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FILED
Superior Court of California
County of Los Angeles

SEP 27 2017

Sherri B. Carter, Executive Officer/Clerk
By Ricardo Perez Deputy
Ricardo Perez

ATTORNEYS FOR PLAINTIFF

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES**

UNIVERSITY OF SOUTHERN
CALIFORNIA on behalf of its KECK
HOSPITAL OF USC and on behalf of
its USC KENNETH NORRIS JR.
CANCER HOSPITAL,

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.:

BC677052

ASSIGNED TO:

Tim Rifa Miller

DEPT. 16

UNLIMITED - DAMAGES IN EXCESS OF \$25,000

COMPLAINT FOR DAMAGES FOR:

1. BREACH OF WRITTEN CONTRACT (Keck)
2. BREACH OF WRITTEN CONTRACT (Norris)
3. DECLARATORY RELIEF (Keck)
4. DECLARATORY RELIEF (Norris)
5. INTENTIONAL INTERFERENCE WITH CONTRACTUAL RELATIONS
6. INTENTIONAL INTERFERENCE WITH PROSPECTIVE ECONOMIC RELATIONS
7. NEGLIGENT INTERFERENCE WITH PROSPECTIVE ECONOMIC RELATIONS

TO ALL INTERESTED PARTIES AND THEIR ATTORNEYS OF RECORD

GENERAL ALLEGATIONS

1. Plaintiff UNIVERSITY OF SOUTHERN CALIFORNIA ("USC" or "Plaintiff") on behalf of its KECK HOSPITAL OF USC ("Keck") and USC KENNETH NORRIS JR. CANCER HOSPITAL ("Norris"), is a California corporation doing business in California. The Plaintiff operates

RECEIPT #: CCHS2866534
DATE PAID: 09/26/17
PAYMENT: \$435.00
RECEIVED: 310

CHECK: \$0.00
CASH: \$0.00
CHANGE: \$0.00
CASH: \$435.00

COMPLAINT FOR DAMAGES

15:20:05 2017-09-27

CIT/CASE: BC677052
LENDER#: 1

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1 Keck, formerly known as USC University Hospital, and Norris, which are both licensed general acute
2 care hospitals located in the City of Los Angeles, County of Los Angeles.

3 2. Defendant KAISER FOUNDATION HEALTH PLAN, INC. ("KFHP") is a California
4 Corporation, organized and existing under the laws of the State of California. Plaintiff is informed and
5 believes that KFHP's operations are divided between Northern and Southern California Regions.
6 Plaintiff is informed and believes that the hospital claims for reimbursement which are at issue in this
7 dispute are under KFHP's "Southern California Region," which is headquartered and operates its
8 principal place of business in the City of Pasadena, County of Los Angeles.

9 3. Defendant KAISER FOUNDATION HOSPITALS ("Kaiser Hospitals") is a California
10 Corporation, organized and existing under the laws of the State of California. Plaintiff is informed and
11 believes that Kaiser Hospitals' operations are divided between Northern and Southern California
12 Regions. Plaintiff is informed and believes that the claims at issue in this dispute are under Kaiser
13 Hospitals' "Southern California Region," which is headquartered and operates its principal place of
14 business in the City of Pasadena, County of Los Angeles.

15 4. USC is unaware of the true names, identities, and capacities of Defendants sued herein
16 as Does 1 through 25, inclusive, and each of them as based thereon, sues said Defendants by such
17 fictitious names. When their true names and capacities are ascertained, Plaintiff will amend this
18 complaint by inserting their true names and capacities herein. USC is informed and believes and
19 thereon alleges that each of the fictitiously named defendants is responsible in some manner for the
20 occurrences alleged herein, and that USC's damages as alleged herein were proximately caused by
21 those defendants.

22 5. USC is informed and believes and thereon alleges that at all times mentioned herein,
23 each of the Defendants, including all Defendants sued under fictitious names, were the agent and/or
24 employee of each of the remaining Defendants, and in so doing the things alleged herein, were acting
25 within the scope of his or her agency and employment.

26 6. USC is withholding the full name of the Kaiser members referred to in this Complaint
27 to preserve the Patients' protected rights to privacy concerning health care information. Patients 1
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through 8 are referred to herein collectively as the Patients, and their names and claims information have been and will be made available to the appropriate Defendants upon request.

JURISDICTION AND VENUE

7. Jurisdiction and venue are proper in Los Angeles County because, Keck is informed and believes, that KFHP's and Kaiser Hospital's principal place of business is in the County, the tortious conduct alleged herein occurred in this County, the medical services were provided in this County, the contracts at issue were entered into in this County, and the breaches of contract occurred in this County.

GENERAL ALLEGATIONS REGARDING DEFENDANTS

8. USC is informed and believes that KFHP and Kaiser Hospitals are affiliates of each other and/or are otherwise related corporate entities, and that they cooperate in the conduct of the health care program commonly known as the "Kaiser Permanente Medical Care Program,".

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

10. USC is informed and believes, and thereon alleges, that Kaiser Hospitals is the owner and operator of general acute care hospitals in California. USC further is informed and believes that Kaiser Hospitals is a capitated provider of a health care service plan, and thus is subject to the Knox-Keene Act and related regulations on health care services plans and their capitated providers.

11. USC is informed and believes that, at all relevant times herein, KFHP provided health care coverage to Kaiser members, including the specific Patients described in this complaint. USC further is informed and believes that, at all relevant times herein, Kaiser Hospitals was a capitated provider of KFHP and thus legally and/or contractually obligated to itself arrange for and/or provide services to the specific Patients described in this complaint.

12. USC is informed and believes the following: In operating the Kaiser Permanente Medical Care Program, KFHP and Kaiser Hospitals operate an "integrated system." That is, as a cost-control measure to benefit KFHP and Kaiser Hospitals, they endeavor to provide medical care to Kaiser members through physicians and other medical personnel employed at hospitals owned and

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operated by Kaiser Hospitals. KFHP and Kaiser Hospitals regularly share staff, such that individuals either are employed by KFHP and Kaiser Hospitals simultaneously, and/or are employees of one (for example, Kaiser Hospitals) that act as the authorized agent for the other Kaiser entity (for example, KFHP), all while working on behalf of "Kaiser" or "Kaiser Permanente" on behalf of all Kaiser entities, as identified in written documentation, letters and contracts distributed by KFHP and Kaiser Hospitals to USC, other health care providers, the Department of Managed Health Care and the public.

**KFHP AND KAISER HOSPITALS REGULARLY AND KNOWINGLY
INTERFERE WITH USC'S ABILITY TO OBTAIN PAYMENT FROM
KAISER MEMBER'S SECONDARY INSURANCE**

13. KFHP and Kaiser Hospitals regularly and knowingly interfere with USC's ability to obtain payment from Kaiser members' secondary insurance, such as through Anthem Blue Cross, Blue Shield of California, Health Net and United Healthcare. KFHP and Kaiser Hospitals do so by refusing to issue explanations of benefits ("EOBs") that properly identify as patient responsibility the charges for the hospital services Keck and Norris provided, and KFHP and Kaiser Hospitals denied, on the basis that the services were not authorized by Kaiser.

14. Rather than identify non-authorized charges as "Patient Responsibility," according to industry standards and the terms of the patients' KFHP membership agreements, KFHP and Kaiser Hospitals instead improperly and incorrectly identify the denied amounts as "Disallowed," which they define as "Differences between Medicare allowable, provider agreement, or reasonable and customary rate, and billed charges."

15. KFHP and Kaiser Hospitals take such actions even though Kaiser members intentionally chose to obtain elective or post-stabilization services from Keck and Norris without obtaining authorization from Kaiser to do so.

16. It is a widespread industry custom and practice for health care service plans, ERISA plans and other insurers and health care service plans to include in their Member Agreements and Evidences of Coverage ("EOCs") a provision excluding from coverage services the insured has no legal obligation to pay for.

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1 17. Thus, when KFHP and Kaiser Hospitals issue denial EOBs that improperly identify
 2 their members' patient responsibility as \$0 (zero) and the denied charges as "Disallowed," KFHP and
 3 Kaiser Hospitals prevent USC from obtaining payment from the Kaiser members' secondary insurance
 4 plans, such as Blue Cross, Blue Shield and Health Net.

5 18. Without a denial EOB from KFHP and Kaiser Hospitals identifying denied charges as
 6 patient responsibility, USC cannot obtain payment from the secondary insurer.

7 19. KFHP and Kaiser Hospitals have no legitimate basis for refusing to issue a denial EOB
 8 making the charges patient responsibility when Kaiser members intentionally chose to obtain elective
 9 and post-stabilization services from Keck and Norris without authorization from Kaiser to do so,
 10 because such Kaiser members believed the services would be covered by their secondary insurer.

11 20. USC is informed and believes that KFHP and Kaiser Hospitals refuse to issue EOBs
 12 making the charges denied by KFHP and Kaiser Hospitals patient responsibility specifically to gain a
 13 competitive advantage over USC. That is, USC is informed and believes that KFHP and Kaiser
 14 Hospitals seek to economically damage USC as an operator of hospitals in direct competition to
 15 Kaiser Hospitals and its affiliate KFHP. USC is informed and believes that KFHP and Kaiser
 16 Hospitals further seek to unfairly bolster their reputation and financial and market positions by
 17 ensuring that Kaiser members obtain medically necessary hospital services that neither KFHP, Kaiser
 18 Hospitals, Kaiser members, nor members' secondary insurers pay for, and thus to financially harm
 19 USC.

20 **KFHP AND KAISER HOSPITALS MUST ISSUE EOBs MAKING DENIED CHARGES**
 21 **PATIENT RESPONSIBILITY SO THAT USC CAN OBTAIN PAYMENT FROM**
 22 **SECONDARY PAYORS FOR SERVICES KAISER MEMBERS CHOSE TO RECEIVE**
 23 **FROM KECK AND NORRIS, INSTEAD OF KAISER**

24 21. Individuals can be covered by more than one health insurance plan.

25 22. For example, a person may have insurance coverage through both KFHP as the
 26 subscriber under an individual plan and Blue Cross (or Health Net, Blue Shield, etc.) as a dependent
 27 under a spouse's plan. As another example, a person may have insurance coverage through both
 28 KFHP as an active employee under an employer-based plan and Medicare as a secondary payor.

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23. Many times, when a person has both Kaiser and second health insurance coverage, such as Blue Cross or Medicare, the person intentionally elects to use his or her secondary health insurance coverage to obtain health care services at Keck and Norris, rather than seek such services through Kaiser. This is particularly true for surgeries, and other specialized "elective" services where a person has the time to research and make an informed decision as to the hospital from which he or she chooses to obtain services.

