

IN THE CIRCUIT COURT OF THE
EIGHTEENTH JUDICIAL CIRCUIT IN
AND FOR BREVARD COUNTY,
FLORIDA
CASE NO.: 052014CA019180XXXX

MICHAEL S. LAWLEY, as Personal
Representative of the ESTATE OF
SHANNON C. LAWLEY and MICHAEL
S. LAWLEY and PATRICIA LAWLEY
individually,

Plaintiffs,

vs.

HEALTH MANAGEMENT
ASSOCIATES, INC.; ROCKLEDGE
HMA, LLC; FLORIDA EMERGENCY
SPECIALISTS, LLC; APOLLOMD
PHYSICIAN SERVICES FL, LLC;
CHRISTOPHER HILL, M.D., ARNOLD
KEMP, M.D., and EDP HOLDINGS,
INC., a Delaware corporation authorized to
do business in the State of Florida a/k/a
HOSPITAL PHYSICIANS PARTNERS,
and GARY D. NEWSOME,

Defendants.

PLAINTIFFS' AMENDED COMPLAINT

COME NOW the Plaintiffs, MICHAEL S. LAWLEY, as Personal Representative of the ESTATE OF SHANNON C. LAWLEY, and MICHAEL S. LAWLEY and PATRICIA LAWLEY, individually, by and through their undersigned attorneys, and sue the following Defendants, to-wit: HEALTH MANAGEMENT ASSOCIATES, INC.; ROCKLEDGE HMA, LLC; FLORIDA EMERGENCY SPECIALISTS, LLC; APOLLOMD PHYSICIAN SERVICES FL, LLC; CHRISTOPHER HILL, M.D.; ARNOLD KEMP, M.D., EDP HOLDINGS a/k/a HOSPITAL PHYSICIANS PARTNERS, and GARY D. NEWSOME, and allege as follows:

JURISDICTION, PARTIES AND VENUE ALLEGATIONS

1. This is an action for damages in excess of fifteen thousand dollars (\$15,000.00), exclusive of interest, costs, and attorney's fees.

2. Shannon Lawley was a 31 year old female who sought care from Wuesthoff Hospital – Rockledge, in Brevard County, Florida, on February 20, 2012. Shannon Lawley was a graduate of the University of Florida, with a degree in Chemistry and practicing in Orlando, Florida.

3. Plaintiff, MICHAEL S. LAWLEY, is the natural father to Shannon Lawley, and has been appointed Personal Representative of the Estate of Shannon C. Lawley. A copy of the Letters of Administration is attached. (Exhibit A). As Personal Representative, Plaintiff has legal authority to bring all claims against third parties on behalf of the estate, and its beneficiaries, in contract and tort. Plaintiff, PATRICIA LAWLEY, is the natural mother of Shannon Lawley.

4. HEALTH MANAGEMENT ASSOCIATES, INC. (hereinafter HMA) is a foreign for-profit corporation authorized to do business in Florida. It did business in Rockledge, Brevard County, Florida, through its subsidiary corporation; and through its operation of Wuesthoff Hospital – Rockledge, at all material times hereto.

5. At all material times hereto, ROCKLEDGE HMA, LLC (hereinafter WUESTHOFF) was a Florida corporation conducting business in Brevard County, Florida, through its operation of Wuesthoff Hospital – Rockledge. ROCKLEDGE HMA, LLC was licensed under Chapter 395 Florida Statutes; and was operating a hospital governed by Chapter 395 Florida Statutes, and other federal and state statutes and governing rules.

6. FLORIDA EMERGENCY SPECIALISTS, LLC (hereinafter FES) is a Florida for-profit corporation doing business in Brevard County, Florida. It provides emergency room services to hospitals, and specifically contracted to provide emergency physician services to HMA and/or WUESTHOFF, at all material times hereto. FES specifically provided the emergency physician(s) that provided care and treatment to Shannon Lawley, including DR. CHRISTOPHER HILL. FES is a corporate affiliate of APOLLOMD.

7. APOLLOMD PHYSICIAN SERVICES FL, LLC (hereinafter APOLLOMD) is a Florida for-profit corporation, operating groups of emergency department physicians that provide emergency physician services to hospitals in Florida. It specifically contracted with HMA and/or WUESTHOFF to provide emergency physician coverage at WUESTHOFF, at all material times hereto. APOLLOMD specifically provided the emergency physician(s) that provided care and treatment to Shannon Lawley, including DR. CHRISTOPHER HILL.

8. DR. CHRISTOPHER HILL is a licensed Florida physician, and provided emergency department physician services to Shannon Lawley, while she was a patient in WUESTHOFF's emergency department. He was the physician in charge of her emergency treatment while Shannon Lawley awaited available ICU medical services and transfer. DR. CHRISTOPHER HILL was an employee or agent of HMA, WUESTHOFF, FES and/or APOLLOMD at all material times hereto.

9. DR. ARNOLD KEMP is a licensed Florida physician, and provided hospital physician services to Shannon Lawley, while she was a patient in WUESTHOFF's emergency department and ICU. He was a physician in charge of Shannon Lawley's treatment; and participated in the delay of her transfer to the WUESTHOFF ICU or to another facility. DR. ARNOLD KEMP was an employee or agent of HMA, WUESTHOFF, FES, APOLLOMD,

and/or EDP at all material times hereto.

10. EDP HOLDINGS, INC., is a Delaware corporation doing business in the State of Florida as hospital physicians partners hereinafter EDP and operated as a for profit corporation employing physician hospitalists including the Defendant, ARNOLD KEMP, M.D., and specifically provided hospitalist's services to Shannon Lawley as hereinafter alleged.

11. At all times material to the allegations in this Amended Complaint, GARY D. NEWSOME was CEO of HMA and participated in the illegal, unlawful, outrageous and fraudulent allegations hereinafter alleged by HMA, WUESTHOFF, FES, APOLLOMD and EDP.

12. The statutory beneficiaries of the Estate of Shannon G. Lawley, under the Florida Wrongful Death Act, include: MICHAEL S. LAWLEY, as surviving father; and PATRICIA LAWLEY, as surviving mother.

13. Shannon Lawley died while a patient in Wuesthoff Hospital – Rockledge on March 18, 2012.

14. This cause of action accrued in Brevard County, Florida.

MEDICAL FACTS GIVING RISE TO CAUSE OF ACTION

15. On February 20, 2012, Shannon Lawley had significant complaints of abdominal pain and shortness of breath, and sought emergency medical treatment for her condition at Rockledge HMA, LLC d/b/a Wuesthoff Hospital Rockledge.

16. Shannon Lawley was admitted into the emergency department of WUESTHOFF, and came under the care of its physicians, nurses and other health care providers.

17. Shannon Lawley had excellent health insurance and benefits to cover her medical bills for her emergency room and hospital stay.

18. While a patient of the emergency department of WUESTHOFF, Shannon Lawley was diagnosed with life threatening conditions known as diabetic ketoacidosis, severe metabolic acidosis and pancreatitis.

19. At the time of Shannon Lawley's emergency department admission, WUESTHOFF had no available ICU beds within which to admit Shannon Lawley to its ICU. In fact, there were 6 emergency department patients in serious medical condition awaiting ICU beds to open up for transfer out of the emergency department. The emergency department had inadequate staff members and services to properly care for its patients awaiting an ICU bed at WUESTHOFF.

20. As alleged below, HMA, WUESTHOFF, FES, APOLLOMD, and/or EDP and their employees and agents, all were involved in an illegal scheme that required the admission of emergency department patients to the hospital, regardless of medical need or condition, for the sole purpose of generating hospital and/or physician revenue. This included emergency department patients who did not need hospitalization; as well as emergency department patients that were in need of critical care services, even though WUESTHOFF was currently then unable to provide those services, as occurred here and included Shannon Lawley.

21. During the long delay awaiting the opening of a bed in the ICU, the emergency department patients, including Shannon Lawley, were held in the emergency department. While being held in the emergency department, the patients awaiting an ICU bed, including Shannon Lawley, were not provided sufficient staffing or appropriate medical care. WUESTHOFF, and its staff and employees, failed to provide appropriate and needed ICU or medical services, close observation and proper treatment.

22. Shannon Lawley was held in the emergency department, from the time of her arrival of 1:52 p.m., until her ultimate transfer to 12:10 a.m. the following day, or a total of over

10 hours. During this time, Shannon Lawley became critically ill, and was not provided adequate or appropriate physician or nursing care, resulting in her rapidly deteriorating condition.

23. There were available hospitals within the immediate area of WUESTHOFF that had available ICU beds and the medical capability to accept a critically ill patient for transfer and immediate treatment. However, the Defendants made no effort to contact any other facility or effectuate an emergency transfer based on its policy and practice to maintain admissions for revenue generating purposes. This failure of the Defendants to act in the best interests of Shannon Lawley led to her death.

24. During Shannon Lawley's emergency department holding period, the physicians and staff specifically failed to timely check her vital signs and blood pressures, which were at critically low values. Further, the physicians and staff improperly administered a drug called Cardizem, which was specifically contraindicated in light of her critically low blood pressure.

