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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF KING

CHAD HUMPHREY, on behalf of himself  
and all others similarly situated,

No.

Plaintiff,

v.

**CLASS ACTION COMPLAINT**

SWEDISH HEALTH SERVICES, a  
Washington Corporation, doing business as  
SWEDISH MEDICAL CENTER; and  
DOES 1 through 25, inclusive,

Defendants.

NOW COMES the Plaintiff, complaining of Defendants, and alleges and says:

**I. INTRODUCTION**

1. Plaintiff Chad Humphrey brings this Class Action Complaint against Swedish Health Services, doing business as Swedish Medical Center (“Swedish” or “Defendant”), challenging the unreasonable, unconscionable and unlawful charges billed to him and similarly situated uninsured patients for emergency care provided at Swedish Medical Center facilities in Washington State, including the Swedish Medical Center in Issaquah, WA. Plaintiff is informed and believes, and thereon alleges, that Swedish owns and/or operates a number of healthcare facilities (including hospital campuses and other medical centers) in and around Seattle, Washington.

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2. This complaint applies only to patients who were provided emergency treatment and care (i.e., not scheduled or elective services), and who were uninsured and not covered by a governmental healthcare program at the time.<sup>1</sup>

3. In representations to the public on its website, Swedish states that it is a non-profit organization. Upon information and belief, Swedish has claimed tax-exempt status in its filings with the Internal Revenue Service during all times relevant hereto.

4. Despite Swedish's professed commitment to provide the "best-value health care to all we serve",<sup>2</sup> Plaintiff is informed and believes, and thereon alleges, that Swedish has engaged, and continues to engage, in a pattern and practice of charging unfair, unreasonable and inflated prices for its emergency care provided to its uninsured patients (who are generally the least able to pay the inflated and unreasonable charges). In doing so, Swedish requires such patients to pay dramatically more than the payment rates for the vast majority of patients (consisting primarily of insured patients with negotiated rates) for the very same treatment.

5. Plaintiff Humphrey brings this class action on behalf of himself and all similarly situated individuals (or their guardians or representatives) who have (a) received emergency care medical treatment at a Swedish facility in Washington State; and (b) were

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<sup>1</sup> "Emergency care", as its name implies, is care provided on an emergency basis. Patients such as Plaintiff, who experienced a medical emergency, have no advance opportunity to shop for prices or negotiate fixed pricing terms for scheduled treatment in advance, such as insurers have when negotiating contracts for across-the-board discounts for their insureds, or uninsured patients have when negotiating prices with respect to scheduled and elective services and treatment.

<sup>2</sup> See, for example Swedish Medical Center's "Mission Statement", available online at <http://www.swedish.org/About/Overview/Mission-Outreach> (accessed 7-10-2012).

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2 not covered by insurance or governmental healthcare programs at the time of treatment.  
3 Upon information and belief, more than two thirds of the persons in the class as so defined  
4 are citizens of Washington State.

## 5 6 **II. PARTIES**

7 6. Plaintiff Chad Humphrey is a citizen and resident of King County,  
8 Washington. Plaintiff was treated by Defendant at Swedish Medical Center Issaquah, a  
9 Swedish Health Services facility, also located in King County, Washington.

10 7. Plaintiff is informed and believes, and thereon alleges, that Defendant  
11 Swedish Health Services is a Washington corporation with its principal place of business in  
12 King County, Washington. Plaintiff is informed and believes, and thereon alleges, that  
13 Swedish Health Services operates approximately seven emergency care facilities in  
14 Washington State, including at Swedish Medical Center Issaquah. Swedish represents that it  
15 the largest non-profit health provider in the area, operating over 1,400 beds, with 2,800  
16 physicians, 11,000 employees and over 130,000 emergency room visits annually. See  
17 <http://www.swedish.org/About/Overview/Facts---Figures> (visited on 7-10-2012).  
18

19 8. The true names and capacities of Defendant Does 1 through 25, inclusive, are  
20 unknown to Plaintiff and, therefore, they are sued by such fictitious names. Plaintiff will  
21 seek leave of court to amend this complaint to allege the true names and capacities of the  
22 Doe Defendants when they have been ascertained. Plaintiff is informed and believes, and  
23 thereon alleges, that each Doe Defendant is in some manner responsible and liable for the  
24 actions herein alleged.  
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**III. AGENCY ALLEGATIONS**

9. Plaintiff is informed and believes, and thereon alleges, that Defendant Swedish Health Services (operating as Swedish Medical Center) exercises control over its constituent medical facilities (including hospital campuses and other medical centers) by developing and controlling their form adhesion agreements with their patients, as well as their policies, including their policies relating to pricing for uninsured emergency care patients.

