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DISTRICT COURT
CLARK COUNTY, NEVADA

DIANE MAGUIRE, individually,)	
and on behalf of all others similarly situated,)	
)	CASE NO:
Plaintiff,)	
)	DEPT NO:
vs.)	
)	
HCA, INC., a Delaware Corporation;)	
SUNRISE MOUNTAINVIEW HOSPITAL, INC.,)	
a Nevada Corporation; and DOES I through X,)	
inclusive,)	
)	
Defendants.)	
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CLASS ACTION COMPLAINT

COMES NOW, the Plaintiff, **DIANE MCGUIRE**, individually, and on behalf of all others similarly situated, by and through his/her attorneys of record, GERALD I. GILLOCK, ESQ. and NIA C. KILLEBREW, ESQ., of the law offices of GILLOCK, MARKLEY & KILLEBREW, P.C., and ARCHIE C. LAMB, JR., A. DAVID FAWAL and CHRIS W. CANTRELL of the LAW OFFICES OF ARCHIE LAMB, LLC, and complains and alleges as follows:

INTRODUCTION

1. This action is brought by Plaintiff Diane MaGuire on behalf of herself and a nationwide Class of other similarly situated uninsured individuals seeking redress for the unfair, unconscionable and illegal acts of the Defendants which has resulted in a loss of his/her property. Plaintiff and the Class are seeking damages and declaratory and injunctive relief to end these practices and prevent further losses.

2. Plaintiff and class members sought and received medical services and goods at Mountainview Hospital and/or any other hospitals owned, operated or managed by Defendant HCA, Inc., (hereinafter "HCA") and were charged unfair, illegal and unconscionable rates by Sunrise Mountainview Hospital, Inc. (hereinafter "Sunrise Mountainview") or any other hospital owned, operated or managed by HCA for the medical services and goods rendered. Defendant Sunrise Mountainview, HCA and/or the other hospitals owned, operated or managed by HCA, billed Plaintiff and the Class rates for medical services and goods that far exceeded the industry norm, several multiples greater than the rate charged insured patients, and exponentially greater than the actual cost of the services provided. Defendants' scheme to defraud Plaintiff and class members has resulted in a benefit to Defendants in the amount of hundreds of millions of dollars. Defendants' scheme to charge supra-inflated rates for their medical services and goods to uninsureds would result in one of three situations: (1) the Uninsured class members would pay the unconscionable rates directly profiting Defendants; (2) the Uninsured class members either would not or could not pay these unconscionable rates whereby Defendants would then claim these supra-inflated rates as a tax write-off; (3) if unable to pay the Uninsured class members are subjected to harassing and predatory

collection efforts, including lawsuits which result in property liens and wage garnishment; or (4) if the uninsured is unable to pay, the Defendants write these supra-inflated charges off as charity care or bad debt resulting in an falsely inflated amount of charity and indigent care reported to the State and Federal governments, which in turn increases the “Disproportionate Share Hospital” payments they receive from the State and Federal government. The end result of the above has been added profits, tax write-offs and/or government reimbursements that have been worth tens of millions of dollars to Defendants.

3. The Defendants’ illegal and improper actions and schemes are intended to defraud, and do indeed defraud, some of the most vulnerable members of our society: persons lacking health insurance. Even worse, the Defendants targeted, through their illegal and improper actions and/or scheme, persons with acute and/or emergent conditions in immediate need of health care.

4. In some cases, the Defendants attempt to collect on the bills sent to an uninsured by placing liens on the person’s home, garnishing wages, and seizing bank accounts of those that cannot pay these unconscionable rates. The Defendants’ collection tactics are coercive, unfair and fraudulent.

5. Defendants’ scheme seeks to benefit Defendants by gouging a large portion of the nation’s forty-four (44) million uninsureds, who must pay the exorbitant medical bills charged by Defendants out of his or her own pockets. Nevada has some of the highest hospital cost to charge ratios¹ in the United States, with most hospitals

¹ Cost-to-Charge is a mathematical computation of the actual cost of providing medical services and goods compared to the amount that the hospital charges for these services and goods.

charging uninsureds over 300% of costs. HCA is one of the worst offenders with some hospitals charging uninsureds at rates over 400% of costs (Sunrise Hospital & Medical Center, Las Vegas; and Mountain View Hospital, Las Vegas).

6. The Defendants' scheme and unconscionable, deceptive and unfair practices have resulted in a financial windfall to Defendants HCA and Sunrise Mountainview. HCA is one of the most profitable health-care companies in the U.S. generating net revenues of \$21.8 billion and a net income of \$1.33 billion in the 2003 fiscal year. In the last four years HCA's net income has increased 400%, a large portion of this increase came at the expense of uninsureds. Mountainview Hospital is one of the most financially successful hospitals in Nevada generating almost \$ 450 million in total patient revenues in the 2003 fiscal year.

