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SUPREME COURT OF FLORIDA

GALENCARE, INC.,

Petitioner,

v.

Case No. 83,659

JAMES E. BLANTON, et al.,

Respondents.

PETITIONER'S REPLY BRIEF

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SUMMARY OF THE ARGUMENT

Plaintiffs' justification for class certification reflects an abuse of the class action rule. Plaintiffs contend that the mere numerosity of small claims and existence of some common issues is enough to certify a class when there is a "deep pocket" defendant such as the hospital. This is an abuse of the rule because it ignores the fundamental distinction between cases in which individual issues predominate, such as fraud and "imposition" cases, and cases in which there are virtually no individual issues. Although plaintiffs repeatedly state that "imposition" is the basic theory of the case, they never once cite a case in which a class has been certified on such a theory. "Imposition" comes from the law of coercion, duress, and oppression, and is very similar to the overreaching found in fraud cases. Just as a fraud claim is not generally appropriate for class action treatment in Florida, an imposition claim depends on the facts of each case. Likewise, the voluntary payment defense, which was recognized and endorsed by the trial court, depends on numerous variables involving each individual's knowledge and decision to pay the charges voluntarily.

Plaintiffs present a heavily embellished and largely fictionalized version of this case. In plaintiffs' scenario all the class members are victims, the hospital is the scheming villain, and plaintiffs are the white knights come to rescue the helpless hospital patients who are (no doubt) strapped down in their hospital beds. The facts of this case, however, present a far different picture. Blanton is a sophisticated health care consumer who regularly reads up on hospital charges, reviews the published

comparison rates for hospitals, asks for estimates, questions the bill, complains to the regulatory authorities, and talks with his insurance company about the reasonableness of charges. A. 167-73, 175-76. Blanton chose Brandon Hospital over Tampa General or the Watson Clinic. Id. He read and signed an agreement to pay the hospital's prevailing rates, received top quality treatment, and was not asked to pay a penny until after the bill came in the mail and his insurance company had an opportunity to review it. Id. Blanton now wants to act as if his own actions have no bearing on whether he voluntarily agreed to pay, and did voluntarily pay, the charges. The class itself comprises individuals with disparate circumstances, the bulk of whom were outpatients.

This is not an antitrust case, although plaintiffs' brief reads as if it were. The mere fact that the hospital has a certain price structure will not determine liability. Unless this Court is prepared to declare all stated medical charges illegal, the final outcome of the case will depend on the degree of choice and knowledge of each patient. Was there a choice of hospitals and doctors? Did the individual have an opportunity to review the charges at home well after the visit? Did the individual's insurance company determine that the charges were reasonable and pay the covered amounts? Did the individual pay the charges, even though he might have considered them high, because he felt that he received valuable treatment? The answers to these questions are distinct for each individual. Therefore, it would be impossible to

decide the entire case only on the circumstances of the named plaintiffs.

There are also insurmountable manageability problems with respect to calculating "reasonable" charges and "overcharges" on 7,000 differently priced items during the five-year period covered by this suit. The claimed efficiency of a class action will disappear if the trier of fact has to sort through five years of separate prices.

ARGUMENT

CLASS CERTIFICATION WAS ERROR BECAUSE INDIVIDUAL ISSUES PREDOMINATE OVER COMMON ISSUES AND THE PURPOSE OF THE CLASS ACTION RULE IS BEING ABUSED.

The issue of when class certification is appropriate is one of the most important issues facing the Florida judicial system. In recent years, Florida courts have been inundated with class action lawsuits addressing numerous consumer and business issues. Oftentimes these cases involve thousands of transactions and significant areas of Florida's economy. Florida courts have struggled to interpret the class action rule without clear guidance. The circuit judge in this case, Judge Lazzara, expressed his frustration and concern over the confusing application of the rule to these facts.

In his order certifying the class, Judge Lazzara expressly found that the prerequisites for class certification had **not** been met but that, nevertheless, certification was ordered because of his reliance on a prior decision of this Court:

> It appears that individual issues with respect to imposition, voluntary payment, estoppel, and waiver **predominate over the common issues** and this class action **would be unmanageable and would not be superior**; however, the Court feels that Lanca Homeowners, Inc. v. Lantana Cascade of Palm Beach, Ltd., 541 So.2d 1122 (Fla. 1989) requires certification of the class in this case.

A. 16. Judge Lazzara, who has since been elevated to the Second District Court of Appeal, specifically stated several times at the certification hearing that this case did not appear to merit certification because individual issues predominate over "common" issues. See Rule 1.220(b)(3), Fla. R. Civ. P.; A. 33-38, 40-46. Expressing his concern, Judge Lazzara stated:

> After a lot of thought and a lot of research over the past few days, I can tell you that my strong inclination was to come in here today and to deny this motion for failure of the plaintiffs to fulfill the predominance requirement of B-3 of the rule.
>
> * * *
>
> **So I wanted this record to be clear as to my concerns for appellate purposes under -- and because under the law I am about to cite I feel I have no other alternative but to grant the motion to certify this case as a class action.**
>
> * * *
>
> And therefore I'm compelled to conclude that based on the reasoning of the Lanka [sic] opinion as applied by analogy to this case, I'm compelled to grant the motion for class certification. **Although I do so, and I'll say for this record, with much trepidation.**

A. 47-53 (emphasis added). Judge Lazzara's ruling reveals the judicial confusion over the lack of clear direction in consumer and business cases such as this one.

In this climate of confusion, there is a strong temptation to abuse the class action rule. In this case plaintiffs would have the Court believe that class certification should be granted

regardless of the myriad individual issues. All that plaintiffs require are numerous transactions, small potential damages per transaction, and a target defendant such as the hospital. Plaintiffs and others hope that the in terrorem threat of such a class action will produce a settlement with huge attorney's fees regardless of the true merits of the claims. See Janet Cooper, Do the Merits Matter? A Study of Settlements in Securities Class Actions, 43 Stan. L. Rev. 497 (1991).

Courts, commentators, and public officials, however, are becoming increasingly skeptical of class actions which appear to be brought for the sole or primary purpose of producing large fee awards. A report of the Senate Banking Committee's subcommittee on securities concluded that numerous questionable class actions are filed in which class members may receive either nothing or pennies on the dollar in settlements while the lawyers collect millions in fees. Jaret Seiberg, The Senator and Securities Fraud; Will Sen. Christopher J. Dodd's bill on securities fraud suits spell the end of such litigation?, The Connecticut Law Tribune, June 20, 1994, at 1. "There are abuses of the system, and some investors go home with empty pockets while their lawyers get rich," said Senator Christopher Dodd, chairperson of the subcommittee. Id. A recent settlement involving Ticketmaster produced the same results. "The lawyers took the money and ran," said one plaintiff. Jesse Hamlin, BASS Settlement Called a 'Raw Deal', S.F. Chron., April 15, 1994, at C1. Another proposed class action settlement, In re Matzo Food Products Litigation, was criticized by the court as "simply a

thinly disguised ploy for the recovery of nearly $500,000 in attorneys fees." In re Matzo Food Prods. Litig., No. 90-1146, 1994 U.S. Dist. LEXIS 11101, at *20 (D.N.J. Aug. 3, 1994); see Mary Voboril, Settlement Isn't Kosher, Judge Rule, Newsday, Sept. 25, 1994, at A32. The airline class action, which Blanton cites repeatedly, was heavily criticized for producing millions of dollars in fees for the class action lawyers, but merely offering "discount coupons" for the actual class members. States Object Price-Fixing Case Settlement, The Associated Press, Sept. 23, 1992, available in LEXIS, Nexis Library, AP File. Blanton also cites the AMI settlement, claiming it as a model class action case. Answer Brief pp. 40-41. What Blanton fails to disclose, however, is that the AMI settlement did not produce one penny in damages for all the hospital patients who had already paid their bills, yet it produced a windfall recovery for the class action lawyers of one million dollars in fees. A copy of the AMI settlement, which was part of the record below, is included in the Supplemental Appendix attached hereto at tab 1.

The history of this case reveals a similar motive. The first three plaintiffs who were put before the court as supposed aggrieved plaintiffs were later dropped because they were either not members of the proposed class, or they could not be found any longer and had no interest in pursuing the case. Supplemental Appendix at tab 2. Finally, in order to find someone to put up as a class representative, plaintiffs' counsel had to advertise in the local newspaper for anyone who might be interested in suing Brandon

Hospital. A. 332. It is only through the entrepreneurial efforts of plaintiffs' counsel that there are any plaintiffs in this case at all.

This appeal presents the Court with the opportunity to prevent the abuses of the class action rule and address the concerns of jurists such as Judge Lazzara. Only this Court can clarify the proper bounds of Lanca Homeowners, Inc. v. Lantana Cascade of Palm Beach, Ltd., 541 So. 2d 1121 (Fla. 1988), cert. denied, 493 U.S. 964, 107 L. Ed. 2d 371, 100 S. Ct. 405 (1989), and provide clear direction for future class action litigation. It is this Court's responsibility to supervise and regulate lawsuits and lawyers. Abusive lawyer driven entrepreneurial litigation does a great disservice to the legal system, the profession, and the community. This is the only Court in Florida able to set guidelines that will eliminate judicial confusion and prevent abuse of the class action rule.

A. "Imposition," Like Fraud, Depends On Each Individual's Circumstances.

Plaintiffs repeatedly state that the concept of "imposition" is the basis for their claims. Respondent's Answer Brief, pp. 2, 9, 31 n.9, 41; A. 27, 140-42. However, any "imposition" depends on whether the defendant engaged in (and the plaintiffs succumbed to) coercion or duress at the time payment was extracted from the plaintiff. See Southern States Power v. Ivey, 160 So. 46, 47 (Fla. 1935) (defining imposition as occurring "Where a person taking advantage of his position, or the **circumstances** in which another is

placed, **exacts** a greater price for services rendered . . . .") (emphasis added); Cullen v. Seaboard Airline R. Co., 58 So. 182 (Fla. 1912) ("the gist of the action is that the defendant **upon the circumstances of the case** is obligated . . . to refund the money.") (emphasis added); see also Moore Handley, Inc. v. Major Realty Corp., 340 So. 2d 1238, 1239 (Fla. 4th DCA 1976) ("[e]verything depends on the circumstances of the individual case"); Jurgensmeyer v. Boone Hosp. Ctr., 727 S.W.2d 441 (Mo. Ct. App. 1987) (citing Ivey for rule that duress must occur at the time defendant demands payment, not at the time the contract is signed). A finding of "imposition" cannot be presumed for an entire class.[1] In fact, none of the "imposition" cases relied on so heavily by plaintiffs was a class action!

