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CALIFORNIA SPINE AND NEUROSURGERY INSTITUTE,
a California for profit corporation

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

CALIFORNIA SPINE AND
NEUROSURGERY INSTITUTE, a
California for profit corporation

Plaintiff,

v.

UNITED HEALTHCARE INSURANCE
COMPANY, a Connecticut for profit
corporation; APPLE, INC., a California
for profit corporation; and DOES 1
THROUGH 25, inclusive,

Defendants.

Case No.: 5:19-cv-2417-LHK

SECOND AMENDED COMPLAINT
FOR DAMAGES FOR:

1. BREACH OF IMPLIED IN FACT CONTRACT;
2. BREACH OF EXPRESS CONTRACT; AND
3. *QUANTUM MERUIT*.

Complaint Filed: 12/20/19
FAC Filed: 2/25/19
Removed: 5/3/19

SECOND AMENDED COMPLAINT FOR DAMAGES

PARTIES

1. Plaintiff California Spine and Neurosurgery Institute ("California Spine") is a for profit corporation organized and existing pursuant to the laws of the State of California. California Spine has its principal place of operation in City of Campbell, County of Santa Clara, State of California. California Spine provides minimally invasive spine surgery to patients suffering from spinal injuries and/or conditions.

2. Defendant UNITED HEALTHCARE INSURANCE COMPANY ("United") is a for profit corporation that does business in California is organized and existing pursuant to the laws of the State of Connecticut. United has its principal place of business in the City of Hartford, County of Hartford, State of Connecticut. Among other things, United sponsors and administers health plans.

3. Defendant Apple Inc. ("Apple") is a for profit corporation that does business in California and is organized and existing pursuant to the laws of the State of California. Apple has its principal place of business in City of Palo Alto, County of Santa Clara, State of California. Among other things, Apple sponsors and administers health plans for their employees and their dependents.

4. California Spine is unaware of the true names and capacities, whether corporate, associate, individual, partnership or otherwise of defendants Does 1 through 25, inclusive, and therefore sues such defendants by such fictitious names. California Spine will seek leave of the Court to amend this complaint to allege their true names and capacities when ascertained.

1 5. United, Apple, and Does 1 through 25, inclusive, shall be
2 collectively referred to as "Defendants."

3
4 6. Defendants, and each of them, at all relevant times, have
5 transacted business in the State of California. The violations alleged within this
6 complaint have been and are being carried out in the State of California.

7
8 7. California Spine is informed, believes, and thereon alleges that
9 at all relevant times, each of the defendants, including the defendants named "Doe"
10 were and are the agent, employee, employer, joint venturer, representative, alter
11 ego, subsidiary, and/or partner of one or more of the other defendants, and were, in
12 performing the acts complained of herein, acting within the scope of such agency,
13 employment, joint venture, or partnership authority, and/or are in some other way
14 responsible for the acts of one or more of the other defendants.

15
16 **COMMON FACTUAL BACKGROUND**
17

18 8. California Spine is a medical facility dedicated to the care and
19 treatment of spine injuries and/or conditions. California Spine provides
20 unsurpassed patient care through the use of state-of-the-art minimally invasive
21 surgery and motion preservation techniques. Dr. Adebukola Onibokun is the
22 principal physician and the only neurosurgeon practicing on behalf of California
23 Spine. Patients seek medical treatment from Dr. Onibokun at California Spine for
24 their spine conditions because of the advantages that minimally invasive spine
25 surgery has over traditional open spine surgery. Minimally invasive spine surgery
26 uses advanced imaging techniques and special medical equipment to reduce tissue
27 trauma, bleeding, hospital stays and recovery by minimizing the size of the
28 incision used to correct the spinal condition.

1 9. California Spine does not have any pre-existing agreement,
2 partnership, and/or contract with any managed health care plan, health insurance
3 agency, or employer group. It is California Spine's practice to verify eligibility for
4 surgery based on a patient's health care plan on or near the date the patient has their
5 initial consultation at California Spine. California Spine also takes upon itself to
6 obtain an approval for requested services where a patient's managed health care
7 plan requires such.

8
9 10. California Spine is informed and believes and on that basis
10 alleges Apple entered into a contractual relationship with United for United to
11 provide administrative services with respect to paying for and/or arranging for
12 medical care to be rendered by providers like California Spine to Apple's
13 participants. Among other duties, such an arrangement required United to confirm
14 a beneficiary's eligibility and benefits to medical providers such as California
15 Spine in order to ensure healthcare services would be provided to Apple's
16 participants and/or beneficiaries without delay. In other words, United on Apple's
17 behalf would provide sufficient assurances to medical providers that they would be
18 paid for the medical care expected to be rendered to Apple's beneficiaries. Such an
19 arrangement thereby obligated Defendants to pay healthcare providers for services
20 rendered to Apple's beneficiaries.

21
22 **Patient D.B.**

23 11. California Spine is informed and believes and, on that basis,
24 alleges that all relevant times Patient D.B. (Member ID: 917788981)¹ was a
25 beneficiary of a health plan sponsored, paid for, and/or administered by

26
27 ¹ California Spine has limited the disclosure of patient identification information here pursuant to
28 the privacy provisions of the federal Health Insurance Portability & Accountability Act
("HIPAA"), 42 U.S.C. §§ 1320(d) *et seq.*, and the California Constitution, art. 1, § 1.

1 Defendants. To signify such membership, Apple authorized United to issue Patient
2 D.B. a United/Apple identification card and instructed Patient D.B. to present that
3 card to medical providers (including California Spine) in order to obtain medical
4 care. United and Apple did so with the intent to assure medical providers that they
5 would be paid for medical care rendered to Apple's beneficiaries at a percentage of
6 the usual and customary value for such care (unless a medical provider had a pre-
7 existing contractual relationship with United to provide such medical care at
8 certain set discounted rates).

9
10 12. Patient D.B.'s Apple medical plan administered by United is
11 Apple Plus PPO Plan. According to plan's summary outlined in the Apple Benefits
12 Book effectuated January 2017, beneficiaries under the Apple Plus PPO Plan may
13 receive care from any provider, including an out-of-network provider. The benefits
14 for using an out-of-network provider read as:

15 "When you receive care through an out-of-network provider, the plan
16 pays 70% of eligible expenses after the out-of-network deductible is
17 met, and benefits are based on usual, customary, and reasonable
18 (UCR) rates."

19 *Page 39 of Apple Benefits Book.*

20
21 13. Patient D.B. presented symptoms of severe lower back pain and
22 bilateral lower extremity pain prior to Patient D.B.'s initial consultation with
23 California Spine on 23 January 2018. Patient D.B. sought the medical services of
24 California Spine in order to alleviate Patient D.B.'s pain caused by a weakening of
25 the vertebra of the spine and compression of the spinal nerves by herniated disc or
26 joint. After the consultation, California Spine requested coverage for services from
27 United.

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