

**IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI
AT KANSAS CITY**

LYNN HENDERSON,
ESPIRE CONCEPCION,
ANTONIO JONES, and
TYRONE GREEN-SMITH,
individually and on behalf of all others
similarly situated,

Plaintiffs,

vs.

CIOX f/k/a HEALTHPORT
TECHNOLOGIES, LLC,

SSM HEALTH CARE CORPORATION,

and

SSM REGIONAL HEALTH SERVICES,

Defendants.

Case No.: 1416-CV13765

Division: 7

JURY TRIAL DEMANDED

CONSOLIDATED CLASS ACTION PETITION

Plaintiffs, individually and on behalf of all others similarly situated, respectfully submit their Consolidated Class Action Petition against CIOX f/k/a HealthPort Technologies, LLC (“CIOX”), SSM Health Care Corporation, and SSM Regional Health Services (collectively referred to as “SSM”).

This Consolidated Class Action Petition represents the culmination of the claims previously asserted in two separate cases: *Henderson v. HealthPort Technologies, LLC* and *Antonio L. Jones, et al. v. HealthPort Technologies LLC, et al.* (previously case number 1616-CV06923). Those cases have been consolidated into the caption identified above.

In support of their Petition, Plaintiffs respectfully submit the following:

PARTIES

1. Plaintiff Lynn Henderson is an adult resident of Clay County, Missouri.
2. Plaintiffs Espire Concepcion is an adult resident of Jackson County, Missouri.
3. Plaintiff Antonio Jones is an adult resident of St. Louis County, Missouri.
4. Plaintiff Tyrone Green-Smith is an adult resident of Jackson County, Missouri.

Defendant CIOX is a foreign Company doing business as CIOX throughout the State of Missouri, including Kansas City, Jackson County, Missouri. CIOX formerly conducted business as HealthPort Technologies, LLC.

5. Defendants SSM Health Care Corporation and SSM Regional Health Services are non-profit, tax exempt corporations with their principal place of business at 10101 Woodfield Lane, St. Louis, Missouri 63132.

6. SSM Regional Health Services owns and operates St. Mary's Hospital in Jefferson City, Missouri.

JURISDICTION AND VENUE

7. Jurisdiction is proper in this Court because all of the acts and events complained of in this Petition occurred in Jackson County, Missouri.

8. Venue is proper in Jackson County, Missouri pursuant to Mo. Rev. Stat. § 508.010.

9. Plaintiffs and each member of the proposed Class have individually incurred damages in an amount less than \$75,000. Neither Plaintiffs nor any member of the proposed Class seeks individual damages exceeding \$75,000 nor do their damages individually exceed \$75,000, inclusive of interest and attorneys' fees and all relief of any nature sought hereunder. Plaintiffs and each member of the proposed Class do not seek any form of "common" recovery,

but rather individual recoveries not to exceed \$75,000 for any member of the Class.

10. Total damages in this case, including but not limited to all fees, statutory penalties, punitive damages and all other damages, will not exceed \$5,000,000.

FACTUAL ALLEGATIONS COMMON TO ALL COUNTS

11. All physicians, chiropractors, hospitals, dentists and other duly licensed practitioners in the state of Missouri (collectively “providers”) are required by Missouri statute to furnish a copy of all medical records to the patient or the patient's guardian or legally authorized representative upon request.

12. Under Mo. Rev. Stat. § 191.227, providers can charge statutory fees for furnishing a copy of the patient’s health history and treatment rendered.

13. Section 191.227 authorizes providers to “condition the *furnishing* of the patient’s health care records” on payment of certain fees; these include: “search and retrieval” fees, notary fees, copying fees, and postage fees “to include packaging and delivery cost.” *Id.* (emphasis added).

14. Section 191.227 does not authorize a fee for electronic delivery.

15. The SSM Defendants are providers of medical services and maintain the medical records of patients and/or former patients, and are therefore required to comply with section 191.227.

