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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 MICHAEL J.
LAMPE IN OPPOSITION TO MOTION
TO DISQUALIFY COUNSEL FOR
PLAINTIFF

Date: February 2, 2022
Time: 8:30 a.m.
Dept. 17

19
20 I, Michael J. Lampe, declare:

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

23 2. On July 26, 2017, I was informed that Senovia Gutierrez would not be seated as a
24 member of the District’s Board of Directors on the advice of Defendant Bruce Greene, despite the
25 fact that she had recently been elected as a Board member and taken her oath of office.

26
27
28 _____
DECLARATION OF MICHAEL J LAMPE IN
OPPOSITION TO MOTION TO DISQUALIFY
COUNSEL FOR PLAINTIFF

1 3. Upon hearing that Gutierrez would not be seated, I asked Mike Jamaica, one of
2 three Board members present, to leave the room and deny the remaining two Board members a
3 quorum.

4 4. I was then asked by Benny Benzeevi, with dozens of members of the public present,
5 and Greene in attendance by telephone, if I had asked Jamaica to leave the room. I responded,
6 "That is correct." These events, including my response to Benzeevi, were recorded on video tape,
7 a copy of which is marked as Exhibit 57 to the depositions that have been taken in this case.

8 5. On August 18, 2017, my office offered to settle two of three pending lawsuits
9 commenced against the District for \$60,500.00. A true and correct copy of this settlement offer
10 is attached hereto as Exhibit 1.

11 6. On August 24, 2017, Bruce Greene emailed Carlo Coppo, defense counsel for the
12 District, advising that CEO Benny Benzeevi and Board member Richard Torrez had approved the
13 settlement, characterizing it as a "favorable settlement for the District." A true and correct copy
14 of Greene's email is attached hereto as Exhibit 2.

15 7. On September 5, 2017, Greene emailed Alan Germany, the former CFO of the
16 District, demanding payment of legal fees from the Celtic Leasing transaction. A true and correct
17 copy of Greene's email is attached hereto as Exhibit 3.

18 8. On November 4, 2019, James Murphy, counsel for Greene and Baker, advised me
19 by telephone that he intended to take my deposition as a percipient witness in this case. I advised
20 Murphy that I was not a material witness but did not particularly object to having my deposition
21 taken.

22 9. On December 4, 2019, Murphy advised all counsel by email that his office intended
23 to take my deposition. A true and correct copy of Murphy's email is attached hereto as Exhibit 4.

24 10. On October 16, 2020, Murphy demanded in writing that I withdraw from this case,
25 asserting that I was a "key witness," and threatening to file the motion that is now before the court.
26 A true and correct copy of the Murphy correspondence is attached hereto as Exhibit 5.

1 11. On October 23, 2020, I responded by email to the Murphy demand, noting that, “*This*
2 *case has been pending since April of 2019, leading to the inescapable conclusion that your*
3 *threatened motion is designed for purely tactical reasons.*” A true and correct copy of my email
4 to Murphy is attached hereto as Exhibit 6.

5 12. On October 28, 2020, in further response to Murphy’s demand that I withdraw from
6 this case, the District’s Board of Directors unanimously adopted Resolution 897. No one from my
7 law firm was present at the October 28 Board meeting, and all discussions regarding the contents
8 of Resolution 897 were between the Board and District general counsel. A true and correct copy
9 of Resolution 897 is attached hereto as Exhibit 7.

10 13. On November 10, 2020, Defendant and former Board member Richard Torrez
11 executed, under oath, his Response to the District’s Requests for Admission. Torrez’s partial
12 response is attached hereto as Exhibit 8.

13 14. On November 30, 2020, Defendant and former Board member Linda Wilbourn
14 executed, under oath, her Response to the District’s Requests for Admission. Wilbourn’s partial
15 response is attached hereto as Exhibit 9.

16 15. On February 19, 2020, declarations under penalty of perjury were filed with this court
17 by Kevin Northcraft, Teresa Jacques, and Dennis A, Mederos.

18 A true and correct copy of the Northcraft declaration is attached hereto as Exhibit 10.

19 A true and correct copy of the Jacques declaration is attached hereto as Exhibit 11.

20 A true and correct copy of the Mederos declaration is attached hereto as Exhibit 12.

21 16. On January 25, 2021, the Tulare County District Attorney filed its First Amended
22 Felony Complaint against Bruce Greene, former District CEO Benny Benzeevi, and former District
23 CFO Alan Germany. A certified copy of the First Amended Felony Complaint is attached hereto
24 as Exhibit 13.

1 17. My firm has logged over 1,000 hours of attorney billing time in this case. These
2 hours generally consist of legal research; preparing the complaint in this action; participating in
3 an early mediation with Retired Judge Howard Broadman at the request of James Murphy,
4 counsel for Greene and Baker; responding to form interrogatories, special interrogatories, and
5 requests for admission served by Greene and Baker (including many meet and confer
6 conferences); propounding discovery to all defendants in this action; reviewing and analyzing
7 some 16,800 documents and electronic files produced by Greene and Baker; appearing at various
8 law and motion matters, including a motion to determine privilege claims improperly asserted by
9 Greene and Baker; consulting with expert witnesses; and participating in the depositions of
10 Senovia Gutierrez, Attorney Cary Davidson, Michael Lampe, Michelle Baldwin, the Tulare County
11 Registrar of Voters, Deanne Martin-Soares, Patricia Drilling-Phelps, Abraham Betre, O.D.,
12 Attorney Joseph Soares, and Attorney Dennis Mederos.

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

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

17
18
19
20 Dated: January 19, 2022



MICHAEL J. LAMPE

1 PROOF OF SERVICE

2 STATE OF CALIFORNIA, COUNTY OF TULARE:

3 I am employed in the County of Tulare, State of California. I am over the age of 18 and
4 not a party to the within action. My business address is 410 West Center Avenue, Suite 202,
5 Visalia, California 93291.

6 On January 19, 2022, I served the foregoing document described as DECLARATION OF
7 MICHAEL J. LAMPE IN OPPOSITION TO MOTION TO DISQUALIFY COUNSEL FOR
8 PLAINTIFF by electronic mail on the following interested parties:

9 James A. Murphy
10 Harlan Watkins
11 Murphy, Pearson, Bradley & Feeney
12 580 California Street, Suite 1100
13 San Francisco, California 94104
14 email: Jmurphy@mpbf.com
*Attorneys for Bruce R. Greene and Baker &
Hostetler LLP*
jmurphy@mpbf.com
hwatkins@mpbf.com

Donald R. Forbes
Peter G. Fashing
Baker, Manock & Jensen, PC
5260 North Palm, Suite 421
Fresno, California 93704
email: Dpaloutzian@bakermanock.com
Attorneys for Linda Wilbourn
Dforbes@bakermanock.com
Pfashing@bakermanock.com

15 Sean T. O'Rourke
16 Petrie Leath Larrivee & O'Rourke, LLP
17 6051 N. Fresno Street, Suite 110
18 Fresno, California 93710
19 email: sorourke@pllolegal.com
Attorneys for Richard Torrez
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Attorneys for Parmod Kumar
Tfeher@lebeauthelen.com

20 David Scheper
21 Jeffrey Steinfeld
22 Winston & Strawn LLP
23 333 South Grand Avenue, 38th Floor
24 Los Angeles, CA 90071-1543
Dscheper@winston.com
JLSteinfeld@winston.com

25 I declare under penalty of perjury under the laws of the State of California that the above
26 is true and correct.

27 

28 MICHAEL J. LAMPE

LAW OFFICES OF MICHAEL J. LAMPE

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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

August 18, 2017

Carlo Coppo
Nossaman LLP
1925 Palomar Oaks
Suite 220
Carlsbad, California 92008

David M. Balfour
Nossaman LLP
1925 Palomar Oaks
Suite 220
Carlsbad, California 92008

Re: *Martin-Soares et al. v. Tulare Local Health Care District*
Tulare County Superior Court Case No. 266902

Drilling et al. v. Tulare Local Health Care District
Tulare County Superior Court Case No. 267051

Gentlemen:

Carlo Coppo represented to the court at yesterday's ex parte hearing that he would be meeting in closed session with the Board of Directors of Tulare Local Health Care District on Wednesday, August 23, for the purpose of seeking direction with respect to discovery, the designation of persons most qualified to testify on behalf of the District, trial strategy, trial preparation, and settlement authority in connection with the above-referenced actions.

August 18, 2017
Carlo Coppo
David M. Balfour
Nossaman LLP
Page 2

Mr. Coppo also represented that your office has not previously met with the board, which seems a bit unusual for two cases that have trial dates set for September 11 and October 10, 2017. This also likely explains why my office never received a mediation statement from the District in the *Martin-Soares* case, and why the mediation conducted by Retired Judge Patrick O'Hara on July 24 was, from my perspective, quite unproductive.

In an effort to bring both of these matters to a conclusion, we are tendering the following settlement offers for the board's consideration. I am asking that each of the board members receive a copy of this correspondence.

***Martin-Soares et al. v. Tulare Local Health Care District
Tulare County Superior Court Case No. 266902***

The *Martin-Soares* case is ready for trial. Plaintiffs' position is set forth in detail in the attached Mediation Statement, which I am requesting that your office immediately transmit to the individual board members so that they can independently assess the District's liability in this case.

Plaintiffs are prepared to settle this case, by way of a stipulated judgment, on the following terms:

1. The District shall appoint an individual to respond to Public Records Act requests made to the District;
2. The individual so appointed shall receive training, to be determined by District counsel, with respect to the obligations imposed by the Public Records Act on public agencies such as the District;
3. The individual so appointed shall at all times have access to "The People's Business, a Guide to the California Public Records Act," (revised April 2017), and any future revisions published by the League of California Cities;
4. The individual so appointed shall act under the supervision of District counsel and the Board of Directors of the District;
5. In no event shall the individual so appointed act under the supervision of, or be subject to control by, Healthcare Conglomerate Associates, LLC (*HCCA*), Yorai (Benny) Benzeevi, or any agent, attorney, or representative of *HCCA*; and

6. The District shall pay attorneys' fees and costs incurred by Plaintiffs in the amount of \$43,000.00.

Please note that the attorneys' fees and costs incurred to date in this action exceed \$73,000.00. These will significantly increase if the case goes to trial on September 11, and we will ask the court to award all fees and costs incurred at the time of trial. If, on the other hand, the District settles the *Martin-Soares* case on the terms set forth herein, my office will waive any claim for additional fees.

***Drilling et al. v. Tulare Local Health Care District
Tulare County Superior Court Case No. 267051***

Although the board minutes cannot be accessed on the District website controlled by HCCA, it has been reported in the press that Directors Northcraft, Jamaica and Gutierrez recently withdrew authority for District funds to be used in the prosecution of Tulare County Superior Court case no. 265230, entitled *Parmod Kumar, M.D., Rebecca Zulim, M.D. and Benny Benzeevi, M.D., Plaintiffs, v. Abraham Betre, D.O. and Does 1 through 10, inclusive.*

As the taxpayers in the *Drilling* case are seeking an injunction against the use of public funds to prosecute a private action on behalf of Kumar, Benzeevi, and Zulim, board action effectively prohibiting the further use of public funds appears to have largely resolved the issue.

Although I have not been able to communicate with all of the plaintiffs in the *Drilling* case, I believe that I will secure settlement authority prior to Wednesday's board meeting as follows:

1. The District will stipulate to a permanent injunction, prohibiting the District, its agents, employees, representatives, or any party acting in concert with the District, from using public funds to pay any legal fees, directly or indirectly, for the prosecution, participation in, or board discussion of Tulare County Superior Court case no. 265230, entitled *Parmod Kumar, M.D., Rebecca Zulim, M.D. and Benny Benzeevi, M.D., Plaintiffs, v. Abraham Betre, D.O. and Does 1 through 10, inclusive.*; and
2. The District shall pay attorneys' fees and costs incurred by Plaintiffs in the amount of \$17,500.00.

Please note that the attorneys' fees and costs incurred to date in this action exceed \$35,000.00. These will significantly increase if the case goes to trial on October 10, and we will ask the court to award all fees and costs incurred at the time of trial. If, on the other

August 18, 2017
Carlo Coppo
David M. Balfour
Nossaman LLP
Page 4

hand, the District settles the *Drilling* case on the terms set forth herein, my office will waive any claim for additional fees.

This correspondence constitutes an Offer to Compromise, as set forth in Evidence Code §1152, and its contents are inadmissible at trial.

If you have any questions concerning the contents of this correspondence, please do not hesitate to contact me.

Sincerely,

MICHAEL J. LAMPE
MJL/ml
cc: clients, McCormick Barstow LLP

Message

From: Greene, Bruce R. [/O=BH/OU=DENVER/CN=RECIPIENTS/CN=BGREENE]
Sent: 8/25/2017 12:25:10 AM
To: Coppo, Carlo [ccoppo@nossaman.com]
Subject: Re: Settlements



I am happy to talk but this is not a very efficient way to get this done. Benny is the only one who knows what sort of timing he can offer. Can I suggest that you just speak to him directly ?

Sent from my iPhone

> On Aug 24, 2017, at 5:19 PM, Coppo, Carlo <ccoppo@nossaman.com> wrote:

>
> Bruce: I just got off the phone with Lampe and I need to discuss with you the timing of the payment. If you have some time in the morning, that would be helpful. I'm in all day. Carlo

> -----Original Message-----

> From: Greene, Bruce R. [mailto:bgreene@bakerlaw.com]
> Sent: Thursday, August 24, 2017 2:44 PM
> To: Coppo, Carlo; Balfour, David M.
> Cc: benny@healthcca.com
> Subject: RE: Settlements

> Carlo - I have discussed the settlement proposals with both Benny and Richard. They both concur, but the problem is that there is no cash to pay Lampe right now. So he may have to wait several weeks for his money. I realize that this may mean forgoing a trial, but possibly we can stipulate to a higher sum if the money isn't paid within whatever time period can be worked out.

> Obviously this is not the time to get into a battle over who the real directors are and potentially jeopardize what appears to be a favorable settlement for the District. So I would propose that if this is to settle, we call a special meeting (with only this on the closed session agenda) and hopefully Richard, Northcraft and Jamaica will all agree to sign whatever settlement agreement is put before them. I frankly don't care if Ms. Gutierrez attends that meeting or not.

> 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

> -----Original Message-----

> From: Coppo, Carlo [mailto:ccoppo@nossaman.com]
> Sent: Thursday, August 24, 2017 1:43 PM
> To: tim.thompson@mccormickbarstow.com; mandy.jeffcoach@mccormickbarstow.com; niki cunningham@mccormickbarstow.com
> Cc: Balfour, David M. <dbalfour@nossaman.com>; Marty Lockwood <mlockwood@betahg.com>
> Subject: Settlements

> Tim & Mandy: I know you are in arbitration so please excuse the intrusion but Lampe is being Lampe. He called me on my drive home and the issue is his persistence on obtaining a "guarantee" that the agreed upon settlement amounts will be paid given the District/HCCA conflict. I explained I am outside defense counsel and not privy to the source of the funds. Hence I suggested he speak with you. Being Lampe he "demanded" I get back to him today and also demanded I re-set depositions in the two potentially settled cases. I told him there were many variables and I would do what I could.

> To assist, I brought Bruce Greene up to date and requested that he confer with Benny and you if necessary and inform me the funds in the amount of \$60,500 be available by the end of next week when we expect to have the settlement agreement in final. He once again threatened to withdraw from the settlement if this guarantee was not forthcoming along with my agreement to produce Linda and Richard for depositions next week. In my opinion it is in the best interests of the District to finalize these settlements so I urge you and Baker to confer and get this done. If not, the potential attorneys fees could triple through trial. Thank you.

> Carlo

> Sent from my iPhone

Message

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

EXHIBIT

exhibitsticker.com

3

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

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 8:25 AM
To: Greene, Bruce R. <bgreene@bakerlaw.com>; benny@healthcca.com

From: [James Murphy](#)
To: [Michael Lampe](#); ["Sean O'Rourke"](#); [Thomas Feher](#); [Dirk B. Paloutzian](#); [Peter G. Fashing](#)
Cc: [Harlan Watkins](#); [Alice Kay](#)
Subject: Tulare Depositions
Date: Wednesday, December 4, 2019 11:32:30 AM
Attachments: [image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)
[image007.png](#)
[image011.png](#)



Gentlemen, confirming our discussions. The first tranche of depositions will take place the week of January 20th and will include Deanna Martin-Soares, Abraham Betre, Senovia Gutierrez and Dennis Mederos. The remaining depositions will include Joseph Soares, Laura Gadke, Sherry Bell, Leonard Herr, Kirsten Carey, Kris Pederson, Michael Lampe, Mike Jamaica, Delbert Bryant, a District PMQ, a Celtic PMQ, Celtic employees Paula Nguyen and Skylar Crane, Alan Germany, Kevin Northcraft (and his identified financial advisor) Michael Allan, Cary Davidson, Scott Silver, Linda Wilbourn, Richard Torrez, Dr. Kumar, Bruce Greene and if he is in the country Dr. Benzeevi. One name I forgot to mention is Shawn Bolouki the Hospital's CEO at the time Benzeevi took over management of the Hospital. I propose the remaining tranches of 3-5 depositions per week be during the weeks of February 10, March 2, March 9, April 13 and April 20. Please let me know availability and/or questions.

Sincerely,
James A. Murphy



James A. Murphy
Shareholder
88 Kearny Street, 10th Floor
San Francisco, CA 94108
Office: 415.788.1900 x2837
Fax: 415.393.8087

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

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MURPHY PEARSON
BRADLEY & FEENEY

A Professional Corporation



WWW.MPBF.COM

580 California Street, Suite 1100
San Francisco, CA 94104
Telephone 415-788-1900
Facsimile 415-393-8087

October 16, 2020

Via E-mail only

Michael J. Lampe
Law Office of Michael J. Lampe
Michael P. Smith
108 West Center Avenue
Visalia, California 93291

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

Dear Michael:

Attached hereto for your review and consideration is the published decision of the Second Appellate District in the case of *Doe v. Yim*. The decision, which was filed on October 5, 2020, directly relates to your continued participation as counsel for the plaintiff in the above-referenced matter. As the *Doe* decision makes clear, public policy dictates that you withdraw as counsel for the District as soon as reasonably possible. If you do not agree to withdraw, my clients have instructed us to file a motion with the court seeking your disqualification.

As I have recently pointed out to you, your participation as a percipient witness in numerous factual issues relating to the litigation brought against Bruce Greene and the other defendants is substantial. For example, and without limitation, you had significant involvement and participation in the efforts by Citizens for Hospital Accountability to recall Dr. Kumar and elect Senovia Gutierrez to the District's board. You, along with your client Kevin Northcraft, were central to the efforts in 2016 to defeat Measure I, which would have allowed the use of bond funding to complete the hospital's tower and prevent the financial predicament in which the Hospital found itself in 2017. You were counsel of record in the taxpayer litigation brought against the District and others relating to, among other things, the District's funding of the Betre litigation which is an integral part of both the civil and criminal case against Bruce Greene. We further understand that the District paid your legal fees in both taxpayer cases, fees which were approved by your clients, who are Board members.

Michael J. Lampe
Tulare Local v. Greene
October 16, 2020
Page 2

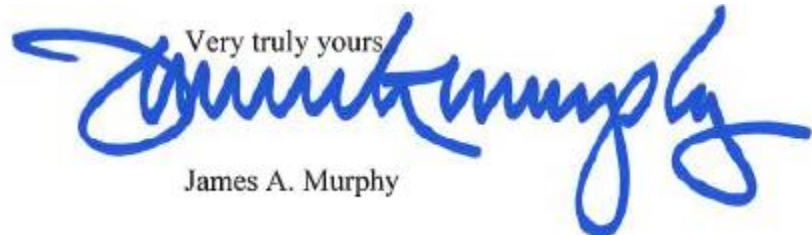
You directly participated in the disruption of the democratic process by counseling and instructing Michael Jamaica to leave the July 26, 2017 District board meeting in order to prevent a quorum to be present so that District business could not be conducted. A portion of your participation in the disruption of the July 26, 2017 meeting is recorded on video. Relevant evidence also includes your actions prior to the video and in the days leading up to the July 26 meeting, such as your interactions with Mr. Medeiros or other counsel who may have been in touch with Ms. Baldwin regarding the results of the recall election. Thereafter, you were also involved in promoting illegal, special meetings in which Kevin Northcraft, Michael Jamaica and Senovia Gutierrez purportedly undertook action on behalf of the board in July and August of 2017. Your actions and communications in setting up these meetings are relevant to the civil action and directly intertwined with your theories regarding the rescission of Resolutions 851 and 852, the Celtic loan, and the alleged interference with the seating of Ms. Gutierrez.

