

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA**

**GEORGE CANSLER, on his own behalf,)
and on behalf of a class of those similarly)
situated,)**

Plaintiff,)

v.)

**UNIVERSITY HEALTH SYSTEMS OF)
EASTERN CAROLINA, INC., EAST)
CAROLINA HEALTH-CHOWAN, INC.,)
HALIFAX REGIONAL MEDICAL)
CENTER, INC., ROANOKE VALLEY)
HEALTH SERVICES, INC., PITT)
COUNTY MEMORIAL HOSPITAL,)
INC., DUPLIN GENERAL HOSPITAL,)
INC., EAST CAROLINA HEALTH-)
BEAUFORT, INC., EAST CAROLINA)
HEALTH-BERTIE, INC., EAST)
CAROLINA HEALTH-HERITAGE,)
INC., THE OUTER BANKS HOSPITAL,)
INC., VIDANT MEDICAL GROUP)
AFFILIATES, LLC, VIDANT MEDICAL)
GROUP, LLC, VIDANT INTEGRATED)
CARE, LLC, and FIRSTPOINT)
COLLECTION RESOURCES, INC.,)**

Defendants.)

**Civil Action Number 4:22-CV-14-FL
JURY DEMAND**

THE VIDANT DEFENDANTS’ MOTION TO STRIKE CLASS ALLEGATIONS

Pursuant to Federal Rules of Civil Procedure 12(f) and 23(d)(1)(D), Defendants University Health Systems of Eastern Carolina, Inc.; East Carolina Health-Chowan, Inc. (“Vidant Chowan”); Halifax Regional Medical Center, Inc.; Roanoke Valley Health Services, Inc.; Pitt County Memorial Hospital, Inc.; Duplin General Hospital, Inc.; East Carolina Health-Beaufort, Inc.; East Carolina Health-Bertie, Inc.; East Carolina Health-Heritage, Inc.; The Outer Banks Hospital, Inc.;

Vidant Medical Group Affiliates, Inc.; Vidant Medical Group, LLC; and Vidant Integrated Care, LLC (collectively, the “Vidant Defendants”) submit this Motion to Strike the Class Allegations from Plaintiff George Cansler’s (“Cansler”) Complaint.

In June 2018, Cansler sought emergency medical treatment at Vidant Chowan Hospital. He signed a standard consent document and agreed to pay for any of the hospital’s charges that were not covered by his commercial insurance carrier, Blue Cross Blue Shield of North Carolina. Vidant Chowan appropriately charged Cansler the amount to which his insurer agreed, yet Cansler refused to pay that amount and now contends that the treatment that he received was unreasonably expensive. He also contends that Vidant Chowan’s alleged failure to disclose the potential costs of his treatment represents a violation of the North Carolina Unfair and Deceptive Trade Practices Act (“UDTPA”). Furthermore, in a wholly unjustified attempt to transform this matter into something it is not, Cansler attempts to assert his claims on behalf of a proposed class purporting to encompass every patient who crossed the threshold of any of the Vidant Defendants’ emergency departments, signed a consent, and had to pay *any price*, whether insurer-negotiated or the hospital’s standard charges.

Here, however, the Complaint makes clear that Cansler cannot proceed on behalf of the proposed class. Cansler, in essence, asks the Court to determine the “reasonable price” of all emergency department medical services provided at nine hospitals over a four-year period, regardless of the patients’ insurance status or prior agreements. Cansler’s theory of liability would require the Court to examine countless medical services, offered at different times across different hospitals, and to determine a “reasonable price” for each of those services. The Court then would need to examine the particular circumstances of each putative class member, including but not limited to whether the patient had medical insurance, and the particular price terms of each

insurance policy to determine whether the difference between that amount and the price charged by the Vidant Defendants is unlawful. Cansler also contends that the Vidant Defendants refuse to inform their patients of the cost for medical services, which requires an individual examination of the personal interactions between patients and hospital employees. The number of individualized inquiries the Court would have to undertake to determine the ability of any particular class member to prevail against the Vidant Defendants precludes adjudication of this case on a class basis.

As set forth in the Memorandum of Law that is being filed herewith, the allegations in Cansler's Complaint make clear that striking the class allegations from the Complaint is appropriate for the following reasons:

- The individualized inquiries inherent in Cansler's theory of liability render him unable to satisfy the threshold class certification requirements of commonality and typicality pursuant to Federal Rule of Civil Procedure 23(a).
- Cansler cannot certify a class under Rule 23(b)(3) because individual inquiries predominate over common questions, particularly in light of the fact that proximate cause is a necessary element of a UDTPA claim and requires an individual analysis of reasonable reliance that is inappropriate for class treatment.
- Cansler's proposed Rule 23(b)(1) and (b)(2) classes are not cognizable because declaratory relief is not appropriate on a class-wide basis under the circumstances, and because he primarily seeks monetary relief.

Because these deficiencies appear on the face of the Complaint and cannot be cured, Cansler's claims cannot proceed on a class basis. For these reasons, and for the reasons set forth in their accompanying Memorandum of Law, the Vidant Defendants request that the Court grant the Motion and strike the class allegations from Cansler's Complaint.

Respectfully submitted,

/s/ Erin Palmer Polly

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing document was served upon all counsel of record via the Clerk of Court's ECF system, this May 20, 2022.

/s/ Erin Palmer Polly