25. The administration of Cardizem, along with the inadequate monitoring and failure to provide the needed ICU medical services, all played a significant causative role in Shannon Lawley's death.

26. Upon Shannon Lawley's admission to the WUESTHOFF ICU, she was in a critical, life-threatening condition, which was irreversible. Shannon Lawley was maintained on life support systems until her death on March 18, 2012.

27. Because the Defendants refused to transfer Shannon Lawley to a nearby hospital facility that could provide immediate needed medical attention and services due to the Defendant's scheme and practice to admit a quota of patients without regard to medical need or the ability to properly provide care, Shannon Lawley was denied the medical care she so

desperately needed.

28. Had Shannon Lawley been provided proper ICU and critical care services, either at WUESTHOFF or any other nearby and available hospital facility, Shannon Lawley would have survived her illness and lived a normal life expectancy.

FACTS GIVING RISE TO CORPORATE LIABILITY

29. In 2010, HEALTH MANAGEMENT ASSOCIATES, IONC., acquired Wuesthoff Hospital – Rockledge, and created a subsidiary corporation known as ROCKLEDGE HMA, LLC which is the Florida licensee of WUESTHOFF. Together HMA and WUESTHOFF operate, run and manage the Wuesthoff Hospital – Rockledge, including its emergency department, ICU, other departments, and the staff and employees.

30. FES and APOLLOMD are corporations that, among other services, contract with hospitals for the provision of emergency department physician services. On or about 2011, HMA and/or WUESTHOFF severed its ties with its prior emergency department physician group; and contracted with FES and/or APOLLOMD to provide emergency department physician services for its Wuesthoff Hospital facility. HMA, WUESTHOFF, FES, APOLLOMD, EDP and GARY D. NEWSOME all participated in a plan or scheme in which they would benefit by increased hospital and physician revenues, through unlawful admission practices that defrauded Medicare, Medicaid, private insurance carriers and patients. This scheme provided for the admission of emergency department patients, without regard to the medical needs of the patient, for the unlawful purpose of increasing hospital and physician revenue. The same scheme was used to fail to properly transfer Shannon Lawley.

31. The above described systemic scheme violated federal and Medicare statutes, and state laws and Medicaid programs. It was illegally designed to unlawfully profit from

unnecessary admissions and increased admission hospital stays; and resulted in patient admissions to WUESTHOFF without regard to medical need or the hospital's ability to provide proper care, as in Shannon Lawley's case.

32. HMA, WUESTHOFF, and/or GARY D. NEWSOME also created a new computer coding program that operated to cause additional and unnecessary testing, increased hospital admissions and increased hospital lengths of stay. This program of coding violated federal and state laws by its operation of defrauding the government, violating federal billing practices and improperly obtained additional unlawful reimbursements from Medicare. It was used to obtain additional income from Shannon Lawley.

33. This ongoing scheme and plan began with HMA corporate operations of its multiple hospital systems across the United States; and continued from the beginning of its acquisition of WUESTHOFF, until its sale of the WUESTHOFF hospitals in 2014.

34. HMA, WUESTHOFF, and GARY D. NEWSOME improperly pressured or forced its physicians, including its emergency physicians, to increase admissions, avoid discharging patients, and to prevent patient transfers even when the transfers were medically necessary or needed for life saving treatment including with regard to Shannon Lawley.

35. Further, HMA, WUESTHOFF and/or GARY D. NEWSOME maintained an illegal and prohibited policy of preventing physicians from discharging or transferring patients from the hospital, even when a transfer was medically necessary to save the life of the patient as happened with regard to Shannon Lawley.

36. Shannon Lawley was a patient that needed an emergency transfer to another capable hospital since WUESTHOFF was unable to properly provide ICU services to her in a timely fashion, because no ICU beds were then available.

37. As a result of the Defendants' failure to transfer Shannon Lawley to a facility capable of treating her emergency and critical condition, HMA and WUESTHOFF created billing charges of \$368,496.82 for the care and treatment it rendered to Shannon Lawley.

ALLEGATIONS OF VICARIOUS LIABILITY

38. HMA maintained actual operation and control over the policies and practices of WUESTHOFF at all material times to this action, and specifically during Shannon Lawley's admission thereto.

39. WUESTHOFF also participated in the operation and control of the hospital policies and practices at all material times hereto, including Shannon Lawley's admission.

40. The unlawful practices and policies as described above were within the control and management of both WUESTHOFF and HMA at all material times hereto. Each could have and should have prevented these unlawful and illegal practices, which could and would have prevented the death of Shannon Lawley.

41. FES and APOLLOMD also were responsible for the management and decisions of its emergency physicians that contributed to the illegal or improper admissions, and the prevention of needed transfers to qualified facilities for critically ill patients, such as Shannon Lawley.

42. DR. CHRISTOPHER HILL was also responsible for the timely and appropriate emergency medical care needed by Shannon Lawley, and actively participated in the failure to transfer Shannon Lawley to another qualified facility, in light of WUESTHOFF's failure to have any available ICU beds. This action also significantly contributed to the failure of Shannon Lawley to receive immediate and appropriate emergency medical care, and ultimately, her death.

43. DR. ARNOLD KEMP was also responsible for the timely and appropriate medical care needed by Shannon Lawley, and actively participated in the failure to transfer Shannon

Lawley to another qualified facility, in light of WUESTHOFF's failure to have any available ICU beds. This action also significantly contributed to the failure of Shannon Lawley to receive immediate and appropriate medical care, and ultimately her death.

44. HMA and WUESTHOFF are responsible for the intentional conduct, acts and negligence of DR. CHRISTOPHER HILL, DR. ARNOLD KEMP and its nurses and staff while providing medical care and transfer decisions for Shannon Lawley, under the theories of respondeat superior, non-delegable duties, apparent agency and joint venture.

45. FES and APOLLOMD are responsible for the intentional conduct, acts and negligence of DR. CHRISTOPHER HILL and the emergency department staff and nurses while providing medical care and transfer decisions for Shannon Lawley, under the theories of respondeat superior, non-delegable duty, apparent agency, joint venture and the borrowed servant doctrines.

46. HMA and WUESTHOFF are individually and jointly responsible for their corporate acts of illegal conduct, resulting in the refusal to transfer Shannon Lawley to another qualified facility for the purpose of increasing its revenue, as described above, which directly contributed to the death of Shannon Lawley.

47. FES and APOLLOMD are individually and jointly responsible for their corporate acts of illegal conduct, resulting in the refusal to transfer Shannon Lawley to another qualified facility for the purpose of increasing its revenue, as described above, which directly contributed to the death of Shannon Lawley.

48. As a direct and proximate result of the conduct of the Defendants, as set forth herein, Shannon Lawley suffered irreversible permanent injuries and damages, and ultimately death.

49. The Plaintiff has complied with all conditions precedent to suit and this litigation.

50. Plaintiff specifically reserves their right to claim punitive damages following a proffer of evidence as required by Florida law.

COUNT I
(HEALTH MANAGEMENT ASSOCIATES, INC. – TORT OF OUTRAGE)

51. The Plaintiffs reallege and incorporate Paragraphs 1-50 herein.

52. This is a claim for outrageous behavior against HMA, and not a claim for medical malpractice. This claim is based on the corporate business policies of HMA and its affiliates and representatives.

53. HMA engaged in deceitful and outrageous conduct by its corporate policies of establishing quotas for emergency department admissions, and requiring admissions of emergency department patients without regard to medical need. Its conduct was specifically outrageous and dangerous to its emergency department patients. The admission of critically ill patients without the current ability to provide proper critical care, for the sole purpose of generating financial profits is an act that is so outrageous as to go beyond the bounds of decency. HMA's actions may be regarded as atrocious and utterly intolerable in our civilized community. HMA knew its conduct was unlawful and outrageous. HMA knew or should have known that this behavior was likely to cause severe emotional distress to its patients.

54. HMA knew that its conduct and prohibitive policies and practices with respect to Shannon Lawley could result in the failure of some emergency department patients to receive unneeded care; or to fail to receive needed critical care and treatment. However, HMA's motives were driven by an illegal practice of generating revenue, instead of providing the proper care and treatment the patients need.

55. HMA specifically pressured and forced its staff and physicians at WUESTHOFF to follow its illegal practice of admission, which resulted in Shannon Lawley's admission at a time

when WUESTHOFF was unable to properly provide care and treatment to her.

56. HMA, WUESTHOFF, FES, APOLLOMD, DR. CHRISTOPHER HILL and DR. ARNOLD KEMP's further outrageous conduct was lying to Plaintiffs, MICHAEL S. LAWLEY and PATRICIA LAWLEY, about the cause of death of their daughter, Shannon Lawley, falsely telling MICHAEL S. LAWLEY and PATRICIA LAWLEY, that Shannon Lawley became ill and died as a result of natural causes, i.e., diabetic ketoacidosis, metabolic acidosis and pancreatitis and lied about and covered up the improper care, failure to transfer and improper medication by these Defendants and each of them thereby greatly increasing the mental pain and anguish of MICHAEL S. LAWLEY and PATRICIA LAWLEY which conduct was outrageous.

