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IN THE SUPREME COURT OF CALIFORNIA

COUNTY OF SANTA CLARA,
Petitioner,

v.

THE SUPERIOR COURT OF SANTA CLARA,
Respondent,

DOCTORS MEDICAL CENTER OF MODESTO et al.,
Real Parties in Interest.

AFTER A PUBLISHED DECISION BY THE COURT OF APPEAL, SIXTH APPELLATE DISTRICT
CASE NO. H048486

PETITION FOR REVIEW

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and DOCTORS HOSPITAL OF MANTECA, INC.

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PETITION FOR REVIEW

ISSUES PRESENTED

May a hospital maintain an action for breach of an implied-in-law contract or for a writ of mandate against a county that fails to comply with its statutory duty to reimburse the hospital for the reasonable and customary value of emergency medical services the hospital provided to enrollees in the county's health care service plan?

A. Is the hospital's action for statutory reimbursement a tort action for damages, to which the immunity afforded by Government Code section 815 applies?

B. Is the hospital's action for statutory reimbursement authorized by Government Code section 815.6, which provides that a public entity is liable for injuries resulting from its failure to comply with a mandatory statutory duty?

INTRODUCTION

Background

"[L]iability of public entities are matters of statewide concern." (Sen. Legis. Com. com., 32 pt. 1 West's Ann. Gov. Code (2012 ed.) foll. § 815.)

This case involves the potential liability of public entities that choose to enter the highly regulated health care service plan (health plan) market in competition with private health plans. The case also involves a clash between two fundamental yet competing public policies: the policy of immunizing public entities from lawsuits seeking tort damages and the policy of

ensuring all Californians have access to emergency medical services when necessary, regardless of their ability to pay. The former policy is embodied in the Government Claims Act (Claims Act) (Gov. Code, § 810 et seq.), and the latter policy is embodied in the Knox-Keene Health Care Service Plan Act of 1975 (Knox-Keene Act or Act) (Health & Saf. Code, § 1340 et seq.).[1]

The clash arises under the following circumstances:

California law requires hospitals with emergency departments to provide emergency medical services on demand to patients who need them, regardless of their ability to pay, until the emergency medical condition has been stabilized. When the patient is enrolled in a health plan, but the health plan and the hospital have no contract setting the rates payable for emergency services, the Knox-Keene Act requires the health plan to "reimburse" the hospital for the "reasonable and customary value" of the emergency services rendered to the plan's enrollee.[2]

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[1] All further statutory citations refer to the Health & Safety Code, unless otherwise indicated.

[2] Section 1371.4, subdivision (b), provides that health plans "shall reimburse providers for emergency services and care provided to its enrollees, until the care results in stabilization of the enrollee . . . ."

California Code of Regulations, title 28, section 1300.71, subdivision (a)(3)(B), defines " 'Reimbursement of a Claim' " payable to "non-contracted providers" to mean, in pertinent part, "payment of the reasonable and customary value for the health care services rendered based upon statistically credible information that is updated at least annually and takes into consideration: (i) the provider's training, qualifications, and length of time in practice; (ii) the nature of the services provided;

Under this legislative scheme creating reciprocal legal duties, patients are assured access to emergency medical care and, in return, the emergency provider is assured it will receive reasonable payment for services rendered, even if the patient is enrolled in a health plan with which the provider has no contract.

Or so it would seem.

Real parties in interest Doctors Medical Center of Modesto, Inc. and Doctors Hospital of Manteca, Inc. (the Hospitals) provided emergency services to three enrollees in a health plan operated by petitioner County of Santa Clara (the County), a public entity. The Hospitals sent invoices to the County requesting reimbursement in amounts reflecting the reasonable and customary value of their emergency services. The County paid only a fraction of the amount billed.

After unsuccessfully trying to resolve the dispute through the County's internal appeal process, the Hospitals filed this action against the County for breach of an implied-in-law contract. The Hospitals alleged the County violated its statutory duty under the Knox-Keene Act to reimburse the Hospitals for the reasonable and customary value of the emergency services they provided to the County's enrollees.

(iii) the fees usually charged by the provider; (iv) prevailing provider rates charged in the general geographic area in which the services were rendered; (v) other aspects of the economics of the medical provider's practice that are relevant; and (vi) any unusual circumstances in the case."

The decisions below

The County did not deny its statutory duty to reimburse the Hospitals. Indeed, it paid the Hospitals in part. But invoking Government Code section 815, the provision in the Claims Act that immunizes public entities from liability for tort damages, the County asserted it was "immune from any implied-in-law contract cause of action" and "[t]here is 'no common law tort liability for public entities in California.' "[3] (Typed opn. 6.)

The trial court disagreed and overruled the County's demurrer. (See vol. 3, exh. 29, p. 737.) In a published opinion, however, the Court of Appeal granted the County's petition for writ of mandate and directed the trial court to sustain the County's demurrer without leave to amend. (Typed opn. 16.)

The Court of Appeal reasoned that Government Code section 815 "immunizes public entities from liability on common law theories" (typed opn. 6), therefore "the Hospitals cannot state a claim based solely on the common law doctrine of quantum meruit" (typed opn. 7).

The Court of Appeal also rejected the Hospitals' argument that their reimbursement action was authorized by Government Code section 815.6, which permits an action against a public entity based on the public entity's violation of a mandatory

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[3] Government Code section 815, subdivision (a), provides in pertinent part: "Except as otherwise provided by statute: [¶] . . . A public entity is not liable for an injury, whether such injury arises out of an act or omission of the public entity or a public employee or any other person."

statutory duty.[4] The court found that, although the County's statutory duty to reimburse emergency providers in some amount was *mandatory*, the County enjoyed unreviewable *discretion* to determine the amount of the reimbursement. (Typed opn. 7–8.)

Under settled law, the Hospitals could have maintained their action for reimbursement on a quantum meruit theory against any *private* health plan. The Court of Appeal acknowledged that its opinion denied the Hospitals the same remedy against a *public* health plan but concluded the Legislature is responsible for this result. (Typed opn. 11.) The Hospitals disagree.

The Court of Appeal's errors and the resulting conflict in the cases

Given that "the immunity provisions of the [Claims] Act are only concerned with shielding public entities from having to pay money damages for torts" (*City of Dinuba v. County of Tulare* (2007) 41 Cal.4th 859, 867 (*City of Dinuba*); see *Quigley v. Garden Valley Fire Protection Dist.* (2019) 7 Cal.5th 798, 803 (*Quigley*)), the Court of Appeal's reliance on the Claims Act raises an issue of statewide importance: whether an emergency medical services provider's implied-in-law contract action against a

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[4] Government Code section 815.6 states: "Where a public entity is under a mandatory duty imposed by an enactment that is designed to protect against the risk of a particular kind of injury, the public entity is liable for an injury of that kind proximately caused by its failure to discharge the duty unless the public entity establishes that it exercised reasonable diligence to discharge the duty."

county seeking statutory reimbursement the county owes under the Knox-Keene Act is an action in tort seeking damages. If not, Government Code section 815 does not bar the action.

Hospitals ask this Court to grant review and hold that the immunity bar of Government Code section 815 does not apply to a provider's statutory reimbursement action. First, an action for statutory reimbursement is not a tort action. It is an implied-in-law *contract* action by which the provider seeks to enforce the statutory scheme that guarantees the provider reasonable payment for emergency services rendered to enrollees in health plans when the provider and the plan have no formal contract. Unlike a claim in tort, a claim for reimbursement seeks no more than recompense for the claimant's expenditures on the health plan's behalf.

Second, a provider's statutory reimbursement action does not seek damages. It seeks "reimbursement" mandated by statute. In *City of Dinuba*, this Court explained that an action seeking to hold a public entity accountable for violating a statutory duty to disburse funds (in that case, a county's duty to disburse tax revenues to the plaintiff redevelopment agency) is *not* an action for damages within the meaning of the Claims Act, even if the action results in the public entity having to pay money. (*City of Dinuba*, *supra*, 41 Cal.4th at p. 867.)

Under the reasoning of *City of Dinuba*, an emergency provider's action to enforce a county's statutory duty to reimburse the provider for emergency services rendered is not an action for damages to which Government Code section 815 applies.

Also significant for this case is the well-established principle that when ruling on a demurrer, a court is not limited to considering the legal theories formally alleged in the complaint. The court must overrule the demurrer if the pleaded facts support recovery under *any* theory. Likewise, a court reviewing an order sustaining a demurrer is not constrained by the legal theories asserted in the lower court.

Here, the facts alleged in the Hospitals' complaint also supported relief in the form of a writ of mandate directing the County to comply with its statutory reimbursement obligation, although that relief was not specifically sought below. (See *City of Dinuba*, *supra*, 41 Cal.4th at p. 870 [permitting plaintiffs to amend their complaint to plead a claim for a writ of mandate against a public entity where the alleged facts supported it].) Actions seeking a writ of mandate to compel a public entity to comply with a statutory duty are not tort actions for damages. (*Id.* at pp. 863, 867.) For this reason as well, Government Code section 815 should not apply.

In any event, even if the Court were to conclude the Hospitals' action for statutory reimbursement against the County brings the potential for government immunity into play, the Hospitals are entitled to maintain their action under an important statutory exception to the immunity otherwise conferred by the Claims Act.

Government Code section 815.6 authorizes an action against a public entity when an injury results from the public

entity's failure to comply with a mandatory statutory duty. (See *ante*, fn. 4 [quoting section 815.6].)

The Court of Appeal here recognized that the County's duty to reimburse the Hospitals was mandatory, but the court wrongly concluded the County enjoyed unreviewable discretion to determine the amount payable. The Court of Appeal's conclusion is at odds with at least two other cases, including one decided by this Court, holding that a health plan does *not* have discretion to pay reimbursement in any amount it chooses. The health plan must pay the reasonable and customary value of the emergency services rendered to its enrollees. The fact that the value is not a preset amount, fixed in advance, does not mean the health plan enjoys sole discretion to pay any amount or that its determination is unassailable and shielded from judicial review.

