

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF CALIFORNIA
JUDGE LAURA S. TAYLOR, PRESIDING

IN RE:

BORREGO COMMUNITY HEALTH)	
FOUNDATION,)	CHAPTER 11
)	
DEBTOR.)	CASE NO. 22-02384-LT
_____)	
)	
BORREGO COMMUNITY HEALTH)	
FOUNDATION,)	
)	
PLAINTIFF,)	ADV. NO. 22-90056
)	
VS.)	
)	
CALIFORNIA DEPARTMENT OF)	
HEALTH CARE SERVICES,)	
)	
DEFENDANT.)	
_____)	

HEARING SET BY COURT RE: EX PARTE APPLICATION
SUPPLEMENTING EMERGENCY MOTION (I) TO ENFORCE THE
AUTOMATIC STAY PURSUANT TO 11 U.S.C. 362; OR IN THE
ALTERNATIVE, (II) FOR TEMPORARY RESTRAINING ORDER
FILED ON BEHALF OF BORREGO COMMUNITY HEALTH FOUNDATION

REPORTER'S TRANSCRIPT OF PROCEEDING

SAN DIEGO, CALIFORNIA

FRIDAY, SEPTEMBER 30, 2022

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U.S. BANKRUPTCY COURT
DEPARTMENT 3
325 WEST "F" STREET
SAN DIEGO, CA 92101



1 APPEARANCES OF COUNSEL:

2
3 FOR THE PLAINTIFF AND DEBTOR:

4 DENTONS US LLP
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11 FOR THE DEFENDANT:

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19 FOR THE INTERESTED PARTY MC KESSON CORPORATION:

20 BUCHALTER NEMER, APC
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FOR THE PATIENT CARE OMBUDSMAN, JACOB NATHAN RUBIN:

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1 SAN DIEGO, CALIFORNIA, FRIDAY, SEPTEMBER 30, 2022

2 11:00 A.M.

3
4 THE CLERK: GOOD MORNING, YOUR HONOR.

5 THE COURT: GOOD MORNING.

6 THE CLERK: MATTER NO. 1, BORREGO COMMUNITY
7 HEALTH FOUNDATION VERSUS CALIFORNIA DEPARTMENT OF HEALTH
8 CARE SERVICES. THIS IS A HEARING SET BY COURT REGARDING
9 THE EX PARTE APPLICATION SUPPLEMENTING EMERGENCY MOTION,
10 (1) TO ENFORCE THE AUTOMATIC STAY PURSUANT TO 11 U.S.C.
11 362, OR IN THE ALTERNATIVE, (NO. 2), FOR THE TEMPORARY
12 RETRAINING ORDER FILED ON BEHALF OF THE DEBTOR.

13 MS. MOYRON, MAY WE HAVE YOUR VIDEO APPEARANCE,
14 PLEASE.

15 MS. MOYRON: GOOD MORNING. GOOD MORNING,
16 YOUR HONOR, TANIA MOYRON, DENTONS US, LLP APPEARING ON
17 BEHALF OF THE DEBTOR.

18 THE COURT: THANK YOU.

19 THE CLERK: AND MR. MAIZEL, MAY WE HAVE YOUR
20 VIDEO APPEARANCE, PLEASE.

21 MR. MAIZEL: GOOD MORNING, YOUR HONOR.
22 SAMUEL MAIZEL, DENTONS US, LLP ON BEHALF OF THE DEBTOR.

23 THE COURT: GOOD MORNING.

24 THE CLERK: AND MR. WANG, MAY WE HAVE YOUR
25 VIDEO APPEARANCE, PLEASE.

1 MR. WANG: THANK YOU, MR. PALUSO.

2 KENNETH WANG, DEPUTY ATTORNEY GENERAL ON BEHALF OF
3 DEFENDANT IN THIS CASE, CALIFORNIA DEPARTMENT OF HEALTH
4 CARE SERVICES.

5 THE COURT: AND WHO IS GRANT?

6 MR. WANG: GRANT, HE IS MY COUNTERPART. WE
7 WORK TOGETHER AS A TEAM IN MY OFFICE. HE IS ALSO A
8 DEPUTY ATTORNEY GENERAL WITH MY OFFICE. WE REPRESENT
9 THE SAME CLIENT.

10 THE COURT: WHAT'S HIS LAST NAME?

11 MR. WANG: L-I-E-N.

12 THE COURT: OKAY, THANK YOU.

13 THE CLERK: AND MR. GOLUBCHIK, WILL YOU BE
14 MAKING A FORMAL APPEARANCE TODAY?

15 MR. GOLUBCHIK: YES. GOOD MORNING,
16 YOUR HONOR. DAVID GOLUBCHIK, LEVENE, NEALE, BENDER, YOO
17 & GOLUBCHIK, PROPOSED COUNSEL FOR JACOB NATHAN RUBIN,
18 PATIENT CARE OMBUDSMAN.

19 THE CLERK: AND MR. GARFINKLE, WILL YOU BE
20 MAKING A FORMAL APPEARANCE TODAY?

21 MR. GARFINKLE: I WILL, YOUR HONOR.
22 JEFFREY GARFINKLE OF BUCHALTER, SPECIALLY APPEARING ON
23 BEHALF OF MC KESSON CORPORATION, WHICH IS ONE OF THE
24 LARGEST UNSECURED CREDITORS.

25 JUST SO THE COURT IS AWARE, RIGHT NOW I HAVE

1 BEEN AUTHORIZED BY MC KESSON TO SAY THIS. THE COURT,
2 THE COMMITTEE RIGHT NOW IS MEETING TO SELECT ITS COUNSEL
3 AS THIS HEARING IS GOING ON. SO --

4 THE COURT: RIGHT.

5 MR. GARFINKLE: -- WE MAY HAVE A REPORT BACK
6 DURING THE HEARING.

7 THE COURT: ALL RIGHT. YOU CAN ADVISE THE
8 COMMITTEE THAT IF THEY -- I DON'T LIKE DOING THIS TO
9 SOMEONE, BUT THEY MAY HAVE TO FILE SOMETHING ON THE
10 MONDAY DATE GIVEN TO THE DEPARTMENT OF HEALTH SERVICES,
11 OR THEY MAY FILE A RESPONSE ON, I THINK IT'S WEDNESDAY
12 OR TUESDAY, WHENEVER I'M ALLOWING THE DEBTOR TO RESPOND.

13 MR. GARFINKLE: THANK YOU, YOUR HONOR.

14 THE CLERK: AND I BELIEVE THAT'S IT,
15 YOUR HONOR, FOR APPEARANCES.

16 THE COURT: ALL RIGHT. WELL, THIS IS
17 OBVIOUSLY AN ISSUE OF GREAT CONCERN TO THE COURT. I
18 ISSUED A TENTATIVE, WHICH WAS WHAT I THOUGHT WAS A
19 SOMEWHAT PRACTICAL WAY TO DEAL WITH THIS, BECAUSE I
20 THINK PART OF THE PROBLEM, MR. MAIZEL, IS, OR WHAT I
21 THOUGHT BASED ON THE INITIAL PAPERS AND ON MR. WANG'S
22 RESPONSE, WAS THAT AT LEAST PART OF THE PROBLEM HERE
23 WASN'T JUST THE DEPARTMENT OF HEALTH SERVICES. IT WAS
24 JUST PEOPLE WHO DON'T GET IT, TO BE PERFECTLY HONEST.

25 THE INLAND HEALTH LETTER WHERE SHE SAYS, WELL,

1 UNTIL THE COURT TELLS US WHAT TO DO, WHAT -- YOU KNOW,
2 THAT'S NOT THE WAY THIS WORKS. THE STAY IS EITHER THERE
3 OR IT'S NOT. IF IT'S THERE -- SO YOU CAN REPORT TO HER,
4 BAD CHOICE OF WORDS.

5 THEN I GOT THIS MORNING WITHIN THE PAST, I
6 THINK, 15 MINUTES, AN ADDITIONAL DECLARATION FILED BY, I
7 THINK, MR. LAMANIA (PHONETIC). HE DIDN'T MAKE AN
8 APPEARANCE, BUT IT WAS HERE. AND HE WAS TELLING ME,
9 HE'S SAYING YES, IN EFFECT, THAT DHS DID SOMETHING, BUT
10 THEY MAY HAVE CREATED SOME OF THE CONFUSION.

11 SO IN ADDITION TO WHAT I'VE PROPOSED, I'M
12 INTERESTED IN HEARING WHETHER THERE IS A CLARIFYING
13 LETTER THAT SHOULD BE SENT BY DHS. BECAUSE TO THE
14 EXTENT THEY REFERENCE A SECTION THAT'S NOT DIRECTLY
15 APPLICABLE AND MAY HAVE MISLED PEOPLE, INADVERTENTLY AT
16 THIS POINT.

17 THIS IS AN EMERGENCY HEARING. I HAVE NO
18 INTENTION OF MAKING ANY BINDING DETERMINATIONS THAT, IN
19 PARTICULAR, DHS HAS DONE ANYTHING WRONG, BUT I'M ALSO
20 NOT MAKING ANY BINDING DETERMINATIONS THAT DHS HAS DONE
21 EVERYTHING RIGHT. IN FACT, I THINK DHS IS GOING TO DO
22 WHATEVER IS NECESSARY TO LIVE INTO THEIR AGREEMENT WITH
23 THE COURT, NOT JUST THEIR AGREEMENT WITH THE DEBTOR.

24 AND SO I THINK, MR. WANG, A CLARIFYING LETTER
25 MIGHT BE A GOOD IDEA. I'LL LET YOU BE HEARD ON THAT.

1 BUT MY PRIMARY THOUGHT IS THAT WE NEED TO ADVISE THE
2 WIDER COMMUNITY, SOME OF WHOM HAVE BANKRUPTCY COUNSEL --
3 I SEE THAT BLUE CROSS HAS SNELL & WILMER -- SOME OF WHOM
4 ARE RELYING PERHAPS ON PARTIES THAT AREN'T AS WELL
5 LAWYERED, AT LEAST IN TERMS OF BANKRUPTCY LAWYERS AND
6 BANKRUPTCY ISSUES, THAT THEY PROCEED AT THEIR OWN RISK,
7 AND THAT THE DEPARTMENT OF HEALTH SERVICES, AT THIS
8 POINT, THEY CANNOT POINT TO ANYTHING THE DEPARTMENT OF
9 HEALTH SERVICES HAS DONE AS PROTECTION FOR THE ACTIONS
10 THEY MAY BE TAKING HERE TODAY.

11 AND I'LL LET YOU -- LET THIS GO TO MR. MAIZEL
12 OR MS. MOYRON NEXT. BUT I JUST WANT TO SAY TOO,
13 MR. WANG, YOU HAVE A HUGE PROBLEM, AND YOUR HUGE PROBLEM
14 IS MR. GOLUBCHIK'S CLIENT. THAT DECLARATION IS
15 HORRIFYING. THAT DECLARATION IN EFFECT TELLS ME THAT
16 THE PATH YOU ARE TAKING, AND WHEN I SAY YOU, I MEAN THE
17 DEPARTMENT OF HEALTH SERVICES, IS ONE THAT IS IN
18 REALTIME LEADING TO NEGATIVE HEALTH CONSEQUENCES FOR A
19 VULNERABLE GROUP OF PEOPLE.

20 I DON'T KNOW IF YOU'VE EVER BEEN OUT TO
21 BORREGO SPRINGS. I HAVE. THERE'S NOTHING OUT THERE. I
22 THINK THEY HAVE ONE SHERIFF FOR A HUGE GEOGRAPHIC AREA.
23 THEY SIMPLY -- AND TELLING IMPOVERISHED PEOPLE GO AN
24 HOUR AND A HALF. I JUST DROVE TO LA YESTERDAY. I JUST
25 FILLED UP MY CAR. DO YOU KNOW WHAT GAS COSTS IN

1 SOUTHERN CALIFORNIA?

2 MR. WANG: 5.69 A GALLON.

3 THE COURT: CLOSER TO 7.

4 MR. WANG: OH, WOW.

5 THE COURT: SO, YOU KNOW, YOU'RE ASKING THESE
6 PEOPLE TO DO SOMETHING THAT IS FINANCIALLY IMPOSSIBLE
7 FOR PEOPLE OF MODEST MEANS. YOU'RE ASKING THEM TO
8 TRAVEL TWO HOURS EACH WAY, ONE AND A HALF HOURS EACH
9 WAY.

