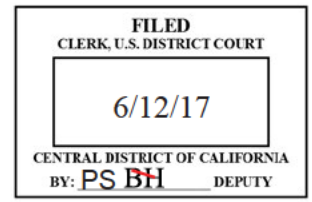


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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

Comprehensive Toxicology) Billing, LLC,) Counterclaim Plaintiff,) v.) Erik Nord, et al.,) Defendants.)	Case No. LACV 14-07806 VAP (Ex) JUDGMENT
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TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

This action came on regularly for trial on April 4, 2017, in Courtroom 8A of the above entitled Court, the Honorable Virginia A. Phillips, Chief United States District Judge presiding. Counterclaim Plaintiff and Counterclaim Defendant-in-Reply Comprehensive Toxicology

1 Billing, LLC ("CTB"), and Counterclaim Defendant-in-Reply
2 Robert Nickell (collectively, "CTB Parties") appeared by
3 their attorneys, Steven M. Goldberg, Prana A. Topper, and
4 Emil Petrossian of the law firm Manatt, Phelps & Phillips
5 LLP. Counterclaim Defendant and Counterclaimant-in-Reply
6 Aliya Medicare Finance, LLC ("Aliya"), and Counterclaim
7 Defendants Erik Nord, Comprehensive Toxicology Services,
8 Inc., and Upton Park Financial, LLC (collectively, "Aliya
9 Parties"), appeared by their attorneys Kevin M. Yopp of
10 the Law Offices of Kevin M. Yopp, APC, and Richard
11 William Buckner of the law firm Glaser Weil Fink Howard
12 Avchen & Shapiro LLP.

13
14 On March 14, 2016, CTB filed a third amended
15 counterclaim ("TACC"), the operative counterclaim in this
16 matter. (Doc. No. 291.) On May 2, 2016, Aliya filed a
17 counterclaim in reply ("CCIR"), the operative
18 counterclaim in reply in this matter. (Doc. No. 292.)

19
20 On June 24, 2016, this Court granted the Aliya
21 Parties' motion to dismiss CTB's claims that rely on an
22 alter ego theory of liability. (Doc. No. 336.)

23
24 On August 16, 2016, this Court granted in part and
25 denied in part the CTB Parties' motion to dismiss Aliya's
26 CCIR. (Doc. No. 357.) In that order, the Court
27 dismissed Aliya's second, seventh, eighth, and ninth
28

1 counterclaims in reply--for concealment (against Nickell
2 and CTB), intentional interference with contractual
3 relations (against Nickell, ChemBio, and the Doe
4 Counterclaim Defendants-in-Reply), breach of contract
5 (against Exec Billing), and violation of section 17200 of
6 the California Business and Professions Code (against
7 Nickell), respectively. (Doc. No. 357 at 24.) The Court
8 also dismissed all counterclaims in reply to the extent
9 that they rely on the first or second agreement between
10 Aliya and CTB. (Id.)

11
12 On March 7, 2017, pursuant to stipulations filed by
13 the parties, the Court dismissed Counterdefendants Henrik
14 Sten, Allan Alvarado, and Zarfeen Samani with prejudice.
15 (Doc. Nos. 547, 548.)

16
17 On January 10, 2017, this Court granted the Aliya
18 Parties' motion for partial summary judgment to the
19 degree it sought to establish ownership over the
20 receivables Aliya purchased and paid for between March
21 28, 2013, and October 31, 2014, with the exception of the
22 receivables that Aliya rejected on October 19, 2014.
23 (Doc. No. 507 at 44.) The Court also granted the CTB
24 Parties' Motion for Summary Judgment as to Aliya's
25 lockbox account waiver. (Id.)

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1 On April 4, 2017, a jury of eight persons was
2 regularly impaneled and sworn to try the action.¹
3 Witnesses were sworn and testified.

4
5 On April 13, 2017, the Aliya Parties voluntarily
6 dismissed their claims for negligent misrepresentation
7 and fraud in the inducement.

8
9 On April 14, 2017, this Court granted the Aliya
10 Parties' motion for judgment as a matter of law as to
11 CTB's claims for Lanham Act violations, trademark
12 infringement under Nevada common law, and breach of
13 fiduciary duty. (Doc. No. 603 at 1-2.)

14
15 Also on April 14, 2017, after hearing the evidence,
16 the arguments of counsel and the instructions given to
17 the jury, the jury retired to consider its verdict. On
18 the same date, the jury returned its special verdict by
19 way of answers to the questions propounded to it as
20 follows:

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¹ Upon consent of the parties, one juror was
28 dismissed due to health issues on the second day of
trial.

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CTB's Breach of Contract Claim

1. Has Comprehensive Toxicology Billing, LLC ("CTB") proved its claim against Aliya Medicare Finance, LLC ("Aliya") for breach of contract?

Answer "yes" or "no"

Answer: **No.**

If your answer is "yes", please answer Question No. 2.
If your answer is "no", please proceed to Question No. 4.

. . .

4. Has Aliya proved its claim against CTB for breach of contract?

Answer "yes" or "no"

Answer: **Yes.**

If your answer is "yes", please answer Question No. 5.
If your answer is "no", please proceed to Question No. 7.

5. Did Aliya suffer damages as a result of the breach of contract?

Answer "yes" or "no"

Answer: **Yes.**

If your answer is "yes", please answer Question No. 6.
If your answer is "no", please proceed to Question No. 7.

6. What amount of damages do you find should be awarded to Aliya for breach of contract against CTB?

1 Answer in Dollars and Cents: \$10 Million

2 Please proceed to Question No. 7.

3

4 ALIYA'S CONVERSION CLAIM

5 7. Has Aliya proved its claim against for conversion?