Because of the presence of individual questions determinative of liability, the purpose of the class action procedure - to promote judicial efficiency and economy - will not be served. 7A Charles A. Wright et al., Federal Practice and Procedure § 1778 (2d ed. 1986) (". . . when individual rather than common issues predominate, the economy and efficiency of class action treatment are lost and the need for judicial supervision and the risk of confusion are magnified."). Contrary to plaintiffs' assertion, Florida courts hold that class certification is not proper in cases

[1] Plaintiffs mistakenly argue that imposition can be determined solely on the basis of an "excessive" price. A claim of an excessive price alone is nothing more than a challenge to the adequacy of consideration; such a challenge is prohibited under Florida law. George W. Robinson & Co. v. Hyer Bros., 17 So. 745 (Fla. 1895); Bayshore Royal Co. v. Doran Jason Co., 480 So. 2d 651 (Fla. 2d DCA 1985).

in which individual circumstances are outcome determinative. See, e.g., Lance v. Wade, 457 So. 2d 1008 (Fla. 1984) (fraud claims on separate contracts are inherently diverse and may not be maintained as a class action); Osceola Groves, Inc. v. Wiley, 78 So. 2d 700, 702 (Fla. 1955) (class action inappropriate in fraud suits involving separate transactions because the demands of the parties may be legally distinct, may depend upon their own facts, and material differences in facts may exist); Mathieson v. General Motors Corp., 529 So. 2d 761, 762 (Fla. 3d DCA 1988) (class certification was inappropriate for claims of economic loss in automobile warranty case which involved "different facts and circumstances"); K.D. Lewis Enters. Corp. v. Smith, 445 So. 2d 1032 (Fla. 5th DCA 1984) (class action could not be maintained in a landlord/tenant action because issues determining liability - the extent, nature and effect of the landlord's alleged breach or noncompliance with housing standards - would vary from tenant to tenant); Southern Bell Tel. & Tel. Co. v. Wilson, 305 So. 2d 302, 305 (Fla. 3d DCA 1975), cert. dismissed, 327 So. 2d 220 (Fla. 1976) (class could not be certified when court would have to inquire into each putative class member's factual circumstances in order to determine whether a claim existed). The plaintiffs have misinterpreted this Court's refusal to allow class certification in most fraud cases. The prohibition against class actions in fraud cases is not because there is a choice of remedies. It is because "fraud claims on separate contracts are inherently diverse, as a matter of law, because the demands of the various defrauded parties are not

only legally distinct, but each depends upon its own facts. . . ." Id. (emphasis added); Osceola Groves, 78 So. 2d at 702; see Tortoise Island Communities, Inc. v. Moorings Ass'n, Inc., 489 So. 2d 22 (Fla. 1986) (adopting dissent below).

Plaintiffs have mistakenly relied on cases in which the actions of the plaintiffs had no bearing on the outcome of the case. These suits challenged ordinances, assessments, traffic fines, and other across-the-board issues. See, e.g., Frankel v. City of Miami Beach, 340 So. 2d 463 (Fla. 1976); City of Miami v. Keton, 115 So. 2d 547 (Fla. 1959). If all a class action required was multiple plaintiffs and a target defendant, there would be no need for any prerequisites other than numerosity.

Furthermore, the antitrust cases cited by plaintiffs, including In re Domestic Air Transportation Antitrust Litig., 137 F.R.D. 677 (N.D. Ga. 1991), focus solely on the acts of the defendant. The consumer's choice, knowledge, and the voluntariness of payment are irrelevant in antitrust cases. Blanton's and other individuals' actions, however, have a bearing on liability under plaintiffs' quasi-equitable legal theory. Securities cases are also inapplicable. Reliance is presumed in cases involving fraud on the market; there are few if any individual questions that directly affect the liability determination. See, e.g., Goldwater v. Alston & Bird, 664 F. Supp. 403 (S.D. Ill. 1986); Chutich v. Green Tree Acceptance, Inc., [1990 Transfer Binder] Fed. Sec. L. Rep. (CCH) ¶ 95,237 (D. Minn.).

In this case, some people were repeat customers and were familiar with the hospital's charges. Some people were there for childbirth and had shopped around well in advance. Some people had elective or cosmetic surgery and were very pleased with the care and treatment they received. In fact, the majority of the class members were never "admitted" to the hospital, but rather were treated by the hospital on an outpatient basis which was planned well in advance. A. 334-37. Clearly, many individuals had many choices, and were not imposed upon by the hospital. Other people, however, may have had little or no opportunity to shop around, such as those who arrived in an ambulance for an emergency condition. The point is that, unlike the cases cited by plaintiffs, choice and knowledge are not uniform throughout the class, yet they are issues critical to liability.

B. Voluntary Payment, A Complete Defense Recognized By The Trial Court, Depends On Each Individual's Knowledge Of The Charges And Decision To Pay.

Plaintiffs' theory of the case - "imposition" - is susceptible to the complete defense of voluntary payment. The individual issues identified by the trial court, including the voluntary payment defense, require a case by case determination. A. 29.

This Court has long recognized voluntary payment as a defense in any action to recover payments, including actions for money had and received. Stonebraker v. Reliance Life Ins. Co. of Pittsburgh, 166 So. 583, 585 (Fla. 1936) (applying voluntary payment in an action to recover insurance premiums); St. Johns Elec. Co. v. City of St. Augustine, 88 So. 387 (Fla. 1921) (recognizing voluntary

payment defense in an action for money had and received); Jefferson Co. v. Hawkins, 2 So. 362, 365 (Fla. 1887) (voluntary payment rule applied in action to recover excessive payments of interest). This Court has consistently enforced the voluntary payment rule when a party has made payment on an existing obligation. See Lalow v. Codomo, 101 So. 2d 390 (Fla. 1958); Stonebraker, 166 So. at 585; New York Life Ins. Co. v. Lecks, 165 So. 47 (Fla. 1935); McLeod v. Santa Rosa County, 157 So. 37 (Fla. 1934); Pensacola & A.R. Co. v. Braxton, 16 So. 317 (Fla. 1894); Jefferson, 2 So. at 365.[2]

The reason voluntary payment is a defense to a claim of "imposition" is because a voluntary payment is not a payment "exacted" as a result of imposition. See Ivey, 160 So. at 47; Cullen, 58 So. at 184. Imposition is tantamount to duress or coercion. Jurgensmeyer v. Boone Hosp. Ctr., 727 S.W.2d 441 (Mo. Ct. App. 1987) (citing Ivey, 160 So. at 47). Furthermore, the duress must be applied at the time of payment, not the time the individual signs the agreement. Jurgensmeyer, 727 S.W.2d at 443-44. Thus, in every single case the trier of fact must determine whether the payment was coerced or was made voluntarily. There is no way to decide this issue on a classwide basis.

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[2] While the plaintiffs cite Cullen v. Seaboard Air Line R. Co., 58 So. 182 (Fla. 1912), for the proposition that voluntary payment is inapplicable to a claim for money had and received, the Cullen case merely states that the plaintiff need not allege an involuntary payment as an affirmative element. It is a defense, and not a pleading requirement. Cullen, 58 So. at 184. Stonebraker and St. Johns Electric, decided after Cullen, clearly hold that voluntary payment is a defense.

There is a strong case that Blanton was not under duress and that his payment was voluntary. The evidence of whether other individuals' payments were voluntary is separate and distinct for each such individual. It is precisely because Judge Lazzara recognized voluntary payment as a valid defense, and further recognized the myriad individual factual issues, that he was so troubled by certifying a class. A. 35-36, 45-53; see Pacific Mut. Life v. McCaskill, 170 So. 579, 583 (Fla. 1936) (whether payment is voluntary or involuntary must depend upon **its own peculiar facts** . . . the real and ultimate fact to be determined in the context of the voluntary payment defense is whether the party really had a choice); see also Taylor v. Kenco Chem. & Mfg. Corp., 465 So. 2d 581 (Fla. 1st DCA 1985) (waiver and estoppel depend on individual circumstances, including acts or conduct). Similarly, the failure to protest or question the bill is a defense available to the hospital which must be individually determined. See North Shore Medical Ctr., Inc. v. Angrand, 527 So. 2d 246 (Fla. 3d DCA 1988). Because the present case necessarily involves analysis of each individual's circumstances in order to determine liability, this case is more analogous to the fraud cases and very different from Lanca.

Plaintiffs' suggestion that if a class is not certified they will have no remedy is completely unfounded. Chapter 408, Florida Statutes, provides for the regulation of hospital charges through the Agency For Health Care Administration ("AHCA") (formerly the Health Care Cost Containment Board or "HCCB"). The AHCA reviews

and approves the budgets of all Florida hospitals and limits the annual amount of increases in hospital revenues. § 408.072, Fla. Stat. (1993). The AHCA also investigates consumer complaints and is very successful in resolving disputes over hospital bills. Moreover, health care policy and financing are better addressed by the legislature than the judiciary. See Bankston v. Brennan, 507 So. 2d 1385, 1387 (Fla. 1987) ("When the legislature has actively entered a particular field and has clearly indicated its ability to deal with such a policy question, the more prudent course is for this Court to defer to the legislative branch. . . . [O]f the three branches of government, the judiciary is the least capable of receiving public input and resolving broad public policy questions based on a societal consensus.").

C. Because Of The Thousands Of Separate Items And Charges Involved, This Case Would Be Unmanageable.

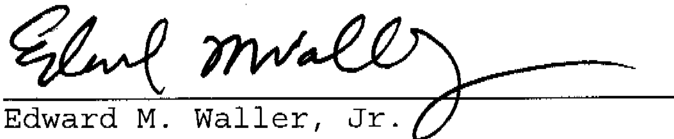
Judge Lazzara made an express finding that this case was unmanageable given the separate defenses and thousands of items in question. A. 16. This finding alone distinguishes this case from Lanca, in which there was only one rent increase to review. Because there is no particular or consistent relationship between acquisition cost and charge for the 7,000 items on the master list of charges the jury will be required to decide the "reasonable" price of each item. A. 309-14. No amount of computer magic will eliminate this problem because it deals with liability, not mere calculation of individual damages. It is this fundamental determination of liability — i.e., whether the charge for each item

is "reasonable" or "unreasonable" – which renders a class action in this case unmanageable.

CONCLUSION

Circuit courts need clear direction in order to prevent the runaway abuse of the class action rule. The proper role for this Court is to provide clear guidelines and stem the abuses of overly enterprising plaintiffs. Otherwise, the judiciary and legal system will have been done a great disservice.

Respectfully submitted,



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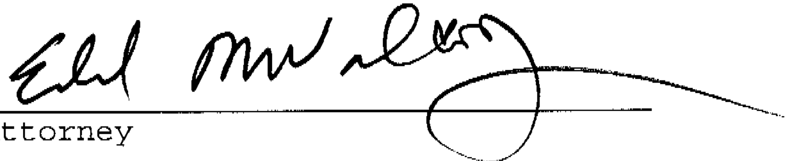
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have caused a true and correct copy of the foregoing to be served by U.S. mail to Stephen A. Scott, Post Office Box 2218, Gainesville, FL 32602-2218 and Herbert T. Schwartz, Sullins, Johnston, Rohrbach & Magers, Suite 1200, 3701 Kirby Drive, Houston, TX 77098 this 4th day of October, 1994.



Attorney

SUPREME COURT OF FLORIDA

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Petitioner,

v. Case No. 83,659

JAMES E. BLANTON, et al.,

Respondents.

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PETITIONER'S SUPPLEMENTAL APPENDIX

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TAB 1

NOTICE OF HEARING ON PROPOSED SETTLEMENT OF CLASS ACTION with attached STIPULATION AND AGREEMENT OF SETTLEMENT, Stone v. American Medical Int'l, Inc., Palm Beach Circuit Court Case No. CL 91-9058 AN (June 30, 1992) 1

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Appendix Part 1

IN THE CIRCUIT COURT OF THE 15TH JUDICIAL CIRCUIT,
IN AND FOR PALM BEACH COUNTY, FLORIDA

M. THOMAS STONE, HELGA BRAUN, JANICE BENGALA, WINIFRED KULIK, HARRISON GODDARD, TERRILL McGUIGAN, PAUL VOGEL and SHELDON WOLFMARK, for Themselves and All Others Similarly Situated,

CASE NO.: CL 91-9058 AN

Plaintiffs,

v.