10 IF THEY ACTUALLY HAVE A JOB, HOW DO YOU THINK
11 THEY'RE GOING TO DO IT? WHO'S GOING TO TAKE CARE OF
12 THEIR KIDS WHILE THEY UNDERTAKE THIS VENTURE? I GUESS
13 THEY'RE JUST GOING TO TAKE THEM WITH THEM ON THE FREEWAY
14 FOR A FUN DAY OF TRAVEL.

15 YOU KNOW, AND THEY IDENTIFIED SOME EXTREMELY,
16 EXTREMELY -- MR. GOLUBCHIK CLIENT IDENTIFIED SOME
17 EXTREMELY VULNERABLE POPULATIONS.

18 THE WAY THIS CASE IS PRESENTING TO ME, AND
19 THIS IS YOUR CHALLENGE THIS WEEKEND AS YOU DRAFT YOUR
20 DOCUMENTS, IS ONE WHERE THERE WAS SOMETHING REALLY BAD
21 THAT HAPPENED TWO YEARS AGO. I HAVE NO DOUBT THE
22 DEPARTMENT OF HEALTH SERVICES WAS DEEPLY EMBARRASSED BY
23 THAT. THEY SHOULD HAVE BEEN. AND I HAVE NO DOUBT THAT
24 THE PEOPLE AT THIS DEBTOR WHO DID THAT ARE BAD PEOPLE,
25 AND I HOPE THAT THEY'RE CRIMINALLY PROSECUTED.

1 BUT WE ARE TWO YEARS LATER, TWO YEARS LATER,
2 AND WE'RE NOW -- WE'RE DONE. YOU'RE GOING TO HAVE
3 EVIDENCE TO ME, I THINK, THAT THERE'S SOME GOOD REASON
4 FOR THIS, SOME ONGOING FRAUD, SOME ONGOING PROBLEM, AND
5 THAT THIS ISN'T JUST A SITUATION WHAT WE HAVE IS
6 BUREAUCRATIC CHAGRIN. YOU KNOW, THEY'RE NOT JUMPING
7 HIGH ENOUGH. THEY'RE NOT BENDING DOWN LOW ENOUGH,
8 WHATEVER. GIVE ME SOME GOOD INFORMATION ON WHY
9 SOMETHING THAT HAS THIS KIND OF CATASTROPHIC HEALTH
10 IMPACT ON THESE PEOPLE IS A GOOD IDEA.

11 AND LOOKING AT IT JUST FROM AN ECONOMIC
12 STANDPOINT FOR A MOMENT, YEAH, I'M A TAXPAYER. I'D KIND
13 OF LIKE TO GET SOME OF THIS MONEY BACK. I THINK EVERY
14 SINGLE TAXPAYER IN THIS COUNTY WOULD LIKE TO GET SOME OF
15 THIS MONEY BACK. YOU'RE PRETTY MUCH ENSURING WE'RE NOT
16 GETTING THIS MONEY BACK.

17 SO HELP ME UNDERSTAND AND TO GET OVER THE FACT
18 THAT A THIRD-PARTY PATIENT CARE OMBUDSMAN PERSON
19 APPOINTED BY THE UNITED STATES TRUSTEE, TOTALLY
20 INDEPENDENT, NO AX TO GRIND EXCEPT THE BEST INTEREST OF
21 CREDITORS, IS TELLING ME, AND NOT TO PUT TOO FINE A
22 POINT ON IT, THE ACTIONS OF THE DEPARTMENT OF HEALTH
23 SERVICES PRIOR AND THESE HEALTH PLAN ADMINISTRATORS OR
24 WHOEVER CURRENT, ARE ENDANGERING PEOPLES' VERY LIVES.
25 I'M BAFFLED.

1 SO THAT'S MY SOAPBOX. I'LL GET DOWN OFF IT.
2 I'LL TRY AND BREATHE DEEPLY FOR THE REST OF THIS HEARING.
3 BUT I'M APPALLED. AND I WILL SAY, I'VE GIVEN THIS AS
4 MUCH TIME AS I CAN, BUT IT'S NOT A LOT. I WAS EITHER IN
5 COURT, IN A MEETING WITH OTHER JUDGES, OR ON THE 5
6 LITERALLY FROM 8:15 TO ALMOST 5:30 YESTERDAY. I ALMOST
7 DIED ON THE 5 TRYING TO TALK TO MY LAW CLERK ABOUT THIS,
8 AT WHICH POINT I DETERMINED THAT I CANNOT DRIVE AND DEAL
9 WITH A SERIOUS LEGAL MATTER AT THE SAME TIME.

10 SO I KNOW YOU HAVE SOME OTHER THINGS TO SAY.
11 I HAVE AN OPEN MIND, BUT YOU'VE GOT SOME TOUGH STUFF
12 HERE. SO LET ME GO TO MR. MAIZEL.

13 MR. MAIZEL, YOU'VE SEEN MY PROPOSAL, AND YOU
14 HEARD THAT I'M CONSIDERING ADDING TO IT THE REQUIREMENT
15 OF AN ADDITIONAL LETTER. AND I WANT TO HEAR FROM
16 MR. LAMANIA WHAT THAT WOULD LOOK LIKE.

17 MR. MAIZEL: THANK YOU, YOUR HONOR.
18 SAM MAIZEL FOR THE DEBTOR. SO, YOUR HONOR, FIRST OF
19 ALL, I APPRECIATE THE EMERGENCY HEARING. I KNOW IT IS A
20 BURDEN GIVEN YOUR SCHEDULE AND YOUR COURT'S DEMANDS.
21 BUT IT IS AN EMERGENCY, AND I THINK THE COURT'S COMMENTS
22 THIS MORNING MAKE IT CLEAR THAT YOU GET THAT. THAT THIS
23 IS NOT -- WE'RE NOT DOING THIS BECAUSE -- EVEN BECAUSE
24 THE COMPANY'S AFFECTED. WE'RE DOING THIS BECAUSE WE
25 HAVE REPORTS FROM THE PATIENT CARE OMBUDSMAN AND OUR OWN

1 STAFF THAT PATIENTS ARE BEING PUT IN IMMEDIATE AND
2 IRREPARABLE JEOPARDY. AND LIKE YOU, WE'RE KIND OF
3 APPALLED BY IT.

4 AND IT IS -- YOU KNOW, I READ THE DECLARATIONS
5 SUBMITTED BY THE DEPARTMENT OF HEALTH CARE SERVICES,
6 WHICH I THINK I WOULD CHARACTERIZE AS WHAT THEY'RE
7 SAYING IS, IT'S A COINCIDENCE. WE SENT OUT THESE
8 LETTERS AND JUST -- WE ARE SHOCKED, AND IT'S JUST A
9 COINCIDENCE THAT THE HEALTH PLANS ARE NOW PULLING ALL
10 THEIR PATIENTS AND TRANSFERRING THEM. AND WE HAVE -- WE
11 KNOW NOW, FOR EXAMPLE, THAT BLUE SHIELD HAS BLOCKED
12 TRANSFERRED ALL ITS LIVES EFFECTIVE YESTERDAY.

13 NOW, YOUR HONOR, ONE OF THE THINGS THAT WE
14 MADE CLEAR AND THE COURT MADE CLEAR, I THOUGHT, TO
15 MR. WANG WAS THAT IT WASN'T JUST THE SUSPENSION OF
16 PAYMENTS. IT WAS TO MAINTAIN THE STATUS QUO. AND
17 DOCUMENTS SUPPORTED BY -- SUBMITTED BY MR. WANG ON
18 BEHALF OF THE DEPARTMENT MADE CLEAR THEY NEVER EXPRESSED
19 THAT TO THE HEALTH PLANS. THEY NEVER TOLD THE HEALTH
20 PLANS IT'S THE STATUS QUO, FOLKS. DON'T BLOCK TRANSFER
21 LIVES. DON'T REFUSE TO ASSIGN NEW LIVES.

22 AND IN FACT, THEY WENT FURTHER THAN THAT,
23 YOUR HONOR. THEY DIDN'T EVEN SAY, EVEN THOUGH THEY KNOW
24 IT'S THE SUBJECT OF ONGOING LITIGATION NOW, THEY DIDN'T
25 SAY THAT THE HEALTH PLANS DON'T -- THE SUSPENSION IS

1 STOPPED PENDING FURTHER ORDER OF THE COURT OR FURTHER
2 INSTRUCTIONS FROM US. THEY TOLD THE HEALTH PLANS, THE
3 SUSPENSION IS PUT OFF UNTIL OCTOBER 6TH. AND OF COURSE,
4 THE HEALTH PLANS GIVEN THAT INSTRUCTION ARE GOING TO
5 RESPOND AS THEY HAVE BEEN.

6 THE COURT: WELL, THAT MAY BE AN INDEPENDENT
7 STAY VIOLATION, BUT WE'LL --

8 MR. MAIZEL: WE'RE CONSIDERING HOW TO ADDRESS
9 THAT, YOUR HONOR, OURSELVES.

10 AND IT ISN'T INADVERTENT, AS THE DECLARATION
11 OF MR. LAMANIA SHOWED. THE REFERENCES IN THE LETTER
12 THIS WEEK SENT BY THE STATE REFERENCED MISLEADING ALL
13 PLAN GUIDANCE, AND WHICH, BY THE WAY, IS LIGHTING ANY OF
14 THEIR EARLIER CORRESPONDENCE. SO IT'S CURIOUS AS TO HOW
15 IT'S MADE ITS WAY INTO ONLY THE MOST RECENT
16 CORRESPONDENCE.

17 AND MR. LAMANIA EXPLAINED BETTER THAN I COULD
18 HOW IT'S MISLEADING. BUT IT ALSO IS NOT A COINCIDENCE,
19 YOUR HONOR. THE HEALTH PLANS CORRESPONDENCE HAS MADE
20 CLEAR THAT THEY ARE REACTING TO WHAT THEY PERCEIVE AS
21 INSTRUCTIONS FROM THE DEPARTMENT. SO THE LETTER FROM
22 BLUE SHIELD TO BORREGO, WHICH IS EXHIBIT C TO MY
23 DECLARATION, IT EXPRESSLY STARTS WITH, "PURSUANT TO THE
24 NOTICE FROM THE DHCS DATED AUGUST 19TH, THE CONTRACT
25 BETWEEN THE PARTIES WILL BE TERMINATED."

1 THE COURT: -- IS THAT FROM -- IT'S DATED BACK
2 IN THE DAY. IT'S DATED AT --

3 MR. MAIZEL: IT IS, YOUR HONOR. BUT WE'LL
4 GET -- WE'RE GOING TO -- IT IS TRUE, YOUR HONOR. BUT
5 THE POINT I'M SAYING IS, THEY THEN AND NOW UNDERSTOOD
6 THE DEPARTMENT'S INSTRUCTIONS IS TO BE MUCH BROADER THAN
7 JUST THE SUSPENSION OF PAYMENTS. SO FOR THE STATE TO
8 TELL THEM THAT WE'VE SUSPENDED THE PAYMENT SUSPENSION
9 FOR A WEEK LEAVES THEM STILL REACTING TO THE GUIDANCE.
10 AND THERE'S OTHER EXAMPLES, YOUR HONOR.

11 AN IEHP LETTER DATED SEPTEMBER 28TH EXPRESSLY
12 SAYS, THIS IS SEPTEMBER 28TH LETTER FROM IEHP, WHICH IS
13 OUR LARGEST HEALTH PLAN BY FAR, 45,000 LIVES FROM IEHP.
14 THEY SAY ON SEPTEMBER 28 THEY WILL NOT WITHHOLD PAYMENTS
15 ABSENT DIRECTION FROM THE BANKRUPTCY COURT, RIGHT?
16 EVERYONE IS LOOKING FOR, BECAUSE OF WHAT THE DEPARTMENT
17 HAS SAID, THEY'RE LOOKING FOR INSTRUCTIONS NOT FROM ME,
18 BUT FROM YOU.

