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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES, CENTRAL DISTRICT

PEOPLE OF THE STATE OF CALIFORNIA,) Case No.: 00395757
Plaintiff,)
vs.) COMPLAINT FOR EQUITABLE
) RELIEF AND CIVIL PENALTIES FOR
) VIOLATION OF THE UNFAIR
) COMPETITION LAW (Business and
) Professions Code section 17200 et seq.)
PACIFIC HEALTH CORPORATION, a)
Georgia corporation; LOS ANGELES)
DOCTORS HOSPITAL CORPORATION, a)
California corporation; INTERCARE)
HEALTH SYSTEMS, INC., a California)
corporation; TUSTIN HOSPITAL AND)
MEDICAL CENTER, a California)
corporation; JOHN FENTON, an individual;)
ROBERT BORSEAU, an individual; RUDRA)
SABARATNAM, an individual; DANIEL)
DAVIS, an individual; VINCENT RUBIO, an)
individual; FREDERICK RUNDALL, an)
individual; KENNETH THALER, an)
individual; AL-REZA TAJIK, an individual;)
METROPOLITAN HEALTHCARE, LLC, a)
California limited liability company; ESTILL)
MITTS, an individual; APT AMBULANCE)
COMPANY, a California corporation; and)
DOES 1 through 50, inclusive,)
Defendants.)

1 Plaintiff, PEOPLE OF THE STATE OF CALIFORNIA (“PEOPLE”), complaining of the
2 above-named Defendants, alleges as follows, which allegations are based upon information and
3 belief insofar as they pertain to the identity and conduct of the Defendants:
4

5 NATURE OF THE ACTION

6 1. This is a civil law enforcement action brought under the California Unfair
7 Competition Law (Business and Professions Code section 17200 *et seq.*) to bring an end to
8 Defendants’ unlawful, unfair and fraudulent business acts and practices involving the
9 exploitation of the homeless population of the Skid Row area of the City of Los Angeles in
10 furtherance of a scheme to defraud the Medicare and Medi-Cal health care benefit programs.

11 2. The Skid Row area of Los Angeles is a 50-block section of downtown
12 Los Angeles, bounded by Third Street on the north, Alameda Street on the east, Seventh Street
13 on the south, and Main Street on the west. Skid Row is characterized by extreme poverty and
14 homelessness, the sale and use of illegal drugs, and violent crime. The homeless residents of
15 Skid Row spend their days on the streets of this dangerous area and their nights either on those
16 streets or in one of the homeless shelters located in the area. A large percentage of the homeless
17 of Skid Row suffer from mental illness, alcohol and/or drug addiction and co-occurring
18 disorders that impair their judgment and make them especially vulnerable to victimization and
19 exploitation by criminal predators.

20 3. Within the last few years, it has come to light that several hospitals in and around
21 the County of Los Angeles have engaged in the unlawful practice of “dumping” homeless
22 patients in Skid Row – *i.e.*, transporting homeless persons discharged (often prematurely) from
23 the hospital’s inpatient facilities or from its emergency room to Skid Row without the patient’s
24 meaningful consent and without adequate planning for the patient’s post-discharge treatment
25 needs.

26 4. On Sunday, October 22, 2006, officers of the Los Angeles Police Department
27 observed five apparently homeless individuals being dropped off by ambulance in the vicinity
28 of the Volunteers of America shelter in Skid Row. Believing that they were witnessing the

1 “dumping” of homeless patients, the officers videotaped what was transpiring, interviewed the
2 patients and the ambulance personnel who were willing to speak with them, and referred the
3 matter to the Los Angeles City Attorney’s Office for further investigation. That investigation
4 revealed that what the officers had observed was not the dumping of homeless patients, but
5 rather acts in furtherance of a broad-ranging scheme to commit a different but equally serious
6 form of illegal activity: the use of homeless individuals as human pawns in a scheme by
7 hospitals, doctors, ambulance companies and others to defraud the Medicare and Medi-Cal
8 programs.

9 5. The individuals that the officers thought were being “dumped” on that Sunday in
10 October 2006 had earlier in the week been recruited by “runners” who were paid to search
11 Skid Row for homeless persons who had health care coverage under either the federal Medicare
12 program or the state/federal Medi-Cal program and who could be persuaded, or paid, to allow
13 themselves to be admitted to one of the hospitals participating in the scheme. The runners had
14 directed these five recruits to an “assessment center” on Seventh Street in Skid Row (the
15 “Seventh Street Assessment Center”).

16 6. At the Seventh Street Assessment Center, the eligibility of the Skid Row recruits
17 for benefits under Medicare or Medi-Cal had been confirmed and a “diagnosis” prepared for
18 each of them. This “diagnosis” was not prepared by a licensed physician, or by anyone else
19 with formal medical training. Nor did it reflect a legitimate assessment of the medical condition
20 of the recruit. Instead, it was a fabricated description of conditions prepared by the Seventh
21 Street Assessment Center personnel for the purpose of justifying the recruit’s hospitalization
22 under Medicare and Medi-Cal criteria.

23 7. Seventh Street Assessment Center personnel prepared a form (the “Admission
24 Form”) for each recruit containing the fabricated diagnosis, information regarding the recruit’s
25 Medicare or Medi-Cal eligibility, and the name of the physician purportedly treating the recruit
26 and who had purportedly ordered his or her hospitalization. For all five recruits observed on
27 October 22, the physician listed on the Admission Form was Dr. Frederick Rundall.

28 ///

1 8. The completed Admission Form was sent by the Seventh Street Assessment
2 Center via telefax to the office of the physician listed on the Admission Form and to one of the
3 hospitals employing the services of the Seventh Street Assessment Center. For all five recruits
4 observed on October 22, the hospital to which the Admission Forms were sent was Los Angeles
5 Metropolitan Medical Center (also more commonly known as "LA Metro"), located at 2231
6 South Western Avenue in the City of Los Angeles.

7 9. The five Skid Row recruits were promised a small sum of money for agreeing to
8 become hospital patients (twenty or thirty dollars), with the compensation to be paid upon their
9 return to the Seventh Street Assessment Center after discharge. They were transported to
10 LA Metro by ambulance, and were admitted on the basis of the telefaxed Admission Forms.
11 They remained in the hospital for between one and three days.

