

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

<b>In re</b>  <b>ABC DENTISTRY, P.A., et al.,<sup>1</sup></b>  <p style="text-align: center;"><b>Debtors.</b></p>	§ § § § § § § §	<b>Chapter 11</b>  <b>Case No. 16-34221</b>  <b>Jointly Administered</b>
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**DEBTORS’ MOTION FOR ENTRY OF A FINAL DECREE CLOSING THE  
CHAPTER 11 CASES AND GRANTING RELATED RELIEF**

**NOTICE UNDER BLR 9013-1(b)**

THIS MOTION SEEKS AN ORDER THAT MAY ADVERSELY AFFECT YOU. IF YOU OPPOSE THE MOTION, YOU SHOULD IMMEDIATELY CONTACT THE MOVING PARTY TO RESOLVE THE DISPUTE. IF YOU AND THE MOVING PARTY CANNOT AGREE, YOU MUST FILE A RESPONSE AND SEND A COPY TO THE MOVING PARTY. YOU MUST FILE AND SERVE YOUR RESPONSE WITHIN 21 DAYS OF THE DATE THIS WAS SERVED ON YOU. YOUR RESPONSE MUST STATE WHY THE MOTION SHOULD NOT BE GRANTED. IF YOU DO NOT FILE A TIMELY RESPONSE, THE RELIEF MAY BE GRANTED WITHOUT FURTHER NOTICE TO YOU. IF YOU OPPOSE THE MOTION AND HAVE NOT REACHED AN AGREEMENT, YOU MUST ATTEND THE HEARING. UNLESS THE PARTIES AGREE OTHERWISE, THE COURT MAY CONSIDER EVIDENCE AT THE HEARING AND MAY DECIDE THE MOTION AT THE HEARING. REPRESENTED PARTIES SHOULD ACT THROUGH THEIR ATTORNEY.

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<sup>1</sup> The Debtors in these chapter 11 cases are: ABC Dentistry, P.A., ABC Dentistry Old Spanish Trail, P.L.L.C., and ABC Dentistry West Orem, P.L.L.C.

ABC Dentistry, P.A., together with its affiliated debtors in the above-captioned chapter 11 cases (collectively, the “Emerged Debtors” and before the Plan (as defined below) became effective, the “Debtors”),<sup>2</sup> file this motion (the “Motion”), seeking the entry of a final decree closing these chapter 11 cases and granting related relief, substantially in the form attached hereto as **Exhibit A** (the “Final Decree”). In support of this Motion, the Emerged Debtors respectfully represent as follows:

### **Jurisdiction and Venue**

1. The Court has jurisdiction over this matter under 28 U.S.C. §§ 157 and 1334. The Court’s consideration of this Motion is a core proceeding under 28 U.S.C. § 157(b)(2). Venue of this proceeding is proper in this district under 28 U.S.C. §§ 1408 and 1409.

### **Procedural Background**

2. On August 26, 2016 (the “Petition Date”), the Debtors commenced these chapter 11 cases by filing voluntary petitions for relief under chapter 11 of the Bankruptcy Code. No trustee, examiner, or statutory committee has been requested or appointed in these chapter 11 cases.

3. For a detailed description of the Debtors and the events leading to these chapter 11 cases, please see the *Declaration of Iraj S. Jabbarly in Support of First Day Motions* [Dkt. No. 14] (the “First Day Declaration”).

4. On December 13, 2017, the Court entered an order confirming the *Debtors’ Second Amended Joint Chapter 11 Plan of Reorganization of ABC Dentistry, P.A. and its Debtor Affiliates, as Modified on December 11, 2017* [Dkt. No. 349] (the “Plan”).

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<sup>2</sup> Capitalized terms not otherwise defined herein shall have the meaning given in the Plan.

5. On January 10, 2018, the Emerged Debtors filed the *Notice of Effective Date of Second Amended Joint Chapter 11 Plan of Reorganization of ABC Dentistry, P.A., and its Debtor Affiliates, as Modified on December 11, 2017* [Dkt. No. 367], giving notice that the effective date of the Plan occurred on January 9, 2018 (the “Effective Date”). Under the Plan, the Claims Objection Deadline is 120 days after the Effective Date as to timely filed claims (May 9, 2018).

