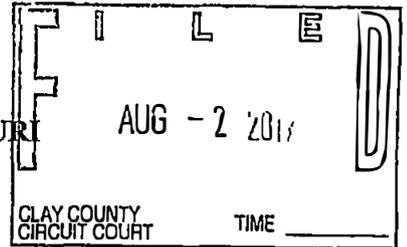


IN THE CIRCUIT COURT OF CLAY COUNTY, MISSOURI  
ASSOCIATE CIRCUIT DIVISION



RAY COUNTY MEMORIAL HOSPITAL

Plaintiff,

vs.

Case No.: [REDACTED]

Division No.: 9

DS, A.K.A. JS

Defendant.

JUDGMENT

On July 24, 2017, Plaintiff, the Ray County Memorial Hospital (“Plaintiff”) appeared by attorney SW and by their billing and collections supervisor Defendant DS, a k a JS, appears in person (“Defendant”) and by attorney AS. The parties announced ready for trial, evidence was adduced and the Court took the matter under advisement. Now having considered all the evidence and the law, the Court finds as follows.

While Plaintiff’s Petition identifies its claim as a “Petition for Medical Services Rendered”, Petitioner’s claim is an “Action on Account.” "An action on account is based on contract. ‘Sufficiency of proof depends upon the showing of an offer, an acceptance, consideration between the parties, [and] the correctness of the account and the reasonableness of the charges ’" *MFA Livestock Association v Shrewsbury*, 965 S.W.2d 432, at 436 (Mo App W D 1998). Put another way, the burden is on Plaintiff to prove by a preponderance of the evidence that (1) at Defendant’s request, Plaintiff furnished to defendant certain goods or services, (2) Plaintiff’s charges for those services, and (3) Plaintiff’s charges were reasonable. See *MAI 26 03* A witness may state an opinion regarding the reasonableness of medical services charges if such person is “familiar with customary charges in the medical industry for services of the same type as those rendered [to a defendant]” and the person testifies the charges were reasonable and customary for the type of service rendered to defendant.

*Heartland Sys v*

*Chamberlin*, 871 S W 2d 8, 10-11 (Mo. App WD 1993).<sup>1</sup> Where an action on account claim is asserted for medical services rendered, the “necessity” of a medical service is not an element of a claim. *St Luke's Episcopal-Presbyterian Hosp v Underwood*, 957 S W 2d 496 (Mo App ED 1997) The party bringing a cause of action on account cannot prevail if one or more elements of the cause are not supported by substantial evidence. *Citibank South Dakota N A v Whiteley*, 149 S W 3d 599, 601 (Mo. App. S.D. 2004)

The Court finds that Plaintiff attempted suicide, required medical attention and was taken to Plaintiff's facility for medical treatment on May 12, 2014. Plaintiff provided emergency medical services.

Defendant's request for medical service or treatment. There is no evidence that Defendant objected to or resisted receiving medical attention. There is evidence that Defendant signed admission documents that included an “authorization for treatment” and “guarantee of payment” to be financial responsible for the medical services or treatment she received. The signed admission document also included a “consent to hospital care”, or to treatment. Defendant testified that she did not voluntarily seek treatment with Plaintiff Defendant did not deny signing the authorization and guarantee of payment. Rather, she testified that she was mentally not well at the time. Except for the fact of a suicide attempt, there was no other evidence that Defendant lacked capacity to contract. Where a party signs a contract, “[t]he general rule is that a person is bound by the terms of the contract he [or she] signs.” *Taylor & Martin, Inc v Hiland Dairy, Inc* , 676 S W 2d 859, 871-872 (Mo App 1984). Lack of capacity

<sup>1</sup>

The Court's opinion in *Heartland* sharpened its opinion in *Brd of Trustees NKC Hospital v Conway*, 675 S W 2d 36, 40 (Mo App WD 1984). There, the a collection supervisor's experience and training qualified her to opine as to the reasonableness of charges. The *Heartland* Court clarified the nature of the experience and training must be with customary charges in the medical industry for the relevant services. *Heartland, supra* at 10-11

to contract is an affirmative defense to formation of a contract.<sup>2</sup> There is insufficient credible evidence to establish that Defendant lacked sufficient capacity to enter into an agreement to pay for medical services. Defendant did admit that she at some level owed Plaintiff for services rendered. The Court disbelieves Defendant's testimony on this point. "As the trier of fact, the Court may disbelieve and reject any portion of the testimony [of a witness]" *Silver Dollar City v Kitsmiller Const Co*, 931 S W 2d 909, at 913 (Mo App S D 1996) The Court finds that Defendant requested and agreed to the medical services received and charged to her patient account.

Plaintiff's Charges for Services or Treatment Plaintiff provided credible testimony of its collections supervisor that Plaintiff's charges for medical services were in the total sum of \$9,820.21. The amount charged was not disputed, therefore, the amount charged is accurate.

Reasonableness of Plaintiff's Charges: The Court finds the collection supervisor's testimony and years of work experience established her familiarity with the reasonable and customary charges in the medical industry for charges of the type charged to Defendant. The supervisor testified that Plaintiff uses an auditor to analyze the comparable regional hospitals charges for similar medical services in order to set Plaintiff's treatment charges at comparable rates. The supervisor was fully qualified to her express her opinion of the reasonableness of the charges. See *Board of Trustees v Conway*, 675 S W 2d 36, 40 (Mo App W D 1984) (credit and collection supervisor of hospital by experience and training was qualified to express opinion on reasonableness of charges ) This testimony was credible and sufficient to prove that Plaintiff's charges for services to Defendant were reasonable.

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<sup>2</sup> Although Defendant failed to plead this defense, her evidence came in without any objection on grounds that it was waived.

Plaintiff's Attorneys' Fees The Court finds that the Defendant's agreement with Plaintiff included a provision for Plaintiff to recover attorneys' fees and expenses incurred for collection. The Court finds that Plaintiff incurred reasonable attorneys' fees of \$1,200.00 as and for the prosecution of this collection action. The Court finds that there is insufficient evidence to establish an agreement for pre-judgment interest on the charges for services or that the parties had a meeting of the minds as to the meaning of interest at the "legal rate." Similarly, there is no evidence that pre-judgment interest on charges is reasonable and customary as a "charge" for Plaintiff's medical services.

**IT IS THEREFORE ORDERED, ADJUDGED AND DECREED** that Judgment is entered in favor of Plaintiff and against Defendant in the sum of \$9,820.21 for medical charges on services rendered and \$1,000.00 for Plaintiff's attorneys' fees. Costs of this action are assessed against Defendant which includes \$33.50 in fees and \$50.00 for service of process. Post judgment interest shall accrue at the statutory rate **IT IS SO ORDERED, ADJUDGED AND DECREED.**

Dated August 2, 2017