12 10. At the hospital, the Skid Row recruits did not see their treating physician (if at all)
13 until well after admission and typically only shortly before discharge. They were, however,
14 treated for various medical conditions, some real and some not. Claims for compensation for
15 this treatment were submitted by LA Metro, by the ambulance company that had transported the
16 recruits to and from Skid Row, and by the treating physicians to the Medicare or Medi-Cal
17 programs. The claims submitted did not disclose the manner in which the Skid Row recruits
18 had come to be hospitalized.

19 11. The five Skid Row recruits were discharged on Sunday, October 22, 2006. They
20 were all returned by ambulance to Skid Row, where they were observed by the police officers as
21 described above.

22 12. Within the past four years, hundreds, if not thousands, of other homeless persons
23 in Skid Row have been recruited, hospitalized, treated and discharged in a manner substantially
24 similar to that described above (some persons multiple times) as part of a long-running scheme
25 to bilk the Medicare and Medi-Cal programs out of millions of dollars by causing the
26 unnecessary hospitalization of paid recruits. As described further below, the participants in this
27 scheme include at least three hospitals and their administrators, three physicians, two ambulance
28

1 companies and a recruiting organization that employs the runners and operates one or more
2 “assessment centers.”

3 13. Defendants' scheme to defraud the Medicare and Medi-Cal programs violated
4 many federal and California laws and regulations, some of which provide for substantial
5 criminal punishment. These laws and regulations include the following, among others:

6 A. The federal and California Anti-Kickback Laws, which make it a felony
7 offense to solicit, receive, pay, or offer to pay any remuneration for the referral of
8 patients.

9 B. Federal and California laws that make it a felony offense to execute, or
10 attempt to execute, a scheme to defraud the Medicare and Medi-Cal programs, or to
11 obtain money or property owned by or in the custody or control of those programs by
12 means of false or fraudulent pretenses, representations, or promises.

13 C. Federal and California laws that make it a felony offense to make false
14 statements to, or in a matter within the jurisdiction of, the governmental agencies
15 responsible for administering the Medicare and Medi-Cal programs.

16 D. The federal and California False Claims Acts, which prohibit the
17 submission of false claims to government programs such as Medicare and Medi-Cal.

18 E. The California law that makes it a criminal offense for physicians to
19 employ “runners” and “cappers.”

20 F. California laws that make it a criminal offense to engage in the
21 unauthorized practice of medicine, which includes rendering medical diagnoses.

22 G. California laws prohibiting the creation of falsified medical records.

23 H. California regulations that require that all hospital admissions be upon the
24 order of a licensed and authorized physician.

25 I. California's dependent adult endangerment law, which makes it a criminal
26 offense to cause or permit a dependent adult in one's care or custody to be placed in a
27 situation in which his or her person or health may be endangered.

28 J. Federal and California criminal conspiracy laws.

1 CORPORATION and was one of the individuals who directed, facilitated, encouraged,
2 permitted, ratified, or was otherwise responsible for the unlawful, unfair and fraudulent business
3 acts and practices alleged herein.

4 19. Defendant TUSTIN HOSPITAL AND MEDICAL CENTER is a California
5 corporation that owns and operates a for-profit acute care hospital of that name in the City of
6 Tustin ("Tustin Hospital"). Tustin Hospital is a participating hospital in the Medicare and
7 Medi-Cal programs.

8 20. At all times relevant hereto, Defendant DANIEL DAVIS ("DAVIS") was the
9 Chief Executive Officer of Defendant TUSTIN HOSPITAL AND MEDICAL CENTER and
10 was one of the individuals who directed, facilitated, encouraged, permitted, ratified, or was
11 otherwise responsible for the unlawful, unfair and fraudulent business acts and practices alleged
12 herein.

13 21. At all times relevant hereto, Defendant VINCENT RUBIO ("RUBIO") was the
14 Chief Financial Officer of Defendant TUSTIN HOSPITAL AND MEDICAL CENTER and was
15 one of the individuals who directed, facilitated, encouraged, permitted, ratified, or was
16 otherwise responsible for the unlawful, unfair and fraudulent business acts and practices alleged
17 herein.

18 22. Defendant INTERCARE HEALTH SYSTEMS, INC. is a California corporation
19 that owns and operates a for-profit acute care hospital in the City of Los Angeles known as the
20 City of Angels Medical Center ("City of Angels"). That hospital is a participating hospital in
21 the Medicare and Medi-Cal programs.

22 23. At all times relevant hereto, Defendant ROBERT BORSEAU ("BORSEAU") was
23 one of the owners and/or managing officers of Defendant INTERCARE HEALTH SYSTEMS,
24 INC., and was one of the individuals who directed, facilitated, encouraged, permitted, ratified,
25 or was otherwise responsible for the unlawful, unfair and fraudulent business acts and practices
26 alleged herein.

27 24. At all times relevant hereto, Defendant RUDRA SABARATNAM
28 ("SABARATNAM") was one of the owners and/or managing officers of Defendant

1 INTERCARE HEALTH SYSTEMS, INC. and was one of the individuals who directed,
2 facilitated, encouraged, permitted, ratified, or was otherwise responsible for the unlawful, unfair
3 and fraudulent business acts and practices alleged herein.

4 25. Defendant FREDERICK RUNDALL ("RUNDALL") is a physician licensed to
5 practice medicine in the State of California. At all times relevant hereto, he was authorized to
6 admit patients at LA Metro and at City of Angels.

7 26. Defendant KENNETH THALER ("THALER") is a physician licensed to practice
8 medicine in the State of California. At all times relevant hereto, he was authorized to admit
9 patients at Tustin Hospital.

10 27. Defendant AL-REZA TAJIK ("TAJIK") is a physician licensed to practice
11 medicine in the State of California. At all times relevant hereto, he was authorized to admit
12 patients at Tustin Hospital.

13 28. Defendant METROPOLITAN HEALTHCARE, LLC is a California limited
14 liability company that purports to provide marketing and other support services to hospitals in
15 and around Los Angeles County.

16 29. Defendant ESTILL MITTS ("MITTS") is the owner and managing member of
17 METROPOLITAN HEALTHCARE, LLC and is one of the individuals who directed,
18 facilitated, encouraged, permitted, ratified, or was otherwise responsible for the unlawful, unfair
19 and fraudulent business acts and practices alleged herein.

