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ASSOCIATION OF PRESBYTERIAN
8 MEMBERS OF HOAG and GEORGE HOAG
FAMILY FOUNDATION
9

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **COUNTY OF ORANGE, CENTRAL JUSTICE CENTER**

12 ASSOCIATION OF PRESBYTERIAN
MEMBERS OF HOAG, an unincorporated
13 association, and GEORGE HOAG FAMILY
FOUNDATION, a California nonprofit public
14 benefit corporation;

15 Plaintiffs,

16 v.

17 PROVIDENCE ST. JOSEPH HEALTH, a
Washington nonprofit corporation; ST.
18 JOSEPH HEALTH SYSTEM, a California
nonprofit public benefit corporation; and
19 DOES 1-10, inclusive,

20 Defendants.

21 COVENANT HEALTH NETWORK, INC. a
22 California nonprofit public benefit
corporation, as a Nominal Defendant.

23 and

24 THE ATTORNEY GENERAL FOR THE
25 STATE OF CALIFORNIA, as an
indispensable party.
26

Case No. _____

**COMPLAINT FOR THE INVOLUNTARY
DISSOLUTION OF COVENANT
HEALTH NETWORK (“CHN”)
PURSUANT TO CALIFORNIA
CORPORATIONS CODE §6510**

1 Plaintiffs, the ASSOCIATION OF PRESBYTERIAN MEMBERS OF HOAG and the
2 GEORGE HOAG FAMILY FOUNDATION hereby allege as follows:

3
4 **PARTIES AND BACKGROUND**

5 1. Plaintiff ASSOCIATION OF PRESBYTERIAN MEMBERS OF HOAG (“APM”)
6 is an unincorporated association that includes representatives from the constituent churches of the
7 Presbytery of Los Ranchos of the Presbyterian Church (USA), as well as the Covenant Order of
8 Evangelical Presbyterians. APM is one of two founding corporate members of Hoag Memorial
9 Hospital Presbyterian (“Hoag”) and conducts its business in Newport Beach, California.

10 2. Plaintiff the GEORGE HOAG FAMILY FOUNDATION (the “Hoag Family
11 Foundation”) is a California nonprofit public benefit corporation, first established in 1940, by
12 George Hoag, Sr., his wife Grace and their son George Hoag II. It currently operates in Santa
13 Monica, California. The Hoag Family Foundation is the second founding corporate member of
14 Hoag.

15 3. APM and the Hoag Family Foundation shall be collectively referred to hereinafter
16 as the “Founders.”

17 4. Hoag is organized as a California nonprofit public benefit corporation and is
18 qualified as a tax-exempt charitable organization under Section 501(c)(3) of the Internal Revenue
19 Code, requiring the dedication of its assets to its underlying local charitable purposes.

20 5. Defendant ST. JOSEPH HEALTH SYSTEM (“SJHS”) is a California nonprofit
21 public benefit corporation established in 1981, and founded by the Sisters of St. Joseph of Orange,
22 with its principal place of business in Irvine, California. SJHS operates four hospitals in Orange
23 County and the High Desert: St. Joseph’s Hospital Orange, St. Jude Medical Center, Mission
24 Hospital Regional Medical Center and St. Mary Medical Center (collectively, the “Local SJHS
25 Hospitals.”)

26 6. Defendant PROVIDENCE ST. JOSEPH HEALTH (“PSJH”) is a Washington
27 nonprofit health corporation, established in 2016, which serves as the parent corporation of both
28 Providence Health & Services, a Washington nonprofit corporation, and SJHS, pursuant to an

1 affiliation agreement between the parties. PSJH operates 51 hospitals across Alaska, Montana,
2 Oregon, Washington, Texas and California. (SJHS and PSJH shall hereinafter be collectively
3 referred to as “PSJH” or “Providence”). PSJH has offices in Irvine, California, in addition to
4 Renton, Washington.

5 7. Nominal defendant COVENANT HEALTH NETWORK, INC. (“CHN”) is a
6 California nonprofit public benefit corporation, with its principal place of business in Irvine,
7 California. CHN was created in 2012 to serve as an integrated healthcare delivery system for the
8 greater Orange County community pursuant to an affiliation between Hoag and SJHS. At all
9 times herein mentioned, and presently, the Founders have held not less than thirty-three and one-
10 third percent (33 1/3%) of the voting power in CHN. CHN is a corporate member of Hoag and, on
11 information and belief, is a co-member with SJHS in the Local SJHS Hospitals.

