; false account, entry, or erasure, California Penal Code section
10 424(a)3, a felony; fraudulently altering accounts, California Penal Code section
11 424(a)4, a felony; unlawful willful refusal to pay, California Penal Code section
12 424(a)5, a felony; unlawful willful refusal to transfer public funds, California Penal
13 Code section 424(a)6, a felony; unlawful willful refusal to pay or transfer public
14 funds to an officer, California Penal Code section 424(a)7, a felony; theft of
15 money/property under false pretense, California Penal Code section 487(a), a
16 felony; money laundering, California Penal Code section 186.10, a felony;
17 conspiracy to defraud, California Penal Code section 182, a felony; filing false
18 documents, California Penal Code section 115, a felony; conflict of interest GC
19 1090; knowingly present false documents for financial gain, California Penal
20 Code section 532(a), a misdemeanor; knowingly influence a government
21 decision for financial gain, Government Code section 87100, a misdemeanor.

22

23 Items to be searched for shall include:

24 The Tulare Local Healthcare District (TLHCD) shall provide to the
25 investigating officer (Affiant) a complete and accurate copy of the following listed
26 documents, to the extent that the requested documents come under the
27 parameters of TLHCD's predetermined waiver of attorney/client privilege for any
28 representation of TLHCD by the law firm of Baker Hostetler and/or any attorneys
29 from this law firm who represented TLHCD in any capacity, including, but not
30 limited to, Bruce Greene (communications include any and all communications
31 involving the TLHCD board of directors or any third party and Baker

STATEMENT of PROBABLE CAUSE

TCDA BOI case 17-01-000407

1 Hostetler/Bruce Greene in their capacity as General Council representing
2 TLHCD):

3
4 1. Any records of the May 6, 2015, closed session meeting permitting Dr.
5 Benzeevi to hire General Counsel for the Board of Directors (Resolution
6 844).

7 2. Conflict of Interest Code, as required by GC 87300

8 a. Each conflict of interest Code in effect from May 1, 2014, through
9 December 30, 2017.

10 b. Any communications with Baker Hostetler regarding the conflict of
11 interest code.

12 c. Any communications with Baker Hostetler regarding the filling of
13 Form 700 by Dr. Benzeevi, Baker Hostetler, or Bruce Greene.

14 **NOTE:** Baker Hostetler invoices indicate research into this issue in
15 June of 2015 (Baker Hostetler billing invoice number 50123870,
16 invoice date July 24, 2015, pages 5-6).

17 3. Lawsuit vs. Dr. Betre VCU265230

18 a. Any documentation or communications regarding the Board of
19 Director's vote to fund the lawsuit on behalf of Dr. Benzeevi and Dr.
20 Kumar, including any documents or communications presented to
21 the Board to aid their decisions.

22 b. Any notes, records, or other documentation that indicate Dr.
23 Benzeevi was or was not present during the closed session
24 meeting.

25 c. Communications to the Board of Directors from Baker Hostetler,
26 regarding this lawsuit from March 25, 2016, to March 25, 2017.

27 d. Communications from Levinson, Arshonky & Kurtz to the District
28 regarding this lawsuit, including payments and debts owed for work
29 performed.

30 e. Any communications from Baker Hostetler, or Levinson, Arshonky,
31 & Kurtz regarding the payment of the appellate bond (\$78,000).

STATEMENT of PROBABLE CAUSE

TCDA BOI case 17-01-000407

- 1 f. Any closed session notes or other documentation regarding the
2 posting of the appellate bond on case VCU265230 provided to the
3 Board of Directors. If no record of Board of Director's approval
4 exists, we would like a certification that there is no record of the
5 Board of Directors approving this action.
- 6 4. Any documents presented to the Board regarding the loans made to
7 Southern Inyo Hospital District (SIHD) using Tulare Regional Medical
8 Center (TRMC) money.
 - 9 a. Any and all documents or communications from Baker Hostetler or
10 Bruce Greene relating to loans made to SIHD using TRMC funds.
- 11 5. Any documents relating to the Calculation of the HCCA management
12 fee/employee surcharge, by Bob Wolin, of Baker Hostetler, in 2017, as
13 referenced in the Baker Hostetler billing statements on February 20, 2017.
 - 14 a. All communications from Baker Hostetler relating to the calculation
15 of this fee.
- 16 6. Any and all documentation, notes or communications relating to the April,
17 2017, closed session presentation of the 2016 audit to the Board.
- 18 7. Any and all documents and/or communications regarding the June 20,
19 2017, meeting including any communications regarding the creation of the
20 agenda, conduct of the meeting and the writing of Resolution 852 by
21 Baker Hostetler.
- 22 8. Any and all documents and/or communications regarding debts due from
23 TRMC to Baker Hostetler from December 1, 2016, through December 1,
24 2017.
- 25 9. The July, 2017, memo sent to the Board of Directors prior to the July 26,
26 2017, meeting (Baker Hostetler billing invoice number 50408475, invoice
27 date August 9, 2017, page 6).
- 28 10. Any and all documents and/or communications with Baker Hostetler
29 regarding the election of Senovia Gutierrez and her status as a member of
30 the Board of Directors prior to December 1, 2017.

STATEMENT of PROBABLE CAUSE

TCDA BOI case 17-01-000407

- 1 11. Any and all documents and/or communications with Baker Hostetler, Dr.
2 Benzeevi, Alan Germany, and Claudia Razo regarding the agenda for the
3 July 26, 2017, Board of Directors meeting.
- 4 12. Any and all documents and/or communications from Baker Hostetler
5 regarding the Board of Directors meetings held on July 27, 2017, and
6 August 9, 2017.
- 7 13. Any and all documents and/or communications from Baker Hostetler and
8 Bruce Greene regarding the preparation and execution of Linda
9 Wilbourn's Resignation from the TLHCD Board of Directors on August 23,
10 2017.
- 11 14. Any and all documents and/or communications from Baker Hostetler and
12 Bruce Greene regarding the cancellation of the August 23rd, 2017, Board
13 of Directors meeting.
- 14 15. All communications from Baker Hostetler regarding the Celtic Leasing
15 transaction from June 1, 2017, through December 1, 2017.
 - 16 a. Any and all documents and/or communications from Baker
17 Hostetler regarding the Opinion Letter submitted to Celtic Leasing
18 from June 1, 2017, through December 1, 2017.
 - 19 b. A copy of the Celtic Leasing **Opinion Certificate** document signed
20 by Linda Wilbourn on the morning of August 23, 2017, prior to her
21 resignation going into effect.
 - 22 c. All communications with attorney Michael Allan regarding the
23 Opinion Letter submitted to Celtic Leasing and the election of
24 Senovia Gutierrez to the Board of Directors.
 - 25 d. Any communications from Baker Hostetler regarding payments to
26 them or others from the proceeds of the Celtic Leasing transaction.
- 27 16. Any and all documents and/or communications from Baker Hostetler
28 regarding promissory notes created by Dr. Benzeevi purporting to
29 document lending funds from HCCA to TRMC.
- 30 17. Any and all documents and/or communications from Baker Hostetler
31 relating to the Deed of Trust filed by HCCA on September 28, 2017.

STATEMENT of PROBABLE CAUSE

TCDA BOI case 17-01-000407

- 1 a. Any documents or claims provided by HCCA or Baker Hostetler
- 2 purporting to support the debt claimed on the Deed of Trust filed on
- 3 September 28, 2017.
- 4 18. All engagement letters with Baker Hostetler from January 1, 2014, through
- 5 December 1, 2017.
- 6 19. All conflict of interest waivers signed by the Board of Directors with Baker
- 7 Hostetler or Bruce Greene.
- 8 20. Documentation of any conflict of interest trainings provided by Baker
- 9 Hostetler to the Board of Directors from May 1, 2015 through October 1,
- 10 2017, and any and all working documents related to the preparation and
- 11 completion of the Tulare Local Healthcare District's Conflict of Interest
- 12 policy.
- 13 21. Detailed Accounts Receivable documents, whether reconciled or
- 14 unreconciled, for Southern Inyo District Hospital, to include:
- 15 a. Accounts Receivable for TRMC staff working at SIHD.
- 16 b. Accounts Receivable for TRMC management working at SIHD.
- 17 c. Accounts Receivable for supplies and equipment sent from TRMC
- 18 to SIHD.
- 19 d. Accounts Receivable for TRMC employee travel expense claims for
- 20 travel to SIHD.
- 21 22. Any and all documents and/or communications regarding the transaction
- 22 and/or negotiations for the transaction between the district or HCCA acting
- 23 on behalf of the district and Leasing Innovations Inc.
- 24 23. Any and all documents/Excel spreadsheets used for calculating the 30%
- 25 payroll premium payable to HCCA under the MSA contract. These Excel
- 26 spreadsheets are known to be used as supporting documents for journal
- 27 entries and it is known that there are two separate calculations for this
- 28 30% premium. One calculation includes a deduction of all employee
- 29 benefits and the second calculation includes only a deduction of statutory
- 30 benefits. This practice would have started in late 2016.

31

STATEMENT of PROBABLE CAUSE

TCDA BOI case 17-01-000407

1 The custodian of records shall provide a letter of certification to accompany
2 the requested documents to certify that they are true and accurate copies of the
3 original documents, to verify that they do not possess certain requested
4 documents and/or to verify that they do not wish to waive privilege on a particular
5 requested document.

6
7 The custodian of records is asked to provide requested documents in digital
8 PDF format wherever possible or in printed hard copy if the preferred format is
9 not available.

10
11 **Note:** In compliance with Penal Code Section 1524(c)(1) it is ordered that the
12 evidence turned over in response to this search warrant be turned over to the
13 appointed Special Master for review prior to being surrendered to the District
14 Attorney.

15
16
17 **End of Attachment A**

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STATE of CALIFORNIA, COUNTY of TULARE,
Office of the District Attorney Bureau of Investigations
Order for Extension of Date for Return to Search Warrant

Search warrant Information:

DABOI Case 17-01-000407, original search warrant reviewed and authorized by the Honorable Nathan G. Leedy in Department 3 of the Tulare County Superior Court on _____, 2020.

Description of location to be searched:

The **Tulare Regional Medical Center** located at 869 N. Cherry Street, City of Tulare, County of Tulare, CA. This hospital is further described as a multi-story community hospital facility located at the northwest corner of the intersection of Cherry Street and Merritt Avenue in Tulare. Service accepted via email: sormonde@tulareregional.org cc to Todd.Wynkoop@mccormickbarstow.com


Addendum Application

Your Affiant, Rodney Klassen, swears under oath that the facts expressed by him in the following **Statement of Probable Cause** are true.


Due to the large volume of documents requested from the Tulare Local Healthcare District, it is highly unlikely that the District and its legal representation will be able to provide a response to this search warrant within the normal 10 day response time.

Based on the aforementioned facts, Your Affiant is asking for a 30 day extension to be granted to the existing search warrant, allowing enough time for the documents to be compiled and submitted by the Tulare Regional Medical Center.

I pray that the search warrant be amended based upon the above stated facts, for the seizure of said information, or articles thereof, between the hours of 7:00 A.M. and 10:00 P.M., good cause being shown thereof, and the same be brought before this magistrate pursuant to Section 1536 of the Penal Code.


(Signature of Affiant), 23 day of Jan, 2020, at 2:56 AM/PM

Good cause appearing from the Affidavit accompanying this order, the Court extends the date for Return to Search Warrant to 10th day of February, 2020.


(Signature of Magistrate), 23rd day of Jan, 2020, at 2:56 AM/PM

Judge of the Superior Court of California, County of Tulare, Dept. 3.

NATHAN G. LEEDY
(Magistrate's Printed Name)



From: [Geoffrey Macbride](#)
To: [Michael Lampe](#)
Cc: [James Murphy](#); [Harlan Watkins](#)
Subject: Tulare - Clawback Motion
Date: Tuesday, February 11, 2020 1:25:04 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)

Mr. Lampe,

In response to your question earlier today, we are standing on our privilege claims. If you proceed with a motion on the matter, please remember that the privileged materials must be filed under seal and cannot be placed in the public court file.

Best,
Geoffrey T. Macbride

PLEASE NOTE:

*As of March 2, 2020, Murphy, Pearson, Bradley & Feeney's new San Francisco address will be:
580 California Street, Suite 1100
San Francisco, CA 94104-1032
Phone and fax numbers will remain unchanged.*



Geoffrey T. Macbride

Associate

88 Kearny Street, 10th Floor
San Francisco, CA 94108

Office: 415.788.1900 x2853

Direct: 415.962.2853

Fax: 415.393.8087

[website](#) | [bio](#) | [vCard](#) | [map](#) | [email](#)

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Message

EXHIBIT

20

exhibitsticker.com

From: Greene, Bruce R. [/O=BH/OU=DENVER/CN=RECIPIENTS/CN=BGREENE]
Sent: 9/5/2017 4:25:45 PM
To: Alan Germany [agermany@teamhcca.com]
Subject: RE: Meeting/Site tours/Dinner on Wed 9/6th in Fresno CA/Tulare Medical Center

If Celtic has funded I need to be paid today. I am not waiting for LI to fund. This is CRITICAL and IU have been promised

Bruce Greene
Partner

BakerHostetler

11601 Wilshire Boulevard | Suite 1400
Los Angeles, CA 90025-0509
T +1.310.442.8834
M +1.310.308.1003

bgreene@bakerlaw.com
bakerlaw.com



From: Alan Germany [mailto:agermany@teamhcca.com]
Sent: Tuesday, September 05, 2017 9:04 AM
To: Greene, Bruce R. ; benny@healthcca.com
Subject: RE: Meeting/Site tours/Dinner on Wed 9/6th in Fresno CA/Tulare Medical Center

TRMC will pay. If all goes according to plan, significant funding will be in place soon.
Celtic has funded, but Leasing Innovations has not yet.

From: Greene, Bruce R. [bgreene@bakerlaw.com]
Sent: Tuesday, September 05, 2017 8:31 AM
To: Alan Germany; benny@healthcca.com
Subject: RE: Meeting/Site tours/Dinner on Wed 9/6th in Fresno CA/Tulare Medical Center

Who is going to pay for this?

And please advise as to funding of either Celtic or Leasing Innovations. I have a meeting with management this morning and although I have asked several times, I am not getting straight answers.

Bruce Greene
Partner

BakerHostetler

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Los Angeles, CA 90025-0509
T +1.310.442.8834
M +1.310.308.1003

bgreene@bakerlaw.com
bakerlaw.com



From: Alan Germany [mailto:agermany@teamhcca.com]
Sent: Tuesday, September 05, 2017 8:25 AM
To: Greene, Bruce R. <bgreene@bakerlaw.com>; benny@healthcca.com

Subject: RE: Meeting/Site tours/Dinner on Wed 9/6th in Fresno CA/Tulare Medical Center

Importance: High

Bruce:

It sounds like MRT wants to move forward with this relationship which is why they are bringing their counsel in as well. They seem very serious and understand the need to get this wrapped up quickly. They have access to a large amount of capital and want to deploy it with us.

From my perspective it is very important for you to be there. From a diligence perspective, they have seen everything and they are still wanting to meet and move forward.

My goal in conjunction with tomorrow's meeting will be to get an immediate funding of enough to do an advance refunding of the revenue bonds. It sounds like that is their goal as well. Then we can move forward quickly to look at the next phase of the relationship, which would involve their financing to complete the Tower.

I would anticipate a variety of legal questions on the agreements between HCCA and TRMC. I would think we will also see their documents on the upcoming transactions, which should use real estate as collateral. It will be much more effective if you are on site in person.

Please attend, Bruce, if at all possible.

Thanks, Alan

From: Greene, Bruce R. [bgreene@bakerlaw.com]

Sent: Tuesday, September 05, 2017 7:07 AM

To: Alan Germany; benny@healthcca.com

Subject: Re: Meeting/Site tours/Dinner on Wed 9/6th in Fresno CA/Tulare Medical Center

I still don't have clarity on the need for me to attend. It's a big cost for me to come up and back for this meeting.

Sent from my iPhone

On Sep 5, 2017, at 6:33 AM, Alan Germany <agermany@teamhcca.com> wrote:

That timing sounds great, Bill. Looking forward to it. Thanks, Alan

From: Bill Harlan [wharlan@medequities.com]

Sent: Tuesday, September 05, 2017 4:54 AM

To: benny@healthcca.com; Alan Germany; Greene, Bruce R.

Cc: Patterson, Lorin E.; Mark Wright

Subject: Re: Meeting/Site tours/Dinner on Wed 9/6th in Fresno CA/Tulare Medical Center

.... Lorin is getting into Fresno late tonight, as are Mark and I; we three are planning to meet for breakfast tomorrow, so if your travel schedules allow, we could plan meeting at the Hospital say around 10-10:30 am, and go from there..... we 3 will be staying overnight, so let's still plan on dinner tomorrow night as well.