57. The conduct of HMA was intentional, reckless and outrageous. It was designed to place corporate profits ahead of patient care and well being.

58. As a direct and proximate result of HMA's refusal to transfer Shannon Lawley, and its illegal practices of maintaining patient admissions for the purposes of generating revenue, Shannon Lawley was denied proper care and treatment that would have saved her life, and died on March 18, 2012.

59. As a direct and proximate result of HMA's outrageous conduct, MICHAEL S. LAWLEY and PATRICIA LAWLEY have suffered extreme emotional distress and anguish.

60. Further, because the outrageous conduct of HMA caused the death of Shannon Lawley, then the Florida Wrongful Death Act is applicable.

61. As a result of the outrageous conduct of HMA, Shannon Lawley's death resulted in the following damages, both past and future, to-wit:

a. The Estate of Shannon Lawley:

1. Medical expenses incurred in the care and treatment of Shannon Lawley prior to her death;
 2. Funeral expenses incurred as a result of Shannon Lawley's death.
 3. The loss of Shannon Lawley's net accumulations as defined in Florida Statutes.
- b. MICHAEL LAWLEY: The losses suffered by Michael Lawley, as the father of Shannon Lawley, include, but are not limited to, his mental pain and suffering resulting from Shannon Lawley's death.
 - c. PATRICIA LAWLEY: The losses suffered by PATRICIA LAWLEY, as the mother of Shannon Lawley, include, but are not limited to, her mental pain and suffering resulting from Shannon Lawley's death.
 - d. These losses are continuing in nature and include past and future damages.

WHEREFORE, Plaintiffs, MICHAEL S. LAWLEY, as Personal Representative of the ESTATE OF SHANNON C. LAWLEY and MICHAEL S. LAWLEY and PATRICIA LAWLEY, individually, demand judgment against the Defendant, HEALTH MANAGEMENT ASSOCIATES, INC., for damages, as set forth above, and further requests other relief as deemed appropriate by the Court, costs and trial by jury.

COUNT II
(ROCKLEDGE HMA, LLC d/b/a WUESTHOFF – TORT OF OUTRAGE)

62. The Plaintiffs reallege and incorporate Paragraphs 1-50 herein.
63. This is a claim for outrageous behavior against WUESTHOFF, and not a claim for medical malpractice. This claim is based on the corporate business policies of WUESTHOFF and its affiliates and representatives.
64. WUESTHOFF engaged in deceitful and outrageous conduct by its corporate policies

of establishing quotas for emergency department admissions, and requiring admissions of emergency department patients without regard to medical need. Its conduct was specifically outrageous and dangerous to its emergency department patients. The admission of critically ill patients without the current ability to provide proper critical care, for the sole purpose of generating financial profits is an act that is so outrageous as to go beyond the bounds of decency. WUESTHOFF's actions may be regarded as atrocious and utterly intolerable in our civilized community. WUESTHOFF knew its conduct was unlawful and outrageous. WUESTHOFF knew or should have known that this behavior was likely to cause severe emotional distress to its patients.

65. WUESTHOFF knew that its conduct and prohibitive policies and practices with respect to Shannon Lawley could result in the failure of some emergency department patients to receive unneeded care; or to fail to receive needed critical care and treatment. However, WUESTHOFF's motives were driven by an illegal practice of generating revenue, instead of providing the proper care and treatment the patients need.

66. WUESTHOFF specifically pressured and forced the staff and physicians to follow the illegal practice of admission, which resulted in Shannon Lawley's admission at a time when WUESTHOFF was unable to properly provide care and treatment to her.

67. The conduct of WUESTHOFF was intentional, reckless and outrageous. It was designed to place corporate profits ahead of patient care and well being.

68. HMA, WUESTHOFF, FES, APOLLOMD, HILL and ARNOLD KEMP, M.D.'s, further outrageous conduct was lying to Plaintiffs, MICHAEL S. LAWLEY and PATRICIA LAWLEY, about the cause of death of their daughter, Shawn Lawley, falsely telling MICHAEL S. LAWLEY and PATRICIA LAWLEY that Shannon Lawley became ill and died as a result of

natural causes, i.e., diabetic ketoacidosis, metabolic acidosis and pancreatitis and lied about and covered up the improper care, failure to transfer and improper medication by these Defendants and each of them thereby greatly increasing the mental pain and anguish of MICHAEL S. LAWLEY and PATRICIA LAWLEY which conduct was outrageous.

69. As a direct and proximate result of WUESTHOFF's refusal to transfer Shannon Lawley and the illegal practices of maintaining patient admissions for the purposes of generating revenue, Shannon Lawley was denied proper care and treatment that would have saved her life, and died on March 18, 2012.

70. As a direct and proximate result of WUESTHOFF's outrageous conduct, MICHAEL LAWLEY and PATRICIAL LAWLEY have suffered extreme emotional distress and anguish.

71. Further, because the outrageous conduct of WUESTHOFF caused the death of Shannon Lawley, then the Florida Wrongful Death Act is applicable.

72. As a result of the outrageous conduct of WUESTHOFF, Shannon Lawley's death resulted in the following damages, both past and future, to-wit:

- a. The Estate of Shannon Lawley:
 1. Medical expenses incurred in the care and treatment of Shannon Lawley prior to her death;
 2. Funeral expenses incurred as a result of Shannon Lawley's death;
 3. The loss of Shannon Lawley's net accumulations as defined in Florida Statutes.
- b. Michael Lawley: The losses suffered by Michael Lawley, as the father of Shannon Lawley, include, but are not limited to, his mental pain and suffering resulting from Shannon Lawley's death.

c. Patricia Lawley: The losses suffered by Patricia Lawley, as the mother of Shannon Lawley, include, but are not limited to, her mental pain and suffering resulting from Shannon Lawley's death.

d. These losses are continuing in nature and include past and future damages.

WHEREFORE, Plaintiffs, MICHAEL S. LAWLEY, as Personal Representative of the Estate of SHANNON C. LAWLEY and MICHAEL S. LAWLEY and PATRICIA LAWLEY, individually, demand judgment against the Defendant, ROCKLEDGE HMA, LLC, for damages, as set forth above, and further requests other relief as deemed appropriate by the court, costs and trial by jury.

COUNT III
(FLORIDA EMERGENCY SPECIALISTS, LLC – TORT OF OUTRAGE)

73. The Plaintiffs reallege and incorporate Paragraphs 1-50 herein.

74. This is a claim for outrageous behavior against FES, and not a claim for medical malpractice. This claim is based on the corporate business policies of FES and its affiliates and representatives.

75. FES engaged in deceitful and outrageous conduct by its corporate policies of establishing quotas for emergency department admissions, and requiring admissions of emergency department patients without regard to medical need. Its conduct was specifically outrageous and dangerous to its emergency department patients. The admission of critically ill patients without the current ability to provide proper critical care, for the sole purpose of generating financial profits is an act that is so outrageous as to go beyond the bounds of decency. WUESTHOFF's actions may be regarded as atrocious and utterly intolerable in our civilized community. FES knew its conduct was unlawful and outrageous. FES knew or should have known that this behavior was likely to cause severe emotional distress to its patients.

76. FES knew that its conduct and prohibitive policies and practices with respect to Shannon Lawley could result in the failure of some emergency department patients to receive unneeded care; or to fail to receive needed critical care and treatment. However, FES's motives were driven by an illegal practice of generating revenue, instead of providing the proper care and treatment the patients need.

77. WUESTHOFF specifically pressured and forced the staff and physicians to follow the illegal practice of admission, which resulted in Shannon Lawley's admission at a time when WUESTHOFF was unable to properly provide care and treatment to her.

78. FES's further outrageous conduct was lying to Plaintiffs, MICHAEL S. LAWLEY and PATRICIA LAWLEY, about the cause of death of their daughter, Shannon Lawley, falsely telling MICHAEL S. LAWLEY and PATRICIA LAWLEY, that Shannon Lawley became ill and died as a result of natural causes, i.e., diabetic ketoacidosis, metabolic acidosis and pancreatitis and lied about and covered up the improper care, failure to transfer and improper medication by these Defendants and each of them thereby greatly increasing the mental pain and anguish of MICHAEL S. LAWLEY and PATRICIA LAWLEY which conduct was outrageous

79. The conduct of FES was intentional, reckless and outrageous. It was designed to place corporate profits ahead of patient care and well being.

80. As a direct and proximate result of FES's refusal to transfer Shannon Lawley and its illegal practices of maintaining patient admissions for the purposes of generating revenue, Shannon Lawley was denied proper care and treatment that would have saved her life, and died on March 18, 2012.

81. As a direct and proximate result of FES's outrageous conduct, MICHAEL S. LAWLEY and PATRICIA LAWLEY have suffered extreme emotional distress and anguish.

82. Further, because the outrageous conduct of FES caused the death of Shannon Lawley, then the Florida Wrongful Death Act is applicable.