19 THE COURT: RIGHT.

20 MR. MAIZEL: BECAUSE THE D -- AND THEY SAY IT
21 SPECIFICALLY IN THE LETTER, BECAUSE THE DEPARTMENT
22 ACTIONS COULD BE EXEMPT FROM THE AUTOMATIC STAY AS A
23 POLICE OR REGULATORY ACT.

24 THE COURT: AND I THINK ONE OF THE -- JUST TO
25 STOP THERE, ONE OF MY PROBLEMS IN ANALYZING THIS IS,

1 THERE'S TWO PIECES HERE. THERE'S WHAT IS THE DEPARTMENT
2 DOING OR NOT DOING, AND WHAT ARE THESE INDIVIDUAL PLANS
3 DOING? AND THAT WAS PART OF WHAT I CRAFTED, BECAUSE I
4 THINK THEY NEED TO UNDERSTAND THAT THEY DON'T HAVE A
5 POLICE AND REGULATORY POWER EXCEPTION.

6 MR. MAIZEL: AND, YES, YOUR HONOR. THAT'S
7 ABSOLUTELY TRUE, YOUR HONOR. BUT WE --

8 THE COURT: BUT LET ME FINISH MY THOUGHT,
9 THOUGH.

10 AND THEY ARE NOT ON NOTICE OF THIS AND SUBJECT
11 TO DIRECT INJUNCTION, WHICH IS SOMETHING I MAY LET YOU
12 FIX. SO, YOU KNOW, SO THAT IS AN ISSUE FOR ME. RIGHT
13 NOW I HAVE THE DEPARTMENT OF HEALTH SERVICES DIRECTLY IN
14 AGREEMENT TO DO CERTAIN THINGS DURING THIS GAP PERIOD IN
15 ORDER TO GET TIME TO GET -- TO ACTUALLY FILE A DOCUMENT
16 BEYOND THE ONE THEY DID LAST NIGHT.

17 BUT THERE -- WE NEVER NOTICED THE INDIVIDUAL
18 PLANS, AND I THINK YOU THOUGHT -- I'M NOT CRITICIZING
19 THAT. I'M JUST SAYING IN TERMS OF ME REACHING OUT AND
20 TOUCHING PEOPLE, THERE ARE DIFFERENCES HERE, AND I THINK
21 THEY NEED TO APPRECIATE THEM. THAT'S WHAT I'M INTENDING
22 BY AN ADDITIONAL ORDER TO SAY YOU DO NOT HAVE THE
23 PROTECTION OF ANYTHING.

24 FIRST OF ALL, YOU DON'T HAVE THAT PROTECTION
25 PERIOD. BUT SECOND, YOU DON'T HAVE THAT PROTECTION,

1 BECAUSE THEY'VE AGREED NOT TO DO ANYTHING. SO RIGHT NOW
2 YOU'RE ON YOUR OWN.

3 MR. MAIZEL: LOOK, YOUR HONOR -- I SEE MY
4 PARTNER WANTS TO SAY SOMETHING, SO I'LL STOP.

5 MS. MOYRON: THANK YOU, MR. MAIZEL.

6 YOU HONOR, JUST ONE QUICK POINT TO ADDRESS THE
7 NOTICING ISSUE, BECAUSE I THINK THAT'S A CRITICAL ISSUE
8 YOU'VE RAISED. AND WE HAVE BEEN CONSIDERING THAT ISSUE
9 AND WANTED YOUR HONOR TO KNOW THAT RIGHT NOW ALL OF THE
10 HEALTH PLANS ARE RECEIVING TELEPHONIC NOTICE OF THE
11 UPCOMING HEARING, OF THE UPCOMING DEADLINES. AND THEY
12 ALSO ARE BEING OVERNIGHTED ALL OF THE DOCUMENTS, AND
13 WE'RE PREPARED AND READY TO OBVIOUSLY SERVE THEM WITH
14 ANYTHING ELSE, AND JUST WANTED THE COURT TO BE AWARE OF
15 THAT.

16 THE COURT: WELL, I'M NOT GOING TO GIVE YOU
17 LEGAL ADVICE. YOU'RE TOO GOOD OF LAWYERS. BUT I'M
18 WONDERING WHETHER -- I WOULD -- YOU'RE GOING TO HAVE TO
19 ASK ME FOR SHORTENED TIME, AND I'M GOING TO HAVE TO
20 THINK ABOUT IT. BUT AS FOR DIRECTS, NO, ADD THEM TO THE
21 COMPLAINT. I DON'T CARE.

22 MR. MAIZEL: THAT'S --

23 THE COURT: (INDECIPHERABLE) -- FLIP. BUT,
24 YOU KNOW, IF THEY'RE GOING TO GO OUT AND COWBOY AWAY,
25 YOU KNOW, YOU HAVE TO LASSO THEM IN A WAY. LET'S KEEP

1 OUR COWBOY METAPHORS GOING. SO I'M --

2 MR. MAIZEL: YOUR HONOR, WE'RE CONTEMPLATING
3 THAT BASED ON THEIR CONDUCT THE LAST 48 HOURS. BUT THE
4 POINT WE MADE IN THE ORIGINAL EMERGENCY MOTION I THINK
5 IS STILL VALID. WHAT WE BELIEVE IS THEY ARE RESPONDING
6 TO BASICALLY WHAT THEY PERCEIVE AS INSTRUCTIONS FROM THE
7 DEPARTMENT.

8 AND WE CITED A CASE, CRYSTAL CADILLAC, WHERE
9 IT STANDS FOR THE PROPOSITION THAT IF THE STATE OR THE
10 REGULATORY AUTHORITY EFFECTIVELY TAKES AN ACTION THAT
11 IT -- BASICALLY DIRECTING HERE THE HEALTH PLANS, THEN
12 THE VIOLATION IS REALLY AT THE STATE LEVEL. AND WE
13 THINK THE STATE CAN FIX IT IF THEY CHOOSE TO.

14 I'D JUST LIKE TO PUT A COUPLE OTHER EXAMPLES,
15 YOUR HONOR.

16 THE COURT: AND, AGAIN, LET ME JUST STOP YOU
17 THERE AND SAY SORT OF WHAT MY BANDWIDTH IS TODAY. MY
18 BANDWIDTH TODAY IS NOT GOING TO BE SIGNIFICANT FLEXIBLE
19 TO FIND WITHOUT GIVING MR. WANG A CHANCE TO RESPOND IF
20 THERE HAS BEEN AN AFFIRMATIVE STAY VIOLATION. BUT I'M
21 RESERVING ON THAT.

22 MY BANDWIDTH TODAY IS WELL -- WELL ENOUGH TO
23 SAY TO MR. WANG IN ORDER TO LIVE INTO THE DEAL YOU'VE
24 DONE, YOU NEED TO FILE A CLARIFYING LETTER. AND IF IN
25 FACT THESE EVENTS ARE STAY VIOLATIONS, ASK FOR

1 SANCTIONS. BUT I HAVEN'T GOTTEN TO HIS POLICE AND
2 REGULATORY POWER, WHICH IS WHAT I ASSUME HE'S GOING TO
3 TELL ME, ARGUMENT AS TO WHY THE STAY DOESN'T APPLY.

4 SO I'M -- WHAT I WANT TO DO TODAY IS FIX IT AS
5 MUCH AS I CAN TODAY. AND I THINK TO FIX IT TODAY, TWO
6 THINGS HAVE TO HAPPEN POTENTIALLY.

7 ONE IS I WANT TO HEAR FROM MR. LAMANIA --
8 SORRY IF I'M BUTCHERING YOUR NAME -- WHAT ADDITIONAL
9 LETTER YOU WANT MR. WANG'S -- MR. WANG AND HIS -- THE
10 OTHER PERSON OF HIS -- GRANT, THANK YOU, MR. LIEN, TO
11 SEND, TO HAVE THEIR CLIENT SEND, IN ORDER TO ACT
12 CONSISTENT WITH THE AGREEMENT WHICH MR. WANG AND
13 MR. LIEN, I INTERPRET AS A STANDSTILL WHERE YOU WOULD
14 MAKE A GOOD FAITH AND COMPLETE DISCLOSURE TO THESE
15 HEALTH PLANS THAT YOU'RE NOT REQUIRING THEM TO DO
16 ANYTHING. IN FACT, YOU'VE AGREED THAT THEY SHOULDN'T --
17 YOU KNOW, THAT THEIR LIVES HAVE BEEN EXTENDED.

18 AND TO THE EXTENT YOU'VE CREATED THE
19 IMPRESSION THAT EVERYTHING IS GOING TO BE GOOD BY THE
20 6TH, MAYBE IT WILL FOR YOU; MAYBE IT WON'T. AND YOU
21 NEED TO BE CLEAR ABOUT THAT. THAT THE COURT WILL BE
22 ACTING AT THAT DATE, AND -- YOU KNOW, I DON'T THINK
23 THAT'S TOO MUCH TO ASK OF THE STATE.

24 THE SECOND PIECE OF THIS, HOWEVER, IS I AM
25 DEEPLY CONCERNED ABOUT THE INDIVIDUAL PLANS AND THEIR

1 LACK OF RESPECT FOR THE SYSTEM AND THEIR LACK OF
2 UNDERSTANDING POTENTIALLY. AND WE CAN GET THEM BETTER
3 INTEL OR BETTER INFORMATION FROM THE STATE THROUGH WHAT
4 I ASSUME WILL BE A CONSENSUAL AGREEMENT TO SEND A
5 CLARIFYING LETTER. BUT I THINK YOU'VE GOT TO HAVE
6 SOMETHING ELSE.

7 AND THAT'S -- ONCE I'VE DONE THAT, THEN I
8 THINK WE GET TO THE 6TH TO DETERMINE WHETHER WE HAVE A
9 STAY IN PLACE, AND WE HAVE -- YOU KNOW, WE HAVE
10 ADDITIONAL BRIEFING ON WHAT THE CONSEQUENCES OF
11 VIOLATION -- WHETHER THERE HAVE BEEN VIOLATIONS AND WHAT
12 THE CONSEQUENCES ARE, OR WHETHER THERE'S A TEMPORARY
13 RETRAINING ORDER, OR WHETHER I DO BOTH, OR WHETHER I DO
14 NEITHER. YOU KNOW, THAT'S WHAT WE'RE LEADING UP TO.

15 SO I'M GOING TO LET YOU TALK, BUT I'M JUST NOT
16 PREPARED TO GO MUCH BEYOND THAT IN MY PORTFOLIO TODAY.

17 MR. MAIZEL: YOUR HONOR, I THINK WHAT -- THERE
18 ARE NUMEROUS EXAMPLES OF CORRESPONDENCE BOTH BY EMAIL
19 AND LETTERS FROM THE HEALTH PLANS WHERE THEY MADE CLEAR
20 THAT THEY ARE ACTING ON INSTRUCTIONS, WHAT THEY PERCEIVE
21 AS INSTRUCTIONS, FROM THEIR REGULATORY AUTHORITY WHERE
22 THEY'RE NOT GOING TO CROSS IT. SO I WON'T BELABOR THAT
23 POINT TODAY ANY FURTHER.

24 THE COURT: AND THAT'S WHY THE IMPORTANT --
25 THE LETTER FROM MR. WANG, ADDITIONAL LETTER FROM

1 MR. WANG'S CLIENT --

2 MR. MAIZEL: YOUR HONOR, I'LL WRAP IT UP HERE
3 BY SAYING TWO THINGS ABOUT THE ORDER THAT YOU'VE ALREADY
4 DISCUSSED AND THAT WAS IN THE TENTATIVE. FIRST OF ALL,
5 I DO THINK WE NEED A COURT ORDER, AND -- BECAUSE IT'S
6 CLEAR THE HEALTH PLANS -- WE HAVE ALREADY SENT LETTERS
7 TO ALL THE HEALTH PLANS EITHER THROUGH THE COMPANY OR
8 DIRECTLY FROM COUNSEL TELLING THEM ABOUT WHAT WE THINK
9 THE STATUS OF THE AUTOMATIC STAY IS.