20 30. Defendant APT AMBULANCE COMPANY ("APT") is a California corporation
21 that provides ambulance transportation services for patients in and around Los Angeles County.
22 APT and Ambumed Corp. (an entity not named herein because it is the subject of a pending
23 bankruptcy proceeding) were principally responsible for transporting, by ambulance, the
24 homeless recruits used in Defendants' scheme.

25 31. The true names and capacities of defendants sued herein as Does 1 through 50,
26 inclusive, are unknown to the PEOPLE, who therefore sue said defendants by such fictitious
27 names. When the true names and capacities of said defendants have been ascertained, the
28 PEOPLE will ask leave of the Court to amend this Complaint and to insert in lieu of such

1 fictitious names the true names and capacities of said fictitiously named defendants. The
2 PEOPLE are informed and believe that Does 1 through 50 participated in, and are responsible
3 for, the unlawful, unfair and fraudulent business acts and practices alleged herein.

4 32. Defendants PACIFIC HEALTH CORPORATION, LOS ANGELES DOCTORS
5 HOSPITAL CORPORATION, TUSTIN HOSPITAL AND MEDICAL CENTER,
6 INTERCARE HEALTH SYSTEMS, INC., FENTON, DAVIS, RUBIO, BORSEAU,
7 SABARATNAM and Does 1 through 20 will sometimes be referred to collectively herein as the
8 "HOSPITAL DEFENDANTS."

9 33. Defendants RUNDALL, THALER, TAJIK and Does 21 through 30 will
10 sometimes be referred to collectively herein as the "DOCTOR DEFENDANTS."

11 34. Defendants METROPOLITAN HEALTHCARE, LLC, MITTS and Does 31
12 through 40 will sometimes be referred to collectively herein as the "MITTS DEFENDANTS."

13 35. Defendants APT and Does 41 through 50 will sometimes be referred to
14 collectively herein as the "AMBULANCE DEFENDANTS."

15 36. LA Metro, Tustin Hospital and City of Angels will sometimes be referred to
16 collectively herein as the "Participating Hospitals."

17 37. At all times relevant hereto, each Defendant was acting as an agent, servant,
18 employee, partner, joint venturer, or co-conspirator of the other Defendants, and, in doing the
19 acts alleged herein, was acting within the course and scope of that agency, service, employment,
20 partnership, joint venture, or conspiracy.

21 38. In doing the acts alleged herein, each Defendant caused, aided, abetted and
22 conspired to commit the wrongful acts of the other Defendants.

23 24 **JURISDICTION AND VENUE**

25 39. Each of the Defendants: (A) does substantial business in the County of
26 Los Angeles; and/or (B) committed all, or a substantial part, of the unlawful, unfair and
27 fraudulent business acts and practices alleged herein in the County of Los Angeles.

1 detailing the costs the hospital claims it incurred in providing services and supplies to Medicare
2 beneficiaries. Hospitals are required by Medicare to sign the cost report under penalty of
3 perjury and to maintain all documentation supporting the costs set forth on each annual cost
4 report for three years after the report is reviewed by the Medicare contractor.

5 45. Medicare Part B (Medical Insurance) provides reimbursement for physician's
6 services, outpatient care and certain other medical services that Part A does not cover.

7 46. Medicare provides reimbursement for physician services based on a fee schedule.
8 Medicare reimburses 80% of the "allowed amount" on covered claims. The remaining 20%,
9 known as the co-payment, may be covered by a secondary insurance plan, by Medi-Cal, or paid
10 by the patient.

11 47. Providers who submit claims electronically are required to maintain all supporting
12 medical documentation for at least five years. During the relevant time period, the HOSPITAL
13 DEFENDANTS and the DOCTOR DEFENDANTS submitted their claims to Medicare
14 electronically.

15 48. Federal regulations require hospitals to maintain medical records that are
16 accurately written, promptly completed, properly filed and retained, and accessible. Hospitals
17 must use a system of author identification and record maintenance that ensures the integrity of
18 the authentication and protects the security of all record entries. Hospitals must retain their
19 medical records in their original or legally reproduced form for at least five years for each
20 inpatient.

21 49. Medicaid is a health care benefit program funded jointly by the federal
22 government and by the states. Medi-Cal is the name used by the Medicaid program operating in
23 the State of California. The Medi-Cal program compensates participating doctors, hospitals and
24 other health care providers who furnish health care services to legal residents of the State of
25 California who meet certain poverty and other eligibility criteria. Medi-Cal operates under the
26 supervision of the California Department of Health Care Services.

27 50. The Medi-Cal program only provides compensation for those health care services
28 "which are reasonable and necessary to protect life, to prevent significant illness or significant

1 disability, or to alleviate severe pain through the diagnosis or treatment of disease, illness or
2 injury. . . .” (California Code of Regulations, title 22, section 51303, subdivision (a).)

3 51. The Medi-Cal regulations also state that “[n]o provider shall render to a Medi-Cal
4 beneficiary health care services which are below or less than the standard of acceptable quality,”
5 and that “[n]o provider shall render to any Medi-Cal beneficiary, or submit a claim for
6 reimbursement for, any health care service or services clearly in excess of accepted standards of
7 practice.” (California Code of Regulations, title 22, sections 51472 and 51473.)

8 52. Under the Medi-Cal program, “[i]npatient services in hospitals are covered only
9 when provided on the signed order of the physician . . . responsible for the care of the patient.”
10 (California Code of Regulations, title 22, section 51303, subdivision (d).)

11 53. Under the Medi-Cal program, ambulance services are only covered “when the
12 beneficiary's medical and physical condition is such that transport by ordinary means of public
13 or private conveyance is medically contraindicated, and transportation is required for the
14 purpose of obtaining needed medical care.” (California Code of Regulations, title 22, section
15 51323, subdivision (a).)

16 54. The Medi-Cal program requires that “[e]ach provider shall keep, maintain, and
17 have readily retrievable such records as are necessary to fully disclose the type and extent of
18 services provided to a Medi-Cal beneficiary,” and that “[s]uch records shall include, but not be
19 limited to . . . [¶] Treatment authorization requests. [¶] All medical records, service reports, and
20 orders prescribing treatment plans. [¶] Identification of the person rendering services.”
21 (California Code of Regulations, title 22, section 51476, subdivision (a).)