24. At all relevant times, KFHP's Member Agreements contain language indicating that with certain exceptions (such as authorized referrals for services Kaiser cannot itself provide, emergency and authorized post-stabilization services, and continuity of care services for new enrollees), Kaiser members must obtain health care services from Kaiser physicians and hospitals in order for the services to be covered by Kaiser.

25. At all relevant times, KFHP's Membership Agreements contain language indicating that a Kaiser member "may have to pay the full price of noncovered Services you obtain from . . . Non-[Kaiser] Providers," and stating, "If you receive care from a Non-[Kaiser] Provider that we have not authorized, you may have to pay the full cost of that care."

26. When a person is covered by more than one health insurance plan, typically the health insurance plans follow policies or regulations regarding "coordination of benefits," such as those set forth in Title 28 of the Code of California Regulations section 1300.67.13. Essentially, coordination of benefits policies and regulations determine which plan pays a health care provider, such as Keck or Norris, first as the "primary payor," and which plan pays as the "secondary payor."

27. Due to the policies and regulations regarding coordination of benefits, it is a widespread industry custom and practice for a secondary payor to require a health care provider, such as Keck or Norris, billing a claim for reimbursement to submit a copy of the EOB (explanation of benefits) from the primary payor with such claim.

28. The primary payor's EOB frequently provides information the secondary payor needs to determine its financial liability. Specifically, the EOB evidences that the provider billed the primary payor, and identifies the amounts, if any, that the primary payor paid on the claim and identified as patient responsibility.

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1 29. Often, a secondary payor can reduce from what it owes the health care provider the
2 amount paid by the primary payor. In some instances, information on the primary payor's EOB, such
3 as the primary payor's payment and/or the identified patient responsibility, can eliminate the
4 secondary payor's financial liability to the provider entirely.

5 30. Accordingly, it is a widespread industry custom and practice for a secondary payor that
6 is aware of the existence of an insured's health insurance coverage through a primary payor to deny
7 payment on a health care provider's claim for reimbursement unless the provider submits an EOB
8 from the primary payor.

9 31. KFHP and Kaiser Hospitals are aware of the industry custom and practice whereby a
10 secondary payor requires a health care provider to submit an EOB from the primary payor before the
11 secondary payor will process payment on the claim. KFHP and Kaiser Hospitals are aware of this
12 industry custom and practice because they themselves follow such custom and practice when Kaiser
13 members have other coverage as primary insurance, and KFHP is the secondary payor.

14 32. Often, when an individual who has health care coverage under both Kaiser and a
15 secondary health insurance plan obtains health care services from Keck and Norris, the individual only
16 provides information regarding the secondary payor. Frequently, such an individual intentionally does
17 not disclose to Keck and Norris that he has Kaiser because he is aware his is seeking care that Kaiser
18 will not cover at a non-Kaiser hospital such as Keck or Norris. In such circumstances, the individual
19 specifically intends that his secondary health insurance plan pay for the services Keck and Norris
20 provide.

21 33. In these circumstances, USC generally contacts the other payor, such as Blue Cross,
22 Blue Shield, or Health Net (generally referred to herein as "Other Payor"), to provide notification
23 and/or request authorization for Keck and Norris to provide services to the insured, and such Other
24 Payor authorizes such services. Often, USC contacts the Other Payor thinking that such Other Payor
25 is the primary payor, and not knowing that the individual has Kaiser as his primary payor.

26 34. USC then submits the claim for reimbursement to the Other Payor. Sometimes, the
27 Other Payor denies USC's claim for reimbursement on the ground that Kaiser is the primary payor. In
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1 other instances, the Other Payor initially pays USC's claim for reimbursement, but later retracts such
2 payment on the ground that Kaiser is the primary payor.

3 35. The Other Payor's denial or retraction of payment often is the first notice USC receives
4 of the existence of the patient's Kaiser coverage and the fact that the Other Payor is in fact the
5 secondary payor.

6 36. Consistent with the industry custom and practice for coordination of benefits, once
7 USC has notice that Kaiser is the primary payor, USC then submits the claim for reimbursement to
8 KFHP and Kaiser Hospitals for adjudication.

9 37. In such instances, KFHP and Kaiser Hospitals deny USC's claim for reimbursement for
10 unauthorized elective and post-stabilization services. In issuing an EOB denying USC's claim for
11 reimbursement, KFHP and Kaiser Hospitals improperly identify their members' patient responsibility
12 as \$0 (zero).

13 38. Rather than identify such charges as "Patient Responsibility," according to industry
14 standards and the terms of the patients' KFHP membership agreements, KFHP and Kaiser Hospitals
15 instead improperly and incorrectly identify the denied amounts as "Disallowed," which they define as
16 "Differences between Medicare allowable, provider agreement, or reasonable and customary rate, and
17 billed charges."

18 39. It is a widespread industry custom and practice for health care service plans, ERISA
19 plans and other insurers to include in their Member Agreements and EOCs an exclusion from
20 coverage for services for which the insured has no legal obligation to pay.

21 40. Thus, when KFHP and Kaiser Hospitals issue denial EOBs that improperly identify
22 their members' patient responsibility as \$0 (zero), KFHP and Kaiser Hospitals prevent USC from
23 obtaining payment from the Kaiser members' secondary insurance plan, such as the "Other Payors"
24 Blue Cross, Blue Shield and Health Net.

25 41. On various dates from September 28, 2016 through June 12, 2017, USC sent to KFHP
26 and Kaiser Hospitals letters addressing claims for reimbursement that KFHP and Kaiser denied and
27 improperly identified as having \$0 (zero) patient responsibility. USC attached to its letters documents
28 evidencing that the Kaiser members intentionally sought elective services from Keck and Norris

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1 without authorization from Kaiser to do so, and that the Kaiser members did not inform USC that they
2 had Kaiser at the time of service because they intended their secondary insurance plan – i.e., such
3 Other Payors as Blue Cross, Blue Shield or Health Net – to pay for the services. USC attached to its
4 letters examples of Evidences of Coverage issued by Other Payors that include a provision excluding
5 from coverage services the insured has no legal obligation to pay for. USC's letters specifically
6 informed KFHP and Kaiser Hospitals that their EOBs improperly identified \$0 (zero) patient
7 responsibility and thus prevented USC from obtaining payment from the secondary insurance plan.
8 USC requested that KFHP and Kaiser Hospitals re-issue EOBs that properly identify the denied
9 charges as patient responsibility.

10 42. KFHP and Kaiser Hospitals have failed to respond or take any corrective action in
11 response to these communications.

12 43. KFHP and Kaiser Hospitals are aware that Kaiser members intentionally seek treatment
13 for elective and post-stabilization services from Keck and Norris instead of Kaiser, intending that the
14 Kaiser members' secondary insurance plans pay for such services. KFHP and Kaiser Hospitals further
15 are aware that their issuance of EOBs that improperly identify Kaiser members' patient responsibility
16 as \$0 (zero) prevents USC from obtaining payment from the Kaiser members' secondary insurance
17 plans. Nevertheless KFHP and Kaiser Hospitals refuse to issue EOBs to USC that properly identify
18 the denied charges as the Kaiser members' patient responsibility.

19 44. The problem USC has, in obtaining EOBs from KFHP and Kaiser Hospitals making the
20 denied charges Kaiser members' financial responsibility when such members intentionally seek
21 services from Keck and Norris through their secondary insurance plan, is an ongoing one and is likely
22 to recur.

23 45. The problem USC has, in obtaining EOBs from KFHP and Kaiser Hospitals making the
24 denied charges Kaiser members' financial responsibility when such members intentionally seek
25 services from Keck and Norris through their secondary insurance plan, causes USC damages,
26 including preventing USC from being able to obtain payment from such secondary insurance plan, and
27 increased labor costs.

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**EXAMPLES OF USC'S CLAIMS WHERE A KAISER MEMBER INTENTIONALLY
OBTAINED TREATMENT AT KECK OR NORRIS UNDER A SECONDARY INSURANCE
POLICY, RATHER THAN KAISER**

Patient 1

46. Patient 1 voluntarily chose to go outside of Kaiser to obtain a scheduled outpatient surgery to drain an abscess at Keck under Patient 1's coverage with the secondary payor, Health Net.

47. During the pre-registration process prior to the scheduled outpatient surgery, Patient 1 informed Keck that she had coverage with Health Net and did not identify any additional coverage. As a result, USC registered Patient 1's Health Net coverage as primary.

48. USC requested pre-authorization from Health Net for the surgery and was informed that no authorization was required.

49. USC billed Health Net, and Health Net initially paid USC's claim for reimbursement for the services provided to Patient 1 as the primary insurer.

50. However, seven months later, Health Net retracted its payment on the ground that another unnamed plan was primary.

51. USC investigated the issue and nearly five months later finally learned that Patient 1 had Kaiser coverage as the primary payor.

52. The Patient called USC to check on the status of the claim and specifically instructed USC not to bill Kaiser as she did not use it. Rather, she only used Health Net coverage. Patient 1 further advised USC "Kaiser will not make payment" for the services Keck provided to her.

53. USC billed KFHP and Kaiser Hospitals. KFHP and Kaiser Hospitals denied the claim as untimely and improperly identified \$0 (zero) as patient responsibility. Rather than identify such charges as "Patient Responsibility," KFHP and Kaiser Hospitals instead improperly and incorrectly identify the denied amounts as "Disallowed," which they define as "Differences between Medicare allowable, provider agreement, or reasonable and customary rate, and billed charges."

54. USC submitted to KFHP and Kaiser Hospitals an appeal of the denial. USC is informed and believes that it submitted with the appeal evidence of good cause for the late submission

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1 of the claim -- namely, USC's late discovery of the Kaiser coverage and the Patient's intent to access
2 her secondary insurance plan through Health Net for the services Keck provided.

3 55. USC sent a letter to KFHP and Kaiser Hospitals specifically requesting that they issue a
4 corrected EOB making the denied charges for post-stabilization services patient responsibility.

5 56. KFHP and Kaiser Hospitals improperly denied the appeal.

6 57. To date, KFHP and Kaiser Hospitals refuse to issue a corrected EOB that identifies the
7 full billed charges as patient responsibility to enable USC to bill and receive payment from Health
8 Net.

9 58. The failure and refusal of KFHP and Kaiser Hospital to identify the denied charges as
10 patient responsibility have prevented and still prevent USC from being able to obtain payment from
11 Health Net as the secondary payor.

12 Patient 2

13 59. Patient 2 voluntarily chose to obtain a scheduled outpatient surgery at Keck under
14 Patient 2's coverage with the tertiary payor, Blue Cross, rather than seek treatment at Kaiser under his
15 Kaiser coverage.

16 60. During the pre-registration process prior to the surgery, Patient 2 specifically informed
17 USC that his Blue Cross coverage was primary and his Kaiser coverage was secondary. As a result,
18 USC registered Patient 2 with Blue Cross coverage as primary.

19 61. USC requested and obtained pre-authorization from Blue Cross for the surgery at Keck.