AMERICAN MEDICAL INTERNATIONAL, INC.; PALM BEACH GARDENS COMMUNITY HOSPITAL, INC. d/b/a PALM BEACH GARDENS MEDICAL CENTER; AMISUB (NORTH RIDGE HOSPITAL) INC. d/b/a NORTH RIDGE MEDICAL CENTER; MEMORIAL HOSPITAL OF TAMPA, LTD.; LIFEMARK HOSPITALS OF FLORIDA, INC. d/b/a AMI TOWN & COUNTRY MEDICAL CENTER; LIFEMARK HOSPITALS OF FLORIDA, INC. d/b/a PALMETTO GENERAL HOSPITAL,

Defendants.

NOTICE OF HEARING ON PROPOSED SETTLEMENT OF CLASS ACTION

THIS NOTICE MAY AFFECT YOUR RIGHTS. PLEASE READ CAREFULLY.

TO: ALL PERSONS WHO HAVE BEEN ADMITTED AS IN-PATIENTS AND DISCHARGED OR TREATED AS OUT-PATIENTS, AT AN AMERICAN MEDICAL INTERNATIONAL, INC. ("AMI") OWNED OR AFFILIATED HOSPITAL IN THE STATE OF FLORIDA ("AMI FLORIDA HOSPITAL") DURING THE PERIOD FROM AUGUST 1, 1986 AND UP THROUGH AND INCLUDING JULY 21, 1992, INCLUSIVE; AND WHO HAVE SIGNED AGREEMENTS WITH AN AMI FLORIDA HOSPITAL TO GUARANTEE PAYMENT OF THEIR HOSPITAL BILLS; AND WHO HAVE BEEN PRESENTED WITH A BILL UPON DISCHARGE CONTAINING ALLEGED OVERCHARGES FOR ITEMS OF MEDICAL SUPPLIES, LABORATORY SERVICES AND PHARMACEUTICALS INCIDENT TO EACH SUCH PATIENT'S TREATMENT OR HOSPITALIZATION, WHERE THE CHARGES FOR SUCH MEDICAL SUPPLIES, LABORATORY SERVICES AND PHARMACEUTICALS WERE BASED UPON ANY STANDARD SCHEDULE OR PRICE LIST WHICH WAS, FROM TIME TO TIME, USED FOR THE PURPOSE OF CHARGING OR BILLING TWENTY-FIVE OR MORE PERSONS THEREFOR; AND WHO HAVE EITHER PAID OR CAUSED TO BE PAID IN FULL OR IN PART THE AMOUNT SET FORTH ON THEIR BILLS, OR WHO HAVE NOT PAID OR CAUSED TO BE PAID THE AMOUNT SET FORTH ON THEIR BILLS IN PART OR IN FULL AND ARE OBLIGATED TO PAY SOME OR ALL OF THE OUTSTANDING BALANCE OF THEIR BILLS ("THE CLASS").

Please read this Notice and the attached Stipulation and Agreement of Settlement with care as they may affect your rights if you are a member of the Class. Excluded from the Class are the following:

(a) Medicaid patients;

(b) Indigent or poverty-line patients whose care has been or will be paid for in full by a governmental entity, and who neither paid nor owe anything further;

(c) Patients whose care will be or has been paid for under the terms of hospital and insurer, or other third-party payor, negotiated prospective payment agreements pursuant to Chapter 407, Florida Statutes, and the patients neither paid nor owe anything more than their insurance policy-stated percentage (co-payment), or percentage by agreement with another third-party payor of the prospective payment agreement amounts pursuant to Chapter 407, Florida Statutes; and

(d) Medicare patients whose care has been or will be fully paid for with amounts that are within governmental authorized allowances for the respective diagnostic related group treatments.

This Notice is given pursuant to Rule 1.220 of the Florida Rules of Civil Procedure and pursuant to Order of the Circuit Court of the 15th Judicial Circuit, in and for Palm Beach County, Florida (the "Court"). The purpose of the Notice is to provide you with information concerning a proposed settlement of a Class Action lawsuit between American Medical International, Inc., Palm Beach Gardens Community Hospital, Inc. d/b/a Palm Beach Gardens Medical Center, AMISUB (North Ridge Hospital) Inc. d/b/a North Ridge Medical Center, Memorial Hospital of Tampa, Ltd., Hospital Constructors, Ltd. d/b/a AMI Town & Country Medical Center, Lifemark Hospitals of Florida, Inc. d/b/a Palmetto General Hospital, Parkway Regional Medical Center, Inc., AMISUB (American Hospital), Inc. d/b/a AMI Kendall Regional Medical Center, Doctors Mercy Hospital, Ltd. and AMISUB of Florida, Inc. d/b/a AMI Southeastern Medical Center (hereinafter collectively "AMI") and the Class plaintiffs of which you may be a member. If the settlement is approved by the Court, all Class Members who do not opt out will be bound by the terms of the Stipulation and Agreement of Settlement.

The Notice also informs you of your rights with respect to a final hearing scheduled to be held before the Court on September 23, 1992 at 4:30 p.m. (the "Hearing"). At the Hearing, the Court will hear evidence and arguments in support of and in opposition to the proposed settlement in order to decide whether the proposed settlement is fair, reasonable and adequate.

The Court has determined that persons who fall within the definition of the Class above are treated as a class for the purpose of a final hearing with respect to settlement of the Class Action suit against AMI and its Florida hospitals. This Notice should not be understood as an expression of any opinion of this Court on the merits of any claims or defenses asserted by any of the parties to the litigation; nor does the Court take any final position concerning the settlement in advance of the Hearing.

DESCRIPTION OF THE LITIGATION

a. The Class Action

The plaintiffs have filed a Class Action lawsuit against AMI alleging that the plaintiffs were patients of an AMI Florida Hospital; that each plaintiff or his/her representative executed a contract to guarantee payment to the AMI Florida Hospital for hospital services; that implicit in this guarantee was the requirement that the AMI Florida Hospital impose only reasonable charges for its services; that upon discharge from the AMI Florida Hospital, plaintiffs were presented with itemized bills pursuant to section 395.015, Florida Statutes; that they paid or caused to be paid these bills in full or in part, or they owe all or part of their bills; that the bills paid or owed by them contain unreasonable, unconscionable and excessive overcharges for pharmaceuticals, medical supplies and laboratory services furnished by the AMI Florida Hospital; which charges constitute an imposition by the hospital; that these overcharges violate the implied covenant of reasonableness contained in their guarantees of payment; and that the bills presented did not advise of these overcharges in violation of section 395.015, or the bills did not otherwise comply therewith. As a consequence, depending on their class status, the plaintiffs claim that they are entitled to a refund of the alleged overpayments or a credit against their outstanding bills for the alleged overcharges.

Class members are referred to the plaintiffs' Third Amended Complaint filed with the Court for a more complete description of the claims asserted in the action.

AMI and its Florida hospitals dispute and deny all allegations made against them in the Class Action lawsuit. AMI steadfastly maintains that charges at its Florida hospitals have always been fair and reasonable. These lawful charges were made pursuant to a valid and enforceable contract between the hospital and the Class members.

b. Discovery And Pretrial Proceedings

Plaintiffs' counsel have conducted an investigation relating to plaintiffs' claims and the underlying events and transactions alleged in the Class Action, including taking discovery from AMI and inspecting certain documents produced by AMI. The discovery and investigation phase included investigation before the filing of the lawsuit. The parties face extensive, lengthy and expensive litigation. In early May, 1992, the parties, without conceding any of their respective legal positions, began negotiating a possible settlement.

c. Settlement Negotiations

Counsel for plaintiffs and counsel for AMI have engaged in extensive discussions and arm's length negotiations for nine weeks which have resulted in late June 1992 in the proposed settlement of the Class Action. Plaintiffs' counsel recommend the proposed settlement.

d. The Settlement

The terms of the settlement are set forth in detail in a Stipulation and Agreement of Settlement, dated June 30, 1992 (the "Stipulation"), filed with the Court and attached hereto for your review.

e. Settlement Hearing

The Court has ordered that the Hearing with respect to the proposed Stipulation be held before the Honorable Edward Fine, Circuit Court Judge, of the 15th Judicial Circuit, in and for Palm Beach County, 300 North Dixie Highway, West Palm Beach, Florida on September 23, 1992 commencing at 4:30 p.m. to determine whether the proposed Stipulation is fair, reasonable and adequate.

The Court has reserved the right to adjourn the Hearing from time to time by oral announcement at such Hearing or any adjournment thereof, without further notice. The Court has also reserved the right to approve the proposed Stipulation with or without modifications, and to enter an Order and Final Judgment dismissing the Class Action against AMI with prejudice and without costs, and without further notice.

Any member of the Class or any other party whose rights are actually or potentially affected by the Stipulation may appear at the Hearing, personally or by counsel, at their own expense, and may object to or express views regarding the Stipulation and may present any evidence or argument that may be proper and relevant. No person shall be heard, however, and no papers, legal memoranda or briefs, or other documents or evidence attempted to be submitted by any such person shall be received and considered by the Court unless not later than September 9, 1992: (i) notice of intention to appear; (ii) a statement of such person's objections to any matter before the Court; (iii) the grounds therefor or the reasons for such person's desiring to appear and to be heard; (iv) a summary of the evidence and argument to be presented; and (v) all documents or writings which such person desires the Court to consider, shall be mailed or delivered to the Court at the Palm Beach County Courthouse, 300 North Dixie Highway, West Palm Beach, Florida 33401, Attention: Clerk of the Court; and, on or before September 9, 1992, copies of the foregoing shall be mailed or delivered to: Bruce W. Greer, Esquire, Greer, Homer & Bonner, P.A., Suite 3400, International Place, 100 S.E. Second Street, Miami, Florida 33131, counsel for AMI; and also mailed or delivered to Richard G. Collins, Esquire, 70 S.E. Fourth Avenue, Delray Beach, Florida 33483, one of three co-counsel for the Class.

Unless the Court otherwise directs, no Class member shall be entitled to object to the approval of the settlement or judgment to be entered herein, or otherwise to be heard, except by serving and filing written objection as described above. Any person who fails to object in the manner provided above shall be deemed to have waived such objection and shall be forever barred from raising such objection in this or any other proceeding respecting this settlement.

The Court has entered an Order certifying the Class pursuant to Rule 1.220(b)(3) of the Florida Rules of Civil Procedure which will allow persons who do not wish to participate in the settlement to request exclusion. Any person may request to be excluded from the class if written request for exclusion, setting forth the person's name, address, the AMI Florida hospital to which he/she was admitted and the date of such admission, is mailed or delivered not later than September 9, 1992 to: the Clerk of the Court at the Palm Beach County Courthouse at the address listed above; with copies to Bruce W. Greer, Esq. at Greer, Homer & Bonner, P.A. and Richard G. Collins, Esq., whose respective addresses are listed above. All requests for exclusion must state "I hereby request to be excluded from the proposed settlement class in the Stone v. AMI litigation." Requests for exclusion shall not be effective unless containing the statement described above and signed by the person requesting exclusion. Those persons who are excluded will not be entitled to the benefits of the settlement afforded Class members.

f. Examination of Papers

For additional information, you or your attorney may examine the pleadings and other papers filed in the Class Action at the office of the Clerk of the Court for the 15th Judicial Circuit, in and for Palm Beach County, Florida, during regular business hours.

All inquiries by Class members should be directed to Richard G. Collins, co-counsel for the Class. Refer to his cover letter to this Notice for his address and telephone number.

Please do not contact the Court with any questions or requests for additional information.

Dated: July 29, 1992.