You were involved with the filing of a confidential complaint with the California State Bar against Bruce Greene and caused the confidential complaint to be published for general circulation in news media, including *The Valley Voice*. You publicly encouraged the Tulare County District Attorney's Office to bring criminal charges against Bruce Greene for political reasons. Finally, you represented Kevin Northcraft, and perhaps Michael Jamaica, in the forfeiture proceedings initiated by the Tulare District Attorney during which Michael Jamaica repeatedly admitted to providing untruthful testimony about events directly relevant to this action. This list, as long as it is, is not intended to be exhaustive but it certainly demonstrates your involvement was and is substantial.

Since it is certain that you will be a "key witness at trial," public policy mandates that you should be disqualified, not just as trial counsel, but in all pre-trial activities in the case. The advocate/witness rule is designed to maintain the integrity of the judicial system, and by reason of your own credibility being at issue, public policy requires you to step out of this case.

We offer you the opportunity to voluntarily withdraw from the representation of the District without the necessity of bringing a motion. If our offer is declined, we will proceed with your deposition, followed by a motion to disqualify you as counsel for the plaintiff.

Please let me know by October 23, 2020 how you intend to proceed, and should you have any questions, do not hesitate to contact me.

Very truly yours

James A. Murphy

Attachment
JAM.3815124.docx

cc: Bruce R. Greene, Bakerhostetler LLP
Thomas R. Lucchesi, Bakerhostetler LLP
David Scheper
Harlan Watkins

2020 WL 5904454
Court of Appeal, Second
District, Division 4, California.

Jane CL DOE, Plaintiff and Appellant,

v.

Charles Kwangsoo YIM, Defendant and Respondent.

B299856

|
Filed 10/5/2020

APPEAL from an order of the Superior Court of Los Angeles County, [Mark C. Kim](#), Judge. Affirmed. (Los Angeles County Super. Ct. No. BC723608)

Attorneys and Law Firms

[Tiffany K. Lee](#) for Plaintiff and Appellant.

[Eugene V. Zech](#), Newport Beach, for Defendant and Respondent.

[MANELLA](#), P. J.

INTRODUCTION

*1 Roughly eight months after attorney Tiffany Lee and respondent Charles Kwangsoo Yim ended their 17-year marriage, Lee represented her adult daughter, appellant Jane CL Doe, in filing this action against Yim. Appellant alleged Yim sexually abused her throughout a four-year period early in his marriage to Lee, when appellant was a minor. She sought damages on several tort theories of liability, including a breach of Yim's alleged fiduciary duty to appellant as a stepparent and caregiver. Yim denied all allegations and raised an affirmative defense that he had no fiduciary duty to appellant.

Yim promptly moved to disqualify Lee as counsel under the advocate-witness rule, arguing that she would be a key witness in the parties' dispute concerning whether he had exploited his marriage with Lee to sexually abuse her daughter and that, regardless of whether appellant had consented to Lee's representation, Lee's dual role as advocate and witness would prejudice Yim and the integrity of the judicial process. In opposition, appellant argued the advocate-witness rule did not prohibit Lee from representing her at any stage of the litigation, both because the rule is inapplicable

to pretrial activities, and because appellant had provided informed written consent to Lee's dual role at trial.

Following a hearing, the trial court granted the motion to disqualify Lee from representing appellant in all phases of litigation, relying primarily on the advocate-witness rule. In disqualifying Lee from representing appellant even in pretrial activities, the court relied on a finding that Lee's potential misuse of confidential information obtained through her 17-year marriage with Yim would prejudice Yim and the integrity of the judicial process.

On appeal, appellant contends the trial court abused its discretion in disqualifying Lee as her counsel because: (1) the advocate-witness rule does not apply to pretrial activities, and the court failed to make sufficient findings regarding the parties' competing interests to warrant Lee's disqualification at trial in the face of appellant's consent to Lee's dual role; and (2) no substantial evidence supported the court's finding that Lee had acquired confidential information through her marriage to Yim that she could use to appellant's advantage.

Finding no error, we affirm. As discussed below, the court reasonably concluded that Lee is nearly certain to be a key witness at trial. Therefore, to effectuate the advocate-witness rule's purpose of avoiding factfinder confusion, the court acted within its discretion in applying the rule to disqualify Lee not only at trial, but also in (1) depositions; and (2) pretrial evidentiary hearings at which Lee is likely to testify. The court also acted within its discretion in disqualifying Lee from representing appellant in all other phases of the litigation on the ground of Lee's potential misuse of confidential information obtained through her 17-year marriage with Yim.

PROCEEDINGS BELOW

A. The Pleadings

*2 On October 1, 2018, appellant -- represented by Lee -- filed this action against Yim. The complaint alleged Yim sexually abused appellant from 2002 to 2006 (when she was nine to 13 years old), both in his car and in the home he shared with appellant's mother, to whom he was married at the time. It further alleged that Yim represented himself to appellant and the public as appellant's stepfather, giving rise to a fiduciary relationship, and that his sexual abuse breached a fiduciary duty to appellant "as a parent and as a caregiver." Relatedly, it alleged, "In fear of potentially breaking up her new family if she were to tell anyone about

what [Yim] did to her, [appellant] tried to maintain her silence throughout all these years, agonizing over the incidents and ... carrying that permanent scar into her adulthood.” Appellant asserted seven tort causes of action, including two -- breach of fiduciary duty and negligent infliction of emotional distress -- premised on Yim's alleged fiduciary duty to appellant. She sought damages, including emotional distress damages, special damages for the costs of medical and psychological care, and punitive damages.

Yim filed an answer denying all allegations. Among other affirmative defenses, he asserted that appellant failed to mitigate damages and that he had no fiduciary relationship with appellant.

B. The Motion to Disqualify Lee

Less than two months after the complaint was filed, Yim moved to disqualify Lee as appellant's counsel. Yim declared that Lee was appellant's mother and his ex-wife, to whom he had been married from May 27, 2000, to January 28, 2018 (encompassing the entire four-year period of alleged abuse).¹ Arguing that Lee's relationships with the parties made clear that she was a “crucial” witness, he moved to disqualify Lee on the ground that her dual role as counsel and witness would violate the advocate-witness rule. (See [Rules Prof. Conduct, rule 3.7\(a\)](#) [“A lawyer shall not act as an advocate in a trial in which the lawyer is likely to be a witness unless: [¶] (1) the lawyer's testimony relates to an uncontested issue or matter; [¶] (2) the lawyer's testimony relates to the nature and value of legal services rendered in the case; or [¶] (3) the lawyer has obtained informed written consent from the client” (fn. omitted)].) He argued that even if appellant had provided informed consent to Lee's representation, Lee should be disqualified because her dual role would prejudice Yim and the integrity of the judicial process by, inter alia: (1) confusing the jury, particularly with respect to any argument Lee made as counsel regarding her own testimony as a witness; and (2) creating a conflict between Lee's duty as a witness to tell the truth, even where the truth might harm appellant's interests, and Lee's duty as counsel to advocate for appellant's interests.

In an opposition filed by Lee, appellant argued the advocate-witness rule was inapplicable because she had provided Lee with informed written consent to Lee's trial representation even if Lee were to be called as a witness (as Lee asserted in a concurrently filed declaration). Appellant further argued that the advocate-witness rule did not bar Lee from representing appellant in pretrial activities, as the rule speaks only of

trial. She asserted that Lee's “mere relationship” to Yim as his ex-wife did not warrant disqualification, and argued that Yim's predictions of prejudice from Lee's dual role were speculative. In the course of the latter argument, she objected to Yim's implication that Lee's duty to advocate for her client might influence her to testify untruthfully, surmising, “Perhaps [Yim] is so used to lying that he naturally projects his habitual tendencies to others as well.”

In a reply brief, Yim argued the court should require appellant to confirm her informed consent to Lee's dual role in a declaration of her own, asserting appellant was “being manipulated by her mother to make false allegations against [Yim] as part of Ms. Lee's vindictive course of conduct following the parties’ acrimonious divorce.” He again argued that, in any event, appellant's consent could not cure the anticipated prejudice to him and the integrity of the judicial process. He argued Lee should be disqualified from representing appellant not only at trial but also in all pretrial activities, predicting that she would otherwise “attempt to avail herself of ABA's [Rule 3.7](#) hardship exception to avoid disqualification at the time of trial as well, arguing that it is too late for another attorney to get up to speed at that point in the litigation.” (See ABA Model [Rules Prof. Conduct, rule 3.7\(a\)](#) [“A lawyer shall not act as advocate at a trial in which the lawyer is likely to be a necessary witness unless: [¶] ... [¶] ... [¶] disqualification of the lawyer would work substantial hardship on the client”].)

C. The Trial Court's Ruling

*3 After a hearing, during which Lee proposed to withdraw from the case at the time of trial, the trial court issued a written order granting Yim's motion to disqualify Lee from representing appellant in “all phases of this litigation.” Accepting Lee's undisputed evidence that she had obtained appellant's informed consent to her dual role, the court nevertheless found the informed-consent exception to the advocate-witness rule inapplicable, explaining, “[I]t is not [appellant] who would suffer prejudice if Lee acts as both advocate and witness. [Yim]’s interest in the integrity [of] the judicial process is also at issue.” Noting the “near certainty” that Lee would be a witness at trial, the court found Lee's continued representation “would undermine the integrity of the judicial process,” explaining, “Lee has acquired information about [appellant and Yim] as a mother and ex-wife and lacks professional distance. Allowing her to act as advocate for [appellant] would constitute a violation of [Rule 5-210](#)² and would also confuse the jury as to Lee's role

in the action.” It expressly rejected Lee’s argument that her disqualification should be limited to trial, explaining, “Lee would not only have a conflict if called as a witness, she has percipient knowledge which would give her an unfair advantage against [Yim,] with whom she had a confidential relationship.” It elaborated, “The court strongly disagrees with Lee that the ‘mere relationship’ as an ex-wife is insufficient to support disqualification. The term ‘mere’ is a serious understatement -- a spousal relationship enjoys special privileges because it is one of the most substantial of human relationships while it exists. [¶] The claim of prejudice is not, as Lee puts it, speculative; it is palpable. Lee has special knowledge of facts which can be exploited at deposition or trial. [¶] ... [¶] ... Retaining co-counsel does not solve the problem -- Lee could still ... direct the litigation and could use another attorney as a ‘mouthpiece’ for her own tactical decisions.”

Appellant filed objections to the court’s statement of decision on the ground that the court had neither stated “factual findings to support or justify its decision” nor addressed Lee’s proposal to withdraw at the time of trial. The court overruled the objections, stating, “1. The court has stated all facts necessary to support its decision. [¶] 2. The court need not address ‘offers’ to withdraw at a later time. The court found that Tiffanie Lee was disqualified for all phases of this litigation.”

Appellant timely appealed.

DISCUSSION

Appellant contends the trial court abused its discretion in disqualifying Lee as her counsel because: (1) the advocate-witness rule does not apply to pretrial activities, and the court failed to make sufficient findings regarding the parties’ competing interests to warrant Lee’s disqualification at trial in the face of appellant’s consent to Lee’s dual role; and (2) no substantial evidence supported the court’s finding that Lee had acquired confidential information through her marriage to Yim that she could use to appellant’s advantage.

A. Disqualification Principles

A trial court’s authority to disqualify an attorney derives from its inherent power, codified at [Code of Civil Procedure section 128, subdivision \(a\)\(5\)](#), to control the conduct of its ministerial officers and of all other persons connected

with its proceedings in furtherance of justice. (*Jarvis v. Jarvis* (2019) 33 Cal.App.5th 113, 129, 244 Cal.Rptr.3d 722 (*Jarvis*)). Disqualification may be ordered as a prophylactic measure against a prospective ethical violation likely to have a substantial continuing effect on future proceedings. ([City of San Diego v. Superior Court](#) (2018) 30 Cal.App.5th 457, 462, 471-472, 241 Cal.Rptr.3d 604; but see [In re Jasmine S.](#) (2007) 153 Cal.App.4th 835, 843, 63 Cal.Rptr.3d 593 [“ ‘an appearance of impropriety by itself does not support a lawyer’s disqualification’ ”].)

“ ‘Generally, a trial court’s decision on a disqualification motion is reviewed for abuse of discretion.’ ” ([In re Charlissee C.](#) (2008) 45 Cal.4th 145, 159, 84 Cal.Rptr.3d 597, 194 P.3d 330.) Under this standard, the trial court’s legal conclusions are reviewed de novo, but its factual findings are reviewed only for the existence of substantial evidence supporting them, and its “ ‘application of the law to the facts is reversible only if arbitrary and capricious.’ ” ([Ibid.](#))

B. The Advocate-Witness Rule

Appellant contends the trial court abused its discretion in applying the advocate-witness rule to disqualify Lee as her counsel, arguing that the rule does not apply to pretrial activities, and that the court failed to make sufficient findings to warrant Lee’s disqualification at trial in the face of appellant’s consent to Lee’s dual role.

1. Principles

“The ‘advocate-witness rule,’ which prohibits an attorney from acting both as an advocate and a witness in the same proceeding, has long been a tenet of ethics in the American legal system, and traces its roots back to Roman Law.” ([Kennedy v. Eldridge](#) (2011) 201 Cal.App.4th 1197, 1208, 135 Cal.Rptr.3d 545 ([Kennedy](#))). California’s current version of the advocate-witness rule provides, “A lawyer shall not act as an advocate in a trial in which the lawyer is likely to be a witness unless: [¶] (1) the lawyer’s testimony relates to an uncontested issue or matter; [¶] (2) the lawyer’s testimony relates to the nature and value of legal services rendered in the case; or [¶] (3) the lawyer has obtained informed written consent from the client.” ([Rules Prof. Conduct, rule 3.7\(a\)](#), fn. omitted.) A comment to the rule clarifies that the informed-consent exception is

not absolute: “Notwithstanding a client's informed written consent, courts retain discretion to take action, up to and including disqualification of a lawyer who seeks to both testify and serve as an advocate, to protect the trier of fact from being misled or the opposing party from being prejudiced.” (*Id.*, com. 3, asterisk omitted, citing

[Lyle v. Superior Court](#) (1981) 122 Cal.App.3d 470, 175 Cal.Rptr. 918 ([Lyle](#).) In other words, a court retains discretion to disqualify a likely advocate-witness as counsel, notwithstanding client consent, where there is “a convincing demonstration of detriment to the opponent or injury to the integrity of the judicial process.” ([Lyle, supra](#), at 482, 175 Cal.Rptr. 918.)

*4 Neither California's advocate-witness rule nor its official comments specify how an advocate-witness's dual role might mislead the trier of fact or prejudice the opposing party. However, this topic is addressed in an official comment to the rule's national counterpart, rule 3.7 of the ABA Model Rules of Professional Conduct, addressing why the opposing party or the tribunal may have “proper objection” to the dual role: “A witness is required to testify on the basis of personal knowledge, while an advocate is expected to explain and comment on evidence given by others. It may not be clear whether a statement by an advocate-witness should be taken as proof or as an analysis of the proof.” (ABA Model [Rules Prof. Conduct, rule 3.7](#), com. 2.)³ California courts have agreed that one purpose of the advocate-witness rule is to prevent factfinder confusion regarding whether an advocate-witness's statement is to be considered proof or argument. (See, e.g., [People v. Donaldson](#) (2001) 93 Cal.App.4th 916, 928-929, 113 Cal.Rptr.2d 548 ([Donaldson](#)) [quoting from foregoing comment]; [People ex rel. Younger v. Superior Court](#) (1978) 86 Cal.App.3d 180, 196, 150 Cal.Rptr. 156 ([Younger](#)) [“the jury may have difficulty keeping properly segregated the arguments of the attorney acting as advocate and his testimony as a witness”].) They have identified another, related purpose of avoiding the risk of “the jurors’ tying [counsel's] persuasiveness as an advocate to his credibility as a witness” ([Younger, supra](#), at 196, 150 Cal.Rptr. 156; see also [Donaldson, supra](#), at 928, 113 Cal.Rptr.2d 548 [“The very fact of a lawyer taking on both roles will affect the way in which a jury evaluates the lawyer's testimony, the lawyer's advocacy, and the fairness of the proceedings themselves’ ”]; Tuft et al., Cal. Practice

Guide: Professional Responsibility (The Rutter Group 2019) ¶8:378 [detriment to opposing party or judicial integrity “may be claimed where the attorney's testimony is on the *key issue* in the case on which there is conflicting testimony, and the attorney then proposes to argue to the jury why his or her testimony is more credible than the conflicting evidence”].)

The advocate-witness rule does not expressly address pretrial representation. ([Rules Prof. Conduct, rule 3.7\(a\)](#) [absent specified exception, “A lawyer shall not act as an advocate *in a trial* in which the lawyer is likely to be a witness” (italics added)]; see also ABA Model [Rules Prof. Conduct, rule 3.7\(a\)](#) [absent specified exception, “A lawyer shall not act as advocate *at a trial* in which the lawyer is likely to be a necessary witness” (italics added)].) Nevertheless, to effectuate the rule's purpose of avoiding factfinder confusion, we interpret the rule's use of the term “trial” to encompass a pretrial evidentiary hearing at which counsel is likely to testify. (See [Younger, supra](#), 86 Cal.App.3d at 192-193, 150 Cal.Rptr.156 [concluding, in dicta, that prosecutor violated California's then-current version of advocate-witness rule, notwithstanding rule's limitation to “trial,” by both testifying and arguing about photographic identification procedures during pretrial hearing; “the word ‘trial’ is broad enough to include a pretrial hearing at which the testimony of witnesses is taken and a contested fact issue is litigated”].) Further, though the parties cite no California authority on point, and we have found none, “most courts recognize that an attorney who intends to testify at trial may not participate in ‘any pretrial activities which carry the risk of revealing the attorney's dual role to the jury.’ [Citation.] In particular, a testifying attorney should not take or defend depositions.” ([Waite, Schneider, Bayless & Chesley Co., L.P.A. v. Davis](#) (S.D. Ohio 2015) 253 F.Supp.3d 997, 1018-1019; see also, e.g., [LaFond Family Trust v. Allstate Prop. & Cas. Ins. Co.](#) (D.Colo. Aug. 8, 2019, No. 19-cv-00767-KLM), 2019 WL 3734459, at *4-*7, 2019 U.S.Dist.LEXIS 133523 at *13-*18 [granting motion to disqualify counsel from taking or defending depositions “in furtherance of [Rule 3.7](#)'s purpose,” and rejecting asserted need for “separate factual inquiry” into likelihood of revelation at trial of dual role]; [Lowe v. Experian](#) (D. Kan. 2004) 328 F.Supp.2d 1122, 1127 ([Lowe](#)) [applying advocate-witness rule to disqualify counsel from participating in evidentiary hearings and in taking or defending depositions; “Depositions are routinely used at trial for impeachment purposes and to present testimony in lieu of live testimony when the witness is

unavailable. Testimony from an oral deposition could not be easily read into evidence without revealing [counsel's] identity as the attorney taking or defending the deposition. Videotaped depositions present an even greater concern” (fn. omitted)].)

