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THE WONDERFUL COMPANY LLC

12
13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
14 **COUNTY OF LOS ANGELES**

15 THE WONDERFUL COMPANY LLC,

16 Plaintiff,

17 vs.

18 ANTHEM BLUE CROSS LIFE AND
19 HEALTH INSURANCE COMPANY;
LUCILE PACKARD CHILDREN'S
20 HOSPITAL STANFORD; AND DOES 1-100

21 Defendants.

Case No. 19STCV30239

**PLAINTIFF THE WONDERFUL
COMPANY LLC'S FIRST AMENDED
COMPLAINT AND JURY DEMAND**

- (1) Breach of the Implied Covenant of Good Faith and Fair Dealing
- (2) Breach of Fiduciary Duty
- (3) Accounting
- (4) Violation of the Cartwright Act (Price Fixing) (Bus. & Prof Code, § 16720, et seq.)
- (5) Unreasonable Restraint of Trade (Bus. & Prof Code, § 16720, et seq.)
- (6) Combination to Monopolize in Violation of the Cartwright Act (Bus. & Prof. Code, § 16720, et seq.)
- (7) Violation of Cal. Bus. & Prof. Code Section 17200, et seq.

1 Plaintiff The Wonderful Company LLC (“TWC”) brings this action against Defendants
2 Anthem Blue Cross Life and Health Insurance Company (“Anthem”) and Lucile Packard
3 Children’s Hospital Stanford and its affiliates (“Stanford”) to hold them accountable for unfair,
4 unlawful, and unconscionable behavior in connection with medical charges submitted to TWC.

5 **I.**

6 **THE PARTIES**

7 1. TWC is a privately held company based in Los Angeles, California. It employs
8 thousands of Californians, through its various holdings in the areas of fruit, nut, flower, water,
9 wine, and juice production, among others. TWC is a self-funded health insurance provider for its
10 employees.

11 2. Anthem, a third party health administrator, is an Indiana corporation with its
12 principal place of business in Woodland Hills, California. Anthem serves as the third party
13 administrator (“TPA”) of TWC’s employee health insurance plan and, among other things,
14 provides TWC’s employees with access to Anthem’s proprietary network of service providers and
15 negotiated billing rates pursuant to the parties’ 2014 Administrative Services Agreement
16 (“Agreement”). Among other things, the Agreement obligates Anthem to serve as one of TWC’s
17 representatives when TWC’s employees seek and/or undergo medical treatment and, in that
18 representative capacity, to receive claims and/or charges from various service providers, investigate
19 and review such claims to determine what amounts are reasonable, necessary, due, and/or payable,
20 disburse said amounts to the providers on behalf of TWC, and subsequently seek remuneration
21 from TWC for those charges. Throughout this process, Anthem knows that any and all claims
22 approved by Anthem on behalf of TWC will be paid by TWC and that Anthem has the obligation
23 to review such claims in good faith to avoid spending TWC’s money in a way that is frivolous,
24 unreasonable, in furtherance of fraud, and/or serves to benefit Anthem and its network providers to
25 the detriment of TWC.

26 3. Lucile Packard Children’s Hospital at Stanford is a California “non-profit”
27 corporation, with its principal place of business in Palo Alto, California. It describes itself as the
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1 “only network in the area—one of the few in the country—exclusively dedicated to pediatric and
2 obstetric care.”

3 **II.**

4 **ANTHEM AND STANFORD’S IMPROPER CONDUCT**

5 4. This action arises from Anthem’s efforts to extort from TWC payment of Stanford’s
6 unlawful, unfair, and fraudulent medical bills for the benefit of Anthem.

7 5. TWC is a self-insured employer who retained Anthem to act as its TPA. Through
8 its TPA agreement with Anthem, TWC sought access to Anthem’s health care network, which
9 Anthem holds out as valuable to potential clients and, until now unbeknownst to TWC, includes
10 service providers such as Stanford who unreasonably and fraudulently inflate their expenses to the
11 benefit of Anthem and such service providers and to the detriment of Anthem’s clients.

12 6. In its role as TPA, Anthem is obligated to act as TWC’s representative and has the
13 fiduciary obligation to act on TWC’s behalf in administering health care billings submitted to TWC
14 by the various health care providers who service TWC’s thousands of employees in need of health
15 care services. In this capacity, it is Anthem’s contractual obligation and fiduciary duty to diligently
16 (and actually) process, review, and (if warranted) approve medical invoices submitted to TWC for
17 payment of medical services. At all times during this process, Anthem is aware that any
18 disbursements it makes to service providers will be reimbursed by TWC, such that Anthem is not
19 actually spending its own money but is instead incurring financial obligations on behalf of TWC.

20 7. As TWC’s TPA, Anthem is a fiduciary of TWC and is engaged in a special,
21 confidential, and trust relationship with TWC, such that it is duty bound not to engage in self-
22 dealing, or to knowingly submit fraudulent charges, or submit duplicate or unbundled medical
23 charges to TWC. By means of example, the Agreement does not allow Anthem to simply “rubber-
24 stamp” invoices or, as Anthem has done here, approve and pass along invoices that are so out of
25 proportion with the actual cost of medical care that they could not reasonably be approved by a
26 TPA employing any reasonable measures of care or diligence. To do so would frustrate the
27 purposes of the Agreement and prevent TWC from benefiting from the Agreement.