CLERK OF THE COURT
CIRCUIT COURT OF THE 15TH JUDICIAL CIRCUIT,
PALM BEACH COUNTY, WEST PALM BEACH, FLORIDA

By: /s/ MARIA CASTILLIO
Deputy Clerk

IN THE CIRCUIT COURT OF THE 15TH JUDICIAL CIRCUIT,
IN AND FOR PALM BEACH COUNTY, FLORIDA

M. THOMAS STONE, HELGA BRAUN, JANICE BENGALA, WINIFRED KULIK, HARRISON GODDARD, TERRILL McGUIGAN, PAUL VOGEL and SHELDON WOLFMARK, for Themselves and All Others Similarly Situated,

Plaintiffs,

v.

AMERICAN MEDICAL INTERNATIONAL, INC.; PALM BEACH GARDENS COMMUNITY HOSPITAL, INC. d/b/a PALM BEACH GARDENS MEDICAL CENTER; AMISUB (NORTH RIDGE HOSPITAL) INC. d/b/a NORTH RIDGE MEDICAL CENTER; MEMORIAL HOSPITAL OF TAMPA, LTD.; LIFEMARK HOSPITALS OF FLORIDA, INC. d/b/a AMI TOWN & COUNTRY MEDICAL CENTER; LIFEMARK HOSPITALS OF FLORIDA, INC. d/b/a PALMETTO GENERAL HOSPITAL,

Defendants.

CASE NO.: CL 91-9058 AN

STIPULATION AND AGREEMENT OF SETTLEMENT

This Stipulation and Agreement of Settlement (hereinafter referred to as the "Stipulation") is submitted pursuant to Rule 1.220 of the Florida Rules of Civil Procedure. Subject to the approval of the Court, the Stipulation is entered into among counsel for the plaintiffs and counsel for the defendants in the above-captioned action (hereinafter referred to as the "Class Action").

WHEREAS, the parties to this Stipulation have herewith stipulated that the Class Action be conditionally certified, for purposes of settlement only, on behalf of a class (the "Class") consisting of all persons who have been admitted as in-patients and discharged or treated as out-patients, at an AMI Florida Hospital during the inclusive five year statute of limitations period next before the filing of this suit and up through and including the Settlement Effective Date (the "Class Period"); and who have signed agreements with an AMI Florida Hospital to guarantee payment of their hospital bills; and who have been presented with a bill upon discharge containing alleged overcharges for items of medical supplies, laboratory services and pharmaceuticals incident to each such patient's treatment or hospitalization, where the charges for such medical supplies, laboratory services and pharmaceuticals were based upon any standard schedule of price list which was, from time to time, used for the purpose of charging or billing twenty-five or more persons therefor; and who have either paid or caused to be paid in full or in part the amount set forth on their bills, or who have not paid or caused to be paid the amount set forth on their bills in part or in full and are obligated to pay some or all of the outstanding balance of their bills. Excluded from the class are the following:

(a) Medicaid patients;

(b) Indigent or poverty-line patients whose care has been or will be paid for in full by a governmental entity, and who neither paid nor owe anything further;

(c) Patients whose care will be or has been paid for under the terms of hospital and insurer, or other third-party payor, negotiated prospective payment agreements pursuant to Chapter 407, Florida Statutes, and the patients neither paid nor owe anything more than their insurance policy-stated percentage (co-payment), or percentage by agreement with another third-party payor of the prospective payment agreement amounts pursuant to Chapter 407, Florida Statutes; and

(d) Medicare patients whose care has been or will be fully paid for with amounts that are within governmental authorized allowances for the respective diagnostic related group treatments.

WHEREAS, the Class alleges that, during the Class Period, the AMI Florida Hospitals failed to fully disclose their charges before treatment and overcharged the Class for medical supplies, pharmaceuticals and laboratory services incident to the Class members' hospital treatment;

WHEREAS, the parties hereto have satisfied themselves that the Stipulation settles and compromises the Class Action upon terms and conditions which are fair, reasonable and satisfactory to plaintiffs, the Class and AMI;

WHEREAS, this Stipulation shall in no event be construed as or be deemed to be evidence of an admission or a concession on the part of AMI with respect to any claim or any fault or liability of damage whatsoever, nor as any concession by plaintiffs of any infirmity in the Claims asserted in the Class Action;

WHEREAS, plaintiffs' counsel have conducted an investigation relating to plaintiffs' claims and the underlying events and transactions alleged in the Class Action, including securing discovery from AMI and inspecting documents produced by AMI;

WHEREAS, plaintiffs' counsel have made a study of the legal principles applicable to plaintiffs' claims and potential claims in the Class Action;

WHEREAS, plaintiffs by their counsel have conducted discussions and intensive arms-length negotiations with counsel for AMI with respect to a compromise and settlement of the Class Action with a view to settling the issues in dispute and achieving the best relief possible;

WHEREAS, based upon their investigation and discovery as set forth above, counsel for plaintiffs have concluded that the terms and conditions of this Stipulation are fair, reasonable and adequate to plaintiffs and the Class, and have agreed to settle the Class Action pursuant to the terms and provisions of this Stipulation, after considering (a) the benefits that plaintiffs and the members of the Class will receive from settlement of the Class Action, (b) the attendant risks of litigation, and (c) the desirability of permitting the settlement to be consummated as provided by the terms of this Stipulation;

NOW, THEREFORE, IT IS STIPULATED AND AGREED, subject to the approval of the Court, and pursuant to Rule 1.220, Fla.R.Civ.P., that the Class Action shall be compromised and settled and dismissed as to AMI, upon and subject to the following terms and conditions:

A. CERTAIN DEFINITIONS

As used in this Stipulation and the related documents attached hereto as exhibits, which are incorporated herein by reference, the following terms shall have the meanings set forth below:

1. "AMI" means the defendants in this Class Action: American Medical International, Inc., a Delaware corporation, and its wholly-owned subsidiaries, affiliates, successors and assigns, and including Palm Beach Gardens Community Hospital, Inc. d/b/a Palm Beach Gardens Medical Center, AMISUB (North Ridge Hospital) Inc. d/b/a North Ridge Medical Center, Memorial Hospital of Tampa, Ltd., Hospital Constructors, Ltd. d/b/a AMI Town & Country Medical Center, and Lifemark Hospitals of Florida, Inc. d/b/a Palmetto General Hospital, Parkway Regional Medical Center, Inc., AMISUB (American Hospital), Inc. d/b/a AMI Kendall Regional Medical Center, Doctors Mercy Hospital, Ltd. and AMISUB of Florida, Inc. d/b/a AMI Southeastern Medical Center. Parkway Regional Medical Center, Inc., AMISUB (American Hospital), Inc., d/b/a AMI Kendall Regional Medical Center, Doctors Mercy Hospital, Ltd. and AMISUB of Florida, Inc., d/b/a AMI Southeastern Medical Center are entities which are either owned by or affiliated with American Medical International, Inc., and which previously owned or operated hospitals in the State of Florida, but no longer do so.

2. "AMI Florida Hospitals" means Palm Beach Gardens Community Hospital, Inc. d/b/a Palm Beach Gardens Medical Center, AMISUB (North Ridge Hospital) Inc. d/b/a North Ridge Medical Center, Memorial Hospital of Tampa, Ltd., Hospital Constructors, Ltd. d/b/a AMI Town & Country Medical Center, and Lifemark Hospitals of Florida, Inc. d/b/a Palmetto General Hospital, Parkway Regional Medical Center, Inc., AMISUB (American Hospital), Inc. d/b/a AMI Kendall Regional Medical Center, Doctors Mercy Hospital, Ltd. and AMISUB of Florida, Inc. d/b/a AMI Southeastern Medical Center. Parkway Regional Medical Center, Inc., AMISUB (American Hospital), Inc., d/b/a AMI Kendall Regional Medical Center, Doctors Mercy Hospital, Ltd. and AMISUB of Florida, Inc., d/b/a AMI Southeastern Medical Center are entities which are either owned by or affiliated with American Medical International, Inc., and which previously owned or operated hospitals in the State of Florida, but no longer do so.

3. "Class Claims" means any and all claims of whatever kind and nature that members of the Class may have against any person or entity, including, without limitation, claims that have been or could be asserted against AMI in the Class Action, its employees, officers, directors, agents, attorneys, accountants or others arising out of or relating to alleged overcharges for medical supplies, pharmaceuticals and laboratory services during the Class Period.

4. "Class Notice" means the notice of pendency of class action, proposed settlement of class action, settlement hearing, and right to appear, and such publication notice, if any, as shall be ordered by the Court.

5. "Final Approval of Settlement" or "Final Approval" means a final order of this Court, approving in all respects the settlement set forth in this Stipulation, including provision for attorneys' fees and reimbursement of costs, and including the entry of final judgment thereon.

6. "Litigation Expenses" means amounts incurred by or on behalf of the Class for legal counsel, special accounting assistance, court costs, expert witness fees, transcripts, exhibits, litigation consultants, and other costs in connection with the investigation, filing and prosecution of the Class Claims.

7. "Preliminary Approval of Settlement" means an order submitted jointly to the Court by plaintiffs' counsel and AMI's counsel and entered by this Court, preliminarily approving this Stipulation, and providing for notice of settlement hearing and other matters.

8. "Settlement Effective Date" means the following date after Final Approval of Settlement: if an appeal or review is not sought by any class member from the Final Approval of Settlement, the 31st day after the entry of the final judgment containing the Final Approval of Settlement approving this Stipulation; and if the date for taking an appeal shall be extended, the date of expiration of the extension if an appeal or review is not sought; or if an appeal or review is sought from the final judgment, the date after such judgment is affirmed or the appeal dismissed and such judgment is no longer subject to further judicial review.

B. THE LAWSUIT

1. The Class Claims

9. The plaintiffs have filed a Class Action lawsuit against AMI and the AMI Florida Hospitals by way of their Third Amended Complaint. Stripped to their essence, the Class Claims allege that the plaintiffs were patients of an AMI Florida Hospital; that each plaintiff or his/her representative executed a contract to guarantee payment to the AMI Florida Hospital for hospital services; that implicit in this guarantee was the requirement that the AMI Florida Hospital only impose reasonable charges for its services; that upon discharge from the AMI Florida Hospital, plaintiffs were presented with itemized bills pursuant to section 395.015, Florida Statutes; that they paid or caused to be paid these bills in full or in part, or they owe all or part of their bills; that the bills paid or owed by them contain unreasonable, unconscionable and excessive overcharges for pharmaceuticals, medical supplies and laboratory services furnished by the AMI Florida Hospital of which they were unaware; which charges constitute an imposition by the hospital; that these overcharges violate the implied covenant of reasonableness contained in their guarantees of payment; and that the bills presented did not advise of these overcharges in violation of section 395.015, or the bills did not otherwise comply therewith. As a consequence, depending on their class status, the plaintiffs claim that they are entitled to a refund of the alleged excessive overpayments or a credit against their outstanding bills for the alleged excessive overcharges.

10. The Third Amended Complaint is in three counts. Count I is based on the "Declaratory Judgment Act", Chapter 86, Florida Statutes, and relates only to those individuals who have not paid their hospital bills. The relief sought is a declaration of whether, under their agreements to guarantee payment, plaintiffs are responsible for paying the alleged overcharges. If it is determined that they have no such liability, then plaintiffs seek a Court-ordered credit on their bills. Count II is predicated on the common law action of money had and received. Count III is founded on the common law action of unjust enrichment which is based in part on a claimed violation of section 395.015(6), Florida Statutes. Counts II and III relate to those individuals who have paid all or part of their hospital bills. The plaintiffs' class certification claims are premised upon the common nature of the alleged overcharge as it affects all members of the class. The plaintiffs define the class as all private pay (full or partial) patients and those who owe but have not paid all or part of their hospital bill. The class remedy sought by plaintiffs is either a refund or a credit of an amount to be determined by a Court-appointed Special Master.