The importance of the issues and the case

The Court of Appeal's decision leaves the Hospitals with no legal recourse for obtaining the reimbursement to which they are entitled under the Knox-Keene Act, effectively granting the County complete freedom to unilaterally determine the reasonable and customary value of the Hospitals' emergency services, unrestrained by judicial oversight. The decision undermines the financial stability of emergency healthcare providers and threatens to upend California's system for delivering emergency medical services.

This Court has recognized that the financial viability of California's emergency health care delivery system depends on

ensuring that emergency providers receive the reimbursement to which they are legally entitled:

> " 'The prompt and appropriate reimbursement of emergency providers ensures the continued financial viability of California's health care delivery system . . . . [D]enying emergency providers judicial recourse to challenge the fairness of a health plan's reimbursement determination[ ] allows a health plan to systematically underpay California's safety-net providers.' "

(*Prospect Medical Group, Inc. v. Northridge Emergency Medical Group* (2009) 45 Cal.4th 497, 508 (*Prospect*), quoting *Bell v. Blue Cross of* California (2005) 131 Cal.App.4th 211, 218 (*Bell*).)

Significantly, the Department of Managed Health Care (the Department), charged by statute with responsibility for administering and enforcing the laws governing health plans, " 'has consistently taken the position that a provider is free to seek redress in a court of law, if he disputes a health plan's determination of the reasonable and customary value of covered services as required by section 1371.4.' " (*Bell*, *supra*, 131 Cal.App.4th at p. 217.) The Department lacks authority to set reimbursement rates or to enforce reimbursement determinations, hence "health care providers must be allowed to maintain a cause of action in court to resolve individual claims-payment disputes over the reasonable value of their services." (*Amicus Curiae* Brief of the Department of Managed Health Care, *Bell v. Blue Cross of California* (Mar. 17, 2005, B174131) 2005 WL 1124595, at p. *3.)

A system that compels a private actor to perform services while denying the actor judicial recourse to recover the legally mandated payment for those services is unsustainable. Hospitals compelled to provide emergency services yet unable to recoup the reasonable value of those services may need to increase their charges for other services to make up for the shortfall. But preexisting agreements with other insurers may limit their ability to do so. And if they can increase charges, other patients or their insurers will end up effectively subsidizing emergency patients who are enrolled in government sponsored health plans that have not contracted with the hospital. At the same time, those public health plans will avoid their duty under the Knox-Keene Act to bear the reasonable cost of emergency care rendered to their enrollees. Nothing in the Knox-Keene Act suggests the Legislature expected or intended that sort of cost-shifting.

In a letter submitted to the Court of Appeal, amicus curiae California State Association of Counties (CSAC), representing the 58 California counties, confirmed "this case raises matters that affect all counties across the state." (Amicus Curiae Letter of the California State Association of Counties in Support of Petition for Writ of Mandate, *County of Santa Clara v. Superior Court* (May 3, 2021, H048486) 2021 WL 2005989, at p. *1 (Amicus Letter).) CSAC urged the Court of Appeal to address the "critical issues" and "provide necessary guidance to public entities throughout California." (*Id.* at pp. *1–*2.)

This Court should do the same. It should grant review both to resolve inconsistent holdings and to "settle an important

question of law." (Cal. Rules of Court, rule 8.500(b)(1).) The Court could then decide once and for all whether a health care provider's action against a public entity seeking statutorily mandated reimbursement for emergency medical services rendered to enrollees in the public entity's health plan, under either an implied-in-law contract theory or a petition for writ of mandate, is an action for tort damages to which Government Code section 815 applies. And if the Court decides that section 815 would otherwise apply, it may then determine whether the exception enacted in Government Code section 815.6 for a public entity's violation of a mandatory duty authorizes the provider's reimbursement action.

STATEMENT OF THE CASE

A. Background.

1. Health care service plans.

A health care service plan, also known as a health maintenance organization or HMO (*Hambrick v. Healthcare Partners Medical Group, Inc.* (2015) 238 Cal.App.4th 124, 132, fn. 2), is a contractual arrangement in which a private or public entity undertakes to provide for the plan's enrollees to obtain medical services, and undertakes to pay for those services, in exchange for the enrollee's prepayment or periodic payment of an agreed charge. (§ 1345, subds. (f)(1), (j).)

Health plans are governed by the comprehensive licensing and regulatory scheme established under the Knox-Keene Act. (*Prospect*, *supra*, 45 Cal.4th at p. 504.) The Legislature expressly

intended that the regulatory scheme would apply not only to private health plans but also to public entities and political subdivisions that offer health plans. (§ 1399.5.)

The Department is charged with administering and enforcing the laws relating to health plans and, toward that end, issues regulations. (§§ 1341, 1344.)

2. Emergency medical services and reimbursement.

Both California and federal law require every licensed hospital with an emergency department and qualified personnel to provide emergency medical services to any person requesting them, regardless whether the person is insured or capable of paying for the services. (§ 1317, subds. (a), (b); 42 U.S.C. § 1395dd(a), (b); *Centinela Freeman Emergency Medical Associates v. Health Net of California, Inc.* (2016) 1 Cal.5th 994, 1018.)

When the patient receiving the emergency services is enrolled in a health plan, but the plan has no contract with the hospital governing the rates payable for emergency services rendered to the plan's enrollees, the plan must reimburse the hospital for the "reasonable and customary value" of the emergency services. (Cal. Code Regs., tit. 28, § 1300.71, subds. (a)(3)(B), (g); see Health & Saf. Code, § 1371.4, subd. (b).) Section 1371.4, mandating reimbursement, was added to the Knox-Keene Act "to ensure that California's citizens received proper care and to eliminate 'incentives for carriers to deny care and reduce payments to physicians.' " (*California Pacific Regional Medical*

Center v. Global Excel Management, Inc. (N.D.Cal., June 4, 2013, No. 13–cv–00540 NC) 2013 WL 2436602, at p. *7 [nonpub. opn.].)

B. The County's unsuccessful demurrer.

When reviewing a ruling on a demurrer, this Court "accept[s] as true all properly pleaded facts." (*T.H. v. Novartis Pharmaceuticals Corp.* (2017) 4 Cal.5th 145, 156.) Also, where, as here, neither party petitioned the Court of Appeal for a rehearing, this Court may rely on facts recited in the Court of Appeal's opinion. (*Prospect*, *supra*, 45 Cal.4th at p. 502.) The facts stated below were pleaded in the Hospitals' operative third amended complaint or recited in the Court of Appeal's opinion.

The County operates Valley Health Plan, a health plan governed by the Knox-Keene Act. (Vol. 2, exh. 12, pp. 286, 288.) The County and the Hospitals had no preexisting contract governing the rates payable for emergency services rendered to Valley Health Plan enrollees. (Vol. 2, exh. 12, pp. 288–289.)

The Hospitals rendered emergency services to three Valley Health Plan enrollees. (Vol. 2, exh. 12, 290–293.) The Hospitals thereafter sent invoices to the County requesting reimbursement totaling about $144,000, the reasonable value of the emergency services, under the Knox-Keene Act. (*Ibid.*) The County paid the Hospitals about $28,500, roughly 20 percent of the billed total. (*Ibid.*)

The Hospitals contested the reimbursement shortfall by submitting written appeals through the County's internal appeals process. They contended the amounts the County paid did not represent the reasonable and customary value of the

services rendered. (Vol. 2, exh. 12, p. 290.) The County denied the Hospitals' appeals. (*Ibid.*)

The Hospitals then filed this action against the County seeking full reimbursement for the emergency services the Hospitals rendered to Valley Health Plan's enrollees. The Hospitals initially alleged tort and implied-in-fact contract causes of action. (Typed opn. 2.) The trial court sustained the County's demurrer to the tort causes of action alleged in the Hospitals' second amended complaint without leave to amend, on the ground Government Code section 815 immunized the County from liability for common law claims. (Vol. 2, exh. 11, p. 283; typed opn. 2.)

In their third amended complaint, the Hospitals alleged they provided emergency medical services to patients enrolled in Valley Health Plan; the County did not indicate it would not cover the patients' medical expenses; the County's conduct, the Knox-Keene Act, its implementing regulations, and ordinances approved by the County's board of supervisors gave rise to implied-in-fact and implied-in-law agreements between the Hospitals and the County obligating the County to pay for the care and treatment rendered by the Hospitals to the patients at a reasonable and customary rate; the County acknowledged its implied contractual obligations by issuing partial reimbursement for the services rendered; and the County " 'failed to fully reimburse the [Hospitals] for the services rendered to the Patients at reasonable and customary rates as required by the

Knox-Keene Act.' " (Typed opn. 2–3; see vol. 2, exh. 12, pp. 293–294.)

The County demurred to the third amended complaint, arguing the Knox-Keene Act does not create a private right of action for reimbursement but entrusts the power to enforce the Act exclusively to the Department; a claim for breach of implied contract or quantum meruit does not lie against a public entity; and Government Code section 815 immunizes the County from liability for underpaying reimbursement owed under the Knox-Keene Act. (Vol. 2, exh. 13, exh. 14, p. 304.)

The trial court overruled the County's demurrer, explaining:

1. The Department's power to enforce the Knox-Keene Act is not exclusive, and nothing in the Act forecloses a private right of action in quantum meruit to enforce a provision of the Act. (Vol. 3, exh. 29, pp. 731–732.) The Department itself agrees that disputes over the value of reimbursement payable to noncontracted emergency providers should " 'be resolved by the courts.' " (Vol. 3, exh. 29, p. 733.)

2. Limitations on implied-in-fact contract claims against public entities do not apply to implied-in-law (quantum meruit) theories, which do not depend on an advance agreement between the parties. (See vol. 3, exh. 29, pp. 734–735.)

