

# *Long Beach Memorial Medical Center v. Kaiser Foundation Health Plan (2021)*

## — Cal.App.5<sup>th</sup> —

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*Trial court that “vigorously examined” expert as to rational basis for “methodology” used to opine on reasonable value of medical care, and subsequently excluded portions of the expert’s testimony, properly carried out “gatekeeper” role under Sargon.*

**FACTS:** This partially published decision concerns a hospital’s alleged tort and quantum meruit claims for additional reimbursement for ER services to members of a health plan with whom it has no service contract.

**HOLDING:** Affirmed In-Part, Reversed In-Part. The Second District Court of Appeals held in the published portion of its opinion that a health plan has no affirmative duty in tort to avoid reimbursing hospitals less than the “reasonable and customary” value of emergency services rendered. Furthermore the Court of Appeal found the trial court had not erred by instructing the jury to consider what a "hypothetical" buyer or seller would pay to determine the “reasonable value” of medical services.

**DISCUSSION:** Although unpublished (at least as of this writing), Section IV of the *Long Beach* opinion includes a noteworthy discussion of the trial court’s proper role as “gatekeeper” under *Sargon Enterprises, Inc. v. University of Southern California* (2012).

The *Long Beach* court held that the trial court did not abuse its discretion when it ruled that Plaintiff’s expert could not rely on the hospitals’ “full, billed rates” as a basis to opine on the “reasonable value” of medical services. Relying heavily on *Sargon*, the Court of Appeals let stand the trial court’s ruling prohibiting Plaintiff’s expert from using full, billed rates as 1/3 of the mathematical basis for the testimony proffered by the expert as to “reasonable value.” The Court of Appeals waved off Plaintiff’s contentions of prejudicial “hostility” directed towards the expert from the trial court. While the trial court had “vigorously examined” the expert outside of the jury’s presence, and later instructed the jury to disregard portions of that testimony based on its prior examination, the Court of Appeals reasoned that the trial court “was merely doing what *Sargon* requires – namely, acting as a gatekeeper to ensure that the trier of fact is not presented with expert testimony based on logically unsupported methodologies.”

To find additional support for its conclusion, the court on appeal had no further to look than the record from trial. According to the Court of Appeal, the record showed that "Despite many opportunities to do so, the expert was unable to explain why it made 'logic[al]' or 'rational' sense to treat the hospitals full, billed rate as one of three ingredients going into the reasonable value of the hospitals’ services when very few patrons actually paid that full rate, when there was no showing that those patrons’ transactions were in any way similar to the transactions at issue in this case, and when the expert could not explain why the relative low amount of the hospitals’ full, billed rates justified treating those rates as one of three ingredients.”