10 AND WE GET RESPONSES THAT SAY THINGS LIKE, YOU
11 KNOW, THAT'S CONTRARY TO WHAT THE DEPARTMENT HAS TOLD
12 US. WE'RE WAITING TO HEAR FROM THE COURT. SO WE THINK
13 WE NEED A COURT ORDER. AND CERTAINLY THE STATEMENTS IN
14 THE COURT ORDER ARE VERY HELPFUL.

15 WE ALSO BELIEVE THAT IN THE ORDER, IT SHOULD
16 INSTRUCT THE STATE TO SEND NOTICE. MR. LAMANIA HAS BEEN
17 CORRESPONDING WITH SOME SUGGESTED LANGUAGE ALREADY
18 YESTERDAY, SUGGESTED SOME LANGUAGE TO THE STATE THAT IT
19 COULD USE IN SUCH A CORRESPONDENCE.

20 BUT A COUPLE THINGS ARE CLEAR. THE
21 CORRESPONDENCE FROM THE STATE CANNOT ASSUME THAT THE
22 SUSPENSION IS GOING IN. IT SHOULDN'T TELL PLANS NEXT
23 WEEK THE SUSPENSION IS GOING INTO EFFECT, WHICH IS WHAT
24 THEIR CORRESPONDENCE DID EFFECTIVELY SAY, BECAUSE IT
25 LEAVES THE HEALTH PLANS IN A TERRIBLE POSITION.

1 I UNDERSTAND MR. WANG AND THE STATE MAY ASSUME
2 THEY'RE GOING TO WIN, BUT, YOU KNOW, ASKING HEALTH PLANS
3 THAT CONTROL TENS OF THOUSANDS OF LIVES SHOULDN'T PUT
4 THEM AT RISK BECAUSE OF THAT ASSUMPTION.

5 SO THE FIRST THING IS, IT SHOULD SAY, YOU
6 KNOW, THE SUSPENSION ISN'T GOING INTO EFFECT PENDING
7 FURTHER COURT ORDER, OR, YOU KNOW, FURTHER NOTICE FROM
8 THE STATE WITHOUT A CLOSING DATE, BECAUSE IT PUTS THE
9 PLANS IN A TERRIBLE POSITION OF -- PARTICULARLY WHEN
10 IT'S WEEK BY WEEK LIKE THIS.

11 AND THE SECOND THING IS, I THINK THAT THE
12 NOTICE FROM THE STATE AND THE COURT ORDER SHOULD BOTH
13 MAKE CLEAR WHAT THE STATE PROMISED AT THE LAST HEARING,
14 WHICH IS MAINTENANCE OF THE STATUS QUO. AND I WOULD SAY
15 NOW EXPECTED AS OF THE PETITION DATE, SO THAT IF
16 BLUE SHIELD BLOCK TRANSFERRED ITS LIVES SUBSEQUENTLY,
17 THEY SHOULD TRANSFER THEM BACK. THE STATUS QUO ON
18 SEPTEMBER 12, THE DAY WE FILED, SHOULD BE WHAT IS -- IT
19 IS WHAT THE STATE PROMISED AND WHAT SHOULD BE ENFORCED.

20 MR. WANG: YOUR HONOR --

21 THE COURT: AND WHAT I'M PREPARED TO DO, AND
22 MR. WANG, YOU NEED TO RESPOND TO THIS, IS IF WE CAN'T DO
23 THAT, THEN I'M GOING TO -- I'M NOT GOING TO DO THE STAY
24 VIOLATION PIECE WITHOUT GIVING YOU INPUT, BUT I'M GOING
25 TO ISSUE A TRO. IF I DON'T GET SOMETHING FROM YOU THAT

1 STOPS THIS, I'LL ISSUE A TRO WITHOUT HEARING FROM YOU,
2 BECAUSE I WILL CONCLUDE THAT I CAN'T HAVE THIS SITUATION
3 CONTINUE.

4 MR. WANG: YOUR HONOR, I THINK THAT ASSUMPTION
5 THAT'S BEING MADE HERE IS THAT THE DEPARTMENT HAS SOME
6 CONTROL OVER THESE MANAGED CARE PLANS. BUT THE REALITY
7 IS THAT THE DEPARTMENT HAS NO CONTROL OVER THESE PLANS.

8 THE COURT: LET ME STOP YOU RIGHT THERE AND
9 SAY, THE WAY I SET THIS UP, I DON'T MAKE THAT
10 ASSUMPTION.

11 MR. WANG: OKAY.

12 THE COURT: I ASSUME THAT -- I'M GIVING YOU,
13 THE DEPARTMENT, HUGE BENEFIT OF THE DOUBT TODAY, HUGE.
14 I'M ASSUMING YOU'RE NOT DOING ANYTHING IN THE BACKGROUND
15 THAT YOU SHOULDN'T. I'M ASSUMING THAT THESE PEOPLE
16 DON'T HAVE THEIR -- HAVE THEIR OWN ATTORNEYS AND ARE
17 MAKING THEIR OWN DECISIONS.

18 ON THE OTHER HAND, AND THAT WAS MY OPERATIVE
19 ASSUMPTION, MR. LAMANIA SAYS THE LETTER THAT YOU WROTE
20 WAS, I'M GOING TO USE A TECHNICAL LEGAL TERM, CLUNKY.
21 THAT IT CITED SOME SECTIONS AND DID SOME THINGS THAT
22 CREATED DOUBT.

23 SO I WANT ANOTHER LETTER FROM YOU THAT SAYS
24 LET THERE BE NO DOUBT. WE ARE NOT DIRECTING YOU TO DO
25 ANYTHING. THE DEADLINE WE SENT ON THE 29TH IS NO LONGER

1 A DEADLINE. THERE WILL BE A HEARING ON THE 6TH. AT
2 THAT TIME, WE MAY OR MAY NOT BE IN A POSITION TO
3 RE-ESTABLISH A DEADLINE.

4 BUT AT THIS POINT -- AND THEN MY ORDER IS
5 GOING TO SAY TO THESE PEOPLE, YOU KNOW, I WANT YOU TO
6 TAKE THE DEPARTMENT OF HEALTH SERVICES MORE
7 AFFIRMATIVELY OUT OF A PLACE OF PROTECTION FOR THESE
8 PEOPLE.

9 MR. WANG: LET ME JUST ADDRESS THE TRANSFER --
10 THE BLOCK TRANSFER OF PATIENTS. BLUE SHIELD MADE THAT
11 DECISION ON ITS OWN WITHOUT TALKING TO THE DEPARTMENT.
12 THE DEPARTMENT WAS NOT AWARE OF THAT. AND AS FAR AS
13 WHAT IEHP DOES ON ITS OWN, WE HAVE NO CONTROL. THE
14 DEPARTMENT HAS NO CONTROL OVER THAT AND THAT IN FACT,
15 IEHP TOLD THE DEPARTMENT THAT IT WAS NOT GOING TO
16 TERMINATE ITS CONTRACT WITH BORREGO.

17 AND I WANT TO DIRECT THE COURT'S ATTENTION TO
18 PAGE 40 OF 42 OF MS. DURNHAM'S DECLARATION, WHICH
19 ADDRESSES WHAT A PLAN SHOULD DO, COULD DO, OR SHOULD DO,
20 OR SHOULD NOT DO WITH REGARD TO A PAYMENT
21 TRANSMISSION -- A PAYMENT SUSPENSION.

22 THE QUESTION IS ONE OF THE FREQUENTLY ASKED
23 QUESTIONS. ARE HEALTH CARE PLANS REQUIRED TO TERMINATE
24 A CONTRACT WITH A PROVIDER THAT IS UNDER PAYMENT
25 SUSPENSION? THE RESPONSE BY THE DEPARTMENT IN THIS ALL

1 HEALTH PLAN LETTER THAT WAS SENT TO ALL THE HEALTH
2 PLANS, NO. HEALTH PLANS ARE NOT -- THE WORD "NOT" IS
3 BOLDED, UNDERSCORED -- REQUIRED TO TERMINATE ITS
4 CONTRACT.

5 SO THE DEPARTMENT HAS ALWAYS BEEN VERY
6 CONSISTENT ABOUT TERMINATION OF A CONTRACT WHERE THE
7 PROVIDER WAS UNDER PAYMENT SUSPENSION. THE
8 DEPARTMENT --

9 THE COURT: MR. WANG, THEN WHAT I'M ASKING YOU
10 TO DO SHOULD NOT BE A PROBLEM TODAY.

11 MR. WANG: WELL, WHAT WE COULD DO, YOUR HONOR,
12 WE COULD SEND OUT A LETTER SIMILAR TO WHAT THE COURT
13 INDICATED IN ITS TENTATIVE RULING ON PAGE 2. I MEAN,
14 NOW THAT I'M SITTING HERE, I THINK THE PLANS SHOULD HAVE
15 BEEN REQUIRED TO ATTEND TODAY'S HEARING TO UNDERSTAND
16 THE COURT'S POSITION.

17 THE COURT: YOU KNOW, I CONSIDER THAT YOU AND
18 I ARE THINKING ALIKE. I STRONGLY -- HAD I HAD MORE
19 TIME, ABOUT AN HOUR BEFORE THIS HEARING, I THOUGHT ABOUT
20 GETTING CHAMBER'S STAFF TO CALL SOME OF THESE PEOPLE WHO
21 WERE ALREADY (INDISCERNIBLE) UP. FOR ALL I KNOW, THEY
22 MAY BE ON THE CALL. I'M NOT -- I THINK I'VE GOT A
23 SECOND PAGE OF PEOPLE. SO I DON'T REALLY KNOW OTHER
24 PEOPLE, BUT ALL I HAVE IS PHONE NUMBERS.

25 SO I DON'T DISAGREE WITH YOU ON THAT ONE. BUT

1 WE ARE WHERE WE ARE. AND WHAT MR. LAMANIA IS TELLING ME
2 IS THAT THE LETTER YOU SENT, AND I'M ASSUMING THIS IS
3 INADVERTENTLY REFERENCE OF SECTIONS AND SOME THINGS THAT
4 HADN'T BEEN REFERENCED PREVIOUSLY AND MAY HAVE CREATED
5 SOME CONFUSION.

6 SO I THINK A VERY SHORT ADDITIONAL LETTER THAT
7 MAKES CLEAR THAT THE -- THAT YOU'RE NOT -- YOU CAN'T --
8 IF THE STAY -- IF THE STAY IS IN PLACE, YOU CAN'T EVEN
9 SAY, YEAH, I'M GOING TO DO THAT.

10 YOU KNOW, NOT TO PUT TOO FINE A POINT ON IT,
11 BUT THE WAY THE SYSTEM WORKS BEST IS WHEN SOMEBODY IN
12 YOUR CLIENT'S POSITION WHO THINKS THEY CAN DO WHATEVER
13 THEY WANT, AND THERE'S A BANKRUPTCY FILED, COMES TO THE
14 COURT AND ASKS FOR PERMISSION. YOU SHOULD HAVE SET THIS
15 UP. YOUR CLIENTS SHOULD HAVE. THAT'S THE WAY THE
16 RESPONSIBLE PEOPLE PARTICIPATING IN A BANKRUPTCY DO
17 THINGS.

18 AND SO, YOU KNOW, THEY CAME TO ME. YOU'RE
19 HERE. YOU'RE GOING TO -- YOU KNOW, YOU MAY EVEN BE IN A
20 POSITION OF HAVING TO ASK FOR FORGIVENESS, WHICH IS
21 NEVER THE BEST PLACE TO BE. BUT, YOU KNOW, WHAT WE WANT
22 TO DO IS GET THIS RESOLVED. I WANT TO GET THIS RESOLVED
23 IN TERMS OF BANKRUPTCY ISSUES IN A LOGICAL, REASONABLE
24 FASHION THAT GIVES YOU TIME TO ACTUALLY PUT SOMETHING IN
25 FRONT OF ME IN WRITING.

1 SO FOR PURPOSES OF TODAY, I WANT A LETTER FROM
2 YOU, A CLARIFYING LETTER -- I'M GOING TO REQUIRE IT --
3 THAT IS CONSISTENT WITH WHAT'S IN MY TENTATIVE. I'M
4 GOING TO DO MY OWN ORDER. MY ORDER IS GOING TO ORDER
5 YOU TO SEND THE LETTER. AND I WANT MR. LAMANIA
6 INVOLVED, AND I WANT THAT LETTER TO CORRECT, TO THE
7 EXTENT YOU REFERENCED A SECTION IN THE LETTER YOU
8 RECENTLY SENT OUT THAT WASN'T REFERENCED BEFORE.