28 8. Anthem is the sole party bound to TWC who has access to the medical claim review

1 expertise, health services case management expertise, as well access to the medical treatment and
2 records of patients needed to critically review the accuracy and reasonableness of charges
3 submitted to TWC for payment. TWC does not have this access or knowledge and relies entirely
4 on Anthem to act in good faith and diligently review and screen billings for the benefit of TWC,
5 not Anthem. The Agreement does not allow Anthem to forego these obligations and engage in
6 conduct that inflates TWC’s medical bills to the detriment of TWC and its employees and to the
7 benefit of Anthem and its service providers. To do so would frustrate the purposes of the
8 Agreement and prevent TWC from benefiting from the Agreement.

9 9. On September 24, 2018, Anthem blindsided TWC with a sudden demand for
10 payment “by the end of the day” for a \$4,605,066.26 medical claim incurred at Stanford for
11 treatment of an insured (“Patient”). This was the first time TWC had received notice of any such
12 charges or likely charges. Prior to the \$4.6 million dollar demand for payment, Stanford had
13 already billed, and TWC had already paid, an invoice for \$1.3 million for services provided to the
14 same Patient.

15 10. Unbeknownst to TWC, the Patient was first admitted to Stanford over one year
16 earlier, on or around August 2017 and discharged on or around January 29, 2018. During the six
17 months that Patient received treatment, Anthem had received the bills from Stanford, but never
18 bothered to alert TWC of their accrual. In breach of its contractual and fiduciary obligations, and
19 in frustration of the basic purposes of the Agreement, Anthem then summarily “rubber-stamped”
20 Stanford’s charges, failing to discriminate between proper and improper fees, approving Stanford’s
21 exorbitant prices, and passing along unlawful unbundled and duplicate charges to TWC. While
22 TWC did receive the Stanford billings after Stanford applied Anthem’s purportedly “discounted”
23 rate with Stanford, Anthem nonetheless passed along unlawful unbundled and duplicate charges to
24 TWC as routine charges.

25 11. As TWC would learn, Anthem’s purported “discounted” rate with Stanford was a
26 fiction—while holding itself out to the public as a means of accessing discounted medical services,
27 in reality Anthem considers any charge rates less than the fantastical (as well as fraudulent and
28 fictional) chargemaster rates reported to the State as “discounted” and did not actually make any

1 effort to ensure that Stanford sent invoices that in any way related to the true cost of medical care
2 or in any way provided TWC with a true “discount” for medical services. In doing so, Anthem
3 breached its contractual and fiduciary obligations to TWC and actively prevented TWC from
4 benefitting from the Agreement. This misconduct unjustly enriched Anthem and Stanford to
5 TWC’s detriment.

6 12. While TWC is relieved that Patient received treatment, it is nevertheless shocked
7 about Anthem’s misleading business practices and lack of scrutiny for the grossly exorbitant bills
8 submitted by Stanford. TWC has subsequently learned and alleges on information and belief that
9 Stanford’s prices for medical services are 75% higher than other hospital charges for comparable
10 procedures.

11 13. Troubled by Anthem’s actions, TWC initiated a third-party audit of Stanford’s bills.
12 The auditor found inflated charges of at least \$2.5 million due to fees in excess of market rates and
13 at least \$600,000 in unlawful unbundling of charges, which have still not been repaid. However,
14 TWC is informed and believes that Stanford’s inflated and/or unlawful charges are well in excess
15 of these amounts. The auditor’s report revealed that Stanford had improperly “unbundled” certain
16 charges, i.e. billing TWC for certain medical services either separately or twice when such services
17 should have been included in a single service charge.

18 14. Although it received the auditor’s report, and despite its contractual and fiduciary
19 obligations to do so, Anthem did not conduct any investigation into the billing errors although it
20 had, and still has, the capacity and ability to do so, or otherwise make any effort to prevent further
21 billing errors or further misconduct on the part of Stanford. As such, Anthem actively prevented
22 TWC from benefitting from the Agreement.

23 15. TWC subsequently sought additional information regarding the payment demand
24 from Anthem, including information that would should light on what relationship Anthem had with
25 Stanford in connection with the billings, and what benefit if any Anthem would receive from the
26 requested payments to Stanford.

27 16. When demanding payment from TWC, Anthem elected to closely guard its
28 relationship with Stanford (to the detriment of TWC) by refusing to disclose its financial

1 relationship with the hospital, its negotiated rates, and any financial incentives it enjoys under the
2 Agreement (or from Stanford) for services provided by Stanford to TWC employees.

3 17. Upon information and belief, Anthem has profited from a secret business
4 relationship with Stanford from these billings specifically to the detriment of TWC. To date,
5 Anthem has refused to disclose how and to what extent it financially benefits from Stanford's
6 participation in Anthem's network. The Agreement does not allow Anthem to do so. Instead,
7 under the Agreement, Anthem must act in TWC's interests and review any claims submitted to
8 TWC to prevent gross overcharges of the nature alleged herein.

