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KEVIN STOCK
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NO: 13-2-12653-8

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7 **IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON**
8 **IN AND FOR THE COUNTY OF PIERCE**
9

10 CHRISTINA MIESMER,

11 Plaintiff,

12 vs.

13 HUNTER DONALDSON, LLC, a California
14 limited liability company; MULTICARE
15 HEALTH SYSTEM, a Washington nonprofit
16 corporation; REBECCA A. ROHLKE,
17 individually, on behalf of the marital
18 community and as agent of Hunter
19 Donaldson; JOHN DOE ROHLKE, on behalf
20 of the marital community; RALPH
21 WADSWORTH, individually, on behalf of
22 the marital community, and as agent of
23 Hunter Donaldson, and; JANE DOE
24 WADSWORTH, on behalf of the marital
25 community.

26 Defendants.

NO. 13-2-12653-8

**REPLY IN SUPPORT OF PLAINTIFF'S
MOTION FOR A TEMPORARY
RESTRAINING, A PRELIMINARY
INJUNCTION AND A SHOW CAUSE
ORDER AGAINST HUNTER
DONALDSON AND MULTICARE**

27 **I. REPLY**

28 **A. Introduction**

29 In response to this motion filed by Plaintiff Christina Miesmer, the submissions of
30 Defendants Hunter Donaldson, LLC, Rebecca A. Rohlke, and Ralph Wadsworth (collectively
31 the "Hunter Donaldson Defendants") and Defendant MultiCare neither refute nor even
32 address the key facts that support this motion: (1) The MultiCare liens filed by Hunter

33 REPLY IN SUPPORT OF PLAINTIFF'S MOTION FOR
34 A TEMPORARY RESTRAINING, A PRELIMINARY
35 INJUNCTION AND A SHOW CAUSE ORDER
36 AGAINST HUNTER DONALDSON AND
MULTICARE



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1 Donaldson are invalid; (2) MultiCare and Hunter Donaldson fraudulently obtained the liens
2 by fraudulently registering a notary and falsifying the sworn statement section of these
3 instruments; (3) MultiCare and Hunter Donaldson continue to assert a lien against Plaintiff
4 Christina Miesmer despite knowing it is invalid, and; (4) By continuing to assert the invalid
5 lien, MultiCare and Hunter Donaldson prevent Plaintiff Christina Miesmer from receiving
6 badly needed compensation for injuries she suffered in a car crash on December 3, 2011.

7 The documents attached to the Complaint for Damages and to the Declaration of
8 Darrell L. Cochran in Support of the Temporary Restraining Order plainly show that
9 Defendants have engaged in fraud, deceit, and criminal behavior including violating RCW
10 40.16.030 through a calculated commercial scheme in order to, as Hunter Donaldson's own
11 promotional materials characterize it, "optimize [the healthcare provider's]
12 recovery/reimbursement." Declaration of Darrell L. Cochran in support of Plaintiff's Reply
13 to Motion for Temporary Restraining Order at Ex. 1. Hunter Donaldson website.
14 Defendants have done nothing to challenge these facts.

15 Defendants claim that there is no factual basis for success on the merits, but fail to
16 explain how Defendants' fraudulent notary application, faulty jurat, unlawful collections
17 activity and criminal violations of public records laws do anything short of proving beyond a
18 shadow of a doubt the need for immediate court intervention. According to Hunter
19 Donaldson's principal Ralph Wadsworth own declaration, MultiCare and Hunter Donaldson
20 have *already collected* more than \$5 million based on these unlawful liens. Now the
21 defendants have plainly invaded the rights of this plaintiff by inextricably attaching the name
22 "Hunter Donaldson" with the plaintiff's on a check for damages for her injuries from an at-
23 fault third party, rendering it unredeemable¹. The defendant's fraudulent liens have caused
24

25 ¹ Defendant Ralph Wadsworth asserts that "If Ms. Miesmer is willing to sign the check made out to her and
26 Hunter Donaldson and send it to Hunter Donaldson, we will issue Ms. Miesmer a check for the difference
between the amount MultiCare is entitled to collect under the lien (25% of her recovery) and the check she
received from the tortfeasor's insurer." Decl. of R. Wadsworth at ¶6. However, the medical liens asserted
against Plaintiff Miesmer by Defendants, and two other unrelated health care providers total \$12,891.47, more

1 actual harm, not speculative or theoretical in any way, which warrants an immediate
2 injunction.