83. As a result of the outrageous conduct of FES, Shannon Lawley's death resulted in the following damages, both past and future, to-wit:

- a. The Estate of Shannon Lawley:
 1. Medical expenses incurred in the care and treatment of Shannon Lawley prior to her death;
 2. Funeral expenses incurred as a result of Shannon Lawley's death;
 3. The loss of Shannon Lawley's net accumulations as defined in Florida Statutes.
- b. Michael Lawley: The losses suffered by Michael Lawley, as the father of Shannon Lawley, include, but are not limited to, his mental pain and suffering resulting from Shannon Lawley's death.
- c. Patricia Lawley: The losses suffered by Patricia Lawley, as the mother of Shannon Lawley, include, but are not limited to, her mental pain and suffering resulting from Shannon Lawley's death.
- d. These losses are continuing in nature and include past and future damages.

WHEREFORE, Plaintiffs, MICHAEL S. LAWLEY, as Personal Representative of the Estate of Shannon C. Lawley, and MICHAEL S. LAWLEY and PATRICIA LAWLEY, individually, demand judgment against the Defendant, FLORIDA EMERGENCY SPECIALISTS, LLC, for damages, as set forth above, and further requests other relief as deemed appropriate by the court, costs and trial by jury.

COUNT IV
(APOLLOMD PHYSICIAN SERVICES FL, LLC – TORT OF OUTRAGE)

84. The Plaintiffs reallege and incorporate Paragraphs 1 – 50 herein.

85. This is a claim for outrageous behavior against APOLLOMD, and not a claim for medical malpractice. This claim is based on the corporate business policies of APOLLOMD and its affiliates and representatives.

86. APOLLOMED engaged in deceitful and outrageous conduct by its corporate policies of establishing quotas for emergency department admissions, and requiring admissions of emergency department patients without regard to medical need. Its conduct was specifically outrageous and dangerous to its emergency department patients. The admission of critically ill patients without the current ability to provide proper critical care, for the sole purpose of generating financial profits is an act that is so outrageous as to go beyond the bounds of decency. APOLLOMD's actions may be regarded as atrocious and utterly intolerable in our civilized community. APOLLOMD knew its conduct was unlawful and outrageous. APOLLOMD knew or should have known that this behavior was likely to cause severe emotional distress to its patients.

87. APOLLOMD knew that its conduct and prohibitive policies and practices with respect to Shannon Lawley could result in the failure of some emergency department patients to receive unneeded care; or to fail to receive needed critical care and treatment. However, APOLLOMD's motives were driven by an illegal practice of generating revenue, instead of providing the proper care and treatment the patients need.

88. APOLLOMD specifically pressured and forced the staff and physicians to follow the illegal practice of admission, which resulted in Shannon Lawley's admission at a time when Wuesthoff was unable to properly provide care and treatment to her.

89. HMA, WUESTHOFF, FES, APOLLOMD, CHRISTOPHER HILL, M.D., and ARNOLD KEMP, M.D.'s further outrageous conduct was lying to Plaintiffs, MICHAEL S. LAWLEY and PATRICIA LAWLEY, about the cause of death of their daughter, Shawn Lawley, falsely telling MICHAEL S. LAWLEY and PATRICIA LAWLEY that Shannon Lawley became ill and died as a result of natural causes, i.e., diabetic ketoacidosis, metabolic acidosis and pancreatitis and lied about and covered up the improper care, failure to transfer and improper medication of these Defendants and each of them thereby greatly increasing the mental pain and anguish of MICHAEL S. LAWLEY and PATRICIA LAWLEY which conduct was outrageous.

90. The conduct of APOLLOMD was intentional, reckless and outrageous. It was designed to place corporate profits ahead of patient care and well being.

91. As a direct and proximate result of APOLLOMD's refusal to transfer Shannon Lawley and its illegal practices of maintaining patient admissions for the purposes of generating revenue, Shannon Lawley was denied proper care and treatment that would have saved her life, and died on March 18, 2012.

92. As a direct and proximate result of APOLLOMD's outrageous conduct, MICHAEL S. LAWLEY and PATRICIA LAWLEY have suffered extreme emotional distress and anguish.

93. Further, because the outrageous conduct of APOLLOMD caused the death of Shannon Lawley, then the Florida Wrongful Death Act is applicable.

94. As a result of the outrageous conduct of APOLLOMD, Shannon Lawley's death resulted in the following damages, both past and future, to-wit:

a. The Estate of Shannon Lawley:

1. Medical expenses incurred in the care and treatment of Shannon

Lawley prior to her death;

2. Funeral expenses incurred as a result of Shannon Lawley's death;
3. The loss of Shannon Lawley's net accumulations as defined in Florida Statutes.

- b. Michael Lawley: The losses suffered by Michael Lawley, as the father of Shannon Lawley, include, but are not limited to, his mental pain and suffering resulting from Shannon Lawley's death.
- c. Patricia Lawley: The losses suffered by Patricia Lawley, as the mother of Shannon Lawley, include, but are not limited to, her mental pain and suffering resulting from Shannon Lawley's death.
- d. These losses are continuing in nature and include past and future damages.

WHEREFORE, Plaintiffs, MICHAEL S. LAWLEY, as Personal Representative of the Estate of Shannon C. Lawley and MICHAEL S. LAWLEY and PATRICIA LAWLEY, individually, demand judgment against the Defendant, APOLLOMD PHYSICIAN SERVICES FL, LLC, for damages, as set forth above, and further requests other relief as deemed appropriate by the court, costs and trial by jury.

COUNT V
(FRAUD)

95. The Plaintiffs reallege and incorporate Paragraphs 1 –50 herein.

96. The Defendants in carrying out their deceitful plan as set forth hereinabove of establishing quotas for emergency department admissions and requiring admissions of emergency department patients without regard to medical need and in failing to transfer Shannon Lawley as set forth hereinabove made false statements of material fact to Shannon Lawley and to her boyfriend, James Strickland, who was acting as an agent for Shannon Lawley during her 10

hour stay in the emergency room. Defendants and each of them falsely told Shannon Lawley and James Strickland that it was in Shannon Lawley's best interest and health to remain in the emergency room and not be transferred to another hospital with an available ICU room. That statement was false when it was made and Defendants, each of them, knew those statements were false when they were made. The false statements were intentionally made to deceive Shannon Lawley and James Strickland, her agent. Those false statements were material to the health of Shannon Lawley and her well-being and Shannon Lawley and James Strickland believed the Defendants' statements and acted upon them by failing to insist that Shannon Lawley be transferred out of the emergency room into another hospital and to another hospital that had an available ICU room. Shannon Lawley and James Strickland were ignorant of the falsity of the Defendant's statements and relied on the aforesaid statements and thought them to be true. Shannon Lawley and James Strickland were not medically trained and had a right to rely upon the false statements of the Defendants.

97. As a direct result of the fraudulent statements of the Defendants as set forth hereinabove, Shannon Lawley was damaged in that she herself and through her agent, James Strickland, stayed in the emergency room and did not insist upon transfer to a hospital that could provide Shannon Lawley with appropriate medical care including an ICU room and its attendant care as set forth hereinabove.

98. As a direct and proximate result of the fraudulent statements of each of the Defendants, Shannon Lawley died and her death resulted in the following damages, both past and future, to-wit:

a. The Estate of Shannon Lawley:

1. Medical expenses incurred in the care and treatment of Shannon

Lawley prior to her death;

2. Funeral expenses incurred as a result of Shannon Lawley's death;

3. The loss of Shannon Lawley's net accumulations as defined in Florida Statutes.

b. Michael Lawley: The losses suffered by Michael Lawley, as the father of Shannon Lawley, include, but are not limited to, his mental pain and suffering resulting from Shannon Lawley's death.

c. Patricia Lawley: The losses suffered by Patricia Lawley, as the mother of Shannon Lawley, include, but are not limited to, her mental pain and suffering resulting from Shannon Lawley's death.

d. These losses are continuing in nature and include past and future damages.

WHEREFORE, Plaintiffs, MICHAEL S. LAWLEY, as Personal Representative of the Estate of Shannon C. Lawley and MICHAEL S. LAWLEY and PATRICIA LAWLEY, individually, demand judgment against the Defendants, HEALTH MANAGEMENT ASSOCIATES, INC., ROCKLEDGE HMA, LLC, FLORIDA EMERGENCY SPECIALISTS, LLC, APOLLOMD PHYSICIAN SERVICES FL, LLC, CHRISTOPHER HILL, M.D., ARNOLD KEMP, M.D., EDP HOLDINGS, INC., a/k/a HOSPITAL PHYSICIANS PARTNERS, and GARY D. NEWSOME, for damages, as set forth above, and further requests other relief as deemed appropriate by the court, costs and trial by jury.

COUNT VI
(HEALTH MANAGEMENT ASSOCIATES, INC. - RICO)

99. The Plaintiffs reallege and incorporate Paragraphs 1 - 50 herein.

100. This is a claim for an illegal enterprise against HMA which resulted in the death of Shannon Lawley, and not a claim for medical malpractice. This claim is based on the illegal

corporate business policies of HMA and its affiliates and representatives.

