

STATE OF MAINE
CUMBERLAND, ss.

BUSINESS & CONSUMER DOCKET
DOCKET NO. BCDWB-CV-2019-02

CORE FINANCE TEAM AFFILIATES,)
LLC,)
)
Plaintiff)
)
v.)
)
MAINE HOSPITAL ASSOCIATION,)
INC., MAINE MEDICAL CENTER,)
SOUTHERN MAINE HEALTH CARE)
and FRANKLIN MEMORIAL HOSPITAL,)
)
Defendants)

ORDER DENYING CROSS
MOTIONS FOR SUMMARY
JUDGMENT

Plaintiff Core Finance Team Affiliates, LLC (“Core Finance”) and the three Defendant hospitals (Maine Medical Center, Southern Maine Health Care, and Franklin Memorial Hospital) as a group (the “Hospitals”) have each filed cross Motions for Summary Judgment on Count I of the Complaint. Count I alleges breach of contract.¹ Core Finance and the Hospitals each assert there are no genuine disputes of material fact as to their respective Motions, but dispute the facts as to the other party’s Motion. The Court heard oral argument on the Motions on June 28, 2021 via Zoom. Core Finance was represented by Lee Bals, Esq., and the Hospitals were represented by Kyle Noonan, Esq. and Eric Wycoff, Esq. The Court concludes that each Motion for Summary Judgment is plagued by genuine issues of material fact, and thus the Court denies both Motions.

¹ The Complaint contains two counts. Count II alleges unjust enrichment.

FACTS

Many of the facts material to Count I are undisputed. Indeed, the parties have stipulated to forty basic Statements of Material Fact. However, those facts alone are not sufficient to decide the Motions. Accordingly, each party has necessarily submitted Statements of Material Fact which go beyond the stipulated facts. This is where the problems begin, since many of the Statements of Material Fact that are not stipulated are disputed.

The facts that each party is trying to establish pertain to Exhibit E to the final Engagement Letter dated June 10, 2014. Exhibit E provides as follows: "MHA will provide a listing of the providers who elect to participate in the Occupational Mix Survey review. CFT will be responsible for confirming the provider(s) participation and directly bill the provider for those services." Several questions emerge from Exhibit E. Did MHA provide a list of the hospitals who elected to participate in the Occupational Mix Survey review? Did Core Finance confirm the hospitals' participation? Did the hospitals signal their agreement to participate in the Occupational Mix Survey review? Did the various personnel who responded on behalf of the hospitals have authority to bind the hospitals? The answers to all these questions are hotly disputed. Specifically, Core Finance disputes or materially qualifies the Hospitals' Statements of Material Fact ¶¶ 25, 26, 28, 29, 35, 40, 42, and 44. Conversely, the Hospitals dispute or materially qualify Core Finance's Statements of Material Fact ¶¶ 5, 7, 11, 12, 13, 14, 16, 17, 18 and 20.

STANDARD OF REVIEW

Summary judgment is appropriate if, based on the parties' statements of material fact and the cited record, there is no genuine issue of material fact and the moving party is entitled to a judgment as a matter of law. M.R. Civ. P. 56(c); *Levine v. R.B.K. Caly Corp.*, 2001 ME 77, ¶ 4,

770 A.2d 653. A genuine issue of material fact exists when a factfinder must choose between competing versions of the truth, even if one party's version appears more credible or persuasive. *Id.* A fact is material if it has the potential to affect the outcome of the suit. *Id.* Cross motions for summary judgment "neither alter the basic Rule 56 standard, nor warrant the grant of summary judgment per se." *F.R. Carroll, Inc. v. TD Bank, N.A.*, 2010 ME 115, ¶ 8, 8 A.3d 646 (quoting *Wightman v. Springfield Terminal Ry. Co.*, 100 F.3d 228, 230 (1st Cir. 1996)).

ANALYSIS

Although some of the material facts in this case are undisputed, many of the key material facts pertaining to Exhibit E remain contested. Under the circumstances, it is not possible to decide the fate of Count I on summary judgment.

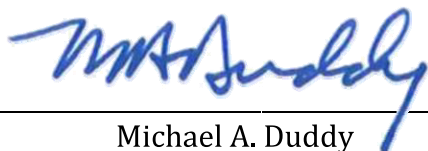
CONCLUSION

For all these reasons, the parties' cross Motions for Summary Judgment on Count I are both denied.

So Ordered.

Pursuant to M.R. Civ. P. 79(a), the Clerk is instructed to incorporate this Order by reference on the docket for this case.

Dated: June 28, 2021



Michael A. Duddy
Judge, Business and Consumer Docket