

MAY 15 2014

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TERESA A. RISI
CLERK OF THE SUPERIOR COURT
L. Cummings
DEPUTY
L. CUMMINGS

CASE PROGRESS CONFERENCE
DATE: 11-18-2014
TIME: 9:00 AM
COURTROOM: 14.

7 Attorneys for Plaintiff
8 COMMUNITY HOSPITAL OF THE MONTEREY
9 PENINSULA

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 COUNTY OF MONTEREY

12 COMMUNITY HOSPITAL OF THE
13 MONTEREY PENINSULA,

14 Plaintiff,

15 v.

16 KAISER FOUNDATION HEALTH
17 PLAN, INC.; KAISER PERMANENTE
18 INSURANCE COMPANY; and DOES 1
19 through 20, Inclusive,

20 Defendants.

Case No.

M127814

**COMPLAINT FOR DAMAGES AND FOR
INJUNCTIVE RELIEF**

[Limited Civil Action]

21 GENERAL ALLEGATIONS

22 1. Plaintiff COMMUNITY HOSPITAL OF THE MONTEREY PENINSULA
23 (“Community Hospital”) is a California nonprofit public benefit corporation licensed to do
24 business in the State of California, and is a community-based health care provider with its
25 principal place of business in Monterey County, California.

26 2. Community Hospital is informed and believes that Defendant KAISER
27 FOUNDATION HEALTH PLAN, INC. is a company doing business in the State of California.
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{JM-346330;1}

1 available for resolving disputed requests for authorization. (Health & Safety Code §1371.4(a).)
2 If, after consultation with the plan physician, there is still a disagreement between the plan and
3 the physician regarding the need for necessary medical care, the plan must assume responsibility
4 for the care of the patient either by 1) having its medical personnel take over the case within a
5 reasonable time after the disagreement; or 2) having a hospital under contract with the plan agree
6 to accept the transfer of the patient. If the plan fails to satisfy either (1) or (2) above, further
7 necessary care is deemed authorized by the plan, and payment may not be denied. (Health &
8 Safety Code §1371.4(d).) In the case of concurrent review, care cannot be discontinued until the
9 physician has been notified of the plan's denial, and an alternate care plan has been agreed upon
10 by the physician. (Health & Safety Code §1367.01(h)(3), Insurance Code §10123.135(h)(3).)
11 Defendants' failure to comply with the above laws constitutes an unfair business practice in
12 violation of Business and Professions Code sections 17200 *et seq.*

13 16. Community Hospital is informed and believes and thereon alleges that Kaiser's
14 members have been denied coverage and will continue to be denied coverage due to Kaiser's
15 unlawful claims practices. Community Hospital is informed and believes and thereon alleges that
16 medical providers have been denied payment for treatment and care provided to Kaiser's
17 members and will continue to be denied such payment due to Kaiser's unlawful claims practices.
18 No adequate remedy at law lies for Kaiser's continuing violations.

19 17. Community Hospital seeks equitable relief for Kaiser's acts of unfair competition
20 in the form of disgorgement of the amounts Kaiser should have paid Community Hospital as the
21 reasonable value of authorized or emergency services, as billed.

22 18. Community Hospital further seeks an injunction to stop Kaiser from denying
23 Community Hospital's bills for emergency services.

24 19. Community Hospital further seeks an injunction to stop Defendants from denying
25 Community Hospital's bills after failing to take responsibility for their members' care following a
26 dispute over the medical necessity of the care.

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1 **SECOND CAUSE OF ACTION**

2 **(Common Count – Open Book Account against all Defendants)**

3 20. Community Hospital incorporates herein by reference the allegations set forth in
4 Paragraphs 1 through 12.

5 21. Community Hospital has an ongoing business relationship with Defendants.
6 Pursuant to this relationship, Community Hospital frequently provides medical care to
7 Defendants' members for which Defendants agree to, and do provide payment.