7. The Defendants' illegal, unfair, discriminatory and unconscionable acts and practices contribute to a much greater damage to our society. The 44 million U.S. residents without health insurance cost U.S. taxpayers between \$65 billion and \$130 billion per year in lost productivity mainly because these uninsureds cannot afford the cost charged for adequate medical services, a trend that can lead to decreased quality of life and shorter life span. (Institute of Medicine 2003 Study, Committee on the Consequences of Uninsurance)

8. Similar to the public backlash against the tobacco industry, the public has started to demand change from the hospital industry in billing and collection practices. The House Subcommittee on Oversight and Investigations last summer launched an investigation into these hospital billing and collection practices. Rep. James Greenwood, the chairman of the subcommittee, revealed that "In the worst instance, hospitals simply

apply outrageously high charges – higher than what Medicare pays, higher than private payers – and then will relentlessly and sometimes mercilessly pursue poor people for their money, even to the point of having them arrested.”

9. In Illinois, a protest was held against Illinois hospitals after a study sponsored by the Hospital Accountability Project found discriminatory pricing with the highest gross charges and the highest profit margin on the uninsured who paid their bills. Uninsureds there were paying 237% more than the discount price for insureds.

10. While some in the hospital industry have undertaken initial reforms to prevent discriminatory pricing, the Defendants have not, and continue to bill all uninsured patients at inflated rates.

11. This lawsuit is brought to enjoin Defendants HCA and Sunrise Mountainview from engaging in their scheme to defraud, and their discriminatory, unfair, deceptive and unconscionable pricing, billing and collection practices, and to obtain appropriate damages for Defendants’ past abuses.

PARTIES

12. Plaintiff Diane MaGuire is, and was at all times material hereto, a resident citizen of Las Vegas, County of Clark, State of Nevada. Plaintiff is a divorced, mother of two children.

13. Defendant HCA, Inc., is a Delaware corporation, with its principal place of business located at One Park Plaza, Nashville, Tennessee. HCA is one of the largest health care providers in the United States and operates one-hundred ninety-one (191) hospitals and eighty-two (82) outpatient surgery centers in twenty-three (23) states, England and Switzerland. HCA operates seven (7) hospitals and surgical centers, in

addition to eighteen (18) subsidiary entities in the State of Nevada alone. HCA is a public company founded by Dr. Thomas Frist, who is the brother of current United States Senator Bill Frist. Dr. Thomas Frist currently has an estimated net worth of \$1.5 billion.

14. Defendant Sunrise Mountainview Hospital, Inc., is a Nevada corporation, with its principal place of business located at 3100 North Tenaya Way, Las Vegas, Nevada. Sunrise Mountainview Hospital, Inc., operates two hospitals in Las Vegas, Mountainview Hospital and Sunrise Hospital, both of which are general medical surgical hospitals that are owned and operated by Defendant HCA.

15. At all times relevant hereto, Defendants DOES I through X, were and now are corporations, firms, partnerships, associations or other legal entities who committed the acts alleged herein, and acted within the scope of their agency, with the consent, permission, authorization and knowledge of the others, and in furtherance of both their interests and the interests of Defendants they aided and abetted, and with whom they conspired, as set forth below; that the true names, identities or capacities whether individual, corporate, associate or otherwise of the Defendants DOE CORPORATIONS I through X, inclusive are presently unknown to Plaintiff, who therefore sue said Defendants by such fictitious names; that the Plaintiff are informed and do believe and thereupon allege that each of the Defendants sued herein as DOE CORPORATIONS I through X are responsible in some manner for the events and happenings herein referred to, which thereby proximately caused the injuries and damages to the Plaintiff alleged herein; that when their true names and capacities of such Defendants become known, Plaintiff will ask leave of this Court to amend this Complaint to insert the true names, identities and capacities, together with proper charges and allegations.

FACTUAL ALLEGATIONS

16. Defendant HCA, through its hospitals, including Mountainview Hospital, has provided health care services to Plaintiff and class members. For the past few years charges for medical services at Mountainview Hospital and all other hospitals owned, operated or managed by HCA, have increased at rates far exceeding inflation. These charges bear no relation to the actual costs of providing these medical services and many times are 400-500% of actual costs.

17. On or about February 7, 2004, Plaintiff sought emergency medical treatment at Mountainview Hospital, located at 3100 N. Tenaya Way, Las Vegas, Nevada after suffering a severe asthma attack. Plaintiff was transported to Mountainview via ambulance and arrived in respiratory distress and in a profound altered state of consciousness. Plaintiff was admitted to the Intensive Care Unit and was hospitalized a total of seven days. For this seven day visit to Mountainview Hospital Plaintiff was charged \$51,163. Upon information and belief, the rate at which Plaintiff was billed by Defendants for the medical services and goods is exponentially greater than the actual cost of providing such medical services and goods. This rate is also many times greater than what insureds would be charged for same medical services and goods.

