

MEMORANDUM DECISION

GeBBS Healthcare Solutions, Inc.,	:	
	:	
Plaintiff,	:	NEW JERSEY SUPERIOR COURT
	:	CAMDEN COUNTY
v.	:	LAW DIVISION
	:	
American Healthcare Systems Corp., Inc.,	:	CIVIL ACTION CBLP CASE
	:	
Defendant.	:	DOCKET NO. CAM-L-878-24

Decided: August 2, 2024

STEVEN J. POLANSKY, P.J.Cv.

Introduction

Defendant on the counterclaim, GeBBS Healthcare Solutions, Inc. (GeBBS), moves for a more definitive statement pursuant to Rule 4:6-4(a) and to dismiss the counterclaim pursuant to Rule 4:6-2(e).

Plaintiff GeBBS filed a complaint and then an amended complaint against defendant American Healthcare Systems Corp., Inc. (AHS) alleging damages as a result of defendant’s breach of a services contract. It is asserted that the parties entered into a master services agreement for Health Business Services which included 13 separate work orders. Plaintiff alleges that defendant failed to make payments required pursuant to these agreements.

In its answer to the amended complaint, plaintiff on the counterclaim AHS included a four-count counterclaim asserting the following claims:

- Count 1 – Breach of Contract
- Count 2 – Negligence
- Count 3 – Breach of Covenant of Good Faith and Fair Dealing
- Count 4 – Promissory Estoppel

The counterclaim in paragraphs 3-37 alleges the operative facts upon which the counterclaim is based. It is asserted that the parties entered into the agreements beginning in May of 2023 which included the obligation to provide third-party billing services in accordance with reasonable commercial standards in the medical billing industry. Counterclaimant asserts that GeBBS failed to properly code the claims, bill the claims and collect on the claims. It is further asserted that GeBBS failed to obtain the required New Jersey Department of Banking and Insurance Licensing under N.J.S.A. 17:B:27B-1 et seq. which it alleges was applicable to the services being provided by GeBBS.

AHS alleges additional details, asserting that GeBBS failed to submit corrections on claims returned for errors in a timely fashion or at all, failed to pursue reconsideration of claims that were denied and failed to file claims in a timely fashion among other breaches of the contract. It is further alleged that at weekly meetings, GeBBS made representations regarding medical collections which AHS believes were untrue. Finally, it is alleged that the negligence of GeBBS in collecting the revenue caused damage to AHS.

Rule 4:6-4 provides that a party may move for a more definitive statement “[I]f a responsive pleading is to be made to a pleading which is so vague or ambiguous that a party cannot reasonably be required to frame a responsive pleading...”.

New Jersey is a notice-pleading state, requiring only that a general statement of the claim need be pleaded. Printing Mart-Morristown v. Sharp Electronics Corp., 116 N.J. 739, 746 (1989). It is still necessary for the pleadings to include a statement of facts that will “fairly apprise the adverse party of the claims and issues to be raised at trial.” Jardine Estates, Inc. v. Koppel, 24 N.J. 536, 542 (1957). On a motion to dismiss for failure to state a claim, the court will accept as true the facts alleged in the complaint. Craig v. Suburban Cablevision, 140 N.J. 623, 625-26 (1995). “The test for determining the adequacy of the pleading is whether a cause of action is suggested by the facts.” Velantzas v. Colgate-Palmolive Corp., 109 N.J. 189, 192 (1998). The court must search in depth and with liberality to determine if a cause of action can be gleaned even from an obscure statement in the Complaint, particularly if further discovery is conducted. Printing Mart-Morristown, 116 N.J. at 772. The court in Printing Mart cautioned that a Rule 4:6-2(e) motion to dismiss “should be granted in only the rarest of instances.” Ibid. at 772; see also Lieberman v. Port Auth. of N.Y. & N.J., 132 N.J. 76, 79 (1993).

Breach of Contract

To properly plead a cause of action for breach of contract, the complaint must allege four critical elements. They are that the parties entered into a contract with specific terms, that the claimant acted in accordance with the terms of the contract, that the party against whom the claim is asserted failed to act in accordance with the contract and/or otherwise breached the contract, and that the breach resulted in damages to the party seeking relief. Barr v. Barr, 418 N.J. Super. 18, 31-32 (App. Div. 2011).

For the court to require a party to provide a more definitive statement, it must be shown that the pleadings “are so vague or ambiguous that a party cannot reasonably be required to frame responsive pleadings”. Voltube v. B&C Insulation Products, Inc., 20 N.J. Super. 250, 255 (Ch. Div. 1951). A more definitive statement should be required only in extreme cases. Gorecki v. Gorecki, 1 N.J. Super. 471 (Ch. Div. 1948).

