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ATTORNEYS FOR THE DEBTOR

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION**

In re: )  
)  
) Chapter 9 Case  
JACK COUNTY HOSPITAL DISTRICT d/b/a )  
FAITH COMMUNITY HEALTH SYSTEM ) Case No. 20-40858-mxm9  
)  
)  
Debtor. ) **Emergency Hearing Requested**

**DEBTOR’S EMERGENCY MOTION FOR ENTRY OF AN ORDER  
PURSUANT TO 11 U.S.C. § 930 DISMISSING CHAPTER 9 CASE, WITHOUT PREJUDICE**

TO THE HONORABLE MARK X. MULLIN, UNITED STATES BANKRUPTCY JUDGE:

Jack County Hospital District d/b/a Faith Community Health System (the “Hospital”) files this *Debtor’s Emergency Motion for Entry of Order Pursuant to 11 U.S.C. § 930 Dismissing Chapter 9 Case, Without Prejudice* (the “Motion”) and, in support of the Motion, respectfully represents as follows:

**I. JURISDICTION AND VENUE**

1. This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. sections 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. section 157(b). Venue is proper before this Court pursuant to 28 U.S.C. sections 1408 and 1409.

**II. BACKGROUND**

2. On February 29, 2020 (the “Petition Date”), the Hospital filed a voluntary petition

for relief under chapter 9 of Title 11 of the United States Code commencing the above-captioned municipal debt adjustment case (the "Case"). An official committee of unsecured creditors has not been appointed in the Case.

**A. The Hospital and its Mission**

3. The Hospital is a hospital district organized, existing, operating and financed as provided in Article IX, Section 9 of the Texas Constitution and Chapter 1079 of the Texas Special District Code, as amended. The hospital district does business as both Faith Community Health System and Faith Community Hospital.

4. The Hospital's main facility is located in Jacksboro, Texas, which is the county seat and largest town in Jack County. The Hospital currently employs approximately 250 persons and is one of the larger employers in the county. The population of Jack County is approximately 9,000; the population of Jacksboro is approximately 4,500. According to the U.S. Census Bureau, median household income in Jack County for 2018 was \$51,700. Persons living in poverty is fixed at 17.7% of the population. The percentage of the population over age 65 is 17.1%. As a consequence, much of Jack County's population is not affluent and many depend upon Medicare and Medicaid to fund their health care. As a hospital district, the Hospital provides both indigent and charitable care to those unable to pay for medical care.

5. The Hospital is a general acute care hospital. Its chief facility is in Jacksboro where it operates out of a modern 17 bed facility which opened in 2015. The Hospital provides a wide range of medical services, including inpatient services, minor surgery, laboratory work, obstetrics, radiology and emergency care. The Hospital also operates, as a part of its main facility, the Swan Family Wellness Center providing a fitness center, a heated pool and wellness education classes. The Hospital also operates three (3) rural health clinics in Jacksboro, Bowie and Alvord, Texas.

6. The Hospital fills a very critical healthcare niche for the area northwest of Fort Worth. The hospital located in nearby Montague County, and which served Bowie, Texas,

recently suspended its operations. Likewise, another hospital serving a nearby community in Wise County located in Bridgeport, Texas, has also shut down. With the suspension of operations at the Bowie and Bridgeport hospitals, the main sources for hospital care for Jack County residents, other than the Hospital, are located in Wichita Falls and Weatherford, communities respectively located 50 and 45 miles (or an hour drive) from Jacksboro.

7. It would be a hardship for the older, less affluent residents of Jack County to be required to travel an hour to Wichita Falls or the Metroplex for medical treatment. The Hospital provides a full range of essential options of treatment for elderly, indigent and charity patients. As such, the Hospital is an essential and irreplaceable part of the rural health care net for the region.

8. For example, but for the Hospital, there would be no obstetrics care in the region. The nearby hospitals in Bowie and Bridgeport, as detailed above, have ceased to operate. The hospital in Graham, Texas, approximately 30 miles to the west of Jacksboro, has recently discontinued obstetrics. Consequently, the Hospital is the only remaining obstetrical care facility serving the region.

**B. Debtor's Immediate Cash Crisis and Need to Apply for a Loan through the Small Business Paycheck Protection Program**

9. On March 11, 2020, the World Health Organization officially declared that COVID-19, the disease caused by SARS-CoV-2, had become a global pandemic. The Court is well aware of the chaos and hardships created worldwide by the COVID-19 pandemic.

10. The Hospital originally filed this case as a result of an arbitration award rendered in favor of Blue Cross Blue Shield. Amidst the COVID-19 pandemic, the Hospital now faces a much more immediate threat to its existence – one that could jeopardize the lives of citizens who may find themselves suffering with COVID-19 and in dire need of medical treatment at the Hospital.

11. The Hospital's financial situation was already precarious on the Petition Date. It

is now under increased operational strain as a result of COVID-19 fallout. In March, the State of Texas ordered all health care providers, including the Hospital to cancel all non-essential medical procedures, which significantly curtailed the Hospital's income. Other non-essential activities were affected by shelter in place orders. This resulted in the closure of the Hospital's wellness center and café and the loss of the revenues associated with these. Likewise, the opening of a new Allergy Clinic, along with its \$30,000 projected monthly income, has now been postponed.

