

California self-funded payers that compensated Sutter Health for their members' anesthesia services may be affected by a class action lawsuit

A court authorized this Notice. This is not a solicitation by a lawyer.

- You are receiving this Notice because your rights and options may be affected by a lawsuit pending in the Alameda County Superior Court of California (the “Court”). The lawsuit is called *District Council #16 v. Sutter Health, et al.*, Case No. RG15753647.
- The Plaintiff is District Council #16 Northern California Health and Welfare Trust Fund. The Defendants are Sutter Health and certain of its affiliate hospitals (“Sutter Health”).
- The Court has certified the Class and authorized Plaintiff to represent a class comprised of: Self-funded payers that (1) are citizens of California or state and local governmental entities of the State of California and (2) compensated Sutter Health for any anesthesia services, other than conscious sedation, administered in operating rooms at its acute care hospitals at any time from January 1, 2003 to December 31, 2013. A self-funded payer is an entity (such as an employer, union, or healthcare benefits trust) that funds the healthcare expenses of its employees or members, meaning that it pays for the claims submitted by healthcare provider out of its own health plan funds, as the claims are presented.
- Plaintiff alleges that Sutter Health engaged in fraudulent, unlawful, and unfair business practices by submitting and receiving payment on bills for supposed “anesthesia services” that were not rendered, were double-billed, and were described in a materially misleading manner, resulting in self-funded payers paying more for anesthesia services than they should have. Plaintiff seeks to recover damages on behalf of the Class.
- Sutter Health denies the allegations and denies that any of its practices are unfair or deceptive. Sutter Health asserts that its practices fully complied with all applicable laws, and it denies that Plaintiff and the Class are entitled to receive any money or other relief from Sutter Health.
- The Court has not determined whether Plaintiff’s or Sutter Health’s position is correct. By giving Plaintiff permission to represent a Class and authorizing this notice, the Court is not suggesting that Plaintiff will win or lose this case. Plaintiff must prove its claims and the claims of the Class at trial. There are no benefits available now, and there is no guarantee that there will be. However, your legal rights may be affected.
- **If you are a Class Member, you have a choice to make now whether to remain a member of the Class and be represented by the Class Representative and by Class Counsel, or to exclude yourself.** Either choice will have its consequences, which you should understand before making your decision.

CLASS MEMBERS' LEGAL RIGHTS AND OPTIONS	
DO NOTHING	<p>If you meet the definition of a Class member and do nothing, you will remain part of the Class and keep the possibility of getting money or other benefits that may come from a trial or settlement. If you remain part of the Class, you will be legally bound to any and all orders and judgments, whether favorable or not, that the Court makes regarding the claims in this class action. Regardless of whether the Class wins or loses at trial, you will not be able to sue, or continue to sue, Sutter Health as part of any other lawsuit for the same legal claims that Plaintiff has asserted in this lawsuit (or claims closely related to them). If you do not request exclusion you may choose to enter an appearance through counsel.</p>
EXCLUDE YOURSELF FROM THE CLASS	<p>If you ask to be excluded from the Class and money or other benefits are later awarded, you will not receive any money or benefits. You will not be legally bound to any orders or judgments that the Court makes regarding the claims in this class action. You will keep your rights to litigate against Sutter Health in another proceeding about the claims described in this Notice. If you do exclude yourself, your claims may be subject to a time limit (known as statute of limitations).</p> <p>The deadline to request exclusion is June 7, 2022.</p>

BASIC INFORMATION

1. Why was this Notice issued?

This Notice is to inform you that this lawsuit has been “certified” as a Class Action. This means that the Court has determined that the lawsuit meets the requirements for class actions and may proceed to trial. This Notice explains your legal rights and options for remaining in the Class or requesting exclusion from the Class.

The Honorable Noël Wise of the Superior Court of California, County of Alameda is presiding over this case. The case is known as *District Council #16 v. Sutter Health, et al.*, Alameda County Superior Court, Case No. RG15753647. The entity that sued is called the Plaintiff, and the entities it sued are collectively called the Defendants.

