

Superior Court of California

County of Orange



Case Number : 30-2016-00889835-CU-BC-CJC

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HELTON LAW GROUP

A PROFESSIONAL CORPORATION

CARRIE McLAIN (State Bar No. 181674)

CELIM E. HUEZO (State Bar No. 236980)

ATTORNEYS AT LAW

7711 Center Ave., Suite 350

Huntington Beach, CA 92647

TELEPHONE: (562) 901-4499

FACSIMILE: (562) 901-4488

ATTORNEYS FOR PLAINTIFF ST. JOSEPH HEALTH DBA ST. JUDE MEDICAL CENTER

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF ORANGE

ST. JOSEPH HEALTH, a California Corporation
dba ST. JUDE MEDICAL CENTER

Plaintiff,

vs.

KAISER FOUNDATION HEALTH PLAN, INC.,
a California Corporation; KAISER
FOUNDATION HOSPITALS, a California
Corporation; and DOES 1 through 25, inclusive,

Defendants.

Case No: 30-2016-00889835-CU-BC-CJC
ASSIGNED TO: Judge Andrew P. Banks
DEPT.:

UNLIMITED – DAMAGES EXCEED \$25,000

COMPLAINT FOR DAMAGES FOR:

- 1. BREACH OF WRITTEN CONTRACT**
- 2. BREACH OF IMPLIED-IN-FACT CONTRACT**
- 3. QUANTUM MERUIT**
- 4. UNJUST ENRICHMENT**
- 5. ACCOUNTS STATED**
- 6. OPEN BOOK ACCOUNT**

TO ALL INTERESTED PARTIES AND THEIR ATTORNEYS OF RECORD:

PARTIES

1. Plaintiff, ST. JOSEPH HEALTH dba ST. JUDE MEDICAL CENTER (hereinafter referred to as “Hospital” or “St. Jude”) is a California Corporation, with its principal place of business in the County of Orange, in the State of California. The Hospital operates a California licensed acute-care hospital in the City of Fullerton.

1 2. Defendant KAISER FOUNDATION HEALTH PLAN, INC. (“KFHP”) is a California
2 corporation, organized and existing under the laws of the State of California with its principal place of
3 business in the City of Oakland, County of Alameda, in the State of California.

4 3. Defendant KAISER FOUNDATION HOSPITALS (“KFH”) is a California Corporation,
5 organized and existing under the laws of the State of California with its principal place of business in the
6 City of Oakland, County of Alameda, in the State of California.

7 4. St. Jude is unaware of the true names, identities, and capacities of defendants sued herein
8 as Does 1 through 25, inclusive, and each of them as based thereon, sues said defendants by such
9 fictitious names. When their true names and capacities are ascertained, St. Jude will amend this
10 complaint by inserting their true names and capacities herein. St. Jude is informed and believes and
11 thereon alleges that each of the fictitiously named defendants is responsible in some manner for the
12 occurrences alleged herein, and that the St. Jude’s damages as alleged herein were proximately caused
13 by those defendants.

14 5. St. Jude is informed and believes and thereon alleges that at all times mentioned herein,
15 each of the defendants, including all defendants sued under fictitious names, were the agent and/or
16 employee of each of the remaining defendants, and in so doing the things alleged herein, were acting
17 within the scope of his or her agency and employment and with their knowledge and consent.

18 6. KFHP, KFH, and Does 1 through 25 are referred to herein collectively as “Defendants”
19 or “Kaiser.”

20 7. St. Jude is withholding the name of the Patients in this Complaint to preserve the
21 Patient’s protected rights to privacy concerning health care information. The Patient’s name have been
22 and will be made available to Defendants upon request.

23 8. Jurisdiction is proper in this judicial district because this is where the contract at issue
24 was entered into and/or where the breach occurred.

25 **ALLEGATIONS AS TO THE KAISER DEFENDANTS**

26 9. St. Jude is informed and believes that KFHP is a health care services plan licensed with
27 the California Department of Managed Health Care and, thus is subject to the Knox-Keene Act and
28 related regulations on such health care services plans.

1 10. St. Jude is informed and believes that KFH is a capitated provider of the health care
2 services plan KFHP, and is subject to the Knox-Keene Act and related regulations on health care
3 services plans and their capitated providers.

4 11. St. Jude is informed and believes that, at all times mentioned herein, KFHP and KFH
5 are agents of one another for purposes that include, but are not limited to contracting with hospital
6 providers including St. Jude, receiving notice of a Kaiser member's inpatient admission, authorizing a
7 Kaiser member's medical services, receiving, processing and paying claims for reimbursement for
8 medical services provided to Kaiser members, and processing claims appeals, because KFHP and
9 KFH performed such actions on one another's behalf.

