

**STATE OF MICHIGAN  
IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND  
BUSINESS COURT**

**DOCTOR'S EMERGENCY MEDICAL GROUP,  
Plaintiff,**

v.

**Case No. 13-137784-CK  
Hon. James M. Alexander**

**OAKLAND PHYSICIANS MEDICAL CENTER  
and YATINDER SINGHAL, M.D.,  
Defendants.**

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**OPINION AND ORDER RE: SUMMARY DISPOSITION**

This matter is before the Court on Plaintiff's motion for partial summary disposition. This case arises out of a dispute between a hospital and a provider of emergency medical services. In May 2011, Plaintiff contracted with Defendant Oakland Physicians Medical Center to provide emergency room physicians in Defendant's hospital. Under the agreement, Oakland Physicians paid Plaintiff \$126,000 per month. This agreement was extended several times in writing, eventually terminating on December 31, 2012.

After this date, however, the parties continued operating under the agreement's terms for several more months. In fact, from January through July 2013, Defendant paid Plaintiff \$126,000 each month for physician services. Then in August and September 2013, despite Plaintiff's providing the same services that it had all along, Defendant refused to pay – claiming that it had terminated the agreement. All parties acknowledge that they were negotiating a new contract during this time, but they never came to an agreement.

Plaintiff continued staffing the emergency room until September 30, 2013 – when Oakland closed it. In December 2013, Plaintiff filed the present Complaint on claims of breach of contract, quantum meruit, and fraud. In its Complaint, Plaintiff seeks \$252,000 for services performed in August and September 2013 (\$126,000 each month). Plaintiff’s Complaint also seeks an additional \$378,000 for services contemplated under a 90-day termination provision of the written agreement.

To its end, Plaintiff now seeks partial summary disposition under MCR 2.116(C)(10), which tests the factual support for Plaintiff’s claims. *Maiden v Rozwood*, 461 Mich 109, 119-120; 597 NW2d 817 (1999). In response, Defendant Dr. Yatinder Singhal seeks summary disposition under MCR 2.116(I)(2). Plaintiff’s Complaint alleges that Dr. Singhal is liable on the debt under a fraud theory because he verbally promised Plaintiff that he would pay Oakland’s debt if Oakland did not.

### **1. Defendant Oakland Physicians Medical Center, LLC**

Initially, it is undisputed that the parties’ written agreement terminated on December 31, 2012. As a result, a claim for breach of an express contract is precluded. In the alternative, however, Plaintiff pleads a claim for quantum meruit (or unjust enrichment).

Regarding such a claim, our Supreme Court has held: “[e]ven though no contract may exist between two parties, under the equitable doctrine of unjust enrichment, ‘[a] person who has been unjustly enriched at the expense of another is required to make restitution to the other.’” *Michigan Educ Emples Mut Ins Co v Morris*, 460 Mich 180, 198; 596 NW2d 142 (1999), quoting Restatement Restitution, § 1, p 12.

Michigan courts have established that “The elements of a claim for unjust enrichment are: (1) receipt of a benefit by the defendant from the plaintiff and (2) an inequity resulting to the plaintiff because of the retention of the benefit by the defendant.” *Barber v SMH* (US), 202 Mich App 366, 375; 509 NW2d 791 (1993); citing *Dumas v Auto Club Ins Ass'n*, 437 Mich 521, 546; 473 NW2d 652 (1991).

While Plaintiff and Oakland were negotiating a new deal, it is apparent that they intended to continue their relationship as provided under their prior written contract. As such, Oakland paid Plaintiff \$126,000 for its services for each month from January through July 2013 – despite the written agreement’s termination on December 31, 2012. Without any indication that Oakland would unilaterally refuse to pay, Plaintiff continued providing the same services in August and September 2013 that it had for the prior 25 months.

On these facts, the Court finds that Oakland was unjustly enriched in the amount of \$252,000, and Plaintiff is entitled to compensation in that amount. The parties, through their conduct for the prior 25 months, agreed that was what Plaintiff’s services were worth.

And to the extent that Oakland argues that it terminated the agreement in June 2013, the Court rejects this claim. It is undisputed that Oakland paid \$126,000 for Plaintiff’s services in July – after Oakland’s alleged termination date. Oakland’s argument, therefore, is unconvincing.