*5 In exercising its discretion to disqualify counsel under the advocate-witness rule, a court must consider: (1) “ “whether counsel's testimony is, in fact, genuinely needed” ’ ”; (2) “the possibility [opposing] counsel is using the motion to disqualify for purely tactical reasons”; and (3) “the combined effects of the strong interest parties have in representation by counsel of their choice, and in avoiding the duplicate expense and time-consuming effort involved in replacing counsel already familiar with the case.” ([Smith, Smith & Kring v. Superior Court](#) (1997) 60 Cal.App.4th 573, 580-581, 70 Cal.Rptr.2d 507 ([Smith](#)).) “[T]rial judges must indicate on the record they have considered the appropriate factors and make specific findings of fact when weighing the conflicting interests involved in recusal motions.” ([Id.](#) at 582, 70 Cal.Rptr.2d 507.) The court's exercise of discretion must be affirmed on appeal if there is any fairly debatable justification for it under the law. (See [McDermott Will & Emery LLP v. Superior Court](#) (2017) 10 Cal.App.5th 1083, 1124, 217 Cal.Rptr.3d 47 ([McDermott](#)).)

2. Analysis

The trial court acted within its discretion in applying the advocate-witness rule to disqualify Lee from representing appellant at trial, in evidentiary hearings at which Lee is likely to testify, and in taking or defending depositions. The court reasonably concluded that Lee is almost certain to be a key witness at trial, as the pleadings support reasonable inferences that the parties will seek Lee's testimony on some or all of the following topics: (1) whether she was present with Yim or appellant at or near the time of any of the alleged acts of sexual abuse (potentially relevant to whether the acts occurred); (2) when appellant first told Lee about the alleged sexual abuse (potentially relevant to appellant's implied allegation that her emotional distress was exacerbated by her efforts to remain silent about the abuse, and to Yim's anticipated defense, consistent with his assertion that Lee induced appellant to fabricate her claims after her divorce from Yim); (3) what appellant told Lee about the alleged sexual abuse (potentially relevant to the

credibility of appellant's testimony regarding the abuse); (4) Lee's knowledge of appellant's claimed damages, including costs of medical and psychological care that Lee might have arranged or paid (potentially relevant not only to appellant's damages claims, but also to Yim's affirmative defense of failure to mitigate damages); and (5) the extent to which Lee invited and enabled Yim to establish a parental relationship (potentially relevant to appellant's causes of action premised on Yim's alleged fiduciary duty to her “as a parent and as a caregiver,” and to her allegation that her efforts to remain silent were motivated by “fear of potentially breaking up her new family”).

It was also reasonable for the court to conclude that Lee's dual role posed a risk of misleading the jury and prejudicing Yim, warranting disqualification regardless of appellant's consent. (See [Rules Prof. Conduct](#), rule 3.7(a), com. 3; [Lyle, supra](#), 122 Cal.App.3d at 482, 175 Cal.Rptr. 918.) Lee's dual role posed the risk that the jury would be misled into accepting Lee's assertions during closing argument as evidence based on her personal knowledge as a witness. (See [Donaldson, supra](#), 93 Cal.App.4th at 929, 113 Cal.Rptr.2d 548 [“ ‘It may not be clear whether a statement by an advocate-witness should be taken as proof or as an analysis of the proof’ ”].) Such juror confusion could prejudice Yim. For example, if Lee were to argue -- as she asserted in the opposition brief filed on appellant's behalf -- that Yim is a habitual liar, a juror might mistake this argument as evidence based on her extensive personal knowledge of Yim. (See [Kennedy, supra](#), 201 Cal.App.4th at 1200-1201, 1209, 135 Cal.Rptr.3d 545 [trial court acted within its discretion in applying advocate-witness rule, among other considerations, to disqualify counsel from representing his son in dispute over custody of his grandson, where counsel was head of son's household and nearly certain to testify at trial regarding material factual disputes, including whether marijuana was smoked at home; risk of confusion at trial had been demonstrated in counsel's assertion during motion hearing that he prohibited smoking at home, as his assertion could be viewed as argument, testimony, or offer of proof concerning his son's testimony or his own].) Such risks of factfinder confusion supported Lee's disqualification from representing appellant not only at trial, but also in (1) depositions; and (2) pretrial evidentiary hearings at which Lee is likely to testify. (See, e.g., [Younger, supra](#), 86 Cal.App.3d at 192-193, 150 Cal.Rptr. 156; [Lowe, supra](#), 328 F.Supp.2d at 1127; [Dunn v. Miceli](#) (D.Colo. Apr. 22, 2015,

Civ. A. No. 14-cv-03068-MSK-NYW), 2015 WL 1868134 at *7–*8, 2015 U.S. Dist. LEXIS 52786 at *22–*25 [applying advocate-witness rule to disqualify counsel from representing his daughter “in any pretrial activity that could be admissible at trial” in daughter’s medical malpractice action, where counsel had long been active participant in daughter’s medical care].)

*6 Contrary to appellant’s contention, the court’s statement of decision reflected proper consideration of all factors germane to its discretion under the advocate-witness rule. First, as explained above, the court reasonably concluded that there was a “near certainty” Lee would testify.⁴ (See [Smith](#), *supra*, 60 Cal.App.4th at 581, 70 Cal.Rptr.2d 507.) Second, in concluding that Lee’s dual role would prejudice Yim, the court impliedly considered and rejected the possibility that Yim sought to disqualify Lee for purely tactical reasons. (See [ibid.](#)) Finally, in expressly accepting the undisputed evidence that appellant had consented to Lee’s dual role, and explaining why it nevertheless deemed the informed-consent exception inapplicable due to the risk of prejudice to Yim and to the integrity of the judicial process, the court demonstrated it had considered appellant’s interest in remaining represented by counsel of her choice. (See [id.](#) at 580, 70 Cal.Rptr.2d 507.) Appellant did not assert this interest was heightened by any purported burden in retaining new counsel or in paying for duplication of Lee’s efforts to date. (See [ibid.](#)) The court was not required to speculate on these matters on its own motion, particularly given that Yim moved to disqualify Lee in the early stages of the litigation. Nor was the court required to make additional findings of fact, as the material facts before the court were effectively undisputed. (See [Hetos Investments, Ltd. v. Kurtin](#) (2003) 110 Cal.App.4th 36, 49–51, 1 Cal.Rptr.3d 472 [rejecting appellant’s contention that trial court violated [Smith](#)’s requirement to “ ‘make specific findings of fact when weighing the conflicting interests,’ ” where there were no material factual disputes].)

In sum, in light of the near certainty that Lee will be a key witness at trial, Yim’s interests and the integrity of the judicial process would likely be prejudiced were Lee permitted to participate as counsel at trial, in any evidentiary hearing at which she is likely to testify, or in taking or defending a deposition. Thus, notwithstanding appellant’s consent to Lee’s dual role, the trial court acted within its discretion

in disqualifying Lee from representing appellant in those activities. We need not address whether the advocate-witness rule supported the court’s additionally disqualifying Lee from representing appellant in all other pretrial activities, as we find an independent ground for that disqualification below.

C. Potential Misuse of Confidential Information

Appellant contends no substantial evidence supported the trial court’s finding that Lee had acquired confidential information through her 17-year marriage to Yim that she could use to appellant’s advantage in litigating appellant’s claims of sexual abuse during the marriage, and that the court therefore abused its discretion in relying on that finding to extend her disqualification to all phases of the litigation.

1. Principles

“ ‘The power [to disqualify counsel] is frequently exercised on a showing that disqualification is required under professional standards governing avoidance of ... potential adverse use of confidential information.’ ” ([Jarvis](#), *supra*, 33 Cal.App.5th at 129, 244 Cal.Rptr.3d 722.) Even in the absence of an official standard on point, “counsel may be disqualified where counsel has obtained the secrets of an adverse party ... because the situation implicates the attorney’s ethical duty to maintain the integrity of the judicial process.” ([Roush v. Seagate Technology, LLC](#) (2007) 150 Cal.App.4th 210, 219, 58 Cal.Rptr.3d 275.) The attorney’s duty to uphold the integrity of the judicial process includes a more specific duty, in judicial proceedings, to honor obligations of confidentiality arising from nonlawyer confidential or fiduciary relationships. (See [O’Gara Coach Co., LLC v. Ra](#) (2019) 30 Cal.App.5th 1115, 1129, 242 Cal.Rptr.3d 239 ([O’Gara Coach](#)) [affirming disqualification of company’s former president and COO as counsel for former employees suing company, where counsel’s potential advantageous use of confidential information obtained in his former nonlawyer capacity would violate his duty as attorney to maintain integrity of judicial process]; [DCH Health Services Corp. v. Waite](#) (2002) 95 Cal.App.4th 829, 832–833, 115 Cal.Rptr.2d 847 ([DCH](#)) [implying in dicta that because trial court found defense counsel’s wife “had received confidential information pertinent to the underlying action while she served on the [plaintiff] foundation’s board,” court would have had discretion to disqualify counsel had foundation

sought disqualification and shown that counsel received confidential information from his wife]; cf. *In the Matter of Schooler* (Review Dept. 2016) 5 Cal. State Bar Ct. Rptr. 494, 502-504, 2016 WL 7176690 (*Schooler*) [recommending that attorney be disbarred in part because her actions in nonlawyer capacity as trustee and executor of her parents' estate and trusts violated fiduciary duties under Probate Code, thereby violating ethical duty of all attorneys, codified at [Bus. & Prof. Code, § 6068](#), to support state laws].)

*7 A spouse has a privilege, even after the marriage ends, “to prevent another from disclosing” the contents of a communication made in confidence between the spouses during the marriage. ([Evid. Code, § 980](#).) This privilege resembles privileges attendant to other confidential relationships. (See, e.g., [Evid. Code, § 954](#) [client has privilege “to prevent another from disclosing” confidential attorney-client communication]; Imwinkelried, *The New Wigmore, Evidentiary Privileges* (3d. ed. 2016) § 6.3 [“For the most part, the [same] general rules ... apply across the board to all absolute communications privileges,” including spousal, attorney-client, clergy-penitent, and psychotherapist-patient communications privileges].) Communications between spouses during their marriage are presumed to be confidential. ([Evid. Code, § 917, subd. \(a\)](#) [“If a privilege is claimed on the ground that the matter sought to be disclosed is a communication made in confidence in the course of the lawyer-client, ... psychotherapist-patient, clergy-penitent, [or] marital ... relationship, the communication is presumed to have been made in confidence”].) “[T]he opponent of the claim of privilege has the burden of proof to establish that the communication was not confidential.” (*Ibid.*; see also [People v. Bryant, Smith and Wheeler](#) (2014) 60 Cal.4th 335, 420, 178 Cal.Rptr.3d 185, 334 P.3d 573 [opponent has burden to rebut presumption that spousal communication is confidential by preponderance of evidence]; [Blau v. U.S.](#) (1951) 340 U.S. 332, 333-334, 71 S.Ct. 301, 95 L.Ed. 306 [reversing husband's criminal contempt conviction for refusing to disclose wife's whereabouts to grand jury and court, where husband's knowledge of wife's whereabouts was undisputedly based on marital communication and government made no effort to overcome presumption of confidentiality].)⁵

2. Analysis

We have already concluded the trial court acted within its discretion in disqualifying Lee from representing appellant at trial and in certain pretrial activities. We now conclude the court acted within its discretion in disqualifying Lee with respect to all remaining activities throughout the litigation.

The undisputed fact of Lee's 17-year marriage to Yim, viewed in light of the pleadings and the un rebutted presumption that information obtained through spousal communications is confidential, was substantial evidence in support of the court's finding that Lee possessed confidential information she might use to appellant's advantage (and Yim's disadvantage) throughout the litigation. The court reasonably could infer that Lee obtained confidential information from Yim that she could use in drafting discovery requests and responses, preparing appellant and other witnesses for deposition, formulating deposition questions (even if disqualified from taking and defending depositions herself), and negotiating settlement, including information on: (1) Yim's whereabouts during each alleged act of abuse; (2) Yim's interactions with and feelings toward appellant over the years he allegedly functioned “as a parent and as a caregiver”; (3) Yim's relations with other prospective witnesses; and (4) Yim's finances.

(See [McDermott, supra](#), 10 Cal.App.5th at 1122, 217 Cal.Rptr.3d 47 [substantial evidence supported trial court's finding disqualification was necessary to prevent prejudice to opposing party from law firm's exploitation of privileged email's contents, where firm had formulated deposition questions based on email's contents and quoted email in depositions and interrogatory responses]; [Kennedy, supra](#), 201 Cal.App.4th at 1200, 1205-1208, 135 Cal.Rptr.3d 545 [affirming order disqualifying attorney and his firm from representing his son in dispute over custody of his grandson, in part based on firm's potential advantageous use of confidential information about opposing party and her household obtained through firm's prior representation of opposing party's father in divorce case].) Obviously, Lee could not scrub such confidential information from her mind, or cordon it off from information obtained from other sources. She was thus uniquely positioned to take advantage of confidential information to which she alone was privy, in violation of her duties to uphold the integrity of the judicial process and support state laws. (See [O'Gara Coach, supra](#), 30 Cal.App.5th at 1129, 242 Cal.Rptr.3d 239; [DCH, supra](#), 95 Cal.App.4th at 832-833, 115 Cal.Rptr.2d 847; *Schooler, supra*, 5 Cal. State Bar Ct. Rptr. at 502-504.)

*8 The disqualification order was a proper prophylactic measure. There is no reason to suspect replacement counsel will attempt to solicit confidential information from Lee, in violation of that counsel's ethical obligations and Lee's duties of confidentiality. (See *Addam v. Superior Court* (2004) 116 Cal.App.4th 368, 372, 10 Cal.Rptr.3d 39 [courts should presume attorneys behave ethically and honor duties of confidentiality].) Thus, replacement counsel will not be in a position to exploit such information. (See *McDermott, supra*, 10 Cal.App.5th at 1123-1125, 217 Cal.Rptr.3d 47 [trial court acted within its discretion in disqualifying law firm that had used privileged email, notwithstanding court's separate order precluding further use of email or documents referencing it, in part because firm's attorney with personal knowledge of information contained in those documents had "greater capacity than any replacement counsel to exploit the information"].)

In sum, the trial court acted within its discretion in disqualifying Lee in all phases of this litigation as a prophylactic measure against prejudice to Yim and the integrity of the judicial process arising from Lee's dual role as an advocate-witness and her potential misuse of confidential information. The authority appellant herself identifies as the "most relatable" supports this conclusion. (See *Kennedy, supra*, 201 Cal.App.4th at 1200, 135 Cal.Rptr.3d 545 ["A plethora of family entanglements, potential misuse of confidential information, a conflict posed by the near-certain prospect that counsel will have to testify, and the preservation of the integrity of the judicial system all coalesce to support the trial court's disqualification order"].) We see no basis for appellant's prediction that disqualification of her mother from representing her in litigation against her former stepfather

and her mother's ex-husband over events occurring in the course of the marriage will "open the floodgate of abusive disqualification motions." (Cf. *People v. Peoples* (1997) 51 Cal.App.4th 1592, 1594, 1598, 60 Cal.Rptr.2d 173 [trial court acted within its discretion in disqualifying counsel on "unique" facts presented, where counsel "appeared on behalf of her brother, accused of assault with a deadly weapon, against her former husband and father of her children, who were themselves percipient witnesses to the altercation"].) We trust trial courts to detect -- and reject -- abuses of the advocate-witness rule and duties of confidentiality, particularly where the targeted attorney's personal relationships with the parties are not so close, or so closely related to the subject matter of the parties' dispute, as Lee's relationships with her ex-husband and his alleged victim.

DISPOSITION

The disqualification order is affirmed. Yim is awarded his costs on appeal.

We concur:

COLLINS, J.

CURREY, J.

All Citations

--- Cal.Rptr.3d ----, 2020 WL 5904454, 20 Cal. Daily Op. Serv. 10,410

Footnotes

- 1 In her complaint, appellant alleged that Lee and Yim's marriage was void on the ground that when they married, Yim was already married to another woman. The record includes no evidence supporting this allegation or otherwise challenging Yim's declaration that he and Lee were married from May 27, 2000, to January 28, 2018.
- 2 "Former Rule 5-210 has been superseded by Rule 3.7 [citations]." (1 Witkin, Cal. Proc. (5th ed. 2020) Attorneys, § 462.) Appellant does not challenge the trial court's analysis on the basis of its reference to the former version of the advocate-witness rule.
- 3 "[E]specially where there is no conflict with the public policy of California, the [ABA] Model Rules serve as a collateral source for guidance on proper professional conduct in California." (*Kennedy, supra*, 201

Cal.App.4th at 1210, 135 Cal.Rptr.3d 545; see also [Rules Prof. Conduct, rule 1.0](#), com. 4 [“for guidance on proper professional conduct ... rules and standards promulgated by other jurisdictions and bar associations may also be considered”].)

4 Appellant did not dispute that Lee would testify; on the contrary, she conceded her informed written consent to Lee's dual role at trial was “required” under the advocate-witness rule.

5 Though the presumption of a spousal communication's confidentiality arises only on a showing of preliminary facts, those facts are limited to the making of the communication during the marital relationship. (See Imwinkelried, *The New Wigmore, Evidentiary Privileges* (3d ed. 2016) § 6.8 [in jurisdictions like California, that recognize rebuttable presumption of confidentiality for certain communications, “[t]he presumption arises when the alleged holder shows both that there was a communication and that the parties to the communication stood in a protected relationship such as spouses”]; cf. [Fish v. Superior Court \(2019\) 42 Cal.App.5th 811, 818, 255 Cal.Rptr.3d 786](#) [“ ‘Once the claimant establishes the preliminary facts of a psychotherapist-patient relationship, the burden of proof shifts to the opponent of the privilege’ ”]; [Roman Catholic Archbishop of Los Angeles v. Superior Court \(2005\) 131 Cal.App.4th 417, 442 & fn. 12, 32 Cal.Rptr.3d 209](#) [similar, regarding clergy-penitent communications privilege].)

From: [Michael Lampe](#)
To: [James Murphy](#)
Cc: [Todd Wynkoop](#); ["Jason Howard"](#); [Michael Smith](#)
Subject: TLHD v. Greene
Date: Friday, October 23, 2020 5:26:00 PM



Jim:

I have reviewed your correspondence of October 16 and decline your invitation to withdraw from the Baker case.

Two brief points:

1. Your correspondence contains several factual allegations that are not accurate; and
2. This case has been pending since April of 2019, leading to the inescapable conclusion that your threatened motion is designed for purely tactical reasons.

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

Note:

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.

**RESOLUTION 897 OF THE BOARD OF DIRECTORS OF THE TULARE
LOCAL HEALTHCARE DISTRICT REGARDING CONTINUED
REPRESENTATION OF DISTRICT BY MICHAEL J. LAMPE**

RESOLVED, by the Board of Directors (“Board”) of the Tulare Local Healthcare District (“District”), as follows:

WHEREAS, on or about March 27, 2019, the Law Office of Michael J. Lampe (as an individual, “Lampe”, and inclusive of all personnel therein, the “Law Firm”) was retained by the District to represent it on all matters arising from or related to the Complaint (defined below) including, without limitation, the ultimate adjudication of the claims set forth therein;

WHEREAS, on or about April 24, 2019, the District filed its Complaint For Damages For Breach Of Fiduciary Duty, Fraud, Professional Negligence And Breach Of Contract For Legal Service against Bruce R. Greene, Baker & Hostetler LLP, a limited liability partnership, Parmod Kumar, M.D., Linda Wilbourn and Richard Torrez (collectively, the “Defendants”) in the Tulare County Superior Court, Case No. 278333 (the “Complaint”);

WHEREAS, Lampe, along with other persons, had, prior to being retained by the District, formed firsthand impressions regarding certain uncontested facts that may or may not be relevant to the Complaint, but in no event is Lampe the sole available witness of such facts;

WHEREAS, Lampe’s (and the Law Office’s) relationship with the District is that of trial counsel, and Lampe occupies no other confidential relationship with the District or Board excepting the attorney-client privilege held by the District;

WHEREAS, the District and Board have determined that Lampe’s continued representation of the District as trial counsel in this matter through the final adjudication, or earlier settlement, of the Complaint is of significant benefit to the District;

WHEREAS, the District and Board have determined that the removal of Lampe and the Law Firm as the District’s trial counsel would work a substantial hardship on the District as the District would be compelled to retain new counsel and would thereby suffer unduly and unnecessarily burdensome expenditure and delay in the resolution of this matter.

THEREFORE BE IT RESOLVED THAT, the District does not consider Lampe’s testimony necessary to the adjudication or earlier settlement of the Complaint, and, therefore, the District does not intend to call Lampe as a witness in its case in chief.

BE IT FURTHER RESOLVED THAT, the District strongly desires that Lampe and the Law Firm remain in the position of trial counsel for this matter, and the District therefore does not intend to remove Lampe (or the Law Firm) during the pendency, or before the earlier settlement, of the Complaint.

BE IT FURTHER RESOLVED THAT, in the event that Defendants, or any of them, successfully seek to compel the testimony of Lampe in deposition or at trial, the District hereby gives its informed written consent to any such testimony given by Lampe. In giving this consent, the District has been advised by the District’s retained General Counsel of the potential consequences of doing so.

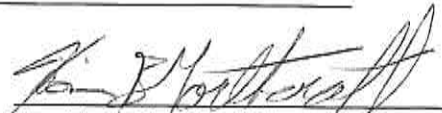
PASSED AND ADOPTED, this Resolution No. 897, at the meeting of the Tulare Local Healthcare District Board of Directors held on the 28th day of October, 2020, by the following vote:

AYES: 5-0 | By: KEVIN NORTHCRAFT, MIKE JAMAICA, STEVE HARRELL, SENDVIA GUTIERREZ, XAVIER AVILA

NOES: - | By: _____

ABSTAIN: _____ | By: _____

ABSENT: _____ | Absent: _____



President, Board of Directors
Tulare Local Healthcare District

IN WITNESS WHEREOF, I have hereto set my name as Secretary of the District, this 28th day of October, 2020.



Secretary, Board of Directors
Tulare Local Healthcare District

1 Sean T. O'Rourke, Esq.; SBN 199420
2 PETRIE LEATH LARRIVEE & O'ROURKE, LLP
3 6051 N. Fresno Street, Suite 110
4 Fresno, California 93710
5 Telephone (559) 498-6522
6 Facsimile (559) 498-6516
7 Email: sorourke@plllegal.com

8 Attorneys for Defendant, RICHARD TORREZ



9
10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **IN AND FOR THE COUNTY OF KERN**

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

15 Plaintiff,

16 v.

17 BRUCE GREENE; BAKER
18 HOSTETLER LLP, a limited liability
19 partnership; PARMOD KUMAR, M.D.,
20 LINDA WILBOURN, RICHARD
21 TORREZ; and Does 1 through 50,
22 inclusive,

23 Defendants.

Case No. BCV-19-103514

*Action Filed: April 24, 2019 Tulare County
Assigned For All Purposes:
Honorable Thomas S. Clark, Dept. 17*

**RESPONSE TO REQUEST FOR
ADMISSIONS, SET ONE**

24 PROPOUNDING PARTY : Plaintiff, TULARE LOCAL HEALTHCARE DISTRICT
25 RESPONDING PARTY : Defendant, RICHARD TORREZ
26 SET NUMBER : ONE

27 COMES NOW Defendant, RICHARD TORREZ and hereby responds to Plaintiff,
28 TULARE LOCAL HEALTHCARE DISTRICT's Request for Admissions, Set One, as
follows:

PRELIMINARY STATEMENT

The answers and responses herein provided are made and based on information and belief, and upon information gathered from multiple sources including our attorneys

1 **REQUEST FOR ADMISSION NO. 63:**

2 On July 11, 2017, KUMAR was recalled in THE 2017 RECALL ELECTION.

3 **RESPONSE:**

4 Admit.

5 **REQUEST FOR ADMISSION NO. 64:**

6 On July 25, 2017, Senovia Gutierrez was sworn into office by Tulare County
7 Superior Court Judge Walter Gorelick as the winner of THE 2017 RECALL ELECTION.

8 **RESPONSE:**

9 Admit.

10 **REQUEST FOR ADMISSION NO. 65:**

11 On or before July 26, 2017, GREENE told YOU that Senovia Gutierrez would not
12 be seated at THE JULY 26 BOARD MEETING.

13 **RESPONSE:**

14 Admit.

15 **REQUEST FOR ADMISSION NO. 66:**

16 On or before July 26, 2017, BAKER told YOU that Senovia Gutierrez would not be
17 seated at THE JULY 26 BOARD MEETING.

18 **RESPONSE:**

19 Admit.

20 **REQUEST FOR ADMISSION NO. 67:**

21 Prior to 6:30 p.m. on July 27, 2017, YOU were aware that Mike Jamaica, Kevin
22 Northcraft and Senovia Gutierrez had noticed THE JULY 27 SPECIAL BOARD MEETING.

23 **RESPONSE:**

24 Admit.

25 **REQUEST FOR ADMISSION NO. 68:**

26 GREENE advised you not to attend THE JULY 27 SPECIAL BOARD MEETING.

27 ///

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1 **RESPONSE:**

2 Admit in part and deny in part. I spoke to Greene via phone. I asked him if this was
3 a legal meeting that I needed to attend. He informed me that it was not a legal meeting
4 and was violation of the Brown Act. Additionally, I had a previous engagement that I was
5 scheduled for and did not attend.

6 **REQUEST FOR ADMISSION NO. 69:**

7 BAKER advised you not to attend THE JULY 27 SPECIAL BOARD MEETING.

8 **RESPONSE:**

9 Admit. I spoke to Bruce Greene in his role of the Attorney for the TLHCD.

10 **REQUEST FOR ADMISSION NO. 70:**

11 As of August 8, 2017, YOU knew that Mike Jamaica, Kevin Northcraft and Senovia
12 Gutierrez had voted to rescind RESOLUTION 852.

13 **RESPONSE:**

14 Admit.

15 **REQUEST FOR ADMISSION NO. 71:**

16 As of August 8, 2017, YOU knew that Mike Jamaica, Kevin Northcraft and Senovia
17 Gutierrez had voted to terminate BAKER'S legal services to the DISTRICT.

18 **RESPONSE:**

19 Admit.

20 **REQUEST FOR ADMISSION NO. 72:**

21 As of August 8, 2017, YOU knew that Mike Jamaica, Kevin Northcraft and Senovia
22 Gutierrez had voted to retain the McCormick Barstow law firm as legal counsel for THE
23 DISTRICT.

24 **RESPONSE:**

25 Admit.

26 **REQUEST FOR ADMISSION NO. 73:**

27 On August 8, 2017, GREENE advised YOU that Mike Jamaica, Kevin Northcraft
28 and Senovia Gutierrez "have no authority to call for Board meetings."

1 **REQUEST FOR ADMISSION NO. 93:**

2 BAKER never sought authorization from THE BOARD OF DIRECTORS to bill THE
3 DISTRICT FOR opposing THE PETITION FOR WRIT OF MANDATE.

4 **RESPONSE:**

5 Admit.

6 DATED: November 10, 2020

7 PETRIE LEATH LARRIVEE & O'ROURKE, LLP

8
9 By 

10 Sean T. O'Rourke,
11 Attorneys for Defendant, RICHARD TORREZ
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VERIFICATION

PROPOUNDING PARTY : Plaintiff, TULARE LOCAL HEALTH CARE DISTRICT

RESPONDING PARTY : Defendant, RICHARD TORREZ

SET NUMBER : ONE (1)

STATE OF CALIFORNIA, COUNTY OF KERN:

I have read the foregoing RESPONSES TO REQUESTS FOR ADMISSION, SET ONE, and know of its contents.

+)),
XX
.)- I am a party to this action. The matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.


+)),
.)- I am ___ an Officer___ a partner___ an authorized representative of ___, a party to this action, and am authorized to make this verification for and on its behalf, and I make this verification for that reason. I am informed and believe, and on that ground allege, that the matters stated in the foregoing document are to true. ___The matters stated in the foregoing document are true of my own knowledge, except as to those matters which are stated on information and belief, and as to those matters, I believe them to be true.

+)),
.)- I am one of the attorneys for _____, a party to this action. Such a party is absent from the County aforesaid, where such attorneys have their offices, and I am informed and believe and on that ground allege that the matters stated in the foregoing document are true.

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

Executed on NOV. 10, 2020, in Tulare, California.

Richard Torrez
Type or Print Name


Signature

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF FRESNO

I am employed in the County of Fresno, State of California. I am over the age of 18 and not a party to the within action; my business address is 6051 Fresno Street, Suite 110, Fresno, California 93710.

On November 10, 2020, I served the foregoing document described as **RESPONSE TO REQUEST FOR ADMISSIONS, SET ONE**, on the other parties in this action as follows:

Michael J. Lampe, Esq Michael P. Smith, Esq LAW OFFICES OF MICHAEL J. LAMPE 108 W. Center Ave. Visalia, CA 93291 Fax: (559) 738-5644 Email: mjl@lampe-law.com	Attorneys for Plaintiff, TULARE LOCAL HEALTH CARE DISTRICT
James A. Murphy, Esq. Harlan B. Watkins, Esq. Kristin L. Iversen, Esq. MURPHY, PEARSON, BRADLEY & FEENEY 580 California St., Ste. 1100 San Francisco, CA 94104 Fax: (415) 393-8087 Email: JMurphy@mpbf.com hwatkins@mpbf.com kiversen@mpbf.com	Attorneys for Defendants, BAKER & HOSTETLER LLP, and BRUCE R. GREENE
Donald R. Forbes, Esq. Dirk B. Paloutzian, Esq. BAKER, MANOCK & JENSEN, PC 5260 N. Palm, Ste. 421 Fresno, CA 93704 Fax: (559) 432-5620 Email: dforbes@bakermanock.com dmedina@bakermanock.com dpaloutzian@bakermanock.com <u>kwhite@bakermanock.com</u>	Attorneys for Defendant/Cross-Complainant, LINDA WILBOURN

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Thomas P. Feher, Esq. LeBEAU THELEN 5001 E. Commercenter Dr., Ste. 300 P.O. Box 12092 Bakersfield, CA 93389-2092 Fax: (661) 325-1127 Email: tfeher@lebeauthelen.com jutt@lebeauthelen.com	Attorneys for Defendant, PARMOD KUMAR
--	--

BY ELECTRONIC DELIVERY:

I caused such document to be delivered by electronic means prior to close of business on this same day to the addressee(s) **at the electronic notification addressee(s) provided above** pursuant to California Rules of Court, Rule 2.260(a). The electronic delivery was reported as completed and without error pursuant to California Rules of Court, Rule 2.260(f).

Executed on **November 10**, 2020, at Fresno, California.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

By 
Merissa Dutra

1 Donald R. Forbes #081905
dforbes@bakermanock.com
2 Dirk B. Paloutzian #173676
dpaloutzian@bakermanock.com
3 Peter G. Fashing #195756
pfashing@bakermanock.com
4 BAKER MANOCK & JENSEN, PC
5260 North Palm Avenue, Fourth Floor
5 Fresno, California 93704
Telephone: 559.432.5400
6 Facsimile: 559.432.5620



7 Attorneys for Defendant and Cross-Complainant, LINDA WILBOURN

8

9

SUPERIOR COURT OF THE STATE OF CALIFORNIA

10

COUNTY OF KERN, METRO DIVISION

11

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

14 Plaintiff,

15 v.

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

19 Defendants.

Case No. BCV-19-103514 TSC

**DEFENDANT LINDA WILBOURN'S
RESPONSE TO FIRST SET OF
REQUESTS FOR ADMISSION
PROPOUNDED BY PLAINTIFF TULARE
LOCAL HEALTHCARE DISTRICT**

Judge: Hon. Thomas Clark

Assigned for All Purposes to the Hon. Thomas
Clark, Dept. 17

Action Filed: April 24, 2019
Trial Date: March 8, 2021

20

AND RELATED CROSS-ACTION.

21

22

23

PROPOUNDING PARTY: Plaintiff Tulare Local Healthcare District

24

RESPONDING PARTY: Defendant Linda Wilbourn

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SET NO.: One

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Pursuant to Sections 2033.010, *et seq.*, of the California Code of Civil Procedure,
Defendant Linda Wilbourn ("Responding Party") responds to the First Set of Requests for

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RESPONSE TO REQUEST FOR ADMISSION NO. 63:

Although I am presently uncertain as to the date, RFA No. 63 is true.

REQUEST FOR ADMISSION NO. 64:

On July 25, 2017, Senovia Gutierrez was sworn into office by Tulare County Superior Court Judge Walter Gorelick as the winner of THE 2017 RECALL ELECTION.

RESPONSE TO REQUEST FOR ADMISSION NO. 64:

RFA No. 64 is true.

REQUEST FOR ADMISSION NO. 65:

YOU witnessed Senovia Gutierrez take her oath of office.

RESPONSE TO REQUEST FOR ADMISSION NO. 65:

RFA No. 65 is true.

REQUEST FOR ADMISSION NO. 66:

Prior to the commencement of THE JULY 26 BOARD MEETING, YOU told GREENE that Senovia Gutierrez had taken her oath of office.

RESPONSE TO REQUEST FOR ADMISSION NO. 66:

RFA No. 66 is true.

REQUEST FOR ADMISSION NO. 67:

Prior to the commencement of THE JULY 26 BOARD MEETING, GREENE told YOU that Senovia Gutierrez should not be seated as a Board member at THE JULY 26 BOARD MEETING.

RESPONSE TO REQUEST FOR ADMISSION NO. 67:

RFA No. 67 is true.

REQUEST FOR ADMISSION NO. 68:

Prior to the commencement of THE JULY 26 BOARD MEETING, BAKER told YOU that Senovia Gutierrez should not be seated as a Board member at THE JULY 26 BOARD MEETING.

RESPONSE TO REQUEST FOR ADMISSION NO. 68:

RFA No. 68 is true.

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REQUEST FOR ADMISSION NO. 69:

Prior to the commencement of THE JULY 26 BOARD MEETING, YOU told Senovia Gutierrez that she would not be seated as a Board member at THE JULY 26 BOARD MEETING.

RESPONSE TO REQUEST FOR ADMISSION NO. 69:

RFA No. 69 is true.

REQUEST FOR ADMISSION NO. 70:

Prior to the commencement of THE JULY 26 BOARD MEETING, YOU told Dennis Mederos that Senovia Gutierrez would not be seated as a Board member at THE JULY 26 BOARD MEETING.

RESPONSE TO REQUEST FOR ADMISSION NO. 70:

RFA No. 70 is true.

REQUEST FOR ADMISSION NO. 71:

Prior to 6:30 p.m. on July 27, 2017, YOU were aware that Mike Jamaica, Kevin Northcraft and Senovia Gutierrez had noticed THE JULY 27 SPECIAL BOARD MEETING.

RESPONSE TO REQUEST FOR ADMISSION NO. 71:

RFA No. 71 is true.

REQUEST FOR ADMISSION NO. 72:

GREENE advised you not to attend THE JULY 27 SPECIAL BOARD MEETING.

RESPONSE TO REQUEST FOR ADMISSION NO. 72:

RFA No. 72 is true.

REQUEST FOR ADMISSION NO. 73:

BAKER advised you not to attend THE JULY 27 SPECIAL BOARD MEETING.

RESPONSE TO REQUEST FOR ADMISSION NO. 73:

RFA No. 73 is true.

REQUEST FOR ADMISSION NO. 74:

As of August 8, 2017, YOU knew that Mike Jamaica, Kevin Northcraft and Senovia Gutierrez had voted to rescind RESOLUTION 852.

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REQUEST FOR ADMISSION NO. 95:

BAKER never sought authorization from THE BOARD OF DIRECTORS to file pleadings opposing THE PETITION FOR WRIT OF MANDATE.

RESPONSE TO REQUEST FOR ADMISSION NO. 95:

I believe RFA No. 95 is true.

REQUEST FOR ADMISSION NO. 96:

THE BOARD OF DIRECTORS never authorized BAKER to bill THE DISTRICT for opposing THE PETITION FOR WRIT OF MANDATE.

RESPONSE TO REQUEST FOR ADMISSION NO. 96:

RFA No. 96 is true

REQUEST FOR ADMISSION NO. 97:

BAKER never sought authorization from THE BOARD OF DIRECTORS to bill THE DISTRICT FOR opposing THE PETITION FOR WRIT OF MANDATE.

RESPONSE TO REQUEST FOR ADMISSION NO. 97:

RFA No. 97 is true.

REQUEST FOR ADMISSION NO. 98:

YOU resigned from THE BOARD OF DIRECTORS effective 12:00 noon on August 23, 2017.

RESPONSE TO REQUEST FOR ADMISSION NO. 98:

RFA No. 98 is true.

REQUEST FOR ADMISSION NO. 99:

YOU communicated your resignation to GREENE in writing prior to 3:00 p.m. on August 23, 2017.

RESPONSE TO REQUEST FOR ADMISSION NO. 99:

RFA No. 99 is true.

REQUEST FOR ADMISSION NO. 100:

YOU communicated your resignation to GREENE by telephone prior to 3:00 p.m. on August 23, 2017.

1 DATED: December 1, 2020

BAKER MANOCK & JENSEN, PC

By: 

Donald R. Forbes
Dirk B. Paloutzian
Peter G. Fashing
Attorneys for Defendant and Cross-
Complainant, LINDA WILBOURN

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VERIFICATION


STATE OF CALIFORNIA
COUNTY OF FRESNO

I have read the foregoing DEFENDANT LINDA WILBOURN'S RESPONSE TO FIRST SET OF REQUESTS FOR ADMISSION PROPOUNDED BY PLAINTIFF TULARE LOCAL HEALTHCARE DISTRICT and know its contents.

I am a party to this action. The matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

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

Executed on November 30, 2020, at Tulare, California.



Linda Wilbourn

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PROOF OF SERVICE

**Tulare Local Health Care District v. Greene, et al.
Case No. BCV-19-103514**

STATE OF CALIFORNIA, COUNTY OF FRESNO

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of Fresno, State of California. My business address is 5260 North Palm Avenue, Fourth Floor, Fresno, CA 93704.

On December 1, 2020, I served true copies of the following document(s) described as **DEFENDANT LINDA WILBOURN'S RESPONSE TO FIRST SET OF REQUESTS FOR ADMISSION PROPOUNDED BY PLAINTIFF TULARE LOCAL HEALTHCARE DISTRICT** on the interested parties in this action as follows:

SEE ATTACHED SERVICE LIST

BY E-MAIL OR ELECTRONIC TRANSMISSION: Based on a court order or an agreement of the parties to accept service by e-mail or electronic transmission, I caused the document(s) to be sent from e-mail address bmedina@bakermanock.com to the persons at the e-mail addresses listed in the Service List. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

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

Executed on December 1, 2020, at Fresno, California.


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SERVICE LIST
Tulare Local Health Care District v. Greene, et al.
Case No. BCV-19-103514

Michael J. Lampe, Esq.
Michael P. Smith, Esq.
LAW OFFICES OF MICHAEL J. LAMPE
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HEALTH CARE DISTRICT, dba TULARE
REGIONAL MEDICAL CENTER, a Public
Agency

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HWatkins@MPBF.com;
AKay@MPBF.com;
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Attorneys for Defendants and Cross-
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Attorneys for Defendant, PARMOD KUMAR,
M.D.

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& O'ROURKE, LLP
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F: 559-498-6516
e-mail: sorourke@pllolegal.com

Attorneys for Defendant, RICHARD TORREZ

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



ELECTRONICALLY FILED
2/19/2020 10:35 AM
Kern County Superior Court
By Gracie Goodson, Deputy

Attorneys for Plaintiff

Exempt from filing fees
Government Code §6103

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

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

Plaintiff,

vs.

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

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

I, Kevin Northcraft, declare:

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

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

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.”

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

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

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

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

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,
27 she is not able to attend the meeting this afternoon, and there is no quorum
possible.”

28

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

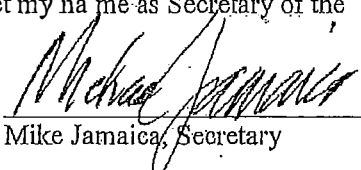
WHEREAS, the Board has determined that it is necessary and appropriate, and in the best interests of the District, to have its manager, Healthcare Conglomerate Associates, LLC ("HCCA"), acting through its Chairman, Benny Benzeevi, M.D. ("Authorized Representative") seek to obtain a loan for the purposes 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 of 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

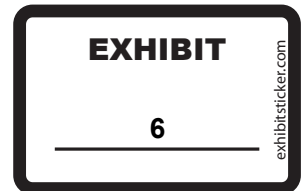
D. Discussion regarding appointment of McCormick Barstow of Fresno as Board General Council
Motion made by Kevin Northcraft, seconded by Senovia Gutierrez
Appointment passed 3-0

- 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

Error! Unknown document property name.