3. "[T]he public policy to promote the delivery and the quality of health and medical care to the people of the State of California," embodied in the Knox-Keene Act, "outweighs the policy to limit common law, or implied contract claims against

public entities." (Vol. 3, exh. 29, p. 735.) When it chose to enter the highly regulated health care plan market, the County could not "expect to rely on a public policy regarding contracts as to public entities so that it can be exempted from those regulations." (Vol. 3, exh. 29, p. 736.)

4. "[W]hether fashioned as a cause of action for breach of an implied in fact contract or one for quantum meruit, [the Hospitals] state facts sufficient to constitute a cause of action." (Vol. 3, exh. 29, p. 736.)

C. The Court of Appeal's opinion.

The County filed a petition for writ of mandate, seeking to overturn the trial court's order. (Typed opn. 1–2.) In a published opinion, the Court of Appeal granted the petition and directed the trial court to enter an order sustaining the County's demurrer without leave to amend "[b]ecause the county is immune from common law claims under the Government Claims Act, and the Hospitals do not state a claim for breach of an implied-in-fact contract." (*Ibid.*)

The Court of Appeal acknowledged that, if the Hospitals had filed their complaint against a private health plan, the demurrer would not have been sustained. "When all health care service plans involved in a dispute are *private* entities, a noncontracting provider can bring an action seeking reimbursement for the reasonable value of emergency services . . . on a quantum meruit theory." (Typed opn. 5.)

The court ruled, however, Government Code section 815 immunizes a public entity operating a health plan against such a

quantum meruit action and no exception to the immunity applies. (Typed opn. 6–8.)

The court recognized that, as a result of its holding, an emergency provider "has greater remedies against a private health care service plan than it does against a public entity health care service plan." (Typed opn. 11 (as modified by Order Modifying Opinion (May 18, 2022)).) In the court's view, that result was driven by the Legislature's decision to broadly immunize public entities against common law claims. (Typed opn. 11.)

LEGAL ARGUMENT

I. This Court should resolve the important question whether a hospital may maintain an action against a county for failing to comply with its statutory duty to reimburse the hospital for the reasonable and customary value of emergency medical services the hospital provided to enrollees in the county's health care service plan.

A. A hospital's action for statutory reimbursement is not an action for tort damages. Government Code section 815 does not apply.

Under state and federal law, emergency providers must render emergency medical services to patients in need. In return, when the patient is enrolled in a health plan and the plan has no contract with the provider governing the rates payable for emergency services, the Knox-Keene Act requires the plan to reimburse the provider for the reasonable and customary value of the emergency services. (See *ante*, pp. 19–20.)

As this Court has recognized, under this regime of reciprocal legal duties, disputes will inevitably arise over the amount emergency providers may charge and the amount noncontracting health plans must pay for emergency medical services. (*Prospect*, *supra*, 45 Cal.4th at pp. 505, 507.)

When such a dispute arises between an emergency provider and a *private* health plan, the provider may pursue an action in court on a quantum meruit theory against the health plan to recover the reimbursement to which the provider is legally entitled:

> If a hospital . . . believes that the amount of reimbursement it has received from a health plan is below the "reasonable and customary value" of the emergency services it has provided, the hospital . . . may assert a quantum meruit claim against the plan to recover the shortfall.

(*Long Beach Memorial Medical Center v. Kaiser Foundation Health Plan, Inc.* (2021) 71 Cal.App.5th 323, 335; accord, *Prospect*, *supra*, 45 Cal.4th at p. 505; *San Jose Neurospine v. Aetna Health of California, Inc.* (2020) 45 Cal.App.5th 953, 958; *Children's Hospital Central California v. Blue Cross of California* (2014) 226 Cal.App.4th 1260, 1273, superseded by statute on another ground as stated in *Dignity Health v. Local Initiative Health Care Authority of Los Angeles County* (2020) 44 Cal.App.5th 144, 160–161; *Bell*, *supra*, 131 Cal.App.4th at pp. 213–214, 221.)

In *Bell*, for example, an emergency provider filed a class action against a private health plan, Blue Cross, seeking various

remedies for the plan's failure to fully reimburse the provider for emergency services rendered to the plan's enrollees. (*Bell*, *supra*, 131 Cal.App.4th at p. 214.) The trial court sustained the plan's demurrer and dismissed the action. The court ruled the Knox-Keene Act did not permit a private enforcement action, the provider could not maintain an action on a quantum meruit theory, and the provider had no express or implied right to recover specific amounts for emergency services rendered to the plan's enrollees. (*Id.* at pp. 214–215.)

The Court of Appeal reversed. It held the Knox-Keene Act allows emergency providers to pursue an action against a health plan on an implied-in-law contract theory to recover the reasonable value of the emergency services rendered to the plan's enrollees. (*Bell*, *supra*, 131 Cal.App.4th at pp. 215, 221.)

Noting that "[t]he construction of a statute by the executive department charged with its administration is entitled to great weight and substantial deference" (*Bell*, *supra*, 131 Cal.App.4th at p. 217, fn. 8), the *Bell* court explained "(1) that the Department 'has consistently taken the position that a provider is free to seek redress in a court of law if he disputes a health plan's determination of the reasonable and customary value of covered services as required by section 1371.4,' " and "(2) that 'providers are free to pursue alternate theories of recovery to secure the reasonable value of their services based on common law theories of breach of contract and *quantum meruit*.' " (*Id.* at pp. 217–218.)

The court emphasized that, if the provider were denied the right to seek judicial redress, then the health plan would enjoy

"unfettered discretion to determine unilaterally the amount it will reimburse a noncontracting provider, without any regard to the reasonableness of the fee." (*Bell*, *supra*, 131 Cal.App.4th at p. 220.) The court expressly rejected the health plan's contention that the emergency provider "has no implied-in-law right to recover for the reasonable value of his services." (*Id.* at p. 221; see *Coast Plaza Doctors Hosp. v. Arkansas Blue Cross and Blue Shield* (C.D.Cal., Aug. 25, 2011, No. CV 10-06927 DDP (JEMx)) 2011 WL 3756052, at p. *4 [nonpub. opn.] ["medical providers have an 'implied-in-law right to recover for the reasonable value of their services' "].)

This Court has cited with approval *Bell*'s holding that the Knox-Keene Act permits emergency providers to sue health plans directly over billing disputes. (*Prospect*, *supra*, 45 Cal.4th at p. 506.) The Court has also endorsed *Bell*'s reasoning that a health plan "does not have 'unfettered discretion to determine unilaterally the amount it will reimburse a noncontracting provider.' " (*Id.* at p. 508.)

The Court of Appeal here did not disagree with *Bell*'s holding that the Knox-Keene Act permits a private action against a health plan seeking full reimbursement due for emergency services. (Typed opn. 5.) The court held, however, that Government Code section 815 immunizes public entities, including the County, from liability for failing to pay reasonable reimbursement. (Typed opn. 6–7.) The court erred.

Government Code section 815, subdivision (a), part of the Claims Act, provides in pertinent part: "Except as otherwise

provided by statute: [¶] . . . A public entity is not liable for an injury, whether such injury arises out of an act or omission of the public entity or a public employee or any other person." The Claims Act defines "injury" as "death, injury to a person, damage to or loss of property, or any other injury that a person may suffer to his person, reputation, character, feelings or estate, of such nature that it would be actionable if inflicted by a private person." (Gov. Code, § 810.8.)

Assuming the County inflicted an "injury" within the meaning of the Claims Act, Government Code section 815 is inapplicable because the Hospitals' action for statutory reimbursement was not a tort action for damages.

This Court has held "the immunity provisions of the [Claims] Act are only concerned with shielding public entities from having to pay money damages for torts." (*City of Dinuba*, *supra*, 41 Cal.4th at p. 867; see *Quigley*, *supra*, 7 Cal.5th at p. 803 [Government Code section 815 "makes clear that under the [Claims Act], there is no such thing as common law *tort* liability for public entities" (emphasis added)]; *Schooler v. State of California* (2000) 85 Cal.App.4th 1004, 1013 ["Government Code immunities extend only to tort actions that seek money damages"]; see Sen. Legis. Com. com., 32 pt. 1 West's Ann. Gov. Code (2012 ed.) foll. § 815 ["the practical effect of . . . [Government Code] section [815] is to eliminate any common law governmental liability for damages arising out of torts"].) Thus, the Claims Act does not apply to "liability based on . . . the right

to obtain relief other than money damages." (*City of Dinuba*, at p. 867; see Gov. Code, § 814.)[5]

The Hospitals' action against the County for reimbursement of sums due under the Knox-Keene Act is not a tort action. It is based on an implied-in-law *contract*, under which both the County and the Hospitals knew in advance and expected that Hospitals would render emergency services to enrollees in the County's health plan and, in return, the County would reimburse the Hospitals for the reasonable and customary value of those services.

Further, the Hospitals' action does not seek damages; it seeks reimbursement of sums due by statute.

City of Dinuba is illustrative. The plaintiffs, a city and its redevelopment agency, sued a county for failing to comply with its statutory duty to collect certain property tax revenues and disburse them to the plaintiffs. (*City of Dinuba*, *supra*, 41 Cal.4th at p. 863.) The county demurred to the complaint on the ground the plaintiffs' action was barred by the Claims Act. (*Id.* at p. 867.) The trial court sustained the demurrer. (*Id.* at p. 864.) The Court of Appeal reversed. (*Id.* at p. 865.)

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[5] Government Code section 814 states: "Nothing in this part affects liability based on contract or the right to obtain relief other than money or damages against a public entity or public employee." Although this statutory language appears to differentiate between two forms of relief, "money" and "damages," *City of Dinuba* construed the statute to refer to a single form of relief, "money damages." (*City of Dinuba*, *supra*, 41 Cal.4th at p. 867.) That formulation has endured without question or legislative response for almost 15 years.