Thks

Bill

William C. Harlan

President & COO

MedEquities Realty Trust (NYSE:MRT)

D: 615-627-4714 C: 615-943-5621

On Sep 4, 2017, at 12:48 PM, Bill Harlan <wharlan@medequities.com> wrote:

Gentlemen, I wanted to have our lead hospital et al transactional counsel, Lorin Patterson (formerly w/Reed-Smith and now w/Ingersoll Buchannan) from Va, join us for all of our goings-on there on Wed... Lorin and I have worked on many transactions over the years, and he continues as one of the foremost for-profit hospital/STACH-

ASC/Physician-centric facility transactional counsels in the US. I just talked to Lorin and he has agreed and is moving his schedule around to be able to attend (we'll all fly into Fresno late tomorrow night). If at all possible Bruce, I would really like to have you there as well on Wed.... you and Lorin will meld in thought-line/strategy big-time, which will help us all get this "fast-tracked". In prep for Wed, I'm going to forward Lorin all the agreements/doc's et al which Alan has forward to us thus far.....

Thks guys and we all look forward to this meeting....

Have a great rest of your Labor Day holiday !!!

Bill

William C. Harlan

President & Chief Operating Officer

3100 West End Avenue, Suite 1000, Nashville, TN 37203

D 615.627.4714 | C 615.943.5621

wharlan@medequities.com

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September 18, 2014

Baker & Hostetler LLP

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Bruce R. Greene
direct dial: 310.442.8834
bgreene@bakerlaw.com

Tulare Local Healthcare District
dba Tulare Regional Medical Center
869 North Cherry Street
Tulare, CA 93274
Attention: Sherrie Bell, Chair

HealthCare Conglomerate Associates, LLC
810 North Cherry Street
Tulare, CA 93274
Attention: Benny Benzeevi, Manager

Medflow, PC
810 North Cherry Street
Tulare, CA 93274
Attention: Benny Benzeevi, President

Yorai ("Benny") Benzeevi, M.D.
810 North Cherry Street
Tulare, CA 93274

Re: Waiver of Conflict

Dear Chair Bell and Benny:

The Board of Directors of the Tulare Local Healthcare District dba Tulare Regional Medical Center (the "**District**") has requested that Baker Hostetler LLP (the "**Firm**") serve as its legal counsel in connection with a dispute with the Bond Trustee (U.S. National Bank, N.A.) under the Indenture of Trust dated as of November 1, 2007 regarding the issuance of \$17,850,000 in Tulare Local Healthcare District Refunding Reserve Bonds Services 2007, which may result in litigation (the "Bond Dispute").

The Firm currently serves as counsel for Dr. Benzeevi personally and for HealthCare Conglomerate Associates, LLC ("**HCCA**") and Medflow, PC ("**Medflow**"), and together with HCCA and Dr. Benzeevi personally, the "**Benzeevi Group**") both of which entities are owned by Dr. Benzeevi.

HCCA presently manages the Tulare Regional Medical Center under a management contract with the District. Medflow currently operates the emergency department of the Tulare Regional Medical Center under a contract with the District.

The interests of the Benzeevi Group and the District are presently aligned with respect to the Bond Dispute, and at present there are no disputes between the District and either HCCA or Medflow under the above referenced contracts. However, that is not to say that things may not

change in the future, and it is possible that the interests of the Benzeevi Group and the District in connection with the Bond Dispute may no longer be aligned, and it is also possible that disputes may occur between the District, on one hand, and HCCA and/or Medflow, on the other hand, under the above-referenced contracts.

The purpose of this letter is to confirm that the District and the Benzeevi Group each expressly and unconditionally waive certain conflicts of interest which may exist, or which may arise in the future, as a result of the Firm's representation of the District in the Bond Dispute.

This letter confirms that:

A. The Firm presently represents, and expects to continue to represent, the Benzeevi Group in connection with various matters unrelated to the business of the District, and also in connection with the contracts between the District and HCCA and/or Medflow. The Firm may in the future represent the Benzeevi Group in connection with other matters, some of which may involve the business of the District.

B. The Board of Directors of the District has asked the Firm to represent the District in connection with the Bond Dispute.

C. In connection with its representation of the Benzeevi Group, the Firm has had access to confidential information of the Benzeevi Group.

D. In connection with its representation of the District in connection with the Bond Dispute, the Firm may have access to confidential information of the District.

Representation of the District in connection with the Bond Dispute may place the Firm in a conflict of interest position with the Benzeevi Group under California State Bar Rules, if such conflict is not waived. The applicable Rules of Professional Conduct (the "**Rules**")¹ under which the Firm operates generally discourage representing two or more clients which may have differing or directly adverse interests. Further, the Rules discourage the representation of a client where, by reason of the representation of a former client, the firm has obtained material confidential information. However, the Rules recognize that there are instances in which a law firm may properly serve multiple clients having adverse interests in matters not involved in litigation. The Rules provide that a law firm may represent two or more clients that have differing or adverse current, past or future interests if each client consents to such representation after full disclosure of the actual and reasonably foreseeable adverse consequences with respect to the representation.

¹ The California Rules of Professional Conduct, specifically Rule 3-310, require that before we undertake legal representation of a client under certain circumstances, we must make certain disclosures to the client and that we obtain the client's informed written consent. These circumstances include the following:

- (a) When we have or had a relationship with another party interested in the representation;
- or
- (b) When we concurrently represent clients whose interests conflict; or
- (c) Where we undertake representation adverse to a client where, by reason of such representation, we obtained confidential information material to that representation.

The Firm's representation of the District in connection with the Bond Dispute may present a conflict of interest due to the Firm's prior and continuing representation of the Benzeevi Group. The primary source of such conflict would be the fact that the Firm may have access to confidential information of the parties which, but for the dual representation, it would be obligated to disclose to the other party. However, the Firm hereby advises you that unless otherwise required by law, it will not disclose any confidential information of either party to the other, nor will the Firm use confidential information of one party to the benefit of the other party.

With respect to the foregoing and the agreement to waive the conflicts of interest described herein, each of the District and the Benzeevi Group acknowledges the following:

1. The District has engaged the Firm to represent its interests in connection with the Bond Dispute.
2. The Firm has previously represented the constituents of the Benzeevi Group in certain matters unrelated to the business of the District, and in certain matters involving the business of the District, and may continue to represent the Benzeevi Group in the future, including matters in which the interests of constituents of the Benzeevi Group may be adverse to the interests of the District (and which might result in litigation or other forms of dispute resolution).

After full disclosure of the facts and the potential adverse consequences of the dual representation as described herein, the District and the Benzeevi Group hereby waive any potential or actual conflict of interest which may now exist or which may arise in the future in connection with the Firm's accepting engagement by the District to represent the District in connection with the Bond Dispute. The District expressly acknowledges and agrees that the foregoing waiver will allow the Firm to continue to represent the interests of the Benzeevi Group in other matters, including matters which are or may be adverse to the interests of the District (including litigation or other forms of dispute resolution) and that the District will not seek to disqualify the Firm or any of its attorneys from representing the Benzeevi Group in any such matters as a result of the engagement of the Firm by the District in connection with the Bond Dispute.

In the event that a material dispute and actual conflict of interest arises between the District and the constituents of the Benzeevi Group regarding the Bond Dispute, or otherwise, the Firm will then assess the circumstances to determine its ethical obligations and to determine an appropriate course of action, which may include withdrawing from representation of the District in the Bond Dispute.

The Firm believes that representation of the District in connection with the Bond Dispute, and the continued representation of the Benzeevi Group in connection with matters both related to and not related to the business of the District, will not adversely affect the Firm's current or future representation of the other party, nor will the disclosure of otherwise confidential information of any party be required. However, if the Firm determines that its continued representation of the District in the Bond Dispute would require disclosure of confidential information of the Benzeevi Group to the District, or vice versa, the Firm may elect to terminate its representation of the District in the Bond Dispute. Moreover, if we are asked to represent

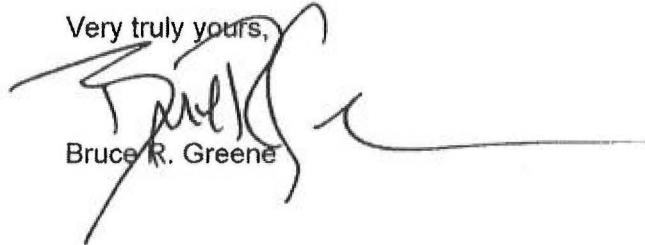
September 18, 2014
Page 4

either the District or the Benzeevi Group in any future matter which we determine may create an actual conflict of interest, we will then assess the circumstances to determine our ethical obligations and determine any appropriate course of action.

If, after reading this letter and having the opportunity to consult with independent counsel, you are each willing to waive the Firm's conflict of interest and consent to the Firm's representation of the District and the Benzeevi Group as described herein, we request that you each sign the enclosed copy of this letter in the spaces provided below and return the same to the undersigned as soon as possible. This letter may be executed in counterparts.

If you have any questions regarding anything contained herein, please feel free to call the undersigned.

Very truly yours,



Bruce R. Greene

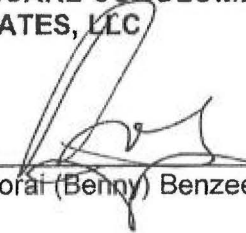
READ, ACCEPTED AND AGREED:

**TULARE LOCAL HEALTHCARE DISTRICT,
dba TULARE REGIONAL MEDICAL CENTER**



By: Sherrie Bell, Chairman of the Board/President


**HEALTHCARE CONGLOMERATE
ASSOCIATES, LLC**



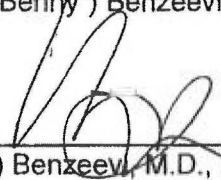
By: Yoram (Benny) Benzeevi, M.D., Manager

September 18, 2014
Page 5

MEDFLOW, PC



By: Yorai ("Benny") Benzeevi, M.D., President



Yorai ("Benny") Benzeevi, M.D., Individually

BakerHostetler

Baker & Hostetler LLP

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www.bakerlaw.comBruce R. Greene
direct dial: 310.442.8834
bgreene@bakerlaw.com

May 7, 2015

Tulare Local Healthcare District
dba Tulare Regional Medical Center
869 North Cherry Street
Tulare, CA 93274
Attention: Sherrie Bell, ChairHealthCare Conglomerate Associates, LLC
810 North Cherry Street
Tulare, CA 93274
Attention: Benny Benzeevi, ManagerMedflow, PC
810 North Cherry Street
Tulare, CA 93274
Attention: Benny Benzeevi, PresidentYorai ("Benny") Benzeevi, M.D.
810 North Cherry Street
Tulare, CA 93274**Re: Waiver of Conflict**

Dear Chair Bell and Benny:

By letter dated September 18, 2014, certain potential conflicts of interest arising from our representation of Dr. Benzeevi, personally, HealthCare Conglomerate Associates, LLC and Medflow PC, on the one hand, and the District on the other hand, as more fully described therein were waived by each of you.

Since the date of that letter, our representation of the District has expanded to several other matters (all of which have been identified in modifications to our original engagement letter dated September 18, 2014) and we contemplate representing the District in additional matters in the future.

The purpose of this letter is to confirm that the waiver of conflict of interest extends to all of the additional matters in which we may represent the District, subject of course to the limitations set forth therein as to the firm's ethical obligations.

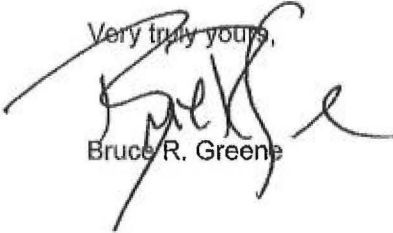
Please confirm the foregoing by signing and dating the enclosed copy of this letter and returning same to the undersigned.

May 7, 2015
Page 2

If you have any questions regarding anything contained herein, please feel free to call the undersigned.


Thank you.

Very truly yours,



Bruce R. Greene

READ, ACCEPTED AND AGREED:


**TULARE LOCAL HEALTHCARE DISTRICT,
dba TULARE REGIONAL MEDICAL CENTER**


By: Sherrie Bell, Chairman of the Board/President

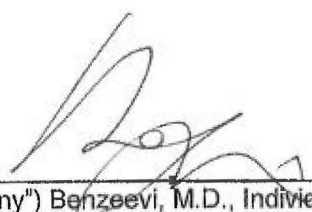
**HEALTHCARE CONGLOMERATE
ASSOCIATES, LLC**


By: Yorai (Benny) Benzeevi, M.D., Manager

MEDFLOW, PC


By: Yorai ("Benny") Benzeevi, M.D., President

May 7, 2015
Page 3



Yorai ("Benny") Benzevi, M.D., Individually

1 Dirk B. Paloutzian #173676
 dpaloutzian@bakermanock.com
 2 Peter G. Fashing #195756
 pfashing@bakermanock.com
 3 BAKER MANOCK & JENSEN, PC
 5260 North Palm Avenue, Fourth Floor
 4 Fresno, California 93704
 Telephone: 559.432.5400
 5 Facsimile: 559.432.5620

6 Attorneys for Defendant, LINDA WILBOURN

7
 8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
 9 COUNTY OF TULARE

11 TULARE LOCAL HEALTH CARE
 DISTRICT dba TULARE REGIONAL
 12 MEDICAL CENTER, a public agency,

13 Plaintiff,

14 v.

15 BRUCE R. GREENE; BAKER &
 HOSTETLER, LLP, a limited liability
 16 partnership; PARMOD KUMAR, M.D.;
 LINDA WILBOURN, RICHARD TORREZ;
 17 and DOES 1 through 50, inclusive,

18 Defendants.

Case No. VCU 278333

**AMENDED AND VERIFIED ANSWER
 BY LINDA WILBOURN TO PLAINTIFF'S
 COMPLAINT**

Judge: Hon. David Mathias
 Dept.: 2

Assigned for All Purposes to
 The Hon. David Mathias, Dept. 2

Action Filed: April 24, 2019
 Trial Date: Not Yet Assigned

19
 20
 21 Defendant LINDA WILBOURN ("Defendant") answers the Complaint for
 22 Damages ("Complaint") of Plaintiff TULARE LOCAL HEALTH CARE DISTRICT dba
 23 TULARE REGIONAL MEDICAL CENTER, a Public Agency ("Plaintiff" or "District"), as
 24 follows:

25 **FACTUAL AND PROCEDURAL BACKGROUND ALLEGATIONS**

26 Defendant admits the allegations of paragraph 1 of the Complaint.

27 Defendant admits the allegations of paragraph 2 of the Complaint.

28 Defendant admits the allegations of paragraph 3 of the Complaint.

1 Answering paragraph 51 of the Complaint, Defendant alleges, as follows: The certified
2 election results and oath of office were received from the registrar by the District Board office on
3 July 26, 2017, the day of the regularly scheduled July 2017 Board meeting. The letter
4 accompanying the results and oath contained a statement requesting that the Board place the
5 certified vote on the agenda for the next regularly scheduled meeting. Because the agenda for the
6 July 26, 2017 meeting had already been prepared and circulated, Defendant called Bruce Greene
7 to inquire as to how she should proceed. Mr. Greene indicated that because the certified vote was
8 not on the July 26, 2017 agenda, it should be placed on the August 2017 meeting agenda for
9 ratification by the Board, and that Ms. Gutierrez could not be seated until then. Before the
10 meeting was set to start, Defendant asked to speak to Ms. Gutierrez and informed her of the advice
11 of Mr. Greene. Defendant and Ms. Gutierrez returned to the meeting room and, before the
12 meeting was called to order, Defendant, relying on the advice of Mr. Greene, made an
13 announcement to the effect that the ratification of the election results would be placed on the
14 August 2017 meeting agenda and that Ms. Gutierrez could be expected to be seated as a Board
15 member at that meeting. To Defendant's recollection, Directors Northcraft and Jamaica left the
16 meeting room before the July 26, 2017 meeting came to order. As a result, Mr. Greene declared
17 that there was no quorum. As a result, the July 26, 2017 Board meeting was cancelled.
18 Except as expressly alleged and/or admitted, Defendant denies the remaining allegations of
19 paragraph 51.

20 Defendant lacks sufficient information upon which to admit or deny the allegations of
21 paragraph 52 of the Complaint and, on that basis, denies the same.

22 Defendant lacks sufficient information and belief upon which to admit or deny the
23 allegations of paragraph 53 of the Complaint and, on that basis, denies the same. In addition,
24 Defendant hereby incorporates her response to paragraph 51 of the Complaint as though fully set
25 forth herein.