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,

A handwritten signature in cursive script that reads "Linda Willbourn". The signature is written in dark ink and is positioned to the right of the word "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 90025-0509T 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

093734.000003 611224192.2

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:

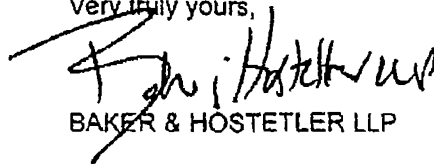
(1) The Lease transaction is not being entered into for any personal, family or household purposes.

(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





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2017-0059339

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

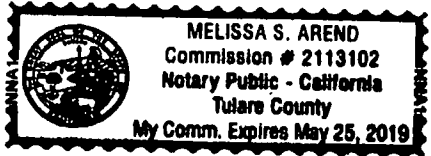
State of California)
County of Tulare)

On September 27, 2017 before me, Melissa S. Arend, Notary Public (here insert name and title of the officer), personally appeared Yorai Benny Benzevi, 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

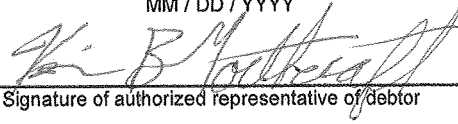
The debtor requests relief in accordance with the chapter of title 11, United States Code, specified in this petition.

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.

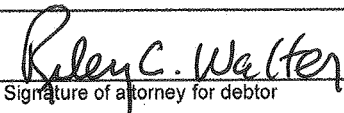
Executed on 9/29/2017
MM / DD / YYYY

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.

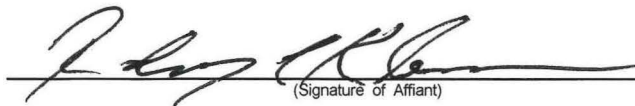
DATED: September 29, 2017



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



EXHIBIT

13

exhibitsicker.com

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.

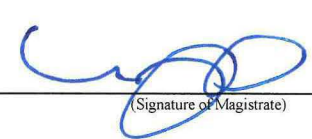
Due to the large volume of documents requested from the Tulare Local Healthcare District, it is highly unlikely that the District and its legal representation will be able to provide a response to this search warrant within the normal 10 day response time.

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)

Nathan G. Leedy



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Michael J. Lampe #82199
Michael P. Smith #206927
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

Attorneys for Plaintiff



ELECTRONICALLY FILED
2/19/2020 10:35 AM
Kern County Superior Court
By Gracie Goodson, Deputy

Exempt from filing fees
Government Code §6103

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

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

Plaintiff,

vs.

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

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

I, Teresa Jacques, declare:

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

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

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

EXHIBIT

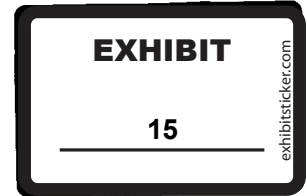
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exhibitsticker.com

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</p>	<p>CREDIT TO DDA BILLING ACCOUNT BELOW ENDORSEMENT GUARANTEED FRANK LA NATIONAL ASSOCIATION 0070189>000354931000237<CLE</p>	<p>PROCEEDS FROM THIS CHECK ARE DEPOSITED IN A SEPARATE ACCOUNT</p>
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Michael J. Lampe #82199
Michael P. Smith #206927
LAW OFFICES OF MICHAEL J. LAMPE
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Telephone (559) 738-5975
Facsimile (559) 738-5644
mjl@lampe-law.com

Attorneys for Plaintiff



ELECTRONICALLY FILED
2/19/2020 10:35 AM
Kern County Superior Court
By Gracie Goodson, Deputy

Exempt from filing fees
Government Code §6103

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

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

Plaintiff,

vs.

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

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

I, Dennis A. Mederos, declare:

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

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

///
///

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.

21
22
23
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

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

JAN 25 2021

TULARE COUNTY SUPERIOR COURT DISTRICT
TULARE COUNTY SUPERIOR COURT DIVISION, STATE OF CALIFORNIA

STEPHANIE CAMERON, CLERK
BY: *[Signature]*



THE PEOPLE OF THE STATE OF CALIFORNIA

Plaintiff,

DA No. 20-012227

vs.

Court No. VCF401053 A-C

YORAI BENNY BENZEEVI DOB:11/09/1962
ALAN WALTER GERMANY DOB:10/14/1964
BRUCE RANDOLPH GREENE DOB:02/22/1952

FELONY COMPLAINT
FIRST AMENDED

Defendant(s).

The undersigned is informed and believes that:

COUNT 1

On or about July 14, 2015, in the County of Tulare, the crime of EMBEZZLEMENT AND FALSIFICATION OF ACCOUNTS BY PUBLIC OFFICER, in violation of PENAL CODE SECTION 424, a FELONY, was committed by **YORAI BENNY BENZEEVI and ALAN WALTER GERMANY**, who being a person described in section 424 charged with the receipt, safekeeping, transfer, and distribution of public moneys, did in a manner not incidental and minimal, WILLFULLY OMIT TO TRANSFER THE SAME, WHEN SUCH TRANSFER WAS REQUIRED BY LAW, KNOWING SAID TRANSFER WAS REQUIRED BY LAW OR BEING CRIMINALLY NEGLIGENT IN NOT KNOWING.

SPECIAL ALLEGATION-STATUTE OF LIMITATIONS-LATE DISCOVERY
YORAI BENNY BENZEEVI and ALAN WALTER GERMANY

It is further alleged, as to the above count, that the above violation in Penal Code section 803 (c), was not discovered until 12/04/17 by TULARE COUNTY DISTRICT ATTORNEYS'S OFFICE BUREAU OF INVESTIGATIONS INVESTIGATOR R. KLASSEN when WITNESS S.C. DISCLOSED THAT THE DISTRICT HAD FAILED PAY OVER THE BUILD AMERICA BONDS PROCEEDS THEY HAD RECEIVED FOR THE PURPOSES OF BOND REPAYMENT TO THE BONDHOLDERS, CAUSING TAXES TO BE RAISED ON THE RESIDENTS OF THE DISTRICT, the crime of PC 424(a)(6), FAILURE TO PAY OVER OR TRANSFER GOVERNMENT FUNDS WHEN REQUIRED BY LAW, was not uncovered until that date because the DEFENDANTS CONTROLLED THE FINANCES AND OPERATIONS OF THE TULARE LOCAL HEALTHCARE DISTRICT, dba TULARE REGIONAL MEDICAL CENTER (TRMC) AND USED THIER POSITION OF TRUST TO CARRY ON THEIR ILLEGAL ACTIVITY IN SECRECY AND TO AVOID PUBLIC SCRUTINY.

ELECTRONIC FILING

DEMURRER / ARRAIGNMENT
DEMURRER / PRELIMINARY HEARING SETTING
DEMURRER / PRELIMINARY HEARING SETTING

SPECIAL ALLEGATION-STATUTE OF LIMITATIONS-OUT OF STATE
YORAI BENNY BENZEEVI

It is further alleged, as to the above count, that the statute of limitations has been extended pursuant to Penal Code section 803(d) in that the DEFENDANT Y.B.'S FLIGHT RECORDS INDICATE THAT Y.B. DEPARTED THE USA ON 03/01/19 AND HAS NOT RETURNED TO THE COUNTRY SINCE.

SPECIAL ALLEGATION-STATUTE OF LIMITATIONS-OUT OF STATE
ALAN WALTER GERMANY

It is further alleged, as to the above count, that the statute of limitations has been extended pursuant to Penal Code section 803(d) in that the DEFENDANT A.G. RESIDES IN ARIZONA. HE CEASED WORKING IN TULARE CALIFORNIA ON 11/23/17. HIS SUBSEQUENT EMPLOYMENT HAS BEEN OUTSIDE OF THE STATE OF CALIFORNIA.

COUNT 2

On or about March 15, 2016, in the County of Tulare, the crime of EMBEZZLEMENT AND FALSIFICATION OF ACCOUNTS BY PUBLIC OFFICER, in violation of PENAL CODE SECTION 424, a FELONY, was committed by **YORAI BENNY BENZEEVI and ALAN WALTER GERMANY**, who being a person described in section 424 charged with the receipt, safekeeping, transfer, and distribution of public moneys, did in a manner not incidental and minimal, WILLFULLY OMIT TO TRANSFER THE SAME, WHEN SUCH TRANSFER WAS REQUIRED BY LAW, KNOWING SAID TRANSFER WAS REQUIRED BY LAW OR BEING CRIMINALLY NEGLIGENT IN NOT KNOWING.

SPECIAL ALLEGATION-STATUTE OF LIMITATIONS-LATE DISCOVERY
YORAI BENNY BENZEEVI and ALAN WALTER GERMANY

It is further alleged, as to the above count, that the above violation in Penal Code section 803 (c), was not discovered until 12/04/17 by TULARE COUNTY DISTRICT ATTORNEYS'S OFFICE BUREAU OF INVESTIGATIONS INVESTIGATOR R. KLASSEN when WITNESS S.C. DISCLOSED THAT THE DISTRICT HAD FAILED PAY OVER THE BUILD AMERICA BONDS PROCEEDS THEY HAD RECEIVED FOR THE PURPOSES OF BOND REPAYMENT TO THE BONDHOLDERS, CAUSING TAXES TO BE RAISED ON THE RESIDENTS OF THE DISTRICT, The crime of PENAL CODE 424(a)(6), FAILURE TO PAY OVER OR TRANSFER GOVERNMENT FUNDS WHEN REQUIRED BY LAW, was not uncovered until that date because the DEFENDANTS CONTROLLED THE FINANCES AND OPERATIONS OF THE TULARE LOCAL HEALTHCARE DISTRICT, dba TULARE REGIONAL MEDICAL CENTER (TRMC) AND USED THIER POSITION OF TRUST TO CARRY ON THEIR ILLEGAL ACTIVITY IN SECRECY AND TO AVOID PUBLIC SCRUTINY.

SPECIAL ALLEGATION-STATUTE OF LIMITATIONS-OUT OF STATE
YORAI BENNY BENZEEVI

It is further alleged, as to the above count, that the statute of limitations has been extended pursuant to Penal Code section 803(d) in that the DEFENDANT FLIGHT RECORDS INDICATE THAT Y.B. DEPARTED THE USA ON 03/01/19 AND HAS NOT RETURNED TO COUNTRY SINCE.

SPECIAL ALLEGATION-STATUTE OF LIMITATIONS-OUT OF STATE
ALAN WALTER GERMANY

It is further alleged, as to the above count, that the statute of limitations has been extended pursuant to Penal Code section 803(d) in that the DEFENDANT A.G. RESIDES IN ARIZONA. HE CEASED WORKING IN TULARE CA. ON 11/23/17. HIS SUBSEQUENT EMPLOYMENT HAS BEEN OUTSIDE OF THE STATE OF CALIFORNIA.

COUNT 3

On or about July 18, 2016, in the County of Tulare, the crime of EMBEZZLEMENT AND FALSIFICATION OF ACCOUNTS BY PUBLIC OFFICER, in violation of PENAL CODE SECTION 424, a FELONY, was committed by YORAI BENNY BENZEEVI and ALAN WALTER GERMANY, who being a person described in section 424 charged with the receipt, safekeeping, transfer, and distribution of public moneys, did in a manner not incidental and minimal, WILLFULLY OMIT TO TRANSFER THE SAME, WHEN SUCH TRANSFER WAS REQUIRED BY LAW, KNOWING SAID TRANSFER WAS REQUIRED BY LAW OR BEING CRIMINALLY NEGLIGENT IN NOT KNOWING.

SPECIAL ALLEGATION-STATUTE OF LIMITATIONS-LATE DISCOVERY
YORAI BENNY BENZEEVI and ALAN WALTER GERMANY

It is further alleged, as to the above count, that the above violation in Penal Code section 803 (c), was not discovered until 12/04/17 by TULARE COUNTY DISTRICT ATTORNEYS'S OFFICE BUREAU OF INVESTIGATIONS INVESTIGATOR R. KLASSEN when WITNESS S.C. DISCLOSED THAT THE DISTRICT HAD FAILED PAY OVER THE BUILD AMERICA BONDS PROCEEDS THEY HAD RECEIVED FOR THE PURPOSES OF BOND REPAYMENT TO THE BONDHOLDERS, CAUSING TAXES TO BE RAISED ON THE RESIDENTS OF THE DISTRICT, the crime of PENAL CODE 424(a)(6), FAILURE TO PAY OVER OR TRANSFER GOVERNMENT FUNDS WHEN REQUIRED BY LAW, was not uncovered until that date because the DEFENDANTS CONTROLLED THE FINANCES AND OPERATIONS OF THE TULARE LOCAL HEALTHCARE DISTRICT, dba TULARE REGIONAL MEDICAL CENTER (TRMC) AND USED THIER POSITION OF TRUST TO CARRY ON THEIR ILLEGAL ACTIVITY IN SECRECY AND TO AVOID PUBLIC SCRUTINY.

SPECIAL ALLEGATION-STATUTE OF LIMITATIONS-OUT OF STATE
YORAI BENNY BENZEEVI

It is further alleged, as to the above count, that the statute of limitations has been extended pursuant to Penal Code section 803(d) in that the DEFENDANT FLIGHT RECORDS INDICATE THAT Y.B. DEPARTED THE USA ON 03/01/19 AND HAS NOT RETURNED TO COUNTRY SINCE.

SPECIAL ALLEGATION-STATUTE OF LIMITATIONS-OUT OF STATE
ALAN WALTER GERMANY

It is further alleged, as to the above count, that the statute of limitations has been extended pursuant to Penal Code section 803(d) in that the DEFENDANT A.G. RESIDES IN ARIZONA. HE CEASED WORKING IN TULARE CA. ON 11/23/17. HIS SUBSEQUENT EMPLOYMENT HAS BEEN OUTSIDE OF THE STATE OF CALIFORNIA.

DEMURRER / ARRAIGNMENT
DEMURRER / PRELIMINARY HEARING SETTING
DEMURRER / PRELIMINARY HEARING SETTING

COUNT 4

On or about February 17, 2017, in the County of Tulare, the crime of EMBEZZLEMENT AND FALSIFICATION OF ACCOUNTS BY PUBLIC OFFICER, in violation of PENAL CODE SECTION 424, a FELONY, was committed by YORAI BENNY BENZEEVI and ALAN WALTER GERMANY, who being a person described in section 424 charged with the receipt, safekeeping, transfer, and distribution of public moneys, did in a manner not incidental and minimal, WILLFULLY OMIT TO TRANSFER THE SAME, WHEN SUCH TRANSFER WAS REQUIRED BY LAW, KNOWING SAID TRANSFER WAS REQUIRED BY LAW OR BEING CRIMINALLY NEGLIGENT IN NOT KNOWING.

COUNT 5

On or about August 14, 2017, in the County of Tulare, the crime of EMBEZZLEMENT AND FALSIFICATION OF ACCOUNTS BY PUBLIC OFFICER, in violation of PENAL CODE SECTION 424, a FELONY, was committed by YORAI BENNY BENZEEVI and ALAN WALTER GERMANY, who being a person described in section 424 charged with the receipt, safekeeping, transfer, and distribution of public moneys, did in a manner not incidental and minimal, WILLFULLY OMIT TO TRANSFER THE SAME, WHEN SUCH TRANSFER WAS REQUIRED BY LAW, KNOWING SAID TRANSFER WAS REQUIRED BY LAW OR BEING CRIMINALLY NEGLIGENT IN NOT KNOWING.

DEMURRER / ARRAIGNMENT
DEMURRER / PRELIMINARY HEARING SETTING
DEMURRER / PRELIMINARY HEARING SETTING

COUNT 6

On or about March 29, 2016, in the County of Tulare, the crime of CONFLICT OF INTEREST, in violation of GOVERNMENT CODE SECTION 1090, a Felony, was committed by **YORAI BENNY BENZEEVI and BRUCE RANDOLPH GREENE**, who were DISTRICT OFFICERS OR EMPLOYEES, specifically, DEFENDANT BENZEEVI WAS CEO AND MANAGER, AND DEFENDANT GREENE WAS THE ATTORNEY AND BOARD COUNSEL, OF THE TULARE LOCAL HEALTH CARE DISTRICT dba TULARE REGIONAL MEDICAL CENTER (TRMC), WILLFULLY AND UNLAWFULLY MADE A CONTRACT IN THEIR OFFICIAL CAPACITY IN WHICH THEY HAD A FINANCIAL INTEREST.

SPECIAL ALLEGATION-STATUTE OF LIMITATIONS-LATE DISCOVERY
YORAI BENNY BENZEEVI and BRUCE RANDOLPH GREENE

It is further alleged, as to the above count, that the above violation was in Penal Code section 803(c), not discovered until 09/28/16 WHEN CASE NUMBER 267051 WAS FILED IN THE TULARE SUPERIOR COURT ALLEGING THAT HOSPITAL FUNDS WERE USED TO FUND PRIVATE LAWSUITS AGAINST DR. BETRE ON BEHALF DEFENDANT DR. YORAI BENZEEVI AND TWO OTHER DOCTORS, The crime of GOVERNMENT CODE 1090(A), CONFLICTS OF INTEREST CONTRACTS, SALES, AND PURCHASES, was not uncovered until that date because the DECISION TO FUND THE LAWSUIT WAS UNDERTAKEN IN CLOSED SESSION & THE MINUTES, CONTROLLED BY THE DEFENDANTS AND THEIR AGENTS, FAILED TO DISCLOSE THE DECISION TAKEN TO FUND PRIVATE LAWSUITS WITH PUBLIC MONEY. NO SUBSEQUENT MINUTES PRIOR TO 09/28/16 DISCLOSED THAT THE LAWSUIT BY DR. BENZEEVI & DR. KUMAR WAS BEING FUNDED WITH PUBLIC FUNDS.

SPECIAL ALLEGATION-STATUTE OF LIMITATIONS-OUT OF STATE
YORAI BENNY BENZEEVI

It is further alleged, as to the above count, that the statute of limitations has been extended pursuant to Penal Code section 803(d) in that the DEFENDANT FLIGHT RECORDS INDICATE THAT Y.B. DEPARTED THE USA ON 03/01/19 AND HAS NOT RETURNED TO COUNTRY SINCE.

COUNT 7

On or about January 12, 2017, in the County of Tulare, the crime of CONFLICT OF INTEREST, in violation of GOVERNMENT CODE SECTION 1090, a Felony, was committed by **YORAI BENNY BENZEEVI and BRUCE RANDOLPH GREENE**, who were DISTRICT OFFICERS OR EMPLOYEES, specifically, DEFENDANT BENZEEVI WAS CEO AND MANAGER, AND DEFENDANT GREENE WAS THE ATTORNEY AND BOARD COUNSEL, OF THE TULARE LOCAL HEALTH CARE DISTRICT dba TULARE REGIONAL MEDICAL CENTER (TRMC), WILLFULLY AND UNLAWFULLY MADE A CONTRACT IN THEIR OFFICIAL CAPACITY IN WHICH THEY HAD A FINANCIAL INTEREST.

DEMURRER / ARRAIGNMENT
DEMURRER / PRELIMINARY HEARING SETTING
DEMURRER / PRELIMINARY HEARING SETTING

COUNT 8

On or about January 12, 2017, in the County of Tulare, the crime of EMBEZZLEMENT AND FALSIFICATION OF ACCOUNTS BY PUBLIC OFFICER, in violation of PENAL CODE SECTION 424, a FELONY, was committed by **YORAI BENNY BENZEEVI** and **BRUCE RANDOLPH GREENE**, who being a person described in section 424 charged with the receipt, safekeeping, transfer, and distribution of public moneys, did in a manner not incidental and minimal WILLFULLY, WITHOUT AUTHORITY OF LAW, APPROPRIATE THE SAME, & A PORTION THEREOF, TO PERSONAL USE OR TO THE USE OF ANOTHER, KNOWING THAT HE ACTED WITHOUT AUTHORITY OF LAW, OR BEING CRIMINALLY NEGLIGENT IN NOT KNOWING.