18. Upon information and belief, Plaintiff alleges that Defendants charged Plaintiff and members of the class supra-inflated rates for these medical services and/or goods simply because they were uninsured.

19. Upon information and belief, Plaintiff alleges that Defendants carried out the aforesaid scheme to defraud by instituting a policy of “upcharging” the price of medical services and goods for persons without health insurance coverage to

unconscionable and unfair amounts; by subjecting those unable to pay the supra-inflated charges to coercive, unfair and fraudulent collection practices by Defendants and/or their agents, in an effort to collect the improper and exorbitant sums charged; and garnishing the wages, seizing the bank accounts and placing liens on the homes of those unable to pay the supra-inflated charges.

20. Defendants Sunrise Mountainview, HCA and the other hospitals owned, operated or managed by HCA charge these unfair, discriminatory and unconscionable rates to the Plaintiff and other uninsureds for a number of reasons: (A) uninsured individuals lack the “bargaining power” of insurance companies allowing Defendants and other hospitals to “gouge” them; (2) in many cases the uninsured individual is admitted under emergent circumstances thereby disallowing him or her the opportunity to “shop around” for lower medical charges; and (3) it allows hospitals to falsely inflate the amount of charity and indigent care they actually provide in order to increase their Disproportionate Share Hospital (DSH) payments.

CLASS ALLEGATIONS

Class Definitions

21. Plaintiff brings this action on her own behalf and, pursuant to NRCP 23(b)(1)(A), (b)(2), and/or (b)(3), as a class action on behalf of a Nationwide class of persons defined as:

Class. All individuals in the United States, who, from June 17, 2003 to the date of certification, received medical services or goods from Mountainview Hospital or any hospital owned, operated or managed by HCA, and who were charged rates for medical services and goods that exceed the rate that Defendants charge patients whose medical bills are paid by third-party payors. Excluded from the class are (a) HCA and Sunrise Mountainview Hospital, Inc., and their officers, affiliates, directors, employees, and (b) the immediate family members of HCA’s and Sunrise Mountainview Hospital, Inc.’s officers, directors and employees (the “Class”).

22. This class seeks certification of claims for declaratory and injunctive relief, and for damages pursuant to NRS. §§ 207.400, 207.470, for conspiracy to violate NRS § 207.400(1)(a) and (c), and for aiding and abetting in violation of NRS §207.400(1)(c) and (f), NRS § 41.600, NRS § 598.0923, and NRS § 598.0915.

Rule 23(a)

Typicality

23. The named Plaintiff and the members of the class each and all have tangible and legally protectable interests at stake in this action.

24. The claims of the named class representative and the absent class members have a common origin and share a common basis. Their claims originate from the same illegal, extortionate, fraudulent, confiscatory, conspiratorial, and aiding and abetting practices of the Defendants, and the Defendants act in the same way toward the Plaintiff and the members of the class.

16. The proposed class representative states claims for which relief can be granted that are typical of the claims of absent class members. If brought and prosecuted individually, the claims of each class member would necessarily require proof of the same material and substantive facts, rely upon same remedial theories, and seek the same relief.

17. The claims and remedial theories pursued by the named class representatives are sufficiently aligned with the interests of absent class members to ensure that the universal claims of the class and subclasses will be prosecuted with diligence and care by the Plaintiff as representative of the class.

Numerosity

18. The members of the class are so numerous that joinder of all members is impracticable. Defendants have treated tens of thousands of uninsured individuals at their medical facilities. The class is, however, ascertainable as the names and addresses of all class members can be identified in business records maintained by the Defendants.

Commonality

19. The questions of law and fact common to the class include, *inter alia*.
- a. Whether Defendants have engaged in mail and wire fraud;
 - b. Whether Defendants induced Plaintiff and Class Members to part with their property out of fear of economic loss;
 - c. Whether Defendants have engaged in interstate travel to effectuate their extortionate acts;
 - d. Whether Defendants engaged in racketeering activity;
 - e. Whether the HCA Enterprise is an enterprise within the meaning of N.R.S. § 207.380;
 - f. Whether Defendants have used or invested income from its racketeering activities to establish or operate the HCA Enterprise in violation of NRS § 207.400(1)(a).
 - g. Whether Defendants conducted or participated in the affairs of the HCA Enterprise through a pattern of racketeering activity in violation of NRS § 207.400(1)(c).
 - h. Whether Defendants' overt and/or predicate acts in furtherance of the conspiracy and/or direct acts in violation of NRS. §§

207.400(1)(a) and (c) proximately caused injury to the Plaintiff's and class members' business or property.

