

# EXHIBIT A

**CAUSE NO. CV-0089242**

**ERLC, LLC**

**Plaintiff,**

**vs.**

**HEALTH CARE SERVICE  
CORPORATION D/B/A BLUE CROSS  
AND BLUE SHIELD OF TEXAS and  
GUADALUPE GUZMAN**

**Defendants.**

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**IN THE COUNTY COURT**

**COUNTY COURT AT LAW 3**

**GALVESTON COUNTY, TEXAS**

**PLAINTIFF'S FIRST AMENDED PETITION**

Plaintiff, ERLC, LLC, files this First Amended Petition against Defendants, Health Care Service Corporation d/b/a Blue Cross and Blue Shield of Texas and Guadalupe Guzman, and shows the Court as follows:

**I. DISCOVERY LEVEL**

1. Discovery in this case shall be conducted under Level 2 pursuant to Texas Rule of Civil Procedure 190.3.

**II. PARTIES**

2. Plaintiff ERLC, LLC is a Texas Limited Liability Company.

3. Defendant Health Care Service Corporation d/b/a Blue Cross and Blue Shield of Texas ("BCBS") is an Illinois corporation authorized to do business as an insurance company in the State of Texas and may be served with process by serving its registered agent, Corporation Service Company, 211 East 7<sup>th</sup> Street, Suite 620, Austin, Texas 78701-3218.

4. Defendant Guadalupe Guzman is an individual residing in Galveston County, Texas. Guzman may be served at 517 East Foley Alvin, Texas 77511 or wherever he may be found.

### III. RULE 47 STATEMENT

5. Pursuant to Texas Rule of Civil Procedure 47, Plaintiff seeks monetary relief of \$250,000 or less, excluding interest, statutory or punitive damages and penalties, and attorney's fees and costs.

### IV. JURISDICTION AND VENUE

6. This Court has jurisdiction over this matter because the amount in controversy exceeds the minimum jurisdictional requirements.

7. Venue is proper in Galveston County, Texas because all or a substantial part of the acts or omissions forming the basis of this suit occurred in Galveston County, Texas, pursuant to Section 15.002(a)(1) of the Texas Civil Practice & Remedies Code.

### V. FACTS

8. ERLC is an emergency hospital located in League City, Texas. On or around February 11, 2020, ERLC provided emergency medical services to Guzman. At that time, Guzman represented that she was insured by BCBS. BCBS considered ERLC an "out of network" provider.

9. ERLC treated Guzman and then subsequently sent a reasonable and customary bill for services to BCBS and Guzman. The amount billed was \$90,473.01.

10. On March 9, 2020, BCBS accepted coverage and provided partial payment of \$466.50. Guzman paid \$412.50. However, BCBS has since refused to pay the remaining \$89,594.01 due and owing for services provided by ERLC. As the patient and recipient of services, Guzman is jointly and severally liable for payment.

11. On or about September 2021, ERLC and BCBS participated in the mandatory mediation process established the Texas Insurance Code. On September 23, 2021, the mediator provided a mediator's report confirming that mediation was unsuccessful and concluding the

mediation process under the Texas Insurance Code.

12. ERLC fully complied with its obligations to provide medical services at the usual and customary rate. However, Defendants have failed to pay ERLC.

## VI. CAUSES OF ACTION

### A. Breach of Contract/Texas Insurance Code – Against BCBS

13. ERLC incorporates the above facts by reference herein.

14. Pursuant to BCBS's contract with its insureds, BCBS was obligated to pay for the medical services that ERLC provided to its insureds, including Guzman. Because ERLC is the assignee of these patients, BCBS is obligated to pay ERLC directly for the medical services that ERLC provided.

15. BCBS breached its obligations by paying ERLC only \$466.50, instead of the \$90,473.01 that it owed.

16. ERLC is entitled to its attorney's fees in the prosecution of this matter pursuant to Tex. Civ. Prac. & Rem. Code § 38.002.

### B. Violation of Texas Insurance Code Section 1467.0575 – Against BCBS

17. ERLC incorporates the above facts by reference herein.

18. ERLC provided emergency medical services

19. ERLC and BCBS participated in the mandatory mediation process established by the Texas Insurance Code for out-of-network providers. The parties failed to reach an agreement. On September 23, 2021, the mediator provided a report confirming that the parties did not reach an agreement at mediation.

20. Pursuant to Section 1467.0575 of the Texas Insurance Code, not later than the 45th day after the date that the mediator's report is provided to the department under Section 1467.060,

either party to a mediation for which there was no agreement may file a civil action to determine the amount due to an out-of-network provider.

21. ERLC filed this action on November 5, 2021. ERLC seeks a determination from the Court that ERLC is owed \$90,473.01 for the emergency medical services provided to BCBS's insured.

**C. Breach of Implied Contract – Against BCBS**

22. ERLC incorporates the above facts by reference herein.

23. Defendant indicated, by a course of conduct and dealings, trade usage, and/or acknowledging its obligations under Texas law, and the circumstances surrounding the relationship to ERLC that BCBS would pay for surgical and medical services provided, including the emergency services provided by ERLC to the patient member. BCBS was paid premiums for emergency healthcare benefits including for out-of-network providers. BCBS also know that ERLC was required by law to treat BCBS's members if they require emergency or related medical care.

24. The emergency and urgent services rendered by ERLC to the patient member conferred a benefit on BCBS because the emergency care of out-of-network specialists at emergency departments is essential and necessary to allow BCBS to satisfy its contractual and other legal obligations to its patient member. BCBS further indicated, by a course of conduct and dealings, trade usage, and/or legal obligations, and the circumstances surrounding the relationship, to ERLC that BCBS would hold the patient member harmless, and thus would timely pay Plaintiff its usual and customary rate ("UCR") or billed amounts based, in accordance with Texas law. See Tex. Ins. Code § 1301.0053.

25. BCBS also indicated, by a course of conduct and dealings, and/or trade usage, and

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