2. AMI's Defenses to the Class Claims

11. AMI has raised the following defenses and legal arguments to maintenance of the Class Claims:

A. The plaintiffs expressly contracted with an AMI Florida Hospital to pay for treatment and service at the hospital's "prevailing rates" or "regular charges." Such contract provisions, which set a method or standard by which a price may be readily ascertained, have been found to be sufficiently definite to render the contract enforceable.

B. There is no implied covenant of good faith and reasonableness under Florida law with regard to setting a price for goods or services supplied by a business. Even if there were such an implied covenant, however, an implied term cannot override an express term of a contract.

C. The plaintiffs are estopped from questioning the reasonableness of their hospital bills since they paid or arranged for payment without objection.

D. A claim for money had and received does not lie because there was no mistake of fact, failure of consideration, duress, imposition, oppression, extortion or coercion present in this case. Moreover, AMI and the AMI Florida Hospitals accepted payments made by the plaintiffs in good faith satisfaction of outstanding obligations.

E. Plaintiffs' claim predicated upon an alleged violation of section 395.015(6), Florida Statutes, cannot be sustained because the AMI Florida Hospitals did not bill the plaintiffs for medical supplies, pharmaceuticals or laboratory services provided by an independent health care provider as contemplated by the statute.

F. The Class Claims are barred by the fundamental right of freedom of contract guaranteed by Article I, Section 2 of the Florida Constitution.

G. The Court lacks subject matter jurisdiction over the Class Claims under the separation of powers doctrine set forth in Article II, Section 3 of the Florida Constitution.

H. The Court lacks subject matter jurisdiction over the Class Claims under the doctrine of preemption because the Florida legislature has delegated the duty of regulating hospital charges to a state agency.

3. Class Certification Issues

12. Plaintiffs have filed a motion pursuant to Rule 1.220 of the Florida Rules of Civil Procedure requesting that the Court enter an order permitting the case to be treated as a class action. AMI has raised the following legal arguments in opposition to plaintiffs' motion to certify the class:

A. A claim for money had and received is not appropriate for class treatment because successful pursuit of the claim is dependent "on the circumstances of the individual case."

B. The claims for money had and received and unjust enrichment are inappropriate for class treatment because application of the "voluntary payment" doctrine is dependent upon the particular facts and circumstances of each individual case.

C. Claims premised on unconscionability are inappropriate for class treatment.

D. The Court lacks subject matter jurisdiction over all class members.

E. The claims of the class representatives are not typical of the claims of the class members as required by Rule 1.220, Fla.R.Civ.P.

F. In light of the anticipated assertion of compulsory counterclaims against numerous class members, class representation would not be superior to other methods for the fair and efficient adjudication of the controversy.

C. SETTLEMENT CONSIDERATION

13. The parties agree that the crux of this action is adequate disclosure of hospital charges to patients so that patients may make an informed choice as to the hospitals they wish to use. The plaintiffs have asserted that present lack of cost disclosure at all hospitals stifles effective economic competition between hospitals and frustrates potential patients who want and need advance knowledge of hospital charges. The parties agree that the Class Action has served the laudable purpose of raising AMI's level of awareness regarding the severity of the public's concern regarding health care and health care costs in the State of Florida.

14. The Class Claims have highlighted the fact that hospitalization is often an expensive and unsettling experience, and that many people feel they have little choice about whether or where they may be hospitalized, and may be uncomfortable about asking questions. AMI and the AMI Florida Hospitals are firmly committed to the idea that the citizens of the State of Florida have a right to and a need for pertinent health care information and a right to know about health care costs in advance of treatment to assist them in the investment in and protection of their health care decisions and financial well-being.

15. AMI and the AMI Florida Hospitals are committed to providing high quality hospital care where all charges are adequately disclosed. It is AMI's goal to provide care which is reasonably priced, in relation to the care provided; while recognizing the need to replace existing facilities over time, continue education and research, keep pace with innovations in the health care field, and earn a profit.

16. The primary objective of the AMI Florida Hospitals, in order to meet the recognized community needs and provide public service, is to furnish high quality care to the sick and injured, while benefitting from the opportunity to provide this service through the means of private enterprise. To fulfill this objective, each AMI Florida Hospital agrees to take an active role to promote community health through cooperation with health and welfare agencies, further the education of all those participating in its work, and advance scientific knowledge.

17. Further class litigation raising issues of public interest are likely to be the subject of extensive press coverage. Complex questions of fact, such as are inevitable in a case as this, are always subject to the vagaries and unpredictable nature of a trial by jury. To further add to uncertainties and expense of litigation, the appellate process that ultimately may be associated with a case such as this is similarly lengthy, expensive and subject to the precedent-setting effect of appeals courts entering into a largely unchartered body of legal theory.

18. The settlement consideration has been structured so as to accomplish the foregoing. The settlement consideration has nine (9) principal components: (a) creation of a disclosure statement to be provided to prospective patients (as defined below) prior to admission and to each patient upon admission to an AMI Florida Hospital; (b) development of a new contract governing the terms and conditions of admission and treatment ("Admitting Contract") to be utilized by each AMI Florida Hospital; (c) availability and disclosure of: (i) the hospital's charges for medical supplies, pharmaceuticals and laboratory services; (ii) the hospital's charges for the 300 comprehensive in-patient DRG-type procedures most frequently performed by the hospital; and (iii) a list of the insurance companies, "HMOs" or "PPOs" or third-party payors with whom the hospital contracts; (d) implementation of a more clear and concise format for the itemized bill ("Statement of Charges") presented to each patient of an AMI Florida Hospital following discharge; (e) provision by each AMI Florida Hospital of a specified level of free hospital care and treatment to indigent and poverty-line patients; (f) the release and waiver by AMI and the AMI Florida Hospitals of all claims of whatever kind they may have against the Class representatives named in this action; (g) provision of a three percent (3%) discount to all Class members who pay their hospital bills in full within sixty (60) days following the Settlement Effective Date; (h) payment by AMI of the reasonable attorneys' fees and Litigation Expenses incurred by counsel for the Class in this action of $1,000,000; and (i) entry of a final judgment effectuating the settlement embodied in this Stipulation. Each item of the settlement consideration is described more fully below.

a) Disclosure Statement

19. Upon request by any prospective patient (i.e. a potential patient with a specific medical problem which requires hospital treatment as diagnosed by an admitting physician) (hereinafter "bona fide prospective patient"), and upon admission to an AMI Florida Hospital, each patient, or his/her agent, representative or guardian, will receive a written statement, titled "A Word About Health Care Costs and Your Hospital Bill," in the form attached hereto as Exhibit A. The statement will describe the form and content of the bill each patient will receive from the hospital following discharge and set forth a procedure whereby patients and bona fide prospective patients can obtain answers to any questions they may have regarding their bill. The statement will also provide these persons with a general overview of the current state of health care reimbursement, and explain that discounted

rates may apply when hospital treatment and care is paid for by Medicaid, Medicare, preferred provider organizations ("PPOs"), health maintenance organizations ("HMOs") or insurers operating under prospective payment arrangements. Finally, the statement will explain in general terms the basis for the hospital's charges for items of medical supplies, pharmaceuticals and laboratory services, and why those charges will likely be greater than those in a local pharmacy. AMI and the AMI Florida Hospitals agree to modify or amend the disclosure statement, as necessary, so as to be consistent and/or comply with any and all applicable laws, statutes, rules or regulations. The availability of the disclosure statement will be advertised to the public. In the event of any conflict between the disclosure statement and the terms and provisions of this Stipulation and Agreement of Settlement, this Stipulation will prevail and control.

b) Admitting Contract

20. In the interest of providing each patient and bona fide prospective patient with full and complete disclosure regarding charges for medical supplies, laboratory services and pharmaceuticals at each AMI Florida Hospital, a revised agreement, titled "Consent for Treatment and Conditions for Admission" ("Admitting Contract"), shall be utilized in each AMI Florida Hospital in the exact form attached hereto as Exhibit B. The Admitting Contract shall be presented for review and signature to every in-patient and out-patient, or his/her agent, representative, guardian or family members, admitted to an AMI Florida Hospital for treatment and care at the time of his/her admission. In the event of any conflict between the Admitting Contract and the terms and provisions of this Stipulation and Agreement of Settlement, this Stipulation will prevail and control.

c) Schedule of Charges, Procedures List and Third-Party Payor List

21. Upon request, a document containing the particular AMI Florida Hospital's schedule of charges ("Schedule of Charges") for, among other things, medical supplies, pharmaceuticals and laboratory services, will be made available for review to each patient or bona fide prospective patient, or his/her agent, representative, guardian or family member prior to the patient's admission to the hospital. The Schedule of Charges shall be a detailed statement, understandable to the ordinary person, which sets forth all of the hospital's various retail charges for the various goods and services it may sell or provide to its patients. The availability of this document shall be publicly advertised.

22. Each AMI Florida Hospital shall post notices conspicuously in the hospital's admission areas and emergency care areas advising that the Schedule of Charges is available for review upon request by any patient or bona fide prospective patient, or his/her agent, representative, guardian or family member.

23. a) Upon request, a list containing the hospital's charges for the 300 comprehensive in-patient DRG-type procedures most frequently performed by the hospital (the "Procedures List") will be made available to each patient or bona fide prospective patient, or his/her agent, representative, guardian or family member prior to the patient's admission to the hospital. The selection and identification of the 300 specific DRG-type comprehensive in-patient procedures most frequently performed shall be derived from the then current Medicare data on DRG procedures available to each hospital. When adjusting a patient's charge upward from the maximum standard charge set forth in the Procedures List, each hospital internally shall be bound to follow the same criteria which Blue Cross of Florida would accept as allowable gross charges. b) The Procedures List shall include appropriate disclosures that these charges are the hospital's maximum standard charges for non-complicated procedures based upon the normally expected course and length of treatment (which shall be set forth as may be appropriate), and that many factors, including the overall health of the patient, the severity of the patient's illness, the length of the patient's stay, unexpected complications, and time spent in the Operating Room or Intensive Care Units, will result in additional charges. c) For those non-complicated procedures which follow the normally expected course and length of treatment, those prospective patients who fall within the definition of the Class set forth above will be responsible for payment of the lesser of: 1) the stated maximum standard charge set forth on the Procedures List; or 2) the total of the itemized statement of charges. Each AMI Florida Hospital may adjust the maximum standard charges contained in the Procedures List on a quarterly basis provided that a current Procedures List is at all times available. In addition, the availability of the Procedures List shall be publicly advertised. The entire Procedures List and Medicare data for each hospital shall be made available for review to plaintiff's counsel in assuring the enforcement of this Agreement.

24. Each AMI Florida Hospital shall post notices conspicuously in the hospital's admission areas and emergency care areas advising that the Procedures List is available for review upon request by any patient or bona fide prospective patient, or his/her agent, representative, guardian or family member.

25. Upon request, a list of the insurance companies, HMOs or PPOs or other third-party payors with whom the hospital contracts (the "Third-Party Payor List") will be made available for review to each patient or bona fide prospective patient, or his/her agent, representative, guardian or family member prior to the patient's admission to the hospital. The Third-Party Payor List will apprise patients that the amounts they will owe to the hospital for care and treatment will likely be reduced if they are affiliated with any one of the entities or organizations designated on the list.

26. Each AMI Florida Hospital shall post notices conspicuously in the hospital's admission areas and emergency care areas advising that the Third-Party Payor List is available for review upon request by any patient or bona fide prospective patient, or his/her agent, representative, guardian or family member prior to the patient's admission to the hospital.