20 62. Blue Cross initially paid as primary, and identified a balance of \$2,275.06 as co-
21 insurance.

22 63. USC then billed the claim to KFHP and Kaiser Hospitals as the secondary payor to
23 obtain payment for the Patient's copayment. Kaiser denied the claim for lack of authorization and
24 improperly identified \$0 (zero) as patient responsibility. Rather than identify such charges as "Patient
25 Responsibility," KFHP and Kaiser Hospitals instead improperly and incorrectly identify the denied
26 amounts as "Disallowed," which they define as "Differences between Medicare allowable, provider
27 agreement, or reasonable and customary rate, and billed charges."
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1 64. Almost six months after Blue Cross first made payment, Blue Cross retracted its
2 payment on the ground that another payor was primary.

3 65. One month later, Patient 2 sent USC a letter stating:

4 At the time of service I was covered under the Anthem Blue Cross PPO plan, which
5 was provided to me through my employer.

6 Keck verified eligibility prior to any procedures that were rendered.

7 It has nothing to do with Medicare or Kaiser Permanente.

8 I hope that this will help you clarify the issue of responsibility.

9 66. USC determined that Patient 2's Kaiser coverage was primary and the Medicare
10 coverage was secondary. Thus, USC submitted an appeal to KFHP and Kaiser Hospitals with
11 documentation regarding the Blue Cross retraction. KFHP and Kaiser Hospitals denied USC's appeal
12 on the ground that the services were not authorized.

13 67. USC sent a letter to KFHP and Kaiser Hospitals specifically requesting that they issue a
14 corrected EOB making the denied charges for post-stabilization services patient responsibility.

15 68. KFHP and Kaiser Hospitals refused to issue an EOB making the denied charges patient
16 responsibility.

17 69. The failure and refusal of KFHP and Kaiser Hospitals to identify the denied charges as
18 patient responsibility have prevented and still prevent USC from being able to obtain payment from
19 Medicare as the secondary payor and Blue Cross as the tertiary payor.

20 Patient 3

21 70. Patient 3 voluntarily chose to obtain a scheduled outpatient stress test at Keck under
22 Patient 3's coverage with Medi-Cal, rather than seek treatment at Kaiser.

23 71. During the pre-registration process, Patient 3 informed USC that he had coverage with
24 Medi-Cal. As a result, USC registered Patient 3 with Medi-Cal coverage as primary.

25 72. USC then billed Medi-Cal for the services Keck provided.

26 73. Medi-Cal denied USC's claim on the ground that "secondary payment cannot be
27 considered without the identity of or payment information from the primary."
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74. USC did not discover Patient 3's Kaiser coverage until almost two months after Medi-Cal issued its denial.

75. USC then billed KFHP and Kaiser Hospitals, as the secondary payor. KFHP and Kaiser Hospitals denied USC's claim for reimbursement and subsequent appeal on the ground of lack of authorization. KFHP and Kaiser Hospitals issued a denial EOB improperly identifying patient responsibility as \$0 (zero). Rather than identify such charges as "Patient Responsibility," KFHP and Kaiser Hospitals instead improperly and incorrectly identify the denied amounts as "Disallowed," which they define as "Differences between Medicare allowable, provider agreement, or reasonable and customary rate, and billed charges."

76. USC sent a letter to KFHP and Kaiser Hospitals specifically requesting that they issue a corrected EOB making the denied charges for post-stabilization services patient responsibility.

77. KFHP and Kaiser Hospitals refused to issue an EOB making the denied charges patient responsibility.

78. The failure and refusal of KFHP and Kaiser Hospitals to identify the denied charges as patient responsibility have prevented and still prevent USC from being able to obtain payment from Medi-Cal as the secondary payor.

Patient 4

79. Patient 4 voluntarily chose to obtain a scheduled outpatient surgery at Keck under Patient 4's coverage with Aetna, rather than seek treatment at Kaiser.

80. Prior to the scheduled outpatient surgery, USC received a Letter of Referral from Patient's 4's medical group through Aetna, Prospect Professional Care, stating the Patient had coverage with Aetna.

81. USC registered the Patient with Aetna coverage as primary.

82. USC requested and obtained authorization from Aetna for the surgery at Keck.

83. USC provided the services at Keck and billed the claim for reimbursement to Aetna.

84. Aetna denied the claim on the ground that the Patient's Kaiser coverage is primary.

85. USC submitted a claim to KFHP and Kaiser Hospitals, which denied the claim on the ground that the services were not authorized and improperly identified zero (\$0) as patient

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responsibility. Rather than identify such charges as "Patient Responsibility," KFHP and Kaiser Hospitals instead improperly and incorrectly identify the denied amounts as "Disallowed," which they define as "Differences between Medicare allowable, provider agreement, or reasonable and customary rate, and billed charges."

86. In their denial letter, KFHP and Kaiser Hospitals state:

A contracted provider is not allowed to balance bill the member for these unauthorized services unless he/she previously informed them that they may be financially responsible. If that notification was not given, the member is not responsible for payment of this claim.

87. However, prior to admission, Patient 4 signed Keck's Conditions of Service and thus Patient 4 agreed to and acknowledged that she is responsible for all charges incurred and not paid by third party benefits.

88. USC sent a letter to KFHP and Kaiser Hospitals specifically requesting that they issue a corrected EOB making the denied charges for post-stabilization services patient responsibility.

89. To date, KFHP and Kaiser Hospitals refuse to issue a corrected EOB making the denied charges patient responsibility.

90. The failure and refusal of KFHP and Kaiser Hospitals to identify the denied charges as patient responsibility have prevented and still prevent USC from being able to obtain payment from Aetna as the secondary payor.

Patient 5

91. Patient 5 initially presented to the emergency room at Alhambra Hospital with esophageal burns and was transferred and admitted to Keck for a higher level of care.

92. Alhambra Hospital provided information to Keck that Patient 5 had Blue Cross coverage as primary.

93. Patient 5's assigned medical group under his Blue Cross coverage, Facy Medical Group, issued a written authorization for the Patient's transfer to and receipt of inpatient care at Keck.

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1 94. Patient 5 was admitted to Keck for nine (9) inpatient days. At some point during those
2 nine (9) inpatient days, Patient 5's medical condition stabilized and he continued as an inpatient at
3 Keck for post-stabilization services. Patient 5 then discharged from Keck.

4 95. USC billed the claim for reimbursement for the services Keck provided to Patient 5 to
5 Blue Cross. Blue Cross denied the claim on the ground that it was the secondary payor.

6 96. Patient 5 never informed USC during his inpatient stay that he had Kaiser coverage.

7 97. Only after receiving Blue Cross' denial did USC learn that Patient 5's primary
8 coverage was through Kaiser.

9 98. USC is informed and believes that Patient 5's Membership Agreement with KFHP
10 requires Patient 5 to notify KFHP of his admission at a non-Kaiser hospital upon stabilization and
11 obtain pre-authorization from KFHP for post-stabilization services at the non-Kaiser hospital as a
12 precondition of KFHP coverage.

13 99. USC is informed and believes that Patient 5 never informed KFHP of his admission at
14 Keck for emergency and post-stabilization services at any point during his inpatient stay at Keck.

15 100. USC billed the claim for reimbursement for the services Keck provided to Patient 5 to
16 KFHP and Kaiser Hospitals. KFHP and Kaiser Hospitals paid USC for only three (3) inpatient days at
17 Keck, identified \$100.00 in patient responsibility, and denied the rest of Patient 5's inpatient stay at
18 Keck on the ground that the services were unauthorized post-stabilization care, without making any of
19 the denied charges for such unauthorized post-stabilization services patient responsibility.

20 101. Rather than identify charges for unauthorized post-stabilization care as "Patient
21 Responsibility," KFHP and Kaiser Hospitals instead improperly and incorrectly identify the denied
22 amounts as "Disallowed," which they define as "Differences between Medicare allowable, provider
23 agreement, or reasonable and customary rate, and billed charges."

24 102. USC sent a letter to KFHP and Kaiser Hospitals specifically requesting that they issue a
25 corrected EOB making the denied charges for post-stabilization services patient responsibility.

26 103. To date, KFHP and Kaiser Hospitals refuse to issue a corrected EOB making the denied
27 charges for post-stabilization services patient responsibility.
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104. The failure and refusal of KFHP and Kaiser Hospitals to identify the denied charges as patient responsibility have prevented and still prevent USC from being able to obtain payment from Blue Cross as the secondary payor for the post-stabilization services provided to the Patient.

Patient 6

105. Patient 6 was diagnosed with malignant testicular cancer. Over a period of four (4) months in late 2015, he sought outpatient and inpatient treatment at Norris, including chemotherapy, under Patient 6's coverage with Blue Cross.

106. At each of the Patient's visits until late-November 2015, Patient 6 only provided information regarding his coverage with Blue Cross. USC verified the Blue Cross coverage and either obtained authorization from Blue Cross or confirmed no authorization from Blue Cross was necessary.

107. USC proceeded in providing medically necessary hospital services to Patient 6 to treat his malignant cancer, expecting to obtain reimbursement from Blue Cross.

108. USC billed Blue Cross for services provided to Patient 6, and Blue Cross paid claims for services USC provided to Patient 6 at Norris. However, Blue Cross later retracted its payments to USC on the basis that Patient 6 had other primary health care coverage.

109. Then, in late-November 2015, after USC already provided inpatient and outpatient services to Patient 6 at Norris, USC learned of Patient's 6's Kaiser coverage as primary payor.

110. After USC learned of the Kaiser coverage as Patient 6's primary payor, USC notified KFHP and Kaiser Hospitals that Patient 6 previously received cancer treatment at Norris, and was scheduled to be admitted for additional inpatient hospital services. USC thus asked KFHP and Kaiser Hospitals whether they would authorize such services. KFHP and Kaiser Hospitals refused to either grant or deny USC's request for authorization of Patient 6's planned inpatient hospital admission; instead, KFHP and Kaiser Hospitals expressly informed USC that they "will not provide a letter of any kind. [USC] need[s] to bill them for denial then attempt to bill secondary."

111. USC is informed and believes that, in written correspondence with USC, the Patient confirmed he was aware that all services may be denied and he may be financially liable.

112. Patient 6 specifically informed USC that he "has Kaiser but never used it."

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1 113. Because Patient 6's cancer treatment at Norris was mid-regimen and continuity of care
2 was necessary, Patient 6 was admitted to Norris for two separate five-day inpatient hospital stays for
3 the third round and fourth rounds of chemotherapy.

4 114. On the day after the Patient was admitted to Norris for each of these two inpatient
5 stays, USC notified KFHP and Kaiser Hospitals of the admission.

6 115. Blue Cross authorized all five (5) days of both inpatient stays.