6. Pursuant to the Plan, the Emerged Debtors are operating their business in the ordinary course.

7. Pursuant to the Plan, on January 3, 2018, the Emerged Debtors made initial payments of \$396,391.68 to Rohi; \$51,678.39 to the State of Texas Health and Human Services Commission; and \$212,317.57 to the State of Texas Civil Medical Fraud Division of the Texas Attorney General’s Office. The Emerged Debtors also made the first regular quarterly payments required under the Plan on April 1, 2018, in the amounts of \$107,417.91 to Rohi; \$14,001.57 to the State of Texas Health and Human Services Commission; and \$57,535.74 to the State of Texas Civil Medical Fraud Division of the Texas Attorney General’s Office.

8. The Emerged Debtors submit that these chapter 11 cases have been fully administered. At this time, the Emerged Debtors are not contesting any claims and do not expect to contest any claims.

9. All operating reports and payments due to the U.S. Trustee are current as of the date hereof. Further, the payment owing to the U.S. Trustee relating to the first quarter of 2018 will be timely paid, on or prior to its due date. Additionally, upon the closing of these chapter 11 cases, the Emerged Debtors will calculate the amount due to the U.S. Trustee for the second quarter of 2018 and such amount will be timely paid. The Emerged Debtors suspect that the

amount due to the U.S. Trustee for the second quarter of 2018 will be in line with the amounts due in previous quarters. The Emerged Debtors have conferred with the U.S. Trustee and have been informed that, contingent on the payments described above, the U.S. Trustee does not oppose the closure of these chapter 11 cases.

**Relief Requested**

**A. Entry of Final Decree Closing the Case**

10. Pursuant to section 350(a) of the Bankruptcy Code and Federal Rule of Bankruptcy Procedure 3022, after the estates are fully administered and the trustee is discharged, the court shall close the Debtors' bankruptcy cases.

11. The term "fully administered" is not defined in the Bankruptcy Code, the Bankruptcy Rules, or the Local Rules. The Advisory Committee Note to Bankruptcy Rule 3022 (the "Advisory Committee Note"), however, sets forth the following non-exclusive factors to be considered in determining whether a case has been fully administered:

- a. whether the order confirming the plan has become final,
- b. whether deposits required by the plan have been distributed,
- c. whether the property proposed by the plan to be transferred has been transferred,
- d. whether the debtor or the successor of the debtor under the plan has assumed the business or management of the property dealt with by the plan,
- e. whether payments under the plan have commenced, and
- f. whether all motions, contested matters, and adversary proceedings have been finally resolved.

12. Courts in this district and others consider these factors as a guide in determining whether a case has been fully administered. *See In re JCP Props., Ltd.*, 540 B.R. 596, 605

(Bankr. S.D. Tex. 2015) (internal quotations and citations omitted) (observing that factors (3)-(5) correspond “to whether substantial consummation of the chapter 11 plan has been achieved); *see also In re SLI, Inc.*, No. 02-12608, 2005 WL 1668396, at \*2 (Bankr. D. Del. June 24, 2005); *In re Kliegl Bros. Universal Elec. Stage Lighting Co., Inc.*, 238 B.R. 531, 542 (Bankr. E.D.N.Y. 1999). “[A]ll of the factors in the Committee Note need not be present before the Court will enter a final decree.” *Walnut Assocs. v. Saidel*, 164 B.R. 487, 493 (E.D. Pa. 1994).

13. As of the date hereof, these chapter 11 cases have been “fully administered” within the meaning of section 350, making it appropriate for the Court to enter a final decree. In particular:

- a. the Confirmation Order has become final and is non-appealable;
- b. all anticipated motions, contested matters, and adversary proceedings have been resolved before the hearing on this Motion;
- c. substantially all claims have been either allowed or disallowed;
- d. all of the transactions contemplated by the Plan closed on the Effective Date; and
- e. the Plan has been substantially consummated within the meaning of section 1101(2) of the Bankruptcy Code.