9 AND MR. LAMANIA, I READ YOUR THING JUST BEFORE
10 I WENT ON THE BENCH. IS THAT A CORRECT CHARACTERIZATION
11 OF WHAT YOU'RE SAYING AGAIN?

12 MR. LA MAN@: YES, YOUR HONOR, THANK YOU.
13 BECAUSE EVEN IN THE FAQ THAT MR. WANG JUST DIRECTED YOU
14 TO, DO YOU NOTICE THAT THEY TELL IN THE FAQ, THEY DO A
15 BETTER JOB. THEY SAY YOU DON'T NEED TO LOOK AT APL
16 21-003 UNLESS YOU'RE TERMINATING.

17 SO BY REFERENCING APL 21-003, THAT IMMEDIATELY
18 TRIGGERS ALL THE PLANS, THE PLANS WHO WANT TO KEEP THE
19 DEPARTMENT HAPPY, RIGHT, THAT MAKES THEM THINK OF, OH,
20 21-003, WE'RE SUPPOSED TO TAKE THESE STEPS TO TERMINATE.
21 SO PUTTING ANYBODY ON ALERT TO THAT IS VERY MISLEADING.

22 AND IN TERMS OF CONTROL OVER THE PLANS, THE
23 PLANS, YOU CAN TELL IN THEIR LETTERS, ARE SAYING WE'RE
24 LOOKING FOR FEEDBACK FROM THE DEPARTMENT AND FROM THE
25 COURT.

1 THE COURT: RIGHT.

2 MR. LA MAN@: PLANS GENERALLY DON'T -- YOU
3 KNOW, THEY DON'T WANT TO RUN AFOUL OF ANYBODY IF THEY
4 CAN AVOID IT. SO WHEN MR. WANG SAYS HE DOESN'T CONTROL
5 THEM, WELL, WE'RE NOT NECESSARILY SAYING HE CAN FORCE
6 THEM TO DO SOMETHING. BUT WHEN YOU TELL THEM TO DO
7 SOMETHING, THEY'RE VERY MOTIVATED TO BE COMPLIANT. AND
8 THERE'S NO REASON TO BELIEVE THEY WOULD NOT BE
9 COMPLIANT. YOU KNOW, THEY JUST WANT SOMEBODY TO GIVE
10 THEM CLARITY. AND I THINK THAT, YES, WHAT YOU'RE
11 PROPOSING GIVES THEM CLARITY.

12 THE COURT: ALL RIGHT.

13 MR. WANG: YOU HONOR, CAN I JUST SAY ONE
14 LITTLE WORD?

15 THE COURT: SURE.

16 MR. WANG: IT WAS NEVER -- IT WAS NEVER MY
17 CLIENT'S INTENTION TO CONFUSE ANY OF THE PLANS. I MEAN,
18 THESE ARE VERY SOPHISTICATED PLANS LIKE I'VE GOT AETNA,
19 BLUE CROSS, BLUE SHIELD. THESE ALL HAVE GENERAL
20 COUNSEL, HAVE OUTSIDE COUNSEL. THEIR REFERENCE TO THAT
21 ALL PLAN LETTER WAS TO STRESS THE POINT THAT THE PLANS
22 DO NOT NEED TO TERMINATE THEIR CONTRACTS WITH BORREGO.
23 THAT IS THE POINT THAT MY CLIENT WAS TRYING TO HAMMER
24 HOME.

25 THE COURT: AND MAKING THAT POINT IN A SHORTER

1 LETTER IS A GOOD IDEA. I MEAN, YOU KNOW, I WANT YOU TO
2 WORK WITH MR. LAMANIA AND MR. MAIZEL AND MS. MOYRON TO
3 GET SOMETHING OUT TODAY. I'M GOING TO ORDER THAT,
4 THAT'S CLARIFYING.

5 I'M ALSO GOING TO PUT THESE PLANS ON NOTICE
6 THROUGH MY ORDER THAT THEY ARE GOING SOLO RIGHT NOW.
7 THEY DON'T HAVE YOUR -- YOU DON'T HAVE THEIR BACKS
8 DURING THIS TIME PERIOD. THEY GO OUT AND DO SOMETHING
9 THAT'S A STAY VIOLATION, THEY CAN'T COME BACK TO ME AND
10 SAY, WELL, I HAVE THIS LETTER FROM MR. WANG. SO I'M
11 TAKING THAT AWAY FROM THEM. SO THAT IS TO SOME EXTENT
12 THE COURT ASKING.

13 AND THEN WE'LL SEE WHAT HAPPENS ON THE 6TH
14 AFTER YOU'VE HAD A REASONABLE OPPORTUNITY. GIVEN ALL
15 THIS STUFF THAT'S HAPPENED, IT'S GETTING LESS
16 REASONABLE. BUT I CAN'T GIVE YOU MORE TIME.

17 BUT IT'S CLEAR THAT EVERYBODY WANTS ME TO
18 SPEAK. I GUESS THAT THING THAT I'D SAY THAT HAS THE
19 MOST CLARITY IS THAT THE AUTOMATIC STAY AUTOMATICALLY
20 ARISES UNLESS THERE'S AN EXCEPTION. NO ONE HAS COME TO
21 ME AND ASKED ME FOR A DETERMINATION THAT AN EXCEPTION
22 APPLIES, WHAT YOU COULD HAVE DONE.

23 BUT WHAT THEY'VE DONE IS COME TO ME AND SAID
24 GIVEN THAT THEY APPEAR TO BE ASSUMING THAT POSITION,
25 TELL THEM THEY CAN'T. AND EVEN IF THE STAY DOESN'T

1 APPLY, ENJOIN THEM FROM ACTION, AT LEAST TEMPORARILY,
2 BECAUSE OF THESE DEMONSTRATED HARMS.

3 I'M GOING TO LET MR. GOLUBCHIK CALL, TALK
4 WITH --

5 MR. WANG: YOUR HONOR, CAN I JUST MAKE ONE
6 MORE POINT?

7 THE COURT: YES.

8 MR. WANG: I DID HAVE A DISCUSSION WITH
9 MR. MAIZEL AND ASKING HIM WHETHER THE DEPARTMENT SHOULD
10 MAKE THE MOVE AND BRING THIS AUTOMATIC STAY ISSUE BEFORE
11 THE COURT. AND HIS RESPONSE WAS, WE'RE THE DEBTOR.
12 WE'LL GO AHEAD AND FILE A MOTION, AND YOU CAN RESPOND TO
13 IT.

14 THE COURT: THAT'S A GOOD THING TO HEAR,
15 BECAUSE MY PREFERRED -- SO I'M GOING TO TAKE THAT THING
16 I SAID --

17 MR. MAIZEL: NO, YOUR HONOR. YOUR HONOR, I
18 JUST WANT TO CLARIFY. I MEAN, THE CONTEXT OF THAT
19 CONVERSATION WAS LIKE THE 28TH OR 27TH OF SEPTEMBER.

20 THE COURT: OKAY.

21 MR. WANG: BUT, YOUR HONOR, MY CLIENTS -- MY
22 CLIENTS TAKE THE COURT'S ORDER VERY SERIOUSLY. WE WOULD
23 NEVER DO ANYTHING BEHIND THE COURT'S BACK. I HAVE
24 ALWAYS TOLD MY CLIENT, FOLLOW THE COURT'S ORDER. IT IS
25 THE UPMOST IMPORTANT THING FOR A CLIENT FOR THE

1 DEPARTMENT TO DO AT THIS MOMENT IN TIME.

2 THE COURT: WELL, I UNDERSTAND. AND THAT'S
3 WHY I SAID I DON'T THINK YOU'RE GOING TO FIGHT ME ON
4 SENDING A CLARIFYING LETTER. YOU'RE NOT FIGHTING ME ON
5 SENDING A CLARIFYING LETTER, RIGHT?

6 MR. WANG: I'M NOT FIGHTING YOU. BUT I WONDER
7 IF THE COURT SHOULD OR THE DEBTOR SHOULD BRING THE PLANS
8 TO THIS COURT SO THEY COULD HEAR FOR THEMSELVES THE
9 COURT'S POSITION, AND THEY COULD MAKE THEIR OWN ATTEMPTS
10 TO FOLLOW THE COURT'S ORDER INSTEAD OF --

11 THE COURT: (INDISCERNIBLE) -- TO THAT AS
12 WELL. I WENT A LITTLE FARTHER THAN YOU AND SAID BRING
13 THEM INTO THE LITIGATION IF NECESSARY. SO --

14 MR. MAIZEL: WE'RE SERIOUSLY CONSIDERING THAT,
15 YOUR HONOR. BUT EITHER WAY, WE WILL CERTAINLY PUT THEM
16 ON NOTICE. WE HAVE CORRESPONDED WITH THEM. I'VE
17 ALREADY EXPLAINED THE RESPONSES WE GOT WERE, HEY, THAT'S
18 INCONSISTENT WITH WHAT THE STATE'S TELLING US. WE NEED
19 TO HEAR FROM THE COURT, BECAUSE, YOU KNOW, THEY JUST SEE
20 US AS A PARTISAN, OBVIOUSLY.

21 THE COURT: WELL, AND THAT'S WHY, AGAIN,
22 MR. GOLUBCHIK'S CLIENT IS MR. WANG, AND THE
23 DEPARTMENT -- I SHUDDER TO THINK WHAT -- YOU KNOW, WHAT
24 WOULD HAPPEN IF ONE OF THESE PEOPLE ACTUALLY DOES HAVE A
25 NEGATIVE HEALTH CONSEQUENCE, AND THEY'VE GOT

1 MR. GOLUBCHIK'S LETTER OR HIS CLIENT'S DECLARATION IN
2 THEIR HAND. THE CONTINGENT FEE COUNSEL WILL BE BEATING
3 THE DOOR DOWN. HE'S IN EFFECT SAID ON THE RECORD THAT
4 THE ACTIONS OF THESE PLANS ARE CAUSING IMMEDIATE DANGER
5 TO GOOD PEOPLE OF THE STATE OF CALIFORNIA. IT'S ONE OF
6 THOSE POWERFUL DECLARATIONS I'VE READ, BECAUSE IT'S NOT
7 HISTRIONIC. IT'S VERY FACTUAL.

8 AND THAT'S -- YOU KNOW, MR. WANG AND MR. LIEN
9 WANT TO TALK TO THEIR CLIENT ABOUT THAT TOO. BUT FOR
10 THIS WEEK, WHAT -- IN TERMS OF MR. WANG AND MR. LIEN,
11 WHAT THEY'RE GOING TO DO IS GET THEIR CLIENT OUT OF THAT
12 AS AFFIRMATIVELY AS THEY CAN BY WORKING WITH MR. LAMANIA
13 ON THIS CLARIFYING LETTER THAT IS TO GO OUT BEFORE CLOSE
14 OF BUSINESS TODAY.

15 I AM ISSUING AN ORDER THAT IS GOING TO PUT
16 THESE PLANS ON NOTICE. AND, MR. MAIZEL, YOU SHOULD
17 SERVE THAT ON THEM BY THE CLOSE OF BUSINESS TODAY. GET
18 IT TO ME AS SOON AS POSSIBLE. I'M AT HOME ONLY BECAUSE
19 THEY'RE SUPPOSEDLY DOING SOMETHING WITH THE ALARM SYSTEM
20 HERE, "SUPPOSED" BEING THE OPERATIVE TERM. THEY'RE
21 STILL NOT HERE. SO, YOU KNOW, I PROBABLY WILL END UP
22 HAVING TO BE HERE MOST OF THE DAY, BECAUSE THEY'RE THREE
23 HOURS LATE AT THIS POINT.

