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SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE
MAY 19 2009
A. Sanchez

CDH
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LF

Attorneys for Plaintiffs
ROBERT K. MEGARGEL and NICHOLAS MEGARGEL

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF RIVERSIDE**

ROBERT K. MEGARGEL, an individual and
California resident; and NICHOLAS
MEGARGEL, an individual and foreign
resident;

v.

NARCONON SOUTHERN CALIFORNIA, a
California corporation; and DOES 1
THROUGH 50,
Defendants.

CASE NO. **RIC 526927**

COMPLAINT FOR:

1. NEGLIGENCE
2. BREACH OF CONTRACT
3. RESCISSION
4. RESTITUTION
5. QUANTUM MERUIT
6. DECLARATORY RELIEF

Plaintiffs Robert K. Megargel and Nicholas Megargel, by and through their attorneys,
Walsh & Furcolo LLP, allege as follows:

GENERAL ALLEGATIONS

1. Plaintiff Robert Megargel is an individual whose domicile is the state of California, and is a resident of Riverside County, California.
2. Plaintiff Nicholas Megargel is an individual whose domicile is the state of Washington.
3. Narconon of Southern California (Narconon) is a California corporation with its principal place of business located at 41743 Enterprise Circle North in Temecula, California.
4. The true names and capacities whether individual, corporate, associate or

1 otherwise, of defendants DOES 1 through 50 inclusive, are unknown to plaintiffs at this time.
2 Accordingly, plaintiffs sue the aforementioned defendants by such fictitious names, and will
3 request leave of court to amend this complaint to show the true names and capacities when the
4 same have been ascertained.

5 5. Plaintiffs are informed and believe and herein allege that each of the defendants
6 designated herein as a DOE are responsible in some manner for the events and happenings herein
7 referred to and which proximately caused damages to plaintiffs, as hereinafter alleged.

8 6. On May 6, 2008, plaintiff Robert Megargel and Narconon entered into a written
9 agreement styled as an Admission Agreement executed by the parties on May 6, 2008 (appended
10 hereto as Exhibit A). The purpose of the agreement was for Narconon to provide drug
11 rehabilitation to plaintiff Nicholas Megargel in consideration for plaintiff Robert Megargel to
12 pay \$29,000.00, which was tendered in full to Narconon.

13 7. Plaintiff Nicholas Megargel's substance addiction developed in part during the
14 time he was engaged in a personal relationship with one Barbara Meyer. Plaintiffs are informed
15 and believe and herein allege that Barbara Meyer and/or someone acting on her behalf also
16 entered into a written agreement with defendant Narconon for the purpose of obtaining drug
17 rehabilitation.

18 8. It was represented to and understood by plaintiff Robert Megargel that plaintiff
19 Nicholas Megargel would be admitted and housed in the Narconon facility at Fort Collins,
20 Colorado; while Barbara Meyer would be admitted and housed at a separate Narconon facility in
21 another state due to the nature of their personal relationship and their joint development of a
22 substance-abuse condition, in accordance with the standard of care applicable to a drug-treatment
23 and remediation center.

24 9. On or about May 5, 2008, plaintiff Nicholas Megargel entered the Narconon
25 facility located at 1225 Redwood Street in Fort Collins, Colorado. On about the same date,
26 Barbara Meyer also entered the Narconon facility located at 1225 Redwood Street in Fort
27 Collins, Colorado.

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1 10. Plaintiff Nicholas Megargel's institutionalization lasted eight days, and he was
2 discharged from the Narconon facility at Fort Collins, Colorado on or about May 13, 2008.

3 **FIRST CAUSE OF ACTION**

4 **Negligence**

5 **(As Against All Defendants by Plaintiffs)**

6 11. Plaintiffs hereby incorporate all previous paragraphs of this complaint as though
7 fully set forth herein.

8 12. On or about May 5, 2008, plaintiff Nicholas Megargel was admitted to a
9 Narconon treatment facility in Colorado. The purpose of his admission into the Narconon
10 facility was to obtain drug rehabilitation from defendant. It was expected that Narconon would
11 comply with the standard of care of a drug-rehabilitation facility, and admit and house plaintiff
12 Nicholas Megargel to the Narconon facility at Fort Collins, Colorado; and admit and house
13 Barbara Meyer at a separate Narconon facility in another state due to the nature of their personal
14 relationship and the joint development of a substance-abuse condition.

15 13. Narconon failed to abide by the applicable standard of care, and admitted and
16 concurrently housed both plaintiff Nicholas Megargel and Barbara Meyer in the same Narconon
17 facility at Fort Collins, Colorado.

18 14. Defendants owed plaintiffs a duty of care while plaintiff Nicholas Megargel was a
19 resident at the Narconon drug-rehabilitation facility while both were being treated and
20 rehabilitated for a substance-abuse condition.

21 15. Defendants breached their duty of care owed to plaintiffs by permitting plaintiff
22 Nicholas Megargel and Barbara Meyer to occupy concurrently the same Narconon drug-
23 rehabilitation facility at Fort Collins, Colorado.

24 16. As a proximate and legal result of defendants' negligent acts and omissions,
25 plaintiffs have been damaged in an amount that exceeds \$25,000.00, to be determined at trial
26 according to proof.

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1 rehabilitation to plaintiff Nicholas Megargel at a cost to plaintiff Robert Megargel of \$29,000.00.
2 Implied in the contract was an obligation that plaintiff Nicholas Megargel and Barbara Meyer,
3 whose drug-abuse habits were jointly developed as a result of a personal relationship, would not
4 be admitted to and housed concurrently at the same Narconon drug-rehabilitation facility in Fort
5 Collins, Colorado.