12 8. The Attorney General for the State of California is an indispensable party to this
13 proceeding pursuant to California Corporations Code § 6510(d).

14 9. The true names or capacities, whether individual, corporate, associate or otherwise
15 of the Defendants named herein as DOES 1 through 10, inclusive, are unknown to Plaintiffs who
16 therefore sue said Defendants by such fictitious names, and Plaintiffs will amend this Complaint to
17 show their true names and capacities when same have been ascertained.

18 10. Plaintiffs are informed and believe, and thereon allege, that each of the Defendants
19 designated herein as a DOE is responsible in some manner for the events and happenings herein
20 alleged.

21 11. At all times herein mentioned, each of the Defendants herein was the agent,
22 employee and alter ego of each of the remaining Defendants, and was at all times acting within the
23 course and scope of said agency and employment.

24 12. The obligations herein sued upon were incurred and were to be performed, and the
25 entity to be dissolved, as well as the principal place of business of one or more defendants, are
26 located within this judicial district of the Superior Court of the State of California.

27
28

Background

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2 13. Hoag is a community nonprofit hospital that has served the community of Orange
3 County since 1952. It has developed deep ties to the community and a reputation of excellence
4 that has earned it the designation of “highest ranked hospital in Orange County” in each of the last
5 three years. Hoag has always been local in its focus.¹ The Founders formed Hoag under the
6 principles of the Presbyterian faith, which include openness, inclusion and acceptance of all faiths
7 as well as those without it, and established Hoag’s mission to provide “the highest quality
8 healthcare services for the communities [Hoag] serves” (“the Mission”). The fundamental
9 Mission has not changed since Hoag’s founding.

10 14. The idea for the Hospital originated back in 1944 when a Presbyterian minister, the
11 Rev. Raymond Brahams, and several church members, together with one physician, formed a
12 corporation called the Community Presbyterian Hospital of Laguna Beach. They changed the
13 name of the hospital to the Presbyterian Hospital of Orange County after securing a site on the
14 bluffs in Newport Beach. In 1950, the Hoag Family Foundation donated additional funds needed
15 to begin construction, and the hospital opened in just two years, and became what is known today
16 as Hoag.

17 15. The Founders have continued to provide spiritual and financial support to Hoag,
18 and have been joined in those efforts by literally hundreds of thousands of community members
19 over these many years. Through careful planning and stewardship, the Hoag leadership team has
20 created a substantial asset base that allows Hoag the flexibility to be innovative, to pursue the
21 quality of care and excellence mandated by its Mission and to provide those benefits to the
22 community at large, including services dedicated to those most in need. Those assets belong to
23 the community and were intended exclusively for the benefit of Orange County.

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25
26
27 ¹ Hoag includes two acute-care hospitals, 13 urgent care centers, and nine health centers, all
28 within Orange County.

The Affiliation

1
2 16. With the rapid evolution in models for making healthcare more accessible, efficient
3 and accountable, including passage of the Affordable Care Act, Hoag began to consider a model
4 for the future consistent with its Mission, and to that end began to explore an affiliation with other
5 local providers. It focused on an advanced and transformative model, “population health
6 management,” that would employ a closely coordinated Orange County network of hospitals and
7 physicians. This was a Mission-driven decision to expand and transform local healthcare, not a
8 financial decision. Finances were never a factor. Rather, Hoag believed that population health
9 could be best achieved with regional scale.

10 17. Hoag ultimately settled on an affiliation with SJHS (the “Affiliation”). SJHS had
11 strong roots, like Hoag, in the Orange County community, and Hoag believed, at the time, that
12 SJHS had the capabilities to make population health achievable. Both institutions were also faith
13 based which, in Hoag’s mind, created the opportunity for much common purpose.

14 18. On October 2012, Hoag signed an Affiliation Agreement with SJHS. The
15 affiliation focused on Orange County and made clear the intention to create a “regional delivery
16 system” with the primary purpose of the affiliation being to achieve “population health
17 management.” While Hoag’s affiliation with a Catholic system caused Hoag to lose some level of
18 independence and imposed certain restrictions, in particular around women’s services, Hoag
19 thought it made sense to accept certain tradeoffs if it would be able to transform the delivery of
20 care with a population health model and more broadly serve the Orange County community.²

21 19. The parties created CHN as the vehicle for the Affiliation and the mechanism for
22 pursuing population health.³ CHN was to provide “strategic planning leadership and oversight for
23 the Region,” which specifically included, among other things, developing a population health
24 strategy for the Region, and overseeing regional performance metrics. In furtherance of this plan,

25 _____
26 ² As it turned out, that did not happen. There were also important unforeseen consequences
to the referenced restrictions.