This Court granted review and held the county was not immune from the plaintiffs' action. Among other reasons, the Court held an action seeking to hold a public entity accountable for not complying with a statutory duty to disburse funds is *not* an action for damages, even if, as a result of the action, the public entity must pay money: "[T]he immunity provisions of the [Claims] Act are only concerned with shielding public entities from having to pay money damages for torts. [Citation.] [Government Code s]ection 814 explicitly provides that liability based on contract or the right to obtain relief other than money damages is unaffected by the [Claims] Act. Plaintiffs do not seek damages; they seek only to compel defendants to perform their express statutory duty. *While compliance with the duty may result in the payment of money, that is distinct from seeking damages*." (*City of Dinuba*, *supra*, 41 Cal.4th at p. 867, emphasis added; see 5 Witkin, Summary of Cal. Law (11th ed. 2017) Torts, § 346 [summarizing *City of Dinuba*].)

Likewise here, the Hospitals' action is "based on an alleged breach of statutory duty" (typed opn. 13 & fn. 1), namely, the County's statutory duty to reimburse the Hospitals for the reasonable and customary value of emergency services they rendered to Valley Health Plan's enrollees (vol. 2, exh. 12, pp. 287–289). The Legislature chose the word "reimbursement," not "compensation" or "damages," to describe the Hospitals' entitlement under section 1371.4. The Hospitals' implied-in-law contract claim seeks statutory reimbursement, not damages. (Vol. 2, exh. 12, p. 294.) The complaint's "routine reference to

'damages' . . . does not control whether the action seeks money damages or simply the [reimbursement] as required by statute." (*City of Dinuba*, *supra*, 41 Cal.4th at p. 868, fn. 8.)

Like the plaintiffs in *City of Dinuba*, who sought disbursement of funds to which they were entitled by statute, Hospitals seek the reimbursement to which they are entitled by statute. Like the claims in *City of Dinuba*, Hospitals' claim is not a claim for damages. Consequently, Government Code section 815 does not bar Hospitals' action.

Alternatively, the Court can reach the same result by another route. "[I]t is error for a trial court to sustain a demurrer when the plaintiff has stated a cause of action under *any possible legal theory*." (*Aubry v. Tri-City Hospital Dist.* (1992) 2 Cal.4th 962, 967 (*Aubry*), emphasis added.) The Hospitals' complaint states facts sufficient to support a writ of mandate directing the County to comply with its statutory reimbursement obligation. Government immunities do not apply to a claim for a writ of mandate to compel a public entity to comply with a statutory duty because that is not a tort claim for damages. (*City of Dinuba*, *supra*, 41 Cal.4th at pp. 863, 867.)

A party may seek a writ of mandate "to compel the performance of an act which the law specially enjoins, as a duty resulting from an office, trust or station . . . ." (Code Civ. Proc., § 1085, subd. (a).) To obtain writ relief, the party must establish " '(1) A clear, present and usually ministerial duty on the part of the respondent . . . ; and (2) a clear, present and beneficial right in the petitioner to the performance of that duty . . . .' " (*Santa*

Clara County Counsel Attys. Assn. v. Woodside (1994) 7 Cal.4th 525, 539–540 (*Woodside*), superseded by statute on another ground as stated in *Coachella Valley Mosquito & Vector Control Dist. v. California Public Employment Relations Bd.* (2005) 35 Cal.4th 1072, 1077.)

"The availability of writ relief to compel a public agency to perform an act prescribed by law has long been recognized." (*Woodside*, *supra*, 7 Cal.4th at p. 539; see *City of Dinuba*, *supra*, 41 Cal.4th at p. 868.)

In *City of Dinuba*, for example, the plaintiffs' operative complaint alleged a common law claim for money had and received and sought imposition of a constructive trust against a county that had not complied with its statutory duty to collect and distribute property tax revenues. (*City of Dinuba*, *supra*, 41 Cal.4th at pp. 863–864.) This Court explained it did not need to decide whether the plaintiffs could maintain their claims against the county as pleaded because, although not formally pleaded, the complaint stated facts sufficient to support a claim for a writ of mandate to which the county was not immune: "[W]e conclude mandamus may issue to compel a county to comply with its duty to calculate and distribute tax revenue. In light of our holding, we need not resolve whether plaintiffs could have maintained claims for quasi-contract or constructive trust had mandamus not been available."[6] (*City of Dinuba*, at p. 870; see *id.* at p. 863 ["We . . . conclude that because [the plaintiff] is seeking to enforce a

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[6] "Mandamus" and "mandate" are synonyms. (Code Civ. Proc., § 1084.)

mandatory duty imposed by statute, the remedy of mandamus is available"]; *Los Angeles County v. Riley* (1942) 20 Cal.2d 652, 662 [mandate was an appropriate remedy to compel state official to perform duty to properly calculate credits owed to county under statutory scheme governing aid to needy children].)

This Court further held the plaintiffs should be permitted to amend their complaint to specifically plead a claim for a writ of mandate because the alleged facts supported recovery on that theory. (*City of Dinuba*, *supra*, 41 Cal.4th at p. 870.) The same is true here.[7]

In sum, the Court of Appeal erred by holding Government Code section 815 barred the Hospitals' action against the County for reimbursement that the County had a duty to pay under the Knox-Keene Act. Whether viewed as an action for breach of implied-in-law contract (the theory pleaded) or as a petition for writ of mandate (the theory that could be pleaded based on the alleged facts), the Hospitals' action is not a tort action for damages subject to Government Code section 815.

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[7] The plaintiffs in *City of Dinuba* originally alleged a claim for a writ of mandate but omitted it from their amended complaint after the trial court sustained the defendants' demurrer. (*City of Dinuba*, *supra*, 41 Cal.4th at p. 870.) Here, the Hospitals did not allege a claim for a writ of mandate. However, when testing the sufficiency of a pleading against a demurrer, the Court is "not limited to plaintiffs' theory of recovery or 'form of action' pled." (*Ibid.*) Rather, as noted above, the question is whether the alleged facts support recovery under *any* theory.

B. Government Code section 815.6 authorizes an action for statutory reimbursement. The Court of Appeal's contrary conclusion is at odds with prior Court of Appeal and Supreme Court opinions.

Even if, contrary to the argument in Part I.A. above, Government Code section 815 would otherwise bar the Hospitals' action for reimbursement, Government Code section 815.6 provides authority for the action.

Government Code section 815 opens with language recognizing exceptions to the immunity codified in the section: "Except as otherwise provided by statute: . . . ." Government Code section 815.6 is a statute that "otherwise provide[s]."

Government Code section 815.6 states: "Where a public entity is under a mandatory duty imposed by an enactment that is designed to protect against the risk of a particular kind of injury, the public entity is liable for an injury of that kind proximately caused by its failure to discharge the duty unless the public entity establishes that it exercised reasonable diligence to discharge the duty."

"Government Code section 815.6 contains a three-pronged test for determining whether liability may be imposed on a public entity: (1) an enactment must impose a mandatory, not discretionary, duty [citation]; (2) the enactment must intend to protect against the kind of risk of injury suffered by the party asserting section 815.6 as a basis for liability [citations]; and (3) breach of the mandatory duty must be a proximate cause of the injury suffered." (*State of California v. Superior Court* (1984) 150 Cal.App.3d 848, 854; see *Haggis v. City of Los Angeles* (2000)

22 Cal.4th 490, 498–499.) When these requirements are met, section 815.6 "creates the private right of action" against the public entity.[8] (*Mueller v. County of Los Angeles* (2009) 176 Cal.App.4th 809, 821, emphasis omitted.)

In the Court of Appeal, the County challenged only the first prong of the three-prong test, contending that its duty to determine the reasonable and customary value of the Hospitals' emergency services was discretionary, not mandatory. (Petitioner's Reply in Further Support of Petition for Writ of Mandate 11–15.)

The Court of Appeal agreed. In the court's view, while the County's overall duty to *reimburse* Hospitals was "mandatory under Health & Safety Code section 1371.4," the County's duty to determine the *amount* of that reimbursement was discretionary "since [the County] is vested with the discretion to determine the reasonable and customary value of the services" under California Code of Regulations, title 28, section 1300.71, subdivision (a)(3)(B). (Typed opn. 8.)

In effect, the court bifurcated the unitary duty to reimburse into separate duties: a duty to reimburse and a duty to determine

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[8] Injury resulting from a public entity's failure to discharge a statutory duty qualifies as an "injury" for purposes of Government Code section 815.6 if the failure impairs a type of interest courts have protected in actions between private persons. (*Aubry*, *supra*, 2 Cal.4th at p. 968; *N.V. Heathorn, Inc. v. County of San Mateo* (2005) 126 Cal.App.4th 1526, 1533, 1536–1537.) As explained above, in actions between private persons or entities, the courts have protected emergency providers' interest in recovering reasonable reimbursement for emergency services. (See *ante*, pp. 25–27.)

the amount to reimburse. There is only one statutorily imposed obligation here—to reimburse the emergency provider for the reasonable and customary value of its services. "The language of [section 1371.4] is mandatory and insurers that elect not to comply may not engage in the business of insurance within California." (*Coast Plaza Doctors Hospital v. Blue Cross of California* (2009) 173 Cal.App.4th 1179, 1187.)

But even if the duty can be bifurcated, the second duty is also mandatory. The Court of Appeal's decision to the contrary is at odds with both *Bell* and *Prospect*.

In *Bell*, although the court was not construing Government Code section 815.6, it examined the nature of a health plan's legal duty to reimburse emergency providers for emergency services rendered to the plan's enrollees. (*Bell*, *supra*, 131 Cal.App.4th at pp. 215–220.) Like the County here, the plan in *Bell* argued the emergency provider could not maintain an action for reimbursement because the provider had no legal right to any particular amount of reimbursement. (*Id.* at p. 214.) The plan contended that the Legislature used the term " ' "reimbursement" ' " in its " 'generic sense,' " simply to mean payment and not to require that the payment be reasonable or tied to any specific amount. (*Id.* at p. 220.) In other words, the plan argued, the amount of reimbursement rested in the plan's discretion. (*Ibid.*)

The court rejected that argument, explaining that the health plan does *not* have "unfettered discretion" to determine the amount payable. (*Bell*, *supra*, 131 Cal.App.4th at p. 220.)

