

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION

THOMAS and WANDA CARRUTH)	
)	
Plaintiffs,)	
)	
vs.)	CIVIL ACTION NO. 2:14CV33-DPJ-FKB
)	
THE OUTSOURCE GROUP, LLC; JACKSON)	
COUNTY OUTSOURCE GROUP, LLC;)	
UNITED HEALTHCARE SERVICES, INC.;)	
FORREST GENERAL HOSPITAL; MEDCO)	
HEALTH SOLUTIONS OF INDIANA, LLC;)	
OPTUM RX, A UNITED HEALTH GROUP)	
)	
Defendants.)	

**DEFENDANT JACKSON COUNTY OUTSOURCE GROUP, LLC'S
ANSWER TO PLAINTIFFS' AMENDED COMPLAINT**

COMES NOW, Jackson County Outsourcing Group, LLC, (hereinafter "this Defendant") by and through its undersigned counsel and in response to Plaintiffs' Amended Complaint, states as follows:

PARTIES

1. This Defendant is without sufficient information or knowledge to form a belief as to the truth or accuracy of the allegations of this paragraph of the Amended Complaint. Hence, said allegations are denied and this Defendant demands strict proof thereof.

2. Admitted that Jackson County Outsource Group, LLC is a limited liability company organized and existing pursuant to the laws of the State of Mississippi. Further admitted that Roy C. Williams is the registered agent for service for Jackson County Outsource Group, LLC. The remaining allegations contained in this paragraph are denied.

3. This Defendant is without sufficient information or knowledge to form a belief as to

the truth or accuracy of the allegations of this paragraph of the Amended Complaint. Hence, said allegations are denied and this Defendant demands strict proof thereof.

4. This Defendant is without sufficient information or knowledge to form a belief as to the truth or accuracy of the allegations of this paragraph of the Amended Complaint. Hence, said allegations are denied and this Defendant demands strict proof thereof.

JURISDICTION

5. This Defendant is without sufficient information or knowledge to form a belief as to the truth or accuracy of the allegations of this paragraph of the Amended Complaint. Hence, said allegations are denied and this Defendant demands strict proof thereof.

FACTS

6. Denied as to this Defendant.

7. This Defendant is without sufficient information or knowledge to form a belief as to the truth or accuracy of the allegations of this paragraph of the Amended Complaint. Hence, said allegations are denied and this Defendant demands strict proof thereof.

8. Denied as to this Defendant.

9. Denied as to this Defendant.

10. This Defendant is without sufficient information or knowledge to form a belief as to the truth or accuracy of the allegations of this paragraph of the Amended Complaint. Hence, said allegations are denied and this Defendant demands strict proof thereof.

11. This Defendant is without sufficient information or knowledge to form a belief as to the truth or accuracy of the allegations of this paragraph of the Amended Complaint. Hence, said allegations are denied and this Defendant demands strict proof thereof.

13. [sic] Denied as to this Defendant.

14. Denied as to this Defendant.

15. This Defendant is without sufficient information or knowledge to form a belief as to

the truth or accuracy of the allegations of this paragraph of the Amended Complaint. Hence, said allegations are denied and this Defendant demands strict proof thereof.

16. This Defendant is without sufficient information or knowledge to form a belief as to the truth or accuracy of the allegations of this paragraph of the Amended Complaint. Hence, said allegations are denied and this Defendant demands strict proof thereof.

17. This Defendant is without sufficient information or knowledge to form a belief as to the truth or accuracy of the allegations contained in this paragraph of the Amended Complaint. To the extent that said allegations are intended to suggest and/or imply any wrongdoing on the part of this Defendant, same are denied. Hence, all allegations contained in this paragraph are denied and this Defendant demands strict proof thereof.

18. Denied as to this Defendant.

19. This Defendant is without sufficient information or knowledge to form a belief as to the truth or accuracy of the allegations of this paragraph of the Amended Complaint. Hence, said allegations are denied and this Defendant demands strict proof thereof.