27 ³ CHN’s by-laws specifically identified development of “new, transformative and innovative
28 systems of care” which included “population health and fee-for-value systems.”

1 CHN became the controlling member of Hoag, as well as, on information and belief, each of the
2 Local SJHS Hospitals.

3 20. The parties set up CHN with a board of seven. The Founders appointed three of the
4 CHN Board members and SJHS appointed the remaining four. Any major decisions affecting
5 CHN required a super-majority approval. Notably, however, there was no sale or other transfer or
6 exchange of cash or assets whereby Hoag surrendered its identity or existence. Apart from the
7 joint governance, Hoag has continued to operate as a separate nonprofit corporation, with its
8 separate Presbyterian identity, separate operating, capital and investment funds, and a separate
9 Board of Directors, which continues to have fiduciary responsibility to Hoag and the larger
10 communities it serves.

11 21. In December 2012, the Founders approved the terms of the Affiliation. The Hoag
12 Family Foundation made its approval expressly contingent upon honoring the Founders’
13 commitment to the community and ensuring that the Affiliation would allow Hoag to continue to
14 be recognized for the excellence of its care.

15 **The Failure of the Affiliation**

16 22. The parties committed to make the relationship work, and Hoag invested time,
17 energy and resources to accomplish that goal. It is beyond dispute, however, that the purposes for
18 which CHN was established, and the benefits for which Hoag agreed to give up some level of
19 autonomy, were never achieved. CHN’s brand “St. Joseph Hoag Health” was abandoned. The
20 agreed-upon objective of 1 million covered lives in 5 years was abandoned as well. The record,
21 moreover, details significant frustration with the lack of progress around population health
22 management, and includes repeated inquiries from Hoag Board members related to the failure to
23 achieve any meaningful objectives.

24 23. More than three years after the Affiliation began, the CHN Board of Directors,
25 itself, concluded unanimously that the structure was not conducive to population health and the
26 purposes of the Affiliation had not been achieved. Notably, the CHN Board concluded that “it is
27 the consensus of this Board that both the current management organization and the proposed
28 governance organization are inconsistent with effective population health management.”

1 27. Hoag’s efforts to realign the relationship began within days of the decision by the
2 Board. On June 21, 2019, representatives of the Hoag Board first disclosed the decision to
3 Providence; Hoag thereafter provided Providence leadership with a complete copy of the June
4 2019 Resolution. Providence nevertheless ignored Hoag’s efforts to negotiate a realignment.

5 28. While Providence put off any discussions with Hoag on the proposed realignment,
6 and notwithstanding Hoag’s clearly communicated intent to end the formal affiliation, Providence
7 went to the bond market with a major financing in October 2019. In doing so, it failed to disclose
8 Hoag’s intent to disaffiliate, even though Hoag advised Providence in writing that it should be
9 transparent to the market. Once Providence secured the financing, Providence thereafter resisted
10 further efforts by Hoag to negotiate an amicable separation. Providence now disingenuously
11 asserts that Hoag must remain in the Affiliation because the bond markets are relying on Hoag’s
12 assets (which are exclusively owned by Hoag and the communities it serves) as belonging to
13 Providence.⁴

14 29. The Hoag Board and the Founders have concluded that Hoag’s Mission is at risk in
15 material ways by remaining in the Affiliation:

- 16 • The Affiliation has the effect of constraining Hoag’s ability to meet the needs
17 of the community and the type of care it can give;
- 18 • It constrains Hoag’s ability to use, and ultimately puts at risk, the substantial
19 assets that Hoag has grown through the generous support of the community;
- 20 • It threatens to, and perhaps even promises to, erode Hoag’s unique identity,
21 culture and local community and patient centric Mission; and
- 22 • It potentially threatens Hoag’s freedom to pursue opportunities that make sense
23 for Hoag and are critical to its future.

24 30. The physician leadership at Hoag have themselves unanimously concluded that
25 remaining within the Affiliation does not serve the interests of the community. On March 5, 2020,
26

27 ⁴ Simultaneously, in its financing, Providence unilaterally extended the permitted time for
28 early payment of the Hoag-related debt, making it more difficult and expensive for Hoag to exit.

1 the Medical Executive Committee resolved that independence is in the “best interests of Hoag and
2 its patients, and is becoming increasingly necessary . . . to genuinely fulfill our Mission in the
3 community.”

4 31. Moreover, it has become increasingly clear that Presbyterian beliefs, values and
5 policies have been compromised due to restrictions within the larger Catholic system, and those
6 constraints impinge upon the valid exercise of those Presbyterian beliefs, values and policies.
7 While PSJH and SJHS are rooted in the traditions and beliefs of the Roman Catholic Church, the
8 Presbyterian faith forms the foundation of Hoag’s Mission and culture. That Presbyterian faith
9 (and history) remain an important part of Hoag’s culture. While the Affiliation represented an
10 opportunity for the two faiths to focus on shared values, unfortunately, it has underscored some
11 fundamental and growing differences in values. Those differences directly impact the care of
12 patients within the two systems.⁵

13 32. The Founders bring this petition for involuntary dissolution as a last resort. They
14 waited until Hoag had exhausted all of its options before proceeding with this filing.

15
16 **CLAIM FOR INVOLUNTARY DISSOLUTION OF CORPORATION**

17 33. Plaintiffs incorporate by reference Paragraph 1-32 above as though fully set forth
18 herein.

19 34. Liquidation and dissolution is reasonably necessary as CHN is failing and has
20 continuously failed to carry out its purpose.

21 35. Moreover, the parties to the Affiliation are essentially deadlocked over the direction
22 of the Affiliation. The Hoag Board has concluded that it is no longer tenable to maintain the
23 current relationship, yet PSJH has insisted that Hoag remain a controlled captive affiliate without
24 regard to the determinations of Hoag’s fiduciaries and the interests of the communities Hoag
25 serves. At a December 10, 2019 meeting of the CHN Board, Hoag formally sought to effect a

26 _____
27 ⁵ The recent promulgation of even more restrictive Ethical and Religious Directives
28 (“ERDs”) by the United States Conference of Catholic Bishops in 2018 signals the possibility, if
not likelihood, of a growing divide on key issues that also affect the delivery of care to patients.

1 realignment of the parties, whereby CHN would either resign as a corporate member of Hoag or
2 be dissolved, but PSJH designees on the CHN Board vetoed that resolution by a vote of 4-3.

3 36. More generally, all major business decisions of CHN require a supermajority vote.
4 Though the operative agreements contemplated a sunset provision of those supermajority
5 requirements, the sunset of those provisions require the agreement of both Hoag and PSJH. Hoag
6 under the circumstances is unwilling to do that. As a result, the parties face the prospect of
7 continuing deadlock around core business decisions which will further impair Hoag's Mission,
8 and the needs of the community more generally.

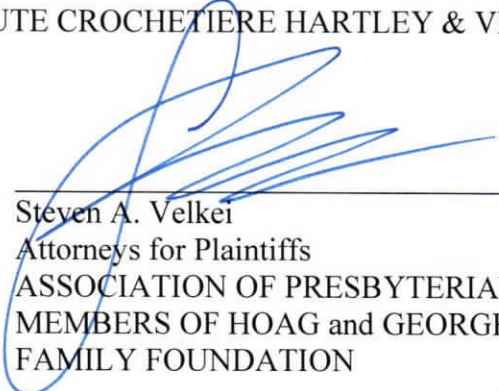
9 **PRAYER FOR RELIEF**

10 WHEREAS, Plaintiffs pray for judgment as follows:

- 11 1. For a decree that defendant corporation CHN be wound up and dissolved in the
12 manner provided by law;
- 13 2. For such ancillary orders and decrees vis-à-vis defendants as may be necessary to
14 effectuate said winding up and dissolution in a fair and equitable manner;
- 15 3. For such other and further relief as the Court deems just and proper; and
- 16 4. For reasonable attorneys' fees and costs according to statute or as otherwise
17 authorized.

18
19 DATED: May 1, 2020

BAUTE CROCHETIERE HARTLEY & VELKEI LLP

20
21 By: 
22 Steven A. Velkei
23 Attorneys for Plaintiffs
24 ASSOCIATION OF PRESBYTERIAN
25 MEMBERS OF HOAG and GEORGE HOAG
26 FAMILY FOUNDATION
27
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