10. Plaintiff is informed and believes, and thereon alleges, that, at Swedish Health Services's direction and with its approval, each of the Swedish Medical Center hospital campuses and other medical centers represents itself, in its written and online materials and elsewhere, as being part of the Swedish Medical Center system.

11. At all relevant times, each and every individual Swedish Medical Center facility was and is the agent of Swedish Health Services. In committing the acts alleged herein, each and every Swedish Medical Center facility acted in the course and scope of its agency and was acting with the consent, permission, authorization, satisfaction and/or knowledge of Swedish Health Services, and perpetuated and/or aided and abetted the wrongdoings described herein. Plaintiff is informed and believes, and thereon alleges, that all actions of each Swedish Medical Center facility as alleged herein were ratified and/or approved by Swedish Health Services and/or its officers, directors, controlling persons, agents, partners, and/or joint venturers.

**IV. GENERAL ALLEGATIONS**

12. Plaintiff is informed and believes, and thereon alleges, that, at all relevant times, Swedish used a form adhesion contract, drafted by Swedish, which is employed by all

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2 Swedish Medical Center facilities, and which both insured and uninsured emergency care  
3 patients (or their agents) are required to sign, under circumstances that by their very nature  
4 involve a degree of duress. The contract requires payment of Swedish Medical Center's  
5 "charges not paid by insurance," but fails to define these charges anywhere, or even to  
6 specify where the rates of such charges may be found.<sup>3</sup>  
7

8 13. Since the contract contains no pricing items which are certain or readily  
9 identifiable, nor any means by which such pricing terms can be made certain, applicable law  
10 implies a contractual obligation to pay the "reasonable value" of the services and treatment  
11 rendered. Consequently, Defendant is precluded from billing more than the "reasonable  
12 value" for the treatment and services it rendered to Plaintiff and other uninsured patients.  
13

14 14. Furthermore, even if an uninsured emergency care patient did not sign this  
15 form agreement, but received emergency care from Defendant, he or she would still be  
16 obligated, under principles of quasi-contract, unjust enrichment, or other applicable law, to  
17 pay the hospital no more than the "reasonable value" for the emergency care provided.  
18

19 15. Contrary to Swedish Medical Center's express contractual obligation to accept  
20 payment from uninsured emergency care patients in accordance with its "charges" and/or its  
21 implied contractual obligation to charge no more than the "reasonable value" of the  
22 emergency care provided, Swedish engages in unfair and unreasonable billing and pricing  
23

24 <sup>3</sup> The hospital's requirement to pay its "charges" is inherently meaningless, because Swedish  
25 has no regular charging rates when it comes to payment for services rendered. Specifically,  
26 upon information and belief, Swedish negotiates differing payment rates and terms of  
payment with each of dozens of insurance carriers, negotiates differing rates and terms of  
payment for hundreds of uninsured patients for scheduled and elective services, provides  
special charity rates and terms of payment to indigent patients based on their individual  
financial conditions, and provides other rates and terms of payment for Medicare patients and  
worker's compensation insurance patients in accordance with governmental regulations.

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practices with regard to such patients. Specifically, Swedish requires uninsured emergency care patients to pay substantially more than it accepts as “payment in full” from its other patients, including, upon information and belief, other patients signing the same contracts, who are treated with the same emergency care under similar circumstances.

16. In breach of its contractual obligation to charge no more than the “reasonable value” of the emergency care provided, Swedish bills and takes action to force uninsured emergency care patients to pay unreasonable, unlawful, and grossly excessive amounts for medical treatment and services, amounts which are far in excess of the rates that are paid by its most frequent, regular payors for identical or substantially similar services, and far in excess of the “reasonable value” for such services.

17. Swedish Medical Center’s unreasonable, unconscionable, and unlawful pricing practices have a significant detrimental impact on the large population of its uninsured emergency care patients, who are generally the least able to afford their medical care bills.

