

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
MARTINSBURG DIVISION**

**ELAINE NEIDIG,
individually and on behalf
of all others similarly situated,**

Plaintiff,

v.

VALLEY HEALTH SYSTEM,

Defendant.

**CIVIL ACTION NO. 3:22-CV-161 (Groh)
Judge Groh**

NOTICE OF REMOVAL

In accordance with the Class Action Fairness Act (“CAFA”), 28 U.S.C. §§ 1332(d)(2), 1441, 1446, and 1453, with a full reservation of its defenses, Defendant Valley Health System gives notice of the removal of the above-captioned action from the Circuit Court of Jefferson County, West Virginia, to the United States District Court for the Northern District of West Virginia. This case is removable under CAFA because the action was filed as a class action and CAFA’s statutory requirements are all satisfied.

I. NATURE OF THE REMOVED ACTION.

1. On August 3, 2022, Plaintiff Elaine Neidig (“Plaintiff”) filed a complaint in the Circuit Court of Jefferson County, West Virginia, individually and on behalf of all others similarly situated, for claims related to mammography services performed by Defendant Valley Health System (“Defendant”).

2. Plaintiff instituted the civil action as a class action pursuant to Rule 23 of the West Virginia Rules of Civil Procedure and set forth allegations that she met the prerequisites for the action to be maintained as a class action. *See Compl.* ¶¶ 62-73. The proposed class of plaintiffs is

identified as patients who received mammography services from Defendant between June 20, 2017 and August 31, 2019 and were West Virginia residents (the “Proposed Class”). *Compl.* ¶ 64.

3. Plaintiff plead claims for unfair and deceptive acts and practices, unjust enrichment, and breach of contract for mammography services she received at Winchester Medical Center Outpatient Diagnostic Center (“WMC”), one of Defendant’s healthcare facilities, on the following dates: March 16, 2016, which she was “billed” \$555.00; December 19, 2017, which she was “billed and paid” \$567.00; and June 18, 2019, which she was “billed and paid” \$504.00. *Compl.* ¶¶ 15-21.

4. The gravamen of Plaintiff’s complaint is that mammograms provided to her and others “were not ‘quality healthcare.’” *Compl.* ¶ 30. It is alleged that mammography services provided to Plaintiff and others “were of different, deficient, inferior, and lesser value compared to what [Defendant] represented them to be” and Defendant misrepresented that the mammography services satisfied “federal standards for accreditation [.]” *Compl.* ¶¶ 27-29, 45.

II. THIS ACTION IS REMOVABLE UNDER CAFA.

5. Plaintiff’s class action lawsuit is removable under the Class Action Fairness Act, 28 U.S.C. §§ 1332(d), because: (i) it meets the definition of a “class action” that was filed under a similar state rule of judicial procedure to Federal Rule of Civil Procedure Rule 23; (ii) each of CAFA’s statutory requirements is satisfied; and (iii) there are no applicable CAFA exceptions prohibiting removal. Jurisdiction under CAFA is measured at the time of removal. 28 U.S.C. § 1332(d); *Carter v. Allstate Ins. Co.*, 2012 WL 3637239 at 10 (N.D.W. Va. 2012).

6. CAFA provides that “district courts *shall* have original jurisdiction of any civil action in which the matter in controversy exceeds the sum or value of \$5,000,000, exclusive of interest and costs, and is a class action in which . . . any member of a class of plaintiffs is a citizen

of a State different from any defendant.” 28 U.S.C.A. § 1332(d)(2) (emphasis added); *see Standard Fire Ins. Co. v. Knowles*, 133 S. Ct. 1345, 1348 (2013) (quoting 28 U.S.C § 1332(d)(2) and (d)(5)(B) and holding that jurisdiction exists under CAFA “if the class has more than 100 members, the parties are minimally diverse, and the ‘matter in controversy exceeds the sum or value of \$5,000,000.’”).

7. Unlike other types of removed cases, courts construe class complaints generously in favor of removal jurisdiction under CAFA and should not employ any presumption against removability. *See Dart Cherokee Basin Operating Co., LLC v. Owens*, 574 U.S. 81, 89, 135 S. Ct. 547, 554, 190 L. Ed. 2d 495 (2014) (“[N]o antiremoval presumption attends cases invoking CAFA, which Congress enacted to facilitate adjudication of certain class actions in federal court.”).

A. This Case is a Class Action.

8. CAFA defines a “class action” as “any civil action filed under rule 23 of the Federal Rules of Civil Procedure or *similar state statute or rule of judicial procedure* authorizing an action to be brought by 1 or more representative persons as a class action.” 28 U.S.C. § 1332 (d)(1)(B); *see Palkovic v. Countrywide Home Loans, Inc.*, 2014 WL 5449687 at fn. 1 (N.D.W. Va. Oct. 24, 2014) (emphasis added). To be a similar state rule of judicial procedure, CAFA requires that the state rule must:

provide a procedure by which a member of a class whose claim is typical of all members of the class can bring an action not only on his own behalf but also on behalf of all others in the class, such that it would not be unfair to bind all class members to the judgment entered for or against the representative party.

W. Virginia ex rel. McGraw v. CVS Pharmacy, Inc., 646 F.3d 169, 175 (4th Cir. 2011). The Fourth Circuit has recognized that “West Virginia Civil Rule of Procedure 23 [] satisf[ies] the ‘similarity requirement[.]’” *Id.*

9. Here, Plaintiff's class action lawsuit meets the definition of a "class action" under CAFA. Plaintiff alleged that "[t]his action [wa]s brought and may be properly maintained as a class action pursuant to Rule 23 of the West Virginia Rules of Civil Procedure." *Compl.* ¶ 63. Plaintiff purports to bring "this action on behalf of herself and those identified as consumers who between June 20, 2017, and August 31, 2019, received mammography services from Defendant and were residents of West Virginia" (the "Proposed Class"). *Compl.* ¶ 64.

10. Plaintiff's class action lawsuit also satisfies CAFA's 100-member numerosity requirement. The total number of members of the Proposed Class is 6,732 patients. *See Exhibit A*, Declaration of Carla Dallmann (the "Declaration").¹ Additionally, the Complaint includes allegations that that the Proposed Class consists of over 100 members and "could involve hundreds of litigants and members." *Compl.* ¶¶ 65, 72. Therefore, the numerosity requirement is satisfied and this action qualifies as a "class action" under CAFA.

B. CAFA's Minimal Diversity Requirements are Met.

11. There is minimal diversity between Plaintiff and Defendant under CAFA. District courts have original jurisdiction of "any civil action in which the matter in controversy exceeds the sum or value of \$5,000,000, exclusive of interests and costs, and is a class action in which . . . any member of a class of plaintiffs is a citizen of a State different from any defendant." 28 U.S.C. § 1332(d)(2). CAFA eliminates the requirement of complete diversity. Instead, CAFA requires only minimal diversity—meaning that the parties are diverse if the citizenship of the plaintiff differs from that of at least one defendant. 28 U.S.C. § 1332(d)(2)(A).

¹ The United States District Court for the Northern District of West Virginia found an affidavit of the vice president of operations of a corporation sufficient to establish the numerosity requirement under CAFA, which provided the number of members that could be included in the class as defined by the plaintiff after review of company records maintained in the ordinary course of business. *Kemper v. Quicken Loans, Inc.*, 2013 WL 5504152 at 2-4 (N.D.W.Va. 2013).