16. CIOX is a medical record copying service which has contracts with a number of health care providers in the state of Missouri to maintain, copy and distribute the medical records of patients and/or former patients of such providers, and is required to comply with section 191.227.

17. At all times relevant to Plaintiff Jones’s factual allegations, CIOX had such a

contract with one or more of the SSM Defendants, pursuant to which it maintained, copied and distributed medical records to patients or their legal representatives when such records were requested from an SSM facility.

18. When CIOX receives a fee in exchange for furnishing the medical records of an SSM facility, one or more of the SSM facilities receives, or is contractually entitled to receive, a portion of the fees received by CIOX.

19. As set forth herein, Plaintiffs or their authorized representative requested medical records and were charged certain fees under section 191.227.

20. Section 191.227 does not authorize the fees set forth herein that were charged to Plaintiffs.

Plaintiff Henderson

21. In 2014, Henderson's authorized legal representatives requested that CIOX furnish Henderson's medical records.

22. The records that Henderson's attorneys requested were related to treatment that Henderson received at HCA Lee's Summit Family – POW, located in Jackson County, Missouri ("HCA").

23. CIOX procured Henderson's medical records from HCA, and then provided those records to Henderson's attorneys. Henderson's attorneys were located in Jackson County, Missouri.

24. On February 25, 2014, CIOX issued an invoice to Henderson for furnishing her medical records.

25. Henderson paid the February 2014 invoice issued by CIOX in full. Specifically, a fee of \$36.18 was paid on behalf of Henderson in Jackson County, Missouri.

26. CIOX provided Henderson's records in electronic format.

27. CIOX charged Henderson a \$2 "Electronic Delivery Fee," which is not authorized by section 191.227.

28. After Henderson resolved her personal injury action, she reimbursed her attorneys for the February 2014 invoice paid to CIOX.

Plaintiff Concepcion

29. On April 13, 2015, Plaintiff Concepcion's authorized legal representatives requested his medical records from Research Medical Center in Jackson County, Missouri.

30. Research Medical Center transmitted this request to CIOX pursuant to their contractual agreement.

31. Neither Research Medical Center nor CIOX furnished any medical records to Concepcion or his legal representatives.

32. On May 8, 2015, CIOX issued an invoice to Concepcion's legal representatives, who are located in Jackson County, Missouri, for furnishing medical records, despite the fact that no medical records were furnished.

33. Additionally, CIOX did not provide any notarized form or other certification in any form.

34. CIOX charged a \$23.94 "basic fee," a \$2.00 "Notary Fee, a \$2.00 "Electronic Dlvry Fee," and a \$0.55 "Per Page Copy (Paper) 1" fee, for a total of \$28.49.

35. Concepcion's legal representatives remitted payment in full for the May 2015 invoice to CIOX.

36. After Concepcion resolved his personal injury action, he reimbursed the amount of \$28.49 to his attorneys as reimbursement for the May 2015 invoice.

Plaintiff Jones

37. On May 1, 2015, Plaintiff Jones's attorneys requested that St. Mary's furnish his medical records.

38. St. Mary's transmitted this request to CIOX pursuant to their contractual agreement.

39. Neither SSM nor CIOX furnished any medical records to Jones or his legal representatives.

40. On May 27, 2015, CIOX issued an invoice to Jones's attorneys, who are located in Jackson County, Missouri, for furnishing medical records, despite the fact that no medical records were furnished.

41. Additionally, CIOX did not provide any notarized form or other certification in any form.

42. CIOX charged a \$23.94 "Basic Fee," a \$2.00 "Notary Fee," a \$3.00 "Electronic Dlvry Fee," and a \$1.10 "Per Page" fee, for a total of \$30.04.

43. The invoice was accompanied by a 2-page form letter generated by CIOX which stated:

We have checked the patient's file and regret that we cannot respond to your request for records at this time due to the following:

There are no dates of treatment for the records you have requested.