18. Plaintiff is further informed and believes, and thereon alleges, that Swedish Medical Center maintains spreadsheets of artificially inflated billing charges for each product and service provided. Within the hospital industry, such lists of billing charges are called “Chargemasters.” While these itemized lists form an easy and convenient reference point for negotiations with both insurance carriers and uninsured patients seeking elective treatment, they are not pricing schedules for which hospitals expect payment. As a result, hospitals

1  
2 expect only a very small percentage of their patients to actually pay their full Chargemaster  
3 rates.<sup>4</sup>

4         19. Plaintiff is further informed and believes, and thereon alleges, that Swedish  
5 Medical Center's gross billing charges (i.e., Chargemaster rates) rarely, if ever, bear any  
6 relation to the hospital's costs for providing treatment or what it will accept as payment in  
7 full for such gross billing charges. Indeed, according to the most recent statistics filed with  
8 the Washington State Health Care Authority<sup>5</sup>, the Cost-to-Charge ratios for Swedish Medical  
9 Center's hospital campuses ranged from 0.260 to 0.317, which indicates that the hospital's  
10 Chargemaster rates were **between three and four times** its actual costs of providing  
11 services.  
12

13         20. Plaintiff is further informed and believes, and thereon alleges, that its schedule  
14 of gross billing charges are not published on Swedish Medical Center's website or elsewhere,  
15 nor are they provided to prospective patients or emergency care patients. The purpose of  
16 establishing gross billing charges is not to establish standardized billing rates for thousands  
17 of different treatment and service items which the public can see and review, but rather to  
18 form a convenient methodology for negotiating payment and reimbursement rates with  
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21 <sup>4</sup> Hospital pricing policies are complex. A hospital's Chargemaster contains a list of gross  
22 billing charges which are neither the hospital's "regular payment rates," nor its "usual and  
23 customary payment rates," nor its "reasonable payment rates," for the hospital's treatment  
24 and services. Few, if any, of the hospital's emergency care patients (less than 5%) ever pay  
25 such gross billing charges, nor are they expected to do so. Instead, the Chargemaster  
26 constitutes an easy and convenient starting point for negotiating billing rates with insurance  
carriers, and for negotiating fixed price quotes for uninsured patients seeking elective care  
and treatment (i.e., non-emergency). Medicare rates, in contrast, are set by government  
regulation, and do not even consider a hospital's Chargemaster rates.

<sup>5</sup> see [http://hrsa.dshs.wa.gov/hospitalpymt/InPatient/RateFiles/DrgRates/Jul12\\_Final\\_Mcaid.pdf](http://hrsa.dshs.wa.gov/hospitalpymt/InPatient/RateFiles/DrgRates/Jul12_Final_Mcaid.pdf) (accessed 7-10-2012)

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2 private insurance companies, managed care organizations, and uninsured patients seeking  
3 elective treatment.<sup>6</sup> Reimbursement rates for private insurers are typically negotiated as a  
4 flat percentage discount from the hospital's gross billing charges, which proves a convenient  
5 means of providing blanket discounts without the need to individually review the pricing for  
6 tens of thousands of different billing codes and items. Similar to insurers contracting with  
7 Swedish, uninsured patients seeking "elective care" procedures also are in a position to  
8 negotiate fixed prices for treatment and services scheduled in advance (e.g., pregnancy and  
9 childbirth). Patients covered by insurance, whether government or private, form the vast  
10 majority of Defendant's customer base, and automatically receive significant discounts from  
11 the gross charges listed in the Chargemasters. Significantly, upon information and belief,  
12 Swedish's uninsured emergency care patients are the only category of payors whom the  
13 hospital requires to pay its full Chargemaster rates, despite the fact that the gross  
14 Chargemaster rates are rarely related to actual costs for treatment and services and not even  
15 mentioned in its contracts.

18 21. Swedish's Chargemaster rates are not the amounts which it expects patients to  
19 pay, and an agreement to pay in accordance with the undefined "charges" of the hospital is  
20 not an agreement to pay the hospital's grossly inflated Chargemaster rates.

22 22. Swedish's Chargemaster rates are substantially greater than the reasonable  
23 value of services provided by the hospital.

24 \_\_\_\_\_  
25 <sup>6</sup> There are substantial differences between uninsured patients seeking elective or non-  
26 emergency medical care, in which case they have the opportunity to shop around and  
negotiate pricing terms for future medical services and treatment (e.g., a hip replacement,  
organ transplant, etc.), and uninsured patients requiring emergency care, where the patient  
lacks the opportunity to price shop or negotiate price terms.



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2           23. Plaintiff is further informed and believes, and thereon alleges, that emergency  
3 care patients are not informed of, or provided with, payment information at the time the  
4 emergency care treatment and services are rendered, and Swedish's uniform "Conditions of  
5 Admission" contain no reference to either its "gross billing charges" or its "Chargemaster  
6 rates" in the body of its agreements or elsewhere, and certainly contain no agreement to pay  
7 at such rates. Since the term "charges" is the only term that specifies an uninsured's payment  
8 requirements, and the term "charges" is nowhere defined in its contracts, Swedish's adhesive  
9 contracts leave this pricing term open, and Swedish is entitled to receive no more than the  
10 "reasonable value" of the services it provides to its uninsured emergency care patients.  
11

12           24. Alternatively, even if the term "charges" were interpreted to mean  
13 Defendant's gross billing charges (i.e., Chargemaster rates), it would be unconscionable for  
14 Swedish to charge all its emergency care patients the same "Chargemaster rates," but then to  
15 require only the small minority of uninsured patients to pay the full amount of these rates (far  
16 more than other patients were required to pay) and not even inform its uninsured patients of  
17 its billing intentions and the fact that they would be the only patients actually required to pay  
18 the full Chargemaster rates. This is particularly so since (1) Swedish's adhesive agreements  
19 make no mention of "gross billing charges" or "Chargemaster rates," (2) uninsured  
20 emergency care patients have no opportunity to see such "Chargemaster rates" in advance of  
21 receiving hospital emergency care, (3) uninsured patients are given no warning that they will  
22 be the only patients whom Swedish actually requires to pay such inflated rates, and (4) the  
23 Chargemaster rates are grossly greater than the "reasonable value" for the hospital's services.  
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26           25. Pursuant to 26 U.S.C. § 501(r), a provision of the Patient Protection and  
Affordable Care Act, tax-exempt hospitals such as Swedish must "prohibit[] the use of gross

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2 charges.” 26 U.S.C. § 501(r)(5)(B). Upon information and belief, because Swedish’s fiscal  
3 year ends on December 31 of each year, the legislation became effective as to Swedish on  
4 January 1, 2011.

5           26. At all times during the class period it was and continues to be entirely  
6 reasonable and predictable that Swedish would charge and bill its emergency care patients  
7 reasonable rates for services provided, rather than the grossly inflated Chargemaster rates.  
8 Certainly after the effective date of section 501(r), it was and continues to be entirely  
9 reasonable and predictable that Swedish would comply with applicable law and not use gross  
10 charges for billing its patients.<sup>7</sup>

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12           27. By billing its uninsured patients based upon its inflated Chargemaster rates  
13 and not its “regular rates and terms,” and by collecting payments based thereon, Swedish has  
14 been unjustly enriched to the extent it has collected more than the “reasonable value” for the  
15 treatment and services it rendered.  
16

#### 17           **V. THE REPRESENTATIVE PLAINTIFF’S CLAIMS**

18           28. On or about May 5, 2012 and May 7, 2012, Plaintiff Chad Humphrey went to  
19 the emergency room at Swedish Medical Center’s hospital campus in Issaquah (“Hospital”)  
20 suffering from neurological symptoms. Plaintiff was uninsured at the time.

21           29. Plaintiff is informed and believes that he was subject to Swedish Medical  
22 Center’s standard contract “Conditions of Admission,” which stated that he would be  
23

24 <sup>7</sup> It must be emphasized that Plaintiff is not asserting any private right of action under IRC §  
25 501(r). Rather, Plaintiff maintains that the statute confirms (or to the extent that reasonable  
26 expectations may have been otherwise before the effective date of the statute, modifies) the  
reasonable expectations of Swedish Medical Center’s emergency services patients that they  
will not be billed Swedish’s gross charges.