9 18. On or about February 11, 2019, TWC received yet another surprisingly large
10 Stanford bill from Anthem in the amount of almost \$1.2 million. The invoice (No. 898227429682)
11 covered services rendered to another employee between 2016 and 2018 for pediatric care. Again,
12 Anthem made failed to genuinely review or quality control this invoice (as they were obligated to
13 do) and again offered no explanation for the extreme tardiness of the bill, the large amount and
14 made no representations as to its accuracy in light of the ongoing dispute regarding the other
15 Stanford claim.

16 19. Rather than even attempt to work with TWC to resolve and/or understand the
17 outstanding amount(s) due, Anthem then demanded immediate payment from TWC of \$5.5 million
18 within four business days or else it would terminate the Agreement with TWC.

19 20. If Anthem terminated the Agreement with TWC, and without a TPA, all 3,000 of
20 TWC's insured California employees would, in effect, immediately lose their insurance coverage
21 and risk their medical care. Anthem's demand was unfair, in bad faith, and pure extortion.
22 Anthem knew that TWC would not dare disrupt the current medical care of 3,000 of its enrollees
23 and their families and risk their future health and well-being. Threatening the loss of access to
24 Anthem's entire insurance network, tied to the use of their services as TPA, at a minimum was a
25 breach of the covenant of good faith and fair dealing under the Agreement.

26 21. On March 8, 2019, under protest, TWC made payment to Anthem of the outstanding
27 \$5.5 million, which included amounts for unlawful, unbundled charges, and exorbitantly high
28 charges from Anthem.

1 are rapidly increasing, far outstripping inflation and the region’s population growth. Over the ten-
2 year period from 1999-2009, costs increased 111% while population increased some 15% during
3 the same time period and utilization of hospitals only increased from 4% to 9%. Stanford not only
4 benefits from, but actively promotes this explosion of healthcare costs by entering into anti-
5 competitive contracts, the terms of which it refuses to disclose to any of those paying for its
6 exorbitantly priced services, and willfully inflating its prices to levels that have no basis in reality,
7 let alone reflect the true cost of healthcare services.

8 26. The unconscionably high payments demanded by Stanford and Anthem impact not
9 only patients, but also California employers with self-funded health insurance plans, like TWC.
10 These costs can have a ripple effect of higher premiums for employees. Thus, higher prices from
11 Stanford can harm workers, including those of TWC, by increasing premiums and thus placing
12 downward pressure on wages.

13 27. Anthem is undoubtedly complicit in Stanford’s overcharging of patients and
14 employers because they maintain a campaign of secrecy around the actual hospital rates, which
15 bear no resemblance to the fantastical chargemaster rates reported to the State. Through
16 confidentiality agreements, Anthem and Stanford actively hinder market forces and ensure that
17 there is a complete lack of transparency. Upon information and belief, these agreements also
18 conceal terms in which Anthem financially benefits directly from its relationship with Stanford, to
19 the detriment of the insurer or patient.

20 28. Much of the increased cost of healthcare in Northern California is attributable to the
21 anti-competitive practices of the largest hospitals, including Stanford, through consolidation. Even
22 researchers at Stanford University School of Medicine acknowledged in a June 2015 issue of
23 *Health Affairs*, that a “potential side effect” of physician and health group consolidation is “that the
24 larger group gains stronger footing when negotiating prices.” This “stronger footing” has
25 demonstrably resulted in excessive costs to patients, employers, and insurers.

26 _____
27 highlights the wide disparity between the Bay Area treatment rates and Medicare payments for
28 for pneumonia and \$96,642 to treat a stroke, whereas those charges would have been \$8,046 and
\$9,583 respectively under Medicare.

1 29. Stanford has been actively engaged in this type of consolidation over the last 10
2 years. As Stanford’s CEO Chris Dawes explained in 2016, children’s hospitals in general cover
3 much larger regions than regular hospitals. In the Bay Area, for example, there were only three
4 locations offering pediatric cardiac surgery, and Stanford operated two of them, with the third
5 being UCSF Benioff’s Children’s Hospital. Stanford’s strategy for increasing its influence includes
6 opening subspecialty centers in the Bay Area, creating a Stanford primary care network, and
7 creating “joint venture” LLCs with community based hospitals where Stanford was a 50/50 owner.

8 30. Despite its already excessively high rates, Stanford’s board continues to approve
9 price increases. As reported to the State of California, in 2018, Stanford’s board approved a 7%
10 price increase to “achieve an approximately 7% overall gross charge revenue increase.” Stanford’s
11 board approved a 10% price increase in 2011 and for every single year after that, approved a 7%
12 price increase. It is unsurprising that in 2016, Forbes reported Stanford Hospital and Clinics as the
13 third most profitable “nonprofit” hospital in the United States.

14 31. Through its anti-competitive conduct, Stanford has ensured that the already minimal
15 competition in the area of children’s hospital medicine is further reduced, leaving it with the power
16 to charge some of the highest rates in the nation for care of the most vulnerable in society—sick
17 children.