COUNT I
BREACH OF CONTRACT

20. Denied as to this Defendant.

COUNT II
INTENTIONAL BREACH OF CONTRACT

21. Denied as to this Defendant.

COUNT III
BAD FAITH

22. Denied as to this Defendant.

COUNT IV
NEGLIGENCE

23. Denied as to this Defendant.

COUNT V
NEGLIGENT SUPERVISION

24. Denied as to this Defendant.

COUNT VI
NEGLIGENT MISREPRESENTATION

25. Denied as to this Defendant.

COUNT VII
FRAUD

26. Denied as to this Defendant.

COUNT VIII
BREACH OF FIDUCIARY DUTY

27. Denied as to this Defendant.

COUNT IX
ESTOPPEL AND DETRIMENTAL RELIANCE

28. Denied as to this Defendant.

COUNT X
NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS

29. Denied as to this Defendant.

COUNT XI
STATUTORY CLAIMS

30. Denied as to this Defendant.

COUNT XII
INJUNCTIVE RELIEF

31. Denied that Plaintiffs are entitled to the relief sought from this Defendant.

COUNT XIII
AGENCY AND JOINT VENTURE

32. Denied as to this Defendant.

COUNT XIII [sic]
DAMAGES

33. a. Denied as to this Defendant.

b. Denied as to this Defendant.

c. Denied as to this Defendant.

- d. Denied as to this Defendant.
- e. Denied as to this Defendant.
- (1) Denied that plaintiffs are entitled to the relief sought from this Defendant.
- (2) Denied that plaintiffs are entitled to the relief sought from this Defendant.
- (3) Denied that plaintiffs are entitled to the relief sought from this Defendant.
- (4) Denied that plaintiffs are entitled to the relief sought from this Defendant.
- (5) Denied that plaintiffs are entitled to the relief sought from this Defendant.
- (6) Denied that plaintiffs are entitled to the relief sought from this Defendant.
- (7) Denied that plaintiffs are entitled to the relief sought from this Defendant.
- (8) Denied that plaintiffs are entitled to the relief sought from this Defendant.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

Fault and liability must be apportioned in accordance with Mississippi Code Annotated section 85-5-7 and 11-7-15.

SECOND DEFENSE

Plaintiffs' claims are barred by the doctrine of finality.

THIRD DEFENSE

Defendant generally pleads the protections, limitations, caps and defenses afforded to it by Mississippi Code Annotated Section 11-1-65, as amended, including, but not limited to, the right to demand that any claim for punitive damages sought against them be proven by clear and convincing evidence, that the jury be required to make a separate finding in favor of the Plaintiff of liability for compensatory damages in a bifurcated proceeding independently of any consideration of the issue of punitive damages, that the Court act as "gate keeper" and use its discretion as to whether the issue of punitive damages goes before the trier of fact, and that any award of punitive damages made, if any at all, be made subject to, and if necessary, reduced to conform with the

limitations provided by Mississippi Code Annotated Section 11-1-65(3) as amended.

FOURTH DEFENSE

Defendant pleads all of the procedural safeguards for which they are entitled to as pronounced and provided by the United States Supreme Court in *Cooper Indus., Inc. v. Leatherman Tool Group, Inc.*, 121 S. Ct. 1678 (2001), including (1) the right to have the court, and not the finder of fact, determine whether punitive damages should be awarded and the amount, if any, of such damages to be awarded and (2) the right to have any award of punitive damages which may be made against it, if any at all, be subject to *de novo* review by either the trial court or an applicable appeals court, including the United States Supreme Court.

FIFTH DEFENSE

Plaintiffs have failed to state a claim upon which punitive damages and/or exemplary damages may be awarded.

SIXTH DEFENSE

Defendant pleads all defenses available pursuant to the Patient Protection and Affordable Care Act, 42 U.S.C. §18001 et seq. (2010).

SEVENTH DEFENSE

Defendant asserts that any award of punitive damages to Plaintiffs in this case would be in violation of the constitutional rights and safeguards provided to Defendants under the Constitution of the State of Mississippi and the Constitution of the United States of America including, without limitation, that there are no effective constraining limitations placed upon a jury's discretion in considering the imposition or amount of punitive damages, there are no meaningful trial court and appellate review mechanisms to constitutionally confirm any punitive damage award; imposition would allow a verdict tainted by passion and prejudice; and Plaintiff impermissibly seeks a punitive damage award that bears an unconstitutional relationship to the alleged actual amount in question.

EIGHTH DEFENSE

Imposition of punitive damages in this case would constitute a violation of Defendant's constitutional rights under the Fourth, Fifth, Sixth, Eighth, and Fourteenth Amendments to the United States Constitution.

NINTH DEFENSE

Imposition of punitive damages in this case would constitute a violation of due process and/or would be a violation of the statutory law of this state providing for such penalties.