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2 “financially responsible to Swedish Medical Center for charges not paid by insurance.” In  
3 obtaining treatment from Defendant’s hospital, Plaintiff expected to be required to pay the  
4 hospital’s regular charges, which he reasonably believed would be payable at the same rates  
5 as the rest of the emergency care patients receiving similar treatment and services would be  
6 expected to pay, in accordance with the contract’s explicit terms, and in accordance with the  
7 covenant of good faith and fair dealing that is implied in all contracts, and which would  
8 represent the reasonable value of such services.  
9

10 30. The total payment requirement subsequently billed to Plaintiff after his  
11 discharge was \$10,151.10 (exclusive of independent physicians’ charges), and upon  
12 information and belief such amount was based on 100% of the hospital’s Chargemaster rates.  
13 Plaintiff is informed and believes and thereon alleges that \$10,151.10 is far more than the  
14 payment amount required from the vast majority of Defendant’s patients for similar services,  
15 and is consequently substantially greater than anything that could be considered as  
16 Defendant’s regular charges for such services. Plaintiff is further informed and believes that  
17 the amount of \$10,151.10 was grossly excessive, unfair, and unconscionable for the services  
18 provided, was grossly out of proportion to Defendant’s actual costs in providing such  
19 services, and was far beyond the reasonable and customary value of such services, which  
20 Plaintiff believes would be no more than approximately \$2,500.00.  
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23 **VI. CLASS ACTION ALLEGATIONS**

24 31. Plaintiff brings this action on behalf of himself and a class of all other persons  
25 similarly situated, defined as follows:

26 All individuals (or their guardians or representatives) who, within the applicable statute of limitations, (a) received emergency care medical treatment at a Swedish Medical Center facility in Washington State and (b)

1  
2 were not covered by insurance or a governmental healthcare program at the  
3 time of treatment (the "Class").

4 Excluded from the Class are Defendants, any officers or directors thereof, together with the  
5 legal representatives, heirs, successors, or assigns of any Defendant, and any judicial officer  
6 assigned to this matter and his or her immediate family.

7 32. This action has been brought and may properly be maintained as a class  
8 action, satisfying the numerosity, commonality, typicality, adequacy, and superiority  
9 requirements. Plaintiff seeks to represent an ascertainable class with a well-defined  
10 community of interest in the questions of law and fact involved in this matter.

11 33. The members of the Class are so numerous that joinder of all members of the  
12 Class is impractical. Plaintiff is informed and believes, and thereon alleges, that the Class  
13 consists of at least thousands of persons.

14 34. There are questions of law and fact common to the Class, including, but not  
15 limited to:  
16

17 (a) Whether Swedish had a policy and practice of charging uninsured  
18 patients substantially more for the same emergency care treatment and services than it  
19 charged other patients;  
20

21 (b) Whether Swedish's policy and practice of charging uninsured  
22 emergency care patients more for the same services than it charged other patients is unlawful  
23 under any of the causes of action asserted herein;

24 (c) Whether Swedish has charged and continues to charge Plaintiff and the  
25 Class unreasonable and/or unconscionable amounts for emergency medical care in breach of  
26 its express and implied contracts with its patients and/or in breach of the covenant of good  
faith and fair dealing;

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2 (d) Whether Swedish's pricing practices as to Plaintiff and the Class are  
3 unfair, unconscionable, deceptive and/or illegal;

4 (e) Whether Swedish has been unjustly enriched by these practices; and

5 (f) Whether the foregoing acts and conduct of Swedish render Defendant  
6 liable to Plaintiff and the Class for restitution, injunctive relief and/or damages.  
7

8 35. The claims of the Plaintiff are typical of the claims of the Class. Plaintiff is a  
9 member of the Class as defined. He has suffered actual injury and harm and is likely to  
10 continue to suffer actual injury and harm due to the unfair, unreasonable, and unconscionable  
11 pricing and collection practices of Defendant.

12 36. The Plaintiff will fairly and adequately represent and protect the interests of  
13 the Class. He shares the same interests as all Class members because his claims and losses  
14 are typical of those of other Class members. The Plaintiff has retained competent class  
15 counsel who are experienced in class action litigation and who will fairly and adequately  
16 protect the interests of the Class members.  
17

18 37. Questions of law and/or fact common to the Class, identified above,  
19 predominate over any questions affecting only individual Class members.

20 38. A class action is superior to other available methods for the fair and efficient  
21 adjudication of this litigation, since joinder of all Class members is impracticable. Most  
22 losses are modest in relation to the expense and burden of individual prosecution of the  
23 litigation necessitated by the Defendant's wrongful conduct. It would be virtually impossible  
24 for the Class members to efficiently redress their wrongs individually. Even if all Class  
25 members could afford such individual litigation themselves, the court system would benefit  
26 from a class action. Individualized litigation would present the potential for inconsistent or

1  
2 contradictory judgments. Individualized litigation would also magnify the delay and expense  
3 to all parties and the court system presented by the issues of the case. By contrast, the class  
4 action device presents far fewer management difficulties and provides the benefit of  
5 comprehensive supervision by a single court, as well as economy of scale and expense.