3 In addition, a temporary restraining order or an injunction is perfectly appropriate
4 where the Hunter Donaldson continues to act unlawfully as an unlicensed collection agency in
5 Washington State. RCW 19.16.110. Under RCW 19.16.440, the unlicensed operation of a
6 collection company is a per se CPA violation and, pursuant to RCW 19.16.430, Hunter
7 Donaldson's unlicensed collections are criminal. Considering that the factors examined upon
8 application for an injunction are to be "examined in light of equity including balancing the
9 relative interests of the parties and, if appropriate, the interests of the public," a restraining
10 order enjoining Hunter Donaldson's continued illegal activities is warranted. *Butler v. Craft*
11 *Engineering & Construction Co.*, 67 Wn. App. 684, 693, 843 P.2d 1071 (1992) (quoting *Tyler*
12 *Pipe Industries, Inc. v. Dept. of Revenue*, 96 Wn.2d 785, 792, 638 P.2d 1213 (1982)).

13 This motion seeks to free Plaintiff Christina Miesmer from the continued use of an
14 invalid lien and clear the path for her to fully and finally resolve her claim. She has
15 demonstrated in her complaint and in this motion that the lien is invalid and the defendants
16 have acknowledged she is correct by failing to even discuss the lien. Her motion is simple
17 and should be granted.

18 **B. Defendants' Liens Are Against Plaintiff's Miesmer's Property Rights**

19 Under RCW 60.44.010, when a person receives medical services for a "traumatic
20 injury," the statute authorizes medical service providers to create a lien "upon any claim, right
21 of action, and/or money to which such person is entitled against any tort-feasor and/or insurer
22 of such tort-feasor." (Emphasis added). The claims and rights of action belong to the injured
23 person, not the tortfeasor or the tortfeasor's insurer, as Defendants would have this Court
24 believe. As such, medical service liens under chapter 60.44 RCW are against the plaintiff, not

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26 than 51% of Miesmer's total recovery (\$25,000). Neither Hunter Donaldson nor MultiCare offers any basis why
allocation should be weighted in their over other medical service liens. Exhibit 2 to Cochran Decl.

REPLY IN SUPPORT OF PLAINTIFF'S MOTION FOR
A TEMPORARY RESTRAINING, A PRELIMINARY
INJUNCTION AND A SHOW CAUSE ORDER
AGAINST HUNTER DONALDSON AND
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1 the tortfeasor. *Layton v. Home Indem. Co.*, 9 Wn.2d 25, 28, 113 P.2d 538 (1941)
2 (“[H]ospitals, nurses, and physicians rendering services for traumatic injuries were given liens
3 upon claims and rights of action for the recovery of compensation by persons injured through
4 the fault or negligence of others.”). A “claim,” for purposes of creating a lien against
5 settlement proceeds, is defined in Black’s Law Dictionary as “[t]he assertion of an existing
6 right; any right to payment or to an equitable remedy, even if contingent or provisional.”
7 BLACK’S LAW DICTIONARY at 240 (7th ed.1999).

8 Similarly, RCW 60.44.050 describes the lien as being a lien on money owed by the
9 tortfeasor to the plaintiff. “No settlement made by and between the patient and tort feisor
10 and/or insurer shall discharge the lien against any money due or owing by such tort feisor or
11 insurer to the patient.” Plainly, a lien on a plaintiff’s right of recovery is an economic injury
12 in fact that is well within the “zone of interests” of chapter 60.44 RCW.

