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7	IN THE UNITED STATES DISTRICT COURT	
8	EOD WHE DICKDICK OF A DICOMA	
9	FOR THE DISTRICT OF ARIZONA	
10	Aero Care International, L.L.C., an Arizona limited liability corporation,	No. CV07-979-PHX-MHM
11	Plaintiff,	
12	V.	SECOND AMENDED COMPLAINT
13	International Medevac Services, Inc.; a California	AGAINST BLUE SHIELD OF CALIFORNIA
14	corporation, Blue Cross of California, a California corporation; Blue Shield of California, a California	
15	corporation,	
16	Defendants.	
17		
18	Plaintiff, through counsel undersigned, for its complaint against Defendants alleges the	
19	following:	
20	_	
21	1. International Medevac Services, Inc. ("International Medevac") asserts a claim to	
22	\$102,411.62 in converted funds which were, at relevant times, in the custody of Defendants.	
23	2. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1332. The	
24	parties herein are of diverse citizenship, and the amount in controversy is substantially in excess	
25		
26	of \$75,000.	

- 3. Aero Care is a corporation organized under the laws of Arizona. Aero Care's principal place of business is located in Arizona.
- 4. International Medevac is a corporation organized under the laws of California.

 International Medevac has caused acts to occur in the State of Arizona.
- 5. Blue Shield of California ("Blue Shield") is a corporation organized under the laws of California. Blue Shield has caused acts to occur in the State of Arizona.

General Allegations

- 6. Aero Care is a provider of emergency medical transport services, and has rendered services which entitle it to compensation in the form of the funds that were held by Blue Shield.
- 7. Blue Shield has recognized a provider relationship with Aero Care whereby Blue Shield has historically caused payments to be made to Aero Care in satisfaction of its payment obligations for services provided by Aero Care.
- 8. Aero Care has submitted health insurance claim forms to Blue Shield for emergency transport services which were rendered by Aero Care.
- 9. International Medevac has, upon information and belief, submitted health insurance claim forms to Blue Shield for the same emergency transport services as those provided by Aero Care for the purpose of diverting the funds away from Aero Care.
- 10. Blue Shield issued a check payable to Aero Care in the amounts of \$102,411.62 for services rendered by Aero Care, thereby acknowledging a payment obligation to Aero Care.

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COUNT I

(Aiding and Abetting Conversion Against Blue Shield)

- Plaintiff repeats the allegations contained in paragraphs 1 through 10 as if fully set 11. forth herein.
- Blue Shield, through its agent Jose Gammora and others, received unauthorized 12. gift payments from the agents and officers of International Medevac with the intent or understanding to aid and abet International Medevac in converting funds from Aero Care.
- Specifically, on or about December 21, 2006, Mr. Gammora received gifts with a 13. value in excess of \$500, from Carlos Salinas with the understanding that Mr. Gammora and Blue Shield would assist International Medevac in converting funds.
- On or about April 1, 2007, Blue Shield was notified by Aero Care that 14. International Medevac, through its agent Carlos Salinas, was attempting to convert the \$102,411.62 check. At that time Blue Shield was made aware of the improper conduct of Mr. Gamorra and demand was made to interplead the funds.
 - Blue Shield declined to interplead the funds without basis. 15.
- On or about April 17, 2007, Blue Shield covenanted that it would not forward the 16. disputed funds to non-registered business addresses.
- Thereafter, Aero Care had made appropriate arrangements to have the check 17. delivered to Aero Care by complying with Blue Shield's change of address procedure.

- 18. The check, which was made payable to Aero Care, was intercepted by Mr. Gammora with the assistance of a Blue Shield manager, with knowledge that such conduct was in furtherance of the conversion.
- 19. Blue Shield, through its agent Jose Gammora and others, caused the funds to be sent by Federal Express to a used car lot, Leader Auto Sales, in San Diego, California. This conduct substantially assisted International Medevac's conversion of the funds.
 - 20. Blue Shield is therefore liable for aiding and abetting conversion.

WHEREFORE; Aero Care prays for judgment as follows:

- A. For an amount of \$102,411.62 against Blue Shield for aiding and abetting conversion;
- B. For punitive damages against Blue Shield for intentionally and recklessly aiding and abetting conversion;
 - C. For pre and post judgment interest on the principal sum of \$102,411.62.
- D. For such other and further relief as the Court may deem appropriate, including an award of attorneys' fees and costs.

RESPECTFULLY SUBMITTED this 24th day of July, 2007.

/s/Daniel E. Fredenberg
Daniel E. Fredenberg
TITUS, BRUECKNER & BERRY, P.C.
8377 East Hartford Drive, Suite 110
Scottsdale, Arizona 85255-5748
Attorneys for Plaintiff

1 **CERTIFICATE OF SERVICE** I hereby certify that on July 23, 2007, I electronically transmitted the foregoing 2 document to the Clerk's Office using the CM/ECF System for filing and service upon the following: 3 F. Michael Carroll 4 Clarissa B. Reiman 5 **BURCH & CRACCHIOLO, P.A.** 702 East Osborn Road 6 Phoenix, Arizona 85014 7 Attorneys for Defendant/Counterclaimant/ Third-Party Complainant International Medevac Services, Inc. 8 9 Christopher H. Bayley Eric S. Pezold 10 SNELL & WILMER L.L.P. One Arizona Center 11 400 E. Van Buren 12 Phoenix, AZ 85004-2202 Attorneys for Blue Shield of California 13 14 And a COPY of the foregoing was mailed 15 via U.S. First Class Mail this 24th day of July, 2007, to: 16 Honorable Mary H. Murguia 17 United States District Court 18 Sandra Day O'Connor U.S. Courthouse, Suite 525 401 West Washington Street, SPC 53 19 Phoenix, AZ 85003-2154 20 21 /s/Jenni R. Miller 22 H:\6616 9\Pleadings\USDC\Second Amended Complaint_2007 07 23 doc 23 24

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