18 32. Stanford’s illegal, anti-competitive conduct has not only hurt TWC, a self-insured
19 entity, but discouraged competition generally, impaired price-conscious consumer choice, and
20 resulted in inflated prices on a system-wide basis that exceed its competitors and exceed the prices
21 its hospitals and its other providers could charge in a free, competitive market.

22 33. TWC is further informed and believes that Stanford enters into agreements with
23 network insurance providers like Anthem (and including Anthem) that are unduly restrictive and
24 anti-competitive because they:

- 25 • Establish, increase and maintain Stanford’s power to control prices and exclude
- 26 competition;
- 27 • Upon information and belief, agree to limit any incentives to patients to use facilities
- 28 outside of Stanford facilities;

- 1 • Foreclose price competition by Stanford’s competitors; and
- 2 • Enable Stanford to impose prices for hospital and healthcare services and
- 3 ancillary services that far exceed the prices it would have been able to charge in
- 4 an unconstrained, competitive market.

5 34. Thus, in addition to secret pricing agreements, Stanford’s consolidation of private
6 practices and expanding control over community hospitals has impaired competition. This illegal
7 conduct has allowed Stanford to impose prices for its healthcare services far above competitive
8 levels to the detriment of TWC and Californians who use Stanford’s services.

9 35. TWC is informed and believes, and thereon alleges that Stanford’s anti-competitive
10 agreements will leave self-funded payors like TWC with no alternative other than to pay Stanford’s
11 illegally inflated prices. Those contracts and refusals to disclose contracted pricing make it
12 impossible for self-funded payors and others to discriminate between providers of medical services,
13 ultimately resulting in higher costs for all.

14 36. Stanford’s illegally inflated pricing has had a direct negative economic impact on
15 the self-funded payors like TWC that directly pay for Stanford’s healthcare services, and an
16 indirect negative economic impact on other employers. This has caused substantial damage to each
17 of them.

18 37. Stanford’s conduct results in increased costs for health care services in Northern
19 California, and negatively affects employers, depressing profits and wages and increasing
20 premiums and deductibles.

21 38. TWC is informed and believes, and thereon alleges that Stanford’s agreement to
22 anti-competitive contract terms in all of its agreements with the network vendors like Anthem and
23 directly charge supracompetitive prices to self-funded payors like TWC on a system-wide basis are
24 direct evidence of Stanford’s market power that obviates any need for further analysis of
25 competitive effects in particular defined markets. In any event, market definitions are unnecessary
26 because Stanford’s anti-competitive behavior is a *per se* violation of the Cartwright Act.

27 39. Lest Stanford attempt to assert that this problem is limited to a small contingent of
28 self-insured entities, it should be noted that ***approximately 50 percent*** of California’s workers now

1 receive healthcare benefits for themselves-and often their dependents-through self-insured entities.

2 **IV.**

3 **THE RELEVANT MARKET**

4 40. The relevant market in this action is the cluster of three general acute care hospitals
5 (including inpatient and outpatient services) that offer pediatric services that are made available for
6 purchase, in whole or in part, through the funds of self-funded payors, including the two Stanford
7 locations and the third non-Stanford location (UCSF Benioff's Children's Hospital), with a
8 geographic relevant market within a 100-mile radius from any of those three locations.

9 41. A hospital's location is a critical factor for the majority of patients and enrollees in
10 Health Plans living or working in the vicinity of the geographic area are generally unwilling to
11 consider a hospital located outside their relevant geographic market and Anthem, as with most
12 network providers, generally do not consider a hospital outside the relevant geographic market as a
13 viable substitute.

14 42. All competitors in the relevant market sell general acute care hospital services for
15 children (including inpatient and outpatient services) through group health plans funded by self-
16 funded payers.

17 43. Northern California hospital utilization data clearly indicates that over a significant
18 period in which prices have changed, enrollees living or working in specific areas have been
19 willing to choose primarily among hospitals located within identifiable geographic regions that
20 each constitute a separate geographic market. The data shows that enrollees living within the
21 geographic vicinity of the hospital groupings described below overwhelmingly choose from among
22 the hospitals in the group nearest to their residences or workplaces and rarely seek healthcare
23 outside of the geographic area where those local hospitals are found.

24 44. TWC is informed and believes, and thereon alleges that a monopolist controlling all
25 of the general acute care hospitals for children, within the relevant geographic markets defined
26 above, would be able to profitably impose a small, but significant, non-transitory price increase
27 above the competitive level for its general acute care services (including inpatient and outpatient
28 services) for children and for ancillary services.

1 45. If the network vendors like Anthem were not restrained by the anti-competitive
2 terms in their contracts with Stanford, they would be forced by payors to assemble more
3 competitive, less costly, provider networks by replacing Stanford hospitals with lower-priced
4 competing hospitals, or competing ambulatory surgery centers in the case of outpatient surgery
5 services, or competing nonhospital providers of ancillary services, in regions where patients do not
6 require access to a Stanford hospital because Stanford is not a “must have” hospital.

7 46. TWC is informed and believes, and thereon alleges that, Stanford has engaged in a
8 continuous practice of entering into anti-competitive agreements with network vendors like
9 Anthem that offer provider networks to self-funded payors enrollees living or working in Northern
10 California. These agreements contain non-disclosure provisions that conceal the anti-competitive
11 terms of the agreements from those who were illegally harmed by them, including the self-funded
12 payors who bear the costs of the improperly inflated Stanford pricing that results from Stanford’s
13 agreements to unreasonably restrain trade.