2. What is the lawsuit about?

This lawsuit was filed on January 6, 2015, and is pending in the Superior Court of California, County of Alameda. Plaintiff alleges that Sutter Health violated California’s Unfair Competition Law, Business & Professions Code § 17200. Specifically, Plaintiff alleges that Sutter Health engaged in fraudulent, unlawful, and unfair business practices by submitting and receiving

payment on bills for supposed “anesthesia services” that were not rendered, were double-billed, and were described in a materially misleading manner, and that this resulted in self-funded payers paying more for anesthesia services than they should have. Plaintiff seeks to recover damages on behalf of the Class and to prohibit Sutter Health from continuing to engage in the alleged fraudulent, unlawful, and unfair practices.

Sutter Health denies the allegations and denies that any of its practices were unfair or deceptive. Sutter Health asserts that its practices fully complied with all applicable laws, and it denies that Plaintiff and the Class are entitled to receive any money or other relief from Sutter Health.

This lawsuit is ongoing, and the Court has not yet decided who will win or lose this case.

On June 30, 2021, the Court authorized Plaintiff to represent a Class of self-funded payers. By establishing the Class and authorizing this notice, the Court is not suggesting that Plaintiff will win or lose this case. Plaintiff must prove its claims and the claims of the Class at trial.

Your options as a Class Member and the deadlines to exercise them are explained in this Notice.

3. Who is included in the Class?

All self-funded payers that were citizens of California on January 6, 2015, or state and local governmental entities of the State of California that compensated Sutter Health for any anesthesia services, other than conscious sedation, administered in Sutter Health’s operating rooms at acute care hospitals at any time from January 1, 2003 to December 31, 2013 are members of the Class.

You are a self-funded payer if you are an entity (such as an employer, union, or healthcare benefits trust) that funds the healthcare expenses of your employees or members, meaning that you pay for claims submitted by healthcare providers out of your own health plan funds, as the claims are presented. You are not a self-funded payer if you are an individual.

You are a citizen of California if: (a) you are organized under the laws of California, or (b) you have your principal place of business in California. For purposes of class membership, you are considered a citizen of California if you were a California citizen on January 6, 2015, regardless of whether you remained a California citizen after that date. If you are a California governmental entity (including, but not limited to, a city, a county, a hospital district, a school district, a fire protection district, a water or irrigation district, a transit or transportation district, a joint powers agency or authority, a public university, a department within the State, a superior court, the Judicial Council of California, or the Major Risk Medical Insurance Program) and are also a self-funded payer that compensated Sutter Health, you are included in the Class, whether or not you are a California citizen.

Excluded from the Class are: (1) Sutter Health and any entity in which Sutter Health has a controlling interest or which has a controlling interest in Sutter Health; (2) Sutter Health’s legal

representatives, assigns, and successors; and (3) the judge(s) to whom this case is assigned and any member of the judge's immediate family.

Sutter Health asserts various defenses in this case. Among other defenses, Sutter Health has advanced the affirmative defense that certain Class Members have released claims at issue in this case. Sutter Health's release defense raises an issue as to whether certain Class Members may be impacted by mutual release agreements, wherein Sutter Health asserts that it previously agreed to release claims for (among other things) underpayment against Class Members.

If you are a Class Member who has a settlement agreement with Sutter Health involving a mutual release, in which Sutter released claims against you, then participation in the Class might void the releases and expose you to claims for damages by Sutter Health.

You can contact your insurance company intermediary to obtain more information about the claims that are the subject of this lawsuit. You may also email Class Counsel at SutterAnesthesiaBillingLawsuit@hausfeld.com or mail your questions to Arthur Bailey, Hausfeld LLP, 888 16th Street N.W., Suite 300, Washington, DC 20006, or visit www.SutterAnesthesiaBillingLawsuit.com for additional information.

