UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

CALIFORNIA SPINE AND NEUROSURGERY INSTITUTE,

Plaintiff/Counter-Defendant,

v.

UNITED HEALTHCARE INSURANCE COMPANY, et al.,

Defendants/Counter-Plaintiff.

Case No. 19-CV-02417-LHK

ORDER DENYING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT AND DENYING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT

Re: Dkt. Nos. 66, 67

Plaintiff California Spine and Neurosurgery Institute ("Plaintiff") sues Defendant United Healthcare Insurance Company ("Defendant") and Does 1 through 25 for breach of implied in fact contract and breach of express contract. ECF No. 30 ("SAC") ¶¶ 46–60. Defendant asserts a counterclaim against Plaintiff for money had and received. ECF No. 51 ¶¶ 22–24. Before the Court are Plaintiff's motion for summary judgment on Defendant's counterclaim, ECF No. 66, and Defendant's motion for summary judgment, or in the alternative, for partial summary judgment, on Plaintiff's Second Amended Complaint, ECF No. 67.[1] Having considered the

[1] Defendant's motion for summary judgment contains a notice of motion filed and paginated separately from the points and authorities in support of the motion. ECF Nos. 67, 68. Plaintiff's

parties' submissions, the relevant law, and the record in this case, the Court DENIES Plaintiff's motion for summary judgment and DENIES Defendant's motion for summary judgment.

I. BACKGROUND

A. Factual Background

Plaintiff is a "medical facility dedicated to the care and treatment of spine injuries and/or conditions" located in Campbell, California. SAC ¶¶ 1, 8. In March 2018 and July 2018, Plaintiff rendered "medically necessary" "spine surgeries" to three patients—D.B., L.M., and M.B.—whose health insurance benefits were sponsored and administered by Defendant.[2] SAC ¶¶ 12, 20, 25, 30, 36, 41; Onibokun Decl. ¶ 6, Exhs. A, D, H. All three patients worked for the same employer, Apple, Inc. ("Apple"), and were "beneficiar[ies] of a health plan . . . administered" by Defendant. SAC ¶¶ 11, 24, 35; Onibokun Decl. ¶ 6.

All patients owned an identification card from Defendant that was presented to medical providers in order to obtain medical care. SAC ¶¶ 11, 24, 35. Defendant instructed patients to present an identification card "to assure medical providers that they would be paid for medical care . . . at a percentage of the usual and customary value for such care." *Id.* Furthermore, the patients' employer published a summary of the benefits of patients' medical plans and noted that the plans paid 70% of eligible expenses for care from out-of-network providers.[3] *Id.* ¶¶ 12, 25, 36. Plaintiff was an out-of-network provider under the health plans administered by Defendant. *Id.* ¶ 9.

D.B., L.M., and M.B. experienced back pain and sought medical services from Plaintiff.

---

motion for summary judgment contains a notice of motion paginated separately from the points and authorities in support of the motion. ECF No. 66 at 1–2. Civil Local Rule 7-2(b) provides that the notice of motion and points and authorities must be contained in one document with the same pagination.

[2] Plaintiff "limited the disclosure of patient identification information pursuant to the privacy provisions of the federal Health Insurance Portability & Accountability Act ("HIPAA") §§ 1320(d) *et seq*., and the California Constitution, art. 1, § 1." SAC at 4 n.1.

[3] The Second Amended Complaint alleges that D.B. and L.M. both have the same health plan but that M.B. has a different one. SAC ¶¶ 12, 25, 36. According to the SAC, the health plans reimburse 70% of expenses for care from out-of-network providers with slight differences based on deductibles. *Id.* For the purposes of the instant motions, these differences are immaterial.

Id. ¶¶ 13, 26, 37. For each patient, Plaintiff contacted Defendant to verify medical eligibility benefits, and Defendant's client services representatives "either expressly or impliedly assured" Plaintiff that Defendant "carried the financial responsibility to pay for" all three patients' "anticipated medical care at 70% of the usual and customary value for such care." SAC ¶¶ 17, 27, 38; Ernster Decl. Exh. A at 144–45; Onibokun Decl. Exhs. B, E, I. Defendant's affiliate then allegedly sent Plaintiff authorization letters for the services to Patients D.B., L.M., and M.B., each of which specified the services to be performed by procedure code and stated that "[a]fter review of the information submitted and your plan documents, it was determined that this service is covered by your plan." Onibokun Decl. Exhs. C, G, J.

Based on the existence of an identification card issued by Defendant, the pre-authorization discussions and the authorization letter, and "the express and/or implied resultant assurances" that Plaintiff "would be paid at least 70% of the usual and customary value of its medical services anticipated to be rendered," Plaintiff provided treatment to D.B., L.M., and M.B. and submitted claims for payment at the usual and customary rate for such services. SAC ¶¶ 20–21, 30–31, 41 – 42. Plaintiff alleges, however, that Defendant significantly underpaid Plaintiff and owes $206,909.66 plus interest and other costs. *Id*. ¶¶ 21–23, 31–34, 42–45, 69. Conversely, Defendant alleges that Defendant overpaid Plaintiff for the services to Patient D.B. by $98,140.00. ECF No. 51 ¶¶ 22–24.