7 116. USC also provided Patient 6 follow-up healthcare services, including chemotherapy,
8 lab tests and radiology on an outpatient basis.

9 117. USC is informed and believes that Blue Cross instructed USC to bill KFHP and Kaiser
10 Hospitals as primary payor for all services Norris provided to Patient 6 in order to obtain from KFHP
11 and Kaiser Hospitals denial EOBs that make the balance patient responsibility, and then submit such
12 denial EOBs to Blue Cross to obtain reimbursement for the services provided to the Patient.

13 118. USC billed the claims for reimbursement for the services Norris provided to Patient 6
14 to KFHP and Kaiser Hospitals. KFHP and Kaiser Hospitals denied all charges on the ground that the
15 services were unauthorized and issued denial EOBs improperly identifying patient responsibility as \$0
16 (zero). Rather than identify such charges as "Patient Responsibility," KFHP and Kaiser Hospitals
17 instead improperly and incorrectly identify the denied amounts as "Disallowed," which they define as
18 "Differences between Medicare allowable, provider agreement, or reasonable and customary rate, and
19 billed charges."

20 119. USC sent letters to KFHP and Kaiser Hospitals specifically requesting that they issue
21 corrected EOBs making the denied charges for post-stabilization services patient responsibility.

22 120. To date, KFHP and Kaiser Hospitals refuse to issue corrected EOBs making the denied
23 charges patient responsibility.

24 121. The failure and refusal of KFHP and Kaiser Hospitals to identify the denied charges as
25 patient responsibility have prevented and still prevent USC from being able to obtain payment from
26 Blue Cross as the secondary payor.

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Patient 7.

122. Patient 7 voluntarily chose to obtain scheduled outpatient CT scanning and lab work at Norris under Patient 7's HMO coverage with Blue Cross, rather than seek treatment at Kaiser under his Kaiser coverage.

123. During the pre-registration process prior to the scheduled outpatient procedures, Patient 7 specifically informed USC that he had Blue Cross and did not identify any additional health insurance coverage. As a result, USC registered Patient 7 with Blue Cross as the primary payor.

124. USC then billed Blue Cross's capitated provider, AltaMed, for the services Keck provided.

125. AltaMed denied USC's claim on the ground that Kaiser was the primary and AltaMed was the secondary payor.

126. USC did not discover Patient 7's Kaiser coverage for several months after USC provided services to Patient 7 at Norris.

127. After USC learned that Kaiser was the primary payor, USC billed KFHP and Kaiser Hospitals for the services Patient 7 received at Norris.

128. KFHP and Kaiser Hospitals denied USC's claim for reimbursement and subsequent appeal on the ground of lack of authorization. KFHP and Kaiser Hospitals issued a denial EOB improperly identifying patient responsibility as \$0 (zero). Rather than identify such charges as "Patient Responsibility," KFHP and Kaiser Hospitals instead improperly and incorrectly identify the denied amounts as "Disallowed," which they define as "Differences between Medicare allowable, provider agreement, or reasonable and customary rate, and billed charges."

129. USC sent a letter to KFHP and Kaiser Hospitals specifically requesting that they issue a corrected EOB making the denied charges patient responsibility.

130. KFHP and Kaiser Hospitals refused to issue an EOB making the denied charges patient responsibility.

131. The failure and refusal of KFHP and Kaiser Hospitals to identify the denied charges as patient responsibility have prevented and still prevent USC from being able to obtain payment from Blue Cross's capitated provider AltaMed as the secondary payor.

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Patient 8

132. Patient 8 voluntarily chose to undergo scheduled outpatient testing for mitral valve disorder/stenosis at Keck under Patient 9's coverage with Blue Cross, rather than seeking treatment at Kaiser under her Kaiser coverage.

133. During the pre-registration process prior to the outpatient visit, Patient 8 specifically informed USC that Blue Cross coverage was primary and Kaiser coverage was secondary. As a result, USC registered Patient 8 with Blue Cross coverage as primary and provided the services expecting Blue Cross to pay as primary.

134. USC then billed Blue Cross, and Blue Cross initially paid as primary, and identified a balance of \$79.85 as co-insurance.

135. USC then billed the claim to KFHP and Kaiser Hospitals as the secondary payor to obtain payment for the Patient's copayment. Kaiser denied the claim for lack of authorization and improperly identified \$0 (zero) as patient responsibility. Rather than identify such charges as "Patient Responsibility," KFHP and Kaiser Hospitals instead improperly and incorrectly identify the denied amounts as "Disallowed," which they define as "Differences between Medicare allowable, provider agreement, or reasonable and customary rate, and billed charges."

136. Almost nine months after Blue Cross first made payment, Blue Cross retracted its payment on the ground that another payor was primary.

137. USC then determined that Patient 8's Kaiser coverage was primary and Blue Cross coverage was secondary. Thus, USC submitted an appeal to KFHP and Kaiser Hospitals with documentation regarding the Blue Cross retraction. KFHP and Kaiser Hospitals denied USC's appeal on the ground that the services were not authorized.

138. KFHP and Kaiser Hospitals thus refused to issue a corrected EOB making the denied charges patient responsibility.

139. The failure and refusal of KFHP and Kaiser Hospitals to identify the denied charges as patient responsibility have prevented and still prevent USC from being able to obtain payment from Blue Cross as the secondary payor.

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FIRST CAUSE OF ACTION**BREACH OF WRITTEN CONTRACT****(AS TO ALL DEFENDANTS)**

140. USC re-alleges and incorporates by reference each and every allegation set forth above.

141. On or about December 16, 1994, USC (through a predecessor in interest), on the one hand, and Kaiser Hospitals, on its own behalf and as actual and/or ostensible agent of KFHP, on the other hand, entered into an Acute Hospital Services Agreement, pursuant to which USC provides acute hospital services at Keck Hospital of USC for Kaiser members in return for reimbursement by KFHP and Kaiser Hospitals at rates set forth therein. Thereafter, the parties entered into the First Amendment to the Acute Hospital Services Agreement, dated February 15, 1995, the Second Amendment to Acute Hospital Services Agreement, dated June 1, 1998, Third Amendment to Acute Hospital Services Agreement, dated December 1, 1998, Fourth Amendment to Acute Hospital Services Agreement, dated August 15, 2002, and the Product Amendment, effective July 1, 2009. The original December 14, 1994 agreement and the five subsequent amendments, including the Product Amendment, are collectively referred to herein as the "Keck Agreement."

142. USC is informed and believes that, at all times herein mentioned, Kaiser Hospitals was the agent of KFHP, and in executing the Keck Agreement, including each of the amendments thereto, was acting in the scope of its authority as such agent and with the permission and consent of KFHP.

143. KFHP ratified the Keck Agreement, and thus gave USC the reasonable impression that Kaiser Hospitals was KFHP's agent in executing the Keck Agreement, by knowingly and voluntarily accepting the benefits of the Keck Agreement, including the discounted rates thereunder, when paying many of USC's claims for reimbursement for services provided at Keck prior to and concurrent with the disputed claims at issue.

144. USC is informed and believes that Kaiser Hospitals and KFHP have entered into a written contract (the "Delegation Agreement") pursuant to which Kaiser Hospitals has assigned its rights and delegated its duties under the Keck Agreement with USC to KFHP. USC is informed and believes that among the duties delegated to KFHP is Kaiser Hospitals' obligation to reimburse USC for the services provided to Kaiser members.

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1 145. Section 5(g) of the Keck Agreement provides, in pertinent part: "[USC] shall
2 coordinate with [Kaiser] Hospitals and [KFHP] with respect to claims for any Member Patient payable
3 by third party payors other than Medicare, in accord with the then current procedures of [KFHP] for
4 assignment and coordination of benefits. If [Kaiser] Hospitals is primary under the applicable
5 coordination of benefits rules, [Kaiser] Hospitals shall pay [USC] only the fees required under
6 this agreement, provided however, that if [USC] obtains any additional payments from
7 secondary payors under the applicable coordination of benefits rules, [USC] shall be entitled to
8 keep such additional funds. . . ."

9 146. The Keck Agreement, as amended by Section 2(b) of the Product Amendment, defines
10 the term "Membership Agreement as "the description of a plan of health benefits coverage issued,
11 sponsored or underwritten by a Payor [including KFHP and Kaiser Hospitals]. The term 'Membership
12 Agreement' includes but is not limited to the relevant service agreement or Evidence of Coverage o[r]
13 other description of Health Plan's coverage, Summary Plan Description (SPD), or benefit summary for
14 a particular Member."

15 147. The Keck Agreement, as amended by Section 3(b) of the Product Amendment,
16 provides: "Under the Membership Agreements by which [KFHP and Kaiser Hospitals] cover their
17 subscribers' health care, coverage is provided to non-emergency services only if the services are
18 authorized under those Membership Agreements. Services which are not covered become the
19 financial obligations of the subscriber." (Emphasis added.)

20 148. The Keck Agreement, as amended by Section 4(a) of the Product Amendment, states,
21 in pertinent part, that USC "shall not seek compensation for Services rendered to a Member from any
22 other person or entity . . . other than the Payor [i.e. KFHP and Kaiser Hospitals] responsible to pay,
23 provide or arrange for Services for the particular Member (except for any amounts owed by such
24 Member pursuant to the applicable Membership Agreement and the [Keck] Agreement)."
25 (Emphasis added.)

26 149. Section 4(d) of the Product Amendment to the Keck Agreement states: "As further
27 described in the [Keck] Agreement, Members shall be financially liable to Contractor for copayments,
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1 coinsurance, and deductibles, and/or other amounts for health care services pursuant to all of the
2 terms and conditions set forth in the applicable Membership Agreement." (Emphasis added.)

3 150. USC is informed and believes that, at all relevant times, KFHP's Member Agreements
4 contain language indicating that with certain exceptions (such as authorized referrals for services
5 Kaiser cannot itself provide, emergency and authorized post-stabilization services, and continuity of
6 care services for new enrollees) not applicable to the disputed claims for reimbursement for the
7 services provided to Patients 1 through 5 and Patient 8 at issue here, Kaiser members must obtain
8 health care services from Kaiser physicians and hospitals in order for the services to be covered by
9 Kaiser.

10 151. USC is informed and believes that, at all relevant times, KFHP's Membership
11 Agreements contain language indicating that a Kaiser member "may have to pay the full price of
12 noncovered Services you obtain from . . . Non-[Kaiser] Providers," and stating, "If you receive care
13 from a Non-[Kaiser] Provider that we have not authorized, you may have to pay the full cost of that
14 care."

15 152. The Keck Agreement, including Section 5(g) of the base Keck Agreement and Section
16 2(b), 3(b), 4(a) and 4(d) of the Product Amendment, as understood under industry standards, requires
17 Kaiser Hospitals and KFHP to issue EOBs that properly identify services that are not covered by
18 Kaiser Hospitals and KFHP and, thus, are the financial responsibility of Kaiser members. The failure
19 of Kaiser Hospitals and KFHP to issue EOBs that properly identify non-covered services as the
20 financial responsibility of Kaiser members denies USC the negotiated benefits of the Keck Agreement
21 – i.e., the ability to obtain additional payments from secondary payors under the applicable
22 coordination of benefits rules.