6  
7 39. In addition, Defendant has acted or refused to act on grounds generally  
8 applicable to all the members of the Class, thereby making final injunctive relief or  
9 declaratory relief concerning the Class as a whole appropriate.

10 **FIRST CAUSE OF ACTION**  
11 **For Breach of Contract**

12 40. Plaintiff herein repeats, reiterates, and realleges each and every allegation  
13 contained in the preceding and subsequent paragraphs, with the same force and effect as  
14 though the same were set forth at length herein.

15 41. When accepting and admitting Plaintiff and the Class members into Swedish  
16 Medical Center facilities for emergency medical care, Defendant undertook a contractual  
17 obligation through its form contracts to charge Plaintiff and the Class in accordance with  
18 each facility's "charges" for payment. Since this was an open pricing term, the contracts  
19 required Defendant to charge only the "reasonable value" of the services provided.  
20 Likewise, for patients who did not sign a form contract, Defendant undertook an obligation to  
21 charge no more than the "reasonable value" of such services. In breach of its contractual  
22 obligations, Defendant demanded payments from Plaintiff and the Class in amounts which  
23 were substantially greater than the "reasonable value" of the services provided.  
24

25 42. At the time of signing the contract, Plaintiff reasonably and predictably  
26 expected to be billed no more than the "reasonable value" of his medical care, and relied on  
Defendant abiding by its contractual obligations and upon the Defendant's good faith and fair

1  
2 dealing in its billing practices. He was certainly not expecting to be charged the grossly  
3 excessive rates that he was subsequently billed, since such rates were much higher than the  
4 regular payment rates for the vast majority of emergency care patients. As a result of (1)  
5 Defendant's grossly excessive billing, (2) Defendant's failure to disclose, describe, or define  
6 its "charges," and (3) Defendant's failure to disclose that uninsured emergency care patients  
7 would be required to pay vastly higher amount than other patients for similar treatment and  
8 services, Plaintiff must be excused from paying the grossly excessive amounts for which he  
9 was billed. Thus, Plaintiff and putative Class members either performed their obligations  
10 under these contracts, or must be excused from doing so by Swedish's conduct.  
11

12 43. Additionally, because the uniform "Conditions of Admission" is an adhesive  
13 contract drafted by Defendant and imposed upon its uninsured emergency care patients, it  
14 must be interpreted against Defendant. Further, because the contract does not identify or fix  
15 a definite and certain price for its services, and does not provide any basis upon which to do  
16 so, the law implies an obligation to charge patients subject to the contract no more than a  
17 "reasonable value" for services rendered.  
18

19 44. Plaintiff and the Class are entitled to damages for the aforementioned  
20 breaches of contract, which have proximately caused Plaintiff and the Class economic injury  
21 and other damages.  
22

23 **SECOND CAUSE OF ACTION**  
24 **For Breach of the Covenant of Good Faith and Fair Dealing**

25 45. Plaintiff herein repeats, reiterates, and realleges each and every allegation  
26 contained in the preceding and subsequent paragraphs, with the same force and effect as  
though the same were set forth at length herein.

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46. Defendant's conduct, as alleged above, also constitutes a breach of the covenant of good faith and fair dealing.

47. Plaintiff and the Class entered into express or implied-in-fact contractual relationships with Defendant when they went to Swedish Medical Center facilities for the purpose of receiving emergency medical care. Implied in every contract is a covenant that the parties will act reasonably and will not act so as to prevent performance by the other party. Here, in the absence of clearly defined pricing terms, there was implied agreement in Defendant's contracts that Swedish would charge fair and reasonable rates for the medical treatment it provided.

48. Defendant breached its duty of good faith and fair dealing to Plaintiff and the Class by: (a) failing to specify what rates or rate schedule it would use in billing for the treatment and services rendered; (b) requiring payment of Defendant's grossly inflated Chargemaster rates, rates that were far greater than anything that could be considered Defendant's regular "charges" for medical care, and far greater than the "reasonable value" of such care; (c) requiring payments from Plaintiff and other uninsured emergency care patients that were substantially higher than the amounts required from other patients for the same medical services; and (d) requiring Plaintiff and the Class to pay unreasonable and unconscionable amounts for the medical care provided.