27. During the entire period of a patient's hospitalization, each AMI Florida Hospital shall make the following available upon request to the patient, or his/her agent, representative, guardian or family member: a) the Schedule of Charges; b) the Procedures List; c) the Third-Party Payor List; and d) a representative during normal business hours to respond to questions regarding the terms and conditions of the Admitting Contract, the Schedule of Charges, the Procedures List and the Third-Party Payor List.

d) Itemized Statement of Charges

28. In furtherance of the goal of fully and accurately informing its patients as to each charge and service provided, the AMI Florida Hospitals have created a more clear and concise form of bill ("Statement of Charges") that each patient will receive following discharge from an AMI Florida Hospital. The new Statement of Charges is designed to fully explain to each and every patient of an AMI Florida Hospital in simple, plain terms, comprehensible to an ordinary layman, the specific nature of charges incurred by the patient for, among other things, medical supplies, pharmaceuticals and laboratory supplies utilized by the patient during his or her hospital treatment and care.

29. The Statement of Charges will be presented to each patient, or to his or her survivor or legal guardian as may be appropriate, within seven (7) days following discharge or release from an AMI Florida Hospital, or within such other time as may be prescribed by law. Each AMI Florida Hospital will make a representative available during normal business hours to respond to questions regarding the Statement of Charges.

30. The Statement of Charges will contain all matters which may from time to time be required by law, and will include a statement of specific services received and expenses incurred for such items of service, enumerating in detail the constituent components of the services received within each department of the AMI Florida Hospital, and including unit-price data on rates charged by the AMI Florida Hospital, as may be prescribed by the department. The Statement of Charges shall:

a) Not include charges of hospital-based physicians if billed separately.

b) Not include any generalized category of expenses such as "other" or "miscellaneous" or similar categories.

c) List drugs by brand or generic name and not refer to drug code numbers when referring to drugs of any sort.

d) Specifically identify therapy treatment as to the date, type, and length of treatment when therapy treatment is part of the Statement of Charges.

e) Contain the words "A FOR-PROFIT HOSPITAL LICENSED BY THE STATE OF FLORIDA" or substantially similar words sufficient to identify clearly and plainly the ownership status of the AMI Florida Hospital. AMI and the AMI Florida Hospitals agree to modify or amend the Statement of Charges, as necessary, so as to be consistent and/or comply with any and all applicable laws, statutes, rules or regulations.

31. The Statement of Charges will additionally contain the following language in bold lettering:

> **Please review your medical bill carefully. If the bill contains charges that you don't understand or agree with, call the hospital billing office and ask for an explanation. If you are unable to resolve your concerns, you may contact your patient representative or the hospital administrator. If you pay all or any part of your bill, or cause any other person or entity to pay all or any part of your bill, it will be conclusively acknowledged and agreed by you that you have voluntarily paid your bill and that all charges contained therein are fair, just and reasonable, and adequately compensate the hospital for all services rendered and goods delivered incident to your hospital care and treatment.**

e) Indigent Care at the Sole Expense of the AMI Florida Hospitals

32. AMI and the AMI Florida Hospitals recognize the serious financial difficulties confronting Florida state and local governments regarding the provision of health care to indigent and poverty-line patients. AMI and the AMI Florida Hospitals are committed to ensuring quality health care at its hospitals to all citizens of the State of Florida regardless of their ability to pay. In furtherance of this commitment, the AMI Florida Hospitals agree to provide free hospital treatment and care for indigent or poverty-line patients in an amount not less than Two Million Five Hundred Thousand Dollars ($2,500,000.00) for the five (5) year period commencing with the 1993 fiscal year and ending with the 1997 fiscal year. Records of free care shall be kept and made available for review to plaintiffs' counsel in assuring the enforcement of this Agreement.

33. The prospective relief outlined above in sections (a) through (e), inclusive, shall be instituted by the AMI Florida Hospitals during the five (5) year period commencing with the 1993 fiscal year. Each AMI Florida Hospital shall designate an officer who will be responsible for the implementation and maintenance of the terms and conditions of sections (a) through (e), inclusive, as set forth above. Upon reasonable notice and by appointment, plaintiffs' counsel shall have the right to meet with the hospital officer charged with the implementation and maintenance of these prospective relief measures. Plaintiffs' counsel shall have the right upon request to access the documents and the physical hospital for the sole purpose of confirming that the terms and conditions of the prospective relief are in place and operative. AMI and the AMI Florida Hospitals agree to modify or amend the documents referred to above in sections (a) through (e), inclusive, as necessary, so as to be consistent and/or comply with any and all applicable laws, statutes, rules or regulations.

34. The prospective relief outlined above in sections (a) through (e), inclusive, is not possible to apply to Parkway Regional Medical Center, Inc., AMISUB (American Hospital), Inc., d/b/a AMI Kendall Regional Medical Center, Doctors Mercy Hospital, Ltd. and AMISUB of Florida, Inc., d/b/a Southeastern Medical Center because these entities no longer own or operate any hospitals in the State of Florida. However, AMI and the AMI Florida Hospitals acknowledge that, but for this reason, all of the prospective relief outlined above in sections (a) through (e), inclusive, would be appropriate for said entities, and would similarly be granted by them, and in such an event, the amount of free indigent care which would be provided at the sole expense of the AMI Florida Hospitals pursuant to paragraph 32 above would have been $5,000,000 instead of the $2,500,000 now set forth therein. In the event any of these entities ever again own or operate one or more hospitals within the State of Florida, any such entity shall be obligated to provide and implement all of said prospective relief, including additional free indigent care in the amount of $625,000 for each hospital that any entity may later own or operate in the State of Florida. The plaintiffs and the Class acknowledge that the significant and material benefits to be accorded the plaintiffs and the Class, as well as the public at large, pursuant to this Stipulation are sufficient consideration to them to justify these agreements and the release of the defendants as to the claims asserted herein. Because the plaintiffs have determined that, if they were to refuse to settle and release the potential claims against the above four (4) entities which no longer own or operate hospitals in the State of Florida it would cause the settlement of this case not to occur, thus depriving the plaintiffs and the Class (as well as the public) of all of the benefits and relief to them as set forth herein, the plaintiffs are of the opinion that it is in the best interests of all parties hereto that the provisions set forth herein be approved by the Court.

f) Release of Claims Against the Class Representatives

35. AMI and the AMI Florida Hospitals shall release and waive any claims of whatever kind they may have against the named Class representatives in this action. The Class representatives shall mean the following persons: M. Thomas Stone, Helga Braun, Janice Bengala, Winifred Kulik, Harrison Goddard, Terrill McGuigan, Paul Vogel and Sheldon Wolfmark, and those guarantors who may be responsible for payment of their outstanding bills.

g) Discount to Class Members Who Pay Their Hospital Bills in Full Following Settlement Effective Date

36. Any Class member who has not paid his or her hospital bill in full, and who makes payment in full within sixty (60) days following the Settlement Effective Date, shall receive a refund from AMI of three percent (3%) of the payment made following the Settlement Effective Date. The discount shall apply only to those sums which remain outstanding after exhaustion of payments from Medicare, insurance companies, HMOs, PPOs or other third-party payors and for which the Class member remains personally liable.

37. The terms and conditions of this section (g) shall not apply to any Class member who requests exclusion from the Class or who has already paid his or her hospital bill in full or to any named Class representative identified in section (f) above.

h) Payment of Reasonable Attorneys' Fees and Litigation Expenses

38. AMI and the AMI Florida Hospitals agree to pay reasonable attorneys' fees and Litigation Expenses to plaintiffs' counsel in the amount of $1,000,000. Payment shall be made by AMI to plaintiffs' counsel on the Settlement Effective Date. If any Court fails to approve this amount of attorneys' fees and Litigation Expenses, this Stipulation shall be void in its entirety.

i) Final Judgment

39. Plaintiffs, on behalf of the Class, and AMI shall jointly prepare, and request the Court to enter, a final judgment containing the following terms and conditions and such other terms and conditions as they may agree are necessary or appropriate to effectuate the settlement embodied in this Stipulation;

a) Certifying the Class under Rule 1.220 of the Florida Rules of Civil Procedure.

b) Finding that the Class Action is maintainable for purposes of settlement as a Class Action under the provisions of Rule 1.220(b)(3) of the Florida Rules of Civil Procedure.

c) Finding that the notice given to the Class complied with the requirements of Rule 1.220 of the Florida Rules of Civil Procedure and the requirements of due process.

d) Approving the Settlement embodied in this Stipulation as fair, reasonable and adequate.

e) Dismissing the Class Action against AMI as to each and every member of the Class with prejudice and without costs.

f) Barring Class members from prosecuting, or seeking or obtaining recovery for a Class Claim other than in a proceeding to enforce the terms of this Stipulation.

g) Awarding counsel fees to plaintiffs' counsel, together with reimbursement of Litigation Expenses as awarded by the Court, to be distributed to plaintiffs' counsel on the Settlement Effective Date.

40. This Stipulation shall be terminated if Preliminary Approval of Settlement is not obtained or if, after notice to the Class and a hearing, there is no Final Approval of Settlement or if there is no Settlement Effective Date.

41. Subject to approval by the Court, AMI shall give individual notice by mail of the settlement embodied herein, in form satisfactory to the Court and to plaintiffs' counsel, to all members of the Class who can be identified through reasonable effort.

42. AMI shall have the right, but not the obligation, to terminate this Stipulation in the event that ten (10) or more members of the Class are permitted to be excluded from the Class.

43. On the Settlement Effective Date, and upon payment by AMI of attorneys' fees and Litigation Expenses to plaintiffs' counsel, plaintiffs' counsel shall file a Notice of Voluntary Dismissal with Prejudice in the action styled *Goddard v. North Ridge Medical Center*, Case No. 91-28301 (25), currently pending in the Circuit Court of the Seventeenth Judicial Circuit, in and for Broward County, Florida, dismissing with prejudice and without costs all claims which were asserted or could have been asserted by any class member in that action. However, the provisions of paragraph 35 shall nonetheless apply to the benefit of the named Class representatives therein.

D. NOTICE

44. A Notice of Hearing on Proposed Settlement of the Class Action in such form as may be directed by the Court (the "Notice") shall be sent by AMI to each person believed to be a member of the Class.

E. NO ADMISSION OF WRONGDOING

45. The settlement set forth in this Stipulation is subject to approval of the Court pursuant to Rule 1.220 of the Florida Rules of Civil Procedure. In the event that it fails to become effective for any reason, it shall have no effect and no reference to it or to its terms shall be made in any court or used in any proceeding against AMI or the plaintiffs for any purpose whatsoever, except insofar as necessary to effectuate provisions that expressly survive the termination of this Stipulation.

46. This Stipulation, whether or not consummated, and any proceedings taken pursuant to it:

a) Shall not be construed as or deemed to be evidence of any presumption, concession or admission by AMI of the truth of any fact alleged by plaintiffs or the validity of any claim which has been or could have been asserted in any litigation, or the deficiency of any defense which has been or could have been asserted in any litigation, or of any liability, fault, wrongdoing or other wrongful act of AMI or as a presumption, concession or admission of any infirmity in any claim;

b) Shall not be offered or received as evidence of a presumption, concession or admission of any fault, misrepresentation or omission in any statement or written document approved or made by AMI; and

c) Shall not be offered or received as evidence of a presumption, concession or admission of any liability, fault or wrongdoing in any other action or proceeding other than such proceedings as may be necessary to effectuate the provisions of this Stipulation.

