

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

BLUE CROSS AND BLUE SHIELD)	
OF KANSAS CITY,)	
)	
Plaintiff,)	
)	Case No. 21-cv-00525-FJG
v.)	
)	
GS LABS LLC,)	
)	
Defendant.)	

GS LABS LLC’S PARTIAL MOTION TO DISMISS FIRST AMENDED COMPLAINT

COMES NOW Defendant, GS Labs, LLC (“GS Labs”), by and through the undersigned counsel, pursuant to Fed. R. Civ. P. 12(b)(1), Fed. R. Civ. P. 12(b)(6), Fed. R. Civ. P. 9(b) and Local Rule 7.0, and moves to dismiss with prejudice Plaintiff’s Counts I and III of its First Amended Complaint (Doc. 14). For the reasons articulated further in GS Labs’ memorandum in support filed contemporaneously, Plaintiff’s Counts I and III of its First Amended Complaint should be dismissed with prejudice.

WHEREFORE, GS Labs prays that Count III of Blue KC’s Amended Complaint for unjust enrichment should be dismissed in its entirety for lack of standing, for failure to state a claim for which relief may be granted, and for failure to allege fraud with the particularity required by Rule 9(b). Likewise, Count I of Blue KC’s Amended Complaint should be dismissed to the extent Blue KC seeks declaratory relief specific to ERISA-governed plans.

Respectfully submitted,
HUSCH BLACKWELL LLP

/s/Matthew P. Diehr

Jeffrey B. Jensen, #46745

Tim Garrison, #51033

Matthew Diehr, #61999

HUSCH BLACKWELL LLP

190 Carondelet Plaza, Suite 600

St. Louis, Missouri 63105

314.480.1500

jeff.jensen@huschblackwell.com

tim.garrison@huschblackwell.com

matthew.diehr@huschblackwell.com

Attorneys for GS Labs, LLC

CERTIFICATE OF SERVICE

I hereby certify that on September 16, 2021, the foregoing was filed electronically with the Clerk of the Court to be served by operation of the Court's electronic filing system upon all attorneys of record.

/s/Matthew P. Diehr

Matthew Diehr