49. Such unfair and bad faith conduct by Defendant proximately caused injury to Plaintiff and the Class.

**THIRD CAUSE OF ACTION**  
**For Constructive Trust**



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50. Plaintiff herein repeats, reiterates, and realleges each and every allegation contained in the preceding and subsequent paragraphs, with the same force and effect as though the same were set forth at length herein.

51. A constructive trust should be imposed upon monies collected by Defendant from Plaintiff and members of the proposed class, and such amounts should be returned to Plaintiff and members of the proposed class, along with interest.

**FOURTH CAUSE OF ACTION**  
**Declaratory Judgment**

52. Plaintiff herein repeats, reiterates, and realleges each and every allegation contained in the preceding and subsequent paragraphs, with the same force and effect as though the same were set forth at length herein.

53. Plaintiff and members of the class are entitled to a declaration under the Uniform Declaratory Judgment Act, RCW 7.24.020, that the Defendant's billing practices as they relate to class members are illegal.

**FIFTH CAUSE OF ACTION**  
**Unjust Enrichment and Restitution**

54. Plaintiff herein repeats, reiterates, and realleges each and every allegation contained in the preceding and subsequent paragraphs, with the same force and effect as though the same were set forth at length herein.

55. The Defendant's actions, as described herein, are unconscionable and unlawful.

56. Defendant has received money which belongs to members of the proposed class and which in equity and good conscience Defendant ought to pay to members of the proposed class, along with interest.

1  
2 **SIXTH CAUSE OF ACTION**  
3 **Violation of the Consumer Protection Act**

4 57. Plaintiff herein repeats, reiterates, and realleges each and every allegation  
5 contained in the preceding and subsequent paragraphs, with the same force and effect as  
6 though the same were set forth at length herein.

7 58. Defendant's actions were unfair or deceptive in violation of the Washington  
8 Consumer Protection Act, RCW 19.86, because the use of the term "charges" implies an  
9 agreement to pay Defendant's reasonable or regular charges, not its grossly inflated  
10 Chargemaster rates, and because the prices to be charged were unduly excessive and were  
11 not disclosed or readily available to Swedish's patients. Moreover, Defendant's actions were  
12 deceptive because the parties had unequal bargaining powers that led Plaintiff and the class  
13 members to enter into their contracts without knowledge of their terms. Defendant's  
14 deceptive acts and practices caused injury to Plaintiff and other persons by compelling them  
15 to pay the grossly inflated Chargemaster rates or suffer adverse effects on their business or  
16 property by failing to do so, and affect the public interest in that they have injured Plaintiff  
17 and other persons and have had the capacity, and continue to have the capacity, to mislead  
18 other persons.  
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21 **VII. PRAYER FOR RELIEF**

22 WHEREFORE, Plaintiff, on his own behalf and on behalf of the Class, prays for the  
23 following relief against Defendants:

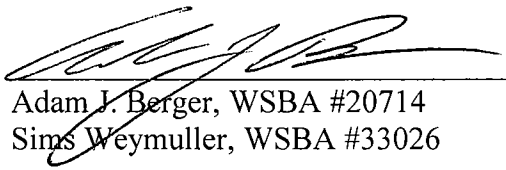
24 A. On all causes of action, for an order certifying that this action may be maintained  
25 as a class action against Defendants, appointing Plaintiff and his counsel to represent the  
26 Class, and directing that reasonable notice of this action be given by Defendants to the  
members of the Class;

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- B. For an order enjoining Defendants from continuing to engage in the conduct alleged herein;
- C. For an award of restitution, in accordance with proof at trial;
- D. For an award of damages, in accordance with proof at trial;
- E. For an injunction to cease efforts to collect unpaid excess charges;
- F. For an order awarding Plaintiff and members of the Class the costs of their suit, including, but not limited to, reasonable attorneys' fees and expert fees;
- G. For exemplary damages under RCW 19.86.090; and
- H. Such other and further relief as may be just and proper.

DATED this 31<sup>st</sup> day of July, 2012.

SCHROETER, GOLDMARK & BENDER



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Adam J. Berger, WSBA #20714  
Sims Weymuller, WSBA #33026

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