12. For purposes of diversity jurisdiction, a corporation is “a citizen of every State and foreign state by which it has been incorporated and of the State or foreign state where it has its principal place of business.” 28 U.S.C. § 1332(c)(1).

13. Applying these principles, there is minimal diversity between the parties. Plaintiff is a citizen of West Virginia and Defendant is a citizen of Virginia, as Valley Health is a corporation that is incorporated in and has its principal place of business in Virginia. *See Compl.* ¶¶ 1, 3; *see also Exhibit A*, Declaration of Carla Dallmann.

14. Because there is diversity of citizenship between at least one plaintiff and at least one defendant, this action meets the minimal diversity requirement under Section 1332(d)(2)(A).

C. CAFA’s Amount in Controversy Requirement is Met.

15. The amount in controversy, \$6,159,063.00, exceeds CAFA’s jurisdictional threshold. “[A] defendant’s notice of removal need include only a plausible allegation that the amount in controversy exceeds the jurisdictional threshold.” *Dart Cherokee*, 135 S. Ct. at Syl. Pt. 1. The Northern District has “consistently applied the ‘preponderance of evidence’ standard to determine whether a removing defendant has met its burden of proving the amount in controversy.” *Chanze v. Air Evac EMS, Inc.*, 2018 WL 3546234 at 2 (N.D.W.Va. 2018); *Hochstrasser v. Broadspire Servs., Inc.*, 2013 WL 5536465 at 4 (N.D.W.Va. 2013); *McMahon v. Advance Stores Co. Inc.*, 2011 WL 2038596 at 2 (N.D.W.Va. 2011).

16. Pursuant to the express language of the CAFA, the amount in controversy in a putative class action is determined by aggregating the alleged damages with respect to the claims of the named plaintiff and the claims of the alleged class members. 28 U.S.C. § 1332(d)(6); *see Bird v. Turner*, 2015 WL 3455355 at 6 (N.D.W.Va. 2015); *see also McMahon*, 2011 WL 2038596

at 2 (“[t]he well-settled test in the Fourth Circuit for calculating the amount in controversy is ‘the pecuniary result to either party which [a] judgment would produce’”).

17. The production of an affidavit setting forth the total charges for services provided according to plaintiff’s defined class was found to “put[] to rest any question” as to whether the amount in controversy was met under CAFA. *See Cox v. Air Methods Corp.*, 2018 WL 2437056 at 3 (S.D.W.Va. 2018).

18. “In determining the amount in controversy, th[e Northern District] looks to the plaintiff’s complaint.” *Hochstrasser*, 2013 WL 5536465 at 5. In her Complaint, Plaintiff seeks, among other things, the following damages: (a) actual damages; (b) statutory damages for violations of the WVCCPA, as authorized by W. Va. Code § 46A-6-106; (c) compensatory damages for the unjustly depreciated value of purchased mammograms; (d) disgorgement of wrongfully obtained and retained profits; and (e) contract damages. *Compl. Demand for Relief*.

19. For her damages, Plaintiff alleges that she had three (3) mammograms performed at WMC, which she was billed \$555.00 for the March 16, 2016 mammogram, \$567.00 for the December 19, 2017 mammogram, and \$504.00 for the June 18, 2019 mammogram. It is not plead whether these damages are the average, minimum, or maximum damages of the members of the Proposed Class. It is also not plead whether the number of mammograms alleged by Plaintiff is the average number of mammograms performed per member of the Proposed Class.

20. As detailed in the Declaration, the amount in controversy is \$6,159,063.00, which exceeds the jurisdictional threshold. Defendant identified 6,732 patients as members of the Proposed Class "who between June 20, 2017, and August 31, 2019, received mammography services from Defendant and were residents of West Virginia." All of the 6,732 patients identified had at least one charge for a mammogram, and possibly other charges within the mammography

department on the date of service, which encompass the amount in controversy. The billed amounts of charge codes for mammograms only, performed at WMC between June 20, 2017, and August 31, 2019 for patients who were residents of West Virginia, was \$5,124,947.00, which still exceeds the jurisdictional threshold.

21. Accordingly, the \$6,159,063.00 the amount in controversy satisfies the jurisdictional threshold.

D. CAFA's Exceptions are Not Applicable.

22. No applicable CAFA exceptions prevent removal and/or permit or require remand of this action. Under CAFA's mandatory exception, if "two-thirds or more of the members of all proposed plaintiff classes in the aggregate, and the primary defendants, are citizens of the State in which the action was originally filed[.]" this Court may not exercise jurisdiction. 28 U.S.C.A. § 1332(d)(4). Alternatively, under CAFA's discretionary exception, this Court has may decline jurisdiction if "greater than one-third but less than two-thirds of the members of all proposed plaintiff classes in the aggregate and the primary defendants are citizens of the State in which the action was originally filed[.]" 28 U.S.C.A. § 1332(d)(3).

23. As detailed in the Declaration, Defendant identified 19,067 patients who were not residents of West Virginia at the time services were provided and who received one or more mammograms at WMC between June 20, 2017 and August 31, 2019. The total aggregated number of members of the proposed plaintiff classes, including the Proposed Class, is 25,736 patients (the "Aggregated Plaintiff Class"). The members of the Aggregated Plaintiff Class are broken down between the following states:

a.	Virginia:	18,300	72.20%
b.	West Virginia:	6,564	25.90%
c.	Maryland:	87	0.34%
d.	<u>Other States:</u>	<u>396</u>	<u>1.56%</u>

TOTAL 25,347²

24. Here, Plaintiff filed the Complaint in West Virginia, which only accounts for 25.90% of the Aggregated Plaintiff Class - well below the mandatory and discretionary thresholds. Regardless, Defendant is not a citizen of West Virginia. Therefore, there is no CAFA exception that would prohibit removal and/or would permit or require remand of this action.

III. Compliance with Procedural Requirements

25. Defendant has satisfied all the procedural requirements for removal under 28 U.S.C. § 1446.

26. Defendant is filing this Notice of Removal pursuant to 28 U.S.C. § 1441(a) in the United States District Court for the Northern District of West Virginia because the state court in which the action was commenced, the Circuit Court of Jefferson County, West Virginia, is within this federal judicial district. This Notice is signed pursuant to Rule 11 of the Federal Rules of Civil Procedure.

27. Plaintiff served the Summons and Complaint upon the Defendant through the West Virginia Secretary of State, which accepted service of process as Defendant's statutory agent on August 22, 2022. Defendant is removing the case within thirty (30) days of that date; therefore, this removal is timely under 28 U.S.C. § 1446(b).

28. In accordance with 28 U.S.C. § 1446(a), a copy of "all process, pleadings, and orders served upon [the removing] defendant . . . in such action" are attached as **Exhibit B**.

² The data system will only count each patient identification number once in the total amount of patients, even if a patient subsequently moved to a different state.

29. In accordance with 28 U.S.C. § 1446(d), Defendant has served a copy of this Notice of Removal on all adverse parties and filed a copy of this Notice of Removal with the Clerk of the Circuit Court of Jefferson County, West Virginia.