26 Answer paragraph 54 of the Complaint, the allegations are a conclusion for which no
27 response is required. In addition, Defendant hereby incorporates her response to paragraph 51 of
28 the Complaint as though fully set forth herein. To the extent a response is required, Defendant

1 Answering paragraph 59 of the Complaint, the allegations are conclusions for which no
2 response is required. To the extent a response is required, Defendant lacks sufficient information
3 and belief upon which to admit or deny the allegations of paragraph 59 of the Complaint and, on
4 that basis, denies the same.

5 Defendant admits the allegations of paragraph 60 of the Complaint.

6 Answering paragraph 61 of the Complaint, Defendant admits that Exhibit 4 includes a true
7 and correct copy of Defendant's letter of resignation. As to the remaining allegations of paragraph
8 61, Defendant lacks sufficient information and belief upon which to admit or deny said allegations
9 and, on that basis, denies them.

10 Defendant lacks sufficient information and belief upon which to admit or deny the
11 allegations of paragraph 62 of the Complaint and, on that basis, denies the same.

12 Defendant lacks sufficient information and belief upon which to admit or deny the
13 allegations of paragraph 63 of the Complaint and, on that basis, denies the same.

14 Defendant lacks sufficient information and belief upon which to admit or deny the
15 allegations of paragraph 64 of the Complaint and, on that basis, denies the same.

16 Defendant lacks sufficient information and belief upon which to admit or deny the
17 allegations of paragraph 65 of the Complaint and, on that basis, denies the same.

18 Defendant lacks sufficient information and belief upon which to admit or deny the
19 allegations of paragraph 66 of the Complaint and, on that basis, denies the same.

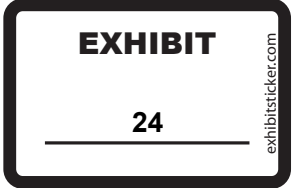
20 Answering paragraph 67 of the Complaint, Defendant has no recollection of ever advising
21 Greene of a delay or postponement of her resignation and, on that basis, is informed and believes
22 and thereon alleges that she never advised Greene to that effect. Defendant does recall that during
23 a telephone conversation on August 23, 2017, Greene told Defendant that he had begun
24 preparation of paperwork while she was a member of the board of directors, that he needed to
25 complete the paperwork while she was a member of the board of directors and that he asked
26 Defendant to delay her resignation from the board of directors. Defendant further recalls that
27 Greene asked her to send him a note delaying her resignation for one day. Defendant further
28 alleges, as follows: Defendant knows of the allegation by Greene to that effect and the purported

February 05, 2019

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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF TULARE
DEPARTMENT 13 HONORABLE JOHN P. BIANCO, JUDGE

-o0o-



IN THE MATTER OF)
)
In Re: SEARCH WARRANT) NO. VSW 013487
NO. 013487 EXECUTED ON)
AUGUST 22, 2018.)
_____)

Visalia, California

February 5, 2019

REPORTER'S PARTIAL TRANSCRIPT

Pages (1 - 60)



Reported by: KIMBERLEY A. WERTH, CSR #11513, RPR

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APPEARANCES :

For the District Attorney's Office:

TIM WARD, DISTRICT ATTORNEY
BY: TREVOR HOLLY, DEPUTY
BY: NADYA HANNAH, DEPUTY
County Civic Center, Room 224
Visalia, California 93291

For Yorai Benzeevi:

KEKER, VAN NEST & PETERS, LLP
Attorneys at Law
BY: ELLIOT R. PETERS
BY: ELIZABETH K. MCCLOSKEY
BY: AJAY KRISHNAN
633 Battery Street
San Francisco, California 94111-1809

1 to call a special meeting to ratify the election, if
2 she has a reason.

3 THE WITNESS: I didn't call a special meeting,
4 and as chair, I called the meetings. The notice to me
5 said "the next regularly scheduled meeting," that
6 would have been August.

7 BY MR. HOLLY:

8 Q. So did you have any reason for not --
9 strike that.

10 So on the August meeting -- did you make a
11 decision regarding your serving on the board in August
12 prior to the regularly scheduled board meeting?

13 A. Are you asking me if I resigned?

14 Q. Yeah, I have to lay the foundation for
15 this.

16 A. I'm sorry. Ask me again.

17 Q. Did you make a decision to resign in
18 August?

19 A. I did.

20 Q. When did you make that decision or when
21 did you communicate that decision to somebody
22 representing the board? I have emails that might
23 refresh your memory.

24 A. The Monday before the election -- the
25 Monday before the regularly scheduled board meeting.

26 Q. So I'll show you People's Exhibit 60. Do

1 you recognize what that is?

2 A. I don't recognize it. It appears to be a
3 communication from Bruce Greene to Northcraft,
4 Jamaica, Torrez, Dr. Benzeevi about my resignation
5 letter.

6 Q. On the second page --

7 A. Yes, this is a copy of my resignation
8 letter.

9 Q. Now, your resignation letter states that
10 you intended to resign on noon prior to the meeting.
11 Was that your intention?

12 A. Noon prior to the meeting, yes, the day
13 of the meeting.

14 Q. So was it your intention to not be a
15 board member by the time the meeting was called?

16 MS. MCCLOSKEY: Objection, vague as to time.

17 THE COURT: Overruled.

18 THE WITNESS: Yes, it was my intention to
19 resign before the meeting.

20 BY MR. HOLLY:

21 Q. Now, did you change your mind about
22 resigning from the board prior to the board meeting at
23 some point during that day?

24 A. No.

25 Q. So as far as you're concerned, when that
26 board meeting was held, were you a member of the

1 board?

2 A. No.

3 Q. Now, did you send a text to Mr. Greene
4 stating that you had changed your mind and you wanted
5 to resign the following day?

6 A. I did not.

7 Q. Did you find a text like that on your
8 phone?

9 A. I did.

10 Q. When you found that text, did you bring
11 it to the District Attorney's Office?

12 A. I did.

13 Q. Had you initially forgotten about --
14 actually, strike that.

15 To your memory, did you send this text?

16 MS. MCCLOSKEY: Objection, asked and answered.

17 THE COURT: Overruled.

18 THE WITNESS: I do not remember sending a text
19 that ended up in your office. I don't remember
20 sending that text.

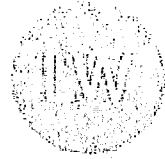
21 BY MR. HOLLY:

22 Q. Did you authorize Mr. Greene to cancel
23 the board meeting on August 23rd?

24 A. No.

25 Q. Did he ask you for authority to do that?

26 A. No.



Linda Wilbourn



iMessage
Today 3:56 PM

My resignation will be effective on August 24 at 8:00am. Linda Wilbourn

I will not be able to attend tonight's meeting

I just sent Everyone an email

DEFENSE EXHIBIT
553

Deliver

NO. VSND13487 EX. NO. 553

PLFT(s) ID EVID
 DEFT(s) ID EVID

OTHER _____ ID EVID

Date: 2-5-19

CLERK OF THE SUPERIOR COURT

By ARCELLA HERNANDEZ Deputy

Message

From: Greene, Bruce R. [/O=BH/OU=DENVER/CN=RECIPIENTS/CN=BGREENE]
Sent: 8/23/2017 3:16:07 PM
To: Linda Wilbourn (linda.wilbourn@comcast.net) [linda.wilbourn@comcast.net]
Subject: TRMC/ Celtic Leasing
Attachments: Opinion Certificate.DOC; Opinion Letter (Celtic Leasing Corp.).doc; DocPkg3826A01.pdf

Importance: High



Linda - I am attaching a draft of an Opinion Certificate which I need to render my opinion for this new equipment lease/finance transaction. This Opinion Certificate is almost identical to the Opinion Certificate which you had signed in connection with the Leasing Innovations lease/financing transaction last month.

I am also attaching a copy of the lease and a draft of my opinion letter, since those are referenced in the Opinion Certificate.

Would you kindly sign and email the Opinion Certificate back to me as soon as possible.

If you have any questions about this, please call me.

Thank you.

Bruce Greene
Partner

BakerHostetler

11601 Wilshire Boulevard | Suite 1400
Los Angeles, CA 90025-0509
T +1.310.442.8834
M +1.310.308.1003

bgreene@bakerlaw.com
bakerlaw.com



OPINION CERTIFICATE

Reference is made to that certain proposed Master Lease No 3826A and Lease Schedule No. 38236A01 (together, the “**Lease**”) between Tulare Local Health Care District (“**Lessee**”) and Celtic Leasing Corp. (“**Lessor**”). Terms used but not defined herein shall have the meanings given to such terms in the Lease.

In connection with the opinion letter (the “**Opinion Letter**”) of Baker & Hostetler LLP to be issued to Lessor pursuant to the Lease, the undersigned, on behalf of Lessee, and not in her individual capacity, hereby certifies, as follows:

1. The undersigned is a duly elected and qualified Chair of the Board of Directors of Lessee. As such, the undersigned is familiar with the matters set forth herein and is authorized on behalf of Lessee to execute this Certificate.

2. All representations and covenants of Lessee set forth in the Lease and all documents being executed in connection with the Lease, are true, correct and complete, and you are hereby expressly authorized to rely thereon.

3. The execution and delivery of the Lease was authorized by the vote of the Board of Directors of Lessee at a meeting held on June 20, 2017 at which time a quorum was present, and is evidenced by Resolution No. 852, a full, true and correct copy of which is attached hereto. Resolution 852 is in full force and effect as of this date and has not been amended or repealed by the Board of Directors of Lessee..

4. None of the transactions evidenced by the Lease is being entered into for any personal, family or household purposes.

5. All applicable public bidding procedures and other applicable laws have been followed regarding the award of the Lease to Lessor.

6. The undersigned has reviewed a draft of the Opinion Letter, confirmed the truth, accuracy and completeness of all statements of fact made therein and is unaware of any facts or information that would cast doubt on the validity of any matters stated within the Opinion Letter or the correctness thereof.

7. The undersigned authorizes Baker & Hostetler LLP to render the Opinion Letter.

IN WITNESS WHEREOF, the undersigned has executed this Opinion Certificate
as of August 23, 2017.

Linda Wilbourn
Chair of the Board of Directors

Baker & Hostetler LLP

11601 Wilshire Boulevard
Suite 1400
Los Angeles, CA 90025-0509
T 310.820.8800
F 310.820.8859
www.bakerlaw.com

August ____, 2017

Celtic Leasing Corp.
4 Park Plaza, Suite 300
Irvine, CA 92614

Re: Lease Schedule No. 3826A01 (the "Schedule") to Master Lease No. 3826A (the "Lease") by and between Celtic Leasing Corp. ("Lessor") and Tulare Local Healthcare District ("Lessee")

Ladies and Gentlemen:

We have acted as special California counsel to Lessee in connection with the above-referenced Lease between Lessee and Lessor.

In such capacity, we have reviewed the Lease and Lease Schedule.

In rendering our opinion, we have also examined such certificates of public officials, organizational documents of Lessee, and other certificates and instruments as we have deemed necessary for the purposes of the opinions herein expressed. As to certain questions of fact material to our opinion, we have relied upon the certificate of an officer of the Lessee (the "Opinion Certificate") and the representations of the Lessee contained in the Lease. As to certain matters involving California election law, we have relied upon the opinion of Michael L Allan, Esq, Allan Law Office.

We express no opinion with respect to the effect of any law other than the laws of the State California (the "State"), including, without limitation, the California Uniform Commercial Code (the "UCC"), and the federal law of the United States (together with the laws of the State, "Applicable Law").

Whenever our opinion herein is qualified by the phrase "to the best of our knowledge" (or similar phrase), it is intended to indicate that the current, actual knowledge of the attorneys within the Los Angeles office of this firm engaged in the representation of Lessee in connection with the Lease transaction is not inconsistent

Atlanta Chicago Cincinnati Cleveland Columbus Costa Mesa Denver
Houston Los Angeles New York Orlando Philadelphia Seattle Washington, DC

with that portion of the opinion which such phrase qualifies. Except as expressed herein, we have made no independent investigation of any such matters and we have not made any other examination of Lessee.

Based on the foregoing, and subject to the qualifications and exceptions herein contained, we are of the opinion that:

1. Lessee is a political subdivision of the State, to wit, a local healthcare district, duly organized and existing under the laws of the State, and specifically Section 32000 et seq of the California Health & Safety Code.

2. The UCC and no other statute of the State, governs the creation, perfection, priority and enforcement of any security interest created by the Lease.

3. Within the meaning of the UCC, Lessee is an unregistered organization, having its sole place of business or its chief executive office in the State. Lessee's true and correct legal name is stated above.

4. Lessee is authorized and has power under State law to own its properties and incur and pay its obligations, to enter into the Lease, to lease the property described in the Lease and to carry out its obligations thereunder and the transactions contemplated thereby, including, without limitation, payment of all rental payments set forth in the Lease.

5. Benny Benzeevi, M.D. is qualified and authorized to execute, on behalf of Lessee, any and all documents related to the Lease and Lease Schedule.

6. Based upon Resolution No. 852 of the Lessee, which was adopted by the Board of Directors of the Lessee on June 20, 2017 (a copy of which is attached hereto), the Lease, including the lease of the property subject thereto and Lessee's obligations thereunder, has been duly authorized, approved, executed and delivered by and on behalf of the Lessee and is a valid and binding contract of Lessee, enforceable against Lessee in accordance with its terms.

7. To the best of our knowledge, the authorization, approval and execution of the Lease and all other proceedings of Lessee relating to the transactions contemplated thereby have been performed in accordance with all open meeting, public bidding and other applicable laws, rules and regulations of the State.

8. The execution of the Lease and the appropriation of moneys to pay the payments coming due under the Lease do not result in the violation of any constitutional, statutory or other governmental limitation relating to the manner, form or amount of indebtedness which may be incurred by Lessee.

9. The accrual and payment by Lessee, and collection from Lessee, of the charges provided for in the Lease, including rental, interest, late fees, attorney's fees and other charges, do not and will not violate the constitution or any law of the State.

We express no opinion with respect to any documents other than the Lease and the Lease Schedule.

The foregoing opinions are subject to the following qualifications, limitations and exceptions:

(a) The effect of bankruptcy, insolvency, fraudulent conveyance or transfer, reorganization, arrangement, moratorium or other similar laws relating to or affecting the rights, powers, privileges, remedies and interests of creditors, obligees or sureties including, without limitation, the effect of Sections 547 and 548 of the Federal Bankruptcy Code and comparable provisions of the laws of the State;

(b) The effect of the limitations imposed by Applicable Law or rules or principles (of equity, public policy or otherwise) affecting the enforcement of obligations generally, whether considered at law, in equity or otherwise, including (without limitation) those pertaining to specific performance, injunctive relief, materiality, good faith, fair dealing, diligence, reasonableness, unconscionability, impossibility of performance, redemption or other cure, suretyship rights or defenses, waiver, laches, estoppel, or judicial deference or other equitable remedies;

(c) The enforceability of any term or provision of the Lease that purportedly grants to a party or authorizes or permits a party or other person to exercise or otherwise enforce or pursue specific rights, powers, privileges, remedies or interests in a manner impermissible under or otherwise inconsistent with Applicable Law or public policy of the State from time to time in effect;

(d) The unenforceability under certain circumstances of provisions in the Lease to the effect that rights or remedies are not exclusive, that every right or remedy is cumulative and may be exercised in addition to or with any other right or remedy, that election of a particular remedy or remedies does not preclude recourse to one or more other remedies, and that any right or remedy may be exercised without notice or an opportunity to cure;

(e) The unenforceability under certain circumstances of any term or provision in the Lease indemnifying a party against liability for its own wrongful or negligent acts or where such indemnification is contrary to public policy or prohibited by Applicable Law;

(f) The enforceability of any term or provision in the Lease purporting to assign contractual rights, to the extent such provisions are limited by requirements of notice to and consent of any third parties to such contracts or other interested parties, or any other restrictions as to the assignability of such contractual rights;

(g) The effect of the provisions of the UCC which require a secured party, in any disposition of personal property collateral, to act in good faith or in a commercially reasonable manner;

(h) Any rights under the Lease which are governed by the UCC are subject to the limitations and restrictions of the UCC which such statute provides cannot be waived;

(i) We express no opinion as to the existence, validity, binding effect, enforceability, attachment, perfection or priority of any security interest or lien created or purported to be created under the Lease;

(j) There may be limitations on the exercise of the Lessor's remedies arising out of any failure by the Lessor to comply with statutory requirements or judicial decisions thereunder in the actual exercise of its rights in connection with the foreclosure, sale or other enforcement of its security interests in any of the Equipment;

(k) We express no opinion as to whether or not the Lease transaction will be treated for federal and state income tax purposes as a true lease, or as a financing transaction.

(l) Our opinions in Par 6 above are based solely upon the Opinion Certificate and the Allan Law Office opinion.

In our opinion, the foregoing qualifications, limitations and exceptions do not render the Lease invalid as a whole, and there exist, in the Lease or pursuant to Applicable Law, legally adequate remedies for a realization of the principal benefits and/or security intended to be provided by the Lease.