Rather, *both* the duty to reimburse *and* the duty to pay an amount equal to the reasonable and customary value of the services are *mandatory* duties:

> [T]he health care plans' duty to reimburse arises out of the providers' duty to render services without regard to a patient's insurance status or ability to pay. Because Blue Cross's interpretation of "reimburse" would render illusory the protection the Legislature granted to the providers, the duty to reimburse must be read as *a duty to pay a reasonable and customary amount for the services rendered*.

(*Ibid.*, emphasis added.)

In *Prospect*, this Court echoed *Bell*'s conclusion that health plans have a mandatory duty to pay an amount equal to the reasonable and customary value of the services rendered. After quoting California Code of Regulations, title 28, section 1300.71, subd. (a)(3)(B) (see *ante*, fn. 2 [quoting § 1300.71]), the Court stated: "Thus, the HMO has a 'duty to pay a reasonable and customary amount for the services rendered.' " (*Prospect*, *supra*, 45 Cal.4th at p. 505.) The Court implicitly rejected the proposition that the health plan enjoys complete discretion to determine the amount payable, explaining: "[H]ow this amount is determined can create obvious difficulties. In a given case, a reasonable amount might be the bill the doctor submits, or the amount the HMO chooses to pay, or some amount in between." (*Ibid.*) In other words, "the amount the HMO chooses to pay" will not necessarily be the amount the health plan must pay to satisfy its statutory duty.

The Court of Appeal here mistakenly believed that because "reasonable and customary value" is, by definition, not a preset amount but can be determined only after considering the factors enumerated in the regulation, the determination necessarily lies within the County's discretion. (Typed opn. 8.) *Bell* and *Prospect*, however, establish that the health plan's duty to pay the reasonable and customary value, as determined by a court in the event of a dispute, is mandatory and not discretionary.

If this Court finds it necessary to consider whether Government Code section 815.6 authorizes the Hospitals' action, the Court should reconcile the conflicting views of the Court of Appeal here, on the one hand, and the *Bell* and *Prospect* decisions, on the other hand, as to whether the County's duty to reimburse the Hospitals in an amount equal to the reasonable and customary value of the emergency services is mandatory or discretionary.

II. The Court of Appeal's application of Government Code section 815, and its refusal to apply section 815.6, threaten serious adverse consequences for California's emergency medical services delivery system.

The Court of Appeal's decision to shield the County from the Hospitals' reimbursement action reintroduces the " 'fundamental flaw' " in the emergency medical services delivery system that the court identified and avoided in *Bell*. (*Bell*, *supra*, 131 Cal.App.4th at p. 218.) By allowing the County " 'to unilaterally determine the level of reimbursement for noncontracted emergency providers' " and denying the providers

judicial recourse, the Court of Appeal's decision grants the County carte blanche to " 'systemically underpay California's safety-net providers.' " (*Ibid.*) The *Bell* court recognized that if providers cannot bring court actions to challenge health plans' reimbursement determinations, then "health plans may receive an unjust windfall." (*Ibid.*)

While *Bell* denied that windfall in a case involving a *private* health plans, the Court of Appeal's decision here effectively grants to *public* health plans the same windfall *Bell* found would be unjust—by immunizing their unilateral reimbursement determinations from judicial review.

The Court of Appeal's decision threatens to destabilize California's emergency medical services delivery system by creating a powerful economic incentive for publicly operated health plans *not* to enter contracts with emergency providers setting the rates of reimbursement for emergency services.

Contracts, of course, require bilateral negotiation and mutual agreement. What health plan would negotiate the rates for emergency services in advance, when it knows it can unilaterally set the rates in response to any reimbursement claim, and that the hospital submitting the claim is powerless to challenge the plan's determination?

This Court has recognized that the financial viability of California's emergency health care delivery system depends on ensuring that providers receive the reimbursement to which they are legally entitled:

> " 'The prompt and appropriate reimbursement of emergency providers ensures the continued financial

> viability of California's health care delivery system . . . . [D]enying emergency providers judicial recourse to challenge the fairness of a health plan's reimbursement determination[ ] allows a health plan to systematically underpay California's safety-net providers.' "

(*Prospect*, *supra*, 45 Cal.4th at p. 508, quoting *Bell*, *supra*, 131 Cal.App.4th at p. 218.)

The unilaterally determined rates that would follow from the Court of Appeal's decision will almost surely be lower than what negotiated rates would have been. The result will be unlawfully inadequate reimbursement payments to emergency providers. Emergency room doctors will be out of luck and may be driven from the practice, resulting in a shortage of critically needed services. Hospitals unable to recoup the reasonable value of their emergency services may, to the extent possible, increase their charges for nonemergency services to make up for the shortfall. Nonemergency patients or their insurers will end up subsidizing emergency patients enrolled in a government health plan who require services at a hospital that has no contract with the plan. Nothing in the Knox-Keene Act or its regulations suggests the Legislature or the Department expected or intended that sort of subsidy.

In *Prospect*, this Court observed that resolution of disputes between emergency providers and health plans regarding the amount the health plan owes the provider "can create difficult problems." (*Prospect*, *supra*, 45 Cal.4th at p. 502.) But the

question of how to resolve those disputes was not then before the Court for decision. (*Ibid.*)

The present case places the question front and center in the context of publicly operated health care plans. The trial court described the issue as "novel" and encouraged the County to seek appellate review. (Vol. 3, exh. 28, p. 720.) Amicus curiae CSAC likewise urged the Court of Appeal to address the "critical issues" presented and "provide necessary guidance to public entities throughout California." (Amicus Letter, *supra*, 2021 WL 2005989, at pp. *1–*2.)

The issues raised by the Court of Appeal's decision need to be settled by this Court. Health care providers, public entities, and the lower courts alike all need guidance. This case raises important questions about the scope of both government immunity and "tort" liability that potentially will affect other areas of public entity liability. The Hospitals urge this Court to grant review, address the important issues presented, and resolve the tension in the cases created by the Court of Appeal's opinion.

CONCLUSION

For the reasons explained above, this Court should grant review.

June 6, 2022

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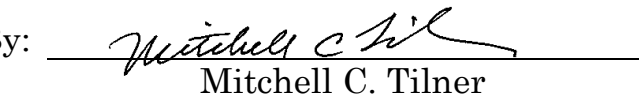
By: 
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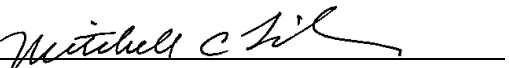
CERTIFICATE OF WORD COUNT

(Cal. Rules of Court, rule 8.504(d)(1).)

The text of this petition consists of 8,397 words as counted by the program used to generate the petition.

Dated: June 6, 2022



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COURT OF APPEAL OPINION
H048486 • APRIL 26, 2022

Filed 4/26/22

CERTIFIED FOR PUBLICATION

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SIXTH APPELLATE DISTRICT

COUNTY OF SANTA CLARA, Petitioner, v. THE SUPERIOR COURT OF SANTA CLARA COUNTY, Respondent, DOCTORS MEDICAL CENTER OF MODESTO et al., Real Parties in Interest.	H048486 (Santa Clara County Super. Ct. No. 19CV349757)

Petitioner County of Santa Clara operates a health care service plan, licensed under the Knox-Keene Health Care Service Plan Act. Real parties in interest Doctors Medical Center of Modesto and Doctors Hospital of Manteca, Inc. (collectively, the Hospitals) provided emergency medical services to members of the county's health plan and submitted reimbursement claims to the county. The county reimbursed the Hospitals for only part of the claimed amounts. The Hospitals sued the county for the full amounts of their claims, the operative complaint alleging a single cause of action for breach of an implied-in-fact or implied-in-law contract. The county demurred, asserting it is immune from the Hospitals' suit under the Government Claims Act (Gov. Code, § 810 et seq.).

Respondent court overruled the demurrer, the county petitioned for writ relief here, and we issued an order to show cause. Because the county is immune from common law claims under the Government Claims Act and the Hospitals do not state a

claim for breach of an implied-in-fact contract, we will issue a writ of mandate instructing the trial court to enter a new order sustaining the demurrer without leave to amend.

I. TRIAL COURT PROCEEDINGS

According to the Hospitals' operative third amended complaint, the county operates a health care service plan called Valley Health Plan, which is licensed and regulated by the state Department of Managed Health Care (Department) under the Knox-Keene Health Care Service Plan Act of 1975 (Health & Saf. Code, § 1340 et seq.; "Knox-Keene Act"). The Hospitals provided emergency medical services to three patients enrolled in the county's health plan. The Hospitals submitted claims to the county for over $144,000, amounting to what they allege is the reasonable value of the emergency medical services provided to those patients. The county reimbursed the Hospitals approximately $28,500 for those services. The Hospitals submitted written administrative appeals to the county for the unpaid sums, which the county denied.

The Hospitals sued the county for reimbursement. The Hospitals initially alleged both tort and implied-in-fact contract causes of action. The trial court sustained the county's demurrer to the Hospitals' second amended complaint. The court denied leave to amend regarding the tort causes of action, concluding that as a public entity the county was immune from those common law claims. (Citing Gov. Code, § 815; unspecified statutory references are to the Government Code.) The trial court granted leave to amend the breach of implied contract cause of action.