30. Nothing in this Notice of Removal shall be interpreted as a waiver or relinquishment of Defendant's right to assert any and all defenses or objections to the Complaint, including insufficiency of service, statute of limitations, and failure to meet the jurisdictional prerequisites or otherwise comply with the West Virginia Medical Professional Liability Act. If there are any questions that arise as to the propriety of removal of this action, Defendant respectfully requests the opportunity to submit briefing, argument, and additional evidence as necessary to support removal of this case.

Dated: September 20, 2022

Respectfully submitted,

/s/ Charles F. Printz, Jr.

Charles F. Printz, Jr. (WVSB #2985)

J. Tyler Mayhew (WVSB #11469)

Liana L. Stinson (WVSB #13968)

BOWLES RICE LLP

Post Office Drawer 1419

Martinsburg, West Virginia 25402-1419

cprintz@bowlesrice.com

tmayhew@bowlesrice.com

lstinson@bowlesrice.com

Telephone (304) 264-4200

Facsimile (304) 267-3822

Counsel for Valley Health System

COVER SHEET**GENERAL INFORMATION**

IN THE CIRCUIT COURT OF JEFFERSON COUNTY WEST VIRGINIA

Elaine Neidig, Individually, and on behalf of others v. Valley Health System**First Plaintiff:**☐ Business ☒ Individual
☐ Government ☐ Other**First Defendant:**☒ Business ☐ Individual
☐ Government ☐ Other**Judge:**

David Hammer

COMPLAINT INFORMATION**Case Type:** Civil**Complaint Type:** Other**Origin:** ☒ Initial Filing ☐ Appeal from Municipal Court ☐ Appeal from Magistrate Court**Jury Trial Requested:** ☒ Yes ☐ No **Case will be ready for trial by:** 2/28/2023**Mediation Requested:** ☐ Yes ☒ No**Substantial Hardship Requested:** ☐ Yes ☒ No☐ Do you or any of your clients or witnesses in this case require special accommodations due to a disability?

- ☐ Wheelchair accessible hearing room and other facilities
- ☐ Interpreter or other auxiliary aid for the hearing impaired
- ☐ Reader or other auxiliary aid for the visually impaired
- ☐ Spokesperson or other auxiliary aid for the speech impaired
- ☐ Other: _____

☐ I am proceeding without an attorney☒ I have an attorney: Stephen Skinner, PO Box 487, Charles Town, WV 25414

SERVED PARTIES

Name: Valley Health System

Address: 220 CAMPUS BLVD. SUITE 420, Winchester VA 22601

Days to Answer: 30 **Type of Service:** Secretary of State - Certified - Including Copy Fee

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, WEST VIRGINIA

ELAINE NEIDIG,
Individually and on behalf
of all others similarly situated,

Plaintiff,

v.

Civil Action No. 22-C-_____

VALLEY HEALTH SYSTEM,

Defendant.

CLASS ACTION COMPLAINT

Plaintiff Elaine Neidig, individually and on behalf of all others similarly situated,
by her counsel, Stephen Skinner and Skinner Law Firm, states as follows:

JURISDICTION AND VENUE

1. Plaintiff Elaine Neidig (“Ms. Neidig”) is a resident of Jefferson County, West Virginia.
2. Ms. Neidig brings this action individually and on behalf of all others similarly situated as set forth in the class definition below.
3. Defendant Valley Health System (“Valley Health”) is a regional healthcare provider, registered to and conducting business in West Virginia with its principal place of business in Winchester, Virginia.
4. Valley Health maintains and operates six hospitals, two of which are in West Virginia.
5. Valley Health owns, maintains, and operates Winchester Medical Center.

6. Winchester Medical Center (“Winchester Medical”) is a large hospital located in Winchester, Virginia.

7. Defendant operates facilities in Jefferson County and elsewhere in West Virginia.

8. Defendant regularly solicits by advertisement and otherwise for West Virginia patients to use their services and facilities in Winchester, Virginia.

9. The Defendant engaged with the Ms. Neidig by phone and mail and otherwise in West Virginia for the care which is the subject of this matter.

10. Venue is proper in this Court because the Plaintiff resides in Jefferson County and the defendant transacts business in Jefferson County, West Virginia.

FACTS

11. Valley Health has advertised that on its website that its “vision” is

[f]ocusing on patients first, [and that] Valley Health will provide the communities we serve with quality health care that is easy to access, well-coordinated, and responsive to their needs. As valued leaders and partners, physicians will guide the health care team in achieving superior clinical outcomes. We will provide our employees with an environment that fosters professional growth, innovation, accountability and pride.¹

12. Additionally, it advertised:

Valley Health: Partnering with Our Communities in Virginia & West Virginia

Here at Valley Health, we are passionate about ensuring that members of our communities have access to the best resources in the realm of care and wellness. Our team has a reputation for caring service marked by expertise and individualized service. Our community knows us, and they trust us. We bring together communities with the care they need and our community involvement is

¹ <https://web.archive.org/web/20170511111634/http://www.valleyhealthlink.com/About-Us.aspx>

demonstrated by the ongoing funding and participation our not-for-profit health system receives from the counties and neighbors we serve.²

13. Defendant also advertised that,

Valley Health Offers Prevention & Treatment

Early Detection Saves Lives

Communities across Virginia and West Virginia can take advantage of state-of-the-art technology and knowledgeable staff at Valley Health imaging centers and outpatient diagnostic centers. Whether you are looking to schedule a routine mammogram or go in for a diagnostic ultrasound, our experienced staff can provide you with the services you need.

Valley Health is proud to offer the latest technology in breast imaging, including 3D Mammography, Breast Ultrasound, Breast MRI and Molecular Breast Imaging (BSGI). Ask your provider if any of these services are right for you. If your desired scan or test is not available at the location closest to you, we can get you in touch with another one of our locations that offers the service.

...

Valley Health Breast Center

The new, free-standing Valley Health Cancer Center has a dedicated Breast Center, which houses a comprehensive program for our patients.

Women receiving cancer care will have access to a breast health navigator who provides personalized support, information and resources. The Breast Center is also conveniently located 100 steps away from the Winchester Medical Center Diagnostic Center. This means you are only 100 steps away from mammograms to results!

...

With enhanced early detection methods and advanced cancer care treatment, Valley Health is committed to beating cancer and helping our community live healthier, together.³

² <https://web.archive.org/web/20170512071112/http://www.valleyhealthlink.com/Our-Services/Women-Children.aspx>

³ <https://web.archive.org/web/20170417183808/http://www.valleyhealthlink.com/Our-Services/Cancer-Care/Breast-Health.aspx>

14. Defendant also advertised that “[t]he most advanced mammogram technology is available at all six Valley Health Hospital Imaging locations.”⁴

15. On or around March 16, 2016, Ms. Neidig went to Winchester Medical Center for a mammogram.

16. Ms. Neidig chose to go from West Virginia to Winchester Medical for the mammogram based on the marketing and advertising of Valley Health into West Virginia.

17. Ms. Neidig was billed \$555.00 for the mammogram.

18. On December 19, 2017, Ms. Neidig returned to Winchester Medical Center for another mammogram.

19. Ms. Neidig was billed and paid \$567.00 for the services provided.

20. On June 18, 2019, Ms. Neidig returned to Winchester Medical Center for a mammogram.

21. Ms. Neidig was billed and paid \$504.00 for the services provided.

22. Winchester Medical Center, during the dates in question, represented itself as an accredited mammography center under the Mammography Quality Standards Act (“MQSA”).

