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BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of:

**RBR Management LLC, dba Community
Ambulance**

Applicant.

Docket No. 2017-EMS-0104-DHS
(EMS No. 0283)

**INTERVENOR ABC AMBULANCE'S
LIST OF WITNESSES AND EXHIBITS**

Intervenor ABC Ambulance, LLC, holder of CON 139 ("ABC"), by and through undersigned counsel, hereby submits its initial list of witnesses and exhibits for the hearing in this matter. Throughout, Applicant RBR Management LLC dba Community Ambulance is referred to as "Community Ambulance" or "**RBR.**" By listing witnesses and exhibits herein, and in any supplements thereto, ABC does not mean to represent that it will in fact call each witness or utilize each exhibit. This ~~initial~~ list is further subject to supplementation, **especially given that RBR has to date not produced further documents as promised in response to ABC's subpoena, and that Dignity Health has only indicated today (the deadline) that it is producing more documents in response to various subpoenas. Supplements are shown in bold.**

WITNESSES:

1. Neal Thomas, President and Chief Executive Officer of ABC, is expected to testify inter alia to his background and experience; to the service that ABC currently provides in the subject area; to an analysis of Community Ambulance's CON application, in particular its annual revenue and cost report and other financial data produced, submitted as exhibits, or testified to in these proceedings; to the absence of public necessity for an additional provider in the subject

1 area; to whether Community Ambulance and Dignity Health are fit and proper to hold a CON;
2 and to the adverse financial impact ABC will suffer if Community Ambulance is granted a CON;
3 **to the likely negative impact on ABC’s relationship with Mercy Care and Mercy Maricopa,**
4 **which is part of an Arizona Accountable Care Organization (ACO”) called Arizona Care**
5 **Network (“ACN”), in which Dignity is a 50% partner; and to any other evidence related to**
6 **and relevant to the above.**

7 **2. Ithan Yanofsky, Deputy Bureau Chief, BEMSTS (“the Bureau”), ADHS (“the**
8 **Department”). ABC may call Mr. Yanofsky to testify to the duties and responsibilities of the**
9 **Department; the Bureau’s review and processing of CON applications; the Bureau’s**
10 **interpretation of the statutes and rules governing ambulance services in Arizona;**
11 **historically what the Bureau believes are the legal requirements to qualify for a CON; the**
12 **differences between how the Bureau evaluates applications for different types of CONs**
13 **(emergency and non-emergency); the specific rules, if any, that the Bureau applies when it**
14 **assesses A.R.S. § 36-2233(B)(3) (fit and proper); whether the Bureau evaluates an**
15 **applicant’s “public necessity” claims prior to a hearing; whether the Bureau investigates**
16 **and/or considers the financial impact on non-intervening CON holders with overlapping**
17 **service areas; which non-intervening CON holders in this case has the Bureau assessed for**
18 **financial impact; whether the Bureau believes that the current CON holders (both**
19 **intervening and non intervening) lack the capacity to service the interfacility transport**
20 **needs of Maricopa County.**

21 **3. David S. Hanekom, Chief Executive Officer of ACN, or another**
22 **representative of ACN who can testify on behalf of ACN. Mr. Hanekom, or the ACN**
23 **representative, is expected to testify regarding Dignity’s 50% partnership in ACN; to Mercy**
24 **Care and Mercy Maricopa’s contract with ACN; to ACN’s goal of retaining referrals in-**
25 **network; to the likelihood that, if RBR is granted a CON, RBR’s CON will likely service all**
26 **Dignity facilities, including those within ACN; and to any other evidence related to and**
27 **relevant to the above.**

1 4. **Linda Hunt, President/CEO, Dignity Health Arizona, and a member of**
2 **ACN's Board of Managers. Ms. Hunt is expected to testify regarding Dignity's 50%**
3 **partnership in ACN; to Mercy Care and Mercy Maricopa's contract with ACN; to ACN's**
4 **goal of retaining referrals in-network; to the likelihood that, if RBR is granted a CON,**
5 **RBR's CON will likely service all Dignity facilities, including those within ACN; and to any**
6 **other evidence related to and relevant to the above.**