10 12. St. Jude is informed and believes that KFHP, KFH, and Does 1 through 25 are affiliates
11 of each other and/or are otherwise related corporate entities, and that the entities, cooperate in the
12 conduct of the health care program commonly known as the "Kaiser Permanente Medical Care
13 Program."

14 **AGREEMENT FOR HOSPITAL SERVICES FOR KAISER MEMBERS**

15 13. On or about September 01, 2006, Kaiser and St. Jude entered into an Agreement for
16 Hospital Services for Kaiser Permanente Members ("Agreement"). Pursuant to the terms of the
17 Agreement, St. Jude agreed to provide hospital services at a discounted rate to Kaiser members and
18 Kaiser agreed to pay St. Jude at a discounted rate for said service.

19 14. Under the terms of the Agreement, Kaiser was required to pay St. Jude within 30
20 calendar days of receipt of St. Jude's claim. Failure to pay within 60 calendar days of receipt of St.
21 Jude's claim would void the reduced payment rates and the reimbursement would default to 100% of
22 billed charges. Additionally, interest would accrue along with penalties allowed under the Knox-
23 Keene Act's prompt payment laws.

24 **SPECIFIC ALLEGATIONS AS TO PATIENT 1**

25 15. Patient 1 was presented to St. Jude's Emergency Department on January 25, 2016 for
26 treatment of syncope and collapse as well as a subarachnoid hemorrhage.

1 16. Upon arrival, St. Jude learned that Patient 1 was a Kaiser member. St. Jude immediately
2 contacted Kaiser and notified Kaiser of Patient 1's admission at St. Jude. Kaiser verified that Patient 1
3 was a Kaiser member.

4 17. Upon stabilization, Patient 1 was admitted as an inpatient and received medical care
5 until being discharged on February 10, 2016.

6 18. On March 21, 2016, St. Jude timely billed Kaiser for medical services provided to
7 Patient 1 in the amount of \$822,398.89. Under the terms of the Agreement, Kaiser was entitled to a
8 discounted rate of \$687,554.08. Kaiser was required to pay St. Jude within 60 calendar days of
9 receipt of St. Jude's claim. However, Kaiser failed to pay the claim within 60 calendar days. Rather,
10 on June 29, 2016, Kaiser issued an underpayment of \$637,846.27, stating that the unpaid charges
11 were disallowed.

12 19. St. Jude submitted timely written appeals to Kaiser requesting payment. However,
13 such attempts to resolve Kaiser's breach and underpayment were unsuccessful.

14 20. By underpaying the claim, Kaiser breached the Agreement. Furthermore, by failing to
15 render full payment within 60 calendar days of receipt of the claim for Patient 1's services, Kaiser has
16 waived the right to the discounted rate. As a result, Kaiser owes St. Jude full billed charges for the
17 services provided to Patient 1. Thus, Kaiser's breach of the Agreement has caused damages to St.
18 Jude in the amount of \$195,552.62, not including statutory interest, for the services provided to
19 Patient 1.

20 **SPECIFIC ALLEGATIONS AS TO PATIENT 2**

21 21. Patient 2 was presented to St. Jude's Emergency Department on July 21, 2014 for
22 treatment of speech disturbance resulting from a toxic effect of a bee sting.

23 22. Upon arrival, St. Jude learned that Patient 2 was a Kaiser member. St. Jude
24 immediately contacted Kaiser and notified Kaiser of Patient 2's admission. Kaiser verified that
25 Patient 2 was a Kaiser member.

26 23. Upon stabilization, Patient 2 was discharged on July 21, 2014.

27 24. On or about July 28, 2014, St. Jude timely billed Kaiser for medical services provided
28 to Patient 2 in the amount of \$20,638.93.

1 25. Under the terms of the Agreement, Kaiser was entitled to a discounted rate of
2 \$17,027.12. Kaiser was required to pay St. Jude within 60 calendar days of receipt of St. Jude's
3 claim. However, Kaiser failed to fully pay the claim within 60 calendar days. Rather, Kaiser
4 designated \$5,271.80 as patient responsibility and issued an underpayment of \$8,744.84, leaving an
5 unpaid balance of \$3,010.48. Kaiser underpaid the claim as a result of improperly disallowing a CT
6 Scan as well as other charges.

7 26. On several occasions, St. Jude submitted timely written appeals to Kaiser requesting
8 payment. However, such attempts to resolve Kaiser's breach and underpayment were unsuccessful.

