

FILED

APR 17 2015

CHRISTOPHER E. PANETTA, (Bar No. 175127)
ELIZABETH R. LEITZINGER, (Bar No. 259677)
FENTON & KELLER
A Professional Corporation
2801 Monterey-Salinas Highway
Post Office Box 791
Monterey, California 93942
Telephone: (831) 373-1241
Facsimile: (831) 373-7219
CPanetta@FentonKeller.com
ELeitzinger@FentonKeller.com

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

CASE PROGRESS CONFERENCE
DATE: 10-20-2015
TIME: 9:00 AM
COURTROOM: 14

Attorneys for Plaintiff
COMMUNITY HOSPITAL OF THE MONTEREY
PENINSULA

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF MONTEREY

COMMUNITY HOSPITAL OF THE
MONTEREY PENINSULA,

Plaintiff,

v.

KAISER PERMANENTE INSURANCE
COMPANY; and DOES 1 through 20,
Inclusive,

Defendants.

Case No.

M131743

**COMPLAINT FOR DAMAGES AND FOR
INJUNCTIVE RELIEF**

[Limited Civil Action]

GENERAL ALLEGATIONS

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

2. Community Hospital is informed and believes that Defendant KAISER PERMANENTE INSURANCE COMPANY is a California corporation doing business in the State of California. Community Hospital is further informed and believes and thereon alleges that {JMH-425455;2}

1 Defendant KAISER PERMANENTE INSURANCE COMPANY ("Kaiser") provides and
2 administers health care benefit plans and related services to its participants in California.

3 3. Community Hospital is unaware of the true names and capacities of the defendants
4 sued herein as Does 1 through 20, inclusive, and therefore sues those defendants by fictitious
5 names. Community Hospital is informed and believes, and on that basis alleges, that each of
6 these fictitious named defendants is responsible in some manner for the actions alleged in this
7 Complaint. When the true names and capacities are ascertained, Community Hospital will amend
8 this Complaint by asserting their true names and capacities. Community Hospital is informed and
9 believes that each fictitiously named defendant has done, or has caused to be done, those things of
10 which Community Hospital complains. Any reference made to Defendants individually or
11 collectively shall, by such reference, be deemed a reference to, and an allegation against, each
12 fictitiously named defendant.

13 FACTUAL BACKGROUND

14 I. PATIENT A

15 4. On or about July 12, 2013, a patient ("**Patient A**") presented at Community
16 Hospital's emergency room and sought and received emergency medical treatment until **Patient**
17 **A's** discharge on the same day. Community Hospital assigned **Patient A** visit number
18 324021757. All of the medical treatment provided to Patient A was medically necessary.

19 5. At the time of admission, **Patient A** presented to Community Hospital evidence of
20 Kaiser health benefits. **Patient A's** Kaiser Medical Record Number is 0014411439.

21 6. At or around the time of admission, Kaiser verified **Patient A's** eligibility for
22 health benefits through a Kaiser health care benefit plan.

23 7. On or about July 18, 2013, Community Hospital submitted to Kaiser a claim for
24 payment for **Patient A's** care on July 12, 2013, and sent Kaiser a statement in the amount of
25 \$4,800.00. Kaiser assigned claim number X2379610302 to this claim.

26 8. On or about July 27, 2013, Kaiser remitted a partial payment to Community
27 Hospital in the amount of \$3,260.00, but denied the amount of \$1,440.00 on the basis that the
28 Community Hospital's charges allegedly exceeded what was reasonable and customary.

{JM-425455;2}

1 9. Community Hospital appealed Kaiser's decision; however, Kaiser upheld its
2 denial.

3 10. To date, Kaiser has failed and refused to pay the charges due to Community
4 Hospital concerning health care services for **Patient A** rendered on July 12, 2013. As a result,
5 Defendant owes Community Hospital the amount of \$1,440.00.

6 **II. PATIENT B**

7 11. On or about June 23, 2013, a patient ("**Patient B**") presented at Community
8 Hospital's emergency room and sought and received emergency medical treatment until **Patient**
9 **B's** discharge on the same day. Community Hospital assigned **Patient B** visit number 32389744.
10 All of the medical treatment provided to Patient B was medically necessary.

11 12. At the time of admission, **Patient B** presented to Community Hospital evidence of
12 Kaiser health benefits. **Patient B's** Kaiser Medical Record Number is 000011535975.

13 13. At or around the time of admission, Kaiser verified Patient B's eligibility for
14 health benefits through a Kaiser healthcare benefit plan.

15 14. On or about July 1, 2013, Community Hospital submitted to Kaiser a claim for
16 payment for **Patient B's** care on June 23, 2013, and sent Kaiser a statement in the amount of
17 \$1,636.00. Kaiser assigned claim number 406233002601 to this claim.

18 15. On or about July 27, 2013, Kaiser remitted a partial payment to Community
19 Hospital in the amount of \$814.00, but denied the amount of \$747.00 on the basis that the
20 Community Hospital's charges allegedly exceeded what was reasonable and customary and that
21 the statement did not "comply with the definition of a complete claim."

22 16. Community Hospital appealed Kaiser's decision; however, Kaiser upheld its
23 denial.

24 17. To date, Kaiser has failed and refused to pay the charges due to Community
25 Hospital concerning health care services for **Patient B** rendered on June 23, 2013. As a result,
26 Defendant owes Community Hospital the amount of \$747.00.

27 **III. PATIENT C**

28 18. On or about April 20, 2013, a patient ("**Patient C**") presented at Community
{JMH-425455;2}

1 Hospital's emergency room and sought and received emergency medical treatment until **Patient**
2 **C's** discharge on the same day. Community Hospital assigned **Patient C** visit number
3 323471722. All of the medical treatment provided to **Patient C** was medically necessary.

