

No. S218497

In the Supreme Court of the State of California

**CENTINELA FREEMAN EMERGENCY MEDICAL ASSOCIATES,
ET AL.**

Plaintiffs, Appellants, and Respondents

vs.

HEALTH NET OF CALIFORNIA, INC., ET AL.,
Defendants, Respondents, and Petitioners

**NOTICE OF ERRATA FOR AMICUS CURIAE BRIEF OF THE
CALIFORNIA DEPARTMENT OF MANAGED HEALTH
CARE IN RESPONSE TO THE COURT'S INVITATION**

After an Opinion By The Court of Appeal
Second Appellate District, Division Three, No. B238867

Appeal from a Judgment of the Los Angeles County
Superior Court Case No. BC415203, Hon. John Shepard Wiley

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TO THE COURT, EACH PARTY, AMICI CURIAE, AND COUNSEL OF RECORD FOR THE PARTIES AND AMICI CURIAE:

Please take notice that the California Department of Managed Health Care's Amicus Curiae Brief filed on March 18, 2016, contains an error. On page 18, the word "NOT" was inadvertently deleted from the heading. **Section III, subsection A.**, should be revised to include the word "NOT" as follows: **"The Financial Failure of La Vida Provides Valuable Lessons but Does Not Counsel Recognizing a Tort Cause of Action for Negligent Delegation."** Please further note that the Table of Contents, page iii, contains this same error and should be revised as noted. A corrected page iii and a corrected page 18 are attached.

Dated: March 21, 2016

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An RBO failure and consequent reassignment of patients are not a desirable outcome for any of the parties involved. It is far preferable when an RBO can be rehabilitated, if there is a viable means to do so. With foremost consideration for the health plan members' interests, the DMHC encourages health plans to be mindful of their obligations to their members and discourages health plans from terminating risk arrangements with RBOs when rehabilitation appears possible. The DMHC's actions relative to La Vida were guided by this principle.

A. The Financial Failure of La Vida Provides Valuable Lessons but Does Not Counsel Recognizing a Tort Cause of Action for Negligent Delegation

In La Vida's case, the CAP approval process ultimately failed. But La Vida, with its unusual circumstances, does not necessarily lead to the conclusion that recognition of new tort causes of action for negligent delegation or negligent continuation of delegation is generally warranted.

The circumstances of La Vida and the magnitude of its financial failure are rare. According to the facts alleged in Centinela's complaint, beginning in 2007 and continuing quarterly thereafter, La Vida failed to comply with several of the DMHC financial Grading Criteria; and the Health Plans were aware of La Vida's worsening financial condition.⁹ While La Vida was clearly experiencing financial problems at various times

⁹ Appellants' (Centinela) Complaint, page 10, paragraphs 48 – 49 (1 AA 41.).

PROOF OF SERVICE

I am employed in the County of Sacramento, State of California. I am over the age of 18 years and not a party to the within action. My business address is 980 9th Street, Suite 500, Sacramento, California 95814. On March 21, 2016, I served the foregoing document described as:

NOTICE OF ERRATA FOR AMICUS CURIAE BRIEF OF THE CALIFORNIA DEPARTMENT OF MANAGED HEALTH CARE IN RESPONSE TO THE COURT'S INVITATION

on all persons named on the attached list, by the method of service indicated, as follows:


BY PERSONAL SERVICE at the business or residential address(es) listed below.

If **U.S. MAIL** is indicated, by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States mail at Sacramento, California, and addressed to the person(s) at the address(es) listed above. I am readily familiar with the Department's business practice for collection and processing for mailing with the U.S. Postal Service pursuant to which practice the correspondence will be deposited with the U.S. Postal Service this same day in the ordinary course of business.

If **E-MAIL SERVICE** is indicated, based on a court order or an agreement of the parties to accept service, I caused the documents to be sent to the person(s) at the electronic service address listed below. If served by electronic service, the electronic service address from which I served the document is roderick.tagatac@dmhc.ca.gov.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on March 21, 2016, at Sacramento, California.



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