44. Jones's attorneys remitted payment in full for the May 2015 invoice to CIOX.

45. Jones's personal injury case was settled in November 2015, at which time Jones paid the amount of \$30.04 to his attorneys as reimbursement for the May 2015 invoice.

Plaintiff Green-Smith

46. On Dec. 4, 2013, Plaintiff Green-Smith's attorneys requested that Select Physical

Therapy in Independence, Missouri furnish his medical records.

47. Select Physical Therapy transmitted this request to CIOX pursuant to their contractual agreement.

48. Neither Select Physical Therapy nor CIOX furnished any medical records to Green-Smith or his legal representatives.

49. On December 11, 2013, CIOX issued an invoice to Green-Smith's attorneys, who are located in Jackson County, Missouri, for furnishing medical records, despite the fact that no medical records were furnished.

50. The invoice was accompanied by a 1-page form letter generated by Select Physical Therapy which stated:

We are unable to comply with your request at this time for the following reason(s):
We show no treatment at this facility for the dates of service you requested.
Please re-submit your request with the necessary information.

51. CIOX charged a \$22.82 "Basic Fee" and a \$3.00 "Electronic Dlvry Fee" for a total of \$25.82.

52. Green-Smith's attorneys remitted payment in full for the December 2013 invoice to CIOX.

53. Green-Smith's personal injury case was resolved by jury trial in December 2014, at which time Green-Smith paid the amount of \$25.82 to his attorneys as reimbursement for the December 2013 invoice.

CIOX's Violations of Sections 191.227 and 486.350

54. Section 191.227 does not authorize the electronic delivery fee charged to Henderson.

55. Section 191.227 does not authorize the "basic fee" charged to Plaintiffs

Concepcion, Jones, and Green-Smith, for furnishing medical records when no medical records were furnished.

56. Section 191.227 does not authorize the electronic delivery fee charged to Plaintiffs Concepcion, Jones, and Green-Smith, for furnishing medical records when no medical records were furnished.

57. Sections 191.227 and 486.350 do not authorize the notary fees charged to Plaintiffs Concepcion and Jones (1) for the certification of non-existent medical records; (2) for the certification of medical records when no business records affidavit is executed or produced; (3) when no signature is notarized; and/or (4) when no notarial act is recorded in the notary journal.¹

58. Section 191.227 does not authorize copying fees (characterized by CIOX as a “per page” fee) charged to Plaintiffs Concepcion and Jones for documents generated by CIOX which are not medical records.

59. CIOX regularly charges consumers fees without “furnish[ing] a copy of [provider's] record of that patient's health history and treatment rendered” as required by section 191.227.

60. The wrongful conduct alleged herein arises from the same conduct, transaction, or occurrence originally set forth in the initial litigation.

61. Plaintiffs bring this action to recover damages for the unauthorized amounts billed and paid to CIOX and SSM in violation of sections 191.227 and 486.350, and Missouri law.

¹ In order to charge the \$2 fee authorized by the notary statute, a notary must (1) notarize a signature *and* (2) record the notarial act in the notary journal. *Finnegan v. Old Republic Title Co. of St. Louis, Inc., et al.*, 246 S.W.3d 928, 930 and fn. 8 (Mo. 2008) (reversing and reinstating the consolidated plaintiffs' class action claims for unjust enrichment and violations of the Missouri Merchandising Practices Act).

CLASS ACTION ALLEGATIONS

62. Plaintiffs restate and incorporate by reference the foregoing paragraphs herein.

63. Plaintiff Henderson brings this action on behalf of herself, and as the representative of the Class of persons defined as follows:

Missouri residents and businesses whom CIOX unlawfully charged an “electronic delivery fee” between June 9, 2009, to the present.