24 BUT I'LL SIGN IT. YOU'RE TO CALL MR. PALUSO,
25 AND I'LL SIGN THAT ORDER. I'VE GIVEN YOU THE ROUGHS OF

1 IT. YOU CAN ADD IN THE PARAGRAPH ABOUT WHAT THE STATE
2 IS TO DO IF THERE'S PROBLEMS WITH THE LETTER. MR. WANG,
3 AND MR. LAMANIA, AND ANYBODY ELSE CAN CALL COURT, AND
4 I'LL GET ON A PHONE CALL OR A ZOOM WITH YOU AND MAKE
5 DETERMINATIONS REGARDING WHAT IS SUPPOSED TO BE IN THE
6 LETTER.

7 I HAVE MAYBE 20 MINUTES TODAY WHEN I'M NOT
8 AVAILABLE, AND OTHERWISE, I'LL BE AVAILABLE TO YOU.
9 WE'LL GET THAT OUT. WE'LL GET THE SITUATION TAMPED
10 DOWN, AND THEN WE'LL GO FORWARD IN AN APPROPRIATELY
11 DELIBERATE FASHION AND FIGURE OUT IS THERE A STAY,
12 DOESN'T THE EXCEPTION APPLY, OR DOESN'T THE EXCEPTION
13 APPLY SUCH THAT THERE'S NOT A STAY?

14 OBVIOUSLY, THERE'S A STAY. AND IF AN
15 EXCEPTION APPLIES, WHAT DOES IT DO, BECAUSE IT MAY NOT
16 STOP EVERYTHING? IT MAY NOT STOP ANYTHING. AND THEN,
17 IS A TRO OTHERWISE APPROPRIATE? BUT THESE ARE -- AND
18 THEN WE'LL GO PRELIMINARY INJUNCTION AT THE APPROPRIATE
19 POINT IN TIME.

20 BUT I THINK MR. WANG WOULD REALLY LIKE TO
21 ACTUALLY FILE A DOCUMENT ON THAT. I'D REALLY LIKE TO
22 HEAR FROM HIM, BECAUSE I'VE GOT ONE SIDE OF IT, THE
23 STORY. BUT MR. GOLUBCHIK'S CLIENT, THAT'S JUST -- THAT
24 CANNOT STAND.

25 MR. GOLUBCHIK: YOUR HONOR, MAY I BE HEARD

1 BRIEFLY AS TO MY CLIENT'S SUGGESTION LED OF THE HEARING?

2 THE COURT: YES.

3 MR. GOLUBCHIK: THANK YOU. DAVID GOLUBCHIK
4 FOR THE PCO. AS THE COURT CORRECTLY POINTED OUT, THE
5 PCO DOES NOT HAVE SKIN IN THE GAME ON BEHALF OF THE
6 STATE ON BEHALF OF THE DEBTOR. I THINK YOUR HONOR
7 MENTIONED INITIALLY LOOKING OUT FOR THE CREDITORS. HE'S
8 NOT LOOKING OUT FOR THE CREDITORS. HE'S LOOKING OUT FOR
9 THE PATIENTS.

10 THE COURT: THE PATIENTS, YOU'RE RIGHT.

11 MR. GOLUBCHIK: I'M NOT GOING TO REHASH THE
12 DECLARATIONS. HE STATED THOROUGHLY BASED ON HIS OWN
13 PERSONAL OBSERVATIONS SINCE HE'S BEEN DRIVING AROUND
14 WITH MR. STACY, THE CONSULTANT, THROUGHOUT THE DESERT
15 COMMUNITIES.

16 HERE'S THE CONCERN. HEALTH PLANS, YOUR HONOR,
17 DEPEND ON REVIEWS OF THE MEMBERS. HEALTH PLANS DON'T
18 WANT TO TRANSFER MEMBERS TO OTHER PROVIDERS, BECAUSE
19 THAT'S GOING TO BE A NEGATIVE REVIEW. THEY ACT, WHETHER
20 DIRECTLY, INDIRECTLY, BY THE END OF THE DAY, THE STATE
21 IS THE HAND THAT FEEDS THEM. SO ON THEIR OWN, THEY
22 WOULDN'T TERMINATE (INDISCERNIBLE).

23 AND RIGHT NOW, THE PCO'S CONCERN IS WHAT DO
24 YOU DO WITH THE PATIENTS THAT HAVE BEEN REASSIGNED
25 ELSEWHERE THAT HAVE TO DRIVE FOR TWO HOURS? AND AS

1 YOUR HONOR IS TALKING, DR. RUBIN AND I HAVE BEEN
2 EXCHANGING COMMUNICATION TEXTS. SO HERE'S A SUGGESTION
3 FOR WHAT IT'S WORTH TO COMMUNICATE.

4 ONE IS, THERE SHOULD DEFINITELY BE A
5 CLARIFICATION TO THAT EXHIBIT B THAT SAYS THERE'S GOING
6 TO BE A FULL SUSPENSION OCTOBER 6TH, BECAUSE THEN THE
7 HEALTH PLAN IS THINKING WHY GO THROUGH THIS EXERCISE OF
8 BRINGING PEOPLE BACK ONLY A WEEK LATER TO TERMINATE. IT
9 SHOULD BE CLEAR PENDING FURTHER ORDER OF THE COURT.

10 SECOND IS THE REASSIGNMENT LETTERS, OR
11 REASSIGNMENTS OF PATIENTS TO OTHERS SHOULD BE REVERSED,
12 AND THE HEALTH -- AND THE PLANS SHOULD BE ADVISED OF
13 THAT, THAT SHOULD BE REVERSED. AND THEY SHOULD CONTACT
14 THE INDIVIDUAL, BECAUSE THESE ARE NOT PATIENTS THAT ARE
15 SITTING IN OFFICES AND HAVE EASY ACCESS TO EMAILS. THEY
16 NEED TO CONTACT THE PEOPLE THAT HAVE BEEN REASSIGNED AND
17 BRING THEM BACK.

18 THE COURT: HOW MANY PEOPLE ARE WE TALKING
19 ABOUT? AND MR. GOLUBCHIK, HERE'S THE -- YOU KNOW, I'M
20 TRYING TO WORK THROUGH THIS. ARE YOU SAYING -- YOU'RE A
21 BANKRUPTCY LAWYER, SO I CAN ASK YOU THIS QUESTION. ARE
22 YOU SAYING THAT THOSE REASSIGNMENTS INDEPENDENT -- STATE
23 HAS WHATEVER STATE HAS. BUT ARE THOSE ASSIGNMENTS
24 DURING A PERIOD WHEN THE STATE HAS NOT INSTRUCTED THEM
25 TO ACT, ARE STAY VIOLATIVE IN AND OF THEMSELVES?

1 MR. GOLUBCHIK: I BELIEVE SO. THEY WOULDN'T
2 HAVE ACTED BUT FOR SOME SORT OF COMMUNICATION, DIRECT OR
3 INDIRECT, BY THE STATE. AGAIN, THERE'S -- IT'S AGAINST
4 THEIR INTERESTS TO ACT IN THIS WAY.

5 THE COURT: BUT WHAT I'M SAYING IS, THE
6 STAY -- TO THE EXTENT THE STATE DIDN'T MAKE DIRECTION,
7 TO THE EXTENT THEY MISUNDERSTOOD IT OR JUST WHATEVER,
8 THE HEALTH PLAN HAS VIOLATED THE STAY?

9 MR. GOLUBCHIK: I BELIEVE THAT'S -- I BELIEVE
10 THAT'S AN ARGUMENT THAT COULD BE MADE, EXCEPT FOR THE
11 PCO'S VIEW BASED ON HIS EXPERIENCE AS HE'S COMMUNICATED
12 TO (INDISCERNIBLE) THAT THE INSURANCE COMPANY DOES NOT
13 TAKE ACTION BY (INDISCERNIBLE) INSTRUCTION.

14 THE COURT: YOU'RE TALKING CATALYST FOR
15 BEHAVIOR. I'M TALKING BEHAVIOR.

16 MR. GOLUBCHIK: THAT'S CORRECT.

17 THE COURT: AND SO I'M -- MR. WANG AND --
18 WE'LL BE ON THIS CALL FOR THE NEXT THREE WEEKS WITH
19 MR. WANG SAYING WE DIDN'T INSTRUCT AND WE DIDN'T DO IT.
20 AND I'M CERTAINLY NOT IN A POSITION TO RESOLVE THAT
21 TODAY. SO I'M GIVING MR. WANG AND MR. LIEN, YOU KNOW,
22 ALL THE BENEFIT OF THE DOUBT THAT THERE'S JUST A
23 MISUNDERSTANDING, AND THEY'RE GOING TO CLARIFY IT. SO
24 AS OF TODAY, WE SHOULD HAVE A CLARIFYING LETTER SO WE
25 SHOULD STOP THAT.

1 AS TO THE REASSIGNMENTS THAT HAVE ALREADY
2 HAPPENED, THE QUESTION THEN BECOMES WHAT DO WE DO ABOUT
3 THOSE, AGAIN, BETWEEN NOW AND THE 6TH? AND IF IT'S A --
4 I THINK THE BEST THING IS A THREAT. IT APPEARS TO BE A
5 STAY VIOLATION, AND (INDISCERNIBLE) TO PUT THAT IN THE
6 LETTER.

7 MR. GOLUBCHIK: SURE.

8 THE COURT: THE ORDER.

9 MR. WANG: YOUR HONOR, WE CAN'T EVEN ASSUME
10 THERE WAS A MISCOMMUNICATION, BECAUSE THE PLANS DO
11 THINGS ON THEIR OWN. THEY MAY HAVE DECIDED THEY WANTED
12 TO GO AHEAD AND TRANSFER PATIENTS ON THEIR OWN. SO I
13 THINK --

14 THE COURT: WELL, THAT'S A STAY VIOLATION.
15 THAT'S -- WE ARE KIND OF BEYOND THE LEVEL OF WHY THEY
16 DID IT.

17 MR. WANG: YEAH.

18 THE COURT: THAT'S WHY I SAY I DON'T WANT TO
19 TALK ABOUT THE WHY. I WANT TO TALK ABOUT WHAT THEY DID.

20 MR. WANG: I JUST WANT TO MAKE SURE THERE IS
21 NO ASSUMPTION OF ANY KIND WHAT MY CLIENT DID TO --
22 REGARDING WHAT OTHER PLANS DID. BUT IT GOES BACK TO MY
23 POINT THAT I'VE BEEN TRYING TO STRESS. IF THE DEBTOR
24 HAS ISSUES WITH THE PLANS, THEY SHOULD GO DIRECTLY TO
25 THE PLANS INSTEAD OF THINKING THAT WE HAVE SOME OVER

1 ALL-MIGHTY POWER OVER THE PLANS.

2 THE COURT: WELL, YOU DO. BUT SO FOR PURPOSES
3 OF TODAY, NOBODY DOESN'T BELIEVE THAT THE PLANS DON'T
4 WANT TO PLEASE YOUR CLIENT. YOU CAN SEE THAT, RIGHT?
5 OH, COME ON, THAT'S AN EASY CONCESSION. OF COURSE, THEY
6 WANT TO PLEASE THE DEPARTMENT THAT REGULATES THEM,
7 RIGHT?

8 MR. WANG: I'M NOT SURE. I'M NOT SURE THAT'S
9 THE CASE. BUT I THINK THAT, I MEAN, I THINK WE'RE HERE
10 TO FIND SOLUTIONS. I --

11 THE COURT: AGREED. AND THAT'S WHY I KEEP
12 TRYING TO HAVE YOU -- YOU'RE BEING VERY -- YOU'RE
13 DOGGEDLY DEFENDING YOUR CLIENT, AND I'M DOGGEDLY TRYING
14 NOT TO FIND THAT YOUR CLIENT DID SOMETHING WRONG.

15 MR. WANG: RIGHT. WELL, I THANK THE COURT FOR
16 THAT. AND I DON'T WANT PEOPLE TO PRESUME THAT MY CLIENT
17 DID EVERYTHING WRONG. PRESUME MY CLIENT SHOULD --

18 THE COURT: I'M THE ONLY PERSON YOU CARE
19 ABOUT. FOR PURPOSES OF TODAY, TODAY, I'M TELLING YOU
20 I'M NOT MAKING THAT ASSUMPTION.

21 MR. WANG: OKAY.

22 THE COURT: IF EVERYONE ELSE ON THIS CALL,
23 INCLUDING MR. GOLUBCHIK'S CLIENT WHO KNOWS WHAT HE'S
24 TALKING ABOUT, MAKES THAT ASSUMPTION, YOU JUST HAVE TO
25 DEAL WITH IT, OKAY?