B. Procedural History

On December 20, 2018, Plaintiff filed suit against UHC of California doing business as UnitedHealthcare of California, Apple, and Does 1 through 25 in the Superior Court of Santa Clara County. ECF No. 1-1 Ex. A ("FAC"). Plaintiff's complaint asserted three causes of action against the defendants: breach of implied in fact contract, breach of express contract, and quantum meruit. *Id.*

On February 25, 2019, Plaintiff amended the complaint and replaced UHC of California with United Healthcare Insurance Company. FAC ¶ 5. On April 23, 2019, Plaintiff filed a request

for dismissal of Apple in state court. ECF No. 1-1 Ex. E. On April 30, 2019, Plaintiff also filed a request for dismissal of UHC of California in state court. ECF No. 1-1 Ex. F. United Healthcare Insurance Company was the only remaining named defendant. On May 3, 2019, Defendant removed the case to this Court. ECF No. 1.

On May 10, 2019, Defendant moved to dismiss all three causes of action in Plaintiff's First Amended Complaint. ECF No. 7. On September 17, 2019, the Court granted in part and denied in part Defendant's motion to dismiss. ECF No. 28. First, the Court denied Defendant's motion to dismiss Plaintiff's claims for breach of implied in fact contract and breach of express contract because Plaintiff pled that "Defendant gave 'express and/or implied resultant assurances' that Plaintiff 'would be paid at least 70% of the usual and customary value of its medical services anticipated to be rendered.'" *Id.* at 6 (quoting FAC ¶¶ 17, 27, 38). As a result, the Court concluded that Plaintiff had adequately alleged that Defendant exhibited an intent to contract. *Id.* at 6–7.

Second, the Court granted Defendant's motion to dismiss Plaintiff's quantum meruit claim with leave to amend. *Id.* at 8–10. Among other things, a quantum meruit claim requires that services were performed at the defendant's request. *Id.* at 8–9. Because Plaintiff had only alleged that Plaintiff requested services, the Court dismissed the quantum meruit claim with leave to amend. *Id.* at 9–10.

On October 17, 2019, Plaintiff filed its Second Amended Complaint and realleged the same three causes of action for breach of implied in fact contract, breach of express contract, and quantum meruit. ECF No. 30 ("SAC") ¶¶ 46–69. Plaintiff, however, added only two new paragraphs. *See id.* ¶¶ 63-64. Those paragraphs allege that "[p]rior to surgery for Patient D.B., California Spine received a pre-procedure authorization letter from OrthoNet, on behalf of United" and that "[p]rior to surgery for Patient L.M. and Patient M.B., California Spine was informed, by agents of United as stated above, that the pre-authorization process was not required." *Id.*

On October 31, 2019, Defendant filed a motion to dismiss Plaintiff's quantum meruit claim. ECF No. 32. On February 24, 2020, the Court granted Defendant's motion to dismiss

Plaintiff's quantum meruit claim with prejudice. ECF No. 49. The Court concluded that Plaintiff had not alleged that the services were performed at the defendant's request, as required for a quantum meruit claim. *Id*. at 6–8. Because Plaintiff had failed to cure deficiencies identified in the Court's prior order, the Court concluded that amendment would be futile and dismissed Plaintiff's quantum meruit claim with prejudice. *Id*. at 8.

On March 9, 2020, Defendant filed a counterclaim against Plaintiff for money had and received. ECF No. 51 ¶¶ 22–24. Defendant alleges that Defendant overpaid Plaintiff for the services rendered to D.B. in the amount of $98,140.00. *Id*. ¶ 3.

On November 20, 2020, Plaintiff filed a motion for summary judgment on Defendant's counterclaim. ECF No. 66 ("Plaintiff's MSJ"). That same day, Defendant filed a motion for summary judgment, or in the alternative, for partial summary judgment, on the Second Amended Complaint. ECF Nos. 67, 68 ("Defendant's MSJ"). On December 4, 2020, Plaintiff and Defendant filed oppositions. ECF No. 69 ("Plaintiff's Opp"); ECF No. 70. ("Defendant's Opp."). On December 11, 2020, Plaintiff and Defendant filed replies. ECF No. 73 ("Defendant's Reply"); ECF No. 77 ("Plaintiff's Reply").[4]

II. LEGAL STANDARD

Summary judgment is proper where the pleadings, discovery, and affidavits show that there is "no genuine dispute as to any material fact and [that] the movant is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(a). Material facts are those which may affect the outcome of the case. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986). A dispute as to a material fact is genuine if there is sufficient evidence for a reasonable jury to return a verdict for the nonmoving party. *See id.*

[4] Each side filed evidentiary objections. *See* ECF Nos. 69-2, 74. However, "to survive summary judgment, a party does not necessarily have to produce evidence in a form that would be admissible at trial, as long as the party satisfies the requirements of Federal Rules of Civil Procedure 56." *Fraser v. Goodale*, 342 F.3d 1032, 1036–37 (9th Cir. 2003) Thus, the Court OVERRULES WITHOUT PREJUDICE each side's evidentiary objections.

DOCKET ALARM

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts

Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research

With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips

Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS
Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS
Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS
Sync your system to PACER to automate legal marketing.