9 27. By underpaying the claim, Kaiser breached the Agreement. Furthermore, by failing to
10 render full payment within 60 calendar days of receipt of the claim for Patient 1's services, Kaiser has
11 waived the right to the discounted rate. As a result, Kaiser owes St. Jude full billed charges for the
12 services provided to Patient 2. Thus, Kaiser's breach of the Agreement has caused damages to St.
13 Jude in the amount of \$6,622.29, not including statutory interest, for the services provided to Patient
14 2.

15 **FIRST CAUSE OF ACTION**

16 **BREACH OF WRITTEN CONTRACT**

17 **(AGAINST ALL DEFENDANTS)**

18 28. Plaintiff re-alleges and incorporates by reference each and every allegation set forth in
19 the preceding paragraphs.

20 29. At the time the Hospital provided services to the Patients, the Agreement between the
21 Hospital and Kaiser was in place and Kaiser was obligated to make payment in accordance with its
22 terms. The Agreement requires Kaiser to reimburse the Hospital for the medically-necessary services
23 the Hospital provided to the Patients at the rates stated therein and prohibits Kaiser from denying the
24 Hospital's claims on a lack of authorization basis.

25 30. The Hospital performed all of its obligations under the Agreement, including but not
26 limited to providing medically necessary and physician ordered services to Kaiser's members.

27 31. The Hospital submitted clean claims for reimbursement to Kaiser for the medical
28 services provided to the Patients.

1 32. Kaiser improperly underpaid the Hospital's claims by disallowing valid charges and
2 procedures in violation of the Agreement.

3 33. The Hospital has appealed Kaiser's underpayments of these claims, but Kaiser has not
4 issued any additional payments in response to the appeals.

5 34. Per the Agreement, Kaiser did not have the authority to disallow the medically
6 necessary charges and services provided to the Patients. The Hospital is informed and believes that
7 Kaiser has determined the services were medically necessary, but still refused to make payments.

8 35. Kaiser breached the Agreement by underpaying the Hospital's claims as a result of
9 disallowing proper charges and services provided to the Patients.

10 36. Per the Agreement, clean claims not paid within 60 days shall not be eligible for the
11 discounted rates contained in the agreement. Taking into consideration Kaiser's previous payments
12 and Kaiser's failure to pay the clean claims in full within 30 days, the Hospital has been damaged as a
13 result of Kaiser's breach in an amount greater than \$202,174.91, plus statutory interest, for the
14 services provided to Patients 1 and 2.

15 **SECOND CAUSE OF ACTION**

16 **BREACH OF IMPLIED-IN-FACT CONTRACT**

17 **AGAINST ALL DEFENDANTS**

18 37. Plaintiff re-alleges and incorporates by reference each and every allegation set forth in
19 preceding paragraphs above.

20 38. As alleged above, the Hospital believes it is entitled to full and complete payment
21 from Defendants in accordance with the Agreement set forth above. However, to the extent the
22 contract alleged above does not apply and/or is deemed unenforceable against Defendants for any of
23 the services at issue, and absent any other legally controlling rate, the Hospital alleges in the
24 alternative that Defendants owe the Hospital for these services pursuant to their implied-in-fact
25 contracts with the Hospital.

26 39. The Hospital is informed and believes, and thereon alleges, the Hospital promptly
27 notified Defendants of the admission of Patients 1 and 2 to the Hospital and requested authorization
28 to provide medically necessary and physician-ordered services to Patients 1 and 2.

1 40. The Hospital timely requested authorization from Defendants to provide medically
2 necessary and physician-ordered services to Defendants’ members, Patients 1 and 2.

3 41. Defendants did not assert Patients 1 and 2 were not their members, or indicate in any
4 way to the Hospital they would not cover the Patients’ medical expenses until after the Hospital
5 provided such medically necessary care and treatment to the Patients.

6 42. Defendants impliedly and expressly requested that the Hospital care for and treat
7 Patients 1 and 2, including by failing to promptly transfer Patients 1 and 2 from the Hospital to a
8 facility affiliated with Defendants, despite knowing Patients 1 and 2 were hospitalized at the
9 Plaintiff’s facility. Moreover, Defendants expressly and impliedly promised they would cover and
10 pay for the expenses incurred in such care and treatment.

11 43. The implied-in-fact contract created by the parties’ conduct was understood by
12 Defendants and demonstrated by the partial payments made to the Hospital.

13 44. The Hospital performed all its obligations under its implied-in-fact contract with
14 Defendants, in that it provided covered, medically necessary and physician-ordered services to
15 Defendants’ members.

16 45. Defendants breached their implied-in-fact agreement with the Hospital with respect to
17 Patients 1 and 2 by refusing to fully pay the Hospital’s claims for the charges incurred in providing
18 medical services to Patients 1 and 2 and issuing final denials of the claims wherein Defendants
19 refused to make full payment to the Hospital.