1 MR. WANG: OKAY.

2 THE COURT: FOR PURPOSES OF TODAY, YOU'RE
3 ARGUING TO ME. FOR PURPOSES OF TODAY, I'M ASSUMING THAT
4 WASN'T YOUR INTENTION. I'M ASSUMING YOU -- I'M ORDERING
5 YOU TO DO A CLARIFYING LETTER, AND YOU'RE
6 ENTHUSIASTICALLY AGREEING TO DO IT, WHICH IS SUPPORTIVE
7 OF YOUR IDEA THAT YOU DON'T INTEND THIS TO HAPPEN.

8 AND THE CONVERSATION MR. GOLUBCHIK AND I ARE
9 HAVING, OR I'M TRYING TO HAVE WITH MR. GOLUBCHIK, IS ONE
10 THAT IS EXACTLY WHAT YOU'RE SUGGESTING, WHICH IS WHAT DO
11 WE DO AT THE PLAN LEVEL. AND AT THE PLAN LEVEL, I HAVE
12 SUGGESTED THAT THE DEBTOR LOOK AT EXPANDING THE
13 LITIGATION IF NECESSARY. I AM ORDERING THE DEBTOR TO
14 DELIVER A LETTER TO THESE PEOPLE THAT TELLS THEM THEIR
15 PROBLEMS.

16 AND THE OTHER THING THAT I THINK WE'LL PUT IN
17 THIS LETTER, MR. MAIZEL, IS A FINDING BY THE COURT THAT
18 THE RELIEF I'M GRANTING HERE TODAY IS APPROPRIATE GIVEN
19 THE CLEAR EVIDENCE THAT THE ACTIONS TAKEN, WHICH THE
20 COURT MAY WELL CONCLUDE ARE STAY VIOLATIVE AFTER THE
21 PARTIES HAVE AN OPPORTUNITY TO BE HEARD, ARE CLEARLY
22 ENDANGERING PATIENT HEALTH AND LIFE.

23 AND IF THE PLANS WANT THAT KIND OF -- YOU
24 KNOW, THEY CAN COME BACK IN HERE AND ARGUE WITH ME ABOUT
25 THAT AND WHATEVER THEY WANT TO DO. LIKE I SAID, THEY

1 SHOULD BE PRAYING THAT NOTHING ACTUALLY HAPPENS TO
2 ANYBODY DURING THIS TIME OF TURMOIL. BECAUSE IF IT'S
3 STAY VIOLATIVE, THE ACTION'S VOID, AND THERE'S ALL SORTS
4 OF CONSEQUENCES FOR THAT.

5 AND EVEN IF IT'S NOT STAY VIOLATIVE, IF IT'S
6 AS MR. WANG SAYS, SOMETHING THAT THEY'RE DOING WITHOUT
7 ANY PROTECTION FROM DHS, AND DHS SAYING YOU DON'T HAVE
8 TO DO THIS, IT'S ALL ON THEM, IT'S ALL ON THEM. AND
9 THAT'S WHERE I WANT THEM TO UNDERSTAND THAT. OKAY?

10 MR. GOLUBCHIK: THANK YOU, YOUR HONOR.

11 THE COURT: SO I THINK THAT'S AS MUCH AS I CAN
12 DO TODAY.

13 SO MR. WANG AND MR. LIEN, NO ASSUMPTIONS THAT
14 THEY'VE DONE ANYTHING NAUGHTY. THEY'RE GOING TO DRAFT
15 THAT LETTER. I'M GOING TO ORDER YOU AND MR. LAMANIA AND
16 MR. MAIZEL TO GET ON THE PHONE IMMEDIATELY AFTER THE
17 HEARING AND START TALKING ABOUT WHAT THAT LETTER WOULD
18 LOOK LIKE.

19 MR. MAIZEL: I WILL CIRCULATE A ZOOM INVITE
20 FOR NOON TODAY, YOUR HONOR.

21 THE COURT: ALL RIGHT.

22 MR. WANG: YOUR HONOR, YOU WOULDN'T MIND IF WE
23 INCORPORATE SOME OF YOUR TENTATIVE RULING ON PAGE 2 INTO
24 THE LETTER?

25 THE COURT: SURE.

1 MR. WANG: I THINK THAT WOULD JUST, YOU KNOW,
2 STATE THAT LAW TO THE PLANS SO THEY UNDERSTAND WHERE THE
3 COURT IS COMING FROM. AND I WONDER, I WONDER, JUST
4 BECAUSE TODAY IS FRIDAY, FRIDAY AFTERNOON IS FAST
5 APPROACHING, SHOULD WE RESERVE A CALL WITH YOUR HONOR
6 JUST TO MAKE SURE THAT THERE IS A -- ANY DISAGREEMENT,
7 THAT WE CAN NOW -- I'M HOPEFUL THAT WE CAN ALL REACH AN
8 AGREEMENT.

9 BUT IN CASE WE CAN'T, BECAUSE THE LETTER NEEDS
10 TO GO OUT BEFORE 5:00, SHOULD WE RESERVE A CALL? AND WE
11 CAN CALL -- I CAN ALWAYS CALL MR. PALUSO AND CANCEL IT
12 IF THE LETTER --

13 THE COURT: THAT'S A GREAT IDEA. WHY DON'T WE
14 JUST SAY, WHAT DO YOU THINK, 3:30 OR 4:00?

15 MR. MAIZEL: 4:00, YOUR HONOR.

16 MR. WANG: 4:00 FOR THE SAKE OF RESERVING,
17 PUTTING IT ONTO THE COURT'S CALENDAR, IS THAT OKAY?

18 THE COURT: THAT'S FINE. DO WE WANT TO HAVE A
19 FORMAL OR JUST AN INFORMAL -- OR JUST A CALL?

20 MR. WANG: I THINK JUST A CALL IN CASE --
21 ASSUMING, I MEAN, IF WE RESOLVE EVERYTHING, I'LL JUST
22 CALL MR. PALUSO AND TAKE IT OFF CALENDAR. IF THERE IS
23 SOME LINGERING ISSUE, WE CAN JUST HAVE A CALL. IS THAT
24 OKAY?

25 THE COURT: THAT SOUNDS FINE. THAT'S THE SORT

1 OF THING I WOULD DO IF YOU WERE, FOR EXAMPLE, CALLING ME
2 FROM A DEPOSITION, YOU KNOW. I DON'T LIKE DOING IT FROM
3 A DEPOSITION, BUT I'M VERY COMFORTABLE DOING IT HERE.

4 AND WHAT I WILL -- THE OTHER THING I WILL SAY
5 IS IF, YOU KNOW, WE HAVE TO GET A COURT REPORTER
6 INVOLVED, OR THE PARTIES HAVE TO AGREE THAT JUST
7 RECORDING WORKS --

8 MR. WANG: RECORDING WILL WORK, YOUR HONOR.
9 RECORDING WILL WORK. JUST GOING THROUGH THE CONTENT OF
10 THE LETTER, I THINK RECORDING --

11 THE COURT: NO, NO, NO, I'M MAKING A DIFFERENT
12 POINT. LET ME FINISH.

13 MR. WANG: OKAY.

14 THE COURT: IT'S GOING TO BE CALLED -- I HOPE
15 YOU CANCEL IT, BECAUSE IT'S FRIDAY AFTERNOON. I'D LOVE
16 TO KNOW THAT YOU GOT THIS WORKED UP BEFORE. BUT IF YOU
17 DON'T, IF WE GET CLOSER TO 4:00, AND YOU THINK, YOU
18 KNOW, WE NEED A FULL BOAT HEARING, WE NEED A TRANSCRIPT,
19 WE NEED A RECORD, THEN LET MR. PALUSO KNOW.

20 AND I'LL NEED THE PARTIES -- YOU KNOW, AND
21 THEN I'LL PUT ON THE ROBE, AND I'LL -- RUSS WILL CALL
22 COURT. BUT THE OFFICIAL TRANSCRIPT OF THE HEARING WILL
23 BE A RECORDING LIKELY, NOT A COURT REPORTER, BECAUSE WE
24 MAY NOT BE ABLE TO GET A LIVE HUMAN BEING BACK IN. BUT
25 THAT'S YOUR CALL. I DON'T THINK WE NEED IT, BUT IF WE

1 DO, I'LL DO COURT.

2 MR. WANG: YOUR HONOR, JUST SPEAKING FOR THE
3 DEPARTMENT, I DON'T THINK WE NEED IT. WE WILL DO OUR
4 VERY BEST TO DRAFT A LETTER AND THEN TO MAKE SURE ALL
5 THE CONCERNS ARE DEALT WITH AND ADDRESSED IN THE LETTER.
6 THAT -- OF COURSE, THE JUDGE IS PERFECTLY FINE FOR THE
7 DEPARTMENT.

8 THE COURT: OKAY. (INDISCERNIBLE) WEIGH ALL
9 OPTIONS.

10 MS. MOYRON: THANK YOU, YOUR HONOR. MAY I ADD
11 ONE COMMENT?

12 THE COURT: YES.

13 MS. MOYRON: I AM APPRECIATIVE OF YOUR
14 SUGGESTION FOR A POTENTIAL ZOOM HEARING. AS YOU KNOW,
15 MR. PALUSO HAS BEEN AMAZING IN BEING ABLE TO COORDINATE
16 THESE HEARINGS ON AN EXPEDITED BASIS. FROM THE DEBTOR'S
17 PERSPECTIVE, I THINK IT MAKES SENSE TO THINK ABOUT THE
18 4:00 P.M. HEARING AS POTENTIALLY A ZOOM HEARING. BUT WE
19 CAN COMMUNICATE DIRECTLY WITH HIM.

20 JUST BEING ON THIS HEARING, YOUR HONOR,
21 CERTAIN PEOPLE IT SEEMS LIKE TALK OVER EACH OTHER, AND
22 SO A CALL MAY BE DIFFICULT. THAT'S THE DEBTOR'S --

23 THE COURT: WE'RE GOING TO DO A ZOOM MEETING,
24 NOT A CALL. WE'RE NOT GOING TO CALL. IT'S JUST NOT
25 FORMAL COURT. SO IT WILL BE A ZOOM, BUT IT WON'T BE

1 OPEN TO THE PUBLIC. IT WILL BE, YOU KNOW --

2 MS. MOYRON: UNDERSTOOD, YOUR HONOR.

3 THE COURT: -- A LETTER. AND I'M JUST RELYING
4 ON THE DEPARTMENT AND THE DEBTOR TO FIGURE OUT -- AND
5 MAYBE, MR. GOLUBCHIK, YOU SHOULD BE INVOLVED TOO, TO
6 FIGURE OUT WHETHER WE NEED TO EXPAND IT TO SOMETHING.
7 OTHER PEOPLE, I DON'T WANT TO BE ASKED ON THIS CALL IF
8 OTHER PEOPLE REALLY THINK THEY NEED TO BE ON THAT CALL.

9 I'M GOING TO APPOINT MR. WANG AND MR. MAIZEL
10 AS THE GATEKEEPERS. YOU DECIDE WHO NEEDS TO BE ON THAT
11 CALL. OTHER, MS. MOYRON, EXCEPT THAT I WANT
12 MR. GOLUBCHIK THERE, IF HE WANTS TO BE.

13 MS. MOYRON: YES, YOUR HONOR.

14 MR. GOLUBCHIK: UNDERSTOOD.

15 MS. MOYRON: AND WE'RE (INDISCERNIBLE) WORKING
16 WITH MR. GOLUBCHIK. AND WE'LL CONTINUE TO WORK WITH
17 MR. PALUSO TO MAKE SURE THAT, YOU KNOW, EVERYTHING IS
18 COORDINATED, AND EASIER, AND EFFICIENT FOR THE COURT.