23. Winchester Medical Center, during the dates in question, represented itself as being able to perform proper and correct mammography examinations.

⁴ <https://web.archive.org/web/20170411144804/http://www.valleyhealthlink.com/Our-Services/Radiology-Medical-Imaging/Mammogram.aspx>

24. But for the above representations, Ms. Neidig would not have had Winchester Medical Center perform her mammograms.

25. In July 2019, federal accreditation inspectors found that Winchester Medical Center staff were not accurately positioning or compressing women's breasts during mammograms. (See Exhibit 1, FDA Action Report).

26. This resulted in the Food and Drug Administration ("FDA") declaring that select mammograms performed by Winchester Medical Center had "serious image quality deficiencies," and that these deficiencies were a "serious risk to human health." (Exhibit 1).

27. The federal inspectors stated that mammograms performed at Winchester Medical Center between June 20, 2017, and August 31, 2019, would be of reduced quality, and forced Valley Health to inform consumers that "The FDA determined that [Valley Health] failed to meet the clinical image quality standards established by our facility's accreditation body, the American College of Radiology (ACR), as required by the FDA." (See Exhibit 2, Valley Health Letter).

28. Defendant adopted the view that mammograms performed between June 20, 2017, and August 31, 2019, would be of questionable accuracy and quality. (See Exhibit 2)

29. The mammograms provided to Ms. Neidig and others were of different, deficient, inferior, and lesser value compared to what Defendant had represented them to be.

30. The mammograms provided to Ms. Neidig were not "quality healthcare."

31. In providing the mammograms to Ms. Neidig, Valley Health did not ensure that she had access to the best resources in the realm of care and wellness.

32. In fact, the mammograms were the worst kind of health care because they gave her and others the impression that that were accurate when in fact they were not dependably accurate.

33. Despite the fact that Ms. Neidig paid the market rate for the mammograms, the mammograms were worthless.

34. Defendant never reimbursed, refunded, or rebated the costs paid by Ms. Neidig.

35. At a minimum, Ms. Neidig's ascertainable loss was the value of the worthless mammograms she paid for.

CAUSES OF ACTION

COUNT ONE

Unfair and Deceptive Acts and Practices

36. The Plaintiff incorporates the previous paragraphs as if fully set forth herein.

37. Ms. Neidig is a "consumer" as that term is defined by W. Va. Code § 46A-6-102(2).

38. Defendant is currently and was engaged in the conduct of "trade" or "commerce" as those terms are defined by W. Va. Code § 46A-6-102(6).

39. The mammograms sold by the Defendant to Ms. Neidig were a good and service.

40. West Virginia Law states that it is unlawful, while engaged in trade or commerce, to use “unfair methods of competition and unfair or deceptive acts or practices.” W. Va. Code § 46A-6-104.

41. West Virginia law states that it is an unfair or deceptive act to cause “confusion or of misunderstanding as to the source, sponsorship, approval or certification of goods or services.” W. Va. Code § 46A-6-102(7)(B).

42. Defendant violated W. Va. Code §§ 46A-6-104 and 46A-6-102(7)(B) by representing to patients that their facilities and procedures were of a character and grade approved of by the FDA between June 20, 2017, and August 31, 2019, while simultaneously failing to ensure that its mammogram technicians were performing those procedures to the FDA’s standards.

43. This falsity creates misunderstanding regarding the approval and/or certification of Winchester Medical Center’s mammography services provided during that time frame.

44. W. Va. Code § 46A-6-102(E) states that it is an unfair or deceptive practice to represent “that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits or quantities that they do not have or that a person has a sponsorship, approval, status, affiliation or connection that he does not have.”

45. Defendant violated W. Va. Code § 46A-6-102(E) by misrepresenting their mammography services, between June 20, 2017, and August 31, 2019, as services satisfying federal standards for accreditation, containing the benefits of a properly executed mammogram, and as services that did not pose a serious risk to human health.

46. W. Va. Code §46A-6-102(7)(G) states that it is an unfair or deceptive practice to misrepresent that services “are of a particular standard, quality or grade.”

47. Defendant violated W. Va. Code §46A-6-102(7)(G) by misrepresenting that their mammography services, between June 20, 2017, and August 31, 2019, were properly executed, did not pose a serious risk to human health, and met federal standards for accreditation.

48. Ms. Neidig previously provided Defendant with notice of its Right to Cure under W. Va. Code § 46A-5-108. Defendant responded on October 5, 2020, denying any responsibility.

49. Because Plaintiff purchased mammograms that were of different, deficient, inferior, and lesser value compared to what Defendant had represented them to be, Plaintiff has suffered actual out of pocket losses.

COUNT TWO

Unjust Enrichment

50. The Plaintiff incorporates the previous paragraphs as if fully set forth herein.

51. Defendant received payments from Ms. Neidig for the full value of a properly executed mammograms.

52. By billing for the full value for mammograms that were of different, deficient, inferior, and lesser value, the Defendant unjustly extracted monetary payments from consumers.

53. It would be inequitable for Defendant to retain Ms. Neidig’s payments.

54. As a result, Ms. Neidig has been proximately harmed and/or injured and is entitled to recover actual damages and costs from Defendant.

COUNT THREE
Breach of Contract

55. The Plaintiff incorporates the previous paragraphs as if fully set forth herein.

56. Defendant and Plaintiff entered into a contract, exchanging mammography examinations and the resulting films for money.

57. Included in this contract was the express and implied terms that Winchester Medical Center was an accredited mammography center under the MQSA and was able to perform proper and correct mammography examinations.

58. Defendant breached these terms when its mammography services were different, deficient, inferior, and of lesser value compared to what had been promised.

59. Also included in this contract were the express and implied terms that the mammography would not contain “serious image quality deficiencies.”

60. Defendant breached these terms by providing mammography examinations with serious deficient that were a “serious risk to human health.”

61. As a result, Ms. Neidig has been proximately harmed and/or injured and is entitled to recover actual damages and costs from Defendant.

CLASS ACTION ALLEGATIONS

62. The Plaintiff incorporates the previous paragraphs as if fully set forth herein.

63. This action is brought and may properly be maintained as a class action pursuant to Rule 23 of the West Virginia Rules of Civil Procedure.

64. Plaintiff brings this action on behalf of herself and those defined as consumers who between June 20, 2017, and August 31, 2019, received mammography services from Defendant and were residents of West Virginia—collectively referred to as the “Class.”

65. On information and belief, the Class consists of over 100 members, and the prospective class members are so numerous that joinder of all class members is impracticable.

66. Plaintiff Elaine Neidig’s claims are typical of the claims of the Class, and Plaintiff Elaine Neidig will fairly and adequately protect the interests of the Class with respect to the appropriate common issues of fact and law and has hired counsel competent to prosecute the said action for and on behalf of the Plaintiff and the Class.

67. The prosecution of this civil action by all Plaintiffs in separate actions would create a risk of inconsistent or varying adjudications with respect to individual members of the Class, could as a practical matter be dispositive of the interests of the other members of the Class, not parties and/or substantially impair or impede their ability to protect their interests, and/or Defendant have acted or refused to act on grounds generally applicable to the Class, making final injunctive relief or corresponding declaratory relief with respect to the class as a whole appropriate.

68. There are numerous questions of law and fact common to the Class.

69. The interests of the members of the Class, as to common questions of law and fact, in individually controlling the prosecution of separate actions do not outweigh the benefits of a class action as to those issues.