We advise Lessor that circumstances can occur after the perfection of a security interest in personal property which could cause the security interest to become unperfected, including, without limitation, the fact that a financing statement lapses after five years; the UCC creates certain limitations on the rights to proceeds; a change in the name of the debtor or the location of the debtor will result in the security interest in certain property to become unperfected unless appropriate steps are taken; and a secured party's rights are subject to the rights of certain purchasers of the collateral to acquire the collateral free of the security interest.

To the extent that the obligations of Lessee may be dependent upon such matters, we assume that: Lessor is duly formed, validly existing and in good standing under the laws of its jurisdiction of formation; Lessor has the requisite power and authority to execute and deliver the Lease and to perform its obligations under the Lease; the Lease has been duly executed and delivered by Lessor, and constitutes the legally valid and binding obligation of Lessor, enforceable against Lessor in accordance with its terms; there are no other documents, understandings, or agreements (whether written or oral) between or among the parties which would expand, modify or otherwise affect the obligations of the parties under the Lease, the documents submitted to us contain therein all the terms intended by the parties.

We have also assumed that:

(1) The Lease transaction is not being entered into for any personal, family or household purposes.

(2) Lessee has "rights" (within the meaning of Section 9203 of the UCC) in the Equipment, and value has been given by the Lessor to Lessee in connection with the transactions contemplated by the Lease.

This opinion is intended solely for the benefit of the Lessor and its successors and assigns in connection with the Lease transaction. No part of this opinion may be relied upon by any other person or for any other purpose, be incorporated, quoted or otherwise referred to in any other document or communication or be filed with or otherwise furnished to any governmental authority or other person without our prior written consent, except that our prior written consent is not needed to furnish a copy of this opinion: (a) in connection with any proceedings relating to the Lease or the enforcement thereof; and (b) to accountants and legal counsel for the Lessor (each of whom may rely upon this opinion as though it had been addressed and delivered to them as of the date of this opinion). In all cases, reliance upon this opinion is conditioned upon acceptance of all of the qualifications, exceptions, assumptions, definitions, exclusions and other limitations set forth herein.

This opinion speaks only as of the date hereof, and to its addressees and their successors and assigns, and we have no responsibility or obligation to update this opinion, to consider its applicability or correctness to anyone other than its addressees, and their successors and assigns, or to take into account changes in law, facts or any other developments of which we may later become aware.

Very truly yours,

BAKER & HOSTETLER LLP



FILED
TULARE COUNTY SUPERIOR COURT
VISALIA DIVISION

SEP 11 2017

STEPHANIE CAMERON, CLERK
BY: ACIA LOCEY

1 TIM WARD
2 TULARE COUNTY DISTRICT ATTORNEY
3 TREVOR J. HOLLY, SBN# 226564
4 DEPUTY DISTRICT ATTORNEY
5 221 S. MOONEY BLVD., ROOM 224
6 VISALIA, CA 93291
7 TELEPHONE: (559) 636-5494
8 FAX: (559) 730-2658
9 Email: tholly@co.tulare.ca.us

Melinda M. Reed
Assigned to Judicial Officer _____
For All Purposes

Attorney for Plaintiffs

TULARE COUNTY SUPERIOR COURTS
STATE OF CALIFORNIA, VISALIA DIVISION

9 THE PEOPLE OF THE STATE OF
10 CALIFORNIA,

CASE NO: 271086

Petitioner,

PETITION FOR ALTERNATIVE
WRIT OF MANDATE

11 vs.

(CCP §1085, et. seq.)

12 RICHARD TORREZ, Individually and in his
13 capacity as a member of the Board of
14 Directors, Tulare County Local Health Care
15 District; and DOES 1 -- 10

Date: September 15, 2017
Time: 8:30 am
Department: One (1)

Respondents,

16 SENOVIA GUTIERREZ, lawfully elected
17 Director of the Board of Directors, Tulare
18 County Local Health Care District,

19 BRUCE GREEN, former general counsel for
TRMC Board,

20 BAKER & HOSTETLER, former general
counsel for TRMC Board,

21 Real Party in Interest.

22
23 I. INTRODUCTION

24 Plaintiffs, THE PEOPLE OF THE STATE OF CALIFORNIA, by and through their
25 attorneys, TIM WARD, District Attorney, and TREVOR HOLLY, Deputy District Attorney,
26 submit this Petition for Alternative Writ of Mandate to order RICHARD TORREZ,
27 individually and in his capacity as the Director of the Fourth District of the Tulare Local
28

1
2 Health Care District, Board of Directors; and DOES ONE through 10 (hereinafter collectively
3 the RESPONDENTS) to recognize the office and authority of the lawfully elected
4 representative for the Director of the 3rd District of the Tulare Local Health Care District,
5 SENOVIA GUTIERREZ, real party in interest.

6 Plaintiffs bring this request pursuant to California Code of Civil Procedure
7 §1085(a), which provides that the Court may issue a Writ of Mandate to compel
8 "...the admission of a party to the use and enjoyment of a right or office to which the
9 party is entitled." Pursuant to California Code of Civil Procedure §1087 the People
10 request an Alternative Writ of Mandate, ordering RESPONDENTS to recognize
11 SENOVIA GUTIERREZ as a Board Member of the Tulare Local Health Care District,
12 with all the privileges and powers thereof, to obey the lawful orders of the Board of
13 Directors of the Tulare Local Health Care District, and to Order the RESPONDENTS
14 to Show Cause as to why they have not yet done so.

15 The Tulare Local Health Care District is a Hospital District organized pursuant to
16 Division 23 of the California Health & Safety Code. It is governed by a five member Board,
17 who are elected for four year terms by the citizens of the District. Elections are done by
18 district, each director being elected by one geographically defined district. On July 11, 2017,
19 the Board Member for the 3rd District, Dr. Parmod Kumar, was voted out of office in a recall
20 election, and Senovia Gutierrez was elected to his seat.

21 Board Chair Linda Wilbourn and Board Director RICHARD TORREZ, as well as ex-
22 legal counsel Bruce Greene and his firm, Baker & Hostetler LLP, have refused to recognize
23 Ms. Gutierrez as a Board Member by facetiously claiming that Cal. Elections Code §15400
24 delegates to the Board the authority to decide if and when an elected Board Member can
25 claim their seat on the Board. This is a purposefully obtuse reading of the statute. Elections
26 Code §15400 states that the governing body "shall" declare as elected the person having the
27 highest number of votes. This is a ministerial announcement of a fact that has already
28 occurred, not an invitation for the Board to decide who may serve on the Board or when a

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2 publically elected Board Member may assume their lawful duties. In denying and delaying
3 Ms. Gutierrez her seat, the RESPONDENTS have unlawfully denied SENOVIA
4 GUTIERREZ the right to her elected office, as well as subverted the democratic decision of
5 the Citizens of Tulare County.

6 II. PARTIES

- 7 1. Petitioner, District Attorney of Tulare County.
- 8 2. Respondent, Richard Torrez, Director for the 1st District of the Tulare Local Health
9 Care District.
- 10 3. Respondent, The Board of Directors of the Tulare Local Health Care District, dba
11 Tulare Regional Medical District.
- 12 4. Bruce Greene, attorney at law, and the law firm of Baker & Hostetler, LLP, a real
13 party in interest.
- 14 5. Senovia Gutierrez, real party in interest.

15 III. JURISDICTION

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17 Jurisdiction is proper as the superior court has original jurisdiction to issue writs on mandate.
18 [Cal. Const. art. VI, § 10; *see* Code Civ. Proc. § 1085 (writ may be issued by any court,
19 except municipal or justice court.]. Venue is proper in this Court because District's Board of
20 Directors is situated in this district. [Code Civ. Proc. § 394.]

21 IV. ARGUMENT

22 I. SUMMARY OF FACTS

23 A. Background

24
25 The Tulare Local Health Care District was organized on November 27, 1945 under the
26 provisions of Division 23 of the California Health and Safety Code, and as such is a public
27 agency. The District provides health care services for the City of Tulare, as well as the
28 southwestern areas of Tulare County. It maintains and operates a hospital, the Tulare

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2 Regional Medical Center, as well as other medical facilities. The District does business under
3 the name of Tulare Regional Medical Center, (TRMC herein).

4 TRMC is governed by five Board Members, who are each elected by district. Each
5 Board Member serves a four year term, and regular elections are staggered, with a portion of
6 the Board up for election every two years. There has been controversy in the community over
7 the governance of TRMC. This resulted in two new Board Members, Kevin Northcraft and
8 Mike Jamaica, being elected during regular elections held on November 8, 2016. The
9 incumbent Board Members held a majority of seats after this election, maintaining a 3-2
10 majority.

11 This situation changed when a recall election was called for the incumbent Board
12 Member for the 3rd District, Dr. Parmod Kumar. The recall election was held on July 11,
13 2017, which resulted in Dr. Kumar being recalled. During that same election, SENVOVIA
14 GUTIERREZ was elected as the representative for the 3rd District. The election was certified
15 on July 21, 2017 by the Tulare County Registrar of Voters and widely reported in the local
16 media. An election packet was shipped via Fed-Ex to TRMC by the Registrar and received at
17 10:00 a.m. on July 26, 2017. Senovia Gutierrez took her Oath of Office on July 25, 2017,
18 administered by the Honorable Judge Gorelick.

19 B. The Refusal to Announce Mrs. Gutierrez's Victory

20 At the regularly scheduled Board Meeting on July 26, 2017, the first since the
21 election, the Board refused to announce Ms. Gutierrez's election, as required by Election
22 Code §15400. Board Chair Wilbourn, relying on the advice of then Board counsel Bruce
23 Greene, claimed that the announcement of Ms. Gutierrez's election was in the Chair
24 Announcements, rather than in body of the Agenda. She further stated that because of this
25 there was a possible Brown Act violation, and the matter would not be heard.

26 The TRMC Bylaws allow for any three Board Members to call a special meeting. On
27 July 27, 2017 Board Members Mike Jamaica, Kevin Northcraft, and Senovia Guteirrez called
28 a special meeting to carry on the business of TRMC. Board Members Linda Wilbourn and

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2 RICHARD TORREZ, by and through their legal counsel Bruce Greene, refused to
3 acknowledge the authority of the newly constituted Board. Mr. Greene stated in an email sent
4 to Board Members on July 27, 2017, that;

5 "Until EC Sect 15400 is complied with, the person having the highest number of votes
6 after a recall election is NOT a member of the Board. As you are well aware, the
7 Board has not declared Ms. Gutierrez elected to the Board, and therefore she is not a
8 member of the Board at this time. Accordingly, her signature on the purported agenda
9 is of no legal significance, and to the extent that the purported agenda was intended to
10 call for a special meeting, it is likewise of no legal significance.

11 Any actions which you, Mr. Jamaica and Ms. Gutierrez may take, should you elect to
12 proceed with your meeting tomorrow will be if no legal force or effect. The District
13 has no intention of providing you with any assistance in holding this unauthorized
14 meeting." (see Northcraft Dec., Exhibit #5)

15 Undeterred, Board Members Kevin Northcraft, Mike Jamaica, and Snovia Gutierrez
16 held the special meeting on July 27, 2017. At this meeting several Board actions were taken,
17 including terminating Bruce Greene and Baker & Hostetler LLP, as legal counsel. Board
18 Members Linda Wilbourn, RICHARD TORREZ, and former counsel Bruce Green have
19 refused to acknowledge or obey any of the Board's directives pursuant to this July 27, 2017
20 meeting.

21 The next regularly scheduled Board Meeting occurred on August 23, 2017. The day
22 of the meeting Linda Wilbourn, RICHARD TORREZ, by and through their agent Bruce
23 Greene, sought to orchestrate a cancelation of the meeting in order to obstruct Ms. Gutierrez
24 from exercising her power as the lawfully elected Board Member for the 3rd District. On
25 August 23, 2017, at 3:09 p.m. RESPONDENT Greene sent an email stating that Board Chair
26 Linda Wilbourn was resigning effective as of noon that day. He further stated that Board
27 Member RESPONDENT RICHARD TORREZ would not be attending the meeting, for
28 unspecified reasons, and therefore the meeting would be canceled for a lack of quorum. A

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2 letter from Mrs. Wilbourn was provided in the email, stating that she had resigned at noon,
3 and the cancelation notice posted on the meeting room door stated the same.

4 TRMC Bylaws require a majority of Board Members to be present to provide a
5 Quorum. If one buys into the fiction that Ms. Gutierrez is somehow not a Board Member at
6 this time, Mrs. Wilbourn's resignation would leave the Board with three active members. As
7 both Board Member Kevin Northcraft and Mike Jamaica were present, they would have
8 constituted a majority of the Board. Realizing his error, Mr. Greene sent out a new email at
9 4:00 pm stating that Mrs. Wilbourn had made a mistake and had intended to resign the
10 following day, and therefore he was canceling the meeting due to a lack of quorum. This
11 constituted a blatantly transparent attempt to once again deny Ms. Gutierrez's Board seat,
12 using the fiction that the Board must somehow approve her election in order for it to be valid.

13 The majority of the Board Members, consisting of Ms. Gutierrez, Mr. Jamaica, and
14 Mr. Northcraft, showed up to the August 23, 2017 Board Meeting to find the meeting room
15 locked and a notification that the meeting had been canceled affixed to the meeting room
16 door. They proceeded to the lobby of the building where they conducted the meeting. Board
17 Member RICHARD TORREZ and purported legal counsel Bruce Greene have refused to
18 acknowledge the validity of this August 23, 2017 meeting, claiming that Senovia Gutierrez is
19 not a Board Member. One of the many Board actions at that meeting was the removal of
20 Bruce Greene and Baker & Hostetler, LLP, as legal counsel. Both the remnants of the old
21 TRMC Board and Bruce Greene have continually defied this removal action.

22 The voters of the 3rd District have been denied their democratic choice for an elective
23 representative in their hospital district. RESPONDENTS first created a fiction that Ms.
24 Gutierrez's election was not effective until they approved of it. Then they manufactured a
25 delay claiming it was not a valid agenda item, and then orchestrated a cancelation of the
26 August 23, 2017 regularly scheduled meeting in an ongoing effort to deny her the duties and
27 responsibilities of her elected position.

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2 C. Bruce Greene's and Baker & Hostetler LLP's Refusal to Follow the Lawful Orders
3 of the Board

4 Bruce Green and Baker & Hostetler LLP have continuously refused to acknowledge
5 the lawful orders of the Board since the meeting on July 27, 2017, claiming that Senovia
6 Gutierrez is not a Board Member. In doing so, Baker & Hostetler LLP has refused to
7 acknowledge the Board's action to terminate Baker & Hostetler, LLP as general counsel for
8 the District, and has refused to provide the District with its legal files. On August 28th, 2017
9 Attorney Peter W. James, of Baker & Hostetler LLP drafted and emailed a letter to the
10 Board's current legal counsel, Nikole Cunningham of McCormick & Barstow. James
11 specifically stated that RESPONDENTS do not recognize Ms. Gutierrez as a Board Member
12 and therefore refuse to recognize their termination as counselor or to turn over any legal files
13 to newly appointed counsel, McCormick & Barstow.

14 The District has numerous, urgent legal issues, including a trial in case #VCU266902,
15 *Martin-Soares, Deanne v. Tulare Local Health Care District*, that was set for trial on
16 September 11, 2017. Both firms, Baker & Hostetler and McCormick and Barstow, have
17 appeared on this case claiming to be general counsel, making either settlement or trial
18 impossible. On September 6, 2017, this Court vacated the September 11, 2017 trial. A jury
19 trial setting hearing is scheduled for October 4, 2017. The obstreperous actions of
20 RESPONDENTS serve only to delay the progress of this trial, resulting in a needless waste of
21 judicial time and resources, as well as further burdening Tulare Local Health Care District.

22
23 **V. LEGAL ANALYSIS**

24 A. Authority of Court to Issue An Ex Parte Writ of Mandate

25 The People bring this suit pursuant to California Code of Civil Procedure sect. 1085(a)
26 which states:

27 "A writ of mandate may be issued by any court to any inferior tribunal, corporation,
28 board, or person, to compel the performance of an act which the law specially enjoins,

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2 as a duty resulting from an office, trust, or station, or to compel the admission of a
3 party to the use and enjoyment of a right or office to which the party is entitled, and
4 from which the party is unlawfully precluded by that inferior tribunal, corporation,
5 board, or person.” (CCP § 1085).

6 The statute itself confers upon the Court the power to decide this issue. In order to
7 successfully bring a Writ of Mandate, the People must be able to show that they have a
8 beneficial interest in the issue, that there is no other adequate remedy at law, and that the
9 defendant failed to perform a non-discretionary duty imposed upon them by law. As set forth
10 below, RESPONDENTS use of Cal. Elections Code §15400 to deny the authority of the
11 lawfully elected representative of the 3rd District is a matter of public importance impacting
12 the citizens of this County. The defendants have a non-discretionary obligation to recognize
13 the authority of Senovia Gutierrez as a Board Member. A Writ is the only relief that will
14 provide an adequate and immediate remedy at law.