101. HMA engaged in unlawful and criminal enterprise, as more fully set forth above. HMA, with criminal intent, received proceeds derived directly, or indirectly, from a pattern of criminal activity.

102. HMA maintained an illegal enterprise, through its corporate policies of establishing quotas for emergency department admissions, and requiring admissions of emergency department patients without regard to medical need and failing to transfer Shannon Lawley without regard to her medical need. Its conduct was known to be dangerous to its emergency department patients. It engaged in the admission of Shannon Lawley a critically ill patient without the ability to provide proper critical care, for the sole purpose of falsely billing the government, and private insurers and patients, which operated as a criminal enterprise.

103. HMA knew that its criminal conduct and prohibitive policies and practices with respect to Shannon Lawley could result in the failure of her to receive unneeded care; or to fail to receive needed critical care and treatment. However, HMA's motives were driven by an illegal practice of generating revenue and falsely billing the government and other parties, instead of providing the proper care and treatment of Shannon Lawley's need.

104. HMA specifically pressured and forced the staff and physicians at WUESTHOFF to follow the illegal practice of admission, which resulted in Shannon Lawley's admission at a time when WUESTHOFF was unable to properly provide care and treatment to her.

105. The conduct of HMA was intentional, reckless, outrageous and criminal. It was designed to place corporate profits ahead of patient care and well being.

106. Further, HMA's conduct constituted an ongoing pattern of criminal activity, known as a continuing racketeering activity, which lasted for a substantial period of time, beginning

before its acquisition of WUESTHOFF until well after the death of Shannon Lawley. Its conduct consisted of multiple incidents of criminal activity that had the same or similar intents of illegally obtaining monies for unneeded admissions of patients, or refusal to transfer patients to appropriate facilities in an effort to create financial revenues for the corporation. These multiple criminal activities occurred within 5 years of each other; and include incidents of fraudulent conduct that do not arise out of a single contract or transaction. There have been multiple persons and parties aggrieved by Defendant's criminal activity as alleged herein including Shannon Lawley.

107. As a direct and proximate result of HMA's refusal to transfer Shannon Lawley and its illegal practices of maintaining patient admissions for the purposes of generating revenue, Shannon Lawley was denied proper care and treatment that would have saved her life, and died on March 18, 2012.

108. Further, as a direct and proximate result of this Defendant's criminal enterprise and activity, the Defendant, through its corporately owned subsidiary (WUESTHOFF) billed \$368,496.82 for care rendered to Shannon Lawley, as part of its enterprise and system to illegally retain emergency department admissions for the purpose of generating profits and income to the for-profit corporation.

109. The statutory beneficiaries of Shannon Lawley, MICHAEL and PATRICIA LAWLEY, have been significantly injured through the criminal activities of this Defendant.

110. As a direct and proximate result of HMA's outrageous conduct, MICHAEL LAWLEY and PATRICIA LAWLEY have suffered extreme emotional distress and anguish.

111. Further, because the criminal conduct of HMA caused the death of Shannon Lawley, then the Florida Wrongful Death Act is applicable.

112. As a result of the criminal conduct of HMA, Shannon Lawley's death resulted in the following damages, both past and future, to-wit:

- a. The Estate of Shannon Lawley:
 - 1. Medical expenses incurred in the care and treatment of Shannon Lawley prior to her death;
 - 2. Funeral expenses incurred as a result of Shannon Lawley's death;
 - 3. The loss of Shannon Lawley's net accumulations as defined in Florida Statutes.
- b. Michael Lawley: The losses suffered by Michael Lawley, as the father of Shannon Lawley, include, but are not limited to, his mental pain and suffering resulting from Shannon Lawley's death.
- c. Patricia Lawley: The losses suffered by Patricia Lawley, as the mother of Shannon Lawley, include, but are not limited to, her mental pain and suffering resulting from Shannon Lawley's death.
- d. These losses are continuing in nature and include past and future damages.

113. Further, pursuant to §772.104, Fla. Stat. Plaintiffs' damages are increased threefold by Defendant's conduct and the application of this statute.

114. The Plaintiffs have had to retain the services of the undersigned attorneys for the prosecution of this statutory action, and have agreed to pay them a reasonable attorney's fee.

WHEREFORE, Plaintiffs, MICHAEL S. LAWLEY, as Personal Representative of the Estate of Shannon C. Lawley and MICHAEL S. LAWLEY and PATRICIA LAWLEY, individually, demand judgment against HMA for actual damages, treble damages, attorney's fees and costs, and further requests other relief as deemed appropriate by the court, and trial by jury.

COUNT VII
(ROCKLEDGE HMA, LLC d/b/a WUESTHOFF - RICO)

115. The Plaintiffs reallege and incorporate Paragraphs 1 -50 herein.

116. This is a claim for an illegal enterprise against WUESTHOFF which resulted in the death of Shannon Lawley, and not a claim for medical malpractice. This claim is based on the illegal corporate business policies of WUESTHOFF and its affiliates and representatives.

117. WUESTHOFF engaged in unlawful and criminal enterprise, as more fully set forth above. WUESTHOFF, with criminal intent, received proceeds derived directly, or indirectly, from a pattern of criminal activity.

118. WUESTHOFF maintained an illegal enterprise, through its corporate policies of establishing quotas for emergency department admissions, and requiring admissions of emergency department patients without regard to medical need and failing to transfer Shannon Lawley without regard to her medical need. Its conduct was known to be dangerous to its emergency department patients. It engaged in the admission of Shannon Lawley a critically ill patient without the ability to provide proper critical care, for the sole purpose of falsely billing the government, and private insurers and patients, which operated as a criminal enterprise.

119. WUESTHOFF knew that its criminal conduct and prohibitive policies and practices with respect to Shannon Lawley could result in the failure of her to receive unneeded care; or to fail to receive needed critical care and treatment. However, WUESTHOFF's motives were driven by an illegal practice of generating revenue and falsely billing the government and other parties, instead of providing the proper care and treatment of Shannon Lawley's need.

120. WUESTHOFF specifically pressured and forced its staff and physicians at WUESTHOFF to follow the illegal practice of admission, which resulted in Shannon Lawley's admission at a time when WUESTHOFF was unable to properly provide care and treatment to

her.

121. The conduct of WUESTHOFF was intentional, reckless, outrageous and criminal. It was designed to place corporate profits ahead of patient care and well being.

122. Further, WUESTHOFF's conduct constituted an ongoing pattern of criminal activity, known as a continuing racketeering activity, which lasted for a substantial period of time, beginning before its acquisition of WUESTHOFF until well after the death of Shannon Lawley. Its conduct consisted of multiple incidents of criminal activity that had the same or similar intents of illegally obtaining monies for unneeded admissions of patients, or refusal to transfer patients to appropriate facilities in an effort to create financial revenues for the corporation. These multiple criminal activities occurred within 5 years of each other; and include incidents of fraudulent conduct that do not arise out of a single contract or transaction. There have been multiple persons and parties aggrieved by Defendant's criminal activity as alleged herein including Shannon Lawley.

123. As a direct and proximate result of WUESTHOFF's refusal to transfer Shannon Lawley and its illegal practices of maintaining patient admissions for the purposes of generating revenue, Shannon Lawley was denied proper care and treatment that would have saved her life, and died on March 18, 2012.

124. Further, as a direct and proximate result of this Defendant's criminal enterprise and activity, the Defendant billed \$368,496.82 for care rendered to Shannon Lawley, as part of its enterprise and system to illegally retain emergency department admissions for the purpose of generating profits and income to the for-profit corporation.

125. The statutory beneficiaries of Shannon Lawley, MICHAEL and PATRICIA LAWLAY, have been significantly injured through the criminal activities of this Defendant.

126. As a direct and proximate result of WUESTHOFF's criminal enterprise and conduct, MICHAEL S. LAWLEY and PATRICIA LAWLEY have suffered extreme emotional distress and anguish.

127. Further, because the criminal conduct of WUESTHOFF caused the death of Shannon Lawley, then the Florida Wrongful Death Act is applicable.

128. As a result of the criminal conduct of WUESTHOFF, Shannon Lawley's death resulted in the following damages, both past and future, to-wit:

- a. The Estate of Shannon Lawley:
 1. Medical expenses incurred in the care and treatment of Shannon Lawley prior to her death;
 2. Funeral expenses incurred as a result of Shannon Lawley's death;
 3. The loss of Shannon Lawley's net accumulations as defined in Florida Statutes.
- b. Michael Lawley: The losses suffered by Michael Lawley, as the father of Shannon Lawley, include, but are not limited to, his mental pain and suffering resulting from Shannon Lawley's death.
- c. Patricia Lawley: The losses suffered by Patricia Lawley, as the mother of Shannon Lawley, include, but are not limited to, her mental pain and suffering resulting from Shannon Lawley's death.
- d. These losses are continuing in nature and include past and future damages.

129. Further, pursuant to §772.104, Fla. Stat., Plaintiffs' damages are increased threefold by Defendant's conduct and the application of this statute.