F. SETTLEMENT HEARING

47. The parties and their attorneys agree to cooperate fully with one another in seeking Court approval of this Stipulation and to use their best efforts to effect the consummation of this Stipulation.

48. Upon the execution of this Stipulation, the parties shall apply to the Court for an order providing for Notice to the Class of the scheduling of a hearing on approval of this Stipulation.

49. Except as otherwise provided herein, none of the parties to this Stipulation shall have the right to terminate the Stipulation unless and until there is a final judicial order rejecting this Stipulation.

50. If the Court does not enter an order of Final Approval as provided for herein, or if the Court does enter such order and appellate review is sought by any Class member, and on such review, the Final Approval is modified, then this Stipulation shall be cancelled and terminated, unless all parties to this Stipulation who are adversely affected thereby within thirty (30) days from the date of the mailing of such ruling to such parties provide written notice to all other parties hereto of their intent to proceed with the settlement. Such notice may be provided on behalf of the Class by plaintiffs' counsel.

51. In the event that this Stipulation is terminated, cancelled or fails to become effective for any reason, the parties to this Stipulation shall be deemed to have reverted to their respective status as of the date and time immediately prior to the execution of this Stipulation and they shall proceed in all respects as if this Stipulation and related orders had not been executed.

G. MISCELLANEOUS PROVISIONS

52. All of the exhibits attached hereto are hereby incorporated by reference as though fully set forth herein.

53. This Stipulation and its exhibits may not be modified or amended, nor may any of its provisions be waived, except by a writing signed by all parties hereto or their successors-in-interest, unless otherwise allowed by the terms of this Stipulation and its exhibits. The headings herein are used for the purpose of convenience only and are not meant to have legal effect.

54. The administration and consummation of the Stipulation provided for herein shall be under the authority of the Court and the Court shall retain jurisdiction after Final Approval of Settlement for the purpose of entering orders enforcing the terms of this Stipulation. In the event a proceeding is instituted to enforce the terms of this Stipulation, the prevailing party in any such proceeding shall be entitled to an award of reasonable costs and attorneys' fees.

55. The waiver by one party of any breach of this Stipulation by any other party shall not be deemed a waiver of any other prior or subsequent breach of this Stipulation.

56. This Stipulation and its exhibits constitute the entire agreement among the parties, and no representations, warranties or inducements have been made to any party concerning this Stipulation and its exhibits other than those contained and memorialized in such documents.

57. This Stipulation may be executed in one or more counterparts. All executed counterparts and each of them shall be deemed to be one and the same instrument.

58. This Stipulation shall be binding upon, and inure to the benefit of, the successors and assigns of the parties hereto.

59. The construction, interpretation, operation, effect and validity of this Stipulation, and all documents necessary to effectuate it, shall be governed by the laws of the State of Florida, excluding any provisions thereof respecting conflicts of law.

60. All counsel and any other person executing this Stipulation and any of the exhibits hereto, or any related settlement documents, warrant and represent that they have the full authority to do so, and that they have the authority to take all appropriate action required or permitted to be taken pursuant to the Stipulation to effectuate its terms.

61. Wherever this Stipulation requires or contemplates that one party shall or may give notice to the other, notice shall be provided:

a. If to AMI, then to

Bruce W. Greer, Esq.
Greer, Homer & Bonner, P.A.
International Place
100 S.E. Second Street
Suite 3400
Miami, Florida 33131

b. If to the Class, then to

Richard G. Collins, Esq.
70 S.E. Fourth Avenue
Delray Beach, Florida 33183

62. If this Stipulation is terminated because there is no Settlement Effective Date, or for any other reason, the provisions of paragraphs 45 and 46 (negating admissions) shall nevertheless survive the termination of the Stipulation and remain binding upon the parties hereto.

Dated: June 30, 1992

For AMI:

GREER, HOMER & BONNER, P.A.
3400 International Place
100 S.E. Second Street
Miami, Florida 33131
(305) 350-5100

By: /s/ BRUCE W. GREER
BRUCE W. GREER

For Plaintiffs and the Class:

REINMAN, HARRELL, GRAHAM
MITCHELL & WATTWOOD, P.A.
1825 S. Riverview Drive
Melbourne, Florida 32901
(407) 724-4450

By: /s/ HERBERT T. SCHWARTZ
HERBERT T. SCHWARTZ

RICHARD G. COLLINS, P.A.
70 S.E. Fourth Avenue
Delray Beach, Florida 33483
(407) 278-2331

By: /s/ RICHARD G. COLLINS
RICHARD G. COLLINS

STEPHEN A. SCOTT, ESQ.
P.O. Box 2218
Gainesville, Florida 33602
(904) 378-3056

By: /s/ STEPHEN A. SCOTT
STEPHEN A. SCOTT

EXHIBIT A

(DISCLOSURE STATEMENT)

A WORD ABOUT HOSPITAL COSTS AND YOUR BILL

Your Health Care is a Cooperative Effort: As you enter the hospital, it is important to remember that your health care is a cooperative effort between you, your doctor and the hospital staff. Don't be embarrassed to ask questions, including questions about the cost of medical supplies, pharmaceuticals, and laboratory services which may be utilized in your treatment and care. This statement is provided to you as part of our effort to ensure that you are as fully informed as possible about your health care and its cost to you.

The Cost: Patients often ask what their hospitalization will cost. Although we would like to give each patient a specific estimate of the cost for his or her treatment, medical care is not an exact science. Rates for a particular treatment vary widely among patients and among hospitals for many reasons, including the overall health of the patient, severity of the patient's particular illness, length of patient stay, area wages and costs for services offered, time in the Operating Room or Intensive Care Units, government taxes for indigent care such as the Florida Patient Medical Assistance Trust Fund tax, and required free care of uninsured poor patients.

Insurance: In addition, insurance companies including health maintenance organizations ("HMOs") and preferred provider organizations ("PPOs"), generally do not pay Hospital bills based on the hospital's regular charges. Instead, HMOs and PPOs contract with the Hospital for negotiated discounts or special flat rates based on various factors. Such discounts from charges, or other reimbursement arrangements, affect the total charges for your Hospital stay and how much of your account your insurance will pay. The costs you personally will have to pay may include deductibles, coinsurance, and amounts above the insurer's reimbursement schedule. You will need to contact your insurance company to discuss such reimbursement limits, but the Hospital's business office may be able to help you or your family better understand your insurance coverage if you need help. A list of the insurance companies, HMOs, PPOs and other third-party payors with whom the Hospital contracts for such discounts is available to you upon request.

Medicare Pays Differently: If your hospital care will be paid for by the Medicare program, the charges for specific items of medical supplies, pharmaceuticals, and laboratory services will have no bearing on the amount you pay or what Medicare will reimburse the Hospital. The Medicare program pays a fixed, predetermined amount for medical and hospital services based upon the "discharge diagnosis." This hospital receives approximately $________ for every dollar charged for a Medicare [or Medicaid] patient. There are 467 major diagnosis categories—called diagnosis-related groups ("DRGs"). The DRG categories are adjusted based on the severity of the patient's illness, the impact of any additional illnesses the patient may suffer, and the types of care rendered. Yes, it is very complex, but DRGs are becoming increasingly widely used in the health care community to identify types of illnesses being treated in the Hospital. By using such illness categories, the hospital gains a better understanding of patients being treated, costs incurred, and, within limits, services to be required. Medicare's reimbursement rate to the Hospital is set by the Government unilaterally and often times does not cover the true cost to the Hospital of providing such treatment.

Billing Information For You: Recognizing that such information may help you to better understand the cost of your hospitalization, a list containing the maximum standard charges for the 300 procedures most frequently performed by the Hospital, is available for you or your family to review upon request during normal business hours. Many factors, including the overall health of the patient, the severity of the patient's particular illness, the length of the patient's stay, unexpected complications and time spent in the Operating Room or Intensive Care Units, will result in additional charges. You or your family may also request to review the Hospital's list of charges for the products and services you may expect to be used in your treatment during normal business hours.

Your Bill: Within seven (7) days following your discharge from the Hospital, you will receive an itemized bill containing charges for your hospitalization. The bill will reflect charges billed to you by the Hospital, including:

a) Hospital services ordered by your physician, such as x-ray and laboratory fees, tests, drugs, and hospital room;

b) Medical supplies used in your treatment; and

c) Personal care items, such as surgical gowns or disposable razors.

Charges not included on your hospital bill, and which are normally billed separately, include physicians' fees, such as those of your personal physician and surgeon, the anesthesiologists, radiologists, and pathologists involved in your care, and ambulance charges.

Why Does It Cost So Much: You may expect that charges for specific items of supplies, pharmaceuticals, and laboratory services will be greater than those in your community pharmacy. Despite our best efforts to hold down our costs, pharmaceuticals, for instance, have increased in cost by 20% in one year. In addition, the difference in overhead costs between your local drugstore and the Hospital are significant. Providing products such as medications and surgical supplies is only incidental to the purpose of the hospital stay—to make you well again. The Hospital cares for ill and injured patients 24 hours a day using highly trained health care professionals, under the direction of the patient's physician. For instance, a community pharmacy generally involves a "self-service" transaction. The medication process in the Hospital is much more complicated. The cost of delivering even a single pill on a regular basis to a hospital patient includes factors far beyond the cost of the medication itself. As much as thirty minutes of professional staff time can be required to determine the type of medication to be ordered for the patient, to have that medication prepared by the pharmacy, to deliver it to the patient's room and to administer it to the patient. The difference in charges between the local pharmacy and the hospital pharmacy is illustrated by the following example:

COMMUNITY PHARMACY	HOSPITAL PHARMACY
1. You take the prescription to the Pharmacy or your doctor calls in the order to the Pharmacy.	1. Your physician writes the medication order on a chart.
2. The pharmacist prepares the medication and prices it.	2. A nurse reviews the chart and records the physician's order on a medication record.
3. You pay for the medication.	3. The nurse requisitions the medication from the Pharmacy.
	4. A courier picks up the requisition and delivers it to the Pharmacy.

5. The pharmacist checks the physician's order, dispenses the medication, prices the requisition, and forwards the paperwork to the billing office.
6. A courier delivers the medication from the Pharmacy to the nursing station.
7. The nurse checks the medication and schedules the times it is to be given to you.
8. The nurses on various shifts deliver each dose to your room and administer the medication.
9. The nurse observes your response to the medication and records a notation in your medical record as each dose was given to you.
10. After you consume the entire amount of medication dispensed, the nurse must begin the requisition process again.
11. The billing office clerk reviews the requisition slip, inputs it onto your record in order to bill you or your insurance carrier for the medication.

This is, of course, a simplification of the entire process. There are numerous other "overhead" costs incurred by the hospital regarding medications which are not incurred by a community pharmacy. For example, a pharmacist and nurse are on duty 24 hours a day, seven days a week, to care for your needs. Many drugs, such as narcotics and other substances controlled by the U.S. Drug Enforcement Agency, require exhaustive and expensive record keeping which is more complicated than that found in community pharmacies.

We hope this discription—of the costs of your health care, how it is paid for, and how even the administration of a single pill can be extraordinarily expensive—has been helpful to you. If your bill contains charges that you don't understand or agree with, call the hospital billing office and request an explanation. If you are unable to resolve your concerns, you may contact the Hospital's patient representative or Administration.

We are committed to providing you the highest quality of care in the most efficient manner possible. Please help us by asking questions . . . after all, your health care is a cooperative effort.