22
23 **DEFENDANTS’ UNLAWFUL, UNFAIR AND FRAUDULENT**
24 **BUSINESS ACTS AND PRACTICES TO DEFRAUD**
25 **THE MEDICARE AND MEDI-CAL PROGRAMS**

26 55. Defendants’ scheme was devised, in part, to alleviate the financial troubles of the
27 HOSPITAL DEFENDANTS resulting from having too many empty beds. Each of the
28 Participating Hospitals can accommodate far more patients than are admitted at any given time.

1 The costs associated with this unused capacity reduces the hospital's profits, resulting in some
2 cases in the hospital operating at a loss.

3 56. To fill their empty beds, the HOSPITAL DEFENDANTS turned to the services of
4 the MITTS DEFENDANTS. The MITTS DEFENDANTS operated under the guise of
5 marketing and community outreach consultants. The HOSPITAL DEFENDANTS contracted
6 with the MITTS DEFENDANTS ostensibly for the purpose of receiving such services. As the
7 HOSPITAL DEFENDANTS knew and intended, however, the services that the MITTS
8 DEFENDANTS actually provided were to fill the empty hospital beds with homeless persons
9 recruited and paid to be patients at their hospitals in the manner described below.

10 57. Beginning at a time currently unknown to the PEOPLE, and continuing to the
11 present, the MITTS DEFENDANTS employed a network of runners in and around Skid Row
12 who searched out homeless individuals who were eligible for Medicare or Medi-Cal benefits.
13 These runners would approach homeless individuals on the streets and inquire about their
14 eligibility under the Medicare and Medi-Cal programs. Sometimes the solicitations were direct;
15 other times they involved the use of code phrases, such as "Red, white and blue, just make it do
16 what it do, for me and you," a reference to the color scheme on the Medicare eligibility card.

17 58. When a candidate was found, the runners directed that person to an "assessment
18 center" in or near Skid Row where their eligibility could be confirmed and the recruit assigned
19 to one of the hospitals operated by the HOSPITAL DEFENDANTS. The PEOPLE are not
20 currently aware of all of the locations used for this purpose, but the most active of these
21 "assessment centers" appears to have been the Seventh Street Assessment Center, located at
22 431 East Seventh Street.

23 59. At the assessment center, hospital assignments were determined on the basis of
24 the number of patient referrals that the MITTS DEFENDANTS had agreed to provide to each of
25 the HOSPITAL DEFENDANTS at that time. For most of the relevant time period, the MITTS
26 DEFENDANTS had agreed to provide Tustin Hospital with 40 to 50 patients per month, to
27 provide City of Angels with 25 to 30 patients per month, and to provide LA Metro with
28 whatever patient referrals were necessary to fill all of its unused beds.

1 60. For a homeless recruit to be admitted to one of the Participating Hospitals, it was
2 necessary for the MITTS DEFENDANTS to provide a diagnosis of a condition or conditions
3 sufficient to justify hospitalization. Sometimes the homeless recruit would be coached by the
4 runner to describe ailments that would support such a diagnosis. Frequently, however, the
5 personnel at the assessment centers simply recited one or more diagnoses from a list of
6 qualifying diagnoses that they had been provided. The diagnoses recorded at the assessment
7 centers were not intended to reflect the recruit's true medical condition. They were chosen with
8 the intent to provide a sufficient justification to the Medicare and Medi-Cal programs for the
9 hospitalization of the recruit. Moreover, the personnel at the assessment centers were not
10 competent to prepare an accurate diagnosis as they lacked formal medical training as well as the
11 equipment needed to accurately diagnose the conditions they were listing.

12 61. For a homeless recruit to be admitted at one of the Participating Hospitals, it was
13 also necessary for the MITTS DEFENDANTS to identify a doctor with admission privileges at
14 the hospital who could serve as the treating and admitting physician. The DOCTOR
15 DEFENDANTS fulfilled this role, allowing the MITTS DEFENDANTS to use their names to
16 admit countless paid recruits. For every patient referred to LA Metro or City of Angels, the
17 treating and admitting physician identified by the MITTS DEFENDANTS was Defendant
18 RUNDALL. For the patients referred to Tustin Hospital, the treating and admitting physician
19 was typically either Defendant THALER or Defendant TAJIK. The DOCTOR DEFENDANTS
20 seldom, if ever, examined, saw or spoke to any of the homeless recruits for whom they were
21 identified as the treating physicians prior to the recruit's arrival at the hospital. Indeed, the
22 DOCTOR DEFENDANTS frequently did not see their "patient" until shortly before his or her
23 discharge, if then.

24 62. The assessment centers prepared an Admission Form for each homeless recruit
25 that was to be sent to a Participating Hospital. The Admission Form included the "diagnosis"
26 provided by the assessment center personnel, the name of the admitting physician and the
27 recruit's benefit eligibility information. The Admission Form was then sent by telefax to the
28 Participating Hospital that was to receive the recruit. Typically, the recruit was admitted solely

1 on the basis of the telefaxed Admission Form. On some occasions, the DOCTOR
2 DEFENDANT shown as the admitting physician, or his office, telephoned the admissions
3 department at the hospital to facilitate the admission, but this occurred infrequently and when it
4 did it appears to have been limited to admissions at Tustin Hospital.

5 63. The telefaxed Admission Form, with its fabricated diagnosis, became part of the
6 patient's medical records and, hence, part of the legally mandated audit trail for any Medicare or
7 Medi-Cal claims subsequently submitted for that patient.

8 64. Defendants initially attempted to persuade their recruits to serve as hospital
9 patients for no more compensation than the food and shelter that they would receive while
10 hospitalized. When this proved to be insufficient incentive for persons who did not actually
11 need to be hospitalized, Defendants began the practice of offering the recruit relatively modest
12 sums of money (typically twenty or thirty dollars), paid either up front or after the recruit was
13 discharged and returned to Skid Row.

14 65. The assessment center personnel typically arranged for the homeless recruit to be
15 transported to the designated Participating Hospital by an ambulance operated by one of the
16 AMBULANCE DEFENDANTS (or by Ambumed Corp., which is not named as a defendant
17 herein because it is the subject of a pending bankruptcy proceeding). The AMBULANCE
18 DEFENDANTS knew, or deliberately ignored, the fact that the recruits being transported did
19 not require hospitalization and that transport by ambulance was not medically necessary. They
20 nevertheless transported recruits to assist the HOSPITAL DEFENDANTS, who provided them
21 with significant business, and to obtain the compensation described below.

