

**SUPERIOR COURT OF NEW JERSEY**  
**SOMERSET, HUNTERDON & WARREN COUNTIES**  
**VICINAGE 13**

**YOLANDA CICCONE**  
ASSIGNMENT JUDGE



**SOMERSET COUNTY COURT HOUSE**  
P.O. BOX 3000  
SOMERVILLE, NEW JERSEY 08876  
(908) 231-7069

**June 28, 2019**

**RE: North Jersey Brain v. Multiplan Inc., et al.**  
**Docket No.: SOM-L-768-17**

Dear Counsel,

This letter consists of the Court's Opinion regarding Defendants' Defendants MultiPlan, Inc. ("MultiPlan" or "MPI"), Connecticut General Life Insurance Company, Inc. ("CGLIC") and certain ERISA Plan Sponsors Motions to Dismiss.

**FACTS:**

This matter arises out of a dispute between Plaintiff North Jersey Brain & Spine Center ("NJBSC" or "Plaintiff") and Defendants MultiPlan, Inc. ("MultiPlan" or "MPI"), Connecticut General Life Insurance Company, Inc. ("CGLIC") and certain ERISA Plan Sponsors over payment for health care services. Specifically, Plaintiff seeks payment of 80% of its billed charges for health care services rendered to Cigna insureds pursuant to the Provider Agreement. Plaintiff asserts fourteen (14) different causes of action — ten (10) of which are currently asserted against Defendant MultiPlan.

The counts include: Conspiracy (First Count), breach of contract (Third Count), breach of the covenant of good faith and fair dealing (Fourth Count), promissory estoppel (Fifth Count), negligent misrepresentation (Sixth Count), fraud (Seventh Count), tortious interference (Eighth Count), negligence (Ninth Count), and unjust enrichment/quantum meruit (Tenth Count). Plaintiff also seeks a judgment declaring its now-terminated Agreement with MultiPlan null and void (Fourteenth Count). This case was remanded from the District Court of New Jersey on December 14, 2018. The Defendants now move to dismiss the remaining counts of Plaintiff's Complaint.

### **ANALYSIS:**

Pursuant to 4:6-2, the Court may dismiss a plaintiff's complaint for failure to state a claim upon which relief can be granted. Printing Mart-Morristown v. Sharp Elecs. Corp., 116 N.J. 739, 746 (1989). A plaintiff's complaint must be liberally construed, raising all reasonable inferences in the plaintiff's favor. The Court's task is to search the complaint in determining whether a cause of action exists. Craig v. Suburban Cablevision, Inc., 140 N.J. 623, 626 (1995). If the plaintiff's allegations do not provide any basis for relief, the Court must dismiss the complaint as a matter of law. Camden Cty. Energy Recovery Assocs. v. N.J. Dept. of Env'tl. Prot., 320 N.J. Super. 59, 64 (App. Div. 1999).

When faced with a motion to dismiss, the Court must accept as true all facts alleged in the complaint. Craig, 140 N.J. at 625. The test is whether the alleged facts "suggest" a cause of action. Velantzas v. Colgate-Palmolive, 109 N.J. 189, 192 (1988). Further, if the Court decides the complaint should be dismissed, such dismissal should be without prejudice. Printing Mart-Morristown, 116 N.J. at 772.

In this matter, Defendants CGLIC and the ERISA Plan Sponsors and Multiplan Inc. have filed separate, yet related, motion to dismiss on several counts. Defendants CGLIC and the ERISA Plan Sponsors assert that the majority of NJBSC's claims asserted against CGLIC and the ERISA Plan Sponsors are preempted by the Employment Retirement Income Security Act of 1974 ("ERISA") because they "relate to" ERISA plans. Additionally, these defendants submit that Plaintiff's claims for business libel and declaratory judgment fail to establish a *prima facie* case. As to Defendant Multiplan, it argues that Plaintiff's claims cannot survive this Motion to Dismiss because the Provider Agreement, upon which Plaintiff's claims are based, expressly states that MultiPlan is not liable for the payment of health care services and because those claims are not properly pled. Thus, Multiplan argues, Plaintiff's tort claims and claims for declaratory relief must fail.

Our Supreme Court has cautioned that "applications for dismissal...brought at the very earliest stage of the litigation[] should be granted in only the rarest of instances," Printing Mart-Morristown v. Sharp Elecs. Corp., 116 N.J. 739, 771-72 (1986). The Court recognizes that Defendants both present compelling arguments, but dismissal of Plaintiff's claims is premature at this juncture.

As to the ERISA preemption argument, there are two type of ERISA preemption: "complete preemption under Section 502(a), which is inapplicable here, and express preemption under Section 514(a), which preempts state law claims that "relate to" an ERISA plan." St. Peter's Univ. Hosp. v. N.J. Bldg. Laborers Statewide Welfare Fund, 431 N.J. Super. 446, 454-55 (App. Div. 2013).<sup>1</sup> Courts have interpreted the phrase "relate to" broadly. See United Wire, Metal & Mach. Health & Welfare Fund v. Morristown Mem'l Hosp., 995 F.2d 1179, 1192 (3d Cir.) ("A rule of law relates to an ERISA plan if it is

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<sup>1</sup> The District Court of New Jersey remand pertained to whether NJBSC's claims were completely preempted. This Court shall only deal with the issue of express preemption.

specifically designed to affect employee benefit plans, if it singles out such plans for special treatment, or if the rights or restrictions it creates are predicated on the existence of such a plan.") (footnotes omitted), cert. denied sub nom., 510 U.S. 944, 114 S.Ct. 382, 126 L.Ed.2d 332 (1993). Furthermore, "a state law claim relates to an employee benefit plan if the existence of an ERISA plan [is] a critical factor in establishing liability and the trial court's inquiry would be directed to the plan[.]" St. Peter's Univ. Hosp., 431 N.J. Super. at 452 (alteration in original) (internal citation omitted).

The preemption analysis is fact sensitive inquiry that requires a court to look closely at Plaintiff's claims. Here, at this juncture, it would be premature to make such a determination, as discovery is still ongoing. The Court agrees with Plaintiff's submission that the "entire scope of patient-claims has not been identified." Specifically, Plaintiff's claim that its Complaint dispute the reimbursement and not the existence of coverage entitles, at the very least, all parties to conduct extensive discovery to determine the scope of whether Plaintiff's claim relates to an employee benefit plan. The parameters of this claim need to be evaluated through further discovery.

As to the defendant's other arguments that Plaintiff's claims should be dismissed, the Court finds that these arguments fail for the same reason the ERISA preemption arguments fail. More discovery is needed to fully determine the viability of Plaintiff's claims against CGLIC and the ERISA Plan Sponsors and Multiplan Inc. Defendant's arguments could very well prove to have merit, but the Court is loath to dismiss Plaintiff's claims so early in this litigation.

For the foregoing reasons, Defendants' two Motions to Dismiss are hereby DENIED without prejudice.

Very Truly Yours

/S/ YOLANDA CICCONE, A.J.S.C.  
HON. YOLANDA CICCONE, A.J.S.C.