64. Plaintiffs Concepcion, Jones, and Green-Smith bring this action on behalf of themselves, and as the representatives of the Class of persons defined as follows:

Missouri residents and businesses whom CIOX unlawfully charged search fees or “basic” fees when it did not furnish any medical records between June 9, 2009, to the present.

65. Plaintiffs Concepcion, Jones, and Green-Smith bring this action on behalf of themselves, and as the representatives of the Class of persons defined as follows:

Missouri residents and businesses whom CIOX unlawfully charged an “electronic delivery fee” when it did not furnish any medical records between June 9, 2009, to the present.

66. Plaintiffs Concepcion and Jones bring this action on behalf of themselves, and as the representatives of the Class of persons defined as follows:

Missouri residents and businesses whom CIOX unlawfully charged a notary or other certification fee when no medical records were furnished and/or certified, when no business records affidavit was executed or produced, when no signature was notarized, and/or when no notarial act was recorded in the notary journal, between June 9, 2009, to the present.

67. Plaintiffs Concepcion and Jones bring this action on behalf of themselves, and as the representatives of the Class of persons defined as follows:

Missouri residents and businesses whom CIOX unlawfully charged a copying or “per page” reproduction fee when it did not furnish any medical records between June 9, 2009, to the present.

68. Excluded from the class are Defendants, any entity in which Defendants have a

controlling interest, any of the officers, directors, or employees of Defendants, the legal representatives, heirs, successors and assigns of Defendants, any officers, directors or employees of any provider Defendants contracted within the state of Missouri to maintain, copy, and distribute patients' medical records, any judge to whom this case is assigned and his/her immediate family, and Plaintiffs' counsel.

69. Plaintiff Jones also proposes to represent a Subclass of the Classes defined in paragraphs 65-68 as:

All members of the Classes defined in paragraphs 65-68 who were charged any of the above-described fees, for which any of the SSM Defendants or their Missouri affiliates or subsidiaries received, or are contractually entitled to receive, any portion of the fees paid to CIOX.

70. This action has been brought and may be maintained as a class action under Mo. R. Civ. P. 52.08.

71. **Numerosity – Mo. R. Civ. P. 52.08(a)(1)**. Members of the Classes and Subclass are so numerous that their individual joinder is impracticable. The precise number of Class and Subclass members and their addresses can be obtained from information and records in the possession and control of Defendants. Members of the Classes and Subclass may be notified of the pendency of this action by mail or by published notice or other appropriate methods.

72. **Existence and Predominance of Common Questions of Law and Fact – Mo. R. Civ. P. 52.08(a)(2); 52.08(b)(3)**. Common questions of law and fact exist as to all members of the Classes and Subclass and predominate over questions affecting only individual Class and Subclass members. These common legal and factual questions, each of which may also be certified under Mo. R. Civ. P. 52.08(c)(4), include the following:

- (a) Whether CIOX charges an electronic delivery fee;
- (b) Whether CIOX charges fees for furnishing medical records when no medical

records are furnished and/or a “notary fee” when no medical records are certified, when no business records affidavit is executed or produced, when no signature is notarized, and/or when no notarial act is recorded in the notary journal;

- (c) Whether CIOX charges fees for furnishing medical records and/or a “notary fee” on behalf of SSM facilities, when SSM never (i) generated and/or certified any medical records; (ii) executed or produced a business records affidavit; (iii) notarized a signature; and/or (iv) recorded a notarial act in the notary journal;
- (d) Whether charging fees for furnishing medical records when no medical records are furnished, including a “basic fee,” a “per page” fee, a “notary fee,” and/or an “electronic dlrvy fee” is authorized by Mo. Rev. Stat. §§ 191.227, 486.350, or any other provision of Missouri law;
- (e) Whether charging a “notary fee” when no medical records are certified, when no business records affidavit is executed or produced, when no signature is notarized, and/or when no notarial act is recorded in the notary journal, is authorized by Mo. Rev. Stat. §§ 191.227, 486.350, or any other provision of Missouri law;
- (f) Whether SSM is aware of this practice, and whether one or more of the SSM Defendants receives, or are contractually entitled to receive, a portion of the fees that CIOX collects for furnishing medical records when no medical records are furnished and/or certified, when no business records affidavit is executed or produced, when no signature is notarized, and/or when no notarial act is recorded in the notary journal;
- (g) Whether charging an electronic delivery fee is authorized by Mo. Rev. Stat. § 191.227 or any other provision of Missouri law;