6 Answer "yes" or "no" as to each party

7 CTB: Yes Robert Nickell: No

8 If your answer is "yes" as to either CTB or Robert
9 Nickell, or both, please answer Question No. 8. If your
10 answer is "no", as to both CTB and Robert Nickell, please
11 proceed to Question No. 11.

12

13 8. Did Aliya suffer damages as a result of the
14 conversion?

15 Answer "yes" or "no"

16 Answer: Yes.

17 If your answer is "yes", please answer Question No. 10.

18 If your answer is "no", please proceed to Question No.
19 11.

20

21 9. As to any party to whom you answered "yes in response
22 to Question No. 7, what amount of damages do you find
23 should be awarded to Aliya for conversion?

24 Answer in Dollars and Cents

25 As to CTB: \$4.6 Million As to Robert Nickell: \$0

26 Please answer Question No. 10.

27

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1 10. Do you find that CTB or Robert Nickell acted with
2 malice, oppression, or fraud in committing conversion
3 such that Aliya should be awarded punitive damages?

4 Answer "yes" or "no" as to each party

5 CTB: **No** Robert Nickell: **No**

6 Please proceed to Question No. 11.

7

8 **ALIYA'S CLAIM FOR PROMISSORY FRAUD**

9 11. Has Aliya proved its claim for promissory fraud?

10 Answer "yes" or "no" as to each party

11 CTB: **No** Robert Nickell: **No**

12 If your answer is "yes", as to either CTB or Robert
13 Nickell or both, please answer Question No. 12. If your
14 answer is "no", as to both CTB and Robert Nickell, please
15 have the Presiding Juror sign the Special Verdict form.

16

17 . . .

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19 DATED this **14th** day of **April**, 2017.

20 /s/ _____

21 Presiding Juror

22

23

24 Aliya's counterclaim in reply for imposition of alter
25 ego liability against Robert Nickell was tried to the
26 Court on April 21, 2017. After hearing the evidence and
27 the arguments of counsel, the Court took the matter under

28

1 submission. On June 9, 2017, the Court issued its
2 decision, denying Aliya's claim for alter ego liability
3 against Robert Nickell. (Doc. No. 605.)
4

5 By reason of the verdict and orders described above,
6 **NOW, THEREFORE, IT IS ADJUDGED, ORDERED AND DECREED THAT:**
7

8 1. Pursuant to the Court's June 24, 2016 order, judgment
9 is entered in favor of Aliya on CTB's counterclaims to
10 the degree they rely on an alter ego theory of liability.
11

12 2. Pursuant to the Court's August 16, 2016 order,
13 judgment is entered in favor of Nickell and CTB on
14 Aliya's second, seventh, eighth, and ninth counterclaims
15 in reply---for concealment (against Nickell and CTB),
16 intentional interference with contractual relations
17 (against Nickell and ChemBio), breach of contract
18 (against Exec Billing), and violation of section 17200 of
19 the California Business and professions Code (against
20 Nickell), respectively. Also pursuant to that order,
21 judgment is entered in favor of CTB on all of Aliya's
22 counterclaims in reply to the degree that they rely on
23 the first or second agreement.
24

25 3. Pursuant to Aliya's voluntary dismissal during trial,
26 Aliya's counterclaims in reply for negligent
27
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1 misrepresentation and fraud in the inducement were
2 DISMISSED without prejudice.

3

4 4. Pursuant to the Court's April 14, 2017 ruling,
5 judgment is entered in favor of Aliya on CTB's
6 counterclaims for Lanham Act violations, trademark
7 infringement under Nevada common law, and breach of
8 fiduciary duty.

9

10 5. Pursuant to the jury's April 14, 2017 special
11 verdict:

12

- 13 a. Judgment is entered in favor of Aliya on CTB's
14 counterclaim for breach of contract;
- 15 b. Judgment is entered in favor of CTB and Robert
16 Nickell on Aliya's counterclaim in reply for
17 promissory fraud;
- 18 c. Judgment is entered in favor of Robert Nickell
19 on Aliya's counterclaim in reply for conversion;
- 20 d. Judgment is entered in favor of Aliya on its
21 counterclaim in reply against CTB for breach of
22 contract, in the amount of \$10,000,000.00;
- 23 e. Judgment is entered in favor of Aliya on its
24 counterclaim in reply against CTB for
25 conversion, in the amount of \$4,600,000.00;
- 26 f. Judgment is entered in favor of CTB on Aliya's
27 counterclaim in reply for punitive damages;

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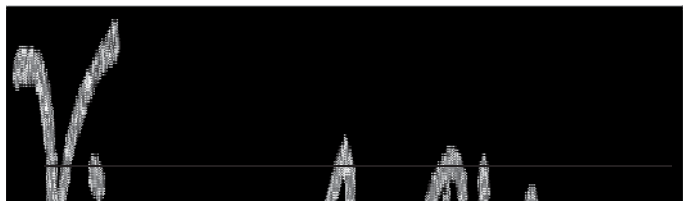
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- f. Aliya shall recover its costs of suit on its counterclaims in reply for breach of contract and conversion against CTB, as taxed by the Clerk; and
- g. Post-judgment interest will accrue as set forth in 28 U.S.C. § 1961, all such post-judgment interest to run until the Judgment against CTB is paid in full.

6. Pursuant to the Court's June 9, 2017 Order, judgment is entered in favor of Robert Nickell and CTB on Aliya's counterclaim in reply for alter ego liability.

The Court orders that such judgment be entered.

Dated: 6/12/17



VIRGINIA A. PHILLIPS

Chief United States District Judge