130. The Plaintiffs have had to retain the services of the undersigned attorneys for the

prosecution of this statutory action, and have agreed to pay them a reasonable attorney's fee.

WHEREFORE, Plaintiffs, MICHAEL S. LAWLEY, as Personal Representative of the Estate of Shannon C. Lawley and MICHAEL S. LAWLEY and PATRICIA LAWLEY, individually, demand judgment against WUESTHOFF for treble damages, attorney's fees and costs, and further requests other relief as deemed appropriate by the court, and trial by jury.

COUNT VIII
(HEALTH MANAGEMENT ASSOCIATES, INC. – FDUTPA)

131. The Plaintiffs reallege and incorporate Paragraphs 1 - 50 herein.

132. This is a claim for deceptive and unfair trade practices against HMA, pursuant to §501.201 et seq. (Fla. Statutes). This is not a claim for medical malpractice. Nor is this a claim for personal injury or wrongful death damages. This claim is based on the unfair and deceptive corporate business practices of HMA, and its affiliates and representatives.

133. HMA engaged in a series and pattern of unfair and deceptive business practices, as more fully set forth above and below.

134. HMA maintained unfair methods of practices and unconscionable acts, intended to deceive the public, the government, private insurers and patients and deceived Shannon Lawley into permitting this Defendant to keep her in the emergency room and not transfer her. Specifically, HMA's corporate policies of establishing quotas for emergency department admissions and requiring admissions of emergency department patients without regard to medical need, was an unlawful deceptive business practice.

135. The admission of critically ill patients without the current ability to provide proper critical care, for the sole purpose of falsely billing the government, and private insurers and patients, operates is an unlawful practice under the Act.

136. HMA knew that its prohibitive policies and practice with respect to Shannon

Lawley would result in the failure of her to receive unneeded care; or to fail to receive needed critical care and treatment. However, HMA's motives were driven by an unlawful practice of generating revenue and falsely billing the government and other parties, instead of providing the proper care and treatment the patients needed.

137. HMA specifically pressured and forced its staff and physicians at WUESTHOFF to follow this illegal practice of admission, which resulted in Shannon Lawley's admission at a time when WUESTHOFF was unable to properly provide care and treatment to her.

138. The conduct of HMA was intentional, reckless, outrageous and an unlawful and deceptive business practice. It was designed to place corporate profits ahead of patient care and well being. The Defendant knowingly and willingly committed this unlawful violation.

139. Plaintiffs are legally obligated to recover the medical expenses and charges that the Defendant illegally or unlawfully obtained from the unlawful practice of the admission of Shannon Lawley, when she should have been transferred to another facility for proper care and treatment.

140. Further, the medical expenses and charges, billed and received by Defendant, would have been significantly lower than its final bill for hospital charges, since earlier and prompter treatment would have significantly lessened Shannon Lawley's illness and resulted in a lower medical charge.

141. The damages sought by Plaintiff herein relate solely to the hospital bill, or the economic damages that Defendant unlawfully retained, and which are the subject matter of this FDUTPA claim.

142. The Plaintiffs have had to retain the services of the undersigned attorneys for the prosecution of this statutory action, and has agreed to pay them a reasonable attorney's fee.

WHEREFORE, Plaintiffs, MICHAEL S. LAWLEY, as Personal Representative of the Estate of Shannon C. Lawley and MICHAEL S. LAWLEY and PATRICIA LAWLEY, individually, demand judgment against the Defendant, HEALTH MANAGEMENT ASSOCIATES, INC., for actual damages, attorney's fees and costs, and further requests other relief as deemed appropriate by the court and trial by jury.

COUNT IX
(ROCKLEDGE HMA, LLC d/b/a WUESTHOFF – FDUTPA)

143. The Plaintiffs reallege and incorporate Paragraphs 1 - 50 herein.

144. This is a claim for deceptive and unfair trade practices against WUESTHOFF, pursuant to §501.201 et seq. (Fla. Statutes). This is not a claim for medical malpractice. Nor is this a claim for personal injury or wrongful death damages. This claim is based on the unfair and deceptive corporate business practices of WUESTHOFF, and its affiliates and representatives.

145. WUESTHOFF engaged in a series and pattern of unfair and deceptive business practices, as more fully set forth above and below.

146. WUESTHOFF maintained unfair methods of practices and unconscionable acts, intended to deceive the public, the government, private insurers and patients and deceived Shannon Lawley into permitting this Defendant to keep her in the emergency room and not transfer her. Specifically, WUESTHOFF's corporate policies of establishing quotas for emergency department admissions and requiring admissions of emergency department patients without regard to medical need, was an unlawful deceptive business practice.

147. The admission of critically ill patients without the current ability to provide proper critical care, for the sole purpose of falsely billing the government, and private insurers and patients, operates is an unlawful practice under the Act.

148. WUESTHOFF knew that its prohibitive policies and practice with respect to

Shannon Lawley would result in the failure of her to receive unneeded care; or to fail to receive needed critical care and treatment. However, WUESTHOFF's motives were driven by an unlawful practice of generating revenue and falsely billing the government and other parties, instead of providing the proper care and treatment the patients needed.

149. WUESTHOFF specifically pressured and forced its staff and physicians at WUESTHOFF to follow this illegal practice of admission, which resulted in Shannon Lawley's admission at a time when WUESTHOFF was unable to properly provide care and treatment to her.

150. The conduct of WUESTHOFF was intentional, reckless, outrageous and an unlawful and deceptive business practice. It was designed to place corporate profits head of patient care and well being. The Defendant knowingly and willingly committed this unlawful violation.

151. Plaintiffs are legally obligated to recover the medical expenses and charges that the Defendant illegally or unlawfully obtained from the unlawful practice of the admission of Shannon Lawley, when she should have been transferred to another facility for proper care and treatment.

152. Further, the medical expenses and charges, billed and received by Defendant, would have been significantly lower than its final bill for hospital charges, since earlier and prompter treatment would have significantly lessened Shannon Lawley's illness and resulted in a lower medical charge.

153. The damages sought by Plaintiffs herein relate solely to the hospital bill, or the economic damages that Defendant unlawfully retained, and which are the subject matter of this FDUTPA claim.

154. The Plaintiffs have had to retain the services of the undersigned attorneys for the prosecution of this statutory action, and has agreed to pay them a reasonable attorney's fee.

WHEREFORE, Plaintiffs, MICHAEL S. LAWLEY, as Personal Representative of the Estate of Shannon C. Lawley and MICHAEL S. LAWLEY and PATRICIA LAWLEY, individually, demand judgment against Defendant, WUESTHOFF, for actual damages, attorney's fees and costs, and further requests other relief as deemed appropriate by the court and trial by jury.

COUNT X
(CHRISTOPHER HILL, M.D.- NEGLIGENCE)

155. The Plaintiffs reallege and incorporate Paragraphs 1 - 50 herein.

156. The Defendant, CHRISTOPHER HILL, M.D., was an emergency department physician that specialized in providing emergency care.

157. CHRISTOPHER HILL, M.D., was responsible for the care and management of Shannon Lawley throughout the time she was present and receiving care in the WUESTHOFF emergency department on February 20, 2012.

158. The nurses, staff and other health care providers treating Shannon Lawley in the emergency department came under the direct supervision and care of CHRISTOPHER HILL, M.D. CHRISTOPHER HILL, M.D., was responsible for his own professional conduct; and had a duty to oversee and direct the medical care, observation, tests, monitoring and treatment that Shannon Lawley received in the WUESTHOFF emergency department.

159. Notwithstanding this Defendant's duties and responsibilities to Shannon Lawley, this Defendant deviated from the acceptable standards of care by acts and/or omissions, which include the following, to-wit:

- a) Failed to perform and/or document thorough assessments of Shannon Lawley;
- b) Failed to recognize signs and symptoms of Shannon Lawley's deteriorating condition;
- c) Failed to implement a proper plan of care for Shannon Lawley;
- d) Delayed appropriate care and treatment for Shannon Lawley through inaction and omissions;
- e) Failed to insure prompt transfer of Shannon Lawley to the ICU of either WUESTHOFF or another available facility capable of providing critical care to Shannon Lawley;
- f) Failed to properly supervise the staff and other physicians providing care to Shannon Lawley;
- g) Failed to timely monitor, observe and take or record vital signs in Shannon Lawley, a significantly ill patient;
- h) Failed to provide the appropriate care and treatment based upon the clinical symptoms and test results performed and available for Shannon Lawley;
- i) Failed to timely and appropriately coordinate the care and management of Shannon Lawley with the other physicians and staff, specifically including but not limited to the administration of Cardizem which was strongly contraindicated in Shannon Lawley's treatment;
- j) Failed to adequately provide fluid replacement for Shannon Lawley;
- k) Failed to properly monitor intake and output in a severely hypotensive patient;
- l) Failed to follow appropriate policies, procedures and protocols in place at WUESTHOFF HOSPITAL in his care of Shannon Lawley; and
- m) Was otherwise negligent in the care and treatment provided to Shannon Lawley in the emergency department of WUESTHOFF HOSPITAL.