- (h) Whether charging and collecting any of the fees identified herein for furnishing medical records when no medical records are furnished are unfair practices within the meaning of the Missouri Merchandising Practices Act;
- (i) Whether charging and collecting any of the fees identified herein for furnishing medical records when no medical records are furnished, and/or a “notary fee” when no medical records are certified, when no business records affidavit is executed or produced, when no signature is notarized, and/or when no notarial act is recorded in the notary journal, constitutes negligence *per se* under Missouri law;
- (j) Whether charging and collecting any of the fees identified herein for furnishing medical records when no medical records are furnished constitutes unjust enrichment under Missouri law;
- (k) Whether this case may be maintained as a class action under Mo. R. Civ. P. 52.08;
- (l) Whether and to what extent members of the Classes and Subclass are entitled to damages and other monetary relief;
- (m) Whether and to what extent members of the Classes and Subclass are entitled to equitable relief, including declaratory relief, restitution, rescission, a preliminary and/or a permanent injunction; and
- (n) Whether and to what extent members of the Classes and Subclass are entitled to attorneys’ fees and costs.

73. **Typicality – Mo. R. Civ. P. 52.08(a)(3)**. Plaintiffs’ claims are typical of the claims of the Classes and Subclass because Plaintiffs paid fees to CIOX and SSM that are consistent with the definition of the proposed Classes and Subclass.

74. **Adequacy of Representation – Mo. R. Civ. P. 52.08(a)(4)**. Plaintiffs will fairly and adequately protect the interests of the members of the Classes and Subclass. Plaintiffs have retained counsel competent and experienced in complex litigation, including class action cases, and Plaintiffs will prosecute this action vigorously. Plaintiffs have no interests adverse or antagonistic to those of the Class and Subclass.

75. **Superiority – Mo. R. Civ. P. 52.08(b)(3)**. A class action is superior to all other available means for the fair and efficient adjudication of this controversy. The damages or other financial detriment suffered by individual Class and Subclass members are small compared with the burden and expense that would be entailed by individual litigation of their claims against Defendants. It would thus be virtually impossible for the Class and Subclass members, on an individual basis, to obtain effective redress for the wrongs done them. Furthermore, even if Class and Subclass members could afford such individualized litigation, the court system could not. Individualized litigation would create the danger of inconsistent or contradictory judgments arising from the same set of facts. Individualized litigation would also increase the delay and expense to all parties and the court system from the issues raised by this action. By contrast, the class action device provides the benefits of adjudication of these issues in a single proceeding, economies of scale, and comprehensive supervision by a single court, and presents no unusual management difficulties under the circumstances here.

76. Additionally, the Classes and Subclass may be certified under Rule 52.08(b)(1) and/or (b)(2) because:

- (a) The prosecution of separate actions by individual Class and Subclass members would create a risk of inconsistent or varying adjudications with respect to individual Class and Subclass members that would establish incompatible

standards of conduct for CIOX and SSM;

- (b) The prosecution of separate actions by individual Class and Subclass members would create a risk of adjudications with respect to them which would, as a practical matter, be dispositive of the interests of other Class and Subclass members not parties to the adjudications, or substantially impair or impede their ability to protect their interests; and/or
- (c) CIOX and the SSM Defendants have acted or refused to act on grounds generally applicable to the Classes and Subclass, thereby making appropriate final and injunctive relief with respect to the Class and Subclass members as a whole.

