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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
FIFTH SUPPLEMENT TO LIST OF
WITNESSES AND EXHIBITS**

Intervenor ABC Ambulance, LLC, holder of CON 139 ("ABC"), by and through undersigned counsel, hereby submits its ~~initial~~ **fifth supplemental** 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 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, which
4 is part of an Arizona Accountable Care Organization (ACO") called Arizona Care Network
5 ("ACN"), in which Dignity is a 50% partner; and to any other evidence related to and relevant to
6 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 interpretation
10 of the statutes and rules governing ambulance services in Arizona; historically what the Bureau
11 believes are the legal requirements to qualify for a CON; the differences between how the Bureau
12 evaluates applications for different types of CONs (emergency and non-emergency); the specific
13 rules, if any, that the Bureau applies when it assesses A.R.S. § 36-2233(B)(3) (fit and proper);
14 whether the Bureau evaluates an applicant's "public necessity" claims prior to a hearing; whether
15 the Bureau investigates and/or considers the financial impact on non-intervening CON holders
16 with overlapping service areas; which non-intervening CON holders in this case has the Bureau
17 assessed for financial impact; whether the Bureau believes that the current CON holders (both
18 intervening and non intervening) lack the capacity to service the interfacility transport needs of
19 Maricopa County.

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

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

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

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

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

19 8. Dean Taylor, consultant to Applicant and/or EMS Advisors. Mr. Taylor is
20 expected to testify regarding his drafting of Applicant's ARCRs; the documents and assumptions
21 he used to prepare the Applicant's ARCRs; instructions he received from Dignity and Applicant
22 regarding information included in the ARCRs; his communications with Michael Evans in
23 preparing Mr. Evans to testify at the hearing regarding the ARCRs; and anything else within his
24 knowledge relating to Applicant's ARCRs.

25 9. Any witnesses identified by Applicant, ADHS, and/or Intervenors.

26 10. Rebuttal experts, if necessary - to come.

27 11. Any witness necessary for foundation for any exhibit.
28

1 **EXHIBITS:**

- 2 1. CON No. 139. ABC-1.
- 3 2. April 3, 2013 Las Vegas Sun article, "Doctors allege shuttling patients among
4 hospitals put profit ahead of safety." ABC-2.
- 5 3. February 4, 2014 Las Vegas Sun article, "Nurses sound the alarm on St. Rose
6 Dominican layoffs." ABC-3.
- 7 4. Court docket from case no. A-12-664477-C filed against Dignity Health and
8 Applicant in the 8th Judicial District Court in Nevada. ABC-4.
- 9 5. Community Ambulance's Employee Survey Monkey. ABC-5.
- 10 6. Dignity Health meeting invitation with Neal Thomas. ABC-6.
- 11 7. Neal Thomas note after phone call with Dignity's O'Malley. ABC-7.
- 12 8. 1982 Ballot Proposition 100. ABC-8.
- 13 9. ABC Settlement Agreement with ADHS. ABC-9.
- 14 10. DOJ settlement with Dignity 7-16-14. ABC-10.
- 15 11. DOJ settlement with Dignity 10-30-14. ABC-11.
- 16 12. San Francisco Chronicle re Dignity 6-12-18. ABC-12.
- 17 13. Extract of documents produced by Phoenix Fire Department. ABC-13.
- 18 14. Documents produced by Town of Gilbert. ABC-14.
- 19 15. Documents produced by Tempe Fire Medical and Rescue Department. ABC-15.
- 20 16. Documents produced by Avondale Fire and Medical Department. ABC-16.
- 21 17. Documents produced by City of Chandler. ABC-17.
- 22 18. Draft Ambulance Services Agreement between Applicant and Dignity Health.
23 ABC-18.
- 24 19. Communications and draft agreements between Dignity Health and Maricopa
25 Ambulance. ABC-19.
- 26 20. Extract from website of Arizona Care Network. ABC-20.
- 27 21. ACN Board of Managers. ABC-21.
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- 1 22. ACN Leadership. ABC-22.
- 2 23. AZ Capital Times article re ACN and Mercy. ABC-23.
- 3 24. ACN and Mercy announcement. ABC-24.
- 4 25. ACN re referrals. ABC-25.
- 5 26. Spreadsheet showing ABC Mercy transports. ABC-26.
- 6 27. Daisy Mountain Fire District 2017 ARCR. ABC-27.
- 7 28. Map showing Dignity Health Maricopa Assets. ABC-28.
- 8 29. ABC ARCR 2017. ABC-29.
- 9 30. Dignity Policies regarding discharge and transition of care. ABC-30.
- 10 31. Ambulance Transportation Services Agreement RBR Nevada. ABC-31.
- 11 32. AMG RBR Management Agreement as amended. ABC-32.
- 12 33. RBR Operating Agreement. ABC-33.
- 13 34. Contribution Agreement. ABC-34.
- 14 35. Ferdowsian v. Dignity, RBR. ABC-35.
- 15 36. Arizona Ambulance Association Brochure. ABC-36.
- 16 37. CA Vehicle List. ABC-37.
- 17 38. ACC CC&N application guide. ABC-38.
- 18 39. CA Independent Contractor Agreement Green Valley. ABC-39.
- 19 40. Daisy Mountain FD ARCR 2016. ABC-40.
- 20 41. Dignity Health NET RFI. ABC-41.
- 21 42. Dignity Health ABC emails. ABC-42.
- 22 43. Dignity Health Corporate Integrity Agreement. ABC-43.
- 23 44. Employment Review Chart. ABC-44.
- 24 45. Inspection History Unit 105. ABC-45.
- 25 46. CON Holders in Central Region. ABC-46.
- 26 47. Patient complaints and organizational flowchart. ABC-47.
- 27 48. CBS 5 Phoenix sees drop in firefighter jobs. ABC-48.
- 28