23 153. USC has duly performed all contractual obligations required of it under the Keck
24 Agreement by billing KFHP and Kaiser Hospitals for such services.

25 154. Defendants breached the Keck Agreement by issuing EOBs that fail to make the non-
26 covered charges for services USC provided to Patients 1 through 5 and Patient 8 patient responsibility;
27 the EOBs instead identify as patient responsibility only \$100.00 as coinsurance for a single claim for
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1 Patient 5, and zero (\$0) patient responsibility for all other claims for Patients 1 through 4 and
2 Patient 8.

3 155. Rather than identify non-authorized charges as "Patient Responsibility," KFHP and
4 Kaiser Hospitals instead improperly and incorrectly identify the denied amounts as "Disallowed,"
5 which they define as "Differences between Medicare allowable, provider agreement, or reasonable and
6 customary rate, and billed charges." This also is a breach of the Keck Agreement because the Keck
7 Agreement does not permit KFHP and Kaiser Hospitals to identify the denied amounts as
8 "Disallowed," rather than Patient Responsibility.

9 156. Defendants thus prevented USC from collecting payment from the secondary payors as
10 specifically negotiated and contemplated by the Parties in the Keck Agreement.

11 157. USC has been damaged in that it provided medically necessary, physician-ordered
12 hospital services to Patients 1 through 5 and Patient 8 with total charges of \$240,074.88. To date,
13 USC received no compensation for the services provided to Patients 1 through 4 and Patient 8. To
14 date, USC received only \$4,700.00 from KFHP and Kaiser Hospitals for the services provided to
15 Patient 5 for that portion of Patient 5's inpatient stay at Keck that KFHP and Kaiser Hospitals
16 determined were emergency services; USC has received no payment at all for the services provided to
17 Patient 5 that KFHP and Kaiser Hospitals determined were post-stabilization and not authorized by
18 KFHP and Kaiser Hospitals.

19 158. As a result of the breaches by KFHP and Kaiser Hospitals, USC has sustained damages,
20 in an amount to be proved at trial, but in excess of \$50,000.00.

21 **SECOND CAUSE OF ACTION**

22 **BREACH OF WRITTEN CONTRACT**

23 **(AS TO ALL DEFENDANTS)**

24 159. USC re-alleges and incorporates by reference each and every allegation set forth above.

25 160. On or about March 1, 1999, USC (through a predecessor in interest), on the one hand,
26 and Kaiser Hospitals, on its own behalf and as actual and/or ostensible agent of KFHP, on the other
27 hand, entered into an Acute Hospital Services Agreement, pursuant to which USC provides acute
28 hospital services at USC Kenneth Norris Jr. Cancer Hospital ("Norris") for Kaiser members in return

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1 for reimbursement by KFHP and Kaiser Hospitals at rates set forth therein. Thereafter, the parties
2 entered into the Product Amendment, effective June 19, 2009. The original March 1, 1999 agreement
3 and the Product Amendment are collectively referred to herein as the "Norris Agreement."

4 161. USC is informed and believes that, at all times herein mentioned, Kaiser Hospitals was
5 the agent of KFHP, and in executing the Norris Agreement, including each of the amendments thereto,
6 was acting in the scope of its authority as such agent and with the permission and consent of KFHP.

7 162. KFHP ratified the Norris Agreement, and thus gave USC the reasonable impression that
8 Kaiser Hospitals was KFHP's agent in executing the Norris Agreement, by knowingly and voluntarily
9 accepting the benefits of the Norris Agreement, including the discounted rates thereunder, when
10 paying USC's claims for reimbursement for services provided at Norris prior to and contemporaneous
11 with the dates of service for the services provided to Patients 6 and 7.

12 163. USC is informed and believes that Kaiser Hospitals and KFHP have entered into a
13 written contract (the "Delegation Agreement") pursuant to which Kaiser Hospitals has assigned its
14 rights and delegated its duties under the Norris Agreement with USC to KFHP. USC is informed and
15 believes that among the duties delegated to KFHP is Kaiser Hospitals' obligation to reimburse USC for
16 the services provided to Kaiser members.

17 164. Section 5(f) of the Norris Agreement provides, in pertinent part, "Items not ordered by a
18 physician associated with [Kaiser's] Medical Group . . . shall be charged, if at all, directly to the
19 appropriate Member Patient."

20 165. Section 5(h) of the Norris Agreement provides, in pertinent part: "[USC] shall
21 coordinate with [Kaiser] Hospitals and [KFHP] with respect to claims for any Member Patient payable
22 by third party payors other than Medicare, in accord with the then current procedures of [KFHP] for
23 assignment and coordination of benefits. . . ."

24 166. The Norris Agreement, as amended by Section 2(b) of the Product Amendment, defines
25 the term "Membership Agreement as "the description of a plan of health benefits coverage issued,
26 sponsored or underwritten by a Payor [including KFHP and Kaiser Hospitals]. The term 'Membership
27 Agreement' includes but is not limited to the relevant service agreement or Evidence of Coverage o[r]
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1 other description of Health Plan's coverage, Summary Plan Description (SPD), or benefit summary for
2 a particular Member."

3 167. The Norris Agreement, as amended by Section 3(b) of the Product Amendment,
4 provides: "Under the Membership Agreements by which [KFHP and Kaiser Hospitals] cover their
5 subscribers' health care, coverage is provided to non-emergency services only if the services are
6 authorized under those Membership Agreements. **Services which are not covered become the**
7 **financial obligations of the subscriber.**" (Emphasis added.)

8 168. The Norris Agreement, as amended by Section 4(a) of the Product Amendment, states,
9 in pertinent part, that USC "shall not seek compensation for Services rendered to a Member from any
10 other person or entity . . . other than the Payor [i.e. KFHP and Kaiser Hospitals] responsible to pay,
11 provide or arrange for Services for the particular Member (except for any amounts owed by such
12 Member pursuant to the applicable Membership Agreement and the [Norris] Agreement)."
13 (Emphasis added.)

14 169. Section 4(d) of the Product Amendment to the Norris Agreement states: "As further
15 described in the [Norris] Agreement, Members shall be financially liable to Contractor for copayments,
16 coinsurance, and deductibles, **and/or other amounts for health care services pursuant to all of the**
17 **terms and conditions set forth in the applicable Membership Agreement.**" (Emphasis added.)

18 170. USC is informed and believes that, at all relevant times, KFHP's Member Agreements
19 contain language indicating that with certain exceptions (such as authorized referrals for services
20 Kaiser cannot itself provide, emergency and authorized post-stabilization services, and continuity of
21 care services for new enrollees) not applicable to the claims for reimbursement for the services
22 provided to Patients 6 and 7 at issue here, Kaiser members must obtain health care services from
23 Kaiser physicians and hospitals in order for the services to be covered by Kaiser.

24 171. USC is informed and believes that, at all relevant times, KFHP's Membership
25 Agreements contain language indicating that a Kaiser member "may have to pay the full price of
26 noncovered Services you obtain from . . . Non-[Kaiser] Providers," and stating, "If you receive care
27 from a Non-[Kaiser] Provider that we have not authorized, you may have to pay the full cost of that
28 care."

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1 172. The Norris Agreement, including Sections 5(f) and 5(h) of the base Norris Agreement
2 and Sections 2(b), 3(b), 4(a) and 4(d) of the Product Amendment, as understood under industry
3 standards, require Kaiser Hospitals and KFHP to issue EOBs that properly identify services that are not
4 covered by Kaiser Hospitals and KFHP and, thus, are the financial responsibility of Kaiser members.
5 The failure of Kaiser Hospitals and KFHP to issue EOBs that properly identify non-covered services as
6 the financial responsibility of Kaiser members denies USC the negotiated benefits of the Norris
7 Agreement – i.e., the ability to obtain additional payments from secondary payors under the applicable
8 coordination of benefits rules.

9 173. USC has duly performed all contractual obligations required of it under the Norris
10 Agreement by billing KFHP and Kaiser Hospitals for such services.

11 174. Defendants breached the Norris Agreement by issuing EOBs that fail to make the non-
12 covered charges for services USC provided to Patients 6 and 7 patient responsibility; the EOBs instead
13 identify zero (\$0) as patient responsibility. Defendants thus prevented USC from collecting payment
14 from the secondary payor as specifically negotiated and contemplated by the Parties in the Norris
15 Agreement.

16 175. Rather than identify non-authorized charges as "Patient Responsibility," KFHP and
17 Kaiser Hospitals instead improperly and incorrectly identify the denied amounts as "Disallowed,"
18 which they define as "Differences between Medicare allowable, provider agreement, or reasonable and
19 customary rate, and billed charges." This also is a breach of the Norris Agreement because the Norris
20 Agreement does not permit KFHP and Kaiser Hospitals to identify the denied amounts as
21 "Disallowed," rather than Patient Responsibility.

22 176. USC has been damaged in that it provided medically necessary, physician-ordered
23 hospital services to Patients 6 and 7 with total charges of \$219,334.12. To date, USC received no
24 compensation for the services provided to Patients 6 and 7.

25 177. As a result of the breaches by KFHP and Kaiser Hospitals, USC has sustained damages,
26 in an amount to be proved at trial, but in excess of \$20,000.00.

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No. 0245 P. 35

THIRD CAUSE OF ACTION**DECLARATORY RELIEF (as to Keck Agreement)****(AS TO ALL DEFENDANTS)**

178. USC re-alleges and incorporates herein by reference each and every allegation set forth above.

179. An actual controversy has arisen and now exists between USC and defendants KFHP and Kaiser Hospitals concerning their respective rights and duties in that USC contends KFHP and Kaiser Hospitals are obligated under the Keck Agreement, including but not limited to Section 5(g) of the base Keck Agreement and Section 2(b), 3(b), 4(a) and 4(d) of the Product Amendment, as understood under industry standards, to issue EOBs that properly identify services that are not covered by Kaiser Hospitals and KFHP and, thus, are the financial responsibility of Kaiser members as "Patient Responsibility," rather than "Disallowed Charges." USC is informed and believes that KFHP and Kaiser contend that they have no such contractual obligation.

180. Kaiser Hospitals' and KFHP's issuance of EOBs that identify non-covered services as "Disallowed Charges," rather than the financial responsibility of Kaiser members, denies USC the negotiated benefits of the Keck Agreement - i.e., the ability to obtain additional payments from secondary payors under the applicable coordination of benefits rules.