- i. Whether Defendants charged uninsured individuals more for medical services and/or goods than insured individuals;
- j. Whether Defendants charged uninsured individuals for medical services and/or goods at a rate higher than the "usual and customary" rate for such goods and services;
- k. Whether Defendants have engaged in unfair and deceptive trade practices that are injurious to the Uninsured patients of its hospitals;
- l. Whether Defendants fraudulently concealed their scheme(s);
- m. Whether Defendants are unjustly enriched by that benefit;
- n. Whether Defendants should be enjoined from continuing their unfair, discriminatory, and abusive conduct; and
- o. Whether Defendants' conduct violates Nevada's Consumer Fraud Act.
- p. Whether Defendants' conduct in violates Nevada's Unfair Trade Practices Act, NRS §589A.200.

Adequate Representation

20. The named Plaintiff is willing and prepared to serve the Court and proposed class in a representative capacity with all of the obligations and duties material thereto. The Plaintiff will fairly and adequately protect the interest of the class and has

no interests adverse to, or which directly and irrevocably conflict with, the interests of other members of the class.

21. The self-interests of the named class representative are co-extensive with and not antagonistic to those of the absent class members. The proposed representative will undertake to well and truly protect the interests of the absent class members.

22. The named Plaintiff has engaged the services of counsel indicated below. Said counsel are experienced in complex class action litigation, with specific experience in managed health care class action litigation. Said counsel will adequately prosecute this action, and will assert, protect and otherwise well represent the named class representative and absent class members.

Rule 23 (b)(1)(A) AND (B)

23. The prosecution of separate actions by individual members of the class would create a risk of adjudications with respect to individual members of the class which would, as a practical matter, be dispositive of the interests of other members of the class who are not parties to the action, or could substantially impair or impede their ability to protect their interests.

24. The prosecution of separate actions by individual members of the class would create a risk of inconsistent or varying adjudications with respect to individual members of the class which would establish incompatible standards of conduct for the parties opposing the class. Such incompatible standards and inconsistent or varying adjudications, on what would necessarily be the same essential facts, proof and legal theories, would also create and allow to exist inconsistent and incompatible rights within the plaintiff class.

Rule 23 (b)(2)

25. The Defendants have acted or refused to act on grounds generally applicable to the class, making final declaratory or injunctive relief appropriate.

Rule 23 (b)(3)(2)

26. The questions of law and fact common to members of the class predominate over any questions affecting only individual members.

27. A class action is superior to other available methods for the fair and efficient adjudication of the controversies herein in that:

(a) Individual claims by the class members are impractical as the costs of pursuit far exceed what any one plaintiff or class member has at stake;

(b) As a result, individual class members have no interest in prosecuting and controlling separate actions;

(c) It is desirable to concentrate litigation of the class members claims in this single forum; and

(d) The proposed class action is manageable.

RICO ALLEGATIONS UNDER NEVADA LAW
THE HCA ENTERPRISE

28. Plaintiff, the class members and Defendants are "persons" within the meaning of NRS 207.400(1).

29. Based upon Plaintiff's current knowledge, and pursuant to NRS § 207.380, the following persons constitute a union or group of individuals associated in fact that Plaintiff refers to as the "HCA Enterprise": (1) Defendants; (2) other hospitals owned, operated or managed by HCA; (3) other hospitals that treat uninsured individuals;

and (4) the American Hospital Association and other trade associations or organizations to which defendants are members.

30. The HCA Enterprise is an ongoing organization which engages in, and whose activities affect, interstate commerce. Among other things Defendant HCA operates over two-hundred seventy (270) hospitals, surgical centers, rehabilitation and psychiatric centers in twenty-five (23) states, England and Switzerland.

31. While the Defendants participate in and are members and part of the HCA Enterprise, and are a part of it, they also have an existence separate and distinct from the enterprise.

32. In order to successfully extort, defraud and/or obtain money by false pretenses, from tens of thousands of its patients by “upcharging” or “supra-inflating” the cost of medical services and goods to persons without insurance coverage, Defendants implemented a scheme or artifice.

33. The HCA Enterprise provides Defendants, with that system and ability, and their control of and participation in it is necessary for the successful operation of their scheme. Defendants control and operate the HCA Enterprise as follows:

(a) By setting and/or allowing Sunrise Mountainview and other hospitals owned, operated or managed by HCA to set charges for medical goods and services to the uninsured at supra-inflated rates. The rate that these charges are set depends on the geographic location with the proximity and type of other hospitals in the area the central factor. Explicit or implicit communications between hospitals in a given geographic area to set prices at comparable rates allows these hospitals to continue to “gouge” the uninsured by giving them no cheaper alternative.