22 66. Once admitted to a hospital, the homeless recruits received treatment from the
23 hospital staff and from the DOCTOR DEFENDANTS for various conditions, both actual and
24 fictional. Sometimes the recruit actually suffered from the condition treated; often, he or she
25 did not. In no case of which the PEOPLE are currently aware was the medical condition of the
26 recruit so dire as to make treatment as a hospital inpatient medically necessary.

27 67. The HOSPITAL DEFENDANTS, the DOCTOR DEFENDANTS and the
28 AMBULANCE DEFENDANTS each submitted claims to the Medicare or Medi-Cal programs

1 for compensation for the services that they had provided, whether medically necessary or not.
2 In the four years preceding the filing of this action, those defendants received millions of dollars
3 in payments obtained from these programs through the unlawful, unfair and fraudulent business
4 acts and practices described above.

5 68. The compensation that the other participants in the scheme received included the
6 following:

7 A. The MITTS DEFENDANTS were paid a flat fee of \$20,000 per month by
8 LA Metro for patient referrals. This sum was typically paid in four weekly checks of
9 \$5,000 each. Personnel from the Seventh Street Assessment Center frequently picked up
10 the checks at the hospital's offices and delivered them to Defendant MITTS.

11 B. The MITTS DEFENDANTS received varying amounts from City of
12 Angels depending upon whether the hospital received its full quota, with payments
13 typically ranging between \$400 to \$1,000 per week.

14 C. The MITTS DEFENDANTS also received varying amounts from Tustin
15 Hospital depending upon the number of patients received, but payments typically
16 approximated \$20,000 per month.

17 D. The runners typically received \$40 for each homeless recruit with
18 Medicare eligibility and \$20 for each such recruit with Medi-Cal eligibility from the
19 MITTS DEFENDANTS.

20 E. Personnel at the assessment centers were paid salaries by the MITTS
21 DEFENDANTS of up to \$3,500 per month. Additionally, City of Angels paid fees
22 directly to assessment center personnel who were "moonlighting" at the rate of \$50 per
23 Medicare eligible patient and \$25 per Medi-Cal eligible patient.

24 F. Defendant RUBIO personally received sums approximating \$3,500 per
25 month from the MITTS DEFENDANTS to ensure that Tustin Hospital continued to
26 accept sufficient numbers of homeless recruits so that the MITTS DEFENDANTS would
27 continue to receive their \$20,000 per month from that hospital.
28

1 73. Recruit X has been hospitalized multiple times as a result of Defendants' scheme.
2 In the past four years, she has been admitted to all three of the Participating Hospitals and has
3 been hospitalized at LA Metro at least six times. In an investigatory interview, Recruit X stated
4 that she did not actually require hospitalization on any of these occasions.

5 74. For each of her hospitalizations, Recruit X was sent to the hospital by the
6 personnel at the Seventh Street Assessment Center, typically receiving \$20 for agreeing to be
7 hospitalized. Early on, she had been sent to the assessment center by a runner. Later, however,
8 she went to the assessment center on her own. According to Recruit X, it is a well-known fact
9 on the streets of Skid Row that a homeless person can obtain compensation from the Seventh
10 Street Assessment Center for agreeing to be hospitalized, and, as a result, many homeless
11 persons show up at the assessment center on their own when they need money and/or a few days
12 respite from the hardships and dangers of Skid Row.

13 75. For each of her hospitalizations arranged by the Seventh Street Assessment
14 Center, Recruit X was transported by ambulance to the Participating Hospital. On no occasion
15 was such transport medically necessary. In an investigatory interview, Recruit X readily
16 acknowledged that she could easily have used public transportation to get to the hospital.

17 76. The admitting diagnoses for the hospitalizations of Recruit X never recited the
18 mental condition from which she suffers. Instead, the diagnosis typically indicated "chest
19 pains," "shortness of breath," or some other indication of a cardiopulmonary condition. To her
20 knowledge, Recruit X does not, in fact, suffer from any such condition, and never told the
21 assessment center personnel that she did.

22 77. After admission to the Participating Hospital, Recruit X received very little
23 medical treatment, and none of the treatment that she received was necessary. On at least one
24 occasion, Recruit X received treatment that was harmful to her, when she was given a
25 nitroglycerin patch for her non-existent cardiopulmonary condition and suffered a precipitous
26 drop in blood pressure that left her ill and scared for her safety.

27 78. Upon discharge, Recruit X was always returned to Skid Row, frequently by
28 ambulance. Like many of the homeless individuals Defendants recruited, she frequently used the

1 money she received from Defendants to purchase illegal drugs, in her case principally crack
2 cocaine.

3
4 **FIRST CAUSE OF ACTION**
5 **FOR VIOLATION OF THE UNFAIR COMPETITION LAW**
6 **(Against All Defendants)**

7 79. Plaintiff incorporates herein each and every allegation set forth in paragraphs 1
8 through 78 above as though realleged herein.

9 80. The California Unfair Competition Law (“UCL”) prohibits “unfair competition,”
10 which is defined by Business and Professions Code section 17200 as including “any unlawful,
11 unfair or fraudulent business act or practice”

12 81. As the California Supreme Court has noted, the UCL’s “purpose is to protect both
13 consumers and competitors by promoting fair competition in commercial markets for goods and
14 services.” (*Kasky v. Nike Inc.* (2002) 27 Cal.4th 939, 949.) The UCL is broadly worded,
15 which has led the California Supreme Court to observe that the UCL “was intentionally framed
16 in its broad, sweeping language, precisely to enable judicial tribunals to deal with the
17 innumerable new schemes which the fertility of man’s invention would contrive.” (*Barquis v.*
18 *Merchants Collection Association* (1972) 7 Cal.3d 94, 112 [citations and internal quotation
19 marks omitted].)

20 82. The UCL contains no express intent, knowledge, or negligence requirement, and
21 therefore has been construed as “impos[ing] strict liability.” (*Searle v. Wyndham International,*
22 *Inc.* (2002) 102 Cal.App.4th 1327, 1333.)

23 83. “Because Business and Professions Code Section 17200 is written in the
24 disjunctive, it establishes three varieties of unfair competition – acts or practices which are
25 unlawful, or unfair, or fraudulent.” (*Podlosky v. First Healthcare Corp.* (1996) 50 Cal.App.4th
26 632, 647.)