- 1 49. 2016-2019 Phoenix Fire MOU paramedic pay. ABC-49.
- 2 50. Bill of Sale Dignity Adeptus assets. ABC-50.
- 3 51. 180918 Letter to ACN. ABC-51.
- 4 52. 180918 Letter to Daisy Mountain. ABC-52.
- 5 53. ACN Careers CFO. ABC-53.
- 6 54. CON Holders in Phoenix Metro. ABC-54.
- 7 55. ABC General Rate Increase Application, with supplements. ABC-55.
- 8 56. Ground Ambulance Rates August 2018. ABC-56.
- 9 57. Curriculum Vitae of Neal Thomas, ABC-57.
- 10 58. ABC Independent Audit Report 2016. ABC-58.
- 11 59. Metadata in support of Neal Thomas note. ABC-59.
- 12 60. Lease Commitments and Capital Expenditure by ABC. ABC-60.
- 13 61. RBR Overlapping CON List. ABC-61. (Was included in disclosures on September
- 14 18, 2018, but omitted from this list.)
- 15 61. 9-30-14 Transcript of OAH Proceedings. ABC-61A. (Exhibit name change only.)
- 16 62. Estimated Collections Rates for 2015. ABC-62.
- 17 63. ARCR questions Dean 5-21-16. ABC-63.
- 18 64. ARCR Team Meeting. ABC-64.
- 19 65. C. Smith and A. Sams Email – May 25, 207. ABC-65.
- 20 66. Community Ambo ARCR 3-23-17 Summary. ABC-66.
- 21 67. CA Balance Sheet. ABC-67.
- 22 68. CA Income Statement. ABC-68.
- 23 69. Dignity Disclosure Statement. ABC-69.
- 24 70. Documents and Data to Obtain from Intervenors – Evans Note – 5-10-18. ABC-
- 25 70.
- 26 71. CA ARCR Underlying Data and Documentation – 6-12-18. ABC-71.
- 27 72. Documents and Data to Obtain from Intervenors – Evans email – 5-10-18. ABC-
- 28

- 1 72.
- 2 73. Evans proposal to provide consulting services – 2-13-18. ABC-73.
- 3 74. Evans Review of CA ARCR. ABC-74.
- 4 75. Email re Evans Testimony. ABC-75.
- 5 76. Email re call. ABC-76.
- 6 77. Review of CA ARCR spreadsheet. ABC-77.
- 7 78. Email re RBR Maricopa County ARCR. ABC-78.
- 8 79. Letter ABC to A. Sams 9-17-18. ABC- 79.
- 9 80. Arizona Information. ABC-80.
- 10 81. Estimated Impact of Loss of Mercy Maricopa Transports on 2017 ARCR Data.
- 11 ABC-81.
- 12 82. Amendment to CA Operating Agreement with attachments. ABC-82.
- 13 83. Inspection history units 101-104, 106-110. ABC-83.
- 14 84. About us – Mercy Care. ABC-84.
- 15 85. Mercy Maricopa Board of Directors – Mercy Care. ABC-85.
- 16 86. RBR ARCRs income review. ABC-86.
- 17 87. ABC Response Times. ABC-87.
- 18 88. 180113.Director Humble Decision in ABC. ABC-88.
- 19 89. 181017.CON amendment letter and application. ABC-89.
- 20 90. **Estimated Impact of Loss of Mercy Maricopa Transports - Additional**
- 21 **Scenarios. ABC-90.**
- 22 91. All exhibits listed by Applicant, ADHS and/or other Intervenors, whether or not
- 23 used or admitted into evidence by the other parties.
- 24 92. All documents produced by Applicant in response to any subpoena or discovery
- 25 request served on Applicant by any party in these proceedings.
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27 RESPECTFULLY SUBMITTED this 1st day of NOVEMBER, 2018.

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HOFMEYR LAW PLLC
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CERTIFICATE OF SERVICE

Original filed using the OAH electronic document filing system <https://portal.azoah.com/oedf> this 1st day of November, 2018 with copies provided to all parties on the approved mailing list this 1st day of November, 2018 by posting through the designated OAH website at <https://portal.azoah.com/oedf/documents/2017-EMS-0104-DHS/index.html>.

By: /s/ Adriane Hofmeyr