7 5. **Jeffrey O'Malley, Vice President, Partnership Integration in Arizona, Dignity**
8 **Health. Mr. O'Malley is expected to testify regarding Dignity's 50% partnership in ACN; to**
9 **Mercy Care and Mercy Maricopa's contract with ACN; to ACN's goal of retaining referrals**
10 **in-network; to the likelihood that, if RBR is granted a CON, RBR's CON will likely service**
11 **all Dignity facilities, including those within ACN; and to any other evidence related to and**
12 **relevant to the above.**

13 6. **Rob Richardson, Chief Executive Officer, Applicant. Mr. Richardson is**
14 **expected to testify regarding Dignity's 50% partnership in ACN; to Mercy Care and Mercy**
15 **Maricopa's contract with ACN; to ACN's goal of retaining referrals in-network; to the**
16 **likelihood that, if RBR is granted a CON, RBR's CON will likely service all Dignity**
17 **facilities, including those within ACN; and to any other evidence related to and relevant to**
18 **the above.**

19 7. **Mark Nichols, Fire Chief, Daisy Mountain Fire District. Mr. Nichols will**
20 **testify to the circumstances surrounding his signature of a Letter of Support for Applicant's**
21 **application; and to any other evidence related to and relevant to the above.**

22 8. Any witnesses identified by Applicant, ADHS, and/or Intervenors.

23 9. Rebuttal experts, if necessary - to come.

24 10. Any witness necessary for foundation for any exhibit.

25 **EXHIBITS:**

26 1. CON No. 139. **ABC-1.**

27 2. April 3, 2013 Las Vegas Sun article, "Doctors allege shuttling patients among
28

1 hospitals put profit ahead of safety." **ABC-2.**

2 3. February 4, 2014 Las Vegas Sun article, "Nurses sound the alarm on St. Rose
3 Dominican layoffs." **ABC-3.**

4 4. Court docket from case no. A-12-664477-C filed against Dignity Health and
5 Applicant in the 8th Judicial District Court in Nevada. **ABC-4.**

6 5. **Community Ambulance's Employee Survey Monkey. ABC-5.**

7 6. **Dignity Health meeting invitation with Neal Thomas. ABC-6.**

8 7. **Neal Thomas note after phone call with Dignity's O'Malley. ABC-7.**

9 8. **1982 Ballot Proposition 100. ABC-8.**

10 9. **ABC Settlement Agreement with ADHS. ABC-9.**

11 10. **DOJ settlement with Dignity 7-16-14. ABC-10.**

12 11. **DOJ settlement with Dignity 10-30-14. ABC-11.**

13 12. **San Francisco Chronicle re Dignity 6-12-18. ABC-12.**

14 13. **Extract of documents produced by Phoenix Fire Department. ABC-13.**

15 14. **Documents produced by Town of Gilbert. ABC-14.**

16 15. **Documents produced by Tempe Fire Medical and Rescue Department. ABC-**

17 **15.**

18 16. **Documents produced by Avondale Fire and Medical Department. ABC-16.**

19 17. **Documents produced by City of Chandler. ABC-17.**

20 18. **Draft Ambulance Services Agreement between Applicant and Dignity Health.**

21 **ABC-18.**

22 19. **Communications and draft agreements between Dignity Health and Maricopa**

