

**UNITED STATES DISTRICT COURT**  
**EASTERN DISTRICT OF LOUISIANA**

TAYLOR B. THEUNISSEN, MD, LLC,  
and SADEGHI CENTER FOR PLASTIC  
SURGERY, LLC, Individually and as  
Assignees and Authorized Representatives  
of N.T.

VERSUS

UNITED HEALTHCARE OF  
LOUISIANA, INC.

\* \* \* \* \*

CIVIL ACTION NO: \_\_\_\_\_

**COMPLAINT**

**NOW INTO COURT** comes Sadeghi Center for Plastic Surgery, LLC and Taylor B. Theunissen, MD, LLC, individually and as the assignees and authorized representatives of their patient N.T., and for their Complaint (“Complaint”) aver as follows:

***Introduction***

1. At all times relevant hereto, N.T.<sup>1</sup> was a “beneficiary,” as defined by 29 U.S.C. § 1002(8), in an “Employee Health Benefit Plan,” as defined by 29 U.S.C. § 1022(1), which was sponsored by Bechtel Global Corporation and administered by United Healthcare of Louisiana, Inc. (the “Plan.”).

---

<sup>1</sup> Because of confidentiality concerns, Plaintiff Providers’ patient is identified solely by her initials.

2. This case is a claim for benefits due under the Plan, as hereinafter defined, based upon adverse benefit determinations for services rendered to N.T. by Plaintiffs, Sadeghi Center for Plastic Surgery, LLC and Taylor B. Theunissen, MD, LLC (collectively “Plaintiff Providers”). The Plan delegated responsibility to make the benefit determinations at issue to United Healthcare of Louisiana, Inc. (“United”) under the express terms of the Plan. As such, United is a fiduciary under ERISA.

### ***The Parties***

#### ***Plaintiffs***

3. Plaintiff, Taylor B. Theunissen, MD, LLC, (“TBT”), is a Louisiana limited liability company domiciled in the Parish of East Baton Rouge, State of Louisiana; and,

4. Plaintiff, Sadeghi Center for Plastic Surgery, LLC (“Sadeghi”) is a Louisiana limited liability company domiciled in the Parish of Jefferson, State of Louisiana.<sup>2</sup>

#### ***Defendants***

5. Defendant United is a corporation organized and existing under the laws of the State of Louisiana domiciled, authorized to do and doing business, and subject to personal jurisdiction, within this judicial district.

### ***Jurisdiction and Venue***

6. The Defendant’s actions in administering the Plan are governed by the Employee Retirement Income Security Act of 1974, 29 U.S.C. §1001-1461 (“ERISA”). This Court possesses subject matter jurisdiction over the claim for benefits brought under 29 U.S.C. § 1132(a)(1)(B) is action pursuant to 28 U.S.C. § 1331 and 29 U.S.C. § 1132(e).

---

<sup>2</sup> Alireza Sadeghi, M.D. provides patient services through Sadeghi. Taylor B. Theunissen, M.D. provides patient services through TBT.

7. Venue is appropriate in this court pursuant to 28 U.S.C. §1391 in that the events giving rise to the claims occurred in the Eastern District of Louisiana, including but not limited to the professional medical services provided by Plaintiff Providers to patient N.T., as well as the events or omissions by United giving rise to the claims set forth herein.

### *Standing*

8. As a “beneficiary” of the Plan as that term is defined in 29 U.S.C. §1002(8), N.T. has standing to bring this action under 29 U.S.C. §1132(a)(1)(B).

9. By and through an assignment of benefits and claims, N.T. has assigned her right to bring this action to Plaintiff Providers, who therefore have standing to bring this action under 29 U.S.C. §1132(a)(1)(B). Specifically, N.T. executed a document entitled Assignment of Benefits/Designated Authorized Representative (“Assignment and Designation”) which assigned “to the fullest extent permitted by law and all benefit and non-benefit rights (including the right to any payments) under my health insurance policy or benefit plan” to the Plaintiff Providers.