181. The problem of Kaiser Hospitals' and KFHP's issuance of EOBs that identify non-covered services as "Disallowed Charges," rather than the financial responsibility of Kaiser members, is an ongoing one likely to recur. The problem of Kaiser Hospitals' and KFHP's issuance of EOBs that identify non-covered services as "Disallowed Charges," rather than the financial responsibility of Kaiser members, damages USC in that USC must employ additional staff and billing agents to submit claims and appeals to Kaiser Hospitals, KFHP and Other Payors to try to obtain reimbursement, and delays USC's receipt of reimbursement from Other Payors and patients. USC receives no reimbursement or compensation for additional costs and losses caused by such delays.

182. USC desires a judicial determination of its rights and duties, and a declaration as to which party's interpretation of the Keck Agreement is correct.

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1 183. A judicial declaration is necessary and appropriate at this time under the circumstances
2 in order that USC may ascertain its rights and duties under the written Keck Agreement. Declaratory
3 relief would have practical effect by informing parties' future conduct and lessening the financial
4 burden this dispute over the obligations of Kaiser Hospitals and KFHP under the Keck Agreement is
5 causing USC.

6 184. As a result of the breaches by KFHP and Kaiser Hospitals, USC has sustained damages
7 in connection with the claims for Patients 1 through 5 and Patient 8, in an amount to be proved at trial,
8 but in excess of \$50,000.00.

9 **FOURTH CAUSE OF ACTION**

10 **DECLARATORY RELIEF (as to Norris Agreement)**

11 **(AS TO ALL DEFENDANTS)**

12 185. USC re-alleges and incorporates herein by reference each and every allegation set forth
13 above.

14 186. An actual controversy has arisen and now exists between USC and defendants KFHP
15 and Kaiser Hospitals concerning their respective rights and duties in that USC contends KFHP and
16 Kaiser Hospitals are obligated under the Norris Agreement, including but not limited to Sections 5(f)
17 and 5(h) of the base Norris Agreement and Sections 2(b), 3(b), 4(a) and 4(d) of the Product
18 Amendment, as understood under industry standards, to issue EOBs that properly identify services that
19 are not covered by Kaiser Hospitals and KFHP and, thus, are the financial responsibility of Kaiser
20 members as "Patient Responsibility," rather than "Disallowed Charges." USC is informed and believes
21 that KFHP and Kaiser contend that they have no such contractual obligation.

22 187. Kaiser Hospitals' and KFHP's issuance of EOBs that identify non-covered services as
23 "Disallowed Charges," rather than the financial responsibility of Kaiser members, denies USC the
24 negotiated benefits of the Norris Agreement - i.e., the ability to obtain additional payments from
25 secondary payors under the applicable coordination of benefits rules.

26 188. The problem of Kaiser Hospitals' and KFHP's issuance of EOBs that identify non-
27 covered services as "Disallowed Charges," rather than the financial responsibility of Kaiser members,
28 is an ongoing one likely to recur. The problem of Kaiser Hospitals' and KFHP's issuance of EOBs

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1 that identify non-covered services as "Disallowed Charges," rather than the financial responsibility of
2 Kaiser members, damages USC in that USC must employ additional staff and billing agents to submit
3 claims and appeals to Kaiser Hospitals, KFHP and Other Payors to try to obtain reimbursement, and
4 delays USC's receipt of reimbursement from Other Payors and patients. USC receives no
5 reimbursement or compensation for additional costs and losses caused by such delays.

6 189. USC desires a judicial determination of its rights and duties, and a declaration as to
7 which party's interpretation of the Norris Agreement is correct.

8 190. A judicial declaration is necessary and appropriate at this time under the circumstances
9 in order that USC may ascertain its rights and duties under the written Norris Agreement. Declaratory
10 relief would have practical effect by informing parties' future conduct and lessening the financial
11 burden this dispute over the obligations of Kaiser Hospitals and KFHP under the Norris Agreement is
12 causing USC.

13 191. As a result of the breaches by KFHP and Kaiser Hospitals, USC has sustained damages
14 in connection with the claims for Patients 6 and 7, in an amount to be proved at trial, but in excess of
15 \$20,000.00.

16 FIFTH CAUSE OF ACTION

17 INTENTIONAL INTERFERENCE WITH CONTRACTUAL RELATIONS

18 (AS TO ALL DEFENDANTS)

19 192. USC re-alleges and incorporates by reference each and every allegation set forth above.

20 193. USC is informed and believes, and thereon alleges, that KFHP and Kaiser Hospitals
21 knew of the existence of the contracts between USC and the Patients ("Patient Contracts") and the
22 contracts for services at Keck and Norris between USC and the Patients' secondary insurers
23 ("Secondary Payor Contracts").

24 194. KFHP and Kaiser Hospitals intended to disrupt USC's right to payment (or knew that
25 disruption of performance was certain or substantially certain to occur) by wrongfully and fraudulently
26 assigning no patient responsibility for the medical services provided by USC, and instead wrongfully
27 and fraudulently identify denied charges as "Disallowed," which they define as "Differences between
28 Medicare allowable, provider agreement, or reasonable and customary rate, and billed charges."

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195. The conduct of KFHP and Kaiser Hospitals described above prevented performance or made performance of the Patient Contracts and Secondary Payor Contracts more expensive or difficult because USC; to date, has not been compensated for the medical services provided to Patients 1 through 8, and USC has borne additional costs to obtain from KFHP and Kaiser Hospitals the proper denial EOB identifying the full billed charges as patient responsibility, rather than "Disallowed."

196. USC has been harmed by the conduct of KFHP and Kaiser Hospitals because the USC has not been fully compensated for the significant medically necessary services it provided to the Patients, and has borne additional costs to obtain from KFHP and Kaiser Hospitals the proper denial EOBs identifying the full billed charges as patient responsibility, rather than "Disallowed."

197. Defendants' wrongful conduct was a substantial factor in causing USC's harm.

198. Defendants' wrongful conduct of denying the claims at issue without deeming the medical services non-covered and thus patient responsibility has been done with reckless disregard, malice, oppression and fraud. In particular, USC communicated with Defendants multiple times regarding the claims at issue and requested that Defendants re-issue EOBs making the charges patient responsibility as identified above, but Defendants ignored USC's requests in blatant disregard for the harm that was being cause to USC by Defendants' wrongful conduct.

SIXTH CAUSE OF ACTION

INTENTIONAL INTERFERENCE WITH PROSPECTIVE ECONOMIC RELATIONS (AS TO ALL DEFENDANTS)

199. USC re-alleges and incorporates herein by reference each and every allegation set forth above.

200. USC is informed and believes, and thereon alleges, that Defendants knew of the existence of the prospective economic relationships between USC and the Patients ("Patient Economic Relationships") and/or the Patients' secondary insurers ("Secondary Payor Economic Relationships").

201. USC is informed and believes Defendants engaged in wrongful conduct by wrongfully and fraudulently assigning no patient responsibility for the medical services provided by USC, and instead identifying the denied charges as "Disallowed," which they define as "Differences between Medicare allowable, provider agreement, or reasonable and customary rate, and billed charges."

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202. USC is informed and believes Defendants engaged in such conduct for their own gain in that Kaiser members receive valuable services without Defendants' or any other parties' paying USC for any amounts owed. USC is informed and believes, by engaging in this conduct, Defendants intended to disrupt USC's Patient Economic Relationships and Secondary Payor Economic Relationships or knew that disruption of the relationships was certain or substantially certain to occur.

203. USC was in an economic relationship with the Patients and the Secondary Payors as described above that probably would have resulted in a future economic benefit to USC.

204. As a result of Defendants' wrongful conduct, the relationship between USC and the Patients and the Secondary Payors has been disrupted, and USC has been harmed by not receiving reimbursement from the Patients or the Secondary Payors.

205. Defendants' wrongful conduct was a substantial factor in causing USC's harm.

206. Defendants' wrongful conduct of denying the claims at issue without deeming the medical services non-covered and thus patient responsibility has been done with reckless disregard, malice, oppression and fraud. In particular, USC communicated with Defendants multiple times regarding the claims at issue and requested that Defendants re-issue EOBs making the charges patient responsibility as identified above, but Defendants ignored USC's requests in blatant disregard for the harm that was being cause to USC by Defendants' wrongful conduct.

SEVENTH CAUSE OF ACTION

NEGLIGENT INTERFERENCE WITH PROSPECTIVE ECONOMIC RELATIONS

(AS TO ALL DEFENDANTS)

207. USC re-alleges and incorporates herein by reference each and every allegation set forth above.

208. USC is informed and believes, and thereon alleges, that Defendants knew of the existence of the prospective economic relationships between USC and the Patients ("Patient Economic Relationships") and/or the Patients' secondary insurers ("Secondary Payor Economic Relationships").

209. USC is informed and believes Defendants failed to act with reasonable care and

NEGLIGENT INTERFERENCE WITH PROSPECTIVE ECONOMIC RELATIONS

(AS TO ALL DEFENDANTS)

207. USC re-alleges and incorporates herein by reference each and every allegation set forth

19/02/2017

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1 202. USC is informed and believes Defendants engaged in such conduct for their own gain in
2 that Kaiser members receive valuable services without Defendants' or any other parties' paying USC
3 for any amounts owed. USC is informed and believes, by engaging in this conduct, Defendants
4 intended to disrupt USC's Patient Economic Relationships and Secondary Payor Economic
5 Relationships or knew that disruption of the relationships was certain or substantially certain to occur.

6 203. USC was in an economic relationship with the Patients and the Secondary Payors as
7 described above that probably would have resulted in a future economic benefit to USC.

8 204. As a result of Defendants' wrongful conduct, the relationship between USC and the
9 Patients and the Secondary Payors has been disrupted, and USC has been harmed by not receiving
10 reimbursement from the Patients or the Secondary Payors.

11 205. Defendants' wrongful conduct was a substantial factor in causing USC's harm.

12 206. Defendants' wrongful conduct of denying the claims at issue without deeming the
13 medical services non-covered and thus patient responsibility has been done with reckless disregard,
14 malice, oppression and fraud. In particular, USC communicated with Defendants multiple times
15 regarding the claims at issue and requested that Defendants re-issue EOBs making the charges patient
16 responsibility as identified above, but Defendants ignored USC's requests in blatant disregard for the
17 harm that was being cause to USC by Defendants' wrongful conduct.

18 **SEVENTH CAUSE OF ACTION**

19 **NEGLIGENT INTERFERENCE WITH PROSPECTIVE ECONOMIC RELATIONS**
20 **(AS TO ALL DEFENDANTS)**

21 207. USC re-alleges and incorporates herein by reference each and every allegation set forth
22 above.

23 208. USC is informed and believes, and thereon alleges, that Defendants knew of the
24 existence of the prospective economic relationships between USC and the Patients ("Patient Economic
25 Relationships") and/or the Patients' secondary insurers ("Secondary Payor Economic Relationships").