14 47. In most other service or product markets in our economy, the person who makes the
15 purchasing decision and the person who ultimately pays for the service or product are one and the
16 same. In those markets, the differing prices charged by competing vendors are important factors
17 that are considered in making the ultimate purchasing decision. However, it is the self-funded
18 payor that pays all or most of the price charged by the chosen hospital for the healthcare provided
19 to an Enrollee

20 48. Stanford generally does not tell the patient what the expected hospital prices are
21 before its hospital is selected by the patient, so under the terms of Stanford’s current agreements
22 with the network vendors there is little opportunity for patients to choose a hospital based upon a
23 price comparison. More importantly, because most (if not all) of the healthcare costs will be paid
24 by the self-funded payor, the patient has little or no incentive to consider price differences when
25 choosing between rival hospitals, under the terms of Stanford’s current agreements with the
26 network vendors. Not even the self-funded payor is privy to expected hospital prices, based on the
27 confidentiality provisions between Stanford and the network providers like Anthem.

28 49. As a result, self-funded payors and enrollees in health plans are unable to determine

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VI.

CAUSES OF ACTION

FIRST CAUSE OF ACTION

**Breach of the Implied Covenant of Good Faith and Fair Dealing
(As to Defendant Anthem)**

55. TWC incorporates by reference and realleges, as though fully set forth herein, each and every allegation as set forth in the preceding paragraphs of this Complaint.

56. Under the 2014 Administrative Services Agreement between TWC and Anthem, Anthem owed a duty of good faith and fair dealing to TWC. Anthem is the sole party bound to TWC who has access to the medical claim review expertise, health services case management expertise, as well access to the medical treatment and records of patients needed to critically review the accuracy and reasonableness of charges submitted to TWC for payment. TWC does not have this access or knowledge and relies entirely on Anthem to act in good faith and diligently review and screen billings for the benefit of TWC, not Anthem. The Agreement does not allow Anthem to forego these obligations and engage in conduct that inflates medical bills to the detriment of TWC and its employees and to the benefit of Anthem and its service providers. To do so would frustrate the purposes of the Agreement and prevent TWC from benefiting from it.

57. In breach of this duty, throughout its business relationship with TWC, Anthem repeated failed to carry out its contractual obligations to TWC and knowingly entered into agreements with Stanford which unjustly enriched Stanford to the detriment of TWC and its employees and actively interfered with TWC’s to receive the benefits of the Agreement. Through these agreements, and related confidentiality agreements, Anthem encouraged Stanford to grossly overcharge patients and employees, without the knowledge of TWC, and promoted a campaign of secrecy around the actual costs of health care, which bear no resemblance to the fantastical chargemaster rates reported to the State.

58. Anthem’s refusal to disclose its negotiated rates with Stanford to TWC, and threatening the loss of access to Anthem’s entire insurance network, tied to the use of their services as TPA, unless they received immediate and full payment, constituted, at a minimum, a breach of

1 the covenant of good faith and fair dealing under the Agreement. The breach of the duty of good
2 faith and fair dealing wrongfully exposed TWC to grossly inflated health care expenses that bear no
3 resemblance to the actual cost of the services provided.

4 59. As a result of Anthem's unfair interference with TWC's right to benefit from the
5 Agreement and ensuing breach of the duty of good faith and fair dealing, TWC suffered damages in
6 an amount to be determined at trial.

7 **SECOND CAUSE OF ACTION**

8 **Breach of Fiduciary Duty**

9 **(As to Defendant Anthem)**

10 60. TWC incorporates by reference and realleges, as though fully set forth herein, each
11 and every allegation as set forth in the preceding paragraphs of this Complaint.

12 61. As the administrator of their health plans, Anthem owed fiduciary duties to TWC.
13 As TWC's TPA, Anthem is a fiduciary of TWC and is engaged in a special, confidential, and trust
14 relationship with TWC, duty bound not to engage in self-dealing, or to knowingly submit
15 fraudulent charges, or submit duplicate or unbundled medical charges to TWC. Further, as TWC's
16 TPA, Anthem is the sole party bound to TWC who has access to the medical claim review
17 expertise, health services case management expertise, as well access to the medical treatment and
18 records of patients needed to critically review the accuracy and reasonableness of charges
19 submitted to TWC for payment. TWC does not have this access or knowledge and relies entirely
20 on Anthem to act in good faith and diligently review and screen billings for the benefit of TWC,
21 not Anthem.

22 62. In breach of its fiduciary duties, Anthem knowingly entered into agreements with
23 Stanford which unjustly enriched Anthem to the detriment of TWC and its enrollees and approved
24 Stanford invoices for services rendered that contained unlawful, unbundled, unjustified and/or
25 exorbitant charges, and approved such invoices for its own benefit, to the detriment of TWC. In
26 addition, through its agreements with Stanford, and related confidentiality agreements, and refusals
27 to disclose pricing with Stanford, Anthem encouraged Stanford to grossly overcharge TWC
28 enrollees, without the knowledge of TWC, and promoted a campaign of secrecy around the actual

1 costs of health care, which bear no resemblance to the fantastical chargemaster rates reported to the
2 State. In addition, threatening the loss of access to Anthem’s entire insurance network, tied to the
3 use of their services as TPA, unless they received immediate and full payment, constituted a breach
4 of Anthem’s fiduciary duties to TWC.