15
16 B. The People of Tulare County, as Represented by the District Attorney, Have a
17 Beneficial Interest In the Issues Presented

18 The District Attorney’s Office has a beneficial interest in this case because the duties
19 of the District Attorney encompass the preservation of the democratic process and the
20 protection of the constitutional rights of the Citizens of Tulare County, including those who
21 elected Ms. Gutierrez to be their representative. A governmental entity may bring a writ of
22 mandate, so long as it has a beneficial interest (*Contra Costa v. Social Welfare Bd* (1962) 199
23 Cal. App. 2d 468, *Los Angeles Count v. Tax Appeals Bd. No. 2* 267 Cal. App. 3d 830).

24 These issues presented by this case are of public importance, and fall within the
25 District Attorney’s responsibilities. “The public interest” exception satisfies the beneficial
26 interest element where the question is one of an important public right and the object of the
27 action is to enforce a public duty”. (*Friends of Oceano Dunes, Inc. v. San Luis Obispo Cty.*
28 *Air Pollution Control Dist.* (2015) 235 Cal. App. 4th 957, 962). The unlawful denial of an

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2 elected official's authority, particularly when it involves a community hospital, is of great
3 public interest. However, a broader and more significant interest lies in the legal
4 interpretation of Election Code section 15400, which applies to all local governing bodies in
5 the State of California, which is a matter of tremendous public importance. The Courts have
6 found that the standard of care for indigents is a matter of public importance (*Madera*
7 *Community Hosp. v Madera* (1984) 155 Cal. App. 3d 136, 143), as well as the calculation of
8 AFDC benefits is a matter of public importance (*Green v. Obledo* (1981) 29 Cal. 3d 126,
9 144), and the interpretation of laws regulating the issuance of permits by Air Quality Boards
10 (H&S 42300) (*Friends of Oceano Dunes, Inc. v. San Luis Obispo Cty. Air Pollution Control*
11 *Dist.* (2015) 235 Cal. App. 4th 957, 962).

12 Whether a governing body may use Cal. Elections Code §15400 to deny an elected
13 Board Member's legal authority is clearly a matter of equal or greater import, and therefore
14 must qualify as a matter of public importance.

15
16 C. A Writ of Mandate is The Only Sufficient Remedy

17 It could be argued that the primary issue in this case is the title to office, and therefore
18 the matter should proceed via a *quo warranto* proceeding. Petitioner intends to file a *quo*
19 *warranto* application with the Attorney General, arguing that the Board as a legal entity
20 usurped the Ms. Gutierrez's office by failing to recognize her as a Board Member, reducing a
21 five member Board to a four member Board, with each Board Member subsuming a portion
22 of the power of Ms. Gutierrez's vote on the Board. However, a writ of mandate is the more
23 appropriate remedy, as the issues presented here go beyond the issue of title to office.

24 It is often stated that a remedy for a claim of title will not lie in mandamus. (*People v.*
25 *Olds* (1853) 3 Cal. 167). This is clearly the case when a party seeks to lie superior legal title
26 to an office over another party. (*Morton v. Broderick* (1897) 118 Cal. 474, 481). However, in
27 this case there is no dispute over who is the lawful representative for the 3rd District. The
28 previous representation, Dr. Kumar, was subject to a recall election which he lost on July 11,

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2017. Pursuant to Cal. Elections Code section 11384, Dr. Kumar was removed from office following his successor's qualification, which occurred when Ms. Gutierrez took the Oath of Office on July 25th, 2017. He has never asserted that he maintains the office, and has not attempted to exercise the authority of that office.

The issues of title to office here are incidental to the primary issue of whether the "shall declare" portion of Elections Code section 15400 can be used to deny the authority of a lawfully elected Director. It is well settled law that mandamus may be brought when the issues of title are incidental (*Morton v. Broderick* (1897) 118 Cal. 474, *Stout et al v. Democratic County Central Committee of City and County of San Francisco et al.* (1952) 40 Cal.2d. 91, 94, *McKannay v. Horton* (1907) 151 Cal. 711, 714). Here, the issue of title is incidental to 1) The Boards failure to declare Ms. Gutierrez a Board Member as required by Elections Code section 15400; and 2) The failure Director Torrez, general counsel Bruce Greene, and Baker & Hostetler to follow the lawful directives of the Board, claiming that Senovia Gutierrez has no lawful authority due to the Board's initial failure to "declare" the fact of her election.

Time is of the essence in this matter. Currently, TRMC, including their general counsel, is operating without the consent of the majority of the Board, and has been doing so since July 26th, due to a faulty interpretation of Elections Code section 15400. Every action taken without the consent of the elected board does irreparable damage to the District, the constitutional rights of the Citizens of Tulare County, and the democratic process in our County. A writ is the swiftest, surest remedy to cure a situation of public importance where irreparable damage is done as each day passes.

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2 D. The Failure to Declare Ms. Gutierrez a Board Member Pursuant to E.C. § 15400.

3 Cal. Elections Code section 15400 states:

4 “The governing body **shall** declare elected or nominated to each office voted on at
5 each election under its jurisdiction the person having the highest number of votes for
6 the office,…”

7 The use of “shall” in the language makes it clear that this is not a discretionary act, it
8 is a duty compelled by law. The Board may not decline to accept a duly elected Board
9 Member, it may not declare someone a Board Member who has not been duly elected¹.
10 Elections Code section 15400 appears in Elections Code Division 15, Chapter 5, which is
11 entitled “Announcement of Results”, further indicating that governing bodies were never
12 intended to have any discretion as to whether to accept lawfully elected candidates.

13 In a recall election, it is the intent of the law that a candidate takes office immediately.
14 Cal. Elections Code section 11384 states that once an officer has been recalled, he must be
15 removed from office upon the qualification of his successor. Elections Code section 11386
16 states that the winning candidate in a recall election must qualify in 10 days after their
17 election. These statutes clearly illustrate the common sense public policy that recall
18 candidates are to immediately take office upon election.

19 The Board clearly had a duty to declare Ms. Gutierrez a Director on the first regularly
20 scheduled Board Meeting on July 26th, 2017. The concerns expressed by Linda Wilbourn
21 and Bruce Greenc were specious, at best. The announcement of Ms. Gutierrez’s election was
22 not a matter for a vote, or even a discussion, it is merely an acknowledgement of an existing
23 fact. It does not even fall within the purview of Government Code section 54954.2. Even if
24 the Brown Act somehow did apply, it could not trump the right of an elected representative to
25 ascend to their rightful position.

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28 ¹ Exceptions exist for elections that allow for a plurality of votes or other methods of election. (Ele.C. 15452)

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2 Torrez and former Board Chair Wilbourn could have easily cured their error by
3 agreeing to a special meeting to make the announcement. They both not only failed to do so,
4 but also refused to attend special meetings called by the other Board Members. This clearly
5 indicates that the motive behind failing to declare Ms. Gutierrez as a Board Member was not
6 concern about the Brown act, but rather a concerted attempt to deny her the rightful authority
7 of her elected office.

8 Board Members Linda Wilbourn and Richard Torrez, and their legal counsel, Bruce
9 Greene, further exaccrbated the situation by attempting to orchestrate the cancelation of the
10 meeting on August 23, 2017. Mrs. Wilbourn, per her letter, resigned at noon on that day, and
11 the reduction of Board Members would have allowed Mike Jamaica and Kevin Northcraft to
12 constitute a quorum for a meeting. Therefore, at 4:00 p.m., Mr. Greene retroactively claimed
13 that Mrs. Wilbourn really intended to resign the next day, which would leave the meeting
14 without a quorum, if one did not count Ms. Gutierrez as a Board Member. This was yet
15 another blatant attempt to deny Ms. Gutierrez her rightful position based on the fiction that
16 the Board must somehow approve her election.

17
18 E. Ms. Gutierrez Status as the Director for the Third District is Unaffected By The
19 Failure of the Board to "Declare" Her A Board Member Under E.C. § 15400.

20 Bruce Greene and Baker & Hostetler have put forth the theory that because Cal.
21 Elections Code section 15400 requires that Board to declare a winning candidate a Board
22 Member, no one can be a Board Member without the Board declaring them onc. In doing so,
23 they have done an admirable job of standing the statute on end and twisting it to mean the
24 exact opposite of what the legislative intent is. The clear intent of the statute is to require
25 Boards to accept the outcomes of elections, not to provide them the means of preventing
26 opponents from serving on the Board.

27 Elections Code section 15400 use of "shall" makes it clear that the Board is to accept
28 a newly elected Board Member, period. It limits the power of the Board, rather than giving

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2 them the power to overturn or obstruct the democratic process. Elections Code section 11386
3 makes it clear that the new Board Member is a Board Member at the time of their
4 qualification, as at that time the incumbent Board Member is removed from office. Therefore,
5 Ms. Gutierrez currently is a fully empowered Board Member, and she has been since the day
6 she took her Oath of Office on July 25th, 2017.

7
8 F. The Failure of Richard Torrez, Bruce Greene, and Baker & Hostetler to Obey
9 The Lawful Directives of The Board.

10 Ms. Gutierrez has been subject to an orchestrated plan to intrude upon and usurp her
11 elected office. The first part of the plan was enacted when Board Chair Wilburn and legal
12 counsel Bruce Greene advanced the croneous theory that an elected candidate is not a Board
13 Member unless the Board declares them to be one. Once the specious legal theory that Ms.
14 Gutierrez cannot be a Board Member was advanced, the second part of the plan was enacted,
15 which was to make sure that she was never actually declared a Board Member. First, the
16 Board claimed concern about a Brown Act error, and removed the item from consideration at
17 the July 26th, 2017 meeting. Then, they refused to hold or recognize a special meeting to
18 correct the error. Finally, they manipulated the timing of Mrs. Wilbourn's resignation in an
19 effort to deny a quorum for the August 23rd, 2017 meeting.

20 During the special meeting on July 27, 2017, and the regular scheduled meeting held
21 on August 23rd, 2017, Board Members Mike Jamaica, Peter Northcraft, and Senovia
22 Gutierrez voted to remove Bruce Greene and Baker & Hostetler, LLP, as legal counsel for
23 TRMC. Baker & Hostetler and Bruce Greene have continually refused to acknowledge this
24 termination, continuing to act in the Board's name and refusing to turn over files to the
25 Board's new counsel, McCormic & Barstow, LLP.

26 This has created a bizarre situation where an Bruce Greene and Baker & Hostetler
27 insist that they are representing the Board, but they are doing so against the express wishes of
28 the Board. They claim the power to do this because there has been no "declaration" under

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Elections Code section 15400, however they orchestrated events to prevent said declaration. This is an untenable situation which has caused the District to be rudderless for over a month and a half and thrown the management of the District into disarray. Therefore, the People ask for the following relief.

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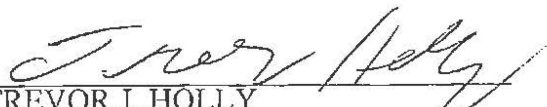
PRAYER

WHEREFORE, Petitioners pray for the following relief:

1. For this Court to issue the Alternative Writ and Mandate directing that SENOVIA GUTIERREZ was the lawful Board Member for the 3rd District of the Tulare Local Health Care District *nunc pro tunc* as of July 25th, 2017, with the full powers and privileges thereof from that date forward;
2. To Mandate that all Board Members of the Tulare Local Health Care District, including RICHARD TORREZ, recognize SENOVIA GUTIERREZ as the lawfully elected and seated Board Member for the 3rd District of the Tulare Local Health Care District as of July 25th, 2017.
3. To award any further relief as the Court may deem just and proper.

Respectfully submitted this 11th day of September, 2017.

TIM WARD
DISTRICT ATTORNEY


TREVOR J. HOLLY
DEPUTY DISTRICT ATTORNEY

BakerHostetler



Tulare Local Healthcare District
869 North Cherry St
Tulare, CA 93274-3462

Invoice Date: 09/21/17
Invoice Number: 50422868
B&H File Number: 07110/093734/000021
Taxpayer ID Number: 34-0082025
Page 1

Regarding: District Attorney Lawsuit

For professional services rendered through September 20, 2017

BALANCE FOR THIS INVOICE DUE BY 10/21/17 \$ 24,815.10

Remittance Copy

Please include this page with payment

Invoice No: 50422868

Firm Contact Information

Bernadette O'Neill
(310) 979-8470
Boneill@bakerlaw.com

Please Remit To:
Baker & Hostetler LLP
P.O. Box 70189
Cleveland, OH 44190-0189

FOR WIRE REMITTANCES:
Baker & Hostetler LLP
KeyBank, N.A., Cleveland, OH
Account No: 1001516552 / ABA 041001039
SWIFT Code: KEYBUS33

Reference Invoice No:
50422868

Email the "Remittance Copy" to
bakerlockbox@bakerlaw.com

BAKER 0001305

BakerHostetler

Tulare Local Healthcare District
869 North Cherry St
Tulare, CA 93274-3462

Invoice Date: 09/21/17
Invoice Number: 50422868
B&H File Number: 07110/093734/000021
Taxpayer ID Number: 34-0082025
Page 2

Regarding: District Attorney Lawsuit

For professional services rendered through September 20, 2017

Fees \$ 23,195.00

Expenses \$ 1,620.10

BALANCE FOR THIS INVOICE DUE BY 10/21/17 \$ 24,815.10

Baker & Hostetler LLP

Atlanta
Houston

Chicago
Los Angeles

Cincinnati
New York

Cleveland
Orlando

Columbus
Philadelphia

Costa Mesa
Seattle

Denver
Washington, DC

BAKER 0001306

Regarding: **District Attorney Lawsuit**

Matter Number: 093734.000021

Name	Hours	Rate	Amount
Welsh Robert C	25.00	\$ 685.00	\$ 17,125.00
Greene Bruce R	7.00	745.00	5,215.00
MacDonald, Hugh A.	3.80	225.00	855.00
Total	35.80		\$ 23,195.00

Date	Name	Description	Hours	Amount
09/14/17	Greene Bruce R	Attend to District Attorney ex parte motion; joinder motions (review documents; draft responsive declarations; telephone conferences with B Benzeevi; telephone conferences with R Torrez); coordinate with Orrick	5.00	3,725.00
09/14/17	MacDonald, Hugh A.	Review file and prepare indexed binders regarding Writ of Mandate, Temporary Restraining Order, Application to Sue in quo warranto, and Gutierrez Joinder materials for September 15, 2017 hearing; transmit to Mr. Welsh.	3.50	787.50
09/14/17	Welsh Robert C	Communications with client regarding ex parte hearing; Review ex parte motions filed by District Attorney and McCormick Barstow firm; communications regarding response; review and revise Mr. Greene's declaration; communications with attorneys at Orrick law firm regarding opposition to be filed by HCCA.	2.50	1,712.50
09/15/17	Greene Bruce R	Attend to hearing matters; telephone conferences with B Benzeevi, M Grossman, R Welsh	2.00	1,490.00
09/15/17	MacDonald, Hugh A.	Update scanned Writ of Mandate, Temporary Restraining Order, Application to Sue in quo warranto, and Gutierrez	0.30	67.50

Baker & Hostetler LLP

Date	Name	Description	Hours	Amount
		Joinder materials to file and server archive.		
09/15/17	Welsh Robert C	Prepare for and attend ex parte hearing in Tulare Superior Court; travel to Visalia for hearing; travel back to Los Angeles.	9.90	6,781.50
09/17/17	Welsh Robert C	Review reply memorandum submitted by Barstow McCormick firm; conduct legal research regarding cases cited in reply; review our expert report; review case law regarding mandatory injunctions; attend conference call with client and Mr. Grossman.	2.60	1,781.00
09/18/17	Welsh Robert C	Prepare for and travel to Visalia for ex parte hearing; attend hearing; conference with client and Mr. Grossman following hearing; travel back to Los Angeles.	10.00	6,850.00
Total			35.80	23,195.00

Expenses and Other Charges

09/20/17	Ground Transportation Local (E109) Agnes K Lindsay dba All Unique Limousine LLC Return Travel from Tulare County Municipal Court 221 S Mooney Blvd Visalia, CA 93291 9/18/2017; Inv. 1356	845.00
09/20/17	Ground Transportation Local (E109) Agnes K Lindsay dba All Unique Limousine LLC Travel to Tulare County Municipal Court 221 S Mooney Blvd Visalia, CA 93291 9/15/2017; Inv. 1356	773.00
Subtotal - Ground Transportation Local (E109)		1,618.00
09/14/17	Copier / Duplication (E101) 21 Copies	2.10
Subtotal - Copier / Duplication (E101)		2.10
Total		\$ 1,620.10



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Attorneys for Plaintiff
Healthcare Conglomerate Associates, LLC

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 ORIGINAL FILED
 Superior Court of California
 County of Los Angeles

SEP 15 2017

Sherri R. Carter, Executive Officer/Clerk
 By: *M. Soto*, Deputy
 Moses Soto

SUPERIOR COURT OF THE STATE OF CALIFORNIA
 COUNTY OF LOS ANGELES

HEALTHCARE CONGLOMERATE
 ASSOCIATES, LLC,

Plaintiff,

v.