4. What is a class action?

In a class action, one or more persons or entities called "class representatives" sue on behalf of a group of people or entities who have similar claims. All of these persons or entities are called a "class" or "class members." In a class action, one court resolves the issues for all class members, except for those who exclude themselves from the class. In this lawsuit, the Class Representative is District Council #16 Northern California Health and Welfare Trust Fund.

5. How do I participate in the Class?

You do not have to do anything now. If you meet the definition to be a Class Member, by doing nothing, you remain part of the Class.

6. How do I exclude myself from the Class?

The deadline to request exclusion from the class is **June 7, 2022**. To exclude yourself from the Class, you (the Class Member) must send a letter or fill out a form at www.SutterAnesthesiaBillingLawsuit.com that includes:

- The Class Member's name and address, the name, title, and telephone number of the individual sending the letter for the Class Member, and

- A statement substantially to the effect of: “I, [Name of Individual], am authorized to send this letter on behalf of [Name of Class Member]. [Name of Class Member] voluntarily chooses not to participate in the certified class action against Sutter Health, and hereby waives any rights it may have to share in any money or other benefits obtained from Sutter Health in the future in the lawsuit entitled *District Council #16 v. Sutter Health, et al.*, Alameda County Superior Court, Case No. RG15753647.

The individual authorized to exclude the Class Member must complete the form at www.SutterAnesthesiaBillingLawsuit.com or sign the written statement on behalf of the Class Member and mail it to the following address, postmarked no later than **June 7, 2022** to:

District Council #16 v. Sutter Health, et al.
c/o JND Legal Administration
PO Box 91218
Seattle, WA 98111

THE LAWYERS REPRESENTING YOU

7. Do I have a lawyer in this case?

The following lawyers represent Plaintiff and all Class Members in this lawsuit (“Class Counsel”):

Christopher L. Lebsack
Arthur N. Bailey, Jr.
Bruce J. Wecker
Tae Kim
Hausfeld LLP
600 Montgomery St., Suite 3200
San Francisco, CA 94111
(415) 633-1908

8. Should I get my own lawyer?

If you choose to remain in the Class, you do not need to hire your own lawyer because Class Counsel are working on your behalf in this lawsuit. If you want your own lawyer to represent you at court hearings in this lawsuit, you must pay for that lawyer, except to the extent that state and local governmental entities of the State of California may be represented by the Attorney General free of charge.

9. How will the lawyers be paid?

If Class Counsel are successful and obtain money or other benefits for the Class, they may ask the Court for fees and expenses. If the Court grants Class Counsel’s request, the fees and expenses

may be deducted from any money obtained for the Class or paid separately by Sutter. If Class Counsel do not obtain money or other benefits for the Class, they will not receive any attorneys' fees or any reimbursement of their expenses.

THE TRIAL

10. How and when will the Court decide the claims in this case?

If the case is not resolved by a settlement or by motion, Class Counsel will have to prove the Class's claims in this lawsuit at a trial. There is no guarantee that the Class will win or that the Class will get any money. The Court has not yet set a trial date.

11. Do I have to come to the trial?

You do not need to attend the trial unless you are subpoenaed as a witness. Class Counsel will present the case for the Class Members, and Sutter Health will present its defenses. You are welcome to come at your own expense.

12. Will I get money after the trial?

If the Class obtains money or other benefits as a result of the trial or a settlement, you will be notified about how to share in the money or other benefits, if you have not excluded yourself from this class action. We do not know how long this will take. Please let Class Counsel know if your contact information changes.

GETTING MORE INFORMATION

13. How do I get more information?

You may obtain more information by contacting Class Counsel at the phone number or email address above. You can also contact your insurance company intermediary to obtain more information about the claims that are the subject of this lawsuit. You can get a copy of the complaint and other important information about the lawsuit at www.SutterAnesthesiaBillingLawsuit.com.

Please Do Not Contact the Court or Sutter Health's Counsel About This Notice.