13 Moreover, similar to California’s medical lien filing statute, Washington’s medical
14 lien filing statute not only includes provisions with which a medical services provider must
15 comply in order to create a lien, but also includes a provision limiting the lien amount to a
16 certain percentage of the injured person’s total recovery from an insurer or tortfeasor.
17 Compare Cal. Civ. Code §§3045.4-.5 (lien filing and requirements and lien amount limitation)
18 with RCW 60.44.020 (lien filing requirements and percentage limitation); *see also*, *County of*
19 *San Bernadino v. Calderon*, 148 Cal.App.4th 1103, 1107-1109 (2007).² Reading these
20 provisions in tandem, California courts have held that its medical lien statutes’ purpose was to
21 balance a medical service provider’s need for “payment for emergency medical services” with
22 “the need of the patient to have funds available to address other losses resulting from an
23 accidental injury.” *Calderon*, 148 Cal. App. at 1111.

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² *County of San Bernadino v. Calderon*, 148 Cal.App.4th 1103 (2007) is attached.

1 Like California’s medical lien statutes, RCW 60.44.020 manifests the legislature’s
2 intent to protect the interests of both medical service providers and recipients. RCW
3 60.44.020’s lien creation, filing, and notice requirements further this dual purpose by ensuring
4 that the injured person (in addition to the third party tortfeasor, and/or insurer) receives notice
5 of the lien’s creation, thus notifying the injured person of the medical service provider’s to
6 seek compensation from the injured person’s recovery from third parties, and, thus, the extent
7 of the lien’s impact on the injured person’s “funds available to address other losses resulting
8 from an accidental injury.” *Calderon*, 148 Cal. App. at 1111. Accordingly, Plaintiff
9 Christina Miesmer, as the injured person who received emergency medical services, is the
10 adversely effected party that RCW 60.44.020 specifically applies to, not the tortfeasor or the
11 tortfeasor’s insurer.

12 **C. Defendants’ Request for Dismissal or a Stay of the Action is Not Appropriate**

13 Defendants predictably accuse Plaintiff and her attorneys of “gamesmanship” by the
14 filing of this action and its accompanying request for a temporary restraining order. However,
15 Plaintiff did not seek an injunction ex parte, but instead served Defendant MultiCare and sent
16 the complaint and the motion directly to all the defendants’ attorneys. More importantly,
17 Defendants cannot explain how the suit currently removed to federal court, with a motion for
18 remand awaiting action, has any bearing on the jurisdiction in Plaintiff Christina Miesmer’s
19 case. Because (1) the federal court does not have jurisdiction in this case, (2) the federal court
20 cannot assert jurisdiction where none exists, and (3) Plaintiff has no other court to which she
21 can properly apply for relief, the Defendants calls for dismissal or a stay of this action are not
22 appropriate.

23 1. Federal Court Does Not Have Jurisdiction of Plaintiff Miesmer’s Case

24 Defendants premise their argument for dismissal or a stay based on the incorrect
25 assumption that two courts have jurisdiction over Plaintiff Christina Miesmer’s action.
26 However, state court is the *only* jurisdiction to properly hear this matter. Miesmer’s

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AGAINST HUNTER DONALDSON AND
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1 complaint does not present either a federal question or diversity jurisdiction necessary for
2 federal court jurisdiction. Federal district courts are courts of limited jurisdiction. They only
3 have subject-matter jurisdiction if a claim arises under federal law, or if no plaintiff shares a
4 state of citizenship with any defendant and the amount in controversy exceeds \$75,000. 28
5 U.S.C. §§ 1331, 1332(a). Here, the propriety of Defendants’ liens and their unlawful
6 encumbrance on Plaintiff’s property does not present a federal question under §1331.
7 Similarly, Defendants do not contest that MultiCare is a Washington nonprofit corporation,
8 sharing the same state of citizenship with Plaintiff, thus defeating jurisdiction under §1332(a).
9 Further, with regard to the possibility of the inclusion of Plaintiff’s action with a larger class
10 action, no class action has been approved, and therefore no class exists for Plaintiff to join.³
11 Defendants suggest that comity requires a stay or dismissal of Miesmer’s action but cannot
12 refute that Plaintiff is not a party to any other existing action and that jurisdiction for her
13 particular claim is only proper in state court.