8 22. Community Hospital maintains a statement in the regular course of business and in
9 a reasonably permanent manner associated with each patient visit to Community Hospital,
10 including visit number 322188046. Community Hospital regularly updates this statement to
11 reflect debits and credits associated with the transaction.

12 23. The invoice for which Kaiser failed to make full payment on is the statement that
13 Community Hospital sent to Kaiser on October 23, 2012 for Patient's treatment from October 12,
14 2012 through October 16, 2012.

15 24. Kaiser refuses to pay and has not paid Community Hospital in accordance with its
16 obligations, and as a result, the account with Community Hospital is in arrears.

17 25. The indebtedness of Kaiser to Community Hospital is evidenced by a statement
18 maintained by Community Hospital in the regular course of business that is kept in a reasonably
19 permanent form and manner.

20 26. Kaiser owes Community Hospital the total of the invoiced amount of \$23,499.00.

21 **THIRD CAUSE OF ACTION**

22 **(Common Count – Work, Labor, Services, and Materials Rendered against all Defendants)**

23 27. Community Hospital incorporates herein by reference the allegations set forth in
24 Paragraphs 1 through 12.

25 28. Kaiser became indebted to Community Hospital for services rendered to Patient
26 for which Kaiser is statutorily obligated to pay.

27 29. Community Hospital provided the health care services to Patient.

28 30. Rather than pay the billed charges for the health care services provided by

1 Community Hospital to Patient, Kaiser has denied Community Hospital's entire claim.
2 Community Hospital has demanded the amounts owed, but Kaiser has not paid those amounts.

3 31. Kaiser owes Community Hospital the total of the invoiced amounts for the
4 services rendered.

5 **FOURTH CAUSE OF ACTION**

6 **(Quantum Meruit against all Defendants)**

7 32. Community Hospital incorporates herein by reference the allegations set forth in
8 Paragraphs 1 through 12.

9 33. Defendants were obligated to pay Community Hospital for any emergency care of
10 its members. Hospitals that operate emergency departments in California, such as Community
11 Hospital, are legally required to provide emergency treatment to all patients until the patients are
12 medically stable, without regard to the patients' insurance coverage or ability to pay. Health
13 insurers and plans, including Defendants, in turn, are required by law to pay the hospitals for the
14 emergency services provided. California public policy favors timely access to emergency
15 services and direct payment by insurers to providers for such services, as stated in Insurance Code
16 sections 10133 et seq., Health and Safety Code sections 1317 and 1371 et seq., and related
17 statutes and regulations.

18 34. Community Hospital provided emergency services and post-stabilization services
19 to Patient and billed Defendants for the reasonable value of such services, but Defendants have
20 refused to pay Community Hospital in full.

21 35. As a result of the benefit conferred, Defendants owe Community Hospital
22 damages for quantum meruit in the amount of the billed charges.

23 36. Defendants have failed to compensate Community Hospital fully for the
24 significant health care services it provided to Patient.

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PRAYER FOR RELIEF

WHEREFORE, Plaintiff COMMUNITY HOSPITAL OF THE MONTEREY PENINSULA prays for relief as follows:

1. For damages in the amount of \$23,499.00;
2. For interest at the rate of 10% under Insurance Code sections 10123.13 and 10123.147 and applicable regulations, and/or Civil Code sections 3287 and 3289;
3. For an order of this Court ordering Kaiser to pay Community Hospital for all emergency services Community Hospital provides to Kaiser's members;
4. For an order of this Court ordering Defendants to pay Community Hospital's billed charges after failing to take responsibility for Defendants' members' care following a dispute over the medical necessity of the care.
5. For costs of suit; and
6. For such other and further relief as the Court deems just and proper.

Dated: May 15, 2014

Fenton & Keller

By: 

Christopher E. Panetta
Attorneys for Plaintiff
COMMUNITY HOSPITAL OF THE
MONTEREY PENINSULA