6 24. The consideration received from defendants failed in whole or in part through the
7 fault of the party against whom plaintiff Robert Megargel rescinds because the consideration —
8 namely admitting and housing plaintiff Nicholas Megargel and Barbara Meyer in separate
9 Narconon drug-rehabilitation facilities in different states — did not take place. On the contrary,
10 plaintiff Nicholas Megargel and Barbara Meyer shared the Narconon facility, in violation of the
11 standard of care applicable to a drug-rehabilitation institution.

12 25. The joint admission and concurrent housing of plaintiff Nicholas Megargel and
13 Barbara Meyer in the same Narconon facility by defendants and each of them frustrated the
14 whole purpose of the written contract.

15 26. Because plaintiff Robert Megargel's performance was conditioned on defendants'
16 housing plaintiff Nicholas Megargel and Barbara Meyer in separate facilities located in different
17 states, plaintiff Robert Megargel is entitled to rescind the contract based on defendants' failure of
18 consideration.

19 27. Through the filing of this lawsuit, plaintiff Robert Megargel hereby provides to
20 defendants notice of rescission of the written contract.

21 **FOURTH CAUSE OF ACTION**

22 **Restitution**

23 **(As Against All Defendants by Plaintiff Robert Megargel)**

24 28. Plaintiffs hereby incorporate all previous paragraphs of this complaint as though
25 fully set forth herein.

26 29. Defendants received \$29,000.00 from plaintiff Robert Megargel, pursuant to the
27 written contract. Plaintiff Robert Megargel, however, through this complaint has provided notice
28 of rescission of the contract.

1 30. As a result of failure of consideration, defendants unjustly retained the benefit of
2 \$29,000.00 at the expense of plaintiff Robert Megargel, and have been unjustly enriched.

3 31. As a direct and proximate result of defendants' breach or non-performance of the
4 contract, plaintiff Robert Megargel has been damaged, and is entitled to restitution from the
5 defaulting party in an amount that will make said plaintiff whole, to be determined according to
6 proof at trial.

7 **FIFTH CAUSE OF ACTION**

8 **Quantum Meruit**

9 **(As Against All Defendants by Plaintiff Robert Megargel)**

10 32. Plaintiffs hereby incorporate all previous paragraphs of this complaint as though
11 fully set forth herein.

12 33. From approximately May 5, 2008 through May 13, 2008, plaintiff Nicholas
13 Megargel was institutionalized at a Narconon facility located at 1225 Redwood Street in Fort
14 Collins, Colorado.

15 34. The written contract between plaintiff Robert Megargel and defendant Narconon
16 contemplated plaintiff Nicholas Megargel's institutionalization at the Narconon facility in Fort
17 Collins, Colorado to be several months. Plaintiff Nicholas Megargel, however, was
18 institutionalized at the Narconon facility for eight days.

19 35. If it is determined that defendants were entitled to payment of the reasonable
20 value of the services for the eight days of plaintiff Nicholas Megargel's institutionalization at the
21 Narconon facility, it should be based on *quantum meruit*, multiplying the ratio — of the actual
22 days of institutionalization to the total contemplated days of institutionalization — by the total
23 consideration of \$29,000.00.

24 **SIXTH CAUSE OF ACTION**

25 **Declaratory Relief**

26 **(As Against All Defendants by Plaintiffs)**

27 36. Plaintiffs hereby incorporate all previous paragraphs of this complaint as though
28 fully set forth herein.

1 37. An actual controversy has arisen and now exists between plaintiffs and defendants
2 and each of them concerning their respective rights and duties with regard to the written contract
3 at issue and the terms contained therein. Plaintiffs further contend that defendants' breach of the
4 written contract discharges plaintiff Robert Megargel from his payment obligation.

5 38. Plaintiffs allege, on information and belief, that defendants contend that plaintiff
6 Robert Megargel has no right to rescind the subject contract, and it was not breached because of
7 failure of consideration.

8 39. The interests of the parties are adverse, plaintiffs have a legally protectable
9 interest in the controversy, and the issues are ripe for judicial determination.

10 40. Accordingly, plaintiff Robert Megargel desires a judicial determination of his
11 rights and duties under the subject contract; specifically that he is entitled to rescission of the
12 subject contract and restitution of \$29,000.00; or alternatively entitled to restitution subtracting
13 any amount due to defendants based on *quantum meruit*.

14 **PRAYER FOR RELIEF**

15 WHEREFORE, plaintiffs pray for judgment against defendants and each of them as
16 follows:

17 1. General and special damages as to the first cause of action for negligence
18 according to proof and interest, including prejudgment interest in an amount within the
19 jurisdiction of the court.

20 2. Compensatory damages as to the second cause of action for breach of contract
21 according to proof and interest, including prejudgment interest in an amount within the
22 jurisdiction of the court.

23 3. Rescission of the subject contract as to the third cause of action.

24 4. Restitution of \$29,000.00 paid by plaintiff Robert Megargel to Narconon as to the
25 fourth cause of action according to proof and interest, including prejudgment interest in an
26 amount within the jurisdiction of the court; or alternatively restitution of \$29,000.00 subtracting
27 any amount due to defendants based on *quantum meruit* as to the fifth cause of action.

28 5. A judicial determination and declaratory judgment as to the sixth cause of action

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that the written contract at bench is rescinded due to failure of consideration, and that plaintiff Robert Megargel is entitled to restitution of \$29,000.00 from defendants; or alternatively restitution of \$29,000.00 subtracting any amount due to defendants based on *quantum meruit*.

6. For cost of suit incurred herein.

7. For such other and further relief as the court deems proper and appropriate by the court.

DATED: May 15, 2009

WALSH & FURCOLO LLP

By: James T. Derfler

John H. Walsh, Esq.
James T. Derfler, Esq.
Attorneys for Plaintiffs
ROBERT K. MEGARGEL and NICHOLAS
MEGARGEL