14 2. The Federal Court Cannot Assert Jurisdiction Where Jurisdiction Does Not Exist

15 Further, if Plaintiff Miesmer’s suit is similar to those in the proposed *Walker* class
16 action, the federal court could not assume jurisdiction over it. As the *Walker* plaintiffs have
17 argued extensively in federal court, the Washington-centric nature of MultiCare’s medical
18 services liens, the injuries caused by them, and the laws invalidating them render such claims
19 a “local controversy,” thus divesting the federal court of jurisdiction under the applicable
20 statutes and requiring remand to the proper state forum. Cochran Decl. at Ex. 3, pp. 1-7.
21 Also, Defendants’ own arguments in federal court in the *Walker* action effectively concede
22 that this court should exercise jurisdiction over Plaintiff Miesmer’s suit. Defendants have
23 argued to the federal court that the *Walker* plaintiffs lack standing in that court under Article
24 III of the federal constitution. See Declaration of Moore in support of Defendant HD’s

25 _____
26 ³ Regardless of the federal jurisdictional question presently in front of the U.S. District Court at Tacoma, Defendants do not contest that Plaintiff could choose to opt out of the class and pursue her action individually in state court.

1 Opposition to Plaintiff's Motion for a Temporary Restraining Order. But Article III standing
2 is an issue of the federal court's jurisdiction. *Cetacean Cmty. v. Bush*, 386 F.3d 1169, 1174
3 (9th Cir. 2004). And a party invoking federal jurisdiction bears the burden of establishing that
4 court's jurisdiction, including standing.⁴ *Steel Co. v. Citizens for a Better Env't*, 523 U.S. 83,
5 103, 118 S. Ct. 1003, 140 L. Ed. 2d 210 (1998); *Abrego Abrego v. The Dow. Chem. Co.*, 443
6 F.3d 676, 686 (9th Cir. 2006). By Defendants' own admission, a federal court could not
7 properly exercise jurisdiction over claims such as Plaintiff Miesmer's, rendering this court as
8 the appropriate forum. Indeed, Plaintiff Miesmer finds it ironic that Defendants accuse her of
9 "gamesmanship" in seeking relief in this court when Defendants removed the *Walker* action
10 to federal court to avoid the motion for an injunction filed by the *Walker* Plaintiffs in Pierce
11 County Superior Court before Judge Susan Serko and despite knowing from the outset that
12 the federal court had no subject matter jurisdiction over such an action.

13 3. There Is No Other Remedy for Plaintiff Miesmer

14 The interests of justice clearly require a speedy resolution of this important issue.
15 Plaintiff Miesmer is being deprived of a property right by Defendants' fraudulent liens and
16 their ceaseless efforts to collect on the invalid lien, *even within the context of this motion*.
17 *E.g.*, Decl. of R. Wadsworth at ¶6 ("If Ms. Miesmer is willing to sign the check made out to
18 her and Hunter Donaldson and send it to Hunter Donaldson, we will issue Ms. Miesmer a
19 check for the difference between the amount MultiCare is entitled to collect under the lien
20 (25% of her recovery) and the check she received from the tortfeasor's insurer."). As Ralph
21 Wadsworth's declaration proves, there is no indication Defendants' activities will stop unless
22 and until an order by the Court enjoining Defendants is entered. It would be manifestly unfair
23 for Plaintiff to be denied her right to a remedy under the circumstances.

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26 ⁴ As a corollary to this rule, federal courts across the country have recognized that, upon determining the
plaintiffs in a removed case lack Article III standing, the proper remedy is to remand the case to state court,
where the plaintiffs may have standing under differing state standards. *Cochran Decl. at Ex. 4*, pp. 11-12.