The Hospitals allege in the operative third amended complaint's single cause of action that they provided emergency medical services to the county's patients with the expectation of "reasonable and customary payment" from the county; that the county did not "assert that the Patients were not [its] insured[s] or indicate in any way to the [Hospitals] that [it] would not cover the Patients['] medical expenses"; that inaction by the county "gave rise to implied-in-fact agreements between the [Hospitals] and [the

county] obligating [the county] to pay for the care and treatment rendered by the [Hospitals] to the Patients at a reasonable and customary rate"; and that the county's ordinances "approved by its Board of Supervisors, as well as the statutes contained within the Knox-Keene Act and regulations of [the Department], give rise to implied-in-law agreements between the [Hospitals] and [the county] obligating [the county] to pay for the care and treatment rendered by the [Hospitals] to the Patients at a reasonable and customary rate." The county allegedly "acknowledged [its] implied contractual obligations to the [Hospitals] by issuing partial payment on such claims. However, [it] failed to fully reimburse the [Hospitals] for the services rendered to the Patients at reasonable and customary rates as required by the Knox-Keene Act."

The county demurred to the operative complaint, arguing there is no private right of action to sue for reimbursement under the Knox-Keene Act; a breach of an implied contract cause of action cannot be asserted against a public entity; and (in supplemental briefing) that the county was immune from the lawsuit by operation of section 815. The demurrer to the third amended complaint was heard by a different judge, who after the hearing issued a lengthy order overruling the demurrer. The order states that the county cannot "rely on a public policy regarding contracts as to public entities so that it can be exempted from" the Knox-Keene Act. The trial court reasoned that the "public policy to promote the delivery and the quality of health and medical care to the people of the State of California outweighs the policy to limit common law, or implied contract claims against public entities." On the issue of immunity, the order states neither the county's "supplemental brief nor its supplemental reply brief persuade the Court that [the county] is immune from the quantum meruit cause of action contemplated by statute and the [Department]. Here, whether fashioned as a cause of action for breach of an implied in fact contract or one for quantum meruit, [the Hospitals] state facts sufficient to constitute a cause of action."

The county petitioned for writ relief in this court. A different panel issued an order to show cause, invited further briefing, and granted the California State Association of Counties' request to file an amicus curiae letter.

II. DISCUSSION

We review a trial court's order overruling a demurrer de novo. (*Casterson v. Superior Court* (2002) 101 Cal.App.4th 177, 182.) We assume the truth of factual allegations in the complaint, and determine whether a valid cause of action is stated under any legal theory. (*Mayron v. Google LLC* (2020) 54 Cal.App.5th 566, 571.) "Although extraordinary relief ordinarily is not available at the pleading stage, mandamus is available when ... extraordinary relief may prevent a needless and expensive trial and reversal." (*Spielholz v. Superior Court* (2001) 86 Cal.App.4th 1366, 1370, fn. 4.)

A. THE KNOX-KEENE ACT

The county (through its Valley Health Plan) and the Hospitals are health care service plans licensed under the Knox-Keene Act, a "comprehensive system of licensing and regulation under the jurisdiction of the Department of Managed Health Care." (*Bell v. Blue Cross of California* (2005) 131 Cal.App.4th 211, 215 (*Bell*).) The county has no contract for the provision of medical services with either of the Hospitals, making them noncontracting providers. When, as here, a noncontracting health care service plan provides emergency services to another plan's enrollee, the enrollee's plan "shall reimburse providers for emergency services and care provided to its enrollees, until the care results in stabilization of the enrollee." (Health & Saf. Code, § 1371.4, subd. (b).)

Regulations implementing the Knox-Keene Act define " 'Reimbursement of a Claim' " for noncontracting providers as: "the payment of the reasonable and customary value for the health care services rendered based upon statistically credible information that is updated at least annually and takes into consideration: (i) the provider's training, qualifications, and length of time in practice; (ii) the nature of the services provided; (iii) the fees usually charged by the provider; (iv) prevailing provider rates charged in the

general geographic area in which the services were rendered; (v) other aspects of the economics of the medical provider's practice that are relevant; and (vi) any unusual circumstances in the case." (Cal. Code Regs., tit. 28, § 1300.71, subd. (a)(3)(B).)

Each health care service plan must have a dispute resolution mechanism through which noncontracting providers can seek resolution of billing and claims disputes. (Health & Saf. Code, § 1367, subd. (h)(2).) The Department has promulgated regulations governing that dispute resolution process. (See Cal. Code Regs., tit. 28, § 1300.71.38.) The Department is charged with periodically reviewing provider dispute resolution mechanisms and also may do so, "when appropriate, through the investigation of complaints of unfair provider dispute resolution mechanism(s)." (Cal. Code Regs., tit. 28, § 1300.71.38, subd. (m)(1).)

Violations of the Knox-Keene Act and the implementing regulations are subject to enforcement actions. (Health & Saf. Code, § 1371.39, subds. (a), (d); Cal. Code Regs., tit. 28, § 1300.71.38, subd. (m)(3).) Among other penalties for violating the statute and regulations, the Department's director can: issue a cease and desist order (Health & Saf. Code, § 1391); suspend or revoke a health care service plan's license (Health & Saf. Code, § 1386, subd. (a)); impose civil penalties of up to $2,500 per violation (Health & Saf. Code, § 1387, subd. (a)); and seek injunctive relief in a civil action (Health & Saf. Code, § 1392, subd. (a)(1)). Willful violations can be punished through criminal prosecution. (Health & Saf. Code, § 1390.) Health and Safety Code section 1394 states that the "civil, criminal, and administrative remedies available to the director pursuant to this article are not exclusive, and may be sought and employed in any combination deemed advisable by the director to enforce the provisions of this chapter."

When all health care service plans involved in a dispute are *private* entities, a noncontracting provider can bring an action seeking reimbursement for the reasonable value of emergency services under the Unfair Competition Law (Bus. & Prof. Code, § 17200 et seq.) or on a quantum meruit theory. (*Bell*, *supra*, 131 Cal.App.4th at p. 216.)

B. IMPLIED-IN-LAW CONTRACT CLAIM

The county argues it is immune from any implied-in-law contract cause of action by operation of the Government Claims Act. There is "no common law tort liability for public entities in California; instead, such liability must be based on statute." (*Guzman v. County of Monterey* (2009) 46 Cal.4th 887, 897 (*Guzman*).) Section 815 sets out the general rule regarding immunity: "Except as otherwise provided by statute: (a) A public entity is not liable for an injury, whether such injury arises out of an act or omission of the public entity or a public employee or any other person." The intent of the Government Claims Act is "not to expand the rights of plaintiffs in suits against governmental entities, but to confine potential governmental liability to rigidly delineated circumstances." (*Williams v. Horvath* (1976) 16 Cal.3d 834, 838; accord *Guzman*, at p. 897.) The Government Claims Act includes exceptions to immunity, including, as relevant to the Hospitals' argument here, section 815.6: "Where a public entity is under a mandatory duty imposed by an enactment that is designed to protect against the risk of a particular kind of injury, the public entity is liable for an injury of that kind proximately caused by its failure to discharge the duty unless the public entity establishes that it exercised reasonable diligence to discharge the duty."

1. Government Code Section 815 Bars a Quantum Meruit Action

Section 815 immunizes public entities from liability on common law theories. Quantum meruit is an equitable doctrine under which the " 'law implies a promise to pay for services performed under circumstances disclosing that they were not gratuitously rendered.' " (*Huskinson & Brown v. Wolf* (2004) 32 Cal.4th 453, 458; *Sheppard, Mullin, Richter & Hampton, LLP v. J-M Manufacturing Co., Inc.* (2018) 6 Cal.5th 59, 88, fn. 11.) A court faced with a similar question concluded that a quantum meruit action against a public entity is barred by section 815. (*Sheppard v. North Orange County Regional Occupational Program* (2010) 191 Cal.App.4th 289, 314 (*Sheppard*) [noting that generally " ' "a private party cannot sue a public entity on an implied-in-law or quasi-

contract theory, because such a theory is based on quantum meruit or restitution considerations which are outweighed by the need to protect and limit a public entity's contractual obligations" ' "].) Consistent with that authority, we conclude that the Hospitals cannot state a claim based solely on the common law doctrine of quantum meruit.

The Hospitals cite cases involving reimbursement disputes between private health care service plans, contending those cases demonstrate the viability of their cause of action. (Citing *Bell*, *supra*, 131 Cal.App.4th 211; *Children's Hospital Central California v. Blue Cross of California* (2014) 226 Cal.App.4th 1260, 1270 (*Children's Hospital*).) But because no public entity was involved in those cases, those courts had no occasion to decide the immunity question presented here. (*Fricker v. Uddo & Taormina Co.* (1957) 48 Cal.2d 696, 701 ["[C]ases are not authority for propositions not considered."].) And the bases for the cause of action in *Bell* were the Unfair Competition Law (Bus. & Prof. Code, § 17200 et seq.) and quantum meruit (*Bell*, *supra*, 131 Cal.App.4th at pp. 214, 216), theories of relief which cannot be asserted against a public entity. (*People for Ethical Treatment of Animals, Inc. v. California Milk Producers Advisory Bd.* (2005) 125 Cal.App.4th 871, 878–879 [Unfair Competition Law]; *Sheppard*, *supra*, 191 Cal.App.4th 289, 314 [quantum meruit].)

2. The Mandatory Duty Exception in Gov. Code Section 815.6 Does Not Apply

The Hospitals argue that their suit is authorized by section 815.6, an exception to immunity which applies where a public entity fails to discharge a "mandatory duty imposed by an enactment that is designed to protect against the risk of a particular kind of injury." "[A]pplication of section 815.6 requires that the enactment at issue be *obligatory*, rather than merely discretionary or permissive, in its directions to the public entity; it must *require*, rather than merely authorize or permit, that a particular action be taken or not taken." (*Haggis v. City of Los Angeles* (2000) 22 Cal.4th 490, 498.) And it is not enough that the "public entity or officer have been under an obligation to perform a

function if the function itself involves the exercise of discretion." (*Ibid.*) Whether a statute imposes a mandatory duty is a question of law (*id.* at p. 499), which we review de novo.