COUNT 9

On or about February 15, 2016, in the County of Tulare, the crime of CONFLICT OF INTEREST, in violation of GOVERNMENT CODE SECTION 1090, a Felony, was committed by **YORAI BENNY BENZEEVI**, who was a DISTRICT OFFICER OR EMPLOYEE, specifically, MANAGER OF THE SOUTHERN INYO HEALTH CARE DISTRICT, WILLFULLY AND UNLAWFULLY MADE A CONTRACT IN THEIR OFFICIAL CAPACITY IN WHICH THEY HAD A FINANCIAL INTEREST.

SPECIAL ALLEGATION-STATUTE OF LIMITATIONS-LATE DISCOVERY

It is further alleged, as to the above count, that the above violation in Penal Code section 803 (c), was not discovered until 05/19/19 by TULARE COUNTY DISTRICT ATTORNEY'S OFFICE INVESTIGATOR RODNEY KLASSEN WHEN HE DISCOVERED THAT DR. BENZEEVI WAS INSTRUMENTAL IN HIRING DR. P. KUMAR AS THE INYO MEDICAL DIRECTOR & PARTICIPATED IN THE CREATION OF DR. KUMARS EMPLOYMENT CONTRACT, The crime of GOVERNMENT CODE 1090(A), CONFLICTS OF INTEREST CONTRACT, SALES, AND PURCHASES, was not uncovered until that date because the DEFENDANT DID NOT DISCLOSE HIS CONFLICT HIS CONFLICT OF INTEREST, AS REQUIRED BY LAW.

SPECIAL ALLEGATION-STATUTE OF LIMITATIONS-OUT OF STATE
YORAI BENNY BENZEEVI

It is further alleged, as to the above count, that the statute of limitations has been extended pursuant to Penal Code section 803(d) in that the DEFENDANT FLIGHT RECORDS INDICATE THAT Y.B. DEPARTED THE USA ON 03/01/19 AND HAS NOT RETURNED TO COUNTRY SINCE.

DEMURRER / ARRAIGNMENT
DEMURRER / PRELIMINARY HEARING SETTING
DEMURRER / PRELIMINARY HEARING SETTING

COUNT 10

On or about and between March 26, 2016 and January 25, 2017, in the County of Tulare, the crime of CONFLICT OF INTEREST, in violation of GOVERNMENT CODE SECTION 1090, a Felony, was committed by YORAI BENNY BENZEEVI, ALAN WALTER GERMANY, and BRUCE RANDOLPH GREENE, who was a DISTRICT OFFICER OR EMPLOYEE, specifically, DEFENDANT BENZEEVI WAS THE CEO AND MANAGER, ALAN GERMANY WAS CHIEF FINANCIAL OFFICER, AND DEFENDANT GREENE WAS THE ATTORNEY AND BOARD COUNSEL, of TULARE LOCAL HEATH CARE DISTRICT and DEFENDANT BENZEEVI WAS THE MANAGER AND DEFENDANT GERMANY WAS CHIEF RESTRUCTURING OFFICER OF THE SOUTHERN INYO LOCAL HEALTHCARE DISTRICT, WILLFULLY AND UNLAWFULLY MADE A CONTRACT IN THEIR OFFICIAL CAPACITY IN WHICH THEY HAD A FINANCIAL INTEREST.

SPECIAL ALLEGATION-STATUTE OF LIMITATIONS-LATE DISCOVERY
YORAI BENNY BENZEEVI, ALAN WALTER GERMANY, BRUCE RANDOLPH GREENE

It is further alleged, as to the above count, that the above violation in Penal Code section 803 (c), was not discovered until 01/25/17 WHEN DR. BENZEEVI DISCLOSED IN A PUBLIC BOARD MEETING THAT HE HAD CAUSED THE TULARE LOCAL HEALTHCARE DISTRICT dba TULARE REGIONAL MEDICAL CENTER (TRMC) TO EXTEND A LINE OF CREDIT TO SOUTHERN INYO HEALTH CARE DISTRICT (SIHD), the crime of GOVERNMENT CODE 1090(A), CONFLICTS OF INTEREST CONTRACT, SALES, AND PURCAHSES, was not uncovered until that date because the DEFENDANTS MADE THE LINE OF CREDIT CONTRACT WITH INYO WITHOUT THE PERMISSION OF THE TULARE LOCAL HEALTHCARE DISTRICT'S BOARD, AND WITHOUT DISCLOSING TO THEM, OR THE PUBLIC, THAT HE HAD CAUSED TRMC TO EXTENDED A LINE OF CREDIT TO SIDH.

SPECIAL ALLEGATION-STATUTE OF LIMITATIONS-OUT OF STATE
YORAI BENNY BENZEEVI

It is further alleged, as to the above count, that the statute of limitations has been extended pursuant to Penal Code section 803(d) in that the DEFENDANT FLIGHT RECORDS INDICATE THAT Y.B. DEPARTED THE USA ON 03/01/19 AND HAS NOT RETURNED TO COUNTRY SINCE.

SPECIAL ALLEGATION-STATUTE OF LIMITATIONS-OUT OF STATE
ALAN WALTER GERMANY

It is further alleged, as to the above count, that the statute of limitations has been extended pursuant to Penal Code section 803(d) in that the DEFENDANT A.G. RESIDES IN ARIZONA. HE CEASED WORKING IN TULARE CA. ON 11/23/17. HIS SUBSEQUENT EMPLOYMENT HAS BEEN OUTSIDE OF THE STATE OF CALIFORNIA.

DEMURRER / ARRAIGNMENT
DEMURRER / PRELIMINARY HEARING SETTING
DEMURRER / PRELIMINARY HEARING SETTING

COUNT 11

On or about January 25, 2017, in the County of Tulare, the crime of USING AN OFFICIAL POSITION FOR PERSONAL GAIN, in violation of GOVERNMENT CODE SECTION 91000(a), a Misdemeanor, was committed by **YORAI BENNY BENZEEVI, ALAN WALTER GERMANY and BRUCE RANDOLPH GREENE**, who was a state or local government official, specifically, **YORAI BENZEEVI CEO OF TULARE LOCAL HEALTHCARE DISTRICT dba TULARE REGIONAL MEDICAL CENTER (TRMC) & OWNER OF TRMC's MANAGER, HCCA, ALAN GERMANY, CFO OF TRMC and BRUCE GREENE ATTORNEY & BOARD COUNSEL OF TRMC** and made, participated in making, or attempted to use his official position to influence, a governmental decision in which he knew, or had reason to know, he had a financial interest in violation of GOVERNMENT CODE SECTION 87100.

COUNT 12

On or about and between March 26, 2016 and January 25, 2017, in the County of Tulare, the crime of EMBEZZLEMENT AND FALSIFICATION OF ACCOUNTS BY PUBLIC OFFICER, in violation of PENAL CODE SECTION 424, a FELONY, was committed by **YORAI BENNY BENZEEVI and ALAN WALTER GERMANY**, who being a person described in section 424 charged with the receipt, safekeeping, transfer, and distribution of public moneys, did in a manner not incidental and minimal, WILLFULLY, WITHOUT AUTHORITY OF LAW, LOANED, MADE A PROFIT FROM, OR USED THE SAME FOR A PURPOSE NOT AUTHORIZED BY LAW, KNOWING THAT HE ACTED WITHOUT AUTHORITY OF LAW, OR BEING NEGLIGENT IN NOT KNOWING.

SPECIAL ALLEGATION-STATUTE OF LIMITATIONS-LATE DISCOVERY
YORAI BENNY BENZEEVI and ALAN WALTER GERMANY

It is further alleged, as to the above count, that the above violation in Penal Code section 803(c), was not discovered until 01/25/17 WHEN DR. BENZEEVI DISCLOSED IN A PUBLIC BOARD MEETING THAT HE HAD CAUSED THE TULARE LOCAL HEALTHCARE DISTRICT dba TULARE REGIONAL MEDICAL CENTER (TRMC) TO EXTEND A LINE OF CREDIT TO SOUTHERN INYO HEALTH CARE DISTRICT (SIHD), the crime of GOVERNMENT CODE 1090(A), CONFLICTS OF INTEREST CONTRACT, SALES, AND PURCHASES, was not uncovered until that date because the DEFENDANTS MADE THE LINE OF CREDIT CONTRACT WITH INYO WITHOUT THE PERMISSION OF THE TULARE LOCAL HEALTHCARE DISTRICT'S BOARD, AND WITHOUT DISCLOSING TO THEM, OR THE PUBLIC, THAT HE HAD CAUSED TRMC TO EXTENDED A LINE OF CREDIT TO SIDH.

DEMURRER / ARRAIGNMENT
DEMURRER / PRELIMINARY HEARING SETTING
DEMURRER / PRELIMINARY HEARING SETTING

SPECIAL ALLEGATION-STATUTE OF LIMITATIONS-OUT OF STATE
YORAI BENNY BENZEEVI

It is further alleged, as to the above count, that the statute of limitations has been extended pursuant to Penal Code section 803(d) in that the DEFENDANT FLIGHT RECORDS INDICATE THAT Y.B. DEPARTED THE USA ON 03/01/19 AND HAS NOT RETURNED TO COUNTRY SINCE.

SPECIAL ALLEGATION-STATUTE OF LIMITATIONS-OUT OF STATE
ALAN WALTER GERMANY

It is further alleged, as to the above count, that the statute of limitations has been extended pursuant to Penal Code section 803(d) in that the DEFENDANT A.G. RESIDES IN ARIZONA. HE CEASED WORKING IN TULARE CA. ON 11/23/17. HIS SUBSEQUENT EMPLOYMENT HAS BEEN OUTSIDE OF THE STATE OF CALIFORNIA.

COUNT 13

On or about January 2, 2017, in the County of Tulare, the crime of EMBEZZLEMENT AND FALSIFICATION OF ACCOUNTS BY PUBLIC OFFICER, in violation of PENAL CODE SECTION 424, a FELONY, was committed by YORAI BENNY BENZEEVI and ALAN WALTER GERMANY, who being a person described in section 424 charged with the receipt, safekeeping, transfer, and distribution of public moneys, did in a manner not incidental and minimal, WILLFULLY, WITHOUT AUTHORITY OF LAW, APPROPRIATE THE SAME, OR A PORTION THEREOF, TO PERSONAL USE OR TO THE USE OF ANOTHER, KNOWING THAT HE ACTED WITHOUT AUTHORITY OF LAW, OR BEING CRIMINALLY NEGLIGENT IN NOT KNOWING.

SPECIAL ALLEGATION-STATUTE OF LIMITATIONS-LATE DISCOVERY
YORAI BENNY BENZEEVI and ALAN WALTER GERMANY

It is further alleged, as to the above count, that the above violation in Penal Code section 803 (c), was not discovered until 08/18/17 WHEN INVESTIGATOR RODNEY KLASSEN INTERVIEWED WITNESS P.P., WHO ALLEGED THAT HEALTH CARE CONGLOMERATE ASSOCIATES, INC (HCCA), A COMPANY WHOLLY OWNED BY DR. BENZEEVI, HAD BEEN DIVERTING FUNDS FROM TULARE LOCAL HEALTHCARE DISTRICT dba TULARE REGIONAL MEDICAL CENTER (TRMC) TO SUPPORT ANOTHER DISTRICT HOSPITAL HCCA MANAGED IN INYO COUNTY, The crime of PENAL CODE 424(a), EMBEZZLEMENT AND FALSIFICATION OF ACCOUNTY BY PUBLIC OFFICERS; MISAPPROPRIATION; UNAUTHORIZED LOAN, USE OR PRIVATE PROFIT, FAILURE TO PAY OVER OR TRANSFER PUBLIC MONEYS, was not uncovered until that date because the DEFENDANTS CONTROLLED THE OPERATIONS, ACCOUNTS, AND FINANCES OF THE TRMC AND USED THEIR POSITIONS OF TRUST TO CARRY OUT THE ILLEGAL ACTIVITY IN SECRECY AND WITHOUT PUBLIC SCRUTINY.

SPECIAL ALLEGATION-STATUTE OF LIMITATIONS-OUT OF STATE
YORAI BENNY BENZEEVI

It is further alleged, as to the above count, that the statute of limitations has been extended pursuant to Penal Code section 803(d) in that the DEFENDANT FLIGHT RECORDS INDICATE THAT Y.B. DEPARTED THE USA ON 03/01/19 AND HAS NOT RETURNED TO COUNTRY SINCE.

SPECIAL ALLEGATION-STATUTE OF LIMITATIONS-OUT OF STATE
ALAN WALTER GERMANY

It is further alleged, as to the above count, that the statute of limitations has been extended pursuant to Penal Code section 803(d) in that the DEFENDANT A.G. RESIDES IN ARIZONA. HE CEASED WORKING IN TULARE CA. ON 11/23/17. HIS SUBSEQUENT EMPLOYMENT HAS BEEN OUTSIDE OF THE STATE OF CALIFORNIA.

COUNT 14

On or about and between January 2, 2016 and November 23, 2017, in the County of Tulare, the crime of EMBEZZLEMENT AND FALSIFICATION OF ACCOUNTS BY PUBLIC OFFICER, in violation of PENAL CODE SECTION 424, a FELONY, was committed by YORAI BENNY BENZEEVI and ALAN WALTER GERMANY, who being a person described in section 424 charged with the receipt, safekeeping, transfer, and distribution of public moneys, did in a manner not incidental and minimal, WILLFULLY, WITHOUT AUTHORITY OF LAW, APPROPRIATE THE SAME, OR A PORTION THEREOF, TO PERSONAL USE OR TO THE USE OF ANOTHER, KNOWING THAT HE ACTED WITHOUT AUTHORITY OF LAW, OR BEING CRIMINALLY NEGLIGENT IN NOT KNOWING.

SPECIAL ALLEGATION-STATUTE OF LIMITATIONS-LATE DISCOVERY
YORAI BENNY BENZEEVI and ALAN WALTER GERMANY

It is further alleged, as to the above count, that the above violation in Penal Code section 803 (c), was not discovered until 08/18/17 WHEN INVESTIGATOR RODNEY KLASSEN INTERVIEWED WITNESS P.P., WHO ALLEGED THAT HEALTH CARE CONGLOMERATE ASSOCIATES, INC (HCCA), A COMPANY WHOLLY OWNED BY DR. BENZEEVI, HAD BEEN DIVERTING FUNDS FROM TULARE LOCAL HEALTHCARE DISTRICT dba TULARE REGIONAL MEDICAL CENTER (TRMC) TO SUPPORT ANOTHER DISTRICT HOSPITAL HCCA MANAGED IN INYO COUNTY, The crime of PENAL CODE 424(a), , EMBEZZLEMENT AND FALSIFICATION OF ACCOUNTY BY PUBLIC OFFICERS; MISAPPROPRIATION; UNAUTHORIZED LOAN, USE OR PRIVATE PROFIT, FAILURE TO PAY OVER OR TRANSFER PUBLIC MONEYS, was not uncovered until that date because the DEFENDANTS CONTROLLED THE OPERATIONS, ACCOUNTS, AND FINANCES OF THE TRMC AND USED THEIR POSITIONS OF TRUST TO CARRY OUT THE ILLEGAL ACTIVITY IN SECRECY AND WITHOUT PUBLIC SCRUTINY.

SPECIAL ALLEGATION-STATUTE OF LIMITATIONS-OUT OF STATE
YORAI BENNY BENZEEVI

It is further alleged, as to the above count, that the statute of limitations has been extended pursuant to Penal Code section 803(d) in that the DEFENDANT FLIGHT RECORDS INDICATE THAT Y.B. DEPARTED THE USA ON 03/01/19 AND HAS NOT RETURNED TO COUNTRY SINCE.

SPECIAL ALLEGATION-STATUTE OF LIMITATIONS-OUT OF STATE
ALAN WALTER GERMANY

It is further alleged, as to the above count, that the statute of limitations has been extended pursuant to Penal Code section 803(d) in that the DEFENDANT A.G. RESIDES IN ARIZONA. HE CEASED WORKING IN TULARE CA. ON 11/23/17. HIS SUBSEQUENT EMPLOYMENT HAS BEEN OUTSIDE OF THE STATE OF CALIFORNIA.

COUNT 15

On or about and between January 2, 2016 and November 23, 2017, in the County of Tulare, the crime of EMBEZZLEMENT AND FALSIFICATION OF ACCOUNTS BY PUBLIC OFFICER, in violation of PENAL CODE SECTION 424, a FELONY, was committed by YORAI BENNY BENZEEVI and ALAN WALTER GERMANY, who being a person described in section 424 charged with the receipt, safekeeping, transfer, and distribution of public moneys, did in a manner not incidental and minimal, WILLFULLY, WITHOUT AUTHORITY OF LAW, APPROPRIATE THE SAME, OR A PORTION THEREOF, TO PERSONAL USE OR TO THE USE OF ANOTHER, KNOWING THAT HE ACTED WITHOUT AUTHORITY OF LAW, OR BEING CRIMINALLY NEGLIGENT IN NOT KNOWING.

SPECIAL ALLEGATION-STATUTE OF LIMITATIONS-LATE DISCOVERY
YORAI BENNY BENZEEVI and ALAN WALTER GERMANY

It is further alleged, as to the above count, that the above violation in Penal Code section 803 (c), was not discovered until 08/18/17 WHEN INVESTIGATOR RODNEY KLASSEN INTERVIEWED WITNESS P.P., WHO ALLEGED THAT HEALTH CARE CONGLOMERATE ASSOCIATES, INC (HCCA), A COMPANY WHOLLY OWNED BY DR. BENZEEVI, HAD BEEN DIVERTING FUNDS FROM TULARE LOCAL HEALTHCARE DISTRICT dba TULARE REGIONAL MEDICAL CENTER (TRMC) TO SUPPORT ANOTHER DISTRICT HOSPITAL HCCA MANAGED IN INYO COUNTY, The crime of PENAL CODE 424(a), EMBEZZLEMENT AND FALSIFICATION OF ACCOUNTY BY PUBLIC OFFICERS; MISAPPROPRIATION; UNAUTHORIZED LOAN, USE OR PRIVATE PROFIT, FAILURE TO PAY OVER OR TRANSFER PUBLIC MONEYS, was not uncovered until that date because the DEFENDANTS CONTROLLED THE OPERATIONS, ACCOUNTS, AND FINANCES OF THE TRMC AND USED THEIR POSITIONS OF TRUST TO CARRY OUT THE ILLEGAL ACTIVITY IN SECRECY AND WITHOUT PUBLIC SCRUTINY.

SPECIAL ALLEGATION-STATUTE OF LIMITATIONS-OUT OF STATE
YORAI BENNY BENZEEVI

It is further alleged, as to the above count, that the statute of limitations has been extended pursuant to Penal Code section 803(d) in that the DEFENDANT FLIGHT RECORDS INDICATE THAT Y.B. DEPARTED THE USA ON 03/01/19 AND HAS NOT RETURNED TO COUNTRY SINCE.

SPECIAL ALLEGATION-STATUTE OF LIMITATIONS-OUT OF STATE
ALAN WALTER GERMANY

It is further alleged, as to the above count, that the statute of limitations has been extended pursuant to Penal Code section 803(d) in that the DEFENDANT A.G. RESIDES IN ARIZONA. HE CEASED WORKING IN TULARE CA. ON 11/23/17. HIS SUBSEQUENT EMPLOYMENT HAS BEEN OUTSIDE OF THE STATE OF CALIFORNIA.

COUNT 16

On or about and between January 2, 2016 and November 23, 2017, in the County of Tulare, the crime of EMBEZZLEMENT AND FALSIFICATION OF ACCOUNTS BY PUBLIC OFFICER, in violation of PENAL CODE SECTION 424, a FELONY, was committed by YORAI BENNY BENZEEVI and ALAN WALTER GERMANY, who being a person described in section 424 charged with the receipt, safekeeping, transfer, and distribution of public moneys, did in a manner not incidental and minimal, WILLFULLY, WITHOUT AUTHORITY OF LAW, APPROPRIATE THE SAME, OR A PORTION THEREOF, TO PERSONAL USE OR TO THE USE OF ANOTHER, KNOWING THAT HE ACTED WITHOUT AUTHORITY OF LAW, OR BEING CRIMINALLY NEGLIGENT IN NOT KNOWING.