70. The difficulties in the management of this Class as a class action are outweighed by the benefits it has with respect to disposing of common issues of law and fact as to a large number of litigants, and it is desirable to concentrate the litigation in one forum for the management of this civil action due to the number of cases that may very well be filed and/or are presently pending in other jurisdictions.

71. The questions of law and fact common to the members of the class predominate over any questions affecting only individual members, and a class action is superior to other available methods for the fair and efficient adjudication of the controversy.

72. Plaintiff Elaine Neidig is a member of the Class she seeks to represent. The members of the Class are so numerous that joinder is impracticable and could involve hundreds of litigants and the members of the Class in all other respects are similarly situated as required under Rule 23 of the West Virginia Rules of Civil Procedure and the Class complies with the requirements thereof.

73. Plaintiff Elaine Neidig is committed to the vigorous prosecution of this action and has retained competent counsel experienced in the prosecution of class actions and consumer litigation and is an adequate representative of the Class and will fairly and adequately protect the interests of the Class.

DEMAND FOR RELIEF

WHEREFORE, Plaintiff demands judgment against the Defendant as follows:

- a) actual damages;
- b) statutory damages for violations of the WVCCPA, as authorized by W. Va. Code § 46A-6-106;
- c) plaintiff's cost of litigation, including attorney's fees, court costs, and fees, pursuant to W. Va. Code §§ 46A-5-106, 46A-5-104;
- d) compensatory damages for the unjustly depreciated value of purchased mammograms
- e) disgorgement of wrongfully obtained and retained profits;
- f) contract damages; and
- g) such other and further relief as this Court may deem just and proper.

PLAINTIFF DEMANDS A TRIAL BY JURY.

Elaine Neidig
BY COUNSEL

/s/ Stephen G. Skinner
Stephen G. Skinner, Esquire (WV Bar No. 6725)
SKINNER LAW FIRM
115 E. Washington Street
P. O. Box 487
Charles Town, WV 25414
(304) 725-7029

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, WEST VIRGINIA

ELAINE NEIDIG,
Individually and on behalf
of all others similarly situated,

Plaintiff,

v.

Civil Action No. 22-C-_____

VALLEY HEALTH SYSTEM

Defendant.

**PLAINTIFF’S FIRST SET OF COMBINED DISCOVERY REQUESTS:
INTERROGATORIES, REQUESTS FOR PRODUCTION AND REQUESTS FOR
ADMISSIONS TO DEFENDANT VALLEY HEALTH SYSTEM**

Pursuant to the West Virginia Rules of Civil Procedure for trial courts of record, you are required to answer or respond or admit or deny the following interrogatories, requests for production, and requests for admission separately and fully, in writing and under oath and to serve your answers upon the undersigned within forty-five (45) days of service upon you:

DEFINITIONS

A. “You” or “yours” refers to Valley Health System and/or any employee agent, or representative thereof.

B. “Identify” with respect to a person means state his or her name, job title, current business address, and phone number; and state whether or not he or she is a managing employee of yours. If you have no current address, provide the last known residence.

D. “Hospital” or “Medical Center” refers to Winchester Medical Center and its associated buildings and services.

E. “Mammogram” refers to mammography procedures or those procedures that relate to mammograms.

E. “Relate” means refer to, describe, concern, pertain to, or constitute.

F. “Document” refers to any information in graphic form. It includes any “writing” as defined in the West Virginia Rules of Evidence and all computer data and transmissions capable of being produced in printed form if available. The term “Document” refers to originals. If the original is not available to you, produce the most legible copy. The term also includes all nonidentical copies of the original. “Document” refers to more than one Document if there is more than one, and thus is meant to be used interchangeably with documents.

OBJECTIONS BASED ON PRIVILEGE

For each document withheld under a claim of privilege or exemption, provide (i) a general description of the document, (ii) its author, (iii) the date of its preparation, and (iv) the present location of the document.

Interrogatories

1. State the name, title, address, and telephone number of each person who participated in responding to these discovery requests.

ANSWER:

2. Please describe any and all inquiries made by Plaintiff to your customer service personnel, including the response made by customer service including any file numbers assigned.

ANSWER:

3. Please identify each of your employees who communicated with the Plaintiff, stating the approximate date and substance of each communication.

ANSWER:

4. Please identify each of your employees, or any agent working on your behalf, who performed mammograms at the Winchester Medical Center between June 20, 2017 and August 31, 2019.

ANSWER:

5. Please identify your employees who are most knowledgeable regarding your policies surrounding mammograms, including any policies you had regarding your nonconforming mammograms, during the period between June 20, 2017, and August 31, 2019.

ANSWER:

6. Please identify your present employee who is most knowledgeable regarding your staff training protocols related to mammograms at Winchester Medical Center, including any policies or protocols you had regarding your nonconforming mammograms, during the period between June 20, 2017, and August 31, 2019.

ANSWER:

7. Between June 20, 2017, and August 31, 2019, how many mammograms did Winchester Medical Center perform? How many were performed for patients with a West Virginia home address?

ANSWER:

8. Provide a list, with addresses, of all individuals with a home address in West Virginia who received a mammogram, between June 20, 2017, and August 31, 2019, from Winchester Medical Center and indicate the number of mammograms performed along with amount billed for each one.

ANSWER:

9. What is the total amount of money billed for mammograms performed by Winchester Medical Center from for patients with a West Virginia home address between June 20, 2017, and August 31, 2019.

ANSWER:

10. What is the total amount of money refunded to patients with a West Virginia home address or their insurance companies for mammograms performed by Winchester Medical Center between June 20, 2017, and August 31, 2019.

ANSWER:

11. What is the total amount of money refunded to any patient or their insurance company for mammograms performed by Winchester Medical Center between June 20, 2017, and August 31, 2019.

ANSWER:

REQUEST FOR PRODUCTION OF DOCUMENTS

1. Your complete file(s), from the last five years, including but not limited to the following:

- a. Documents evidencing internal inspections of mammography procedures;
- b. All documents relating to staff and personnel training for mammograms;
- c. Records and reports related to the evaluation of staff and personnel performing mammograms.
- d. All internal reports and records relating to the quality of mammograms at Winchester Medical Center;
- e. All documents related to the billing, expenses, and costs related to mammograms;
- f. All public, private, or legal complaints received related to mammograms; and,
- g. Communications between you and the Plaintiff.

2. All documents which refer to, concern, or related to the American College of Radiology's inspection, investigation, and findings relating to mammograms at Winchester Medical Center.

3. All documents, from the last five years, related specifically to faulty mammograms, or to Plaintiff, which are stored in any computer database or which are otherwise accessible by computer.

4. All reports, studies, memoranda, analyses, or other documents prepared or reviewed by you which relate to alleged problems with mammography procedures.

5. All technical bulletins; service or procedure directives, instructions or suggestions; and notices concerning mammograms.

6. All documents identified in response to Plaintiff's First Set of Interrogatories served with this request.

7. Every document, writing, or object that you or the hospital will seek to introduce as evidence at the trial of this action.

REQUESTS FOR ADMISSIONS

Pursuant to the West Virginia Rules of Civil Procedure, particularly Rule 36 thereof, please admit the truth of the following statements:

1. Between June 20, 2017, and August 31, 2019, Winchester Medical Center's employees did not routinely properly position or compress patient's breasts during mammograms.