26 209. USC is informed and believes Defendants failed to act with reasonable care and
27 engaged in wrongful conduct by assigning no patient responsibility for the medical services provided
28 by USC and Defendants did so for their own gain in that Kaiser members receive valuable services

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1 without Defendants' or any other parties' paying USC for any amounts owed. By engaging in this
2 conduct, Defendants intended to disrupt USC's Patient Economic Relationships and Secondary Payor
3 Economic Relationships or knew that disruption of the relationships was certain or substantially certain
4 to occur.

5 210. USC was in an economic relationship with the Patients and the Secondary Payors as
6 described above that probably would have resulted in a future economic benefit to USC.

7 211. As a result of Defendants' wrongful conduct, USC's relationships with the Patients and
8 the Secondary Payors have been disrupted, and USC has been harmed by not receiving reimbursement
9 from the Patients or the Secondary Payors.

10 212. Defendants' wrongful conduct was a substantial factor in causing USC's harm.

11 **PRAYER FOR RELIEF**

12 **WHEREFORE**, Plaintiff prays for judgment as follows:

- 13 1. For damages in an amount according to proof at trial;
- 14 2. For punitive damages;
- 15 3. For interest at the statutory rate;
- 16 4. For costs and reasonable attorneys' fees to the extent allowed by law; and
- 17 5. For such other and further relief as this Court may deem just and proper.

18
19 DATED: September 27, 2017

HELTON LAW GROUP, APC

20
21 By: 

CARRIE MCLAIN

KIM WOROBEK

Attorneys Plaintiff

UNIVERSITY OF SOUTHERN CALIFORNIA,

on behalf of its KECK HOSPITAL OF USC and

on behalf of its USC KENNETH NORRIS JR.

CANCER HOSPITAL

Sep. 27. 2017 3:08PM

No. 0245 P. 3 CM-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Carrie McLain (SBN 220035) / Kim Worobec (SBN 220035) HELTON LAW GROUP, APC 7711 Center Ave., Suite 350 Huntington Beach, CA 92647 TELEPHONE NO.: (562) 901-4499 FAX NO.: (562) 901-4488		FOR COURT USE ONLY FILED Superior Court of California County of Los Angeles SEP 27 2017 Sherri R. Carter, Executive Officer/Clerk By <u>Ricardo Perez</u> Deputy
ATTORNEY FOR (Name): Plaintiff UNIVERSITY OF SOUTHERN CALIFORNIA SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES STREET ADDRESS: 111 N. Hill St. MAILING ADDRESS: CITY AND ZIP CODE: Los Angeles, CA 90012 BRANCH NAME: Stanley Mosk Courthouse		
CASE NAME: University of Southern California v. Kaiser Foundation Health Plan, et al.		
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less) Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)		
CASE NUMBER: BC677052		JUDGE: DEPT:

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:		
Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (45) Other PIP/DWD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PIP/DWD (23) Non-PIP/DWD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PIP/DWD tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	Contract <input checked="" type="checkbox"/> Breach of contract/warranty (05) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)

2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties | d. <input type="checkbox"/> Large number of witnesses |
| b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence | f. <input type="checkbox"/> Substantial postjudgment judicial supervision |
3. Remedies sought (check all that apply): a. ☒ monetary b. ☒ nonmonetary; declaratory or injunctive relief c. ☒ punitive
4. Number of causes of action (specify): **SEVEN (7)**
5. This case ☐ is ☒ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: September 27, 2017

Kim Worobec

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

 Form Adopted for Mandatory Use
 Judicial Council of California
 CM-010 (Rev. July 1, 2007)
CIVIL CASE COVER SHEET

13:20:05 2017-09-27

 Cal. Rules of Court, rules 2.30, 3.220, 3.400-3.403, 3.740;
 Cal. Standards of Judicial Administration, std. 3.10
 www.courtinfo.ca.gov
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Sep. 27. 2017 3:09PM

No. 0245 P. 4

CM-010

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check one box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the primary cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort

Auto (22)—Personal Injury/Property
Damages/Wrongful Death
Uninsured Motorist (48) (if the
case involves an uninsured
motorist claim subject to
arbitration, check this item
instead of Auto)

Other PIPD/W (Personal Injury/
Property Damage/Wrongful Death)
Tort

Asbestos (04)
Asbestos Property Damage
Asbestos Personal Injury/
Wrongful Death
Product Liability (not asbestos or
toxic/environmental) (24)
Medical Malpractice (45)
Medical Malpractice—
Physicians & Surgeons
Other Professional Health Care
Malpractice
Other PIPD/W (23)
Premises Liability (e.g., slip
and fall)
Intentional Bodily Injury/PI/D/W
(e.g., assault, vandalism)
Intentional Infliction of
Emotional Distress
Negligent Infliction of
Emotional Distress
Other PIPD/W

Non-PIP/W (Other) Tort

Business Tort/Unfair Business
Practice (07)
Civil Rights (e.g., discrimination,
false arrest) (not civil
harassment) (08)
Defamation (e.g., slander, libel)
(13)
Fraud (18)
Intellectual Property (19)
Professional Negligence (25)
Legal Malpractice
Other Professional Malpractice
(not medical or legal)
Other Non-PIP/W (25)

Employment

Wrongful Termination (36)
Other Employment (15)

Contract

Breach of Contract/Warranty (06)
Breach of Rental/Lease
Contract (not unlawful detainer
or wrongful eviction)
Contract/Warranty Breach—Seller
Plaintiff (not fraud or negligence)
Negligent Breach of Contract/
Warranty
Other Breach of Contract/Warranty
Collections (e.g., money owed, open
book accounts) (09)
Collection Case—Seller Plaintiff
Other Promissory Note/Collections
Case
Insurance Coverage (not provisionally
complex) (16)
Auto Subrogation
Other Coverage
Other Contract (37)
Contractual Fraud
Other Contract Dispute

Real Property

Eminent Domain/Inverse
Condemnation (14)
Wrongful Eviction (33)
Other Real Property (e.g., quiet title) (26)
Writ of Possession of Real Property
Mortgage Foreclosure
Quiet Title
Other Real Property (not eminent
domain, landlord/tenant, or
foreclosure)

Unlawful Detainer

Commercial (31)
Residential (32)
Drugs (38) (if the case involves illegal
drugs, check this item; otherwise,
report as Commercial or Residential)

Judicial Review

Asset Forfeiture (05)
Petition Re: Arbitration Award (11)
Writ of Mandate (02)
Writ—Administrative Mandamus
Writ—Mandamus on Limited Court
Case Matter
Writ—Other Limited Court Case
Review
Other Judicial Review (39)
Review of Health Officer Order
Notice of Appeal—Labor
Commissioner Appeals

Provisionally Complex Civil Litigation (Cal.
Rules of Court Rules 3.400–3.403)

Antitrust/Trade Regulation (03)
Construction Defect (10)
Claims Involving Mass Tort (40)
Securities Litigation (28)
Environmental/Toxic Tort (30)
Insurance Coverage Claims
(arising from provisionally complex
case type listed above) (41)
Enforcement of Judgment
Enforcement of Judgment (20)
Abstract of Judgment (Out of
County)
Confession of Judgment (non-
domestic relations)
Sister State Judgment
Administrative Agency Award
(not unpaid taxes)
Petition/Certification of Entry of
Judgment on Unpaid Taxes
Other Enforcement of Judgment
Case

Miscellaneous Civil Complaint

RICO (27)
Other Complaint (not specified
above) (42)
Declaratory Relief Only
Injunctive Relief Only (non-
harassment)
Mechanics Lien
Other Commercial Complaint
Case (non-tort/non-complex)
Other Civil Complaint
(non-tort/non-complex)

Miscellaneous Civil Petition

Partnership and Corporate
Governance (21)
Other Petition (not specified
above) (43)
Civil Harassment
Workplace Violence
Elder/Dependent Adult
Abuse
Election Contest
Petition for Name Change
Petition for Relief From Late
Claim
Other Civil Petition

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No. 0245 P. 5

SHORT TITLE:

CASE NUMBER

BC677052

University of Southern California v. Kaiser Foundation Health Plan, et al.

**CIVIL CASE COVER SHEET ADDENDUM AND
STATEMENT OF LOCATION
(CERTIFICATE OF GROUNDS FOR ASSIGNMENT TO COURTHOUSE LOCATION)**

This form is required pursuant to Local Rule 2.3 in all new civil case filings in the Los Angeles Superior Court.

Item I. Check the types of hearing and fill in the estimated length of hearing expected for this case:

JURY TRIAL? ☒ YES CLASS ACTION? ☐ YES LIMITED CASE? ☐ YES TIME ESTIMATED FOR TRIAL 4 ☐ HOURS ☒ DAYS

Item II. Indicate the correct district and courthouse location (4 steps – If you checked "Limited Case", skip to Item III, Pg. 4):

Step 1: After first completing the Civil Case Cover Sheet form, find the main Civil Case Cover Sheet heading for your case in the left margin below, and, to the right in Column A, the Civil Case Cover Sheet case type you selected.

Step 2: Check one Superior Court type of action in Column B below which best describes the nature of this case.

Step 3: In Column C, circle the reason for the court location choice that applies to the type of action you have checked. For any exception to the court location, see Local Rule 2.3.

Applicable Reasons for Choosing Courthouse Location (see Column C below)

1. Class actions must be filed in the Stanley Mosk Courthouse, central district.
2. May be filed in central (other county, or no bodily injury/property damage).
3. Location where cause of action arose.
4. Location where bodily injury, death or damage occurred.
5. Location where performance required or defendant resides.
6. Location of property or permanently garaged vehicle.
7. Location where petitioner resides.
8. Location wherein defendant/respondent functions wholly.
9. Location where one or more of the parties reside.
10. Location of Labor Commissioner Office
11. Mandatory Filing Location (Hub Case)

Step 4: Fill in the information requested on page 4 in Item III; complete Item IV. Sign the declaration.

	A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Auto Tort	Auto (22)	<input checked="" type="checkbox"/> A7100 Motor Vehicle - Personal Injury/Property Damage/Wrongful Death	1., 2., 4.
	Uninsured Motorist (45)	<input type="checkbox"/> A7110 Personal Injury/Property Damage/Wrongful Death - Uninsured Motorist	1., 2., 4.
Other Personal Injury/Property Damage/Wrongful Death Tort	Asbestos (04)	<input type="checkbox"/> A6070 Asbestos Property Damage <input type="checkbox"/> A7221 Asbestos - Personal Injury/Wrongful Death	2. 2.
	Product Liability (24)	<input type="checkbox"/> A7260 Product Liability (not asbestos or toxic/environmental)	1., 2., 3., 4., 8.
	Medical Malpractice (45)	<input type="checkbox"/> A7210 Medical Malpractice - Physicians & Surgeons	1., 4.
		<input type="checkbox"/> A7240 Other Professional Health Care Malpractice	1., 4.
	Other Personal Injury Property Damage Wrongful Death (23)	<input type="checkbox"/> A7250 Premises Liability (e.g., slip and fall) <input type="checkbox"/> A7230 Intentional Bodily Injury/Property Damage/Wrongful Death (e.g., assault, vandalism, etc.) <input type="checkbox"/> A7270 Intentional Infliction of Emotional Distress <input type="checkbox"/> A7220 Other Personal Injury/Property Damage/Wrongful Death	1., 4. 1., 4. 1., 3. 1., 4.