TENTH DEFENSE

Any award of punitive damages in this case would violate the constitutional rights and safeguards provided to Defendant under the Due Process Clause of the Fourteenth Amendment and/or Fifth Amendment to the Constitution of the United States of America and/or under the due process clause of Article III, Section 14 of the Constitution of the State of Mississippi in that punitive damages and any method to which they might be assessed are unconstitutionally vague and not rationally related to legitimate government interests.

ELEVENTH DEFENSE

The procedure and/or standards governing imposition of punitive damages are impermissibly vague, arbitrary, improper, and/or violate the Due Process Clause of the Fourteenth Amendment and/or the Fifth Amendment of the Constitution of the United States and/or Article III, Section 14 of the Constitution of the State of Mississippi.

TWELFTH DEFENSE

Any award of punitive damages in this case would violate the procedural and/or substantive safeguards provided to Defendant under the Fifth, Sixth, Eighth and/or Fourteenth Amendments to the Constitution of the United States and/or under Article III, Section 14 and Section 26 of the Constitution of the State of Mississippi, in that punitive damages are penal in nature and, consequently, Defendant is entitled to the same procedural and substantive safeguards accorded

to criminal Defendants.

THIRTEENTH DEFENSE

Defendant asserts that it would violate the Self-Incrimination Clause of the Fifth Amendment to the United States of America and/or Article III, Section 26 of the Constitution of the State of Mississippi, to impose against Defendant punitive damages, which are penal in nature, yet compel Defendant to disclose potentially incriminating documents and evidence, if any.

FOURTEENTH DEFENSE

Applicable Mississippi punitive damages law violates the rights and safeguards guaranteed by the Constitution of the United States of America and/or the Constitution of the State of Mississippi to impose punitive damages against Defendant which are penal in nature by requiring a burden of proof on Defendant which is less than the "beyond a reasonable doubt" burden of proof required in criminal cases in this state.

FIFTEENTH DEFENSE

Defendant asserts that any award of punitive damages to Plaintiffs in this case will violate the Eighth Amendment to the Constitution of the United States and/or Article III, Section 28 of the Constitution of the State of Mississippi in that said punitive damages would be an imposition of an excessive fine.

SIXTEENTH DEFENSE

The imposition of punitive damages in this case, as measured by the wealth of Defendant constitutes an impermissible punishment of status.

SEVENTEENTH DEFENSE

It would be unconstitutional to award any punitive damages as such would violate the Fifth and Fourteenth Amendments to the United States Constitution and Article III, Section 14 of the Constitution of the State of Mississippi in that:

1. These damages are intended to punish and deter Defendant and thus this proceeding is essentially criminal in nature;

2. Defendant is being compelled to be a witness against themselves in a proceeding which is essentially and effectively criminal in nature, in violation of Defendant's right to due process;

3. Plaintiffs' burden of proof to establish punitive damages in this proceeding, which is effectively criminal in nature, is less than the burden of proof required in other criminal proceedings, and thus violates Defendant's right to due process;

4. That inasmuch as this proceeding is essentially and effectively criminal in nature, Defendant is being denied the requirement of notice of the elements of the offense and the law and authorities authorizing punitive damages, and accordingly the process is sufficiently vague and ambiguous so as to be in violation of the Due Process Clause of the Fifth Amendment and/or the Fourteenth Amendment of the United States Constitution and also in violation of Article III, Section 14 of the Constitution of the State of Mississippi.

EIGHTEENTH DEFENSE

The awarding of disproportionate judgments against Defendants such as Defendant, who commit similar offense resulting in similar injury, where the only difference is the material wealth, constitutes and arbitrary and invidious discrimination prohibited by the equal protection clauses and rights of Defendant under the Fourteenth Amendment to the Constitution of the United States of America.

NINETEENTH DEFENSE

The imposition of punitive damages in the premises would violate Defendant's rights under the contracts clause of Article I, Section 10 of the Constitution of the United States of America and Article III, Section 16 of the Constitution of the State of Mississippi.

TWENTIETH DEFENSE

Plaintiffs are not entitled to recover any exemplary or punitive damages in this case and Defendant demands judgment in their favor.

TWENTY-FIRST DEFENSE

Plaintiffs' Amended Complaint fails to state a claim upon which punitive damages may be awarded insofar as he seeks punitive damages for breach of contract. These damages are not available for breach of contract, and only may be recoverable where such a breach is accompanied by such gross negligence or willful wrongdoing as to amount to an independent tort. Plaintiffs have failed to state a cause of action, or cannot show proof of such conduct in any manner whatsoever.

TWENTY-SECOND DEFENSE

Defendant pleads set off for any settlement between Plaintiffs and any other party in this matter.