(b) Becoming members of trade associations/organizations like the American Hospital Association which provide guidance to Defendants and other hospitals on their billing practices to uninsured individuals. These associations and organizations print publications that encourage HCA, Sunrise Mountainview and other hospitals to inflate their chargemaster prices which they use as the starting point to negotiate discounts with insurance companies from. However, uninsureds are charged the full chargemaster price which is on average almost 400% the actual cost of providing the medical service or good.² The associations and organizations also advised HCA, Sunrise Mountainview and other hospitals to falsely argue that the Medicare anti-kickback provisions prevent them from offering lower rates of medical goods and services to uninsureds.³

34. As set forth above, the HCA Enterprise has an ascertainable structure separate and apart from the pattern of racketeering activity in which the Defendants engage.

PREDICATE ACTS

35. Under NRS §§ 207.360 and 207.400, “racketeering activity” includes obtaining possession of money by false pretenses; fraudulent conduct; and extortion. As set forth below, Defendants have and continue to engage in conduct violating each of these laws to effectuate their scheme.

² The 400% figure is an average for all HCA hospitals. Mountainview Hospital, on average, charges uninsureds over 500% for medical services and goods the actual cost of providing such goods or services.

³ HHS Secretary Tommy Thompson recently revealed that nothing in the Medicare regulations require hospitals to charge uninsureds at these supra-inflated rates.

**Obtaining money under false pretenses (Mail and Wire Fraud
under 18 U.S.C. §§ 1341, 1343)**

36. For the purpose of executing and/or attempting to execute the above described scheme to defraud or obtain money by means of false pretenses, the Defendants, in violation of 18 U.S.C. § 1341, placed in post offices and/or in authorized repositories matter and things to be sent or delivered by the Postal Service, caused matter and things to be delivered by commercial interstate carrier, and received matter and things from the Postal Service or commercial interstate carriers, including but not limited to correspondence, reports, summaries, bill statements, and debt collection materials.

37. For the purpose of executing and/or attempting to execute the above described scheme to defraud or obtain money by means of false pretenses, the Defendants, also in violation of 18 U.S.C. § 1343, transmitted and received by wire, matter and things which include but are not limited to correspondence, reports, summaries, bill statements and information, and debt collection materials/information.

38. The matter and things sent by Defendants via the Postal Service, commercial carrier, wire or other interstate electronic media include, inter alia:

(a) material containing false and fraudulent misrepresentations that the charges for the medical services and/or goods provided by Defendants is “usual and customary”;

(b) material which concealed or failed to disclose that Defendants were charging Plaintiff and class members for medical services and/or goods at supra-inflated rates;

(c) upon information and belief, material which concealed or failed to disclose that Plaintiff was entitled to a complete, itemized list of all charges incurred at Defendant Valley Hospital and other hospitals owned, operated or managed by UHS; and

(d) material which concealed or failed to disclose that by charging Plaintiff and the class at these supra-inflated rates, Defendants would receive a larger share of DSH funds.

39. Other matter and things sent through or received from the Postal Service, commercial carrier or interstate wire transmission by Defendants included information or communications in furtherance of or necessary to effectuate the scheme.

40. The Defendants' misrepresentations, acts of concealment and failures to disclose were knowing and intentional, and made for the purpose of deceiving Plaintiff and the class and obtaining their property for the Defendants' gain.

41. The Defendants either knew or recklessly disregarded the fact that the misrepresentations and omissions described above were material, and Plaintiff and the class relied on the misrepresentations and omissions as set forth above.

42. As a result, Defendants have obtained money and property belonging to the Plaintiff and class members, and Plaintiff and the class have been injured in their business or property by the Defendants' overt acts of mail and wire fraud.

Extortion

43. Defendants have also carried out and/or attempted to carry out the schemes described above, and thereby obtained the property of Plaintiff and members of the class, by inducing them to part with their property out of fear of economic loss and other interests, both tangible and intangible.

44. Specifically, Defendants have forced Plaintiff and members of the class to pay supra-inflated rates for medical services and goods which far exceed the rate which is usual and customary; pay supra-inflated rates for medical services and goods which far exceed the actual cost of said goods and services; pay supra-inflated rates for medical services and goods which far exceed the rate at which insured individuals are charged for the same medical goods and services; and have their wages garnished and liens placed on their homes as a result of the inability of the Plaintiff and the class to pay these supra-inflated rates for Defendants' medical services and goods, through fear of economic loss; and in emergent situations through fear of permanent injury, death and pain and suffering.

45. Defendants created this fear through threats, both veiled and explicit, that Plaintiff and members of the class will be refused medical services and goods.

46. These threats are made more credible through the conspiracy described above.

47. Defendants' extortionate conduct obstructs and affects interstate commerce.

48. As a result of Defendants' overt acts in violation of NRS §§ 207.390 and 207.400, as well as Defendants' aiding and abetting of those violations, Plaintiff and members of the class have parted with compensation that was rightfully theirs and have been injured in their businesses and property.