COUNT I

Violation of the Missouri Merchandising Practices Act Mo. Rev. Stat. §§ 407.010 *et seq.*

(Brought by Plaintiffs on behalf of the Classes and Subclass Against Defendants)

77. Plaintiffs incorporate by reference and re-allege all paragraphs previously alleged herein. Plaintiffs assert this cause of action on behalf of the Classes and Subclass against Defendants.

78. The Missouri Merchandising Practices Act (“the Act”) provides that “[t]he act, use or employment by any person of any deception ... false promise, misrepresentation, unfair practice or the concealment, suppression, or omission of any material fact in connection with the sale or advertisement of any merchandise in trade or commerce . . . is declared to be an unlawful practice.” Mo. Rev. Stat. § 407.020.1.

79. The enabling regulations for the Act define an “unfair practice” as conduct that (1) offends public policy; (2) is unethical, oppressive, and unscrupulous; (3) causes a risk of substantial injury to consumers; (4) was not in good faith; (5) is unconscionable; or (6) is unlawful. *See* Mo. Code Regs. Ann. tit. 15, § 60-8.

80. Under the Act, the term “merchandise” is broadly defined to include “any objects ... or services.” Mo. Rev. Stat. § 407.020.4.

81. The Act authorizes private causes of action, and class actions. Mo. Rev. Stat. §§ 407.025.1 and 407.025.2.

82. Plaintiffs purchased and attempted to purchase medical records primarily for personal use within the meaning of the Act.

83. Defendants’ practice of charging electronic delivery fees and other fees for the furnishing of medical records when no medical records are furnished, a “notary fee” when no medical records are certified, when no business records affidavit is executed or produced, when no signature is notarized, and/or when no notarial act is recorded in the notary journal, are unfair practices and/or concealment of material facts within the meaning of the Act, in that:

- (a) Section 191.227 does not authorize electronic delivery fees under any circumstances,
- (b) The fees charged by Defendants are unauthorized in that section 191.227 sets forth the maximum amount that a provider may charge a patient for furnishing a copy of the patient's medical records; the statute does not authorize any fees when no medical records are furnished, and it does not authorize a “notary fee” when no medical records are certified and/or when no business records affidavit is executed or produced;
- (c) The fees charged by Defendants are unauthorized in that section 486.350 sets forth certain prerequisite to charging the \$2 “notary fee”; the notary statute requires the notarization of a signature *and* the proper recording thereof in the notary journal, *see Finnegan v. Old Republic Title Co., supra at fn. 1*; the statute

does not authorize any fees when no signature has been notarized, and/or when no notarial act has been recorded in the notary journal;

84. As a result of Defendants violating the Act, Plaintiffs and members of the Classes and Subclass sustained an ascertainable loss of money when they paid for non-existent medical records and/or business records affidavits.

85. Defendants' violations of the Act were willful and knowing.

WHEREFORE, Plaintiffs on behalf of themselves and the members of the Classes and Subclass seek actual damages; a declaration that CIOX's and SSM's methods, acts and practices violate the Missouri Merchandising Practices Act, Mo. Rev. Stat. §§ 407.010 *et seq.*; an injunction prohibiting CIOX and SSM from continuing to engage in such unlawful methods, acts, and practices; restitution; rescission; disgorgement of all profits obtained from CIOX's and SSM's unlawful conduct; pre and post-judgment interest; punitive damages; and attorneys' fees and costs.

COUNT II
Negligence *Per Se*
(Brought by Plaintiffs on behalf of the Classes and Subclass Against Defendants)

86. Plaintiffs incorporate by reference and re-allege all paragraphs previously alleged herein. Plaintiffs assert this cause of action on behalf of the Classes and Subclass against Defendants.

87. CIOX and SSM are subject to the provisions of Mo. Rev. Stat. § 191.227, which expressly limits the fees that providers may charge for furnishing medical records.