5 63. TWC has been harmed, and continues to be harmed, by Anthem’s breach of its
6 fiduciary duties.

7 64. As a remedy for Anthem’s breach of its fiduciary duties, TWC seeks an award of
8 compensatory damages and punitive damages against Anthem, in an amount to be determined at
9 trial, including an award of attorneys’ fees to TWC.

10 **THIRD CAUSE OF ACTION**

11 **Accounting**

12 **(Against Defendant Anthem)**

13 65. TWC incorporates by reference and realleges, as though fully set forth herein, each
14 and every allegation as set forth in the preceding paragraphs of this Complaint.

15 66. Pursuant to the Agreement and contractual obligations owed by Anthem, to TWC,
16 Anthem should be ordered to fully account for all claims from enrollees and payments to Stanford.

17 67. Anthem is in a superior position concerning possession and knowledge of facts
18 concerning the Agreement and payments and charges from Stanford rendering TWC dependent
19 upon Anthem for information upon which TWC’s required charges are based.

20 68. Because of this disparity of knowledge, it is appropriate for the Court to compel
21 Anthem to fully account to TWC all payments to Stanford from Anthem on behalf of TWC via the
22 Agreement.

23 69. TWC has a concern that Anthem may treat similar claims from its own enrollees
24 different from enrollees in TWC’s Health Plans, and that it may engage in offsetting payments,
25 collections and balances with Stanford to the detriment of TWC. In other words, any cross-plan
26 offsets would put money in Anthem’s pocket, with most of the money then coming out of the
27 pockets of the sponsors of self-insured plans, such as TWC. Without an accounting, TWC cannot
28 determine if Anthem indeed engages in such self-dealings.

1 75. Stanford’s agreements compel network providers, such as Anthem, to include terms
2 that eliminate the ability for Anthem, or self-funded payors, from preventing price considerations in
3 their member’s purchase decisions.

4 76. Stanford’s practices and agreements with network providers, in this case Anthem,
5 result in the prevention of self-funded payors, like TWC, from promoting price competition for the
6 sale of general acute care hospital services for children, including inpatient and outpatient services,
7 and ancillary services, by offering more favorable price terms to their enrollees that select more
8 cost-effective competing hospitals, competing ambulatory surgery centers, and competing non-
9 hospital ancillary providers, instead of higher-priced hospitals, like Stanford.

10 77. The purpose of Stanford’s conduct is to insulate it from and hinder price competition
11 for the sale of general acute care hospital services, including inpatient and outpatient services (and
12 children’s hospital services, such as those provided to Patient), and ancillary services. These terms
13 enable Stanford to charge, maintain, and collect supra-competitive prices from self-funded payors,
14 and they unreasonably restrain the ability of Stanford’s competitors to compete with Stanford.

15 78. Stanford’s anti-competitive conduct constitutes price tampering and fixing, which is
16 a per se violation of California’s antitrust laws and in the alternative is, in any event, an
17 unreasonable and unlawful restraint of trade as the anti-competitive effects of Stanford’s conduct
18 far outweigh any purported non-pretextual, pro-competitive justifications.

19 79. Here, Stanford and Anthem are two separate entities pursuing separate economic
20 interests that have made agreements and engaged in concerted actions to maintain supracompetitive
21 prices for Stanford at the expense of self-funded payors and the enrollees in such Health Plans.

22 80. To the extent Stanford and Anthem have agreed to limit any incentives to patients to
23 use facilities outside of Stanford facilities clearly constitutes an anticompetitive agreement.
24 Moreover, the confidential agreements between Stanford and Anthem cause self-funded payors like
25 TWC from obtaining any information regarding pricing, although they will ultimately pay those
26 exorbitant prices.

27 81. Both Stanford and Anthem have refused to provide TWC with copies of their
28 agreements under the cloak of “confidentiality”, even when TWC agreed to maintain that

1 confidentiality. Once TWC obtains those agreements and ancillary documents, it will be
2 empowered to provide even more detail to its claims.

3 82. Under California Business and Professions Code, sections 16754 and 16754.5,
4 Defendants seeks injunctive, declaratory and other equitable relief to require Stanford to cease its
5 anti-competitive conduct, to disclose its negotiated rates with insurers like Anthem for the benefit
6 of payors and enrollees, to restore fair competition, disgorgement of overcharges, and such other
7 relief as may be just and appropriate for Stanford's violations of the Cartwright Act.

8 **FIFTH CAUSE OF ACTION**

9 **Unreasonable Restraint of Trade**

10 **(Bus. & Prof Code, § 16720, et seq.)**

11 **(As to Defendant Stanford)**

12 83. TWC incorporates by reference and realleges, as though fully set forth herein, each
13 and every allegation as set forth in the preceding paragraphs of this Complaint.

