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UFCW & Employers Benefit Trust

17 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
18 IN AND FOR THE COUNTY OF SAN FRANCISCO

19
20 UFCW & Employers Benefit Trust, on
behalf of itself and all others similarly
21 situated,
22 Plaintiff,
23 vs.
24 Sutter Health, et al.,
25 Defendants.

Case No. CGC 14-538451
**DECLARATION OF DAVID LANSKY IN
SUPPORT OF PLAINTIFF UEBT'S
MOTION FOR PROTECTIVE ORDER**

Date: April 7, 2016
Time: 10:00 a.m.
Dept.: 304
Judge: Hon. Curtis E.A. Karnow

1 **DECLARATION OF DAVID LANSKY**

2 I, David Lansky, state and declare as follows:

3 1. I am the Chief Executive Officer of Pacific Business Group on Health ("PBGH").
4 The facts set forth in this declaration are within my personal knowledge, except for those stated
5 on information and belief, and as to those, I understand and believe them to be true. If called as a
6 witness, I could and would competently testify to the matters set forth herein.

7 2. I offer this declaration in support of the UFCW & Employers Benefit Trust's
8 Motion for Protective Order.

9 3. The Pacific Business Group on Health (PBGH) is a California based non-profit
10 organization representing large employers dedicated to improving quality and affordability across
11 the U.S. health system. Through support for systemic change initiatives, we drive improvement
12 in affordability, quality, and service.

13 4. PBGH's members are private employers and public agencies, including: Bechtel
14 Corporation, Boeing Company, California Chamber of Commerce, CalPERS, Chevron
15 Corporation, Cisco, City and County of San Francisco, Comcast Cable, Covered California,
16 CSAA Insurance Exchange, Greenbrier Companies, Intel, JetBlue Airways, Levi Strauss & Co.,
17 Lowe's, McKesson Corporation, Pacific Gas & Electric Company, Qualcomm Inc, Safeway Inc.,
18 Silicon Valley Employers Forum, Small Business California, Stanford University, Target
19 Corporation, Tesla Motors, Union Bank, University of California, WalMart, Walt Disney
20 Company, and Wells Fargo & Company.

21 5. Numerous PBGH members have expressed concern to us that Blue Cross of
22 California, dba Anthem Blue Cross ("Anthem") is asking them to sign attestation forms binding
23 them to the provisions, including specifically the arbitration provision, of the 2016 Anthem-Sutter
24 contract. Attached as Exhibit A is a true and correct copy of a packet of material provided by
25 Anthem to one PBGH member (other members have received similar materials from Anthem),
26 explaining Sutter's requirement that Anthem must obtain the signed Attestation form from the
27 PBGH member or the PBGH member must agree to a contractual amendment to the same effect.

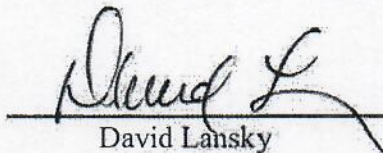
28 6. There are serious consequences for not signing the attestation agreements.

1 Members who refuse to sign will only be able to access Sutter services at out-of-network rates,
2 *i.e.* 95% of billed charges. According to Anthem's attached "Sutter Attestation Requirement
3 Fact Sheet," those who do not sign "will no longer have access to Sutter's contracted rates" that is
4 they will be "up to the full billed charge amount."

5 7. It is PBGH's understanding that Sutter's contract prices for its services are, on
6 average, substantially higher than the prices of its competitors and its full billed charges are
7 substantially higher than its contracted rates. It is not economically feasible for these members,
8 self-funded payors of healthcare services in Northern California, to have a network that does not
9 include Sutter facilities. Nor is it economically feasible for them and/or their enrollees to pay for
10 Sutter's services at non-contract, out-of-network rates. As Anthem itself noted in its Fact Sheet,
11 "Sutter is a large and powerful health care system in the Northern CA market, **largely viewed as**
12 **a critical provider to have included in a carrier's health plan network.**" It is thus not feasible
13 for PBGH members to opt for a network that does not include Sutter. Their choice is between
14 two unacceptable alternatives: pay 95% out-of-network pricing for enrollees that access Sutter
15 services or agree to give up their claims in this litigation. By signing the attestation agreement,
16 they will be agreeing to arbitrate any disputes with Sutter, and that this would be effectively
17 opting out of the class in the above-captioned litigation.

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

20 Executed on March 14, 2016 at San Francisco, California.

21
22
23 
24 David Lansky