20 46. As a result of Defendants’ breaches, the Hospital was damaged in that it was not fully
21 compensated for the services it provided to Patients 1 and 2 in an amount according to proof.

22 **THIRD CAUSE OF ACTION**

23 **QUANTUM MERUIT**

24 **AGAINST ALL DEFENDANTS**

25 47. Plaintiff re-alleges and incorporates by reference each and every allegation set forth in
26 preceding paragraphs above.

27 48. As alleged above, the Hospital believes it is entitled to full and complete payment
28 from Defendants in accordance with the Agreement. However, to the extent the written agreement

1 alleged above does not apply and/or is deemed unenforceable, and absent any other legally
2 controlling rate, the Hospital alleges in the alternative that Defendants owe the Hospital for the
3 services provided to the Patients in quantum meruit.

4 49. Defendants expressly and impliedly requested that the Hospital provide medical
5 services to Patients 1 and 2 at the Hospital, rather than promptly arranging for the Patients' transfer to
6 a different facility.

7 50. As a result, the Hospital provided medical services to the Patients pursuant to such
8 express and implied requests.

9 51. The Hospital's provision of medically necessary care and treatment to Patients 1 and 2
10 was intended to benefit and, in fact, did benefit Defendants because the Hospital provided the
11 Patients medical care and treatment that Defendants were obligated by statute and contract to pay for,
12 arrange and/or provide at its own expense.

13 52. The reasonable value of the services the Hospital provided Patients 1 and 2 at the
14 express and implied requests of Defendants is \$854,278.36. Kaiser made payments to Hospital for
15 the services provided in the amount of \$651,862.91, leaving an unpaid balance of \$202,174.91.

16 53. As a result of the benefit conferred upon Defendants, the Hospital is entitled to
17 quantum meruit damages in the amount of \$202,174.91.

18 **FOURTH CAUSE OF ACTION**

19 **UNJUST ENRICHMENT**

20 **AGAINST ALL DEFENDANTS**

21 54. Plaintiff re-alleges and incorporates by reference each and every allegation set forth in
22 preceding paragraphs above.

23 55. As alleged above, the Hospital believes it is entitled to full and complete payment
24 from Defendants in accordance with the Agreement as set forth above. However, to the extent the
25 Agreement alleged does not apply and/or is deemed unenforceable against Defendants for any of the
26 services at issue, the Hospital alleges in the alternative that Defendants owe the Hospital for these
27 services based on unjust enrichment.

1 56. The Hospital alleges that Defendants owe the Hospital for the services provided to
2 Defendants’ members, Patients 1 and 2, in good faith based on unjust enrichment.

3 57. The Hospital’s provision of medically necessary care and treatment to the Patients 1
4 and 2 was intended to benefit and, in fact, benefited Defendants because Patients 1 and 2 were
5 provided medical care and treatment Defendants were obligated by statute and contract to provide or
6 arrange for its Members.

7 58. The value of the benefits conferred upon Defendants is \$854,037.82, which represents
8 the reasonable value of the services to Defendants.

9 59. Defendants knew that Patients 1 and 2 had been admitted and were being treated at the
10 Hospital. Yet, Defendants failed to arrange for the prompt transfer of Patients 1 and 2 to another
11 facility affiliated with Defendants, thereby retaining the benefits provided by the Hospital.

12 60. Defendants further failed to fully reimburse the Hospital for the significant health care
13 services the Hospital provided Patients 1 and 2, and thus retained the benefits of these services at the
14 expense of the Hospital.

15 61. As a result of the benefits the Hospital conferred upon Defendants, the Hospital is
16 entitled to restitution in the amount not less than \$202,174.91, plus statutory interest.

17 **FIFTH CAUSE OF ACTION**

18 **ACCOUNTS STATED**

19 **AGAINST ALL DEFENDANTS**

20 62. Plaintiff re-alleges and incorporates by reference each and every allegation set forth in
21 preceding paragraphs above.

22 63. As alleged above, the Hospital believes it is entitled to full and complete payment
23 from Defendants in accordance with the Agreement set forth above. However, to the extent the
24 Agreement alleged above does not apply and/or are deemed unenforceable against Defendants for any
25 of the services at issue, and absent any other legally controlling rate, the Hospital alleges in the
26 alternative that Defendants owe the Hospital for these services pursuant to an account stated.

27 64. As required by the laws of the State of California, at all times relevant herein, the
28 Hospital was required to, and in fact did, publish its charges online on the OSHPD website. The

1 Hospital's published charges are, and were at all times relevant here, available to the public including
2 Defendants. The Hospital's published charges reflect the reasonable and customary value of the
3 services and supplies the Hospital provides.