2. Winchester Medical Center and Valley Health between June 20, 2017, and August 31, 2019, represented that mammograms performed at the medical center were properly executed and met regulatory standards.

3. Winchester Medical Center and Valley Health between June 20, 2017, and August 31, 2019, billed patients for what was represented as properly executed mammograms.

4. The failure to properly execute a mammogram poses a dangerous and serious risk to bodily health.

5. The letter dated December 16, 2019, attached to the Complaint, is a true and authentic copy.

6. The FDA action report, attached to the Complaint, is a true and authentic copy.

ELAINE NEIDIG
BY COUNSEL

/s/ Stephen G. Skinner
Stephen G. Skinner, Esquire (WV Bar No. 6725)
SKINNER LAW FIRM
P.O. Box 487
Charles Town, WV 25414
304-725-7029/Fax: 304-725-4082
sskinner@skinnerfirm.com

Mammography Facility Adverse Event and Action Report - February 19, 2020: Winchester Medical Center - Diagnostic Center

Background

As part of the Mammography Quality Standards Act (MQSA), Congress mandated that there be annual reporting of adverse actions taken against mammography facilities. Congress stipulated that the report be made available to physicians and the general public and that it should include information that is useful in evaluating the performance of mammography facilities nationwide. In order to provide this information in the timeliest manner, we now post the following information in “real time,” as actions taken against mammography facilities are concluded:

Mammography Facility Against Which There Was An Adverse Action

The State of Virginia

Facility Name and Address:

Valley Health System
Winchester Medical Center – Diagnostic Center
300 Campus Blvd.
Winchester, VA 22601

Facility ID Number:

129379

Adverse Event:

On July 1, 2019, the American College of Radiology (ACR) notified the facility that it was required to participate in an Additional Mammography Review (AMR) based on the facility conducting mammography with an unaccredited digital breast tomosynthesis (DBT) unit.

On August 22, 2019, the ACR notified the Food and Drug Administration (FDA) and the facility that the AMR revealed serious deficiencies with clinical image quality and that the facility failed to meet the ACR’s clinical image evaluation criteria.

Action Taken:

Based on the failed AMR results, on September 4, 2019, the ACR revoked the facility's accreditation.

After evaluating the reasons for the accreditation revocation, on September 5, 2019, the FDA declared the facility's MQSA certificate to be no longer in effect until such time as the facility's accreditation is reinstated and the facility has complied with all the requirements of the FDA.

Corrective Action:

Based on the serious image quality deficiencies noted during the AMR, the FDA declared the mammography performed at this facility to be a serious risk to human health, and therefore required the facility to perform a Patient and Referring Healthcare Provider Notification (PPN) to alert all at-risk patients and their providers of the mammography quality problems at the facility.

The facility successfully completed the PPN and was notified of such by the FDA on January 31, 2020.

Status of the Facility:

The facility's accreditation was reinstated, and the facility was issued an MQSA certificate. The facility is currently performing mammography.

**Winchester
Medical Center**Return Mail Processing Center
PO Box 6336
Portland, OR 97228-6336FILED 12/13/2022 10:47 AM
CC-19-2022-C-91
Jefferson County Circuit Clerk
Laura Storm

12/26 - Pierce



4781000163759

000 0005111 00000000 0001 0002 02556 INS: 0 0

ELAINE SUE NEIDIG
242 OAKMONT DR
CHARLES TOWN WV 25414-3727

December 16, 2019

**IMPORTANT INFORMATION ABOUT YOUR
MAMMOGRAM (BREAST X-RAY EXAM)**

Dear Elaine Sue Neidig:

I am writing to let you know that there is a serious concern about the quality of the mammography that our facility performed between June 20, 2017 and August 31, 2019. You had one or more mammogram(s) performed at Valley Health Winchester Medical Center-Diagnostic Center during that time period, most recently on June 18, 2019.

Under the Mammography Quality Standards Act (MQSA) of 1992, the Food and Drug Administration's (FDA) role is to make sure that mammography facilities meet certain quality standards. The FDA determined that we failed to meet the clinical image quality standards established by our facility's accreditation body, the American College of Radiology (ACR), as required by the FDA. As a result, the ACR recommended that we cease performing mammography, and we stopped performing mammography on August 31, 2019.

The FDA is requiring us to notify all affected patients about this problem. We were also required to send a letter to your health care provider, Christine Aiello, about this problem. This does not necessarily mean that the results you and your health care provider(s) were given are wrong. However, patients may need to have their mammograms performed at our facility reviewed to determine whether a repeat mammogram at another facility is needed.

RECOMMENDED ACTIONS FOR YOU TO TAKE:

- If you have had a mammogram at another MQSA-certified mammography facility since the one done here on June 18, 2019, follow the recommendations from that subsequent mammogram and the recommendations of your health care provider.
- If you have not had a mammogram since the one you had here on June 18, 2019:
 - o You need to talk with your health care provider as soon as possible about the mammogram(s) you had here between June 20, 2017 and August 31, 2019, and your medical follow-up. We have sent a letter to the health care provider who referred you to us for your mammogram, Christine Aiello, explaining that you may need your mammogram(s) reviewed, and possibly need a repeat mammogram, and possible further evaluation. Your provider will advise you as to how to have your mammogram reviewed, if needed, and may consider ordering a repeat mammogram at another MQSA-certified facility, if needed.
 - o If you now have a different health care provider, you should contact your new provider as soon as possible. If that is the case, please call this office, and we will send that provider a letter explaining this problem.

Institutional accountability?

- o If your provider wants you to have your mammogram reviewed or repeated, please call this office at 888-441-5294, and we will arrange for your mammogram and report to be given to you.
- o If your provider wants you to have your mammogram repeated, it should be done at an MQSA-certified facility. Your provider can give you a list of MQSA-certified facilities in your area, or you can obtain a list at www.fda.gov/findmammography, or you can call the National Cancer Institute's (NCI) information number at 1-800-422-6237 to find an MQSA-certified facility in your area.
- o We will pay for the reevaluation of your mammogram(s) and for your repeat mammogram, if needed, at another MQSA-certified facility within our health network or partner facility. Please call this office at 888-441-5294 to request a reevaluation of your mammogram(s) or a repeat mammogram at another MQSA-certified facility within our health network or partner facility.
- Valley Health Winchester Medical Center-Diagnostic Center plans to take the necessary steps to become operational again after we have completed all the required actions to the satisfaction of the FDA and our accreditation body, the American College of Radiology (ACR).

If you have any questions, you may call Tammy Unger, Valley Health Winchester Medical Center-Diagnostic Center, Operations Manager at 888-441-5294 or at WCMammo@valleyhealthlink.com.