It is equally clear that Plaintiff is not entitled to compensation for three months beyond September 2013 under the parties’ written contract because that contract had terminated by its own terms on December 31, 2012. As a result, Plaintiff is not entitled to an additional \$378,000, and Defendants are entitled to summary disposition on that issue.

## 2. Defendant Yatinder Singhal, M.D.

With respect to Dr. Singhal, Plaintiff argues that he should be held personally liable because he verbally promised to pay the debt if Oakland did not. As Dr. Singhal argues, however, a plaintiff's claim to enforce a promise to answer for the debt of another is barred if it is not in writing under MCL 566.132(1)(b). The cited statute provides:

In the following cases an agreement, contract, or promise is void unless that agreement, contract, or promise, or a note or memorandum of the agreement, contract, or promise is in writing and signed with an authorized signature by the party to be charged with the agreement, contract, or promise:

...

(b) A special promise to answer for the debt, default, or misdoings of another person.

The Court is aware that a promise to pay for services to be rendered **in the future** may escape the statute of frauds. See *Schier, Deneweth & Parfitt, PC v Bennett*, 206 Mich App 281, 282; 520 NW2d 705 (1994); and *Highland Park v Grant-Mackenzie Co*, 366 Mich 430, 443-444, 446-447; 115 NW2d 270 (1962). But in this case, Plaintiff alleges that Dr. Singhal verbally promised to answer for Oakland's debt in October 2013 – **after** the debt was incurred in August and September 2013. As a result, this exception has no application in this case.

It is also important to note that the Court of Appeals also acknowledged, in the context of personal guarantees on business debts:

As a general rule, “an individual stockholder or officer is not liable for his corporation's engagements unless **he signs** individually, and where individual responsibility is demanded the nearly universal practice is that the officer signs twice--once as an officer and again as an individual.” *Livonia Bldg Materials Co v Harrison Constr Co*, 276 Mich App 514, 523-524; 742 NW2d 140 (2007) (emphasis added), quoting *Salzman Sign Co v Beck*, 176 NE2d 74, 76 (NY 1961).

Because Plaintiff cannot establish that Dr. Singhal agreed in writing to be personally liable on the debt, Plaintiff's claim against Dr. Singhal is barred.

Finally, to the extent that Plaintiff argues that its claim against Dr. Singhal survives because it is one based on fraud, the Court disagrees. Michigan law has long provided that courts “look beyond a plaintiff’s choice of labels to the true nature of the plaintiff’s claim.” *Manning v Amerman*, 229 Mich App 608, 613; 582 NW2d 539 (1998). Indeed, “[i]t is well settled that the gravamen of an action is determined by reading the complaint as a whole, and by looking beyond mere procedural labels to determine the exact nature of the claim.” *Adams v Adams (On Reconsideration)*, 276 Mich App 704, 710-711; 742 NW2d 399 (2007).

Despite Plaintiff’s label, its claim against Dr. Singhal is not one for fraud. Dr. Singhal’s alleged “fraudulent” assurances were made in October 2013 – after the debt was incurred. Plaintiff could not have relied on these assurances to their detriment on a pre-existing debt. Plaintiff did not provide any services after the alleged verbal promise. As a result, any “fraud” claim fails.

Rather, Plaintiff’s claim against Dr. Singhal is simple. It is a claim that he is liable to answer for the debt of another based on an alleged verbal promise. This claim, however, is barred by the statute of frauds and properly dismissed.

### **Conclusion**

For the foregoing reasons and considering all evidence in the light most favorable to the Defendant, the Court finds that there are no material facts in dispute, and Plaintiff is entitled to judgment as a matter of law only with respect to its claim against Defendant Oakland Physicians Medical Center in the amount of \$252,000. Plaintiff may present an appropriate judgment for entry.

With respect to Dr. Yatinder Singhal, however, the Court GRANTS his motion for summary disposition under (I)(2). Plaintiff's Complaint against Dr. Singhal only is DISMISSED in its entirety.

This Order is a Final Order that resolves the last pending claim and closes the case.

**IT IS SO ORDERED**

July 16, 2014  
Date

/s/ James M. Alexander  
Hon. James M. Alexander, Circuit Court Judge