27 84. The *unlawful* prong of Section 17200 proscribes “anything that can properly be
28 called a business practice and that at the same time is forbidden by law.” (*People v. McKale*
29 (1979) 25 Cal.3d 626, 632 [citations and internal quotation marks omitted]; *see also Podlosky v.*

1 *First Healthcare Corp.*, *supra*, 50 Cal.App.4th at p. 647 [“Virtually any state, federal or local
2 law can serve as the predicate for an action under Business and Professions Code section
3 17200.”]; *Saunders v. Superior Court (California Reporting Alliance)* (1994) 27 Cal.App.4th
4 832, 838-839 [“The ‘unlawful’ practices prohibited by section 17200 are any practices
5 forbidden by law, be it civil or criminal, federal, state, or municipal, statutory, regulatory, or
6 court-made.”].)

7 85. The *unfair* prong of Section 17200 “provides an independent basis for relief” in
8 that “[i]t is not necessary for a business practice to be ‘unlawful’ in order to be subject to an
9 action under the unfair competition law.” (*Smith v. State Farm Mutual Automobile Insurance*
10 *Co.* (2001) 93 Cal.App.4th 700, 718.) “In general the ‘unfairness’ prong ‘has been used to
11 enjoin deceptive or sharp practices. . . .’ [Citation.]” (*South Bay Chevrolet v. General Motors*
12 *Acceptance Corp.* (1999) 72 Cal.App.4th 861, 887.)

13 86. The courts of this State have adopted several tests for determining whether a
14 business act or practice is *unfair*:

15 A. A business practice is unfair “when that practice ‘offends an established
16 public policy or when the practice is immoral, unethical, oppressive, unscrupulous or
17 substantially injurious.’” (*State Farm Fire & Casualty Co. v. Superior Court (Allegro)*
18 (1996) 45 Cal.App.4th 1093, 1104 [quoting *People v. Casa Blanca Convalescent Homes,*
19 *Inc.* (1984) 159 Cal.App.3d 509, 530].)

20 B. Another “test of whether a business practice is unfair involves an
21 examination of [that practice’s] impact on its alleged victim, balanced against the
22 reasons, justifications and motives of the alleged wrongdoer. In brief, the court must
23 weigh the utility of the defendant’s conduct against the gravity of the harm to the alleged
24 victim. . . .” (*State Farm Fire & Casualty Co. v. Superior Court (Allegro)*, *supra*, 45
25 Cal.App.4th at pp. 1103-1104 [citations and internal quotation marks omitted].)

26 C. It also is an unfair business practice when the defendant’s conduct
27 “threatens an incipient violation of [a law], or violates the policy or spirit of [a law]
28 because its effects are comparable to or the same as a violation of the law, or otherwise

1 significantly threatens or harms competition.” (*Cel-Tech Communications, Inc. v.*
2 *Los Angeles Cellular Telephone Co.* (1999) 20 Cal.4th 163, 187; *see also Scripps Clinic*
3 *v. Superior Court (Thompson)* (2003) 108 Cal.App.4th 917, 940.)

4 D. More recently, one Court of Appeal has fashioned a test for determining
5 whether a practice is unfair based upon section 5 of the Federal Trade Commission Act
6 (United States Code, title 15, section 41 *et seq.*). Under this test, “[a]n act or practice is
7 unfair if [1] the consumer injury is substantial, [2] is not outweighed by any
8 countervailing benefits to consumers or to competition, and [3] is not an injury the
9 consumers themselves could reasonably have avoided.” (*Daugherty v. American Honda*
10 *Motor Co., Inc.* (2006) 144 Cal.App.4th 824, 839 [bracketed numbers added]; *see also*
11 *Camacho v. Automobile Club of Southern California* (2006) 142 Cal.App.4th 1394,
12 1402.)

13 87. The *fraudulent* prong of Section 17200 “affords protection against the probability
14 or likelihood as well as the actuality of deception or confusion.” (*Payne v. United California*
15 *Bank* (1972) 23 Cal.App.3d 850, 856.) “The test is whether the public is likely to be deceived.”
16 (*South Bay Chevrolet v. General Motors Acceptance Corp., supra*, 72 Cal.App.4th at p. 888
17 [citations and internal quotation marks omitted].) “This means that a section 17200 violation,
18 unlike common law fraud, can be shown even if no one was actually deceived, relied upon the
19 fraudulent practice, or sustained any damage.” (*State Farm Fire & Casualty Co. v. Superior*
20 *Court (Allegro), supra*, 45 Cal.App.4th at p. 1105.)

21 88. Within the four years preceding the filing of this Complaint, Defendants
22 and each of them, violated the UCL by engaging in the following *unlawful* business acts and
23 practices, among others:

24 A. Knowingly and willfully soliciting and receiving any remuneration,
25 directly or indirectly, overtly or covertly, in cash or in kind, in return for referring
26 individuals for the furnishing of services or items for which payment may be made, in
27 whole or in part, under the Medicare program, in violation of United States Code,
28 title 42, section 1320a-7b, subdivision (b)(1)(A).

1 B. Knowingly and willfully paying or offering to pay any remuneration,
2 directly or indirectly, overtly or covertly, in cash or in kind, to induce a person to refer
3 individuals for the furnishing of services or items for which payment may be made, in
4 whole or in part, under the Medicare program, in violation of United States Code, title 42,
5 section 1320a-7b, subdivision (b)(2)(A).

6 C. Committing federal health care fraud by knowingly and willfully
7 executing, or attempting to execute, a scheme or artifice to defraud the Medicare and
8 Medi-Cal programs, in connection with the delivery of or payment for health care
9 benefits, items, or services, in violation of United States Code, title 18, section 1347,
10 subdivision (1).

11 D. Committing federal health care fraud by knowingly and willfully
12 obtaining, by means of false or fraudulent pretenses, representations, or promises, the
13 money or property owned by, or under the custody or control of, the Medicare program
14 and/or the Medi-Cal program, in connection with the delivery of or payment for health
15 care benefits, items, or services, in violation of United States Code, title 18, section 1347,
16 subdivision (2).

17 E. Knowingly and willfully, in a matter involving the Medicare program
18 and/or the Medi-Cal program, falsifying, concealing, or covering up, by trick, scheme, or
19 device, a material fact, in connection with the delivery of or payment for health care
20 benefits, items, or services, in violation of United States Code, title 18, section 1035,
21 subdivision (a)(1).