23 **Ambulance. ABC-19.**

24 20. **Extract from website of Arizona Care Network. ABC-20.**

25 21. **ACN Board of Managers. ABC-21.**

26 22. **ACN Leadership. ABC-22.**

27 23. **AZ Capital Times article re ACN and Mercy. ABC-23.**

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- 1 24. **ACN and Mercy announcement. ABC-24.**
- 2 25. **ACN re referrals. ABC-25.**
- 3 26. **Spreadsheet showing ABC Mercy transports. ABC-26.**
- 4 27. **Daisy Mountain Fire District 2017 ARCR. ABC-27.**
- 5 28. **Map showing Dignity Health Maricopa Assets. ABC-28.**
- 6 29. **ABC ARCR 2017. ABC-29.**
- 7 30. **Dignity Policies regarding discharge and transition of care. ABC-30.**
- 8 31. **Ambulance Transportation Services Agreement RBR Nevada. ABC-31.**
- 9 32. **AMG RBR Management Agreement as amended. ABC-32.**
- 10 33. **RBR Operating Agreement. ABC-33.**
- 11 34. **Contribution Agreement. ABC-34.**
- 12 35. **Ferdowsian v. Dignity, RBR. ABC-35.**
- 13 36. **Arizona Ambulance Association Brochure. ABC-36.**
- 14 37. **CA Vehicle List. ABC-37.**
- 15 38. **ACC CC&N application guide. ABC-38.**
- 16 39. **CA Independent Contractor Agreement Green Valley. ABC-39.**
- 17 40. **Daisy Mountain FD ARCR 2016. ABC-40.**
- 18 41. **Dignity Health NET RFI. ABC-41.**
- 19 42. **Dignity Health ABC emails. ABC-42.**
- 20 43. **Dignity Health Corporate Integrity Agreement. ABC-43.**
- 21 44. **Employment Review Chart. ABC-44.**
- 22 45. **Inspection History Unit 105. ABC-45.**
- 23 46. **CON Holders in Central Region. ABC-46.**
- 24 47. **Patient complaints and organizational flowchart. ABC-47.**
- 25 48. **CBS 5 Phoenix sees drop in firefighter jobs. ABC-48.**
- 26 49. **2016-2019 Phoenix Fire MOU paramedic pay. ABC-49.**
- 27 50. **Bill of Sale Dignity Adeptus assets. ABC-50.**
- 28

- 1 51. **180918 Letter to ACN. ABC-51.**
2 52. **180918 Letter to Daisy Mountain. ABC-52.**
3 53. **ACN Careers CFO. ABC-53.**
4 54. **CON Holders in Phoenix Metro. ABC-54.**
5 55. **ABC General Rate Increase Application, with supplements. ABC-55.**
6 56. **Ground Ambulance Rates August 2018. ABC-56.**
7 57. **Curriculum Vitae of Neal Thomas, ABC-57.**
8 58. **ABC Independent Audit Report 2016. ABC-58.**
9 59. **Metadata in support of Neal Thomas note. ABC-59.**
10 60. **Lease Commitments and Capital Expenditure by ABC. ABC-60.**
11 61. All exhibits listed by Applicant, ADHS and/or other Intervenors, whether or not
12 used or admitted into evidence by the other parties.
13 62. All documents produced by Applicant in response to any subpoena or discovery
14 request served on Applicant by any party in these proceedings.

15
16 RESPECTFULLY SUBMITTED this 18th day of SEPTEMBER, 2018.

17 HOFMEYR LAW PLLC
18 By /s/ Adriane J. Hofmeyr
19 Adriane J. Hofmeyr
 Attorney for ABC Ambulance, LLC

20 **CERTIFICATE OF SERVICE**

21 Original filed using the OAH electronic document filing system <https://portal.azoah.com/oedf> this
22 18th day of September, 2018 with copies provided to all parties on the approved mailing list this
23 18th day of September, 2018 by posting through the designated OAH website at
<https://portal.azoah.com/oedf/documents/2017-EMS-0104-DHS/index.html>.

24 Furthermore, a CD or flash drive containing the Bates-numbered exhibits listed herein, each in
25 .pdf format, has been sent for overnight delivery this 18th day of September, 2018 to:

26 Tammy L. Eigenheer
27 Administrative Law Judge
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