A review of paragraphs 3-37 which encompasses approximately five pages reflects that the allegations are more than adequate to place GeBBS on notice of the claims being asserted for breach of contract, and further sufficient for GeBBS to frame a cogent pleading in response thereto. For example, paragraph 15 alleges as follows:

By way of example, GeBBS' conduct that by GeBBS' own allegations in this case indicate its assumption of responsibility thereof, repeatedly and consistently failed to do the following:

- a. To diligently submit corrections to claims returned for errors, resulting in timely corrections being missed;
- b. To pursue reconsideration and/or appeals of improperly denied claims and/or pursue patient cost sharing, instead haphazardly "writing off" claims, resulting in timely appeal deadlines being missed and patients accounts being rendered utterly uncollectible;
- c. To timely submit or pursue current claims, resulting in timely filing deadlines being missed;
- d. To investigate, disclose, and account for billing and collection errors identified by the counterclaimant previously, including several significant compliance concerns indicative of a reckless, if not purposeful, disregard of very basic compliance standards;
- e. To bill using proper provider names, billing numbers, dates of service, and billing codes and/or modifiers;
- f. To obtain necessary insurer verifications and authorizations, resulting in unnecessary penalties, payment reductions, and denials.

The court concludes that the allegations contained in the complaint are adequate to both state a claim for breach of contract and to place GeBBS on notice of the conduct alleged to have violated the agreements. For these reasons, the motion for more definitive statement will be denied.

Request to Dismiss Count 2 Alleging Negligence

When a company agrees to render a service or sell a product, a contract normally will define the scope of the parties' specific obligations. Moreover, in commercial transactions the law may recognize certain implied contractual obligations, such as a builder's obligation to construct a building or structure in a workmanlike fashion, see Aronsohn v. Mandara, 98 N.J. 92, 107 (1984), or an implied obligation of good faith and fair dealing. Sons of Thunder, Inc. v. Borden, Inc., 148 N.J. 396, 420 (1997).

Regardless of the language utilized in the complaint, this case is essentially a basic breach of contract case. The allegations in Count 2 of negligence are that GeBBS owed counterclaimant a duty to perform based upon the contractual agreements.

In this case the scope of the GeBBS obligations are defined by the contract. Under New Jersey law, a tort remedy does not arise from a contractual relationship unless the breaching party owes an independent duty imposed by law. Saltiel v. GSI Consultants, Inc., 170 N.J. 297, 316 (2002). New Mea Construction Corp. v. Harper, 203 N.J. Super. 486, 493-94 (App. Div. 1985). Based upon the pleadings, the court cannot discern any duty owed to AHS that is independent of the duties that arose under the contract. GeBBS possessed specific technical skills that it was obligated to apply under the contract. Its alleged failure to do so would not be a violation of an obligation imposed by law, but rather a breach of its contractual duties.

The Counterclaim Seeking Punitive Damages

Punitive damages are not available for the breach of a contract except with rare exceptions. Buckley v. Trenton Savings Fund Society, 111 N.J. 355, 369-370 (1988); Pierce v. Ortho Pharmaceutical Corp., 84 N.J. 58, 72-73 (1980). Pursuant to N.J.S.A. 2A:15-5.12, punitive damages may be awarded only where a party proves, by clear and convincing evidence, that the acts or omissions of a defendant are actuated by actual malice or accompanied by a wanton and willful disregard of persons who might foreseeably be harmed. Smith v. Whitacker, 160 N.J. 221, 241 (1999).

The complaint itself does not contain a separate count seeking punitive damages. The complaint further contains no paragraphs alleging such intentional and malicious conduct. The wherefore clauses assert that AHS is entitled to punitive damages as a result of "GeBBS' malicious and oppressive conduct that reflected a conscious disregard of counterclaimant's rights." No allegations are contained in the complaint itself however to support such a statement in the wherefore clause.

The court finds that the counterclaim itself fails to state a cause of action for punitive damages, and the punitive damages claims will be dismissed.

Breach of Covenant of Good Faith and Fair Dealing

New Jersey courts recognize that every contract contains an implied covenant of good faith and fair dealing. Iliadis v. Wal-Mart Stores, Inc., 191 N.J. 88, 109 (2007); Sons of Thunder, Inc. v. Borden, Inc., 148 N.J. 396, 420 (1997). That implied covenant prevents either party from doing "anything which will have the effect of destroying or injuring the right of the other party to receive the fruits of the contract." Ass'n Grp. Life, Inc. v. Catholic War Veterans of U.S., 61 N.J. 150, 153 (1972). "Good faith performance or enforcement of a contract emphasizes faithfulness to an agreed common purpose and consistency with the justified expectations of the other party." Brunswick Hills Racquet Club, Inc. v. Rt. 18 Shopping Ctr. Assocs., 182 N.J. 210, 224 (2005). However, this implied duty of fair dealing does not "alter the terms of a written agreement." Rudbart v. N. Jersey Dist. Water Supply Comm'n, 127 N.J. 344, 366 (1992). It also does not

provide a plaintiff with additional damages for the breach of an express term of a contract. Wade v. Kessler Inst., 172 N.J. 327, 343-44 (2002).