88. Section 191.227 does not authorize Defendants to charge fees for (1) electronic delivery of records; (2) furnishing medical records when medical records are not actually furnished and/or certified; and/or (3) business records affidavits or other certifications when none

are executed or produced.

89. All notaries public that charge fees to Missouri consumers or businesses are subject to the provisions of Mo. Rev. Stat. § 486.350, which sets forth certain prerequisites to the charging of the \$2 “notary fee.”

90. Section 486.350 does not authorize notaries public, including those employed by (or acting on behalf of) CIOX or SSM, to charge the \$2 “notary fee” when no signature has been notarized and/or when no notarial act has been recorded in the notary journal. *See Finnegan v. Old Republic Title Co., supra at fn. 1.*

91. Defendants have charged consumers fees which purport to be based on the amounts authorized under sections 191.227 and 486.350, but the specific fees, items and services charged by Defendants are not authorized under sections 191.227 or 486.350.

92. Defendants’ conduct in charging unauthorized fees is specifically the type of conduct which sections 191.227 and 486.350 are designed to prevent.

93. Sections 191.227 and 486.350 are designed to protect Plaintiffs and other similarly situated consumers and businesses.

94. Defendants’ billing practices as identified herein violate sections 191.227 and 486.350; accordingly, Defendants are *per se* negligent.

95. As a direct and proximate result of Defendants’ violations of sections 191.227 and 486.350, Plaintiffs and members of the Classes and Subclass have suffered financial loss.

WHEREFORE, Plaintiffs on behalf of themselves and the members of the Classes and Subclass seek actual damages; a declaration that CIOX’s and SSM’s methods, acts and practices violate Missouri law; an injunction prohibiting CIOX and SSM from continuing to engage in such unlawful methods, acts, and practices; restitution; rescission; disgorgement of all profits

obtained from CIOX's and SSM's unlawful conduct; pre and post-judgment interest; punitive damages; and attorneys' fees and costs.

COUNT III
Unjust Enrichment / Money Had and Received
(Brought by Plaintiffs on behalf of the Classes and Subclass Against Defendants)

96. Plaintiffs incorporate by reference and re-allege all paragraphs previously alleged herein. Plaintiffs assert this cause of action on behalf of the Classes and Subclass against Defendants.

97. As a direct and proximate result of Defendants' improper and illegal billing for services in violation of sections 191.227 and 486.350, Plaintiffs and members of the Classes and Subclass paid unauthorized fees to Defendants.

98. By virtue of paying the unauthorized and illegal fees, Plaintiffs and members of the Classes and Subclass conferred upon Defendants a benefit to the detriment of Plaintiffs and members of the Classes and Subclass.

99. Defendants realized and appreciated the benefit they received from the unauthorized fees charged to Plaintiffs and members of the Classes and Subclass.

100. Defendants accepted and retained the benefit in violation of Missouri law and under circumstances in which retention of the benefit without payment would be inequitable.

WHEREFORE, Plaintiffs on behalf of themselves and the members of the Classes and Subclass seek actual damages; a declaration that CIOX's and SSM's methods, acts and practices violate Missouri law; an injunction prohibiting CIOX and SSM from continuing to engage in such unlawful methods, acts, and practices; restitution; rescission; disgorgement of all profits obtained from CIOX's and SSM's unlawful conduct; pre and post-judgment interest; punitive damages; and attorneys' fees and costs.

JURY TRIAL DEMAND

Plaintiffs demand a trial by jury on all issues so triable.

DATED: July 13, 2017

Respectfully submitted,

WILLIAMS DIRKS DAMERON LLC

/s/ Matthew L. Dameron

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CERTIFICATE OF SERVICE

The undersigned certifies that on July 13, 2017, a copy of the foregoing was filed using the Court's electronic filing system, which will serve notice upon all counsel of record.

/s/ Matthew L. Dameron
Counsel for Plaintiffs