19 THE COURT: OKAY, THAT'S GREAT.

20 MR. GARFINKLE: YOUR HONOR, JEFF GARFINKLE
21 AGAIN, SPECIALLY APPEARING FOR MC KESSON. IF THE
22 COMMITTEE SELECTS COUNSEL, AND THAT COUNSEL PREPARE,
23 WILL BE ON THE CALL, IF THERE'S ANY --

24 THE COURT: CALL MR. MAIZEL AND TELL HIM WHY
25 YOU THINK YOU NEED TO BE.

1 MR. GARFINKLE: OKAY.

2 THE COURT: CALL MR. WANG. I DON'T CARE, BUT
3 I DON'T WANT --

4 MR. GARFINKLE: UNDERSTOOD.

5 THE COURT: YOU KNOW, IT IS -- RUSS HAS DONE A
6 GREAT JOB, BUT THERE'S LIMITS TO -- I PERSONALLY THINK
7 ZOOM IS A GREAT TOOL, BUT THERE'S LIMITS TO MY PATIENCE,
8 VISIBILITIES, AND TIME.

9 MR. GARFINKLE: THANK YOU, YOUR HONOR.

10 THE COURT: BEFORE WE GET OFF THE PHONE GOING
11 FROM A REALLY SERIOUS ISSUE OF UNBELIEVABLE IMPORTANCE
12 TO SOMETHING REALLY PICKY, THIS IS THE REQUEST OF THE
13 DEBTOR TO EXTEND THE TIME FOR FILING THEIR SCHEDULES.

14 AND I GOT AN ADDITIONAL DECLARATION FROM THE
15 CLIENT'S ADMINISTRATIVE, THE NOTICING AGENT, TELLING ME,
16 OH, YEAH, WE NOTICED THE U.S. TRUSTEE, BECAUSE I HAD
17 ASKED THAT THE CALL BE MADE SAYING -- ASKING IF THEY
18 COMPLIED WITH OUR LOCAL RULE 9341. THEY DIDN'T. AND
19 HERE'S THE -- HERE'S WHAT WE REQUIRE IN THE SOUTHERN
20 DISTRICT OF CALIFORNIA, AND IT'S NEAR AND DEAR TO OUR
21 HEARTS.

22 WHEN YOU SEEK TO -- ANY OF THESE EXTENSIONS OF
23 TIME OR TO EMPLOY COUNSEL -- MR. GOLUBCHIK, IF YOU
24 HAVEN'T DONE THIS, YOU NEED TO DO THIS TOO FOR YOURS.
25 WE REQUIRE THAT YOU SERVE THE OFFICE OF THE

1 UNITED STATES TRUSTEE AND REQUEST A STATEMENT OF
2 POSITION. AND TO DO THAT, THE UNITED STATES TRUSTEE WAS
3 SERVED, BUT IT WAS SERVED AT ITS GENERAL ADDRESS, AND
4 YOU SERVED MS. -- AND THEY SERVED TIFFANY CARROLL AND
5 MR. ORTIZ DIRECTLY.

6 BUT THERE'S A SPECIAL BOX, SPECIAL EMAIL, FOR
7 STATEMENTS OF POSITION. IT'S IN THE LOCAL RULES. SO
8 THEY SERVED USTP, REGION 15, AT USDOJ DOT GOV. THEY
9 SHOULD HAVE SERVED USTP, REGION 15, SOP, WHICH GETS IT
10 INTO A SPECIAL BOX, WHICH GETS A STATEMENT OF POSITION.

11 I DON'T THINK THE UNITED STATES TRUSTEE IS ON
12 THIS CALL. IF SOMEBODY, A REPRESENTATIVE, IS, PLEASE
13 LET ME KNOW. SO I WAS HOPEFUL THAT ON THIS CALL THEY
14 JUST SAY NOT TO WORRY.

15 AND WE ALSO HAVE WHAT WE REFER TO HERE AS THE
16 ENRIGHT RULE AFTER OUR DEAR DEPARTED JUDGE ENRIGHT. HE
17 SAID YOU CAN HAVE ANY LOCAL RULE YOU WANT AS LONG AS I
18 DON'T HAVE TO FOLLOW IT.

19 SO, YOU KNOW, I CAN ALWAYS EXTEND IT MYSELF.
20 THE PROBLEM IS, THE DATE YOU REQUESTED IT IS AFTER THE
21 DATE NOTICED FOR THE 341(A), AND I REALLY WANT THE
22 U.S. TRUSTEE'S INPUT ON THAT.

23 SO HERE'S WHAT I'M GOING TO DO. YOU MAY
24 SUBMIT AN ORDER TODAY GIVING YOU UNTIL OCTOBER 10TH TO
25 FILE THE SCHEDULES. GO AHEAD AND SERVE -- GET THE

1 STATEMENT OF POSITION FROM THE UNITED STATES TRUSTEE
2 USING THE CORRECT EMAIL ADDRESS, AND THAT WILL --
3 THEY'LL GET IT. THEY HAVE 7 DAYS TO RESPOND, SO WELL
4 BEFORE THE 10TH OF OCTOBER THEY SHOULD HAVE TOLD YOU
5 WHETHER THEY DISAGREE OR NOT. AND THEN I'LL -- YOU
6 KNOW, AND THEN YOU CAN SUBMIT A NEW ORDER.

7 IF THEY DISAGREE, DO WHAT YOU ALWAYS DO, WHICH
8 IS NEGOTIATE WITH THEM. OR BRING IT TO MY ATTENTION,
9 AND I'LL DECIDE IT THEN. BUT I JUST DON'T WANT TO -- I
10 REALLY -- I WOULD TELL YOUR CLAIMS AGENT, READ THE LOCAL
11 RULES AND MAKE SURE YOU COMPLY WITH THEM.

12 AND SO THAT GOES FOR ALL THESE -- YOU KNOW, A
13 NUMBER OF THESE THINGS. AND I'M -- NORMALLY THE
14 UNITED STATES TRUSTEE WOULD HAVE BEEN HERE FOR SOMETHING
15 LIKE THIS, BUT THEY'RE NOT, SO I CAN'T JUST ASK THEM.

16 SO DOES THAT WORK FOR YOU, MS. MOYRON AND
17 MR. MAIZEL?

18 MS. MOYRON: IT DOES, YOUR HONOR. AND TO GIVE
19 YOU COMFORT, WE HAVE BEEN TALKING WITH THE OFFICE OF THE
20 UNITED STATES TRUSTEE INFORMING MR. ORTIZ ABOUT THE
21 DEADLINES. AND CERTAINLY IN CONNECTION WITH THE
22 STATEMENT OF POSITION, UNDERSTOOD.

23 THE COURT: OKAY. YEAH, I'M JUST -- IT KIND
24 OF ISN'T MY PROBLEM, BUT I THINK THIS IS -- AND IF
25 YOU'RE IN THE NEGOTIATIONS, AND YOU THINK YOU'RE GOING

1 TO BE FINE COMING UP WITH A DATE, YOU DON'T HAVE TO DO
2 THIS TWO STEP. BUT I JUST WANT TO GET YOU IMMEDIATE
3 RELIEF FROM THE DEADLINE AT LEAST TO GIVE YOU TIME TO
4 GET THE STATEMENT OF POSITION. SO GO AHEAD AND SUBMIT
5 WHATEVER YOU THINK IS APPROPRIATE GIVEN YOUR
6 CONVERSATIONS WITH MR. ORTIZ.

7 MS. MOYRON: UNDERSTOOD. THANK YOU,
8 YOUR HONOR.

9 THE COURT: AND, RUSS, I'M SENDING THAT ORDER
10 BACK TO YOU.

11 THE CLERK: NOT A PROBLEM, YOUR HONOR. I WILL
12 TAKE CARE OF IT.

13 THE COURT: OKAY, THANK YOU.

14 ALL RIGHT. ANYTHING ELSE? WE'RE HERE ON A
15 NARROW PURPOSE, SO I DON'T THINK THERE'S ANYTHING ELSE
16 FOR THE GOOD OF THE ORDER THAT WE CAN DO TODAY. DO SOME
17 GOOD WORK ON THAT LETTER, AND I'LL BE AVAILABLE TO YOU
18 AT 4:00 TODAY.

19 MR. MAIZEL: THANK YOU, YOUR HONOR.

20 MR. GOLUBCHIK: THANK YOU, YOUR HONOR.

21 MR. WANG: THANK YOU, YOUR HONOR. THANK YOU
22 SO MUCH.

23 THE CLERK: THANK YOU, YOUR HONOR. THAT
24 CONCLUDES THE 11 O'CLOCK CALENDAR.

25 THE COURT: ALL RIGHT. WE'LL BE RECESS.

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THE CLERK: THANK YOU.

(THE PROCEEDINGS ADJOURNED AT 11:55 A.M.)

1 STATE OF CALIFORNIA)
2 :
3 COUNTY OF SAN DIEGO)

4 I, SUE ROSS, A CERTIFIED SHORTHAND REPORTER, DO
5 HEREBY CERTIFY:

6 THAT I REPORTED IN SHORTHAND THE PROCEEDINGS
7 HELD IN THE FOREGOING CAUSE ON THE 30TH DAY OF
8 SEPTEMBER, 2022; THAT MY NOTES WERE LATER TRANSCRIBED
9 INTO TYPEWRITING UNDER MY DIRECTION AND THAT THE
10 FOREGOING TRANSCRIPT CONTAINS A CORRECT STATEMENT OF THE
11 PROCEEDINGS.

12
13 DATED THIS 5TH DAY OF OCTOBER, 2022.

14
15 /S/ SUE ROSS
16 CSR NO. 5786
17
18
19
20
21
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23
24
25

Redact
Rev. 08/22

United States Bankruptcy Court
Southern District of California
Jacob Weinberger U.S. Courthouse
325 West F Street
San Diego, CA 92101-6991

Telephone: 619-557-5620
Website: www.casb.uscourts.gov
Hours: 8:30am – 4:30pm Monday–Friday

In re Debtor(s) (name(s) used by the debtor(s) in the last 8 years,
including married, maiden, trade, and address):

BORREGO COMMUNITY HEALTH FOUNDATION, Debtor(s)	BANKRUPTCY NO. 22-02384-LT11
BORREGO COMMUNITY HEALTH FOUNDATION, Plaintiff(s)	ADVERSARY NO. 22-90056-LT
v. CALIFORNIA DEPARTMENT OF HEALTH CARE SERVICES, by and through its Director, Michelle Baass Defendant(s)	

NOTICE OF FILING OF TRANSCRIPT AND DEADLINES

TO PARTIES IN INTEREST

YOU ARE HEREBY NOTIFIED that a transcript of the hearing held **09/30/22** was filed with the Court on 10/6/22.

Access to this transcript is restricted for ninety calendar days from the date of filing unless extended by court order. All parties have seven calendar days to file a Notice of Intent to Request Redaction of certain identifying information as provided in the Judicial Conference's Privacy Policy. The four identifying items are: Social Security numbers (should be redacted to show only the last four digits); birth dates (should contain only the year of birth); individuals known to be minors (should be referred to with initials); and financial account numbers (should be redacted to the last four digits).

If a Notice of Intent to Request Redaction is filed, the party then has 21 calendar days from the date of filing of the transcript to file with the court and the court reporter, a Notice of Redaction with List of Location Identifiers.

To review the transcript for redaction purposes, you may purchase a copy from the transcriber Jennifer Gibson, (760) 807-2221, or you may view the document at the clerk's office public terminal at no cost.

Dated: 10/6/22

Michael Williams
Clerk of the Bankruptcy Court

Notice Recipients

District/Off: 0974-3

User: Admin.

Date Created: 10/6/2022

Case: 22-90056-LT

Form ID: redact

Total: 7

Recipients of Notice of Electronic Filing:

aty	Kenneth K. Wang	kenneth.wang@doj.ca.gov
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aty	Teddy Kapur	tkapur@pszjlaw.com

TOTAL: 3

Recipients submitted to the BNC (Bankruptcy Noticing Center):

pla	BORREGO COMMUNITY HEALTH FOUNDATION, Springs, CA 92004	587 Palm Canyon Dr.	Suite 208	Borrego
ust	United States Trustee	Office of the U.S. Trustee	880 Front Street	Suite 3230 San Diego, CA 92101
ust	Office of the U.S. Trustee for Region 17	501 I Street, Suite 7-500	Sacramento, CA 95814	
ust	Office of the U.S. Trustee for Region 17	501 I Street, Suite 7-500	Sacramento, CA 95814	

TOTAL: 4