14. Moreover, “[t]he court should not keep [a] case open only because of the possibility that the court’s jurisdiction may be invoked in the future.” Fed. R. Bankr. P. 3022, Advisory Comm. Note (1991). Furthermore, the entry of a final decree closing these chapter 11 cases will be without prejudice to creditors’ rights to petition the Court to reopen any of these chapter 11 cases under section 350(b).

15. For the foregoing reasons, the Emerged Debtors respectfully request that the Court enter a final decree closing these chapter 11 cases.

**B. Termination of Noticing Services**

16. The Emerged Debtors request entry of an order terminating the noticing services provided by BMC Group, Inc. ("BMC") for these chapter 11 cases (the "Noticing Services") pursuant to the *Order Approving Application to Appoint BMC Group, Inc. as Noticing Agent of the Court* [Dkt. No. 96] (the "BMC Retention Order"). Upon termination of the Noticing Services, and except as otherwise provided herein, BMC shall have no further obligations under the BMC Retention Order to the Court, the Emerged Debtors or any other party in interest with respect to the Noticing Services in these chapter 11 cases.

17. Should BMC receive any mail regarding the Emerged Debtors after entry of an order granting this Motion, BMC will collect and forward such mail no less frequently than monthly to the Emerged Debtors.

**Conclusion**

The Emerged Debtors respectfully request that the Court enter the final decree closing these chapter 11 cases, substantially in the form attached hereto as Exhibit A, granting the relief requested herein and such other and further relief as the Court deems appropriate.

Dated: April 23, 2018

Respectfully submitted,

BAKER BOTTS L.L.P.

/s/ Omar J. Alaniz

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**Counsel to the Emerged Debtors**

**CERTIFICATE OF SERVICE**

I certify that on April 23, 2018, I caused a copy of the foregoing document to be served by the Electronic Case Filing System for the United States Bankruptcy Court for the Southern District of Texas.

/s/ Chad L. Barton  
One of Counsel

**Exhibit A**

**Final Decree**





the Court having found that this is a core proceeding under 28 U.S.C. § 157(b)(2); and the Court having found that venue of this proceeding and the Motion in this district is proper under 28 U.S.C. §§ 1408 and 1409; and the Court having found that the relief requested in the Motion is in the best interests of the Emerged Debtors' estates, their creditors, and other parties in interest; and the Court having found that Emerged Debtors' notice of the Motion and the opportunity for a hearing on the Motion was appropriate under the circumstances and no other notice need be provided; and the Court having reviewed the Motion; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and upon all of the proceedings had before the Court; and after due deliberation and sufficient cause appearing therefor;

It is hereby ORDERED that:

1. The Motion is granted.

The following chapter 11 cases are hereby closed:

Debtor	Case No.
ABC Dentistry, P.A.	16-34221
ABC Dentistry Old Spanish Trail, P.L.L.C.	16-34222
ABC Dentistry West Orem, P.L.L.C.	16-34225

2. The Emerged Debtors shall, on or before thirty days after entry of this Final Decree: (a) pay all fees due and payable pursuant to 28 U.S.C. § 1930(a)(6), including any amounts owed in relation to the portion of the second quarter of 2018 during which these cases remained open; and (b) serve copies of all post-confirmation reports on the U.S. Trustee. Entry of this Final Decree is without prejudice to the rights of the U.S. Trustee to move to reopen these chapter 11 cases to seek appropriate relief in the event of an unresolved dispute over the payment of fees pursuant to 28 U.S.C. § 1930(a)(6) or the post-confirmation report.

3. The Noticing Services are terminated in accordance with the Motion. Hereafter, BMC shall have no further obligations to this Court, the Emerged Debtors, or any other party in interest with respect to the Noticing Services in these chapter 11 cases.

4. The Emerged Debtors and their agents are authorized to take all actions necessary to effectuate the relief granted pursuant to this Final Decree in accordance with the Motion.

5. Notwithstanding anything to the contrary, the terms and conditions of this Final Decree shall be immediately effective and enforceable upon its entry.

6. The Emerged Debtors reserve the right to reopen the case to accord relief to the Emerged Debtors, or for other cause.

7. The Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, and/or enforcement of this Final Decree.

Dated:

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The Honorable Marvin Isgur  
United States Bankruptcy Judge