A defendant can be liable for a breach of the implied covenant even "without violating an express term of a contract." Sons of Thunder, 148 N.J. at 422-23. The "plaintiff may be entitled to relief under the covenant if its reasonable expectations are destroyed when a defendant acts with ill motives and without any legitimate purpose." Brunswick Hills, 182 N.J. at 226. The plaintiff may also "get relief if it relies to its detriment on a defendant's intentionally misleading assertions." *Ibid.*

Here, the complaint alleges sufficient conduct which could constitute a breach of the covenant of good faith and fair dealing. For example, it is alleged that GeBBS provided counterclaimant with incomplete and false data. It is further alleged that GeBBS misrepresented its capabilities in order to obtain the contract. These allegations are sufficient at the pleading stage to suggest a cause of action for breach of the implied covenant of good faith and fair dealing.

Promissory Estoppel

"Promissory estoppel is made up of four elements: (1) a clear and definite promise; (2) made with the expectation that the promisee will rely on it; (3) reasonable reliance; and (4) definite and substantial detriment." Toll Bros., Inc. v. Bd. of Chosen Freeholders of Burlington, 194 N.J. 223, 253 (2008) (citation omitted). A promise which the promisor should reasonably expect to induce action or forbearance on the part of the promisee or a third person and which does induce such action or forbearance is binding if injustice can be avoided only by enforcement of the promise. The remedy granted for breach may be limited as justice requires.

Where an agreement is unenforceable because of a lack of essential terms, a party may still be entitled to the reasonable value of his services based on the promise. See Restatement (Second) of Contracts § 90 comment d (where the promise central to a claimed expectation interest is unenforceable because of lack of definitiveness, "relief may sometimes be limited to restitution or to damages or specific relief measured by the extent of the promisee's reliance rather than by the terms of the promise"). Any remedy is limited to the extent of the detrimental reliance on the promise, and not to the extent of the parties expectations.

The complaint alleges various representations made by GeBBS upon which AHS claims it relied. To the extent it is found that the promises made exceeded the obligations under the contracts, promissory estoppel may be a basis to provide a remedy to counterclaimant. At the pleading stage, the court finds the allegations of the complaint sufficient to suggest a cause of action.

Conclusion

For the reasons set forth above, defendant on the counterclaim GeBBS' motion for a more definitive statement will be denied. The motion to dismiss Counts 1, 3 and 4 of the counterclaim is denied. The motion to dismiss Count 2 of the counterclaim asserting negligence and to strike those portions of the wherefore clauses in all counts seeking punitive damages is granted, the

dismissal being without prejudice. Counterclaimant shall be permitted to file an amended counterclaim to address the deficiencies within twenty (20) days. GeBBS shall file an answer to the counterclaim within thirty (30) days or, if an amended counterclaim is filed, within twenty (20) days thereafter.

ORDER PREPARED BY THE COURT

GeBBS Healthcare Solutions, Inc.,	:	
	:	
Plaintiff,	:	NEW JERSEY SUPERIOR COURT
	:	CAMDEN COUNTY
v.	:	LAW DIVISION
	:	
American Healthcare Systems Corp., Inc.,	:	CIVIL ACTION CBLP CASE
	:	
Defendant.	:	DOCKET NO. CAM-L-878-24

THIS MATTER having been opened to the court by plaintiff/defendant on counterclaim of GeBBS Healthcare Solutions, Inc., and for the reasons set forth in the attached Memorandum Decision,

IT IS on this 2nd day of August, 2024 **ORDERED:**

1. The motion for a more definitive statement is DENIED;
2. The motion to dismiss Counts 1, 3 and 4 is DENIED;
3. The motion to dismiss Count 2 alleging negligence is GRANTED without prejudice;
4. The motion to dismiss the claims for punitive damages is GRANTED without prejudice;
5. Counterclaimant may file an amended counterclaim seeking to address the deficiencies within twenty (20) days of the date of this Order; and
6. Defendant on the counterclaim shall file an answer to the counterclaim within thirty (30) days unless an amended counterclaim is filed, in which case the answer shall be filed within twenty (20) days after the filing of the counterclaim.


STEVEN J. POLANSKY, P.J.Cv.

“REASONS SET FORTH IN THE ATTACHED MEMORANDUM DECISION”

And on the record