The Hospitals argue that Health & Safety Code section 1371.4, subdivision (b) imposes a mandatory duty on the county that triggers the section 815.6 exception to immunity. Under that subdivision, the county "shall reimburse [the Hospitals] for emergency services and care provided to its enrollees, until the care results in stabilization of the enrollee." (Health & Saf. Code, § 1371.4, subd. (b).) The implementing regulations state that the reimbursement must be for the "reasonable and customary value" of the health care services performed. (Cal. Code Regs., tit. 28, § 1300.71, subd. (a)(3)(B).) Though the duty to reimburse is mandatory under Health & Safety Code section 1371.4, the county has discretion in the *amount* of that reimbursement since it is vested with the discretion to determine the reasonable and customary value of the services. Because the county is vested with discretion in determining the value of the reimbursement to be paid under Health & Safety Code section 1371.4, that section does not create a purely mandatory duty. Section 815.6 therefore does not authorize the Hospitals' implied-in-law contract cause of action.

3. No Other Statute Authorizes an Action for Damages

Though section 815 describes broad immunity, it also contains the limiting phrase, "[e]xcept as otherwise provided by statute." The Supreme Court has explained that "direct tort liability of public entities must be based on a specific statute declaring them to be liable, or at least creating some specific duty of care." (*Eastburn v. Regional Fire Protection Authority* (2003) 31 Cal.4th 1175, 1183 (*Eastburn*).) We interpret the phrase "specific statute declaring them to be liable" as requiring that a statute include a private right of action authorizing a suit against a public entity. We invited supplemental briefing regarding whether Health and Safety Code section 1371.4 or any other section of

the Knox-Keene Act authorizes a private right of action that would support the Hospitals' reimbursement suit.

Not all violations of a statute give rise to a private right of action. (*Lu v. Hawaiian Gardens Casino, Inc.* (2010) 50 Cal.4th 592, 596–597 (*Lu*).) "[W]hether a party has a right to sue depends on whether the Legislature has 'manifested an intent to create such a private cause of action' under the statute." (*Ibid.*) That intent can be shown through " ' "clear, understandable, unmistakable terms" ' " in the text of the statute itself that "strongly and directly indicate that the Legislature intended to create a private cause of action." (*Id.* at p. 597; e.g., Health & Saf. Code, § 1285, subd. (c) ["Any person who is detained in a health facility solely for the nonpayment of a bill has a cause of action against the health facility for the detention."], Veh. Code, § 17001 ["A public entity is liable for death or injury to person or property proximately caused by a negligent or wrongful act or omission in the operation of any motor vehicle by an employee of the public entity acting within the scope of his employment."].) Even absent such clear statutory language, legislative history can reveal an intent to impose liability. (*Lu*, at p. 597.)

The Hospitals acknowledge that "there is no express[] language providing a private right of action under the Knox-Keene Act." Having reviewed the Knox-Keene Act, we agree that nothing in that statutory scheme provides a private right of action that would support the Hospitals' reimbursement action against the county. Though under Health and Safety Code section 1371.4 the county has an obligation to reimburse the Hospitals for the care provided to the county's enrollees, nothing in that section demonstrates a legislative intent to allow the Hospitals to sue directly under that statute to enforce the obligation. Unlike statutes that provide a private right of action, Health and Safety Code section 1371.4 does not state that the health care service plan entitled to reimbursement "has a cause or action," or that the debtor health care service plan "is

liable" for that reimbursement. (Compare Health & Saf. Code, § 1371.4 with Health & Saf. Code, § 1285, subd. (c), Veh. Code, § 17001.)

The Hospitals argue that despite the lack of express language creating a private right of action under the Knox-Keene Act, "there is clear legislative intent providing for such a right, as further supported by established case[ ]law." But the Hospitals point to nothing in the legislative history of the Knox-Keene Act evincing an intent to allow private rights of action. They cite Health & Safety Code section 1399.5, which states in relevant part that the Knox-Keene Act "shall be applicable to any private or public entity or political subdivision which, in return for a prepaid or periodic charge paid by or on behalf of a subscriber or enrollee, provides, administers or otherwise arranges for the provision of health care services." But that section merely discusses the general applicability of the Knox-Keene Act, and does not show clear legislative intent to allow a private right of action in this context.

According to the Hospitals, "California Courts have repeatedly held that private rights of action are permitted to challenge violations of the Knox-Keene Act under the UCL and common law." That contention reflects a misunderstanding of the private right of action concept. A statute which creates a private right of action is one that can be sued on *directly*, not through the common law or another statute. The cases the Hospitals cite, including *Bell*, were brought on unfair competition law and quantum meruit theories (*Bell*, *supra,* 131 Cal.App.4th at p. 216), and did not assert a private right of action under Health and Safety Code section 1371.4. Because the Hospitals cannot point to a "specific statute declaring [the county] to be liable" (*Eastburn*, *supra*, 31 Cal.4th at p. 1183), section 815 applies to bar the Hospitals' implied-in-law contract action.

The Hospitals assert that finding the county immune from the Hospitals' implied-in-law contract action will allow the county "to unilaterally underpay the patient accounts at issue" without any recourse to the Hospitals. They argue in their supplemental brief that "there is no remedy available under the Knox-Keene Act or any statutory framework

that would ensure that non-contracted provider health care service plans are reimbursed for the reasonable and customary value of the services rendered to public entity health care service plan enrollees." But the Knox-Keene Act contains enforcement alternatives to litigation. Noncontracting provider disputes are processed through a dispute resolution process governed by statute and regulation. (Health & Saf. Code, § 1367, subd. (h)(2); Cal. Code Regs., tit. 28, § 1300.71.38.) The Department has authority to review provider dispute resolution mechanisms, including "through the investigation of complaints of unfair provider dispute resolution mechanism(s)." (Cal. Code Regs., tit. 28, § 1300.71.38, subd. (m)(1).) Providers may report allegedly unfair payment patterns to the Department, which "shall review complaints" and "may conduct an audit or an enforcement action." (Health & Saf. Code, § 1371.39, subds. (a), (d).) The Department director also has broad regulatory authority to investigate health care service plans and to impose financial or other penalties for violations of the Knox-Keene Act (see Health & Saf. Code, §§ 1386–1392), including penalties as severe as criminal prosecution and revocation of a health care service plan's license. (Health & Saf. Code, §§ 1386, subd. (a), 1390.) We recognize that financial penalties to be paid to the Department may deter violations but do not directly reimburse service providers. Nonetheless, although section 815 forecloses the Hospitals' chosen means of enforcement, they are not without *any* recourse to address their dispute with the county.

We acknowledge that under our interpretation of the relevant statutes a health care service plan has greater remedies against a private health care service plan than it does against a public entity health care service plan. (E.g., *Bell, supra,* 131 Cal.App.4th 211.) But that result is driven by the Legislature broadly immunizing public entities from common law claims and electing not to abrogate that immunity in the context presented here. We have no authority to rewrite the statutes we are called upon to interpret. (*People v. Statum* (2002) 28 Cal.4th 682, 692.)

4. The Trial Court's Constitutional Concerns Are Unfounded

The trial court's order expressed the view that the public policy argument the county proffered would "ultimately result in acts that are both unconstitutional [citations] and against the stated Legislative purposes and the underlying policies of the Knox-Keene Act." The Hospitals embrace the trial court's constitutional concerns, which appear to derive from a statement in *Bell* rejecting the notion that a plan was "free to reimburse emergency care providers at whatever rate it unilaterally and arbitrarily selects" because under that interpretation "emergency care providers could be reimbursed at a confiscatory rate that, aside from being unconscionable, would be unconstitutional." (*Bell*, *supra*, 131 Cal.App.4th at p. 220; citing *Cunningham v. Superior Court* (1986) 177 Cal.App.3d 336, 348 [requiring private attorney to represent indigent client and provide free legal services violated equal protection].)

In contrast to the issues raised in *Cunningham* and *Bell*, the county does not contest its obligation to reimburse the Hospitals for the reasonable and customary value of the services provided to the county's enrollees. The issue here is what remedies may be pursued against the county when the reasonableness of the reimbursement is disputed. As we have discussed, the Knox-Keene Act and its implementing regulations provide alternative mechanisms to challenge the amount of emergency medical services reimbursements.

C. IMPLIED-IN-FACT CONTRACT CLAIM

The operative complaint alleges the existence of an implied-in-fact contract with the county. Because section 815 does not "affect[] liability based on contract" (Gov. Code, § 814), the county's immunity from common law and tort claims does not necessarily preclude the Hospitals from maintaining an action for breach of an implied-in-fact contract. Whether an action sounds in contract or tort for purposes of governmental immunity " 'depends upon the nature of the right sued upon, not the form of the pleading or relief demanded. If based on breach of promise it is contractual; if

based on breach of a noncontractual duty it is tortious.' " (*Roe v. State of California* (2001) 94 Cal.App.4th 64, 69.)

The operative complaint contains a single cause of action for breach of an implied contract; within that cause of action are allegations based on an implied-in-law contract and an implied-in-fact contract. But ultimately the nature of the right sued upon is the breach of a *noncontractual* duty, described in the complaint as the county's obligation under ordinances "approved by its Board of Supervisors, as well as the statutes contained within the Knox-Keene Act and regulations of [the Department] ... to pay for the care and treatment rendered by the Plaintiffs to the Patients at a reasonable and customary rate." That the operative complaint uses the phrase "reasonable and customary" rate, taken from the regulations implementing the Knox-Keene Act, indicates that the right sued upon derives from statute rather than contract. (See Cal. Code Regs., tit. 28, § 1300.71, subd. (a)(3)(B).) Because the Hospitals' suit is based on an alleged breach of statutory duty rather than an alleged breach of promise, the nature of the Hospitals' action is tortious and the county is immune from suit under section 815.[1]

San Mateo Union High School Dist. v. County of San Mateo (2013) 213 Cal.App.4th 418 (*San Mateo*) is instructive and supports our reasoning. The plaintiffs in *San Mateo* were school districts that invested money in a pooled retirement fund operated by the defendant County of San Mateo. The fund invested substantial capital with Lehman Brothers Holdings, Inc. (Lehman Brothers), losing over $150 million when the company went bankrupt. The plaintiffs sued the county following the collapse of Lehman Brothers, alleging statutory violations of prudent investor standards as well as breach of contract. (*Id.* at p. 424.) On appeal from a sustained demurrer, the

[1] That the Hospitals allege a breach of statutory duty factually distinguishes this case from *Children's Hospital*, *supra*, 226 Cal.App.4th at pp. 1268–1270, where the jury found an implied-in-fact contract between a hospital and a health care service plan to fill a gap for the time period separating the entities' two written contracts which set reimbursement rates.