Sincerely,
Christopher Nieman, MD
Lead Interpreting Physician

Direct # 540-536-3150

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, WEST VIRGINIA
Elaine Neidig, Individually, and on behalf of others v. Valley Health System

Service Type: Secretary of State - Certified - Including Copy Fee

NOTICE TO: Valley Health System, 220 CAMPUS BLVD., SUITE 420, Winchester, VA 22601

THE COMPLAINT WHICH IS ATTACHED TO THIS SUMMONS IS IMPORTANT AND YOU MUST TAKE IMMEDIATE ACTION TO PROTECT YOUR RIGHTS. YOU OR YOUR ATTORNEY ARE REQUIRED TO FILE THE ORIGINAL OF YOUR WRITTEN ANSWER, EITHER ADMITTING OR DENYING EACH ALLEGATION IN THE COMPLAINT WITH THE CLERK OF THIS COURT. A COPY OF YOUR ANSWER MUST BE MAILED OR HAND DELIVERED BY YOU OR YOUR ATTORNEY TO THE OPPOSING PARTY'S ATTORNEY:

Stephen Skinner, PO Box 487, Charles Town, WV 25414

THE ANSWER MUST BE MAILED WITHIN 30 DAYS AFTER THIS SUMMONS AND COMPLAINT WERE DELIVERED TO YOU OR A JUDGMENT BY DEFAULT MAY BE ENTERED AGAINST YOU FOR THE MONEY OR OTHER THINGS DEMANDED IN THE COMPLAINT.

SERVICE:

8/3/2022 10:47:02 AM

Date

/s/ Laura Storm

Clerk

RETURN ON SERVICE:

☐ Return receipt of certified mail received in this office on _____

☐ I certify that I personally delivered a copy of the Summons and Complaint to _____

☐ I certify that I personally delivered a copy of the Summons and Complaint to the individual's dwelling place or usual place of abode to _____, a member of the individual's family who is above the age of sixteen (16) years and by advising such person of the purpose of the summons and complaint.

☐ Not Found in Bailiwick

Date

Server's Signature

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, WEST VIRGINIA
Elaine Neidig, Individually, and on behalf of others v. Valley Health System

Service Type: Secretary of State - Certified - Including Copy Fee

NOTICE TO: Valley Health System, 220 CAMPUS BLVD., SUITE 420, Winchester, VA 22601

THE COMPLAINT WHICH IS ATTACHED TO THIS SUMMONS IS IMPORTANT AND YOU MUST TAKE IMMEDIATE ACTION TO PROTECT YOUR RIGHTS. YOU OR YOUR ATTORNEY ARE REQUIRED TO FILE THE ORIGINAL OF YOUR WRITTEN ANSWER, EITHER ADMITTING OR DENYING EACH ALLEGATION IN THE COMPLAINT WITH THE CLERK OF THIS COURT. A COPY OF YOUR ANSWER MUST BE MAILED OR HAND DELIVERED BY YOU OR YOUR ATTORNEY TO THE OPPOSING PARTY'S ATTORNEY:

Stephen Skinner, PO Box 487, Charles Town, WV 25414

THE ANSWER MUST BE MAILED WITHIN 30 DAYS AFTER THIS SUMMONS AND COMPLAINT WERE DELIVERED TO YOU OR A JUDGMENT BY DEFAULT MAY BE ENTERED AGAINST YOU FOR THE MONEY OR OTHER THINGS DEMANDED IN THE COMPLAINT.

SERVICE:

8/3/2022 10:47:02 AM

Date

/s/ Laura Storm

Clerk

RETURN ON SERVICE:

☐ Return receipt of certified mail received in this office on _____

☐ I certify that I personally delivered a copy of the Summons and Complaint to _____

☐ I certify that I personally delivered a copy of the Summons and Complaint to the individual's dwelling place or usual place of abode to _____, a member of the individual's family who is above the age of sixteen (16) years and by advising such person of the purpose of the summons and complaint.

☐ Not Found in Bailiwick

Date

Server's Signature

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, WEST VIRGINIA
Elaine Neidig, Individually, and on behalf of others v. Valley Health System

Service Type: Secretary of State - Certified - Including Copy Fee

NOTICE TO: Valley Health System, 220 CAMPUS BLVD., SUITE 420, Winchester, VA 22601

THE COMPLAINT WHICH IS ATTACHED TO THIS SUMMONS IS IMPORTANT AND YOU MUST TAKE IMMEDIATE ACTION TO PROTECT YOUR RIGHTS. YOU OR YOUR ATTORNEY ARE REQUIRED TO FILE THE ORIGINAL OF YOUR WRITTEN ANSWER, EITHER ADMITTING OR DENYING EACH ALLEGATION IN THE COMPLAINT WITH THE CLERK OF THIS COURT. A COPY OF YOUR ANSWER MUST BE MAILED OR HAND DELIVERED BY YOU OR YOUR ATTORNEY TO THE OPPOSING PARTY'S ATTORNEY:

Stephen Skinner, PO Box 487, Charles Town, WV 25414

THE ANSWER MUST BE MAILED WITHIN 30 DAYS AFTER THIS SUMMONS AND COMPLAINT WERE DELIVERED TO YOU OR A JUDGMENT BY DEFAULT MAY BE ENTERED AGAINST YOU FOR THE MONEY OR OTHER THINGS DEMANDED IN THE COMPLAINT.

SERVICE:

8/3/2022 10:47:02 AM

Date

/s/ Laura Storm

Clerk

RETURN ON SERVICE:

☐ Return receipt of certified mail received in this office on _____

☐ I certify that I personally delivered a copy of the Summons and Complaint to _____

☐ I certify that I personally delivered a copy of the Summons and Complaint to the individual's dwelling place or usual place of abode to _____, a member of the individual's family who is above the age of sixteen (16) years and by advising such person of the purpose of the summons and complaint.

☐ Not Found in Bailiwick

Date

Server's Signature

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, WEST VIRGINIA
Elaine Neidig, Individually, and on behalf of others v. Valley Health System

File

Service Type: Secretary of State - Certified - Including Copy Fee

Summs, complaint + combined
deputy regis & Valley Hlth
md 2 SOS 8-4-22

NOTICE TO: Valley Health System, 220 CAMPUS BLVD., SUITE 420, Winchester, VA 22601

THE COMPLAINT WHICH IS ATTACHED TO THIS SUMMONS IS IMPORTANT AND YOU MUST TAKE IMMEDIATE ACTION TO PROTECT YOUR RIGHTS. YOU OR YOUR ATTORNEY ARE REQUIRED TO FILE THE ORIGINAL OF YOUR WRITTEN ANSWER, EITHER ADMITTING OR DENYING EACH ALLEGATION IN THE COMPLAINT WITH THE CLERK OF THIS COURT. A COPY OF YOUR ANSWER MUST BE MAILED OR HAND DELIVERED BY YOU OR YOUR ATTORNEY TO THE OPPOSING PARTY'S ATTORNEY:

Stephen Skinner, PO Box 487, Charles Town, WV 25414

THE ANSWER MUST BE MAILED WITHIN 30 DAYS AFTER THIS SUMMONS AND COMPLAINT WERE DELIVERED TO YOU OR A JUDGMENT BY DEFAULT MAY BE ENTERED AGAINST YOU FOR THE MONEY OR OTHER THINGS DEMANDED IN THE COMPLAINT.