TULARE LOCAL HEALTH CARE
 DISTRICT DBA TULARE REGIONAL
 MEDICAL CENTER; DOES 1 through 20,

Defendants.

Case No. **BC 676133**

**COMPLAINT FOR BREACH OF
 CONTRACT AND DECLARATORY
 RELIEF**

1 Plaintiff HealthCare Conglomerate Associates, LLC brings this complaint for breach of
 2 contract and declaratory relief against Defendant Tulare Local Health Care District dba Tulare
 3 Regional Medical Center and DOES 1 through 20 (collectively "Defendants") and alleges as
 4 follows:

5 First Cause of Action – Breach of Contract

6 (HCCA vs all Defendants)

7 PARTIES

8 1. Plaintiff HealthCare Conglomerate Associates, LLC ("HCCA") was and now is a
 9 California Limited Liability Company with its principle place of business in Los Angeles,
 10 California.

11 2. Defendant Tulare Local Health Care District dba Tulare Regional Medical Center
 12 (the "District") was and now is a local healthcare district in Tulare, California and organized
 13 under sections 32000 *et seq.* of the California Health and Safety Code. The District's Bylaws
 14 provide that the Board of Directors of the District (the "Board") is to be comprised of five elected
 15 directors.

16 3. On May 29, 2014, HCCA and the District entered into a written Management
 17 Services Agreement ("MSA") regarding services to be rendered to the District by HCCA.

18 4. HCCA does not know the true names or capacities of DOES 1 through 20,
 19 inclusive, and therefore sues these defendants under fictitious names. HCCA is informed and
 20 believes and thereon alleges that at all times herein mentioned each of the Defendants sued herein
 21 as DOES 1-20, inclusive, acted in concert as agent, employee, financier or otherwise of each of
 22 the remaining Defendants and was at all times acting as such including their efforts to induce the
 23 District to breach the MSA as hereafter alleged.

24 JURISDICTION, VENUE, AND ARBITRATION

25 5. Section 11(d) of the MSA provides that "the exclusive jurisdiction and venue of all
 26 actions claims, or other legal proceedings arising in any manner pursuant to this Agreement, shall
 27 be vested in the [Los Angeles Superior Court] and in no other."

28 6. All or part of this dispute is subject to arbitration under California Code of Civil

1 Procedure section 1281.2 and section 10(e)(ii) of the MSA which reads as follows:

2 If the claim of default is disputed by the party receiving such notice [of default], within
 3 ten (10) business days thereafter the party receiving the notice shall give notice to the
 4 charging party that the party receiving such notice disputes that the factual matters alleged
 5 constitute a default under this Agreement. If the parties cannot resolve such dispute...the
 6 parties shall submit such matter to binding arbitration in Los Angeles County, California,
 7 in accordance with the American Health Lawyers Associates Alternative Dispute
 8 Resolution Services Rules and Procedure for Arbitration, and applying the Law of the
 9 State.

8 HCCA specifically asserts the applicability of, and does not waive, the parties' agreement to
 9 arbitration. HCCA has served upon the District a formal letter notice of material breaches of the
 10 MSA and defaults pursuant to sections 10(a)(i) and 10(e)(i) of the MSA. The breaches and
 11 defaults of the MSA by the Defendants which were curable have not been cured and the balance
 12 of the breaches and defaults are not capable of being cured. Plaintiff has complied with all
 13 applicable claims procedures pertaining to presentation of claims against the District, as set forth
 14 in the MSA. The parties have yet to meet and confer to determine if they will jointly waive their
 15 right to arbitration and proceed with this civil action.

16 **FACTUAL ALLEGATIONS**

17 7. Pursuant to the terms of the MSA, HCCA was engaged to manage and operate the
 18 District's acute care hospital located in Tulare, California (the "Hospital") together with related
 19 clinics and other facilities as defined in the MSA. Previously, on January 10, 2014, HCCA and
 20 the District entered into a written short term management agreement as an interim placeholder
 21 agreement (the "Interim MSA") pending the completion of their negotiations and execution of the
 22 MSA. This action seeks relief under the express terms of the MSA.

23 8. In the years leading up to the engagement of HCCA as the Manager of the District,
 24 the management of the District and the Hospital under District stewardship was in shambles. For
 25 example, over a period of seven years the District employed six different Chief Executive
 26 Officers and at least a half dozen Chief Financial Officers. Prior to the signing of the Interim
 27 MSA, the District suffered severe and progressively worsening financial losses, namely, over \$4
 28 million in the immediately preceding six months; over \$8 million in the immediately preceding

1 fiscal year; over \$16 million in the prior three fiscal years; and a combined loss of just under \$5
2 million in the preceding ten year period. The Hospital's operating margin over the preceding ten
3 years averaged a negative 0.72.

4 9. In 1994, following the "Northridge Earthquake" which badly damaged hospital
5 facilities in Southern California, Senate Bill 1953 mandated California hospitals be rebuilt to
6 meet more stringent seismic guidelines. The District sought voter approval in 2005 for an \$85
7 million General Obligation bond offering to construct a new hospital tower which would bring
8 the existing Hospital into compliance. The funds raised by the District from the sale of those
9 bonds were exhausted in 2014 even though the new tower was unoccupied and only two thirds
10 complete. Today the Hospital remains out of compliance with Senate Bill 1953.

11 10. In addition, prior to the Interim MSA, the construction project for the new tower
12 was mired in multiple lawsuits and unpaid claims with no prospects for its completion. At that
13 time the District was in critical financial condition with the proposed new tower incomplete and
14 some three years overdue and the District lacked the funds necessary to complete the new tower.

15 11. The financial condition of the District was so bad for the fiscal years ending 2012
16 and 2013, that its outside independent auditors refused to issue a "clean opinion" and instead
17 imposed a "going concern" condition to its audit report opinion. Such an opinion meant that the
18 auditors had grave concern about their client's ability to avoid liquidation over the next 12
19 months. Under the management of HCCA, the financial conditions improved greatly and this
20 condition was removed, which earned the District a clean or unqualified opinion from its auditors.

21 12. HCCA is informed and believes and thereon alleges that in the years leading up to
22 2014, and thereafter, the volume of inpatients at the Hospital was materially reduced by nearly
23 40% of the prior volume and deliveries volume reduced by some two thirds. HCCA is informed
24 and believes and thereon alleges that patient volume was also reduced because doctors in the
25 geographical area of the Hospital, specifically including some acting as or related to the then
26 Board and those serving in leadership roles on the Hospital's Medical Executive Committee, were
27 referring patients to other facilities.

28 13. HCCA is informed and believes and thereon alleges that before the Interim MSA

1 was signed, the financial deterioration of the District left it with less than a month's worth of cash
2 for its operations. In addition, the District was operating under and subject to a five-year
3 Corporate Integrity Agreement it was required to enter with the Federal Office of Inspector
4 General to redress a history of its physician contracting practices.

5 14. In December 2012, the Board of the District was reconstituted and began efforts to
6 address and correct the financial and administrative conditions it faced.

7 15. In 2013, the District solicited and received bids from diverse parties, including
8 HCCA, to take over the management of all of the District's operations, including those of the
9 Hospital. In December 2013, the Board unanimously selected HCCA to do so from among the
10 bidders. The selection of HCCA was followed by the execution of the Interim MSA in January
11 2014. The Board's unanimous selection of HCCA for the long term was in May 2014, and led to
12 the execution of the long term and now extant MSA.

13 16. In or about January 2016, the federal Center for Medicare and Medicaid Services
14 (CMS) performed a survey of the Hospital's performance in past years and found a history of
15 gross negligence by the physician leadership at the Hospital and threatened to exclude the
16 Hospital from federal funding. The Hospital receives approximately 80% of its funding from
17 governmental sources, so such a step by CMS would have caused the immediate closure of the
18 Hospital. HCCA, as the manager, responded with prompt action to help secure financial stability
19 for the Hospital and improved patient care for its patients.

20 17. In addition, because of the non-compliance of the previous physician leadership
21 and the imminent threat to the Hospital's ability to qualify for federal funding after the CMS
22 survey, the Board disaffiliated itself from its then existing medical staff and instead associated
23 itself and the District with a new medical staff organization. After this restructuring and under
24 the new leadership of the medical staff, all doctors who previously worked at the Hospital
25 retained all of their clinical privileges. In mid-2016, CMS found the prior deficiencies were
26 properly addressed and corrected – corrections which included the affiliation with a new medical
27 staff organization.

28 18. Under HCCA management, virtually all Hospital employees desiring employment

1 were hired by HCCA. In addition, to date HCCA has given two across-the-board pay raises as
2 well as dozens of additional individual pay increases. Pay had been frozen for years at the
3 District prior to the MSA. HCCA employs for the Hospital nearly 500 trained medical
4 professionals and support staff.

5 19. In the three-plus years under HCCA management, the Hospital has had several
6 dozen months of positive net margins as confirmed by annual audits. In the first six months
7 HCCA was on board, the Hospital had a \$1.3 million net margin, and in the first full fiscal year
8 under HCCA, the Hospital recognized a net margin exceeding \$7 million. Similarly, that first full
9 fiscal year under HCCA saw a 10% operating margin.

10 20. Fitch Ratings, a leading national credit rating firm, rates the financial stability of
11 United States hospitals. Such ratings are relied upon by financial institutions and bond investors.
12 Under HCCA, Fitch has upgraded the District's revenue bond ratings, and updated its outlook for
13 the District from "negative" to "positive."

14 21. Just eight months after HCCA took over the management of the District's
15 operations, Fitch Ratings stated in its August 28, 2014 ratings report:

16 SIGNS OF TURNAROUND: The Stable Outlook reflects the dramatic turnaround
17 in operating and financial performance since Fitch's last review in February
18 2014....Fitch believes the positive trend over the last few months indicates
19 performance improvement plans taking hold and signal recovery.

20 22. In its report dated August 27, 2015, Fitch's positive outlook continued. Fitch
21 reported that the District's financial condition "reflects sustained evidence of operational and
22 financial turnaround and stabilization." It also stated that "[u]nder HCCA's leadership, operating
23 and financial performance improved dramatically over the last 18 months."

24 23. On August 23, 2016, Fitch again reported positive results for the District and
25 stated clearly its view of the reason for the success: "[The District] has sustained the trend of
26 strong operating performance since Fitch's last rating review in August 2015. Ongoing work by
27 the management team in place since January 2014 has brought a financial turnaround, and double
28 digit operating EBITDA margins are expected to continue."

24. Similarly, on October 25, 2016, the national bond rating firm Moody's Investors

1 Service revised the District's outlook rating from negative to stable. Moody's emphasized the
2 "improved operating performance beginning in fiscal 2014, driven by a new management team" --
3 namely, HCCA. Moody's explained in more detail, stating:

4 Beginning in fiscal 2014, a new management team affiliated with Healthcare
5 Conglomerate Associates (HCCA) has generated significantly improved financial
6 performance, growing revenues and reducing unnecessary costs. Operating
7 revenues in fiscal 2015, for example, increased by close to 16.8%, resulting in a
8 good 10.5% operating margin and marking the district's first positive operating
9 margin since fiscal 2011. Previously, due largely to significant declines in patient
10 volume and capital project costs, the district had three consecutive years of
11 negative operating margins from fiscal 2012 through fiscal 2014.

12 25. Moody's also opined that the positive outlook for the District would continue, due
13 to HCCA's management:

14 The district's new financial management team [HCCA] has succeeded in reversing
15 the district's past trend of weak operating performance, with the district's liquidity
16 and operating margins demonstrating notable improvement. We believe that the
17 current management team will remain in place over the intermediate term,
18 maintaining a trend of stable financial operations.

19 26. Under HCCA's management, the Hospital has shown a profit and the District has
20 enjoyed a far better than average net margin and financial stability it has not experienced in over a
21 decade. In 2015 alone, the Hospital's financial returns were three times the national average for
22 hospitals and were greater than it had at any time in the prior 12 years. The market value of the
23 Hospital had increased by \$28 million since HCCA became its manager.

24 27. Since in or about 2013, a group of individuals, including former Board members
25 and medical providers who were in positions of management/responsibility before HCCA was
26 selected as manager, and some aligned with those medical providers, as well as candidates who
27 recently sought and won election to the District's Board, have publicly called for the District to
28 unilaterally terminate the MSA simply because they do not like its terms. They characterize their
objections to the MSA and intent to terminate the MSA in these words: they want to "throw out
the current HCCA contract based on [undefined] illegal overreach." For example, on July 30,
2016, they said their intention, if elected to the Board, is to "renegotiate or throw out the current
HCCA contract" and to "do it 'the Tulare way'—not the Southern California divisive, secretive,

1 and machine politics way.” Simply stated, these individuals have sought to gain and now claim
 2 control of the Board with the intent to shred the MSA with no legal cause to do so.

3 28. On November 8, 2016, the two candidates for Board seats, Kevin Northcraft and
 4 Michael Jamaica, were elected to the Board. Following a recall election, Senovia Gutierrez was
 5 also recently elected to the Board.

6 29. Threats by these newly-elected members of the Board to dishonor the MSA, and
 7 their continued disparagement of the Hospital and HCCA, have undermined the ability of HCCA
 8 to perform its management function under the terms of the MSA and poisons the environment
 9 within which the Hospital must function to the detriment of the community. They have also
 10 caused irreparable harm to the Hospital, the District’s residents who utilize the Hospital, the
 11 Hospital employees and families, and HCCA.

12 30. Kevin Northcraft has reposted and published on social media a Citizens for
 13 Hospital Accountability (“CHA”) post alleging that the MSA “brought our hospital to its current
 14 financial ruin, and thus, explains clearly how HCCA and Dr. Kumar are solely responsible for the
 15 substandard care offered at our hospital today....” He has made clear his desire to “amend or
 16 cancel,” or in other words, “renegotiate or throw out the current HCCA contract” during his
 17 election campaign.

18 31. Michael Jamaica has also stated his intent to have the MSA “amend[ed] or
 19 cancel[ed].” Inexplicably, on August 8, 2017, Michael Jamaica personally served a lawsuit filed
 20 against the District while purporting to act as a Board member of the District.

21 32. Senovia Gutierrez has stated through social media that the District needs to “get
 22 rid of HCCA.”

23 33. Because of the negative and destructive actions on the part of these individuals and
 24 certain other members of the community, the history of favorable Fitch ratings for the District has
 25 come up negative. On August 9, 2017, Fitch downgraded its rating on revenue bonds and the
 26 District’s Issuer Default Rating from BB- to B. The Fitch report noted the downgrade was due
 27 largely to a decline in liquidity, though it “assumes improvement in TRMC’s cash position
 28 associated with liquidity support in the near term.” The report states Fitch expects “near term

1 improvement in TRMC's cash position from a \$22 million working capital loan which is
 2 expected to close the week of August 14, 2017."

3 34. The District, purporting to act through Kevin Northcraft, Michael Jamaica, and
 4 Ms. Senovia Gutierrez, has breached the terms of the MSA including section 3(d)(iii) of the
 5 MSA. Such actions have caused damage, including economic loss to HCCA.

6 35. Section 3(b)(iii) of the MSA reads as follows:

7 The District shall timely furnish Manager with sufficient funds to timely
 8 pay the expenses relating to the Operations, including funding of both
 9 operating expenses and non-operating expenses. Subject to the more
 10 expedient funding requirements set forth in Section 4(b)(viii), if funds in
 11 the Master Account are insufficient, Manager shall notify the District of
 12 the need for funds by submitting Manager's fund request to the District
 13 and the District shall supply the requested funds within three (3) days of
 14 Manager's notice to the District of the need for same, provided that for
 15 unanticipated Emergent Expense, Manager shall have the right to provide
 16 a shorter notice period. Manager shall not be obliged to fund the District
 17 expense hereunder or provide funds to accommodate shortfalls in revenue,
 18 however, Manager may, in its sole and absolute discretion, advance funds
 19 as provided in Section 4(i)(i)(1). Manager shall not be in default
 20 hereunder if Manager's failure to comply with the terms of this Agreement
 21 is due to the lack of adequate funds provide by the District.

