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**UNITED STATES DEPARTMENT OF JUSTICE**  
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 6  
 Attorneys for Acting United States Trustee,  
 7 Region 17, August B. Landis

8  
 9 **UNITED STATES BANKRUPTCY COURT**  
 10 **EASTERN DISTRICT OF CALIFORNIA**

11 In re: Case No. 10-39240-B-11  
 12 DC No.: UST-1  
 13 **COUNCIL FOR REFRACTIVE**  
**SURGERY QUALITY ASSURANCE,**  
 14 Date: December 13, 2011  
 Time: 9:32 a.m.  
 15 Dept.: B  
 Courtroom: 32  
 16 Debtor. \_\_\_\_\_ /

17 **MOTION OF THE UNITED STATES TRUSTEE**  
 18 **FOR ORDER CONVERTING OR DISMISSING CASE**

19 The Acting United States Trustee for the Eastern District of California (the "**United**  
 20 **States Trustee**") hereby moves (the "**Motion**") the Court for an order converting this case to  
 21 chapter 7 or dismissing it pursuant to 11 U.S.C. § 1112(b)(1).

22 This case should be dismissed or converted to a case under chapter 7, because the Debtor  
 23 cannot effectuate a plan.

24 The Court recently denied confirmation of the Debtor's proposed plan. See docket no.  
 25 156. And now, the Debtor is statutorily precluded from filing a new one. That is because the  
 26 Debtor is a "small business debtor," and the applicable 300-day deadline to file a plan has long  
 27 since passed. See 11 U.S.C. § 1121(e)(2); docket no. 1.

1 The Motion is based upon the memorandum of point and authorities filed herewith (the  
2 “MPA”); the record in this case; and such evidence as may be filed to supplement the Motion, or  
3 as may be introduced at the hearing on the Motion. Judicial notice is requested of all documents  
4 filed in this case, including those referenced herein and in the MPA, pursuant to Rule 201 of the  
5 Federal Rules of Evidence.

6  
7 **WHEREFORE**, the United States Trustee requests that this Court enter an order  
8 dismissing this case for “cause” pursuant to Bankruptcy Code Section 1112(b). Alternatively,  
9 this case should be converted to one under Chapter 7.

10  
11 Executed at Sacramento, California on October 21, 2011.

12  
13 Respectfully submitted,

14 /s/ Jason Blumberg  
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17 Acting United States Trustee  
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