SERVICE:

8/3/2022 10:47:02 AM

Date

/s/ Laura Storm

Clerk

RETURN ON SERVICE:

- ☐ Return receipt of certified mail received in this office on _____
- ☐ I certify that I personally delivered a copy of the Summons and Complaint to _____
- ☐ I certify that I personally delivered a copy of the Summons and Complaint to the individual's dwelling place or usual place of abode to _____, a member of the individual's family who is above the age of sixteen (16) years and by advising such person of the purpose of the summons and complaint.
- ☐ Not Found in Bailiwick

Date

Server's Signature

FILED 8/17/2022 12:10 PM
CC-19-2022-C-91
Jefferson County Circuit Clerk
Laura Storm

Office of the Secretary of State
Building 1 Suite 157-K
1900 Kanawha Blvd E.
Charleston, WV 25305



Mac Warner
Secretary of State
State of West Virginia
Phone: 304-558-6000
886-767-8683
Visit us online:
www.wvsos.com

CLERK OF THE CIRCUIT COURT OF JEFFERSON COUNTY

PO BOX 1234
Charles Town, WV 25414

Control Number: 295435

Defendant: VALLEY HEALTH SYSTEMS, INC.
3377 US ROUTE 60
HUNTINGTON, WV 25703 US

Agent: STEVEN SHATTLIS

County: Jefferson

Civil Action: 22-C-91

Certified Number: 92148901125134100003530088

Service Date: 8/8/2022

I am enclosing:

1 discovery, 1 summons and complaint

which was served on the Secretary at the State Capitol as your statutory attorney-in-fact. According to law, I have accepted service of process in the name and on behalf of your corporation.

Please note that this office has no connection whatsoever with the enclosed documents other than to accept service of process in the name and on behalf of your corporation as your attorney-in-fact. Please address any questions about this document directly to the court or the plaintiff's attorney, shown in the enclosed paper, not to the Secretary of State's office.

Sincerely,

Mac Warner

Mac Warner
Secretary of State

SUMMONS

Case 3:22-cv-00161-GMG Document 1-2 Filed 09/20/22 Page 1 of 1

FILED 08/21/2022 PM 1:23
CC-19-2022-C-91
Jefferson County Circuit Clerk
Laura Storm

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, WEST VIRGINIA
Elaine Neidig, Individually, and on behalf of others v. Valley Health System

Service Type: Secretary of State - Certified - Including Copy Fee

RETURN

NOTICE TO: Valley Health System, 220 CAMPUS BLVD., SUITE 420, Winchester, VA 22601

THE COMPLAINT WHICH IS ATTACHED TO THIS SUMMONS IS IMPORTANT AND YOU MUST TAKE IMMEDIATE ACTION TO PROTECT YOUR RIGHTS. YOU OR YOUR ATTORNEY ARE REQUIRED TO FILE THE ORIGINAL OF YOUR WRITTEN ANSWER, EITHER ADMITTING OR DENYING EACH ALLEGATION IN THE COMPLAINT WITH THE CLERK OF THIS COURT. A COPY OF YOUR ANSWER MUST BE MAILED OR HAND DELIVERED BY YOU OR YOUR ATTORNEY TO THE OPPOSING PARTY'S ATTORNEY:

Stephen Skinner, PO Box 487, Charles Town, WV 25414

THE ANSWER MUST BE MAILED WITHIN 30 DAYS AFTER THIS SUMMONS AND COMPLAINT WERE DELIVERED TO YOU OR A JUDGMENT BY DEFAULT MAY BE ENTERED AGAINST YOU FOR THE MONEY OR OTHER THINGS DEMANDED IN THE COMPLAINT.

SERVICE:

8/3/2022 10:47:02 AM

Date

/s/ Laura Storm

Clerk

RETURN ON SERVICE:

☐ Return receipt of certified mail received in this office on _____

☐ I certify that I personally delivered a copy of the Summons and Complaint to _____

☐ I certify that I personally delivered a copy of the Summons and Complaint to the individual's dwelling place or usual place of abode to _____, a member of the individual's family who is above the age of sixteen (16) years and by advising such person of the purpose of the summons and complaint.

☐ Not Found in Bailiwick

Date

Server's Signature

21 AUG -8 PM 1:23
STEFAN SKINNER
JULY

FILED 8/29/2022 3:06 PM
CC-19-2022-C-91
Jefferson County Circuit Clerk
Laura Storm

Office of the Secretary of State
Building 1 Suite 157-K
1900 Kanawha Blvd E.
Charleston, WV 25305



Mac Warner
Secretary of State
State of West Virginia
Phone: 304-558-6000
886-767-8683
Visit us online:
www.wvsos.com

CLERK OF THE CIRCUIT COURT OF JEFFERSON COUNTY

PO BOX 1234
Charles Town, WV 25414

RECEIVED

AUG 29 2022

JEFFERSON COUNTY
CIRCUIT CLERK

Control Number: 295686

Defendant: VALLEY HEALTH SYSTEM
200 CAMPUS BLVD., SUITE 420
WINCHESTER, VA 22601 US

County: Jefferson

Civil Action: 22-C-91

Certified Number: 92148901125134100003533232

Service Date: 8/22/2022

I am enclosing:

1 summons and complaint

which was served on the Secretary at the State Capitol as your statutory attorney-in-fact. According to law, I have accepted service of process in your name and on your behalf.

*Please note that this office has no connection whatsoever with the enclosed documents other than to accept service of process in your name and on your behalf as your attorney-in-fact. Please address any questions about this document directly to the court or the plaintiff's attorney, shown in the enclosed paper, **not to the Secretary of State's office.***

Sincerely,

Mac Warner

Mac Warner
Secretary of State

SUMMONS

E-FILED | 8/3/2022 10:47 AM
CC-19-2022-C-91
Jefferson County Circuit Clerk
Laura Storm

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, WEST VIRGINIA
Elaine Neidig, Individually, and on behalf of others v. Valley Health System

Service Type: Secretary of State - Certified - Including Copy Fee

NOTICE TO: Valley Health System, 220 CAMPUS BLVD., SUITE 420, Winchester, VA 22601

THE COMPLAINT WHICH IS ATTACHED TO THIS SUMMONS IS IMPORTANT AND YOU MUST TAKE IMMEDIATE ACTION TO PROTECT YOUR RIGHTS. YOU OR YOUR ATTORNEY ARE REQUIRED TO FILE THE ORIGINAL OF YOUR WRITTEN ANSWER, EITHER ADMITTING OR DENYING EACH ALLEGATION IN THE COMPLAINT WITH THE CLERK OF THIS COURT. A COPY OF YOUR ANSWER MUST BE MAILED OR HAND DELIVERED BY YOU OR YOUR ATTORNEY TO THE OPPOSING PARTY'S ATTORNEY:

Stephen Skinner, PO Box 487, Charles Town, WV 25414

THE ANSWER MUST BE MAILED WITHIN 30 DAYS AFTER THIS SUMMONS AND COMPLAINT WERE DELIVERED TO YOU OR A JUDGMENT BY DEFAULT MAY BE ENTERED AGAINST YOU FOR THE MONEY OR OTHER THINGS DEMANDED IN THE COMPLAINT.

SERVICE:

8/3/2022 10:47:02 AM

Date

/s/ Laura Storm

Clerk

RETURN ON SERVICE:

☐ Return receipt of certified mail received in this office on _____

☐ I certify that I personally delivered a copy of the Summons and Complaint to _____

☐ I certify that I personally delivered a copy of the Summons and Complaint to the individual's dwelling place or usual place of abode to _____, a member of the individual's family who is above the age of sixteen (16) years and by advising such person of the purpose of the summons and complaint.

☐ Not Found in Bailiwick

Date

Server's Signature

RECEIVED FOR
JULY 11/02/22 A 9:43
CLERK OF COURT
JEFFERSON COUNTY
WEST VIRGINIA

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Valley Health System Facing Class Action Over 'Deficient, Inferior' Mammograms](#)