22 36. In the recent past, the District has repeatedly breached and violated the provisions
 23 of section 3(b)(iii) by failing to furnish sufficient funds to timely pay to HCCA the expenses
 24 relating to the Hospital, clinics and other facilities as required under the MSA. As a direct result
 25 of these breaches, HCCA has now advanced over \$7,000,000 in funds for the District's account,
 26 as loans to the District. To evidence these advances, HCCA has received promissory notes for
 27 the amounts of these advances as provided for in section 4(j)(i)(1) of the MSA. As provided for
 28 in these notes, HCCA has made demand for payment of the principal of the loans, which is
 approximately \$7,000,000 and interest due at the contract rate set forth in section 6(e) of the
 MSA. The District has failed to make payment of these notes in whole or in part.

37. Section 4(b)(iii) of the MSA reads as follows:

The Leased Employees shall be employees of Manager for purposes of Manager's benefit
 programs or plans now existing or hereafter created, including compensation and payment
 and withholding of federal, state and local income, social security, unemployment,
 Medicare, other payroll and employment taxes, Section 125 plans, Section 403(b)
 annuities, workers' compensation and health insurance. ... All expenses and charges
 incurred in connection with the Leased Employees shall be reimbursed to manager by the

1 District.

2 The District has recently breached and violated this provision of the MSA by failing to reimburse
 3 HCCA for expenses and charges incurred in connection with employees HCCA leases to the
 4 District. The current amount owed and unpaid for such leased employees is approximately
 5 \$5,000,000 with interest due thereon at the contractual rate set forth in section 6(e) of the MSA.
 6 HCCA has made timely demand upon the District for such payment but the District has failed and
 7 refused to pay the amount due or any portion thereof.

8 38. Sections 6(a) and 6(e) of the MSA reads as follows:

9 (a) Management Fee. As Manager's fee for the performance of the management services
 10 under this Agreement, Manager shall receive monthly (in advance on the first day of each
 11 month) a fee (the "Management Fee") in the amount of Two Hundred Twenty Five
 12 Thousand Dollars (\$225,000). Effective as of each January 1st, commencing January 1,
 2015, the Management Fee shall be increased as provided in Section 6(b).

13 (e) Late Payments. If payment of amounts due hereunder, including Management Fees,
 14 Employee Lease Payments and reimbursement of other amounts, are not made on the due
 15 date, then interest shall accrue on any unpaid amounts for each day beyond the due date at
 16 a rate equal to the lessor of: (a) one percent (1.0%) per month or (b) the maximum non-
 usurious interest rate allowable by Law.

17 The District has recently breached and violated this section of the MSA by failing to pay HCCA
 18 the management fee and expense reimbursement required to be paid the amount due or any
 19 portion thereof. The current amount owed and unpaid for such Management Fee is approximately
 20 \$500,000 and additional sums for such expense reimbursement with interest due on both sums at
 21 the contractual rate set forth in section 6(e).

22 39. At all times herein mentioned, HCCA has performed all conditions required of it
 23 under the terms of the MSA, except for any which may have been waived or excused by the
 24 conduct of the District.

25 40. Section 10(a)(iii) of the MSA reads as follows:

26 If Manager, at any time and in good faith, shall deem itself insecure and for the purposes
 27 of this Agreement, Manager shall be entitled to deem itself insecure when some event
 28 occurs, fails to occur or is threatened or some objective condition exists or is threatened
 which significantly impairs the prospects that any of the obligations of the District
 hereunder will be paid when due, or which significantly affects the financial or business

1 condition of the District. If Manager deems itself insecure, it shall have no obligation to
 2 continue performing hereunder more than thirty (30) days from and after it notifies the
 3 District that it has deemed itself insecure, unless the District provides Manager with an
 4 unconditional, irrevocable letter of credit (the "Letter of Credit") from a U.S. banking
 5 institution acceptable to Manager, insured by a federal insurance agency ("Issuer"). ... If
 6 the Letter of Credit is not timely provided, then Manager shall have the right to
 7 immediately ruminant this Agreement (with no right on the part of the District to cure
 8 same) and receive the Termination Fee.

9 41. On September 15, 2017, HCCA provided written notice to the District that it
 10 deems itself insecure given the conduct of the recently elected Board members including that
 11 alleged above and the significant amounts now owed and past due to HCCA. HCCA is informed
 12 and believes the District has no intention to respond to HCCA's notice by posting a Letter of
 13 Credit or paying the Termination Fee as provided under the terms of the MSA.

14 42. Section 10(b)(ii) of the MSA reads as follows:

15 The Termination Fee shall be an amount equal to Seventy Thousand Dollars (\$70,000) per
 16 month first increased by CPI ... and then multiplied by the remaining number of months
 17 in the Term (not to exceed 120 months) at the time of the termination, discounted to its
 18 present value using the discount rate of the Federal Reserve Bank of San Francisco at the
 19 time of termination plus one percent (1%).

20 43. HCCA has been required to retain legal counsel to represent it in these
 21 proceedings.

22 44. The District's actions, as set forth above, constitute anticipatory and actual
 23 breaches of the MSA, including a breach of the implied covenant of good faith and fair dealing,
 24 entitling HCCA to all lawful damages flowing therefrom.

25 **Second Cause of Action – Declaratory Judgment**

26 **(HCCA vs all Defendants)**

27 45. HCCA alleges and incorporates by reference the preceding paragraphs.

28 46. An actual controversy has arisen and now exists between HCCA and the District
 now purportedly acting through those recently elected to the Board.

47. HCCA contends and seeks a declaratory judgment that it has lawfully invoked the
 "deemed insecure" provision of the MSA and that there is no legal cause for the District to
 terminate the MSA and is informed and believes and thereon alleges that the District contends to
 the contrary.

1 48. A judicial determination of the parties' rights and obligations as alleged herein is
2 necessary to remove potential uncertainty with respect to HCCA's invocation of the "deemed
3 insecure" provision of the MSA, and the District's corresponding obligations under the MSA.

4 49. HCCA has no plain, speedy and adequate remedy available in the ordinary course
5 of the law for relief from the matters set forth in this complaint, and HCCA therefore seeks relief
6 on the grounds set forth herein.

7
8 PRAYER FOR RELIEF .

9 WHEREFORE, Plaintiff HCCA prays for judgment as follows:

- 10 1. For a judgment for breach of contract and damages, according to proof;
11 2. For a Declaratory Judgment that HCCA has lawfully invoked the "deemed
12 insecure" provision of the MSA and that the MSA cannot lawfully be terminated by the District
13 and, in any event, not without the prior provision of a letter of credit or payment of the
14 Termination Fee as provided in the MSA;
15 3. For reasonable attorney's fees; and
16 4. For general relief.

17
18 MARSHALL B. GROSSMAN
19 CYNTHIA J. LARSEN
20 MICHAEL C. WEED
 Orrick, Herrington & Sutcliffe LLP

21 By: Marshall B. Grossman
22 MARSHALL B. GROSSMAN
23 Attorneys for Plaintiff

HS
T.D.I

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FILED
TULARE COUNTY SUPERIOR COURT
VISALIA DIVISION

SEP 15 2017

STEPHANIE CAMERON, CLERK
BY: _____

6 Attorneys for Respondent RICHARD TORREZ and
7 Real Party in Interest BAKER & HOSTETLER and
8 BRUCE GREENE

9 **TULARE COUNTY SUPERIOR COURTS**
10 **STATE OF CALIFORNIA, VISALIA DIVISION**

BAKER & HOSTETLER LLP
ATTORNEYS AT LAW
CLEVELAND

11 THE PEOPLE OF THE STATE OF
12 CALIFORNIA,
13
14 Petitioner,
15
16 v.
17 RICHARD TORREZ, Individually and in his
18 capacity as a member of the Board of
19 Directors, Tulare County Local Health Care
20 District; and DOES 1-10,
21
22 Respondents,
23 SENOVIA GUTIERREZ, lawfully elected
24 Director of the Board of Directors, Tulare
25 County Local Health Care District,
26 BRUCE GREENE, former general counsel for
27 TRMC Board,
28 BAKER & HOSTETLER, former general
counsel for TRMC Board,
Real Party in Interest.

Case No.: 271086

**Declaration of Bruce R. Greene in
Opposition to Ex Parte Application to
Petition for Alternate Writ of Mandate**

Date: September 15, 2017
Time: 8:30 a.m.
Dept: One (1)

BY FAX

I, Bruce R. Greene, declare as follows:

1. I am an attorney at law, duly admitted to practice law in the State of California. I am a partner in the law firm of Baker Hostetler LLP (the "Baker Firm"). I make this declaration in opposition to Petitioner's Ex Parte Application to Petition for Alternative

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Writ of Mandate. I know all of the following facts of my own personal knowledge and, if call and sworn as a witness, could and would testify competently thereto.

2. Since 2014, the Baker Firm has been engaged to render legal services to the Tulare Local Healthcare District (the “District”) and its Board of Directors (the “Board”).

3. I have read the pleadings filed by the Tulare County District Attorney seeking an “ex parte alternate writ of mandate” and the supporting declarations of Kevin Northcraft (“Northcraft”) and Michael Jamaica (“Jamaica”).

4. The facts as alleged in the District Attorney’s pleadings, and in the declarations of Mr. Northcraft and Mr. Jamaica are inaccurate and misleading. Moreover, I believe that the analysis of the law (specifically Elections Code § 15400) in the District Attorney’s pleadings is likewise erroneous.

5. The District Attorney appears to have done little or no investigation before filing this action. No one from the District Attorney’s office contacted the Baker Firm, HCCA or Mr. Torrez to discuss the matter. Instead, the District Attorney apparently relied solely on the declarations of Mr. Northcraft and Mr. Jamaica, and possibly the attorneys who they purportedly engaged to represent the District (the McCormick, Barstow firm) the legitimacy of whose engagement is in dispute. Even the tone of the pleadings suggests unprofessionalism and bias (referring to myself and the Baker Firm as “former general counsel” for the Board.

6. Dr. Parmod Kumar was recalled as a director of the District after a special election that was held on July 11, 2017.

7. The confirmation of the results of the election by the Tulare County Registrar of Voters was not certified to the Board until July 25, 2017 (which the Board received on July 26, 2017). A copy of the transmittal letter from the Tulare County Registrar of Voters (including the FedEx delivery slip) is attached as Exhibit “A”.

8. The Tulare County Registrar of Voters stated in her letter as follows: “Per Elections Code 15400, the governing body shall declare elected or nominated to each office voted on at each election under its jurisdiction the person bearing the highest number of votes for that office. Therefore, please place the Certified Statement of Vote on the agenda for your next regularly scheduled meeting of the Tulare Local Healthcare

1 District”.

2 9. On or about July 21, 2017, Mr. Northcraft contacted HCCA (the Manager of the
3 District) requesting that the declaration of the election results be placed on the agenda for
4 the next regular meeting of the Board, which was scheduled for July 26, 2017. At that
5 time, the Board had not received the certification of the election results and as a result, the
6 declaration of the election results was not placed on the agenda, although the agenda did
7 include an announcement by the Chair of the Board that Senovia Gutierrez had received
8 the highest number of votes in the election. The agenda had to be posted seventy-two (72)
9 hours before the meeting, which was 4:00 p.m. on Sunday, July 23, 2017, and, in fact, the
10 agenda was posted at that time.

11 10. Prior to the commencement of the meeting on July 26, 2017, Linda Wilbourn,
12 Chair of the Board, announced publicly that there was a question as to whether the agenda
13 as posted would permit a vote of the Board declaring Ms. Gutierrez to be a Board
14 member. She stated that she would hear the position of attorneys for both sides in the
15 matter and then a decision would be made. However, before the meeting commenced, it
16 became apparent that neither Northcraft or Mr. Jamaica were present. Therefore, there
17 was no quorum and the meeting was cancelled. I was on the telephone with the Board
18 when all these events occurs.

19 11. Later that same day, Mr. Northcraft, Mr. Jamaica and Ms. Gutierrez purported to
20 call a “special meeting” of the Board, to be held on July 27, 2017, and Mr. Northcraft
21 submitted a proposed agenda, a copy of which is attached hereto as Exhibit “B”. Notably,
22 the agenda did not include an item declaring Ms. Gutierrez as a Board member under
23 Elections Code § 15400. I emailed Mr. Northcraft advising him that under the District’s
24 Bylaws a special meeting could only be called by at least three (3) directors, and that since
25 Ms. Gutierrez had not yet been declared as a director under Elections Code § 15400, she
26 could not be one of the three.

27 12. Nevertheless, Mr. Northcraft, Mr. Jamaica and Ms. Gutierrez apparently held their
28 “special meeting” on July 27, 2017, and purported to take certain actions at that meeting,
including termination of the Baker Firm as counsel for the District, and the engagement of
the McCormick, Barstow firm as general counsel for the District. A copy of Mr.
Northcraft’s email dated July 28, 2017, which indicates the action taken at that meeting, is

1 attached hereto as Exhibit "C". Notably, there was no mention of any action taken at that
2 meeting to declare Ms. Gutierrez as a Board member under Elections Code § 15400.

3 13. On July 28, 2017, I sent Mr. Northcraft an email restating my position that the so-
4 called special meeting held the prior day was not authorized and that any action taken at
5 that meeting was of no force or effect.

6 14. Mr. Northcraft, Mr. Jamaica and Ms. Gutierrez called for another purported
7 "special meeting" of the Board on August 9, 2017. A copy of the agenda for that meeting
8 is attached hereto as Exhibit "D". I sent Mr. Northcraft an email restating my position
9 about that meeting.

10 15. Nevertheless, Mr. Northcraft, Mr. Jamaica and Ms. Gutierrez apparently held their
11 "special meeting" on August 9, 2017. A copy of Mr. Northcraft's email dated August 10,
12 2017, which indicates the action taken at that meeting, is attached hereto as Exhibit "E".
13 Notably, no action was taken at that meeting to declare Ms. Gutierrez a Board member
14 under Elections Code § 15400. After that meeting, I sent Mr. Northcraft another email
15 reaffirming my prior position about the validity of that meeting.

16 16. The next regular meeting of the Board was scheduled for August 23, 2017. An
17 agenda was prepared by HCCA (as it always does) and was posted in the ordinary course.
18 One of the items on the agenda was the declaration that Ms. Gutierrez was a Board
19 member under Elections Code § 15400. A copy of that agenda is attached hereto as
20 Exhibit "F".

21 17. Mr. Northcraft submitted his own agenda for the August 23, 2017 meeting, which
22 also contained the declaration of Ms. Gutierrez as a Board member. A copy of that
23 agenda is attached hereto as Exhibit "G".

24 18. On the morning of August 23, 2017, Ms. Wilbourn sent me a letter stating that she
25 was resigning from the Board. I forwarded that letter to all concerned parties.

26 19. I was not present at the Board meeting that was held on August 23, 2017.
27 However, I have viewed that meeting online (a video was posted by the local media). Mr.
28 Torrez did not attend the meeting. I understand that there was some initial confusion
about whether there was a quorum. However, as Mr. Northcraft states in his declaration,
that meeting did take place. No action whatsoever was taken at that meeting in open

1 session, as Mr. Northcraft, Mr. Jamaica and Ms. Gutierrez immediately went into closed
2 session (and subsequently announced that no reportable actions were taken in closed
3 session). Attached hereto as Exhibit "H" is an email dated August 24, 2017 from Mr.
4 Northcraft which confirms the foregoing. Notably, no action was taken at that meeting to
5 declare Ms. Gutierrez a Board member under Elections Code § 15400.

6 20. I have never contested the validity of the meeting held on August 23, 2017 (even
7 though Ms. Gutierrez was improperly purporting to act as a Board member) because the
8 meeting was duly noticed and a quorum was present (2 out of 3 members) after Ms.
9 Wilbourn resigned.

10 21. I have received several communications from the McCormick, Barstow firm
11 requesting that we turn over all District files to them. In each case, we have responded
12 that we do not recognize their firm as counsel to the District and that we consider Baker
13 Firm to be legal counsel until we are duly discharged at a legitimated Board meeting.

14 22. The next regularly scheduled Board meeting is to be held on September 27, 2017.
15 Given that Mr. Northcraft and Mr. Jamaica represent a quorum, regardless of what else
16 happens, if they both attend the meeting proceeds, the Board can declare Ms. Gutierrez a
17 Board member under Elections Code § 15400, and can take any further actions that it may
18 lawfully take (including discharging the Baker Firm, if that is their desire). I am advised
19 by HCCA that the agenda for that meeting will contain an item declaring Ms. Gutierrez as
20 a Board member under Elections Code § 15400.

21 23. Despite the District Attorney's pleadings, neither the Baker Firm nor Mr. Torrez
22 have taken any actions to usurp the power of the Board, or to interfere with the legal
23 process by prohibiting or delaying Ms. Gutierrez from becoming a lawful member of the
24 Board. Mr. Torrez is not compelled to attend Board meetings, and his absence from the
25 August 23, 2017 meeting was of no consequence, since there was a quorum.