REPLY IN SUPPORT OF PLAINTIFF'S MOTION FOR
A TEMPORARY RESTRAINING, A PRELIMINARY
INJUNCTION AND A SHOW CAUSE ORDER
AGAINST HUNTER DONALDSON AND
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1 **D. The Motion for the Restraining Order Should Be Granted Because Plaintiff Is**
2 **Likely To Succeed On The Merits Of Demonstrating The Invalidity Of**
3 **Defendants’ Medical Services Liens.**

4 In order to establish a “clear legal or equitable right,” Plaintiff must show a likelihood
5 of success on the merits. *Rabon v. City of Seattle*, 135 Wn.2d 278, 285, 957 P.2d 621
6 (1998). Plaintiff Miesmer easily makes this showing due to Defendants’ numerous failures to
7 comply with RCW 60.44.020’s requirements for creating a medical services lien, thus
8 rendering Defendants’ liens invalid. Because statutes creating liens are in derogation of
9 common law, a person claiming the benefit of a statutory lien under chapter 60.44 RCW
10 carries the burden of proving the right to it. *Pearl v. Greenlee*, 76 Wn. App. 338, 340, 887
11 P.2d 405 (1994). This burden includes a showing that the lien claimant has strictly complied
12 (also referred to as the canon of strict construction) with chapter 60.44 RCW’s
13 provisions. *Id.*

14 Defendants cite *Williams v. Athletic Field, Inc.*, 172 Wn.2d 683, 697, 261 P.3d 109
15 (2011), for the proposition that the canon of strict construction does not apply and that so-
16 called “technical” deficiencies, such as a fraudulent notarization, do not invalidate
17 Defendants’ liens. HD Opp. at 16. But *Williams* is readily distinguishable from the present
18 case. *Williams* involved the validity of mechanic’s liens under chapter 60.04 RCW. 172
19 Wn.2d at 691-92. The *Williams* Court had to resolve the statutory ambiguity in RCW
20 60.04.091(2), which requires mechanic’s liens to be filed with an acknowledgment
21 conforming to chapter 64.08 RCW, but also provided a sample lien form that was “sufficient”
22 for filing a lien. *Id.* at 692-93. In resolving this ambiguity, the *Williams* Court rejected
23 application of the canon of strict compliance because of the legislature’s express mandate that
24 the mechanic’s liens statutes ““are to be liberally construed to provide security for all parties
25 intended to be protected by their provisions.”” *Id.* at 694-95 (quoting RCW 60.04.900). The
26 *Williams* Court also recognized policy issues unique to the mechanic’s lien context: ““in an
industry where the vast majority of participants who contribute work and materials are not

1 represented by legal counsel and lack the financial resources to purchase sophisticated legal
2 services, the simplicity and reliability of the mechanics['] lien procedures established by the
3 legislature are of paramount importance.” *Id.* at 697 (quoting Br. of Amicus AGC of
4 Washington at 2). Thus, it was in the context of chapter 60.04’s express provision of liberal
5 construction for liberal construction in favor of mechanics’ lien claimants and these policy
6 issues that the *Williams* Court held that mechanics’ lien claimants “should not be punished for
7 relying on a sample form that the statute says is sufficient,” despite failing to include the
8 acknowledgement also required by the statute. *Williams*, 172 Wn.2d at 697.

9 Unlike Washington’s mechanics’ lien statutes, Washington’s medical services lien
10 statutes, chapter 60.44 RCW, **do not** contain any provisions requiring liberal
11 construction. Additionally, the policy issues present in *Williams* do not exist here; unlike the
12 typical mechanics’ lien claimant, medical services providers (and their employers) are quite
13 familiar with the law in general and are either represented by counsel or, as with Multicare in
14 this case, possess the financial resources to hire sophisticated legal counsel. Accordingly,
15 unlike in *Williams*, the canon of strict construction applies in this case.

16 Furthermore, *Williams* and the mechanics’ lien statute perfectly illustrate one of the
17 numerous reasons why Defendants’ liens are invalid under the canon of strict construction. In
18 *Williams*, our Supreme Court rejected the argument that a mechanics’ lien was invalid
19 because it was signed on behalf of the service provider by “LienData,” a “lien filing
20 agency.” *Id.* at 687, 698. The Court observed that the mechanics’ lien statute expressly
21 provided that the lien “[s]hall be signed by the claimant *or some person authorized to act on*
22 *his or her behalf.*” *Id.* at 699 (emphasis added) (quoting RCW 60.04.091(2)).