160. As a direct result of the conduct and negligence of Defendant, Shannon Lawley suffered significant bodily injury resulting in her death on March 18, 2012.

161. Shannon Lawley's death resulted in the following damages, both past and

future, to-wit:

- a. The Estate of Shannon Lawley:
 1. Medical expenses incurred in the care and treatment of Shannon Lawley prior to her death;
 2. Funeral expenses incurred as a result of Shannon Lawley's death;
 3. The loss of Shannon Lawley's net accumulations as defined in Florida Statutes.
- b. Michael Lawley: The losses suffered by Michael Lawley, as the father of Shannon Lawley, include, but are not limited to, his mental pain and suffering resulting from Shannon Lawley's death.
- c. Patricia Lawley: The losses suffered by Patricia Lawley, as the mother of Shannon Lawley, include, but are not limited to, her mental pain and suffering resulting from Shannon Lawley's death.
- d. These losses are continuing in nature and include past and future damages.

WHEREFORE, Plaintiffs, MICHAEL S. LAWLEY, as Personal Representative of the Estate of Shannon C. Lawley and MICHAEL S. LAWLEY and PATRICIA LAWLEY, individually, demand judgment against CHRISTOPHER HILL, M.D., for damages, as set forth above, and further requests other relief as deemed appropriate by the court, costs and trial by jury.

COUNT XI
(ARNOLD KEMP, M.D. – NEGLIGENCE)

162. The Plaintiffs reallege and incorporate Paragraphs 1 - 50 herein.

163 The Defendant, ARNOLD KEMP, M.D., was an internal medicine physician that specialized in providing hospital care.

164. ARNOLD KEMP, M.D., was jointly responsible for the care and management of Shannon Lawley while she was present and receiving care in the WUESTHOFF emergency department, and upon her transfer to the WUESTHOFF ICU on February 20 – 21, 2012.

165. The nurses, staff and other health care providers treating Shannon Lawley in the emergency department and ICU came under the joint supervision and care of ARNOLD KEMP, M.D. ARNOLD KEMP, M.D., was responsible for this own professional conduct, and had a duty to oversee and direct the medical care, observation, tests, monitoring and treatment that Shannon Lawley received in the WUESTHOFF emergency department, while awaiting transfer to either the WUESTHOFF ICU or another institution.

166. Notwithstanding this Defendant's duties and responsibilities to Shannon Lawley, this Defendant deviated from the acceptable standards of care by acts and/or omissions, which include the following, to-wit:

- a) Failed to perform and/or document thorough assessments of Shannon Lawley;
- b) Failed to recognize signs and symptoms of Shannon Lawley's deteriorating condition;
- c) Failed to implement a proper plan of care for Shannon Lawley;
- d) Delayed appropriate care and treatment for Shannon Lawley through inaction and omissions;
- e) Failed to insure prompt transfer of Shannon Lawley to the ICU of either WUESTHOFF or another available facility capable of providing critical care to Shannon Lawley;
- f) Failed to properly supervise the staff and other physicians providing care to Shannon Lawley;
- g) Failed to timely monitor, observe and take or record vital signs in Shannon Lawley, a significantly ill patient;
- h) Failed to provide the appropriate care and treatment based upon the clinical

symptoms and test results performed and available for Shannon Lawley;

- i) Failed to timely and appropriately coordinate the care and management of Shannon Lawley with the other physicians and staff;
- j) Improperly ordered the administration of Cardizem which was strongly contraindicated in Shannon Lawley's treatment due to her hypotensive state, and failed to insure the Cardizem order was properly discontinued before it was administered to Shannon Lawley;
- k) Failed to adequately provide fluid replacement for Shannon Lawley;
- l) Failed to properly monitor intake and output in a severely hypotensive patient;
- m) Failed to follow appropriate policies, procedures and protocols in place at WUESTHOFF HOSPITAL in his care of Shannon Lawley; and
- n) Was otherwise negligent in the care and treatment provided to Shannon Lawley in the emergency department of WUESTHOFF HOSPITAL.

167. As a direct result of the conduct and negligence of Defendant, Shannon Lawley suffered significant bodily injury resulting in her death on March 18, 2012.

168. Shannon Lawley's death resulted in the following damages, both past and future, to-wit:

- a. The Estate of Shannon Lawley:
 - 1. Medical expenses incurred in the care and treatment of Shannon Lawley prior to her death;
 - 2. Funeral expenses incurred as a result of Shannon Lawley's death;
 - 3. The loss of Shannon Lawley's net accumulations as defined in Florida Statutes.
- b. Michael Lawley: The losses suffered by Michael Lawley, as the father of Shannon Lawley, include, but are not limited to, his mental pain and suffering resulting from Shannon Lawley's death.

c. Patricia Lawley: The losses suffered by Patricia Lawley, as the mother of Shannon Lawley, include, but are not limited to, her mental pain and suffering resulting from Shannon Lawley's death.

d. These losses are continuing in nature and include past and future damages.

WHEREFORE, Plaintiffs, MICHAEL S. LAWLY, as Personal Representative of the Estate of Shannon C. Lawley, and MICHAEL S. LAWLEY and PATRICIA LAWLEY, individually, demand judgment against ARNOLD KEMP, M.D., for damages, as set forth above, and further requests other relief as deemed appropriate by the court, costs and trial by jury.

COUNT XII
(ROCKLEDGE HMA, LLC d/b/a WUESTHOFF – NEGLIGENCE)

169. The Plaintiffs reallege and incorporate Paragraphs 1 - 50 herein.

170. The Defendant, WUESTHOFF, was a licensed hospital providing general and specialized services in Brevard County, Florida.

171. WUESTHOFF held itself out, in the public and through the media and publications, as being able to properly provide emergency services through its emergency department.

172. Shannon Lawley relied upon this representation when she presented to the emergency department for critical and emergency care on February 20, 2012.

173. WUESTHOFF is responsible for the negligence of its emergency department physicians, nurses, staff and other providers that provided care and treatment to Shannon Lawley, under the theories of respondeat superior, apparent agency, nondelegable duties and joint venture, as follows:

A. Apparent agency doctrine:

1. WUESTHOFF held itself out to the public, and to the Plaintiff, specifically, as being a health care provider that provided emergency care through

its emergency department. This Defendant specifically held out each of its physicians, nurses and staff named in this Complaint as its employees or agents.

2. Plaintiff contracted with this Defendant for the provision of emergency care.

3. The Plaintiffs reasonably relied upon the representations and holding out by this Defendant that it would provide appropriate emergency care and other hospital intensive services as needed.

4. As a direct result of the representations of this Defendant, and reliance upon those representations by Plaintiff, then Shannon Lawley died.

B. Non-delegable duty doctrine:

1. Based upon the contract between Shannon Lawley and WUESTHOFF, the Defendant owed a non-delegable duty to the Plaintiff's decedent to provide reasonable and proper emergency and hospital critical care services. This duty could not be delegated to a third party or independent contract to avoid responsibility for the negligence that followed therein.

2. Because of the negligent performance of the physician, nursing and hospital services provided to Shannon Lawley, then this Defendant is responsible for the damages caused as alleged herein:

C. Joint venture:

1. WUESTHOFF was involved in a business enterprise with the agents or independent contractors that provided health care services within the emergency department and throughout the hospital as set forth in this Complaint. This Defendant was specifically engaged in a joint venture and business

enterprise with these Defendants for the provision of health care to WUESTHOFF patients, and specifically Shannon Lawley.

2. These Defendants maintained an express or implied contract for the common purpose of providing health care services to Shannon Lawley for a profit.

3. These Defendants maintained a community of interest and common purpose in the contracting with third parties, for a fee, with the provision of health care services;

4. These Defendants set guidelines, maintained schedules and specifically assigned its agents, for the purpose of maintaining a profitable business venture in the provision of health care services.

5. This Defendant is responsible for the negligent conduct and injuries caused by its joint venturers, CHRISTOPHER HILL, M.D.; ARNOLD KEMP, M.D.; FLORIDA EMERGENCY SPECIALISTS, LLC; and APOLLOMD PHYSICIAN SERVICES FL, LLC, in this matter.

D. Respondeat superior:

This Defendant maintained a direct right of control as respondeat superior to Defendants, CHRISTOPHER HILL, M.D., and ARNOLD KEMP, M.D. This Defendant is responsible for the conduct of those Defendants, and the damages that followed therefrom.