RACKETEERING ACTIVITY

49. The Defendants have engaged in a "racketeering activity," as defined by NRS § 207.390, by committing at least two crimes related to racketeering activity, i.e.

violations of crimes listed in NRS § 207.360 as described above, within the past five years. In fact, each Defendant has committed in the commission of thousands of acts of racketeering activity. Each act of racketeering activity was related, had a similar purpose, involved the same or similar participants and method of commission, had similar results and impacted similar victims, including Plaintiff and class members.

50. The multiple acts of racketeering activity which Defendants committed and/or conspired to, or aided and abetted in the commission of, were related to each other and amount to and pose a threat of continued racketeering activity.

51. A few representative examples of the types of predicate acts committed by Defendants pursuant to their scheme to defraud the Plaintiff and their conspiracy to violate Nevada's RICO statute are set forth below.

False Representations Concerning Cost of Medical Services and Goods.

52. On numerous occasions including February 18, 2004, Defendant Sunrise Mountainview, either itself or through agents or representatives, sent to Plaintiff, through the U.S. Mail, a statement of the charges for the medical services and goods Plaintiff received while hospitalized at Mountainview Hospital, which is owned and operated by Defendant HCA. There is an implicit representation that the rates that these medical goods and services are charged are "usual and customary." These representations were false. The rates at which Plaintiff and the class were charged for medical services and goods by Defendant Sunrise Mountainview far exceed the "usual and customary" rate for such services.

53. On numerous occasions including February 18, 2004, Defendant Sunrise Mountainview sent to Plaintiff, through the U.S. Mail, an itemized statement of the

charges for the medical services and goods Plaintiff received while hospitalized at Mountainview Hospital. Defendants actively concealed and failed to disclose that the charges for these medical services and goods far exceed the rate at which insureds are charged and the actual cost of providing such services and goods.

COUNT I

**VIOLATION OF NEVADA'S RICO STATUTE, NRS § 207.400(1)(h) BY
CONSPIRING TO VIOLATE NRS § 207.400(1)(a) AND (c)**

54. Plaintiff and class members incorporate and reallege all of the preceding paragraphs as if fully set out herein.

55. In violation of NRS § 207.400(1)(h), Defendants have, as set forth above, conspired to violate: NRS § 207.400(1)(a) by using and investing income received from a pattern of racketeering, directly or indirectly, to establish and operate the HCA Enterprise, which is engaged in, and whose activities affect, interstate commerce; and NRS § 207.400(1)(c) by conducting, or participating directly or indirectly in the conduct of, the affairs of the HCA Enterprise through a pattern of racketeering.

56. As a direct and proximate result, Plaintiff and class members have been injured in their business or property by both the predicate acts which make up the Defendants' patterns of racketeering and their investment and reinvestment of income therefrom to operate, expand and perpetuate the HCA Enterprise.

57. Specifically, Plaintiff and class members have been injured in their business or property by being charged supra-inflated rates for medical services and/or goods, by being subjected to extortionate and predatory collection methods, and by being subjected to wage garnishments and unjust liens.

COUNT II
VIOLATION OF NRS § 207.400(1) BY SEEKING TO AND AIDING AND
ABETTING IN THE VIOLATION OF NRS § 207.400(1)(a) AND (c).

58. Plaintiff and class members incorporate and reallege all of the preceding paragraphs as if fully set out herein.

59. As set forth above, each Defendant knowingly, and with shared intent, sought to, and have, aided and abetted the other Defendant in the commission of predicate acts, in engaging in racketeering activity, and in violating NRS § 207.400(1)(a) and (c) as described above.

60. As a result, under NRS § 207.400(1), the RICO violations of each Defendant are those of the others as if they had been committed directly by them.

61. As a direct and proximate result of the fact that each Defendant aided and abetted the others in violating NRS § 207.400(1)(a) and (c), Plaintiff and class members have been injured in their business or property by both the predicate acts which make up the Defendants' patterns of racketeering and their investment and reinvestment of income therefrom to operate, expand and perpetuate the HCA Enterprise.

62. Specifically, Plaintiff and class members have been injured in their business and/or property being charged supra-inflated rates for medical services and/or goods, by being subjected to extortionate and predatory collection methods, and by being subjected to wage garnishments and unjust liens.

COUNT III
VIOLATIONS OF NRS § 207.400(1)(a) AND (c)

63. Plaintiff and class members incorporate and reallege all of the preceding paragraphs as if fully set out herein.

64. As set forth above, Defendants have violated NRS § 207.400(1)(a) by using and investing income received from a pattern of racketeering, directly or indirectly, to establish and operate the HCA Enterprise, which is engaged in, and whose activities affect, interstate commerce, and have violated NRS § 207.400(1)(c) by conducting, or participating directly or indirectly in the conduct of, the affairs of the HCA Enterprise through a pattern of racketeering.