14 84. Stanford has entered into contracts with health plan vendors like Anthem and
15 engaged in anti-competitive conduct that was and continues to be an unreasonable restraint of trade
16 and commerce in violation of Business and Professions Code, section 16720.

17 85. Stanford's market power in its geographic relevant market is greatly enhanced based
18 on its consolidation of health care practices, joint ownership of community hospitals—who could
19 otherwise be competitors—and secret price agreements with network vendors, such as Anthem.

20 86. Stanford's secret price agreements and its market consolidation efforts unlawfully
21 restrain trade and restricts the ability of its competitors to compete in the same geographic market
22 for general acute care hospital services (including inpatient and outpatient surgery services) for
23 children, and ancillary services.

24 87. The purpose and combined effect of Stanford's actions is to dramatically reduce or
25 eliminate price considerations from the purchase decisions made by enrollees when they select a
26 hospital in Northern California and thereby eliminate the ability of more cost-efficient rival
27 hospitals, rival ambulatory surgery centers, or rival non-hospital ancillary service providers, to
28 compete with Stanford. Stanford's anti-competitive contract terms dramatically reduce or eliminate

1 price considerations from the decisions made by enrollees, payors and network vendors to either
2 include or exclude individual Stanford in provider networks.

3 88. Stanford's anti-competitive conduct unlawfully restrains competition in the relevant
4 markets. Stanford's anti-competitive conduct constitutes a per se violation of California's antitrust
5 law and is an unreasonable and unlawful restraint of trade. The anti-competitive effects of
6 Stanford's conduct far outweigh any purported non-pretextual, procompetitive justifications.

7 89. Under Business and Professions Code sections 16754 and 16754.5, TWC seeks
8 injunctive, declaratory and other equitable relief to require Stanford to cease its anti-competitive
9 conduct, to disclose its negotiated rates with insurers like Anthem for the benefit of payors and
10 enrollees, to restore fair competition, disgorgement of overcharges, and such other relief as may be
11 just and appropriate for Stanford's violations of the Cartwright Act.

12 **SIXTH CAUSE OF ACTION**

13 **Combination to Monopolize in Violation of the Cartwright Act**

14 **(Bus. & Prof. Code, § 16720, et seq.)**

15 **(As to Defendant Stanford)**

16 90. TWC incorporates by reference and realleges, as though fully set forth herein, each
17 and every allegation as set forth in the preceding paragraphs of this Complaint.

18 91. Stanford has entered into agreements with Anthem that reduce incentives for
19 enrollees to consider other options, which are less costly, and engaged in anti-competitive conduct
20 that constitutes a combination to monopolize, and/or maintain its monopoly in, the markets for
21 general acute care hospital services for children (including inpatient and outpatient services) in
22 which it participates in violation of Business and Professions Code section 16720.

23 92. By insisting on price secrecy, and by its consolidation efforts, Stanford unlawfully
24 restrains trade with the purpose and effect of obtaining or maintaining monopoly power. This in
25 turn allows Stanford to demand and obtain supra-competitive prices, as described in detail above.

26 93. Stanford's anti-competitive conduct constitutes a per se violation of California's
27 antitrust laws and in the alternative is, in any event, an unreasonable and unlawful restraint of trade
28 as the anti-competitive effects of Stanford's conduct far outweigh any purported non-pretextual,

1 pro-competitive justifications.

2 94. Under Business and Professions Code sections 16754 and 16754.5, TWC seeks
3 injunctive, declaratory, and other equitable relief to require Stanford to cease its anti-competitive
4 conduct, to disclose its negotiated rates with insurers like Anthem for the benefit of payors and
5 enrollees, to restore fair competition, the disgorgement of overcharges, and such other relief as may
6 be just and appropriate for Stanford's violations of the Cartwright Act.

7 **SEVENTH CAUSE OF ACTION**

8 **(Violation of Cal. Bus. & Prof. Code Section 17200, *et. seq.*)**

9 **(As to All Defendants)**

10 95. TWC re-alleges and incorporates herein by reference, as though fully set forth, all
11 preceding paragraphs of this Complaint.

12 96. California Business and Professions Code Section 17200, *et. seq.*, prohibits acts of
13 unfair competition, which mean and include any fraudulent, unlawful or unfair business practices.

14 97. As more fully described above, Anthem's acts and practices with respect to its role
15 as a TPA have a tendency to deceive, and have deceived TWC, thus constituting a fraudulent
16 business act or practice. Anthem either knew, recklessly disregarded, or should have known that
17 the bills provided to TWC by Anthem were grossly inflated and thereby false, misleading, untrue,
18 deceptive, or likely to deceive or mislead the public. Anthem concealed and/or failed to inform
19 TWC of the true cost of Stanford's healthcare services it charges them. Specifically, Anthem
20 submitted bills for health care services that contained unlawful unbundled and duplicate charges
21 and/or grossly inflated rates which it knew would be paid by TWC. Anthem then threatened the
22 loss of access to Anthem's entire insurance network, tied to the use of their services as TPA, unless
23 payment was made.