174. Further, WUESTHOFF owed certain common law and statutory duties to Shannon Lawley as its patient. WUESTHOFF breached those duties, through its physicians, staff and nurses as follows, to-wit:

- a) Failed to perform and/or document thorough assessments of Shannon Lawley;
- b) Failed to recognize signs and symptoms of Shannon Lawley's deteriorating condition;
- c) Failed to implement a proper plan of care for Shannon Lawley;
- d) Delayed appropriate care and treatment for Shannon Lawley through inaction and omissions;
- e) Failed to insure prompt transfer to Shannon Lawley to the ICU of either WUESTHOFF or another available facility capable of providing critical care to Shannon Lawley;
- f) Failed to properly supervise the staff and other physicians providing care to Shannon Lawley;
- g) Failed to timely monitor, observe and take or record vital signs in a significantly ill patient;
- h) Failed to provide the appropriate care and treatment based upon the clinical symptoms and test results performed and available for Shannon Lawley;
- i) Failed to timely and appropriately coordinate the care and management of Shannon Lawley with the other physicians and staff;
- j) Improperly ordered the administration of Cardizem which was strongly contraindicated in Shannon Lawley's treatment due to her hypotensive state, and failed to insure the Cardizem order was properly discontinued before it was administered to Shannon Lawley;
- k) Failed to adequately provide fluid replacement for Shannon Lawley;
- l) Failed to properly monitor intake and output in a severely hypotensive patient;
- m) Failed to follow appropriate policies, procedures and protocols in place at Wuesthoff Hospital; and
- n) Failure to properly supervise staff;

- o) Failure to properly train staff;
- p) Improper retention of staff;
- q) Was otherwise negligent in the care and treatment provided to Shannon Lawley at Wuesthoff Hospital.

175. As a direct result of the conduct and negligence of Defendant, Shannon Lawley suffered significant bodily injury resulting in her death on March 18, 2012.

176. Shannon Lawley's death resulted in the following damages, both past and future, to-wit:

- a. The Estate of Shannon Lawley:
 - 1. Medical expenses incurred in the care and treatment of Shannon Lawley prior to her death;
 - 2. Funeral expenses incurred as a result of Shannon Lawley's death;
 - 3. The loss of Shannon Lawley's net accumulations as defined in Florida Statutes.
- b. Michael Lawley: The losses suffered by Michael Lawley, as the father of Shannon Lawley, include, but are not limited to, his mental pain and suffering resulting from Shannon Lawley's death.
- c. Patricia Lawley: The losses suffered by Patricia Lawley, as the mother of Shannon Lawley, include, but are not limited to, her mental pain and suffering resulting from Shannon Lawley's death.
- d. These losses are continuing in nature and include past and future damages.

WHEREFORE, Plaintiffs, MICHAEL S. LAWLEY, as Personal Representative of the Estate of Shannon C. Lawley and MICHAEL S. LAWLEY and PATRICIA LAWLEY,

individually, demand judgment against Defendant, ROCKLEDGE HMA, LLC, for damages, as set forth above, and further requests other relief as deemed appropriate by the court, costs and trial by jury.

COUNT XIII
(FLORIDA EMERGENCY SPECIALISTS, LLC – NEGLIGENCE)

177. The Plaintiffs reallege and incorporate Paragraphs 1 - 50 herein.

178. FES is responsible for the conduct of DR. CHRISTOPHER HILL and its emergency department staff under the following theories and claims:

A. Non-delegable duty doctrine:

1. Based upon the contract between FES and WUESTHOFF, the Defendant owed a non-delegable duty to the Plaintiff's decedent to provide reasonable and proper emergency services. This duty could not be delegated to a third party or independent contract to avoid responsibility for the negligence that followed therein.

2. Because of the negligent performance of the physician, nursing and hospital services provided to Shannon Lawley, then this Defendant is responsible for the damages caused as alleged herein:

B. Joint venture:

1. WUESTHOFF was involved in a business enterprise with the agents or independent contractors that provided health care services within the emergency department and throughout the hospital (specifically including FES and DR. CHRISTOPHER HILL) as set forth in this Complaint. This Defendant was specifically engaged in a joint venture and business enterprise with these Defendants for the provision of health care to WUESTHOFF patients, and

specifically Shannon Lawley.

2. These Defendants maintained an express or implied contract for the common purpose of providing health care services to Shannon Lawley for a profit.

3. These Defendants maintained a community of interest and common purpose in the contracting with third parties, for a fee, with the provision of health care services;

4. These Defendants set guidelines, maintained schedules and specifically assigned its agents, for the purpose of maintaining a profitable business venture in the provision of health care services.

5. This Defendant is responsible for the negligent conduct and injuries caused by its joint venturers, WUESTHOFF, CHRISTOPHER HILL, M.D., and APOLLOMD PHYSICIAN SERVICES FL, LLC, in this matter.

D. Respondeat superior:

This Defendant maintained a direct right of control as respondeat superior to Defendant, CHRISTOPHER HILL, M.D. This Defendant is responsible for the conduct of those Defendants, and the damages that followed therefrom.

179. As a direct result of the conduct and negligence of this Defendant and its representatives, Shannon Lawley suffered significant bodily injury resulting in her death on March 18, 2012.

180. Shannon Lawley's death resulted in the following damages, both past and future, to-wit:

a. The Estate of Shannon Lawley:

1. Medical expenses incurred in the care and treatment of Shannon Lawley prior to her death;
 2. Funeral expenses incurred as a result of Shannon Lawley's death;
 3. The loss of Shannon Lawley's net accumulations as defined in Florida Statutes.
- b. Michael Lawley: The losses suffered by Michael Lawley, as the father of Shannon Lawley, include, but are not limited to, his mental pain and suffering resulting from Shannon Lawley's death.
 - c. Patricia Lawley: The losses suffered by Patricia Lawley, as the mother of Shannon Lawley, include, but are not limited to, her mental pain and suffering resulting from Shannon Lawley's death.
 - d. These losses are continuing in nature and include past and future damages.

WHEREFORE, Plaintiffs, MICHAEL S. LAWLEY, as Personal Representative of the Estate of Shannon C. Lawley and MICHAEL S. LAWLEY and PATRICIA LAWLEY, individually, demand judgment against FLORIDA EMERGENCY SPECIALISTS, LLC, for damages, as set forth above, and further requests other relief as deemed appropriate by the court, costs and trial by jury.

COUNT XIV
(APOLLOMD PHYSICIAN SERVICES FL, LLC – NEGLIGENCE)

181. The Plaintiffs reallege and incorporate Paragraphs 1 - 50 herein.

182. APOLLOMD is responsible for the conduct of DR. CHRISTOPHER HILL and the emergency department staff under the following theories and claims:

A. Non-delegable duty doctrine:

1. Based upon the contract between APOLLOMD and

WUESTHOFF, the Defendant owed a non-delegable duty to the Plaintiff's decedent to provide reasonable and proper emergency services. This duty could not be delegated to a third party or independent contract to avoid responsibility for the negligence that followed therein.

2. Because of the negligent performance of the physician, nursing and hospital services provided to Shannon Lawley, then this Defendant is responsible for the damages caused as alleged herein:

B. Joint venture:

1. WUESTHOFF was involved in a business enterprise with its agents or independent contractors that provided health care services within the emergency department and throughout the hospital (specifically including APOLLOMD and CHRISTOPHER HILL, M.D.) as set forth in this Complaint. This Defendant was specifically engaged in a joint venture and business enterprise with these Defendants for the provision of health care to WUESTHOFF patients, and specifically Shannon Lawley.

2. These Defendants maintained an express or implied contract for the common purpose of providing health care services to Shannon Lawley for a profit.

3. These Defendants maintained a community of interest and common purpose in the contracting with third parties, for a fee, with the provision of health care services;

4. These Defendants set guidelines, maintained schedules and specifically assigned its agents, for the purpose of maintaining a profitable

business venture in the provision of health care services.

5. This Defendant is responsible for the negligent conduct and injuries caused by its joint venturers, WUESTHOFF, CHRISTOPHER HILL, M.D., and FES, in this matter.

D. Respondeat superior:

This Defendant maintained a direct right of control as respondeat superior to Defendant, CHRISTOPHER HILL, M.D. This Defendant is responsible for the conduct of this Defendant, and the damages that followed therefrom.

183. As a direct result of the conduct and negligence of this Defendant and its representatives, Shannon Lawley suffered significant bodily injury resulting in her death on March 18, 2012.

184. Shannon Lawley's death resulted in the following damages, both past and future, to-wit:

- a. The Estate of Shannon Lawley:
 1. Medical expenses incurred in the care and treatment of Shannon Lawley prior to her death;
 2. Funeral expenses incurred as a result of Shannon Lawley's death;
 3. The loss of Shannon Lawley's net accumulations as defined in Florida Statutes.
- b. Michael Lawley: The losses suffered by Michael Lawley, as the father of Shannon Lawley, include, but are not limited to, his mental pain and suffering resulting from Shannon Lawley's death.
- c. Patricia Lawley: The losses suffered by Patricia Lawley, as the mother of

Shannon Lawley, include, but are not limited to, her mental pain and suffering resulting from Shannon Lawley's death.

d. These losses are continuing in nature and include past and future damages.

WHEREFORE, Plaintiffs, MICHAEL S. LAWLEY, as Personal Representative of the Estate of Shannon C. Lawley and MICHAEL S. LAWLEY and PATRICIA LAWLEY, individually, demand judgment against APOLLOMD PHYSICIAN SERVICES FL, LCC, for damages, as set forth above, and further requests other relief as deemed appropriate by the court, costs and trial by jury.

DEMAND FOR JURY TRIAL

Plaintiffs hereby demand trial by jury on all issues triable by jury on all counts.

DATED this 21st day of April, 2016.

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