65. As a direct and proximate result, Plaintiff and the class members have been injured in their business or property by both the predicate acts which make up the Defendants' patterns of racketeering activity and their investment and reinvestment of income therefrom to operate, expand and perpetuate the HCA Enterprise.

66. Specifically, Plaintiff and class members have been injured in their business or property by being charged supra-inflated rates for medical services and/or goods, by being subjected to extortionate and predatory collection methods, and by being subjected to wage garnishments and unjust liens.

COUNT IV
DECLARATORY AND INJUNCTIVE RELIEF
UNDER NRS § 30.030

67. Plaintiff and class members incorporate and reallege all of the preceding paragraphs as if fully set out herein.

68. This claim arises under NRS § 30.030, which authorizes Nevada district courts to declare rights, status and other legal relations, and associated declaratory relief.

69. As set forth in Counts I, II and III above, Defendants have violated NRS §§ 207.400(1)(a), and (c), and will continue to do so in the future.

70. Enjoining the Defendants from committing these RICO violations in the future and/or declaring their invalidity is appropriate as the Plaintiff and the class have no

adequate remedy at law, and will, as set forth above, suffer irreparable harm in the absence of the Court's declaratory and injunctive relief.

COUNT V
CONSUMER FRAUD: VIOLATION OF N.R.S. § 41.600

71. Plaintiff and class members incorporate and reallege all of the preceding paragraphs as if fully set out herein.

72. Upon information and belief, Plaintiff and class members believe that Defendants' conduct described herein constitutes Consumer Fraud within the meaning of N.R.S. 41.600, which allows private causes of actions for consumers who are the victim of a deceptive trade practice as defined by N.R.S. 598.0915 to 598.0925 inclusive.

73. Defendants' unlawfully and with the intent to deceive, engaged in a deceptive trade practice as defined by N.R.S. 598.0923 when they failed to disclose to Plaintiff and class members that they would be charged significantly higher rates for medical goods and services than insured or partially insured individuals.

74. Defendants' fraudulent conduct in violation of N.R.S. 41.600 was implemented and/or executed within the State of Nevada, which has an interest in ensuring that its residents do not engage in such immoral, unethical and oppressive behavior.

75. Additionally, Defendants' conduct constitutes a "deceptive trade practice within the meaning of N.R.S. 598.0923 in that it violates a state of federal statute or regulation relating to the sale of goods or services, including but not limited to: (1) N.R.S. 439B.400, which forbids hospitals from charging differing rates for the same medical goods or services to inpatients; and (2) N.R.S. 439B.260, which requires major hospitals to reduce an uninsured patient's total billed charges by at least thirty percent.

76. As a direct and proximate result of the aforementioned conduct, Plaintiff and the class members have suffered ascertainable actual economic damages. Furthermore, Defendants have received and continues to receive payments which rightfully belong to the Plaintiff and members of the class, and have unlawfully reaped huge profits at their and the public's expense. Defendants' illegal conduct will continue and, as set forth above, the Plaintiff and class members have no adequate remedy at law and will suffer irreparable harm without appropriate declaratory and/or injunctive relief.

COUNT VI
UNJUST ENRICHMENT

77. Plaintiff and class members incorporate and reallege all of the preceding paragraphs as if fully set out herein.

78. By visiting and receiving health care services and goods from Mountainview Hospital and any other hospital owned, operated or managed by HCA, Plaintiff and class members conferred a benefit upon Defendants.

79. Defendants accepted and solicited the benefit conferred upon them and sought to unlawfully maximize this benefit by charging Plaintiff and Class members a rate for these health care services and goods that far exceeds Defendants' actual cost and what is "usual and customary" for such medical services.

80. It would be inequitable to allow Defendants to retain these benefits under the circumstances, and they are unjustly enriched thereby.

81. Defendants continue to unjustly enrich themselves in this fashion. As set forth above, the Plaintiff and class members have no adequate remedy at law to stop this future "overcharging" and will suffer irreparable harm without appropriate declaratory and injunctive relief.

82. Plaintiff and class members are therefore entitled to an order requiring Defendants to make an accounting of all proceeds it has obtained or collected as a result of these “overcharges,” and that upon such accounting having been made, an order determining that such amounts constitute an unjust enrichment of the Defendants, and that such amounts must be paid into a fund for distribution among the Class members.

COUNT VII
VIOLATION OF THE NEVADA UNFAIR TRADE
PRACTICES ACT

83. Plaintiff and class members incorporate and reallege all of the preceding paragraphs as if fully set out herein.

84. The Nevada Unfair Trade Practices Act, NRS § 598A.010, et seq. (hereinafter referred to as “NUTPA”), prohibits “a contract, combination or conspiracy in restraint of trade. . . .”