22 F. Knowingly and willfully, in a matter involving the Medicare program
23 and/or the Medi-Cal program, making a materially false, fictitious, or fraudulent
24 statement or representation, or making or using a materially false writing or document,
25 knowing it to contain a materially false, fictitious, or fraudulent statement or entry, in
26 connection with the delivery of or payment for health care benefits, items, or services, in
27 violation of United States Code, title 18, section 1035, subdivision (a)(2).

1 G. Knowingly and willfully falsifying, concealing, or covering up, by trick,
2 scheme, or device, a material fact in a matter within the jurisdiction of HHS, in violation
3 of United States Code, title 18, section 1001, subdivision (a)(1).

4 H. Knowingly and willfully making, or causing another to make, a materially
5 false, fictitious, or fraudulent statement or representation in a matter within the
6 jurisdiction of HHS, in violation of United States Code, title 18, section 1001,
7 subdivision (a)(2).

8 I. Knowingly and willfully making, using, or causing another to make or use
9 a false writing or document in a matter within the jurisdiction of HHS, knowing it to
10 contain a materially false, fictitious, or fraudulent statement or entry, in violation of
11 United States Code, title 18, section 1001, subdivision (a)(3).

12 J. Conspiring to commit any of the aforementioned federal criminal offenses,
13 in violation of United States Code, title 18, section 371.

14 K. Conspiring to defraud the United States Government or HHS regarding the
15 processing and payment of claims made pursuant to the Medicare program, in violation
16 of United States Code, title 18, section 371.

17 L. Conspiring to commit health care fraud, in violation of United States
18 Code, title 18, section 1349.

19 M. Knowingly presenting, or causing to be presented, to the United States
20 Government a false or fraudulent claim for payment or approval, in violation of United
21 States Code, title 31, section 3729, subdivision (a)(1).

22 N. Knowingly making, using, or causing to be made or used, a false record or
23 statement to get a false or fraudulent claim paid or approved by the United States
24 Government, in violation of United States Code, title 31, section 3729, subdivision (a)(2).

25 O. Soliciting and receiving any remuneration, directly or indirectly, overtly or
26 covertly, in cash or other valuable consideration, in return for the referral, or the
27 promised referral, of individuals for the furnishing of services or merchandise for which
28

1 payment may be made, in whole or in part, under the Medi-Cal program, in violation of
2 California Welfare and Institutions Code section 14107.2, subdivision (a)(1).

3 P. Paying or offering to pay any remuneration, directly or indirectly, overtly
4 or covertly, in cash or other valuable consideration, in return for the referral of
5 individuals for the furnishing of services or merchandise for which payment may be
6 made, in whole or in part, under the Medi-Cal program, in violation of California Welfare
7 and Institutions Code section 14107.2, subdivision (b)(1).

8 Q. Knowingly and willfully executing, or attempting to execute, a scheme or
9 artifice to defraud the Medi-Cal program, in violation of California Welfare and
10 Institutions Code section 14107, subdivision (b)(4)(A).

11 R. Knowingly and willfully executing, or attempting to execute, a scheme or
12 artifice to obtain, by means of false or fraudulent pretenses, representations, or promises,
13 any of the money or property owned by, or under the custody or control of, the Medi-Cal
14 program, in connection with the delivery of or payment for health care benefits, services,
15 goods, supplies, or merchandise, in violation of California Welfare and Institutions Code
16 section 14107, subdivision (b)(4)(B).

17 S. Presenting, with intent to defraud, for allowance or payment, a false or
18 fraudulent claim for furnishing services or merchandise under the Medi-Cal program, in
19 violation of California Welfare and Institutions Code section 14107, subdivision (b)(1).

20 T. Presenting, with intent to defraud, for allowance or payment to the state
21 Medi-Cal program, a false or fraudulent claim, bill, account, voucher, or writing, in
22 violation of California Penal Code section 72.

23 U. Employing runners, cappers, steerers, or other persons to procure patients,
24 in violation of California Business and Professions Code section 2273 and 2314.

25 V. Diagnosing ailments, blemishes, deformities, diseases, disfigurements,
26 disorders, injuries, or other physical or mental conditions, without having a valid
27 physician's certificate and without otherwise being authorized to perform such diagnoses
28

1 under California law, in violation of California Business and Professions Code sections
2 2052 and 2038.

3 W. Employing, directly or indirectly, an unlicensed person to engage in the
4 practice of medicine, in violation of California Business and Professions Code sections
5 2264 and 2314.

6 X. Knowingly making a document that related to the practice of medicine and
7 that falsely represented the existence of a state of facts, in violation of California
8 Business and Professions Code sections 2261 and 2314.

9 Y. Creating, with fraudulent intent, a false medical record in violation of
10 California Business and Professions Code sections 2262 and 2314.

11 Z. Having the care or custody of a dependent adult and willfully causing or
12 permitting that dependent adult to be placed in a situation in which his or her health may
13 be endangered, in violation of California Penal Code section 368, subdivision (c).

14 AA. Conspiring to commit any of the aforementioned state criminal offenses,
15 in violation of California Penal Code section 182, subdivision (a)(1).

16 BB. Conspiring to commit acts injurious to the public health, in violation of
17 California Penal Code section 182, subdivision (a)(5).

18 CC. Knowingly presenting or causing to be presented to the State of California
19 a false claim for payment or approval, in violation of California Government Code
20 section 12651, subdivision (a)(1).

21 DD. Knowingly making, using, or causing to be made or used a false record or
22 statement to get a false claim paid or approved by the State of California, in violation of
23 California Government Code section 12651, subdivision (a)(2).

24 EE. Admitting a patient without an order from a member of the medical staff
25 of the hospital who is lawfully authorized to diagnose, prescribe and treat patients, in
26 violation of California Code of Regulations, title 22, section 70717, subdivision (c).

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1 89. Within the four years preceding the filing of this Complaint, Defendants
2 and each of them, further violated the UCL by engaging in the following *unfair* business acts
3 and practices, among others:

4 A. Defendants threatened incipient violations of the aforementioned State
5 laws and violated the public policy embodied in and spirit of those laws.