TWENTY-THIRD DEFENSE

Any recovery had by Plaintiffs must be reduced or set off by collateral source paid to Plaintiffs.

TWENTY-FOURTH DEFENSE

Plaintiffs' claims are barred by payment and/or recoupment.

TWENTY-FIFTH DEFENSE

Plaintiffs' claims are barred by the doctrine of double recovery.

TWENTY-SIXTH DEFENSE

Plaintiffs' claims would violate Defendant's constitutional rights.

TWENTY-SEVENTH DEFENSE

Defendant is entitled to certain limitations of, and protections from liability and damages as provided by law.

TWENTY- EIGHTH DEFENSE

No act or omission of Defendant was malicious, willful, or reckless and, therefore, any award of punitive damages is barred.

TWENTY-NINTH DEFENSE

Defendant's actions were not the actual or proximate cause of the claimed damages and Plaintiffs ought not recover from Defendant.

THIRTIETH DEFENSE

Plaintiffs' claims are barred by the doctrine of accord and satisfaction.

THIRTY-FIRST DEFENSE

Defendant pleads lack of notice.

THIRTY-SECOND DEFENSE

Defendant pleads release.

THIRTY-THIRD DEFENSE

Defendant pleads lack of superior knowledge.

THIRTY-FOURTH DEFENSE

The Amended Complaint fails to state a claim for relief which can be granted.

THIRTY-FIFTH DEFENSE

To the extent not otherwise admitted to herein, all allegations in the Amended Complaint are denied.

THIRTY-SIXTH DEFENSE

Defendant pleads estoppel.

THIRTY-SEVENTH DEFENSE

Plaintiffs have failed to mitigate their damages.

THIRTY-EIGHTH DEFENSE

Plaintiffs are not entitled to attorney's fees.

THIRTY-NINTH DEFENSE

Plaintiffs are not entitled to pre-judgment interest.

FORTIETH DEFENSE

Defendant pleads intervening and superceding cause.

FORTY-FIRST DEFENSE

Defendant says that it is not guilty of each and every material averment of the Plaintiffs'

Amended Complaint and pleads the general issue.

FORTY-SECOND DEFENSE

Plaintiffs' Amended Complaint fails to include necessary and indispensable parties.

FORTY-THIRD DEFENSE

Defendant pleads lack of causal connection.

FORTY-FOURTH DEFENSE

Defendant pleads the statute of frauds.

FORTY-FIFTH DEFENSE

Defendant denies that the Plaintiffs have been injured and/or damaged to the nature and extent claimed and contests damages.

FORTY-SIXTH DEFENSE

Defendant pleads waiver.

FORTY-SEVENTH DEFENSE

Defendant pleads contributory negligence.

FORTY-EIGHTH DEFENSE

Defendant says that the Plaintiffs' claims are limited and/or precluded by contractual agreement.

FORTY-NINTH DEFENSE

Plaintiffs' claims are barred, in whole or in part, because the Plaintiffs' injuries were caused, in whole or in part, by negligence, fault, or wrongful conduct of the Plaintiffs or third parties, and any recovery is subject to reduction or offset under the doctrines of comparative fault and/or contributory negligence.

FIFTIETH DEFENSE

Plaintiffs' damages, if any, are subject to an offset in the amount of any reimbursement received as a result of any insurance or other health benefits plan, or any amounts paid for by any

insurance or other health benefits plan.

FIFTY-FIRST DEFENSE

Plaintiffs' claims are barred by the doctrine of payment.

FIFTY-SECOND DEFENSE

Plaintiffs' claims are barred on the grounds that subject matter jurisdiction does not exist.

FIFTY-THIRD DEFENSE

Defendant reserves the right to amend or supplement its answers hereto, including any and all affirmative defenses.

JACKSON COUNTY OUTSOURCE
GROUP, LLC, Defendant

BY: CARR ALLISON, Its Attorneys

BY: /s/ Heather M. Houston
HEATHER M. HOUSTON MSB # 102087

OF COUNSEL:

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CERTIFICATE OF SERVICE

I hereby certify that on this day I electronically filed the foregoing pleading by electronic means via the MEC system to those registered with MEC system and/or via regular U.S. Mail, properly addressed, with first class postage paid.

L. Clark Hicks, Jr.
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Patient Benefits Group, LLC
c/o Brett K. Williams
734 Delmas Avenue
Pascagoula, MS 39568-1618

This the 25th day of June, 2014.

/s/ Heather M. Houston
HEATHER M. HOUSTON MSB # 102087