10. Through that same Assignment and Designation, N.T. designated Plaintiff Providers as her “authorized representatives,” as defined in 29 C.F.R. § 2560.503-1 and Plaintiff Providers may, therefore, bring this action on behalf of N.T. under 29 U.S.C. § 1132(a). The instrument N.T. executed in favor of Plaintiff Providers incorporates, *inter alia*, the following language;

I hereby appoint as Designated Authorized Representative each of my Providers and each of their respective assistant surgeons, physician assistants, teaching assistants, billing staff, lawyers or any other person or business that provides healthcare activity services as a “business associate” (including Howard Healthcare Group) under the Health Insurance Portability and Accountability Act of 1995, as amended (“HIPAA”) and their respective designees (collectively referred to herein as an “Authorized Representative”). This authorization is intended to comply with all requirements of the Employment Retirement Income Security Act of 1974, as amended (“ERISA”) and any applicable State law. Each authorized representative is granted the same rights which I have as a member or beneficiary under my

insurance policy or benefit plan, including without limitation: (1) the right of my Authorized Representative to file claims for benefits on my behalf and directly receipt payment for benefits and non-benefits from any third party payor under my insurance policy or benefit plan, including the right to penalties, interest and attorneys' fees; (2) the right of my Authorized representative to communicate with Insurers, plan fiduciaries, employers and plan and claim administrators relative to all my benefit information and private health information ("PHI") as further defined under HIPAA and to share and exchange such information with a "covered person" or "business association" as those terms are defined under HIPAA; (3) the right of my Authorized Representative to send and receive follow-up information and obtain all documentation that ERISA or any State law required to be provided to me, including, without limitation, plan documents, explanation of benefits, adverse benefit determinations, all relevant documents involving my claim, identity of all persons involved in determining my claim and all documents relied upon in making any determination as to the payment of any amount under the applicable plan; (4) The right of my Authorized Representative to file any internal or external member appeal for payment of benefits under any applicable insurance policy or benefit plan; [and] (5) The right of my Authorized representative to pursue any rights, claim or cause of action through litigation or otherwise under any Federal or State law with respect to payment for services provided by a Provider to me, including penalties, interest and attorneys' fees.

### ***Factual Background***

11. N.T. was diagnosed with left breast cancer and underwent a bilateral mastectomy and breast reconstruction but the reconstruction required subsequent revision.

12. On March 23, 2018, the Plaintiff Providers performed a bilateral revision breast reconstruction with deep inferior epigastric perforator (DIEP) flaps ("First Surgery") on N.T.

13. A DIEP Flap is a cutting-edge breast reconstruction procedure that uses a flap of complete tissue, blood vessels, skin and fat from the woman's lower abdomen as donor tissue. The flap is then transplanted to the chest where those removed blood vessels are reconnected to the vessels in the chest. The flap is then shaped into a new breast and the abdomen is surgically closed. The procedure requires two micro-surgeons and at times, both a first and second assist, working together in unison for approximately 8-12 hours. There are few surgeons with proper training and skill to perform this complex procedure.

14. Breast reconstruction procedures such as the DIEP Flap are specifically covered by the Plan, which states in relevant part:

Benefits for Reconstructive Procedures include breast reconstruction following a mastectomy and reconstruction of the non-affected breast to achieve symmetry. Replacement of an existing breast implant is covered by the Plan if the initial breast impact followed a mastectomy. Other services required by the *Women's Health and Cancer Rights Act of 1998*; including breast prostheses and treatment of complications, are provided in the same manner and at the same level as those for any other Covered Health Service. ...

15. Dr. Alireza Sadeghi of Sadeghi ("Dr. Sadeghi") is a double board certified plastic surgeon and reconstructive microsurgeon who specializes in reconstructive breast surgery for women who have dealt with breast cancer in the past. He graduated from the Karol Marcinkowski University of Medical Sciences, where he received his Ph.D. He completed his internship and residency in general surgery at SUNY Downstate Medical Center, where he also served as Chief Resident. He then completed an additional residency at LSU Health Sciences Center in plastic and reconstructive surgery, and again served as Chief Resident.

16. Dr. Taylor Theunissen of TBT ("Dr. Theunissen") is a board certified plastic surgeon with extensive breast reconstruction experience. He graduated from the LSU Health Sciences Center Medical School and completed his residency in orthopedic surgery. He then completed an additional residency at the University of Nebraska Medical Center in plastic and reconstructive surgery. Dr. Theunissen completed fellowship training in craniofacial plastic surgery at Stanford University. He is Associate Professor at LSU and Tulane University medical schools.

17. On or about March 5, 2018, several weeks prior to the First Surgery, TBT submitted to United a preauthorization request for the First Surgery citing to multiple CPT codes, including the following: S2068, 19380, 19364, 21600, 15002, 15777, 64910, and 64488. The

# 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.