SPECIAL ALLEGATION-STATUTE OF LIMITATIONS-LATE DISCOVERY
YORAI BENNY BENZEEVI and ALAN WALTER GERMANY

It is further alleged, as to the above count, that the above violation in Penal Code section 803 (c), was not discovered until 08/18/17 WHEN INVESTIGATOR RODNEY KLASSEN INTERVIEWED WITNESS P.P., WHO ALLEGED THAT HEALTH CARE CONGLOMERATE ASSOCIATES, INC (HCCA), A COMPANY WHOLLY OWNED BY DR. BENZEEVI, HAD BEEN DIVERTING FUNDS FROM TULARE LOCAL HEALTHCARE DISTRICT dba TULARE REGIONAL MEDICAL CENTER (TRMC) TO SUPPORT ANOTHER DISTRICT HOSPITAL HCCA MANAGED IN INYO COUNTY, The crime of PENAL CODE 424(a), EMBEZZLEMENT AND FALSIFICATION OF ACCOUNTY BY PUBLIC OFFICERS; MISAPPROPRIATION; UNAUTHORIZED LOAN, USE OR PRIVATE PROFIT, FAILURE TO PAY OVER OR TRANSFER PUBLIC MONEYS, was not uncovered until that date because the DEFENDANTS CONTROLLED THE OPERATIONS, ACCOUNTS, AND FINANCES OF THE TRMC AND USED THEIR POSITIONS OF TRUST TO CARRY OUT THE ILLEGAL ACTIVITY IN SECRECY AND WITHOUT PUBLIC SCRUTINY.

SPECIAL ALLEGATION-STATUTE OF LIMITATIONS-OUT OF STATE
YORAI BENNY BENZEEVI

It is further alleged, as to the above count, that the statute of limitations has been extended pursuant to Penal Code section 803(d) in that the DEFENDANT FLIGHT RECORDS INDICATE THAT Y.B. DEPARTED THE USA ON 03/01/19 AND HAS NOT RETURNED TO COUNTRY SINCE.

SPECIAL ALLEGATION-STATUTE OF LIMITATIONS-OUT OF STATE
ALAN WALTER GERMANY

It is further alleged, as to the above count, that the statute of limitations has been extended pursuant to Penal Code section 803(d) in that the DEFENDANT A.G. RESIDES IN ARIZONA. HE CEASED WORKING IN TULARE CA. ON 11/23/17. HIS SUBSEQUENT EMPLOYMENT HAS BEEN OUTSIDE OF THE STATE OF CALIFORNIA.

COUNT 17

On or about and between September 1, 2016 and June 1, 2017, in the County of Tulare, the crime of GRAND THEFT OF PERSONAL PROPERTY, in violation of PENAL CODE SECTION 487(a), a FELONY, was committed by YORAI BENNY BENZEEVI and ALAN WALTER GERMANY, who did unlawfully, take money and personal property of a value exceeding Nine Hundred Fifty Dollars (\$950), to wit FRAUDULENTLY APPROPRIATE PROPERTY WHICH HAD BEEN ENTRUSTED TO HIM the property of TULARE LOCAL HEALTHCARE DISTRICT DBS TULARE REGIONAL MEDICAL CENTER.

SPECIAL ALLEGATION-STATUTE OF LIMITATIONS-LATE DISCOVERY
YORAI BENNY BENZEEVI and ALAN WALTER GERMANY

It is further alleged, as to the above count, that the above violation in Penal Code section 803 (c), was not discovered until 08/18/17 WHEN INVESTIGATOR RODNEY KLASSEN INTERVIEWED WITNESS P.P., WHO ALLEGED THAT HEALTH CARE CONGLOMERATE ASSOCIATES, INC (HCCA), A COMPANY WHOLLY OWNED BY DR. BENZEEVI, HAD SENT EQUIPMENT OWNED BY TULARE HOSPITAL TO ANOTHER HOSPITAL HCCA MANAGED IN INYO COUNTY, The crime of PENAL CODE 487(a), GRAND THEFT, was not uncovered until that date because the DEFENDANTS CONTROLLED THE OPERATIONS, ACCOUNTS, AND FINANCES OF THE TULARE LOCAL HEALTHCARE DISTRICT dba TULARE REGIONAL MEDICAL CENTER, & USED THEIR POSITIONS OF TRUST TO CARRY OUT THE ILLEGAL ACTIVITIES IN SECRECY AND WITHOUT PUBLIC SCRUTINY.

SPECIAL ALLEGATION-STATUTE OF LIMITATIONS-OUT OF STATE
YORAI BENNY BENZEEVI

It is further alleged, as to the above count, that the statute of limitations has been extended pursuant to Penal Code section 803(d) in that the DEFENDANT FLIGHT RECORDS INDICATE THAT Y.B. DEPARTED THE USA ON 03/01/19 AND HAS NOT RETURNED TO COUNTRY SINCE.

SPECIAL ALLEGATION-STATUTE OF LIMITATIONS-OUT OF STATE
ALAN WALTER GERMANY

It is further alleged, as to the above count, that the statute of limitations has been extended pursuant to Penal Code section 803(d) in that the DEFENDANT A.G. RESIDES IN ARIZONA. HE CEASED WORKING IN TULARE CA. ON 11/23/17. HIS SUBSEQUENT EMPLOYMENT HAS BEEN OUTSIDE OF THE STATE OF CALIFORNIA.

COUNT 18

On or about July 19, 2017, in the County of Tulare, the crime of CONFLICT OF INTEREST, in violation of GOVERNMENT CODE SECTION 1090, a Felony, was committed by YORAI BENNY BENZEEVI and ALAN WALTER GERMANY, who was a DISTRICT OFFICER OR EMPLOYEE, specifically, DEFENDANT BENZEEVI WAS THE MANAGER FOR, AND DEFENDANT ALAN GERMANY WAS THE CHIEF RESTRUCTURING OFFICER FOR, SOUTHERN INYO HEALTH CARE DISTRICT, WILLFULLY AND UNLAWFULLY MADE A CONTRACT IN THEIR OFFICIAL CAPACITY IN WHICH THEY HAD A FINANCIAL INTEREST.

COUNT 19

On or about and between January 2, 2016 and November 23, 2017, in the County of Tulare, the crime of EMBEZZLEMENT AND FALSIFICATION OF ACCOUNTS BY PUBLIC OFFICER, in violation of PENAL CODE SECTION 424, a FELONY, was committed by YORAI BENNY BENZEEVI and ALAN WALTER GERMANY, who being a person described in section 424 charged with the receipt, safekeeping, transfer, and distribution of public moneys, did in a manner not incidental and minimal, WILLFULLY, WITHOUT AUTHORITY OF LAW, APPROPRIATE THE SAME, OR A PORTION THEREOF, TO PERSONAL USE OR TO THE USE OF ANOTHER, KNOWING THAT HE ACTED WITHOUT AUTHORITY OF LAW, OR BEING CRIMINALLY NEGLIGENT IN NOT KNOWING.

SPECIAL ALLEGATION-STATUTE OF LIMITATIONS-LATE DISCOVERY
YORAI BENNY BENZEEVI and ALAN WALTER GERMANY

It is further alleged, as to the above count, that the above violation in Penal Code section 803 (c), was not discovered until 10/17/17 WHEN ASHLY MCDOWD, AN ATTORNEY WORKING FOR THE SOUTHERN INYO HEALTH CARE DISTRICT, FILED A DECLARATION IN FEDERAL BANKRUPTCY COURT ACCUSING HCCA OF MISAPPROPRIATING DISTRICT FUNDS, The crime of PENAL CODE 424(a), EMBEZZLEMENT AND FALSIFICATION OF ACCOUNTS BY PUBLIC OFFICERS; MISAPPROPRIATION; UNAUTHORIZED LOAN, USE OR PRIVATE PROFIT, FAILURE TO PAY OVER OR TRANSFER PUBLIC MONEYS, was not uncovered until that date because the DEFENDANT YORAI BENZEEVI OWNED AND CONTROLLED HCCA, THE HOSPITALS MANAGEMENT COMPANY, AND ALAN GERMANY WAS THE CHIEF RESTRUCTURING OFFICER (CRO) OF SIHD. THE DEFENDANTS USED THEIR POSITIONS OF TRUST TO CARRY ON THE ILLEGAL ACTIVITY IN SECRECY AND WITHOUT PUBLIC SCRUTINY.

DEMURRER / ARRAIGNMENT
DEMURRER / PRELIMINARY HEARING SETTING
DEMURRER / PRELIMINARY HEARING SETTING

SPECIAL ALLEGATION-STATUTE OF LIMITATIONS-OUT OF STATE
YORAI BENNY BENZEEVI

It is further alleged, as to the above count, that the statute of limitations has been extended pursuant to Penal Code section 803(d) in that the DEFENDANT FLIGHT RECORDS INDICATE THAT Y.B. DEPARTED THE USA ON 03/01/19 AND HAS NOT RETURNED TO COUNTRY SINCE.

SPECIAL ALLEGATION-STATUTE OF LIMITATIONS-OUT OF STATE
ALAN WALTER GERMANY

It is further alleged, as to the above count, that the statute of limitations has been extended pursuant to Penal Code section 803(d) in that the DEFENDANT A.G. RESIDES IN ARIZONA. HE CEASED WORKING IN TULARE CA. ON 11/23/17. HIS SUBSEQUENT EMPLOYMENT HAS BEEN OUTSIDE OF THE STATE OF CALIFORNIA.

DEMURRER / ARRAIGNMENT
DEMURRER / PRELIMINARY HEARING SETTING
DEMURRER / PRELIMINARY HEARING SETTING

COUNT 20

On or about July 31, 2015, in the County of Tulare, the crime of CONFLICT OF INTEREST, in violation of GOVERNMENT CODE SECTION 1090, a Felony, was committed by YORAI BENNY BENZEEVI, who was a DISTRICT OFFICER OR EMPLOYEE, specifically CEO AND MANAGER OF THE TULARE LOCAL HEALTHCARE DISTRICT dba TULARE REGIONAL MEDICAL CENTER (TRMC), WILLFULLY AND UNLAWFULLY MADE A CONTRACT IN THEIR OFFICIAL CAPACITY IN WHICH THEY HAD A FINANCIAL INTEREST.

SPECIAL ALLEGATION-STATUTE OF LIMITATIONS-LATE DISCOVERY
YORAI BENNY BENZEEVI

It is further alleged, as to the above count, that the above violation in Penal Code section 803 (c), was not discovered until 09/27/17 WHEN DEFENDANT DR. YORAI BENZEEVI FILED A DEED OF TRUST ON PROPERTY OWNED BY THE TULARE LOCAL HEALTH CARE DISTRICT dba TULARE REGIONAL MEDICAL CENTER (TRMC) IN WHICH HE LISTED VARIOUS DEBTS HE CLAIMED WERE OWED TO HIM. IN THIS DOCUMENT, HE LISTED THE SAME DATES AND AMOUNTS LISTED IN THE PROMISSORY NOTES, the crime of GOVERNMENT CODE 1090, CONFLICTS OF INTEREST CONTRACT, SALES, AND PURCHASES, was not uncovered until that date because the DEFENDANT YORAI BENZEEVI CREATED THESE DOCUMENTS IN SECRET, AUTHORIZING LOANS FROM HIS COMPANY (HCCA) TO TULARE REGIONAL HEALTHCARE DISTRICT dba TULARE REGIONAL MEDICAL CENTER (TRMC) AS THE CEO OF TRMC. THESE PROMISSORY NOTES WERE NOT VOTED UPON BY THE BOARD NOR MADE PUBLICALLY AVAILABLE, AND WERE THUS CONCEALED FROM PUBLIC SCRUTINY.

SPECIAL ALLEGATION-STATUTE OF LIMITATIONS-OUT OF STATE
YORAI BENNY BENZEEVI

It is further alleged, as to the above count, that the statute of limitations has been extended pursuant to Penal Code section 803(d) in that the DEFENDANT FLIGHT RECORDS INDICATE THAT Y.B. DEPARTED THE USA ON 03/01/19 AND HAS NOT RETURNED TO COUNTRY SINCE.

COUNT 21

On or about July 31, 2016, in the County of Tulare, the crime of CONFLICT OF INTEREST, in violation of GOVERNMENT CODE SECTION 1090, a Felony, was committed by YORAI BENNY BENZEEVI, who was a DISTRICT OFFICER OR EMPLOYEE, specifically, CEO AND MANAGER OF THE TULARE LOCAL HEALTHCARE DISTRICT dba TULARE REGIONAL MEDICAL CENTER (TRMC), WILLFULLY AND UNLAWFULLY MADE A CONTRACT IN THEIR OFFICIAL CAPACITY IN WHICH THEY HAD A FINANCIAL INTEREST.

SPECIAL ALLEGATION-STATUTE OF LIMITATIONS-LATE DISCOVERY
YORAI BENNY BENZEEVI

It is further alleged, as to the above count, that the above violation in Penal Code section 803 (c), was not discovered until 09/27/17 WHEN DEFENDANT DR. YORAI BENZEEVI FILED A DEED OF TRUST ON PROPERTY OWNED BY THE TULARE LOCAL HEALTH CARE DISTRICT dba TULARE REGIONAL MEDICAL CENTER (TRMC) IN WHICH HE LISTED VARIOUS DEBTS HE CLAIMED WERE OWED TO HIM. IN THIS DOCUMENT, HE LISTED THE SAME DATES AND AMOUNTS LISTED IN THE PROMISSORY NOTES, the crime of GOVERNMENT CODE 1090, CONFLICTS OF INTEREST CONTRACT, SALES, AND PURCHASES, was not uncovered until that date because the DEFENDANT YORAI BENZEEVI CREATED THESE DOCUMENTS IN SECRET, AUTHORIZING LOANS FROM HIS COMPANY (HCCA) TO TULARE REGIONAL HEALTHCARE DISTRICT dba TULARE REGIONAL MEDICAL CENTER (TRMC) AS THE CEO OF TRMC. THESE PROMISSORY NOTES WERE NOT VOTED UPON BY THE BOARD NOR MADE PUBLICALLY AVAILABLE, AND WERE THUS CONCEALED FROM PUBLIC SCRUTINY.

SPECIAL ALLEGATION-STATUTE OF LIMITATIONS-OUT OF STATE
YORAI BENNY BENZEEVI

It is further alleged, as to the above count, that the statute of limitations has been extended pursuant to Penal Code section 803(d) in that the DEFENDANT FLIGHT RECORDS INDICATE THAT Y.B. DEPARTED THE USA ON 03/01/19 AND HAS NOT RETURNED TO COUNTRY SINCE.

COUNT 22

On or about December 21, 2016, in the County of Tulare, the crime of CONFLICT OF INTEREST, in violation of GOVERNMENT CODE SECTION 1090, a Felony, was committed by YORAI BENNY BENZEEVI, who was a CEO AND MANAGER OF THE TULARE LOCAL HEALTHCARE DISTRICT dba TULARE REGIONAL MEDICAL CENTER (TRMC), specifically, TULARE LOCAL HEALTHCARE DISTRICT, WILLFULLY AND UNLAWFULLY MADE A CONTRACT IN THEIR OFFICIAL CAPACITY IN WHICH THEY HAD A FINANCIAL INTEREST.

DEMURRER / ARRAIGNMENT
DEMURRER / PRELIMINARY HEARING SETTING
DEMURRER / PRELIMINARY HEARING SETTING

COUNT 23

On or about December 28, 2016, in the County of Tulare, the crime of CONFLICT OF INTEREST, in violation of GOVERNMENT CODE SECTION 1090, a Felony, was committed by **YORAI BENNY BENZEEVI**, who was a CEO AND MANAGER OF THE TULARE LOCAL HEALTHCARE DISTRICT dba TULARE REGIONAL MEDICAL CENTER (TRMC), specifically, TULARE LOCAL HEALTHCARE DISTRICT, WILLFULLY AND UNLAWFULLY MADE A CONTRACT IN THEIR OFFICIAL CAPACITY IN WHICH THEY HAD A FINANCIAL INTEREST.

COUNT 24

On or about December 29, 2016, in the County of Tulare, the crime of CONFLICT OF INTEREST, in violation of GOVERNMENT CODE SECTION 1090, a Felony, was committed by **YORAI BENNY BENZEEVI**, who was a DISTRICT OFFICER OR EMPLOYEE, specifically, CEO AND MANAGER OF THE TULARE LOCAL HEALTHCARE DISTRICT dba TULARE REGIONAL MEDICAL CENTER (TRMC), WILLFULLY AND UNLAWFULLY MADE A CONTRACT IN THEIR OFFICIAL CAPACITY IN WHICH THEY HAD A FINANCIAL INTEREST.

COUNT 25

On or about December 30, 2019, in the County of Tulare, the crime of CONFLICT OF INTEREST, in violation of GOVERNMENT CODE SECTION 1090, a Felony, was committed by **YORAI BENNY BENZEEVI**, who was a DISTRICT OFFICER OR EMPLOYEE, specifically, CEO AND MANAGER OF THE TULARE LOCAL HEALTHCARE DISTRICT dba TULARE REGIONAL MEDICAL CENTER (TRMC), WILLFULLY AND UNLAWFULLY MADE A CONTRACT IN THEIR OFFICIAL CAPACITY IN WHICH THEY HAD A FINANCIAL INTEREST.

COUNT 26

On or about December 30, 2019, in the County of Tulare, the crime of CONFLICT OF INTEREST, in violation of GOVERNMENT CODE SECTION 1090, a Felony, was committed by **YORAI BENNY BENZEEVI**, who was a DISTRICT OFFICER OR EMPLOYEE, specifically, CEO AND MANAGER OF THE TULARE LOCAL HEALTHCARE DISTRICT dba TULARE REGIONAL MEDICAL CENTER (TRMC), WILLFULLY AND UNLAWFULLY MADE A CONTRACT IN THEIR OFFICIAL CAPACITY IN WHICH THEY HAD A FINANCIAL INTEREST.

DEMURRER / ARRAIGNMENT
DEMURRER / PRELIMINARY HEARING SETTING
DEMURRER / PRELIMINARY HEARING SETTING

COUNT 27

On or about March 31, 2017, in the County of Tulare, the crime of CONFLICT OF INTEREST, in violation of GOVERNMENT CODE SECTION 1090, a Felony, was committed by **YORAI BENNY BENZEEVI**, who was a DISTRICT OFFICER OR EMPLOYEE, specifically, CEO AND MANAGER OF THE TULARE LOCAL HEALTHCARE DISTRICT dba TULARE REGIONAL MEDICAL CENTER (TRMC), WILLFULLY AND UNLAWFULLY MADE A CONTRACT IN THEIR OFFICIAL CAPACITY IN WHICH THEY HAD A FINANCIAL INTEREST.

COUNT 28

On or about July 21, 2017, in the County of Tulare, the crime of CONFLICT OF INTEREST, in violation of GOVERNMENT CODE SECTION 1090, a Felony, was committed by **YORAI BENNY BENZEEVI**, who was a DISTRICT OFFICER OR EMPLOYEE, specifically, CEO AND MANAGER OF THE TULARE LOCAL HEALTHCARE DISTRICT dba TULARE REGIONAL MEDICAL CENTER (TRMC), WILLFULLY AND UNLAWFULLY MADE A CONTRACT IN THEIR OFFICIAL CAPACITY IN WHICH THEY HAD A FINANCIAL INTEREST.

COUNT 29

On or about July 31, 2017, in the County of Tulare, the crime of CONFLICT OF INTEREST, in violation of GOVERNMENT CODE SECTION 1090, a Felony, was committed by **YORAI BENNY BENZEEVI**, who was a DISTRICT OFFICER OR EMPLOYEE, specifically CEO AND MANAGER OF THE TULARE LOCAL HEALTHCARE DISTRICT dba TULARE REGIONAL MEDICAL CENTER (TRMC), WILLFULLY AND UNLAWFULLY MADE A CONTRACT IN THEIR OFFICIAL CAPACITY IN WHICH THEY HAD A FINANCIAL INTEREST.