26 24. Moreover, the positions taken by the Baker Firm with respect to Elections Code §
27 15400 are supported by two independent attorneys who specialize in elections law,
28 Michael L. Allan, Esq., and Cary Davidson, Esq. of the firm of Reed & Davidson. In both
instances, the Baker Firm was advised that the requirements of Elections Code § 15400
could not be ignored and had to be complied with. In addition, Mr. Allan has prepared a
written opinion setting forth his views on the matter. Attached as Exhibit "I" is a true and

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correct copy of Mr. Allan’s eight page written opinion. I believe Mr. Allan’s reasoning and ultimate conclusions to be both sound and persuasive.

25. As far as the Baker Firm is concerned, we were following the law. The Elections Code sets forth the procedures for a new Board member to be elected and qualify after a recall election. Those statutes call for the Registrar of Voters to certify the election results to the Board, for the person who is certified as receiving the highest number of votes to qualify and take the oath of office, and the last step is for the Board to declare that person a member of the Board (Elections Code § 15372 - 15400). Clearly, the last step never occurred.

26. It is disingenuous for the District Attorney to accuse Mr. Torrez or the Baker Firm of interfering with the elections process. Indeed, Mr. Northcraft and Mr. Jamaica had several opportunities to comply with Elections Code § 15400. The July 26, 2017 regular meeting could well have resulted in that declaration, but the voluntary decision of Mr. Northcraft and Mr. Jamaica not to attend the meeting (thereby resulting in a lack of a quorum) made that impossible. At the regular meeting held on August 23, 2017, since the declaration of Ms. Gutierrez as a Board member was on the agenda, they could have voted to declare her a Board member under Elections Code § 15400. They did not do so. And notably, at the two purported “special meetings” held by Mr. Northcraft, Mr. Jamaica and Ms. Gutierrez, the three of them never voted to declare Ms. Gutierrez a Board member under Elections Code § 15400.

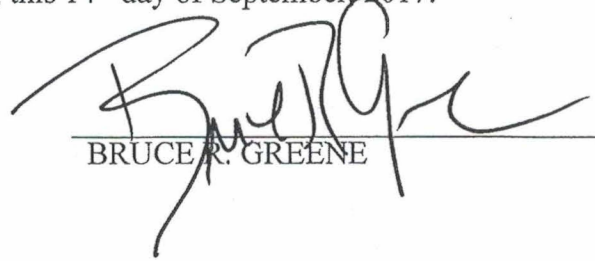
27. Finally, despite the allegations that there will be irreparable harm to the District if the Court does not grant the requested ex parte relief, there is simply no evidence to support that. The only mention of harm is in the Northcraft and Jamaica declarations, whereupon they refer to a pending case against the District involving a public records act claim, which had been scheduled for September 11, 2017. However, Judge Reed subsequently vacated the trial date in that case until after the September 27, 2017 Board meeting, recognizing that the issues will be moot by then. To our knowledge, the hospital’s operations have continued as usual and there is absolutely no urgency in this matter, and certainly nothing that cannot wait until after the September 27, 2017 meeting. All of the concerns raised in the District Attorney’s pleadings will likewise be moot after that meeting.

BAKER & HOSTETTLER LLP
ATTORNEYS AT LAW
CLEVELAND

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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed at Los Angeles, California, this 14th day of September, 2017.



BRUCE R. GREENE

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF KERN

TULARE LOCAL HEALTHCARE DISTRICT)
dba Tulare Regional Medical)
Center, a Public Agency)
)
Plaintiff,)
)
versus)
)
BRUCE R. GREENE; BAKER & HOSTETLER)
LLP, a limited liability)
partnership; et al.,)
)
Defendants.)
_____)



No. BCV-19-103514

DEPOSITION OF

CARY DAVIDSON

515 SOUTH FIGUEROA STREET, SUITE 1110
LOS ANGELES, CALIFORNIA 90071

THURSDAY, FEBRUARY 13, 2020

LESLI KELIGIAN,
CERTIFIED SHORTHAND REPORTER NO. 6006, RPR

1 relating to the seating of Senovia Gutierrez. Bruce
2 Greene and Baker and Hostetler are both named as real
3 parties in interest.

4 Q In September of 2017, did -- were you aware
5 that this proceeding was pending in the Tulare County
6 Superior Court?

7 A No.

8 Q I'd like to you look at Page 5, Paragraph 24.
9 We've highlighted this. Mr. Greene says under penalty
10 of perjury here,

11 "Moreover, the positions taken by the
12 Baker firm with respect to Elections
13 Code 15400 are supported by two
14 independent attorneys who specialize in
15 elections law, Michael L. Allan,
16 Esquire, and Cary Davidson, Esquire, of
17 the firm of Reed and Davidson."

18 Did you have any communications with
19 Mr. Greene, whether orally or in writing, about the fact
20 that he was going to include you as one of two
21 independent attorneys who specialize in election law
22 that support the positions that were taken by the Baker
23 firm with respect to Elections Code 15400?

24 A No.

25 Q Did you ever tell Mr. Greene that you supported

1 deposition.

2 BY MR. MURPHY:

3 Q As of the July 2017 time frame when you were
4 providing these professional courtesies to Mr. Greene,
5 were you of the mindset that the requirements of
6 Elections Code Section 15400 could not be ignored and
7 had to be complied with?

8 A My recollection is otherwise.

9 Q That it could be ignored and not complied with?

10 A That's my recollection.

11 Q And did you express that recollection -- did
12 you ever express that to Mr. Greene?

13 A That's my recollection.

14 Q What do you recall expressing to Mr. Greene
15 specifically?

16 A I don't recall.

17 Q And in connection with your recollection, was
18 that expressed in writing or telephonically or via
19 voicemail?

20 A I don't recall.

21 MR. MURPHY: Okay. Those are all the questions
22 I have. Thank you.

23 MR. LAMPE: Anybody on the phone have
24 questions?

25 MR. O'ROURKE: No questions.

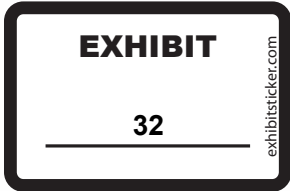
MICHAEL L. ALLAN, ESQ.
 2181 EAST FOOTHILL BOULEVARD, SUITE 102
 PASADENA, CALIFORNIA 91107

INVOICE

DATE: August 31, 2017

INVOICE #: 08_31_17_006

TO: Bruce R. Greene, Esq.
 Baker & Hostetler LLP
 11601 Wilshire Blvd, Ste 1400
 Los Angeles, CA 90025-0509



ITEM	HOURS	RATE	TOTAL
Legal Services re: Failure to Seat Tulare Local Health Care District Special Election Candidate S. Gutierrez, and related matters	19.7	\$ 450/Hr	\$ 8,865.00
Incurring Costs:	////	////	\$ N/C
Total Attorneys Fees & Costs:	////	////	\$ 8,865.00
Less Disbursement from Client Trust Account:	////	////	\$ Not Appl
Outstanding Attorneys Fees & Costs:	////	////	\$ 8,865.00
<i>Sheets detailing billable hours are attached hereto.</i>	////	////	////

TOTAL AMOUNT CURRENTLY DUE: \$ 8,865.00

MICHAEL L. ALLAN

BILLABLE HOURS

CLIENT	DATE	WORK DONE	HRS
Bruce Greene Baker & Hostetler	08/22/17	Email from B. Greene re: elections law analysis request	0.1 N/C
	08/23/17	Phone call with B. Greene opinion re: failure to seat Senovia Gutierrez following special election for TLHD; Research, Review & Analysis re: Elections Code Section 15400	1.6
	08/24/17	Research, Review & Analysis re: Elections Code Section 15400, Legislative History re: Election Code Section 15400, Related Case Law, Distinction between Election and qualification for seating, Various Election Code Provisions, Government Code Provisions, Health & Safety Code Provisions, Facts pertaining to post election activity pertaining to TLHD recall and special elections of July 2017; Review Client document re: Draft Opinion to Celtic Financial; Review Email from B. Greene; Draft analysis of the same re: failure to seat elected candidate S. Gutierrez	13.6
	08/25/17	Review Emails from B. Green, Draft Email Responses to B. Greene re: Certification, Qualification of Candidate for Office, Bond Issue, local government compliance with Sec. 15400 examples, Registrar of Voters letter to TLHD, Bylaws of TLHD, Dissenting TLHD members putative meetings, disclosure of efforts by dissenting TLHD members to rescind prior resolution and action; Revise opinion to include additional issues, facts, legal reference re: the foregoing matters per request of client.	4.3
	08/27/17	Email to B. Greene re: hand executed copy of Opinion	0.1 N/C
	08/29/17	Review Email from Paula Nguyen of Celtic Financial; Response to Email from P. Nguyen; Text to B. Greene; Review Email Response of B. Greene to Nguyen re: quorum at June 20, 2017 meeting of TLHD	0.3 N/C
	08/30/17	Phone Call with Tim Ong of Celtic Financial at request of B. Greene; Phone Call with B. Greene re: quorum at June 20, 2017 meeting of TLHD	0.2
TOTAL HOURS	08/22 - 08/30/17		20.2
TOTAL BILLED:	08/22 - 08/30/17		19.7

BakerHostetler

EXHIBIT

33

exhibits.baker.com

Tulare Local Healthcare District
869 North Cherry St
Tulare, CA 93274-3462

Invoice Date: 09/05/17
Invoice Number: 50416056
B&H File Number: 07110/093734/000003
Taxpayer ID Number: 34-0082025
Page 1

Regarding: **General (2015-2017)**

For professional services rendered through August 31, 2017

BALANCE FOR THIS INVOICE DUE BY 10/05/17 \$ 16,268.18

Remittance Copy

Please include this page with payment

Invoice No: 50416056

Firm Contact Information

Bernadette O'Neill
(310) 979-8470
Boneill@bakerlaw.com

Please Remit To:
Baker & Hostetler LLP
P.O. Box 70189
Cleveland, OH 44190-0189

Reference Invoice No:
50416056

FOR WIRE REMITTANCES:
Baker & Hostetler LLP
KeyBank, N.A., Cleveland, OH
Account No: 1001516552 / ABA 041001039
SWIFT Code: KEYBUS33

Email the "Remittance Copy" to
bakerlockbox@bakerlaw.com

BAKER 0000230

BakerHostetler

Tulare Local Healthcare District
869 North Cherry St
Tulare, CA 93274-3462

Invoice Date: 09/05/17
Invoice Number: 50416056
B&H File Number: 07110/093734/000003
Taxpayer ID Number: 34-0082025
Page 2

Regarding: General (2015-2017)

For professional services rendered through August 31, 2017

Fees	\$	7,225.50	
Expenses	\$	<u>9,042.68</u>	
BALANCE FOR THIS INVOICE DUE BY 10/05/17	\$		16,268.18
PREVIOUS BALANCE		<u>561,520.96</u>	
TOTAL BALANCE DUE		<u>577,789.14</u>	

Baker&Hostetler LLP

Atlanta
Houston

Chicago
Los Angeles

Cincinnati
New York

Cleveland
Orlando

Columbus
Philadelphia

Costa Mesa
Seattle

Denver
Washington, DC

BAKER 0000231

Regarding: **General (2015-2017)**

Matter Number: 093734.000003

Name	Hours	Rate	Amount
Paule, Francisco	1.40	\$ 325.00	\$ 455.00
Brust Barry A.	1.70	465.00	790.50
Berg Jeffrey P	4.00	750.00	3,000.00
Greene Bruce R	4.00	745.00	2,980.00
Total	11.10		\$ 7,225.50

Date	Name	Description	Hours	Amount
08/21/17	Berg Jeffrey P	Work on opinion issues.	0.30	225.00
08/21/17	Paule, Francisco	Continue researching loan issues.	1.40	455.00
08/22/17	Berg Jeffrey P	Consult regarding Form of opinion and various requirements. Review various drafts of opinions. Staff review of same.	0.90	675.00
08/22/17	Brust Barry A.	Review proposed opinion regarding board election and authorization of lease; conferences regarding same.	1.00	465.00
08/23/17	Berg Jeffrey P	Review revised opinion form and review various scenarios for use of opinion; staff review of same.	0.70	525.00
08/23/17	Brust Barry A.	Continue discussions regarding opinion; review revised opinion.	0.70	325.50
08/24/17	Berg Jeffrey P	Work on opinion and related arguments.	1.00	750.00
08/25/17	Berg Jeffrey P	Review draft opinions and staff review of issues raised by opinions.	1.10	825.00
08/28/17	Greene Bruce R	Attend to loan/lease matters with Celtic, leasing innovations, Medequities; attend to Graham Prewett matter; e-mail communication from Salinas firm re	4.00	2,980.00

Baker & Hostetler LLP

Date	Name	Description	Hours	Amount
		Griesbach and Ibarra matters		
		Total	11.10	7,225.50

Expenses and Other Charges

08/31/17	Other Professional Services (E123) Michael L Allan Professional Services; Inv. 08_31_17_006			<u>8,865.00</u>
		Subtotal - Other Professional Services (E123)		<u>8,865.00</u>
08/18/17	Westlaw Research - 08/18/17 by PAULE FRANCISCO			<u>177.68</u>
		Subtotal - Automated Research (E106)		<u>177.68</u>
			Total	<u>\$ 9,042.68</u>

Baker & Hostetler LLP

ACCOUNT SUMMARY

Invoice Date	Invoice Number	Original Amount	Last Payment Date	Total Payments Applied	Last Adjustment Date	Total Adjustment Applied	A/R Balance
04/28/16	50227549	\$ 82,795.23	04/05/17	\$ 35,361.34		\$	\$ 47,433.89
10/21/16	50299352	57,659.24		0.00			57,659.24
11/28/16	50314450	91,269.53		0.00			91,269.53
12/14/16	50325561	39,252.85		0.00			39,252.85
01/18/17	50336079	21,302.59		0.00			21,302.59
02/10/17	50346037	33,997.72		0.00			33,997.72
03/13/17	50356460	41,529.82		0.00			41,529.82
04/11/17	50366083	87,571.76		0.00			87,571.76
05/16/17	50379199	48,106.85		0.00			48,106.85
06/12/17	50387630	29,659.15		0.00			29,659.15
07/14/17	50398777	27,207.54		0.00			27,207.54
08/09/17	50408475	29,232.02		0.00			29,232.02
08/10/17	50408941	5,968.00		0.00			5,968.00
08/23/17	50413671	1,330.00		0.00			1,330.00
Total		\$ 596,882.30		\$ 35,361.34		\$	\$ 561,520.96

Account Receivable Balance	\$ 561,520.96
This Invoice	<u>\$ 16,268.18</u>
Total Due including current invoice	<u>\$ 577,789.14</u>

Baker & Hostetler LLP

Atlanta Chicago Cincinnati Cleveland Columbus Costa Mesa Denver
 Houston Los Angeles New York Orlando Philadelphia Seattle Washington, DC

BAKER 0000234

EXHIBIT

34

exhibitsticker.com

Exhibit 14
Senovia Gutierrez
01-22-20
Dawn Thompson, CSR# 7517

To: Paule, F. Lucas[fpaule@bakerlaw.com]
From: Greene, Bruce R./[O=BH/OU=DENVER/CN=RECIPIENTS/CN=BGREENE]
Sent: Fri 7/21/2017 6:03:18 PM (UTC-07:00)
Subject: Re: new board member

This was part of recall. Just have the chair announce that as a result of the recent election dr Kumar is no longer a board member and he has been replaced by Senovia Gutierrez. I don't see any reason for any board action to be taken. It can be fit in right after the call to order. Call it something like Chair announcement.

Sent from my Bakerlaw mobile device

On Jul 21, 2017, at 5:59 PM, Paule, F. Lucas <fpaule@bakerlaw.com> wrote:

Bruce, would this be added to the open session? I'm not aware of the details of this special election, do you have any more information I can add to the description?

From: Yorai Benzeevi [<mailto:benny@healthcca.com>]

Sent: Friday, July 21, 2017 5:52 PM

To: Greene, Bruce R.; Paule, F. Lucas

Subject: Fwd: new board member

Please see below for additional agenda item.

Benny Benzeevi, MD, FACEP
Chairman
Healthcare Conglomerate Associates
Cell (559) 303 - 7144
Sent from a mobile device
Please excuse brevity/typos
Begin forwarded message:

Date: July 21, 2017 at 5:27:05 PM PDT

To: benny@healthcca.com, linda.wilbourn@comcast.net

Subject: new board member

Based on the certification today of the July 11 election, Senovia Gutierrez will be sworn in prior to the July 26 regular meeting and be in office.

If the meeting is held, please provide her the packet for 7/26 meeting. She can be reached at 559-553-5199, email senovia@live.com.

The July 26 agenda also should include an item to declare the results of the special election of July 11, 2017.

Thank you.

kevin northcraft