4 65. It is custom and practice in the healthcare industry for health care facilities such as the
5 Hospital and payors such as Defendants to enter into written contracts wherein the payors agree to
6 encourage their members, like Patients 1 and 2, to use the Hospital for their medical needs and in
7 exchange the Hospital agrees to accept payment at a discount off the full charge of its rates as
8 published online on the OSHPD website.

9 66. It is the custom and practice in the healthcare industry that where a hospital and a
10 payor have not entered into a valid written contract, and said hospital treats a member of said payor,
11 the payor will pay the hospital's full billed charges, which are published online on the OSHPD
12 website, as said charges are the reasonable and customary rate for said services.

13 67. Prior to rendering services to Patients 1 and 2, the Hospital's charges were available to
14 the public, including to Defendants, because they are published online on the OSHPD website. The
15 Hospital believes and therefore alleges Defendants knew or should have known of the Hospital's
16 reasonable and customary charges for services rendered to the Patients and therefore agreed to said
17 charges.

18 68. In the ordinary course of business, the Hospital sent invoices for the services at issue
19 to the place that Defendants directed the Hospital to send those bills. The bills are commonly
20 referred to as UB-04s, based on the form originated by the Medicare program, and now used
21 routinely by all providers and payors, for stating bills. The amounts stated on these bills by the
22 Hospital are the billed charges for the services, as published online on the OSHPD website, provided
23 to the Patients, which also is industry standard practice.

24 69. The Hospital is informed and believes that Defendants agreed with the Hospital on the
25 amount due from them, as reflected in the UB-04s sent to Defendants because said charges were
26 known to Defendants and published on the OSHPD website when Defendants requested and/or
27 acquiesced to the Hospital treating its members. Furthermore, Defendants did not ever contest the
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1 accuracy of the charges contained on the UB-04s nor contend that the services listed thereon were not
2 provided to the Patients.

3 70. The Hospital is informed and believes that Defendants expressly and/or implied
4 promised to pay the amount due of \$854,037.82, but Defendants only paid the Hospital \$651,862.91
5 and now owe the Hospital a balance of \$202,174.91 for the common count of account stated.

6 **SIXTH CAUSE OF ACTION**
7 **OPEN BOOK ACCOUNT**
8 **AGAINST ALL DEFENDANTS**

9 71. Plaintiff re-alleges and incorporates by reference each and every allegation set forth in
10 preceding paragraphs above.

11 72. As alleged above, the Hospital believes it is entitled to full and complete payment
12 from Defendants in accordance with the Agreement set forth above. However, to the extent the
13 Agreement alleged above does not apply and/or are deemed unenforceable against Defendants for any
14 of the services at issue, and absent any other legally controlling rate, the Hospital alleges in the
15 alternative that Defendants owe the Hospital for these services pursuant to an account stated.

16 73. The Hospital and Defendants had a financial transaction when the Hospital submitted
17 its bills to Defendants for the services the Hospital rendered to Patients 1 and 2, and Defendants
18 acknowledged their obligation to pay for said services by remitting partial payments to the Hospital
19 for said services.

20 74. The Hospital kept an account of the debits and credits involved in the transaction: the
21 accounts for an amount of \$854,037.82, Defendants have paid to the Hospital \$651,862.91, and thus
22 owe the outstanding balance of \$202,174.91.

23 75. Defendants owe the Hospital money on the accounts in the amount of \$202,174.91

24 76. The Hospital seeks payment from Defendants on the open book accounts.

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PRAYER FOR RELIEF

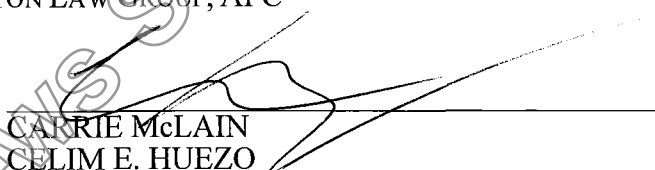
WHEREFORE, Plaintiff prays for judgment as follows:

1. For damages in an amount according to proof at trial;
2. For restitution for unjust enrichment;
3. For damages in quantum meruit;
4. For interest at the various statutory rates; and
5. For such other and further relief as this Court may deem just and proper.

DATED: November 30, 2016

HELTON LAW GROUP, APC

By:



CARRIE McLAIN
CELIM E. HUEZO
Attorneys for Plaintiff ST. JOSEPH HEALTH, a
California Corporation dba ST. JUDE MEDICAL
CENTER