(PATIENT IDENTIFYING INFORMATION)

CONDITIONS OF ADMISSION AND CONSENT TO TREAT

Financial Agreement: The undersigned, whether signing as patient, representative or guarantor agrees that in consideration of the services to be rendered to the patient, he/she hereby individually will pay the account of the Hospital in accordance with the Hospital's regular rates and charges (or such rates and charges or co-payment amounts as are provided for under any third party reimbursement agreement applicable to the patient) all of which are incorporated herein by reference and made a part hereof for all purposes. A COPY OF THE HOSPITAL'S REGULAR RATES AND CHARGES, AS WELL AS A LIST OF THE MAXIMUM STANDARD CHARGES FOR THREE HUNDRED MOST COMMON PROCEDURES PERFORMED AT THIS HOSPITAL ARE AVAILABLE FOR YOU OR THE PATIENT TO REVIEW PRIOR TO EXECUTING THIS AGREEMENT. PLEASE ASK THE ADMISSIONS CLERK FOR THIS INFORMATION IF YOU WOULD LIKE TO REVIEW IT BEFORE EXECUTING THIS AGREEMENT. The undersigned further agrees to make full payment of any uninsured portion of the account upon discharge. The undersigned further agrees to pay any and all additional amounts billed to the patient by the Hospital which are not reimbursed by patient's insurance within 30 days of such billing. Should the account be referred for collection, the undersigned shall pay reasonable attorney's fees and collection expense. All delinquent accounts shall bear interest at the legal rate. Upon payment of your bill, by you or any other person or entity, it will be conclusively acknowledged and agreed by you that you have voluntarily paid your bill and that the charges contained in your bill are fair, just and reasonable, and adequately compensate the Hospital for all services rendered and goods delivered incident to your hospital care and treatment.

INITIALS: ____________________

Assignment of Insurance Benefits Power of Attorney: The undersigned, whether signing as patient, representative or guarantor, hereby authorizes direct payment to the Hospital of any insurance benefits or state disability benefits otherwise payable to or on behalf of patient for this hospitalization or for outpatient services, and assigns to the Hospital, for application to patient's account, all such benefits payable at a rate not to exceed Hospital's regular rates and charges. Such payment shall discharge said insurance company of any and all obligations under the applicable policy to the extent of such payment. The undersigned and/or patient shall remain responsible for all charges or applicable co-payments not covered by the assignment. The undersigned makes and appoints Hospital as its true and lawful attorney in fact, granting said attorney full power and authority to perform any and all acts necessary to obtain payment from any insurance policy covering this hospital admission or outpatient visit, with full power of substitution and revocation and hereby authorize said attorney in fact to endorse any and all benefit checks made payable to the undersigned or the Hospital for purposes of applying said benefits to payment on this patient's account.

INITIALS: ____________________

STATEMENT TO PERMIT PAYMENT OF MEDICARE BENEFITS TO PROVIDER, PHYSICIANS, AND PATIENT: "I certify that the information given by me in applying for payment under Title 18 of the Social Security Act is correct. I authorize any holder of medical or other information about me to release to the Social Security Administration or its Intermediaries or Carriers any information needed for this or a related Medicare claim. I request that payment of authorized benefits be made to me or on my behalf. I assign the benefits payable for physician services to the physician or organization furnishing the services or authorize such physicians or organizations to submit a claim to Medicare for payment to me. I authorize release of information about this claim to other health care payors listed on the Medicare Request for Payment."

The undersigned certifies that he/she has read the foregoing and is the patient, guarantor or is duly authorized by the patient as patient's representative to execute the above and accept its terms.

INITIALS: ____________________

I understand that health care services paid for under Medicare, Medicaid and Maternal and Child Health programs are subject to review by the Peer Review Organization.

INITIALS: ____________________

ADDITIONAL TERMS

CONSENT FOR TREATMENT AND CONDITIONS OF ADMISSION

1. **Consent to Medical and Surgical Procedures:** The undersigned consents to the procedures that may be performed during this hospitalization or outpatient visit, including any X-Ray examination, laboratory procedures, anesthesia, medical, surgical or dental treatment or procedures or other hospital services rendered to the patient under the general and special instructions of the physician/dentist or surgeon.

2. **Legal Relationship between Hospital and Physician:** THE UNDERSIGNED RECOGNIZES THAT ALL PHYSICIANS AND SURGEONS FURNISHING SERVICES TO THE PATIENT, INCLUDING THE RADIOLOGIST, PATHOLOGIST, AND ANESTHESIOLOGIST ARE INDEPENDENT CONTRACTORS AND ARE NOT EMPLOYEES OR AGENTS OF THE HOSPITAL. The patient is under the care and supervision of his/her attending physician and it is the responsibility of the Hospital and its nursing staff to carry out the instructions of that physician. It is the responsibility of the patient's physician or surgeon to obtain the patient's informed consent when required, for medical or surgical treatment, special diagnostic or therapeutic procedures, or other hospital services rendered to the patient under the general or special instructions of the physician.

3. **General Duty Nursing:** The Hospital provides only general duty nursing care unless, upon orders of the patient's physician, the patient must be provided more intensive nursing care. Under this system nurses are called to the bedside of the patient by a signal system. If the patient desires continuous or special duty nursing care, the patient or his/her legal representative, must arrange such care subject to the Hospital's policies. The Hospital shall in no way be responsible for failure to provide the same and is hereby released from any and all liability arising from the fact that said patient is not provided with such care.

4. **Scientific Medical Photography:** The undersigned approves the taking of pictures of medical or surgical progress, and the use of same for scientific, educational or research purposes.

5. **Release of Information:** Upon inquiry, the Hospital may make available to the public certain basic information about the patient, including name, address, age, sex, general description of the reason for treatment (whether an injury, burn, poisoning, or other condition), and the general condition of the patient. If the patient or the patient's legal representative DOES NOT want such information to be released, he/she must make a written request that such information be withheld.

The Hospital will obtain the patient's consent and his/her written authorization to release medical information about the patient, other than basic information described above, unless the Hospital is otherwise permitted or required by law to release the information. The undersigned agrees that, to the extent necessary to determine liability for payment and to obtain reimbursement, the Hospital may disclose portions of the patient's record, including his/her medical records, to any person or corporation which is or may be liable for all or any portion of the Hospital's charges including, but not limited to, insurance companies, health care services plans, or workers' compensation carriers. Special consent of the patient is needed to release this information where the patient is being treated for certain diseases such as alcohol or drug abuse, or is tested for the human immuno-deficiency virus (HIV) or has acquired immune deficiency syndrome (AIDS).

6. **Health Care Service Plan Obligation:** This Hospital maintains a list of the health care service plans with which it has contracted to provide services to patients. A list of such plans is available upon request from the Hospital business office. The Hospital has no contract, express or implied, with any plan that does not appear on the list. The undersigned agrees that he/she is individually obligated to pay the full rates and charges of all services rendered to him/her by the Hospital if he/she belongs to a plan which does not appear on the above mentioned list.

7. **Personal Valuables:** It is understood that the hospital maintains a safe for the safekeeping of money and valuables and the hospital shall not be liable for the loss or damage to any money, jewelry, glasses, denture, documents, furs, fur coats and fur garments or other articles of unusual value and small compass, unless placed therein, and shall not be liable for loss or damage to any such personal property, unless deposited with the Hospital for safekeeping.

8. **Prescriptions and Medications:** I understand that, without proper prescription, the possession of narcotics and narcotic appliances or apparatus, as well as dangerous drugs, is illegal. I declare that [ ] I have none in my possession; or [ ] I have the following prescription and/or medications in my possession:

INITIALS: ____________

In the event that any such contraband shall be found in my possession, at anytime during my stay in the hospital, I hereby authorize its removal and consent to its destruction.

9. **Advance Directives:** The undersigned acknowledges receiving the information to patients regarding Advance Directives and hereby acknowledges that he/she has been given written materials about his/her right to accept or refuse medical treatment; that the undersigned has been informed of his/her rights to formulate an Advance Directive; that he/she is not required to have an Advance Directive in order to receive medical treatment at this Hospital; and that the terms of any Advanced Directive that the undersigned has executed will be followed by the Hospital and his/her care givers to the extent permitted by law. I have [ ] or I have not [ ] executed an Advance Directive.

INITIALS: ____________

The undersigned certifies that he/she has read the foregoing, received a copy thereof, and is the patient, guarantor, or the patient's representative duly authorized to execute this Agreement and accept its terms.

____________________ DATE & TIME

____________________ SIGNATURE OF PATIENT OR REPRESENTATIVE

PRINT NAME: ____________________

____________________ WITNESS SIGNATURE

PRINT NAME: ____________________

____________________ GUARANTOR SIGNATURE

PRINT NAME: ____________________

FINANCIAL RESPONSIBILITY AGREEMENT BY PERSON OTHER THAN THE PATIENT OR THE PATIENT'S LEGAL REPRESENTATIVE: I agree to accept financial responsibility for services rendered to the patient by the Hospital and to abide by the terms of the Financial Agreement, Assignment of Insurance Benefits, and Health Care Service Plan Obligation provisions above.

____________________ DATE & TIME

____________________ SIGNATURE OF GUARANTOR

PRINT NAME: ____________________

____________________ RELATIONSHIP TO PATIENT

A COPY OF THIS DOCUMENT IS TO BE DELIVERED TO THE PATIENT AND ANY OTHER PERSON WHO SIGNS THIS DOCUMENT.

APPENDIX PART 2

CIRCUIT COURT OF THE STATE OF FLORIDA
THIRTEENTH JUDICIAL CIRCUIT
HILLSBOROUGH COUNTY

GAY F. VARANO, etc., et al., Plaintiffs, v. HUMHOSCO, INC., Defendant.	)	CASE NO. 91-8225 DIVISION C

ORDER

This case came on for hearing on December 16, 1992 on Plaintiffs' Motions To Substitute Parties Plaintiffs/Class Representatives and To Shorten The Time For Discovery, and Defendant's Motion for Leave to Serve and File an Amended Answer, Affirmative Defenses, and Counterclaims against the Plaintiffs and Motion To Shorten The Time For Discovery. Upon consideration of the motions, record, and argument of counsel, it is Ordered that:

1. The Motion to Substitute Parties is granted to the extent that

A. Plaintiffs shall be allowed to file a Fourth Amended Complaint within ten (10) days of the date of this Order, naming James Blanton, Sharonlee Pimental, and Dale Daniel as plaintiffs, and removing Robert Hegdal and Anthony Faggione;

B. Defendant shall have fifteen (15) days from the date plaintiffs file the Fourth Amended Complaint in which to respond;

C. The Plaintiffs shall not be permitted any future

amendments to the complaint, substitutions, or change of parties;

2. The hearing on class certification, scheduled for December 22, 1992, is deferred and shall be rescheduled by further notice once the pleadings are at issue;

3. Defendant's Motion for Leave to Serve and File an Amended Answer, Affirmative Defenses, and Counterclaims against the Plaintiffs is moot given the Court's ruling on the Motion to Substitute Parties, and defendant's right to respond to the fourth amended complaint;

4. The Plaintiffs' and Defendant's Motions To Shorten The Time For Discovery are moot given the deferment of the class certification hearing;

5. The pending motions for summary judgment against Messrs. Hegdal and Faggione are moot; and

6. The style of this case shall henceforth be Dale E. Daniel, James E. Blanton, and Sharonlee Pimental, for themselves and all others similarly situated v. HUMHOSCO, INC., a Florida corporation, d/b/a Humana Hospital-Brandon. The clerk of this court shall appropriately note this change in the case style and reflect the same among the public records.

DONE AND ORDERED in Tampa, Hillsborough County, Florida, this 21st day of December, 1992.

/s/ RICHARD A. LAZZARA

Circuit Judge

Copies to:

All Counsel of Record