4 19. At the time of admission, **Patient C** presented to Community Hospital evidence of
5 Kaiser health benefits. **Patient C's** Kaiser Medical Record Number is 0007962313.

6 20. At or around the time of admission, Kaiser verified **Patient C's** eligibility for
7 health benefits through a Kaiser healthcare benefit plan.

8 21. On or about April 26, 2013, Community Hospital submitted to Kaiser a claim for
9 payment for **Patient C's** care on April 20, 2013, and sent Kaiser a statement in the amount of
10 \$6,161.00. Kaiser assigned claim number X2326089501 to this claim.

11 22. On or about May 15, 2013, Kaiser remitted a partial payment to Community
12 Hospital in the amount of \$4,312.70, but denied the amount of \$1,848.30 on the basis that
13 Community Hospital's charges allegedly exceeded what was reasonable and customary.

14 23. Community Hospital appealed Kaiser's decision; however, Kaiser upheld its
15 denial.

16 24. To date, Kaiser has failed and refused to pay the charges due to Community
17 Hospital concerning health care services for **Patient C** rendered on April 20, 2013. As a result,
18 Defendant owes Community Hospital the amount of \$1,848.30.

19 **IV. PATIENT D**

20 25. On or about July 24, 2013, a patient ("**Patient D**") presented at Community
21 Hospital's emergency room and sought and received emergency medical treatment until **Patient**
22 **D's** discharge on the same day. Community Hospital assigned **Patient D** visit number
23 324096296. All of the medical treatment provided to **Patient D** was medically necessary.

24 26. At the time of admission, **Patient D** presented to Community Hospital evidence of
25 Kaiser health benefits. **Patient D's** Kaiser Medical Record Number is 0020090437.

26 27. On or about July 30, 2013, Community Hospital submitted to Kaiser a claim for
27 payment for **Patient D's** care on July 24, 2013, and sent Kaiser a statement in the amount of
28 \$4,609.00. Kaiser assigned claim number 60125017100 to this claim.

28. On or about August 21, 2013, Kaiser remitted a partial payment to Community Hospital in the amount of \$3,076.30, but denied the amount of \$1,382.70 on the basis that Community Hospital's charges allegedly exceeded what was reasonable and customary.

29. Community Hospital appealed Kaiser's decision; however, Kaiser upheld its denial.

30. To date, Kaiser has failed and refused to pay the charges due to Community Hospital concerning health care services for **Patient D** rendered on July 24, 2013. As a result, Defendant owes Community Hospital the amount of \$1,382.70

31. To Date, Kaiser has failed to pay in full the charges due to Community Hospital concerning the care and treatment provided to **Patient A, Patient B, Patient C and Patient D** (collectively "Patients") as alleged herein.

FIRST CAUSE OF ACTION

(Unfair Competition against all Defendants)

32. Community Hospital incorporates herein by reference the allegations set forth in Paragraphs 1 through 31.

33. Kaiser is required to pay Community Hospital for the emergency services provided to its members without requiring prior authorization, pursuant to the public policy favoring patient access to health care, as stated in Insurance Code sections 10133 *et seq.*, Health and Safety Code sections 1317 and 1371 *et seq.*, and related statutes and regulations. The failure of Kaiser to pay Community Hospital's claim for emergency services for Patients constitutes an unfair business practice in violation of Business and Professions Code sections 17200 *et seq.*

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

35. Community Hospital seeks equitable relief for Kaiser's acts of unfair competition

{JMH-425455;2}

- 5 -

1 in the form of disgorgement of the amounts Kaiser should have paid Community Hospital as the
2 reasonable value of emergency services, as billed.

3 36. Community Hospital further seeks an injunction to stop Kaiser from denying
4 Community Hospital's bills for emergency services.

5 37. Community Hospital further seeks an injunction to stop Kaiser from denying
6 Community Hospital's bills after failing to take responsibility for their members' care following a
7 dispute over the medical necessity of the care.

8 **SECOND CAUSE OF ACTION**

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

10 38. Community Hospital incorporates herein by reference the allegations set forth in
11 Paragraphs 1 through 31.

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

21 40. Community Hospital provided emergency services to Patients and billed Kaiser for
22 the reasonable value of such services, but Kaiser has refused to pay Community Hospital in full.

23 41. As a result of the benefit conferred, Kaiser owes Community Hospital damages for
24 quantum meruit in the amount of the billed charges.

25 42. Kaiser has failed to compensate Community Hospital fully for the significant
26 health care services it provided to Patients.

27 ///

28 ///

{JMH-425455;2}

1 **PRAYER FOR RELIEF**

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

- 4 1. For damages in the amount of \$5,418.00;
- 5 2. For interest at the legal rate under 28 C.C.R. §1300.71(i), Insurance Code sections
6 10123.13 and 10123.147 and applicable regulations and/or Civil Code sections 3287 and 3289;
- 7 3. For an order of this Court ordering Kaiser to pay Community Hospital for all
8 emergency services Community Hospital provides to Kaiser's members;
- 9 4. For costs of suit; and
- 10 5. For such other and further relief as the Court deems just and proper.

11 Dated: April 16, 2015

Fenton & Keller

12
13 By: 

14 Christopher E. Panelta
15 Elizabeth R. Leitzinger
16 Attorneys for Plaintiff
17 COMMUNITY HOSPITAL OF THE
18 MONTEREY PENINSULA
19
20
21
22
23
24
25
26
27
28