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**CIVIL CASE COVER SHEET ADDENDUM
AND STATEMENT OF LOCATION**

Local Rule 2.3

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No. 0245 P. 6

SHORT TITLE:

University of Southern California v. Kaiser Foundation Health Plan, et al.

CASE NUMBER

Non-Personal Injury/Property
Damage/Wrongful Death Tort

Employment

Contract

Real Property

Unlawful Detainer

A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Business Tort (07)	<input type="checkbox"/> A6029 Other Commercial/Business Tort (not fraud/breach of contract)	1., 3.
Civil Rights (08)	<input type="checkbox"/> A6005 Civil Rights/Discrimination	1., 2., 3.
Defamation (13)	<input type="checkbox"/> A6010 Defamation (slander/libel)	1., 2., 3.
Fraud (18)	<input type="checkbox"/> A6013 Fraud (no contract)	1., 2., 3.
Professional Negligence (25)	<input type="checkbox"/> A6017 Legal Malpractice <input type="checkbox"/> A6050 Other Professional Malpractice (not medical or legal)	1., 2., 3. 1., 2., 3.
Other (35)	<input type="checkbox"/> A6025 Other Non-Personal Injury/Property Damage tort	2., 3.
Wrongful Termination (38)	<input type="checkbox"/> A6037 Wrongful Termination	1., 2., 3.
Other Employment (15)	<input type="checkbox"/> A6024 Other Employment Complaint Case <input type="checkbox"/> A6109 Labor Commissioner Appeals	1., 2., 3. 10.
Breach of Contract/Warranty (08) (not Insurance)	<input type="checkbox"/> A6004 Breach of Rental/Lease Contract (not unlawful detainer or wrongful eviction) <input type="checkbox"/> A6008 Contract/Warranty Breach - Seller Plaintiff (no fraud/negligence) <input type="checkbox"/> A6019 Negligent Breach of Contract/Warranty (no fraud) <input checked="" type="checkbox"/> A6028 Other Breach of Contract/Warranty (not fraud or negligence)	2., 5. 2., 5. 1., 2., 5. 1., 2., 5.
Collections (09)	<input type="checkbox"/> A6002 Collections Case-Seller Plaintiff <input type="checkbox"/> A6012 Other Promissory Note/Collections Case <input type="checkbox"/> A6034 Collections Case-Purchased Debt (Charged Off Consumer Debt Purchased on or after January 1, 2014)	2., 5., 6, 11 2., 5, 11 5, 6, 11
Insurance Coverage (18)	<input type="checkbox"/> A6015 Insurance Coverage (not complex)	1., 2., 5., 8.
Other Contract (37)	<input type="checkbox"/> A6009 Contractual Fraud <input type="checkbox"/> A6031 Tortious Interference <input type="checkbox"/> A6027 Other Contract Dispute(not breach/insurance/fraud/negligence)	1., 2., 3., 5. 1., 2., 3., 5. 1., 2., 3., 8.
Eminent Domain/Inverse Condemnation (14)	<input type="checkbox"/> A7300 Eminent Domain/Condemnation Number of parcels _____	2.
Wrongful Eviction (33)	<input type="checkbox"/> A6023 Wrongful Eviction Case	2., 6.
Other Real Property (26)	<input type="checkbox"/> A6018 Mortgage Foreclosure <input type="checkbox"/> A6032 Quiet Title <input type="checkbox"/> A6050 Other Real Property (not eminent domain, landlord/tenant, foreclosure)	2., 6. 2., 6. 2., 6.
Unlawful Detainer-Commercial (31)	<input type="checkbox"/> A6021 Unlawful Detainer-Commercial (not drugs or wrongful eviction)	2., 6.
Unlawful Detainer-Residential (32)	<input type="checkbox"/> A6020 Unlawful Detainer-Residential (not drugs or wrongful eviction)	2., 6.
Unlawful Detainer- Post-Foreclosure (34)	<input type="checkbox"/> A6020F Unlawful Detainer-Post-Foreclosure	2., 6.
Unlawful Detainer-Drugs (38)	<input type="checkbox"/> A6022 Unlawful Detainer-Drugs	2., 6.

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CIVIL CASE COVER SHEET ADDENDUM
AND STATEMENT OF LOCATION

Local Rule 2.3

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No. 0245 P. 7

SHORT TITLE:

University of Southern California v. Kaiser Foundation Health Plan, et al.

CASE NUMBER

A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Asset Forfeiture (05)	<input type="checkbox"/> A6108 Asset Forfeiture Case	2., 8.
Petition re Arbitration (11)	<input type="checkbox"/> A6115 Petition to Compel/Confirm/Vacate Arbitration	2., 5.
Writ of Mandate (02)	<input type="checkbox"/> A6151 Writ - Administrative Mandamus	2., 8.
	<input type="checkbox"/> A6152 Writ - Mandamus on Limited Court Case Matter	2.
	<input type="checkbox"/> A6153 Writ - Other Limited Court Case Review	2.
Other Judicial Review (39)	<input type="checkbox"/> A6150 Other Writ/Judicial Review	2., 8.
Antitrust/Trade Regulation (03)	<input type="checkbox"/> A6003 Antitrust/Trade Regulation	1., 2., 8.
	<input type="checkbox"/> A6007 Construction Defect	1., 2., 3.
	<input type="checkbox"/> A6006 Claims Involving Mass Tort	1., 2., 8.
	<input type="checkbox"/> A6035 Securities Litigation Case	1., 2., 8.
	<input type="checkbox"/> A6036 Toxic Tort/Environmental	1., 2., 3., 8.
Insurance Coverage Claims from Complex Case (41)	<input type="checkbox"/> A6014 Insurance Coverage/Subrogation (complex case only)	1., 2., 5., 8.
Enforcement of Judgment (20)	<input type="checkbox"/> A6141 Sister State Judgment	2., 9.
	<input type="checkbox"/> A6180 Abstract of Judgment	2., 6.
	<input type="checkbox"/> A6107 Confession of Judgment (non-domestic relations)	2., 9.
	<input type="checkbox"/> A6140 Administrative Agency Award (not unpaid taxes)	2., 8.
	<input type="checkbox"/> A6114 Petition/Certificate for Entry of Judgment on Unpaid Tax	2., 8.
	<input type="checkbox"/> A6112 Other Enforcement of Judgment Case	2., 8., 9.
RICO (27)	<input type="checkbox"/> A6033 Racketeering (RICO) Case	1., 2., 8.
Other Complaints (Not Specified Above) (42)	<input type="checkbox"/> A6030 Declaratory Relief Only.	1., 2., 8.
	<input type="checkbox"/> A6040 Injunctive Relief Only (not domestic/harassment)	2., 8.
	<input type="checkbox"/> A6011 Other Commercial Complaint Case (non-tort/non-complex)	1., 2., 8.
	<input type="checkbox"/> A6000 Other Civil Complaint (non-tort/non-complex)	1., 2., 8.
Partnership/Corporation Governance (21)	<input type="checkbox"/> A6113 Partnership and Corporate Governance Case	2., 8.
Other Petitions (Not Specified Above) (43)	<input type="checkbox"/> A6121 Civil Harassment	2., 3., 9.
	<input type="checkbox"/> A6123 Workplace Harassment	2., 3., 9.
	<input type="checkbox"/> A6124 Elder/Dependent Adult Abuse Case	2., 3., 9.
	<input type="checkbox"/> A6190 Election Contest	2.
	<input type="checkbox"/> A6110 Petition for Change of Name	2., 7.
	<input type="checkbox"/> A6170 Petition for Relief from Late Claim Law	2., 3., 4., 8.
	<input type="checkbox"/> A6100 Other Civil Petition	2., 9.

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CIVIL CASE COVER SHEET ADDENDUM
AND STATEMENT OF LOCATION

Local Rule 2.3

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No. 0245 P. 8

SHORT TITLE:

University of Southern California v. Kaiser Foundation Health Plan, et al.

CASE NUMBER

Item III. Statement of Location: Enter the address of the accident, party's residence or place of business, performance, or other circumstance indicated in Item II., Step 3 on Page 1, as the proper reason for filing in the court location you selected.

REASON: Check the appropriate boxes for the numbers shown under Column C for the type of action that you have selected for this case. <input type="checkbox"/> 1. <input checked="" type="checkbox"/> 2. <input type="checkbox"/> 3. <input type="checkbox"/> 4. <input checked="" type="checkbox"/> 5. <input type="checkbox"/> 6. <input type="checkbox"/> 7. <input type="checkbox"/> 8. <input type="checkbox"/> 9. <input type="checkbox"/> 10. <input type="checkbox"/> 11.			ADDRESS: 1500 San Pablo St.
CITY: Los Angeles	STATE: CA	ZIP CODE: 90033	

Item IV. Declaration of Assignment: I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that the above-entitled matter is properly filed for assignment to the Stanley Mosk courthouse in the Central District of the Superior Court of California, County of Los Angeles [Code Civ. Proc., § 392 et seq., and Local Rule 2.3, subd.(a)].

Dated: September 27, 2017

 (SIGNATURE OF ATTORNEY/FILING PARTY)

PLEASE HAVE THE FOLLOWING ITEMS COMPLETED AND READY TO BE FILED IN ORDER TO PROPERLY COMMENCE YOUR NEW COURT CASE:

1. Original Complaint or Petition.
2. If filing a Complaint, a completed Summons form for issuance by the Clerk.
3. Civil Case Cover Sheet, Judicial Council form CM-010.
4. Civil Case Cover Sheet Addendum and Statement of Location form, LACIV 109, LASC Approved 03-04 (Rev. 03/15).
5. Payment in full of the filing fee, unless fees have been waived.
6. A signed order appointing the Guardian ad Litem, Judicial Council form CIV-010, if the plaintiff or petitioner is a minor under 18 years of age will be required by Court in order to issue a summons.
7. Additional copies of documents to be conformed by the Clerk. Copies of the cover sheet and this addendum must be served along with the summons and complaint, or other initiating pleading in the case.

10/02/2017

LexisNexis® Automated California County Forms

 LACIV 109 (Rev 3/15)
 LASC Approved 03-04

**CIVIL CASE COVER SHEET ADDENDUM
 AND STATEMENT OF LOCATION**

 Local Rule 2.3
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