COUNT 30

On or about and between December 1, 2016 and November 23, 2017, in the County of Tulare, the crime of EMBEZZLEMENT AND FALSIFICATION OF ACCOUNTS BY PUBLIC OFFICER, in violation of PENAL CODE SECTION 424, a FELONY, was committed by **YORAI BENNY BENZEEVI**, who being a person described in section 424 charged with the receipt, safekeeping, transfer, and distribution of public moneys, did in a manner not incidental and minimal, WILLFULLY, WITHOUT AUTHORITY OF LAW, APPROPRIATE THE SAME, OR A PORTION THEREOF, TO PERSONAL USE OR TO THE USE OF ANOTHER, KNOWING THAT HE ACTED WITHOUT AUTHORITY OF LAW, OR BEING CRIMINALLY NEGLIGENT IN NOT KNOWING.

DEMURRER / ARRAIGNMENT
DEMURRER / PRELIMINARY HEARING SETTING
DEMURRER / PRELIMINARY HEARING SETTING

COUNT 31

On or about and between March 1, 2017 and July 31, 2017, in the County of Tulare, the crime of FAILURE TO TIMELY DISCLOSE INDEPENDENT EXPENDITURES, in violation of GOVERNMENT CODE SECTION 91000(a), a MISDEMEANOR, was committed by **YORAI BENNY BENZEEVI**, who willfully made independent expenditures in excess of \$1,000.00 and failed to report said contributions as required by GOVERNMENT CODE SECTIONS 84200, 84200.5, and 84204.

COUNT 32

On or about and between April 1st 2017 and July 31, 2017, in the County of Tulare, the crime of FAILURE TO TIMELY FILE A STATEMENT OF ECONOMIC INTEREST, in violation of GOVERNMENT CODE SECTION 91000(a), a MISDEMEANOR, was committed by **YORAI BENZEEVI, ALAN GERMANY, AND BRUCE RANDOLPH GREENE**, who did willfully and unlawfully fail to file a timely statement of economic interest for the year 2016 required by the Tulare Local Healthcare District's (TRMC) conflict of interest code in violation of GOVERNMENT CODE SECTION 87300.

COUNT 33

On or about June 20, 2017, in the County of Tulare, the crime of USING AN OFFICIAL POSITION FOR PERSONAL GAIN, in violation of GOVERNMENT CODE SECTION 91000(a), a Misdemeanor, was committed by **YORAI BENNY BENZEEVI, ALAN WALTER GERMANY and BRUCE RANDOLPH GREENE**, who was a state or local government official, specifically, **YORAI BENZEEVI CEO OF TULARE LOCAL HEALTHCARE DISTRICT dba TULARE REGIONAL MEDICAL CENTER (TRMC) & OWNER OF TRMC's MANAGER, HCCA, ALAN GERMANY, CFO OF TRMC and BRUCE GREENE ATTORNEY & BOARD COUNSEL OF TRMC** and made, participated in making, or attempted to use his official position to influence, a governmental decision in which he knew, or had reason to know, he had a financial interest in violation of GOVERNMENT CODE SECTION 87100.

COUNT 34

On or about and between July 26, 2017 and August 23, 2017, in the County of Tulare, the crime of USING AN OFFICIAL POSITION FOR PERSONAL GAIN, in violation of GOVERNMENT CODE SECTION 91000(a), a Misdemeanor, was committed by **YORAI BENNY BENZEEVI and BRUCE RANDOLPH GREENE**, who was a state or local government official, specifically, **YORAI BENZEEVI CEO OF TULARE LOCAL HEALTHCARE DISTRICT dba TULARE REGIONAL MEDICAL CENTER (TRMC) & OWNER OF TRMC's MANAGER, HCCA, and BRUCE GREENE, ATTORNEY & BOARD COUNSEL OF TRMC**, and made, participated in making, or attempted to use his official position to influence, a governmental decision in which he knew, or had reason to know, he had a financial interest in violation of GOVERNMENT CODE SECTION 87100.

COUNT 35

On or about August 23, 2017, in the County of Tulare, the crime of USING AN OFFICIAL POSITION FOR PERSONAL GAIN, in violation of GOVERNMENT CODE SECTION 91000(a), a Misdemeanor, was committed by **BRUCE RANDOLPH GREENE**, who was a state or local government official, specifically, **BRUCE GREENE ATTORNEY & BOARD COUNSEL FOR TULARE LOCAL HEALTHCARE DISTRICT dba TULARE REGIONAL MEDICAL CENTER (TRMC)** & and made, participated in making, or attempted to use his official position to influence, a governmental decision in which he knew, or had reason to know, he had a financial interest in violation of GOVERNMENT CODE SECTION 87100.

COUNT 36

On or about August 23, 2017, in the County of Tulare, the crime of CONSPIRACY TO COMMIT A CRIME, in violation of PENAL CODE SECTION 182(a)(1), a FELONY, was committed by **YORAI BENNY BENZEEVI** and **BRUCE RANDOLPH GREENE**, who did unlawfully conspire together and with another person and persons whose identity is unknown to commit the crime of DISTURBANCE OF PUBLIC ASSEMBLY OF MEETING, in violation of Section 403, of the PENAL Code, a Misdemeanor and that pursuant to and for the purpose of carrying out the objects and purposes of the aforesaid conspiracy, the said DEFENDANT committed the following overt act and acts at and in the County of TULARE:

- 1) On 8/23/2017 at 3:07p.m., Bruce Greene sent an email canceling the scheduled board meeting.
- 2) On 8/23/2017 at 4:00p.m., Bruce Greene sent an additional email canceling the board meeting
- 3) On 8/23/2017 Yorai Benzeevi instructed employees to report a disturbance at the meeting to Tulare Police Department.

COUNT 37

On or about August 31, 2017, in the County of Tulare, the crime of CONFLICT OF INTEREST, in violation of GOVERNMENT CODE SECTION 1090, a Felony, was committed by **YORAI BENNY BENZEEVI**, **ALAN WALTER GERMANY** and **BRUCE RANDOLPH GREENE**, who was a DISTRICT OFFICER OR EMPLOYEE, specifically, DEFENDANT BENZEEVI WAS CEO AND MANAGER, DEFENDANT GERMANY WAS CFO OF, AND DEFENDANT GREENE WAS ATTORNEY & BOARD COUNSEL FOR, THE TULARE LOCAL HEALTHCARE DISTRICT dba TULARE REGIONAL MEDICAL CENTER (TRMC) and WILLFULLY AND UNLAWFULLY MADE A CONTRACT IN THEIR OFFICIAL CAPACITY IN WHICH THEY HAD A FINANCIAL INTEREST.

COUNT 38

On or about August 31, 2017, in the County of Tulare, the crime of GRAND THEFT OF PERSONAL PROPERTY, in violation of PENAL CODE SECTION 487(a), a FELONY, was committed by **YORAI BENNY BENZEEVI** and **BRUCE RANDOLPH GREENE**, who knowingly and designedly, by a false and fraudulent representation and pretense, obtain money, labor and real and personal property by fraud from CELIC LEASING, specifically, \$3,000,000.00, which had a value exceeding nine hundred fifty dollars (\$950).

DEMURRER / ARRAIGNMENT
DEMURRER / PRELIMINARY HEARING SETTING
DEMURRER / PRELIMINARY HEARING SETTING

COUNT 39

On or about August 31, 2017, in the County of Tulare, the crime of CONSPIRACY TO DEFRAUD ANOTHER OF PROPERTY, in violation of PENAL CODE SECTION 182(A)(4), a FELONY, was committed by YORAI BENNY BENZEEVI and BRUCE RANDOLPH GREENE, who did unlawfully conspire together and with another person and persons whose identity is unknown to cheat and defraud TULARE LOCAL HEALTHCARE DISTRICT dba TULARE REGIONAL MEDICAL CENTER (TRMC) of property, by means which are criminal, and obtain money and property by false pretense and by false promises with fraudulent intent not to perform such promises; that pursuant to and for the purpose of carrying out the objects and purposes of the aforesaid conspiracy, the said DEFENDANTS committed the following overt act and acts at and in the County of TULARE:

- 1) Defendant Benzeevi proposed resolution 852, which allowed him to obtain financing for the hospital, to the TRMC Board on 6/20/2017.
- 2) At this meeting, Defendant Benzeevi did not declare his conflicts of interest and recuse himself, as required by law.
- 3) At the 6/20/2017 board meeting, Defendant Benzeevi did not declare the full amount of money he claimed was owed to him or his intention to use the money raised to pay himself the debts he claimed.
- 4) At the 6/20/2017 meeting, Defendant Benzeevi promised he would use any money raised through Resolution 852 in the best interest of the hospital.
- 5) Defendant Greene caused the declaration of Senovia Gutierrez's election to be placed in the "Chair Announcement" section of the July 26th Board Meeting Agenda.
- 6) Shortly before the meeting, Defendant Greene told Board Members that Senovia Gutierrez could not be declared a Board Member because her election was in the wrong part of the agenda, and therefore she did not have the status of a Board Member despite her lawful election to that position.
- 7) Defendant Greene and Defendant Benzeevi refused to recognize elected Board Member Senovia Gutierrez's vote to rescind Resolution 852.
- 8) Defendant Greene and Defendant Benzeevi refused to recognize elected Board Member Senovia Gutierrez's vote to terminate Defendant Greene and his law firm.
- 9) Defendant Greene purported to cancel the next regularly scheduled Board Meeting on 8/23/2017 in order to prevent the Board from voting again to revoke Resolution 852.
- 10) Defendant Greene wrote a legal opinion letter to Celtic Leasing stating the transaction was legal under California Law.
- 11) Defendant Benzeevi signed the "Purchase/Leaseback Agreement and Bill of Sale" with Celtic Leasing Corp. on 8/30/2017.
- 12) On 09/05/17 Bruce Greene sent an email demanding payment from the proceeds of the Celtic transaction.
- 13) On 9/11/2017 Defendant Benzeevi transferred \$499,727.93 of the proceeds from the Celtic transaction to BakerHostetler, Defendant Greene's law firm.
- 14) On 9/13/2017 Defendant Benzeevi transferred \$2.4 million of the proceeds of the Celtic transaction to his personal bank account.

DEMURRER / ARRAIGNMENT
DEMURRER / PRELIMINARY HEARING SETTING
DEMURRER / PRELIMINARY HEARING SETTING

COUNT 40

On or about and between September 11, 2017 and September 13, 2017, in the County of Tulare, the crime of GRAND THEFT BY EMBEZZLEMENT OF PUBLIC FUNDS, in violation of PENAL CODE SECTION 514, a Felony, was committed by **YORAI BENNY BENZEEVI** and **BRUCE RANDOLPH GREENE**, who fraudulently appropriated public funds exceeding nine hundred fifty dollars (\$950) in value, and/or secreted those funds with a fraudulent intent to appropriate them, while serving as an OFFICER OF TULARE LOCAL HEALTHCARE DISTRICT DBA TULARE REGIONAL MEDICAL CENTER OR DEUPTY CLERK OR A SERVANT OF AN OFFICER, specifically, DEFENDANT BENZEEVI AS CEO and MANAGER OF TULARE LOCAL HEALTHCARE DISTRICT dba TULARE REGIONAL MEDICAL CENTER (TRMC) and DEFENDANT GREENE, ATTORNEY AND BOARD COUNSEL FOR TRMC, to a use or purpose not in the due and lawful execution of his trust, in his possession and/or under his control by virtue of that trust was an OFFICER OF TULARE LOCAL HEALTHCARE DISTRICT DBA TULARE REGIONAL MEDICAL CENTER (TRMC) OR DEUPTY CLERK OR A SERVANT OF AN OFFICER, specifically, DEFENDANT BENZEEVI AS CEO and MANAGER OF TRMC and ATTORNEY GREENE, AS ATTORNEY AND BOARD COUNSEL FOR TRMC, and, who fraudulently appropriated to a use or purpose not in the due and lawful execution of that trust, public funds in his possession and/or under his control by virtue of that trust, and/or secreted those funds with a fraudulent intent to appropriate them. The funds amounted to \$3,000,000.00, thus exceeding nine hundred fifty dollars (\$950).

COUNT 41

On or about and between September 11, 2017 and September 13, 2017, in the County of Tulare, the crime of EMBEZZLEMENT AND FALSIFICATION OF ACCOUNTS BY PUBLIC OFFICER, in violation of PENAL CODE SECTION 424, a FELONY, was committed by **YORAI BENNY BENZEEVI** and **BRUCE RANDOLPH GREENE**, who being a person described in section 424 charged with the receipt, safekeeping, transfer, and distribution of public moneys, did in a manner not incidental and minimal, WILLFULLY, WITHOUT AUTHORITY OF LAW, APPROPRIATE THE SAME, OR A PORTION THEREOF, TO PERSONAL USE OR TO THE USE OF ANOTHER, KNOWING THAT HE ACTED WITHOUT AUTHORITY OF LAW, OR BEING CRIMINALLY NEGLIGENT IN NOT KNOWING.

COUNT 42

On or about September 24, 2017, in the County of Tulare, the crime of CONFLICT OF INTEREST, in violation of GOVERNMENT CODE SECTION 1090, a Felony, was committed by **YORAI BENNY BENZEEVI**, who was a DISTRICT OFFICER OR EMPLOYEE, specifically, CEO AND MANAGER OF TULARE LOCAL HEALTHCARE DISTRICT dba TULARE REGIONAL MEDICAL CENTER, (TRMC), WILLFULLY AND UNLAWFULLY MADE A CONTRACT IN THEIR OFFICIAL CAPACITY IN WHICH THEY HAD A FINANCIAL INTEREST.

DEMURRER / ARRAIGNMENT
DEMURRER / PRELIMINARY HEARING SETTING
DEMURRER / PRELIMINARY HEARING SETTING

COUNT 43

On or about September 24, 2017, in the County of Tulare, the crime of FILING FALSE OR FORGED INSTRUMENT, in violation of PENAL CODE SECTION 115(a), a FELONY, was committed by YORAI BENNY BENZEEVI, who did willfully, unlawfully and knowingly procure and offer a false and forged instrument to be filed, registered, and recorded in a public office within this state, which instrument, if genuine, might be filed, registered, and recorded under a law of this state or the United States.

COUNT 44

On or about December 30, 2016, in the County of Tulare, the crime of MONEY LAUNDERING , in violation of PENAL CODE SECTION 186.10(A), a FELONY, was committed by YORAI BENNY BENZEEVI, who did unlawfully conduct and attempt to conduct a transaction involving a monetary instrument or instruments of a value exceeding \$700,000 through a financial institution with the intent to promote, manage, establish, carry on, and facilitate the promotion, management, establishment, and carrying on of any criminal activity, to wit: VIOLATIONS OF 424(a), or knowing that the monetary instrument represented the proceeds of, and was derived directly or indirectly from the proceeds of, criminal activity.

COUNT 45

On or about September 11, 2017, in the County of Tulare, the crime of MONEY LAUNDERING , in violation of PENAL CODE SECTION 186.10(A), a FELONY, was committed by YORAI BENNY BENZEEVI & BRUCE RANDOLF GREENE, who did unlawfully conduct and attempt to conduct a transaction involving a monetary instrument or instruments of a value exceeding \$499,727.93 through a financial institution with the intent to promote, manage, establish, carry on, and facilitate the promotion, management, establishment, and carrying on of any criminal activity, to wit: VIOLATIONS OF GOVERNMENT CODE 1090, PENAL CODE 424(a), PENAL CODE 487(a), AND PENAL CODE 514, or knowing that the monetary instrument represented the proceeds of, and was derived directly or indirectly from the proceeds of, criminal activity.

COUNT 46

On or about September 13, 2017, in the County of Tulare, the crime of MONEY LAUNDERING, in violation of PENAL CODE SECTION 186.10(A), a FELONY, was committed by YORAI BENNY BENZEEVI, ALAN WALTER GERMANY, and BRUCE RANDOLF GREENE, who did unlawfully conduct and attempt to conduct a transaction involving a monetary instrument or instruments of a value exceeding \$2.4 MILLION through a financial institution with the intent to promote, manage, establish, carry on, and facilitate the promotion, management, establishment, and carrying on of any criminal activity, to wit: VIOLATIONS OF GOVERNMENT CODE 1090, PENAL CODE 424(a), PENAL CODE 487(a), AND PENAL CODE 514, or knowing that the monetary instrument represented the proceeds of, and was derived directly or indirectly from the proceeds of, criminal activity.

SPECIAL ALLEGATION- MONEY LAUDNERING OVER \$2.5 MILLION

It is further alleged, in regards to defendant YORAI BENNY BENZEEVI, as to counts 44, 45, and 46, that value of the total transactions exceed two million five hundred thousand dollars (\$2,500,000.00), within the meaning of PC 186.10(c)(1)(D).

SPECIAL ALLEGATION-AGGRAVATED WHITE COLLAR CRIME

It is further alleged, in regards to defendant YORAI BENNY BENZEEVI,, pursuant to Penal Code 186.11(a)(2), that the offenses set forth in counts 1, 2, 3, 4, 5, 8, 12, 13, 14, 15, 16, 17, 19, 30, 38, 39, 40, 41, 43, 44, 45, & 46 are related felonies, a material element of which is fraud and embezzlement, which involve a pattern of related felony conduct, and the pattern of related felony conduct involves the taking of more than Five Hundred Thousand Dollars (\$500,000).

SPECIAL ALLEGATION-AGGRAVATED WHITE COLLAR CRIME

It is further alleged, in regards to defendant ALAN WALTER GERMANY, pursuant to Penal Code 186.11(a)(2), that the offenses set forth in counts 1, 2, 3, 4, 5, 8 12, 13, 14, 15, 16, 17, & 19, are related felonies, a material element of which is fraud and embezzlement, which involve a pattern of related felony conduct, and the pattern of related felony conduct involves the taking of more than Five Hundred Thousand Dollars (\$500,000).

SPECIAL ALLEGATION-AGGRAVATED WHITE COLLAR CRIME

It is further alleged, in regards to defendant BRUCE RANDOLF GREENE,, pursuant to Penal Code 186.11(a)(2), that the offenses set forth in counts 8, 38, 39, 40, 41, & 45, are related felonies, a material element of which is fraud and embezzlement, which involve a pattern of related felony conduct, and the pattern of related felony conduct involves the taking of more than Five Hundred Thousand Dollars (\$500,000).

DEMURRER / ARRAIGNMENT
DEMURRER / PRELIMINARY HEARING SETTING
DEMURRER / PRELIMINARY HEARING SETTING

Pursuant to Penal Code Section 1054.5(b), the People are hereby informally requesting that defense counsel provide discovery to the People as required by Penal Code Section 1054.3.

Pursuant to People v. Cunningham, the People hereby put the defendant on notice that the aggravated sentence may be sought in this case.

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT AND THAT THIS COMPLAINT CONSISTS OF 46 COUNT(S).

Executed at VISALIA DIVISION, California, on January 25, 2021.

TREVOR HOLLY
DEPUTY DISTRICT ATTORNEY

Agency: TCDA

<u>DEFENDANT NAME</u>	<u>SEX</u>	<u>RACE</u>	<u>HGT</u>	<u>WGT</u>	<u>EYES</u>	<u>HAIR</u>	<u>COURT DATE</u>	<u>INTAKES TATUS</u>
YORAI BENNY BENZEEVI	M	W	600	180	HAZ	BRO	02/17/2021	DEM/AR
ALAN WALTER GERMANY	M	W	510	175	BRO	BRO	02/17/2021	DEM/PHS
BRUCE RANDOLPH GREENE	M	W	601	200	BRO	GRY	02/17/2021	DEM/PHS

COMPLAINT PROCESSED BY: BC

The document to which this certificate is affixed is a full true and correct copy of the original on file and of record in my office.

Attest: January 3 2022

Stephanie Cameron, Clerk of the Superior Court of the State of California in and for the County of Tulare.

By [Signature] Deputy