San Mateo court determined that the statutory claims were barred by section 815. (*Id.* at pp. 432, 434.) The court also concluded the plaintiffs did not state a cause of action for breach of contract because the "nature of the right sued upon in the [breach of contract] cause of action is not for breach of a promise, but rather for acts or omissions that constitute violations of independent noncontractual duties" set forth in statute. (*Id.* at p. 440.) The court reasoned that the "gravamen of plaintiffs' claim is the failure of defendants to manage the [investment fund] competently, in accordance with investment policies and statutory requirements, not breach of any separate or additional contractual obligations." (*Ibid*.)

The Hospitals cite *Retired Employees Assn. of Orange County, Inc. v. County of Orange* (2011) 52 Cal.4th 1171 (*Retired Employees*), which determined that "a county may be bound by an implied contract under California law if there is no legislative prohibition against such arrangements, such as a statute or ordinance." (*Id.* at p. 1176.) But the only relevant conduct the Hospitals point to here is the issuance of "partial payment" by county employees in response to the Hospitals' claims. The administrative actions of a county employee do not themselves create contractual liability on the part of the *county*, whose contracting authority originates with its Board of Supervisors. (Santa Clara County Charter, art. III, § 300 ["The county may exercise its powers only through the Board of Supervisors or officers acting under its authority or of law or of this Charter."][2]; see *Dones v. Life Insurance Company of North America* (2020) 55 Cal.App.5th 665, 693 [distinguishing *Retired Employees*; "Conduct by a County employee such as setting up payroll deductions and issuing confirmations of open

[2] Both parties cite this section of the Santa Clara County Charter in their supplemental brief, but neither requested judicial notice. We take judicial notice of the Santa Clara County Charter on our own motion. (Evid. Code, §§ 452, subd. (b), 459, subd. (c), 455, subd. (a).)

enrollment benefit elections cannot operate to create an implied contract for provision of benefits in a manner contrary to legislative constraints."].)

The Hospitals argue that the county's charter provision restricting to the Board of Supervisors the authority to act on behalf of the county cannot be used to "abridge its statutory liability" under the Knox-Keene Act. But the county does not dispute its obligation under the Knox-Keene Act to reimburse the Hospitals for the reasonable and customary value of the services provided to the county's enrollees. Indeed, the county has a local ordinance authorizing "Valley Health Plan payment[s] to providers for medical services."[3] The cited charter provision is a generally applicable section that was not designed to evade statutory liability. That fact distinguishes this case from those relied on by the Hospitals, such as *Societa Per Azioni De Navigazione Italia v. City of Los Angeles* (1982) 31 Cal.3d 446, where the City of Los Angeles attempted to use a local enactment to shield itself from respondeat superior liability. (See *id.* at p. 463 ["To the extent that the tariff/ordinance purports to exculpate the City from respondeat superior liability for the torts of its pilot-employees, it is in direct conflict with general state law."].)

D. LEAVE TO AMEND

We requested supplemental briefing about whether leave to amend should be granted if the operative complaint fails to state a cause of action. Leave to amend would be appropriate if there is a reasonable possibility an amendment would cure the defect that caused the demurrer to be sustained. (*Smith v. BP Lubricants USA Inc.* (2021) 64 Cal.App.5th 138, 145.)

Based on our conclusion that the nature of the Hospitals' action against the county is tortious rather than contractual, government immunity applies. The Hospitals have not identified any statute that would abrogate the immunity. Nor have they identified any

[3] We take judicial notice of this ordinance as a matter properly noticed by the trial court. (Evid. Code, § 459.)

conduct by the county's Board of Supervisors that might support a breach of implied contract cause of action. As the Hospitals have not demonstrated a reasonable possibility of successfully amending their complaint, they are not entitled to that opportunity.

III. DISPOSITION

Let a peremptory writ of mandate issue directing respondent court to vacate its September 3, 2020 order overruling petitioner County of Santa Clara's demurrer and to enter a new order sustaining the demurrer without leave to amend. Costs in this original proceeding are awarded to petitioner. (Cal. Rules of Court, rule 8.493(a)(2).) Upon issuance of the remittitur, the temporary stay order is vacated.

_____

Grover, Acting P. J.

WE CONCUR:

_____

Lie, J.

_____

Wilson, J.

Trial Court:	Santa Clara County Superior Court Superior Court No. 19CV349757
Trial Judge:	Hon. Maureen A. Folan
Petitioner COUNTY OF SANTA CLARA	James R. Williams, County Counsel Douglas M. Press, Assistant County Counsel Melissa R. Kiniyalocts, Lead County Counsel Susan P. Greenberg, Deputy County Counsel David P. McDonough, Deputy County Counsel Office of the County Counsel County of Santa Clara
Real Parties in Interest DOCTORS MEDICAL CENTER OF MODESTO, INC. and DOCTORS HOSPITAL OF MANTECA, INC.	Albert Edward Stumpp Mikaela Grace Cox Everett Casey Mitchnick Faatima Seedat Helton Law Group
Amicus Curiae for CALIFORNIA STATE ASSOCIATION OF COUNTIES	Aurelia M. Razo, Sen. Deputy County Counsel County of San Diego

COURT OF APPEAL ORDER
MODIFYING OPINION
H048486 • MAY 18, 2022

Filed 5/18/22 (unmodified opn. attached)

CERTIFIED FOR PUBLICATION

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SIXTH APPELLATE DISTRICT

COUNTY OF SANTA CLARA, Petitioner, v. THE SUPERIOR COURT OF SANTA CLARA COUNTY, Respondent, DOCTORS MEDICAL CENTER OF MODESTO et al., Real Parties in Interest.	H048486 (Santa Clara County Super. Ct. No. 19CV349757) ORDER MODIFYING OPINION [NO CHANGE IN JUDGMENT]

BY THE COURT:

It is ordered that the opinion filed on April 26, 2022, be modified as follows:

1. On page 11, replace the first sentence of the first full paragraph with:

We acknowledge that under our interpretation of the relevant statutes a provider has greater remedies against a private health care service plan than it does against a public entity health care service plan.

There is no change in the judgment.

Dated: _____ _____

GROVER, A.P. J.

_____

LIE, J.

_____

WILSON, J.

PROOF OF SERVICE

County of Santa Clara v. The Superior Court of Santa Clara (Doctors Medical Center of Modesto et al.)
Court of Appeal Case No. H048486
Supreme Court Case No. S_____

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of Los Angeles, State of California. My business address is 3601 West Olive Avenue, 8th Floor, Burbank, CA 91505-4681.

On June 6, 2022, I served true copies of the following document(s) described as **PETITION FOR REVIEW** on the interested parties in this action as follows:

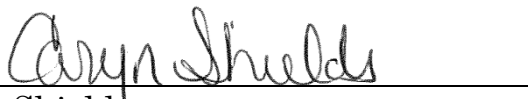
SEE ATTACHED SERVICE LIST

BY MAIL: I enclosed the document(s) in a sealed envelope or package addressed to the persons at the addresses listed in the Service List and placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with Horvitz & Levy LLP's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

BY E-MAIL OR ELECTRONIC TRANSMISSION: Based on a court order or an agreement of the parties to accept service by e-mail or electronic transmission via Court's Electronic Filing System (EFS) operated by ImageSoft TrueFiling (TrueFiling) as indicated on the attached service list:

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

Executed on June 6, 2022, at Burbank, California.



Caryn Shields

SERVICE LIST
County of Santa Clara v. The Superior Court of Santa Clara (Doctors Medical Center of Modesto et al.)
Court of Appeal Case No. H048486
Supreme Court Case No. S_____

James R. Williams (SBN 271253) Douglas M. Press (SBN 168740) Melissa R. Kiniyalocts (SBN 215814) Susan P. Greenberg (SBN 318055) David P. McDonough (SBN 250251) Office of the County Counsel 70 West Hedding Street East Wing, Ninth Floor San Jose, CA 95110-1770 (408) 299-5900 james.williams@cco.sccgov.org douglas.press@cco.sccgov.org melissa.kiniyalocts@cco.sccgov.org susan.greenberg@cco.sccgov.org david.mcdonough@cco.sccgov.org	Attorneys for Petitioner County of Santa Clara *Via TrueFiling*
Edward Stumpp (SBN 157682) Mikaela Cox (SBN 316886) Casey E. Mitchnick (SBN 298550) Faatima Seedat (SBN 317090) Helton Law Group, APC 1590 Corporate Drive Costa Mesa, CA 92626-1426 (562) 901-4499 •Fax: (562) 901-4488 estumpp@helton.law mcox@helton.law cmitchnick@helton.law fseedat@helton.law	Attorneys for Real Parties in Interest Doctors Medical Center of Modesto, Inc. and Doctors Hospital of Manteca, Inc. *Via TrueFiling*
Honorable Maureen A. Folan Santa Clara County Superior Court 191 North First Street, Dept. 6 San José, CA 95113 (408) 882-2160	Case No. 19CV349757 *Via U.S. Mail*

Clerk of the Court
California Court of Appeal
Sixth District Court of Appeal
333 West Santa Clara Street
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San Jose, CA 95113

Case No. H048486

Via TrueFiling