6 B. Defendants violated the established public policy of the State of
7 California, which, among other things, seeks to: prevent hospitals, doctors, and others
8 from paying bribes, kickbacks and other forms of remuneration to generate referrals of
9 patients whose medical treatment will be paid under the Medi-Cal program; protect the
10 Medi-Cal program against false and fraudulent claims and schemes to defraud; ensure
11 that Medi-Cal funds are used only to pay claims for health care services and merchandise
12 that were medically necessary; protect the public against the unauthorized practice of
13 medicine; prohibit unlicensed, unauthorized, untrained and unskilled persons from
14 diagnosing medical conditions; ensure the accuracy and integrity of medical records; and
15 require that all hospital admissions be by order of a licensed and authorized physician.

16 C. Defendants' conduct as described in this Complaint has been immoral,
17 unethical, oppressive and unscrupulous in that Defendants depleted the Medi-Cal
18 program of funds by means of false and fraudulent claims; caused the Medi-Cal program
19 to pay for unnecessary hospitalization, medical procedures, drugs and merchandise;
20 exploited the vulnerabilities and dire circumstances of recruited homeless patients;
21 subjected patients to unnecessary and in some cases harmful medical treatment; exposed
22 patients unnecessarily to nosocomial infections; and distorted patients' medical histories
23 by fabricating diagnoses and falsifying medical records.

24 D. Although no claim is asserted in this action under the Federal Trade
25 Commission Act, the provisions of Section 5 of that statute [United States Code, title 18,
26 section 45, subdivision (n)] set forth factors of equal applicability to claims of unfairness
27 under the UCL. Applying and balancing those factors: (i) the injury to the Medi-Cal
28 program, the homeless recruits and the public caused by the acts and practices of

1 Defendants alleged in this Complaint is substantial; (ii) this injury is not outweighed by
2 any countervailing benefits to that program, the recruits, or the public; and (iii) the injury
3 is not one that the Medi-Cal program, the homeless recruits, or the public can reasonably
4 avoid.

5 90. Within the four years preceding the filing of this Complaint, Defendants, and each
6 of them, further violated the UCL by engaging in the following *fraudulent* business acts and
7 practices, among others:

8 A. Targeting for recruitment, to serve as hospital patients in Defendants'
9 scheme, homeless persons from in and around Skid Row who, as Defendants knew or
10 should have known, were vulnerable to exploitation in this manner due to mental illness,
11 alcohol and/or drug addiction, co-occurring disorders, and their generally woeful and
12 desperate circumstances.

13 B. Leasing, equipping and staffing space to serve as phony "assessment
14 centers" for the admission of homeless individuals recruited to serve as hospital patients.

15 C. Paying runners, cappers and other persons to recruit Medicare and
16 Medi-Cal eligible hospital patients from amongst the homeless population in and around
17 Skid Row.

18 D. Paying the MITTS DEFENDANTS to recruit and pay homeless
19 individuals to serve as hospital patients in the guise of marketing and community
20 outreach.

21 E. Paying and offering to pay homeless individuals to be hospitalized when
22 they did not need or require hospitalization.

23 F. Transporting homeless recruits to and from the Participating Hospitals by
24 ambulance when such transportation was not needed or required.

25 G. Employing unlicensed, unauthorized, untrained and unskilled personnel to
26 prepare Admission Forms containing fabricated diagnoses.

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28 ///

1 H. Submitting false and fraudulent claims to the Medicare and Medi-Cal
2 programs seeking payment for unnecessary hospitalization, testing and treatment of
3 patients.

4 I. Concealing material facts from the Medicare and Medi-Cal programs,
5 HHS and the California Department of Health Care Services concerning the HOSPITAL
6 DEFENDANTS' payment of the MITTS DEFENDANTS; the manner in which homeless
7 patients were recruited, paid and admitted to the Participating Hospitals; and the lack of
8 necessity for their hospitalization and, in some cases, for the medical treatment they
9 received while hospitalized.

10 J. Telefaxing completed Admission Forms with fabricated diagnoses to the
11 Participating Hospitals to serve as the basis for admitting homeless recruits and for
12 inclusion in their medical records.

13 K. Admitting recruited homeless patients to the Participating Hospitals on the
14 basis of fabricated diagnoses contained in the Admission Forms.

15 L. Depriving recruited homeless patients of the honest services of their
16 treating and admitting physicians and the hospitals to which they were admitted.

17 91. The Defendants' acts of unfair competition present a continuing threat to the
18 public's health, safety and welfare, and Plaintiff has no adequate remedy at law. Accordingly,
19 unless Defendants are permanently enjoined and restrained by order of this Court, they will
20 continue to commit acts of unfair competition, and thereby continue to cause irreparable harm
21 and injury to the public's health, safety and welfare.

22
23 **PRAYER FOR RELIEF**

24 Wherefore, the PEOPLE pray that:

25 1. Pursuant to Business and Professions Code sections 17203 and 17204 and the
26 equitable powers of the Court, Defendants, together with their agents, servants, employees,
27 partners, associates, officers, representatives and all persons acting on behalf of, in concert with,
28 or for them, be enjoined from engaging in the unlawful, unfair and/or fraudulent business acts

1 and practices described in this Complaint; be ordered to comply with all laws and regulations
2 governing the conduct of health care providers and the reimbursement of those providers by state
3 and federally funded health care benefit programs; and be required to take such actions and adopt
4 such measures as are necessary to prevent Defendants from engaging in further such acts or
5 practices.

6 2. Pursuant to Business and Professions Code sections 17203 and 17204 and the
7 equitable powers of the Court, Defendants be ordered to disgorge all ill-gotten gains realized as a
8 result of the unlawful, unfair and fraudulent business acts and practices alleged herein, and as
9 necessary to prevent Defendants from further using or employing such acts and practices.

10 3. Pursuant to Business and Professions Code section 17206, Defendants be assessed
11 a civil penalty of \$2,500 for each violation of the UCL that they committed, caused, aided,
12 abetted, or conspired to commit.

13 4. Pursuant to Business and Professions Code section 17206.1, Defendants be
14 assessed an additional civil penalty of \$2,500 for each violation of the UCL they committed,
15 caused, aided, abetted, or conspired to commit against one or more "senior citizens" or "disabled
16 persons," as those terms are defined in Business and Professions Code section 17206.1,
17 subdivisions (b)(1) and (b)(2), respectively.

18 5. The PEOPLE recover the costs of this action.

19 6. The PEOPLE be granted such other and further relief as the Court may deem to
20 be just and proper.

21 Dated: August 6, 2008

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