24 98. Stanford either knew, recklessly disregarded, or should have known that their bills
25 were false, misleading, untrue, deceptive, or likely to deceive or mislead the public. Stanford
26 uniformly failed to inform TWC of the true cost of its healthcare services it charges them.
27 Specifically, Stanford submitted bills for health care services that contained unbundled charges
28

1 and/or grossly inflated rates which it knew would be discounted, in part, by Anthem and paid by
2 TWC.

3 99. As a result, Defendants' uniform policies, acts, omissions, and practices, among
4 others, violate numerous provisions of California statutory and common law, including, but not
5 limited to Bus. & Prof Code § 16720, and the California Insurance Fraud Prevention Act.

6 100. TWC relied upon Defendants' material omissions, nondisclosures and
7 representations to its detriment.

8 101. In addition, Defendants' conduct constitutes "unfair" business acts and practices
9 because Anthem's practices have caused and are "likely to cause substantial injury" to TWC which
10 injury is not reasonably avoidable by TWC and is not outweighed by the practices' benefits to
11 TWC. By means of example, Anthem demanded that TWC either pay exorbitant bills, rife with
12 illegal charges, in a matter of hours, or lose healthcare coverage for its employees, thereby giving
13 TWC no choice but to succumb to Anthem's demand.

14 102. Defendants' conduct constitutes "unfair" business acts and practices because
15 Anthem's practices are unfair under the legislatively declared policy of Section 1871(h) of the
16 California Insurance Code.

17 103. Although there are no precise figures, it is believed that fraudulent activities account
18 for billions of dollars annually in added health care costs nationally. Health care fraud causes
19 losses in premium dollars and increases health care costs unnecessarily.

20 104. Defendants' willful concealment of charging TWC for unbundled charges and/or
21 grossly inflated rates constitute unfair business acts or practices within the meaning of Cal. Bus. &
22 Prof. Code 17200, et seq. in that the justification for Defendants' conduct is outweighed by the
23 gravity of the consequences to the general public.

24 105. Defendants have reasonably available alternatives to further their business interests
25 other than by misleading TWC about their billing practices. Indeed, the burden and expense of
26 defining the amounts billed for each service and explaining those charges or disclosing how
27 charges would be calculated would be minor in comparison to the negative impact and injury to
28 TWC. Additionally, Anthem has reasonably available alternatives to further its business interests

1 other than demanding that TWC make immediate payment on grossly inflated bills, including
2 fulfilling its duties as a fiduciary and refusing to condone Stanford's illegal billing practices.

3 106. TWC has suffered an injury in fact and has lost money as a result of Defendants'
4 unfair competition and violations of the law in that they paid for services that were never rendered
5 or were grossly inflated; they would have not agreed to pay Stanford had they known that
6 Defendants were mischarging them and that Anthem was making no effort to fulfill its fiduciary
7 duties to TWC; and they are therefore entitled to the relief available under Business and
8 Professions Code § 17200, et. seq., as detailed herein.

9 **VII.**

10 **PRAYER FOR RELIEF**

11 WHEREFORE, TWC prays for judgment against Defendants as follows:

- 12 A. For an order awarding, as appropriate, damages, restitution, and/or disgorgement to
13 TWC, including all monetary relief to which TWC is entitled to pursuant to
14 California law;
- 15 B. For an order requiring Defendants to immediately cease and desist from all
16 fraudulent, deceptive, unlawful, and illegal conduct outlined above;
- 17 C. For an order requiring Stanford and Anthem to disclose negotiated rates;
- 18 D. For an order requiring Anthem to provide an accounting as to all claims paid to
19 Stanford on behalf of TWC, and injunctive relief in the form of an order providing
20 TWC with an immediate right to inspect Anthem's records as to claims paid on
21 behalf of TWC to Stanford;
- 22 E. All equitable remedies available to TWC;
- 23 F. For an order awarding attorneys' fees and costs;
- 24 G. For an order awarding punitive damages;
- 25 H. For an order awarding pre-judgment and post-judgment interest; and
- 26 I. For an order providing such further other relief as this Court deems just and proper.
- 27
- 28

1 DATED: January 17, 2020

ROLL LAW GROUP PC

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By: 

Kristina M. Diaz
Attorneys for Plaintiff
THE WONDERFUL COMPANY LLC

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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

At the time of service, I was over 18 years of age and **not a party to this action**. I am employed in the County of Los Angeles, State of California. My business address is 11444 West Olympic Boulevard, Los Angeles, CA 90064-1557.

On January 17, 2020, I served true copies of the following document(s) described as **PLAINTIFF THE WONDERFUL COMPANY LLC'S FIRST AMENDED COMPLAINT AND JURY DEMAND** on the interested parties in this action as follows:


SEE ATTACHED SERVICE LIST

BY MAIL: I enclosed the document(s) in a sealed envelope or package addressed to the persons at the addresses listed in the Service List and placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with Roll Law Group PC's practice for collecting and processing correspondence for mailing. On the same day that the correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

BY E-MAIL OR ELECTRONIC TRANSMISSION: I caused a copy of the document(s) to be sent from e-mail address victoria.rose@roll.com to the persons at the e-mail addresses listed in the Service List. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on January 17, 2020, at Los Angeles, California.



Victoria Rose

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