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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

ROBERT CAPELLI and  
CARLA CAPELLI,  
  
Plaintiffs,

No. 2:09-cv-03469-MCE-GGH

v.

**ORDER**

BRINKS INCORPORATED,  
  
Defendant.

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Through the present Motion, Defendant Brink's Incorporated ("Defendant") requests that the Court join a third party, MedFinManager, LLC ("MedFin") as an additional party plaintiff in this matter on grounds that MedFin qualifies as a real party in interest to these proceedings under Federal Rule of Civil Procedure 17(a).<sup>1</sup> Alternatively, Defendant requests that MedFin be joined as a necessary party under Rule 19(a).

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<sup>1</sup> All further references to "Rule" or "Rules" are to the Federal Rules of Civil Procedure unless otherwise noted.

1 According to Defendant's Motion, MedFin is a financial  
2 services company that has purchased medical liens arising from  
3 treatment administered to the Plaintiffs in this personal injury  
4 action, which arises from a motor vehicle accident that occurred  
5 on January 12, 2008. Defendant alleges that MedFin has paid the  
6 medical providers some 40 percent of treatment costs in exchange  
7 for a lien representing the entire billed amount of those costs,  
8 which currently totals approximately \$414,494.24. Defendants  
9 argue that because MedFin has a policy of not compromising its  
10 liens purchased in this manner, MedFin should be joined as a  
11 Plaintiff given the considerable impact its liens may have upon  
12 resolution of this case.

13 Rule 17 requires that "every action shall be prosecuted in  
14 the name of the real party in interest." Fed. R. Civ. P. 17(a).  
15 Since the jurisdiction of this Court is founded upon diversity of  
16 citizenship, in determining such status we must look to whether  
17 the non-party, here MedFin, has the right, under state law, to  
18 bring the action maintained by Plaintiffs. See, e.g., White Hall  
19 Bldg. Corp. v. Profexray Div. of Litton Indus., Inc., 387 F.  
20 Supp. 2d 1202, 1204 (D.C. Pa. 1974). According to California  
21 law, the party possessing the right being sued upon is generally  
22 the real party in interest. Iglesia Evangelica Latina, Inc. v.  
23 Southern Pacific Dist. of Assemblies of God, 173 Cal. App. 4th  
24 420, 445 (2009). As the California Supreme Court has made clear,  
25 "a personal injury tort action is undertaken for the benefit of  
26 the injured plaintiff." City and County of San Francisco v.  
27 Sweet, 12 Cal. 4th 105, 117 (1995). Significantly for purposes  
28 of this case, the Sweet court goes on to explain as follows:

1 "The plaintiffs do not have an interest in the recovery  
2 in common with the plaintiff. That the creditors may  
3 benefit from any recovery is an incidental, not an  
4 intended, benefit of the litigation."

4 Id. It follows that MedFin, given its status as a creditor in  
5 possession of a lien against Plaintiffs' recovery for medical  
6 expenses, cannot qualify as a real party in interest under  
7 California law. Therefore Defendant's attempt to join MedFin as  
8 a party plaintiff under Rule 17 is misplaced.

9 Defendant fares no better in its alternative request that  
10 MedFin be included in this litigation as a necessary party under  
11 Rule 19(a). In determining whether a party may properly be  
12 deemed necessary, the courts have identified no precise formula.  
13 Rule 19(a) has nonetheless been found to contemplate a two-part  
14 analysis. First, the court must consider whether complete relief  
15 is possible among those parties already included with the action.  
16 Second, the court must assess whether the absent party has a  
17 legally protected interest in the outcome of the action such that  
18 in its absence the defendant could be at risk of multiple or  
19 inconsistent legal obligations. See Confederated Tribes of  
20 Chehalis Indian Reservation v. Lujan, 928 F.2d 1496, 1498 (9th  
21 Cir. 1991).

22 There is no reason why complete relief cannot be had in this  
23 matter between Plaintiffs, as the injured parties, and Defendant  
24 as the alleged tortfeasor. While Defendant may well be correct  
25 that MedFin's lien may make it more difficult to settle the case,  
26 that does not mean that the lien will prevent Plaintiffs from  
27 ultimately collecting any damages ultimately found to be owed by  
28 Defendant.

1 Nor is MedFin's interest in this matter such that Defendant is  
2 exposed to the risk of multiple or inconsistent liability.  
3 Plaintiffs' obligation to pay MedFin's lien has nothing to do  
4 with whether, or to what extent, Defendants are ultimately found  
5 liable for Plaintiffs' injuries. Indeed, as Plaintiffs  
6 themselves note in their Opposition, they are indebted on the  
7 Medfin liens "regardless of the outcome of the lawsuit", since  
8 the liens are payable in full "even if Plaintiffs are wholly  
9 unsuccessful." Pls.' Opp'n, 8:18-21.

10 In sum, then, whether analyzed in the context of a real  
11 party in interest under Rule 17 or under the standards applicable  
12 to determination of a necessary party under Rule 19, Defendant's  
13 attempt to join MedFin as an additional party to this case must  
14 fail. Defendant's Motion to Join MedFin as a Party Plaintiff  
15 (Docket No. 21) is accordingly DENIED.<sup>2</sup>

16 While the Court recognizes Defendant's concern that MedFin  
17 be obligated to meaningfully participate in any negotiations to  
18 resolve the case, it is neither necessary or appropriate that  
19 MedFin be joined as a party to accomplish that objective. Should  
20 a settlement conference be scheduled, for example, the Court can  
21 require MedFin's attendance and participation.

22 IT IS SO ORDERED.  
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27 <sup>2</sup> Because oral argument was not of material assistance, the  
28 Court ordered this matter submitted on the briefs. E.D. Cal.  
Local Rule 230(g).

1 Dated: April 28, 2010

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4 MORRISON C. ENGLAND, JR.  
5 UNITED STATES DISTRICT JUDGE  
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