

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

RICHARD HOOVER, Individually, and as)	No. ED97495
Class Representative, Plaintiff/Appellant,)	Appeal from the Circuit Court
v.)	of St. Louis County
MERCY HEALTH, d/b/a MERCY HEALTH)	Honorable James R. Hartenbach
SYSTEM; MERCY HOSPITALS EAST)	Date: July 3, 2012
COMMUNITIES, d/b/a ST. JOHN'S MERCY)	
MEDICAL CENTER and/or ST. JOHN'S)	
MERCY HEALTH SYSTEM; and ST. JOHN'S)	
MERCY MEDICAL CENTER, d/b/a MERCY)	
HOSPITALS EAST COMMUNITIES and/or)	
ST. JOHN'S MERCY HEALTH SYSTEM,)	
Defendants/Respondents.)	

Plaintiff, a physician who sought and obtained health care at St. John's Mercy Medical Center, appeals from a judgment dismissing for failure to state a claim his individual and class action lawsuit seeking actual and punitive damages under the Missouri Merchandising Practices Act (MMPA), section 407.010 to 407.130 RSMo (2000), against the defendant corporations. Plaintiff asserts that he sufficiently alleged a claim under the MMPA and adequately alleged that he sustained an ascertainable loss of money as a result of defendants' unfair billing practices because defendants charged him more than the reasonable value for the goods and services that he received.

AFFIRMED.

Division Two Holds:

1. Because both parties introduced evidence in connection with defendants' motion to dismiss, and there is no dispute with respect to certain essential facts, the motion to dismiss is converted to a motion for summary judgment.
2. Plaintiff failed to allege facts demonstrating that he suffered an ascertainable loss of money or property. While he claimed that he was required to pay more than the reasonable value of the goods and services that he received, the allegations of his amended petition focused on the unreasonableness of the amount that he was billed, \$17,337.29, and the unreasonableness of defendants' "standard charges" on which his bill was based. He did not make any allegation of fact addressing whether the amount that he paid, \$5,300.00, was less than the reasonable value of the goods and services that he received.

Opinion by: Kathianne Knaup Crane, P.J.
Kenneth M. Romines, J., concurs in a separate concurring opinion.
Lawrence E. Mooney, J., dissents.

Attorneys for Appellant: Paul J. Passanante, Dawn M. Besserman, and Anna E. Bonacorsi

Attorneys for Respondents: Allen D. Allred and Jeffrey R. Fink

THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED.