

Summary of SC92788, *Richard Hoover, Individually and as class representative v. Mercy Health, d/b/a Mercy Health System; Mercy Hospitals East 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*

Appeal from the St. Louis County circuit court, Judge James R. Hartenbach
Argued and submitted Feb. 27, 2013; opinion issued Sept. 10, 2013

Attorneys: Hoover was represented by Paul J. Passanante and Anna E. Bonacorsi of Paul J. Passanante PC in St. Louis, (314) 621-8884; and the Mercy organizations were represented by Allen D. Allred and Jeffrey R. Fink of Thompson Coburn LLP in St. Louis, (314) 552-6000.

This summary is not part of the opinion of the Court. It has been prepared by the communications counsel for the convenience of the reader. It neither has been reviewed nor approved by the Supreme Court and should not be quoted or cited.

Overview: A patient appeals a decision dismissing his individual and class action suit against a medical corporation for unfair billing practices. In a unanimous per curiam decision that cannot be attributed to any particular judge, the Supreme Court of Missouri reverses the judgment and remands (sends back) the case.

Facts: Richard Hoover underwent surgery at St. John's Mercy Medical Center. Mercy billed Hoover \$17,337.39 for the medical goods and services provided. Hoover disputed the bill, paid \$5,300 and filed suit alleging Mercy falsely and fraudulently charged him for goods and services related to the surgery. Hoover alleges he entered into a contract with Mercy for reasonable expenses but was overcharged in violation of that contract. The trial court granted Mercy's motion to dismiss.

REVERSED AND REMANDED.

Court en banc holds: Because nothing in the record suggests the trial court notified the parties it would be treating the motion to dismiss as a motion for summary judgment and the judgment demonstrates the court did not do so, it is reviewed as a motion to dismiss. Hoover's petition should not have been dismissed because it states a viable claim for breach of contract.