12. At the same time, the Hospital is facing increased operating costs due to the pandemic. For instance, under the paid leave requirements of the Families First Coronavirus Response Act, the Hospital's payroll expenses increased by over \$20,000 in April. In addition, the Hospital has had to pay additional costs associated with its supply chain to maintain critical inventory and supplies, and Lab costs have increased on a per-test basis due to lower overall utilization. In sum, the current situation with the COVID-19 issues has negatively impacted the Hospital's cash and financial position to the point of placing the Hospital's survival in jeopardy.

13. The Federal government recently enacted the Coronavirus Aid, Relief and Economic Security Act ("CARES Act"). This legislation includes the Paycheck Protection Program (the "PPP"). Under the PPP, small businesses with less than 500 employees (such as the Hospital) may apply for a one-time loan through an SBA lender (a "PPP Loan"). Funds loaned through the PPP are forgivable if used for specified purposes such as payroll costs, and most mortgage interest, rent, and utility costs over the 8-week period after a loan is made. However, because the total funding amount under the PPP is currently capped, PPP Loans may be issued on a first come, first served basis. Small businesses have therefore been encouraged to apply as quickly as possible. Delay in submitting an application could result in exhaustion of available funds before an application is approved.

14. It is imperative that the Hospital act quickly to apply for a PPP Loan. The Hospital believes that it is eligible to receive over \$2.1 million in a forgivable loan through the

PPP program. However, the SBA has taken the position that entities in bankruptcy are not eligible to apply for a PPP loan. As a consequence, the Hospital risks losing over \$2.1 million in crucially needed funds if it remains in bankruptcy.

15. The Hospital believes the best and most responsible way in which to address this is to dismiss the case while the Hospital pursues a PPP loan outside of bankruptcy. However, this would be without prejudice to the Hospital's right to refile pursuant to Chapter 9 in the future.

### **III. RELIEF REQUESTED**

16. By this Motion, pursuant to section 930 of the Bankruptcy Code, the Hospital respectfully requests the entry of an order dismissing this Case, without prejudice to later refiling. Section 930 of the Bankruptcy Code permits the Court to dismiss a chapter 9 case for cause. 11 U.S.C. § 930. A non-exclusive list of examples of cause are provided in section 930. The unprecedented circumstances of the COVID-19 pandemic and the cash crisis faced by the Hospital are obviously not among the enumerated examples of cause. Nevertheless, cause to dismiss this Case is unquestionably present.

17. No creditor or party in interest will be prejudiced if this Case is dismissed without prejudice to later refiling. The Court has granted, on an interim basis, a typical utility motion in this Case. The Court has also appointed a Patient Care Ombudsman. The Debtor additionally sought, without success, an emergency injunction preventing the SBA from excluding the Hospital from the PPP program based on its status as a bankruptcy debtor. The Hospital intends to seek dismissal of the Adversary Proceeding by separate Motion.

18. Other than these actions, no material activity has occurred in this Case. Due to the COVID-19 pandemic, an initial hearing on the Hospital's first day motion [See Docket No. 4] dealing with notice procedures and establishment of claims bar dates and other deadlines, has not yet been held. The Court has not conducted a hearing to determine the Hospital's eligibility for relief under chapter 9, so an order for relief has not even been entered yet in this Case. This

Case is in its nascent stage and to dismiss it now will not impair the rights of, or otherwise harm, any party in interest.

19. On the other hand, if this case is not immediately dismissed, the consequences could be catastrophic. The continued pendency of this Case threatens the Hospital's ability to obtain a PPP Loan at a time when it desperately needs operating cash. Any threat to the Hospital's ability to continue operating and paying its employees is unacceptable.

20. At no point in this nation's recent history has it faced a healthcare crisis the likes of the COVID-19 pandemic. At this moment, our nation's hospitals and the health care professionals working at them are more invaluable than ever, and the lives of many thousands of Americans depend on these hospitals and health care workers continuing to function. In the coming days and weeks, it is impossible to predict how many individuals in the areas served by the Hospital will contract the novel coronavirus and have to look to the Hospital for treatment that may be the difference between life and death. There is, however, one absolute certainty – the communities served by the Hospital cannot afford to lose the Hospital or any of the Hospital's employees at this time. If the COVID-19 pandemic, the Hospital's current dire financial straits, and the risk that continued pendency of this Case poses to the Hospital's ability to obtain a PPP Loan do not constitute cause to immediately dismiss this Case, then surely nothing does.

21. The Hospital anticipates that it will be entitled to receive PPP funding as soon as its case is dismissed. Once funding is obtained, the Hospital expects to refile under chapter 9. The problems that led the Hospital to filing this Case can be addressed at a later time through a subsequent chapter 9 case. The current crisis facing the Hospital, on the other hand, requires immediate action and dismissal of this Case.

#### **PRAYER**

WHEREFORE, the Hospital respectfully requests entry of an order dismissing this Case without prejudice to later refiling.

Dated: May 21, 2020.

Respectfully submitted,

/s/ Jeff P. Prostok

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ATTORNEYS FOR THE DEBTOR

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document was served on May 21, 2020: (a) via ECF electronic notice upon all parties registered to receive electronic notice in this case; and (b) upon the parties listed below via email.

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