85. Defendants fall within the meaning and definitions of NUTPA. NRS § 598A.230.

86. The Plaintiff and class members are “persons” within the meaning of the NUTPA and entitled to seek redress thereunder.

87. The conduct of Defendants, in connection with the medical services and goods rendered to Plaintiff and class members, constitutes the use or employment of deception, fraud, false pretense, false promise, or misrepresentation, and the concealment, suppression or omission of a material fact with the intent that the Plaintiff and class members rely upon the concealment, suppression and/or omission. As such, Defendants’ conduct constitutes unfair methods of competition or deceptive acts or practices within the meaning of NUTPA.

88. The unfair methods of competition and/or deceptive practices of Defendants occurred in the conduct of “trade” or “commerce” as defined by NUTPA.

89. Defendants’ conduct in violation of NUTPA was conceived, devised, planned, implemented, approved and/or executed within the State of Nevada, which has an interest in ensuring that its residents do not engage in conduct in violation of NUTPA.

90. Defendants intended that the Plaintiff and class members rely on the misrepresentations, omissions, fraudulent conduct and/or deceptive and misleading practices in providing medical services and goods, and in billing Plaintiff and class members at supra-inflated rates for such medical goods and services.

91. The Plaintiff and class members have suffered ascertainable actual economic damages as a direct and proximate cause of Defendants’ actions in violation of the NUTPA.

92. As a direct and proximate result of Defendants’ above conduct, Defendants has received and continue to receive payments which rightfully belong to the Plaintiff and class members, and have unlawfully reaped huge profits at their and the public’s expense. This conduct will continue and, as set forth above, the Plaintiff and class members have no adequate remedy at law and will suffer irreparable harm without appropriate declaratory and/or injunctive relief.

93. In violating NUTPA Defendants acted willfully and with reckless disregard for the rights and interests of Plaintiff and class members, entitling them to punitive as well as compensatory damages.

COUNT VIII
MONEY HAD AND RECEIVED

94. Plaintiff and class Members incorporate and reallege all of the preceding paragraphs as if fully set out herein.

95. Defendants hold money which, in equity and good conscience and under law belongs to Plaintiff and the Class Members and/or hold money of Plaintiff and Class Members which was improperly paid to Defendants because of mistake and/or hold money of Plaintiff and Class Members because of breach of Defendants' duty of fair dealing.

96. Plaintiff and class members claim of the Defendants all amounts paid by them to the Defendants as a result of Defendants' scheme for money had and received. Plaintiff and Class Members are entitled to an order requiring the Defendants to make an accounting to this Court of all proceeds it has obtained or collected in as a result of the imposition of its "upcharges," and that upon such an accounting having been made, an order determining that such amounts constitute an unjust enrichment of the Defendants, and that such amounts be paid into this Court, for administration by this Court for the benefit of Plaintiff and Class Members.

PRAYER FOR RELIEF

AS TO COUNTS I, II and III- A judgment in favor of Plaintiff and Class members against all Defendants for treble the amount of damages suffered by reason of being charged supra-inflated rates for medical services and goods through Defendants' predicate acts and violations of NRS §§ 207.400(1)(a) and (c), together with treble the amount of interest due on payments delayed or withheld through the Defendants' predicate acts and RICO violations.

AS TO COUNT IV- An injunction enjoining and prohibiting Defendants from engaging in the violations of law set forth hereinabove.

AS TO COUNT V- A judgment in favor of Plaintiff and Class members against all Defendants for the amount of damages suffered by reason of being charged supra-inflated rates for medical services and goods through Defendants deceptive trade practices, along with attorneys fees.

AS TO COUNT VI- An order requiring Defendants to make restitution to Plaintiff and all members of the Class for all amounts by which Defendants were unjustly enriched as a result of Defendants' illegal, unfair, fraudulent and deceptive practices. Also, that all profits obtained by Defendants as a result of Defendants' illegal, unfair, fraudulent and deceptive practices be placed into a constructive trust for the benefit of the Plaintiff and the Class.

AS TO COUNT VII- A judgment in favor of Plaintiff and Class members against all Defendants for treble the amount of damages suffered by reason of being charged supra-inflated rates for medical services and goods through Defendants' violations of the Nevada Unfair Trade Practices Act; and reasonably attorneys fees together with such costs as this Court finds reasonable.

AS TO COUNT VIII- An order requiring the Defendants to make an accounting to this Court of all proceeds they have obtained or collected in as a result of the imposition of their "upcharges," and that upon such an accounting having been made, an order determining that such amounts constitute an unjust enrichment of the Defendants, and that such amounts be paid into this Court, for administration by this Court for the benefit of Plaintiff and Class Members.

DATED this 5th day of August, 2004.

GILLOCK, MARKLEY & KILLEBREW, P.C.

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