23 Here, in stark contrast to the mechanics’ lien statute, the medical services lien statute
24 provides only:

25 ***No person shall be entitled to the lien given by***
26 ***RCW 60.44.010 unless such person shall, within twenty days***
after the date of such injury or receipt of transportation or care,

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INJUNCTION AND A SHOW CAUSE ORDER
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1 or, if settlement has not been accomplished and payment made
2 to such injured person, then at any time before such settlement
3 and payment, ***file for record with the county auditor of the***
4 ***county in which said service was performed, a notice of claim***
5 stating the name and address of the person claiming the lien and
6 whether such person claims as a practitioner, physician, nurse,
7 ambulance service, or hospital, the name and address of the
8 patient and place of domicile or residence, the time when and
9 place where the alleged fault or negligence of the tort-feasor
10 occurred, and the nature of the injury if any, the name and
11 address of the tort-feasor, if same or any thereof are known,
12 ***which claim shall be subscribed by the claimant and verified***
13 ***before a person authorized to administer oaths.***

9 RCW 60.44.020 (emphasis added). The statute unambiguously requires that filed liens must
10 be subscribed by the claimant in order to be valid; in other words, “nothing in the statute
11 suggest[s] it was optional.” *Williams*, 172 Wn.2d at 698 (approving previous mechanics’ lien
12 case’s holding that failure to sign a sworn statement required by statute’s sample
13 form). Moreover, nothing in RCW 60.44.020 or the rest of chapter 60.44 RCW provides that
14 the lien may be signed by anyone ***other*** than the claimant. As evidenced by the mechanics’
15 lien statute, the legislature clearly knows how to authorize a claimant’s representatives to also
16 sign a lien, but chose not to do so. This court “must not add words where the legislature has
17 chosen not to include them.” *Restaurant Development, Inc. v. Cananwill, Inc.*, 150 Wn.2d
18 674, 682, 80 P.3d 598 (2003). Thus, under RCW 60.44.020, medical services liens must be
19 subscribed by the claimant and only by the claimant. And RCW 60.44.010 provides the
20 exclusive list of individuals and entities authorized to claim a medical services lien in
21 Washington: “[e]very operator, whether private or public, of an ambulance service or of a
22 hospital, and every duly licensed nurse, practitioner, physician, and surgeon rendering service,
23 or transportation and care.” Hunter Donaldson, operating as an unlicensed collections agency
24 in this state, falls within none of these categories of claimants, and was not permitted by RCW
25 60.44.010 and .020 to subscribe medical services liens. Thus, the lack of an actual claimant’s
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INJUNCTION AND A SHOW CAUSE ORDER
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1 signature on Defendants' liens renders them invalid under the plain language of chapter 60.44
2 RCW.⁵

3 Likewise, Defendants' liens are invalid due to their lack of verification by "a person
4 authorized to administer oaths" because of the defective jurat, sworn statement, and other
5 defects stemming from Defendant Rohlke's fraudulently obtained and legally invalid
6 Washington State notary commission. Defendant Rohlke obtained this notary commission
7 through the provision of false Washington residency information by Jason Adams,
8 Multicare's Vice President of Revenue Cycle at the time. Tellingly, Defendants do not
9 attempt to refute this fact, instead attempting to misrepresent the fraudulent notarization as
10 merely a "technical deficiency" or "faulty." HD Opp. at 16. But this ignores the fact of what
11 Defendant Rohlke's notarizations truly were: *fraudulent, and criminal*. RCW 60.44.020
12 (requiring a notarized lien to be filed in the county auditor's office); RCW 40.16.030 (making
13 it a class C felony to "knowingly procure or offer any false or forged instrument to be filed,
14 registered, or recorded in any public office, which instrument, if genuine, might be filed,
15 registered or recorded in such office under any law of this state or of the United
16 States."). Even if this court were inclined to apply a rule of liberal construction or substantial
17 compliance, Defendants should not receive the benefit of such rule given the fraudulent nature
18 of some of the defects invalidating their liens. *See Williams*, 172 Wn.2d at 697 (stating that
19 mechanics' lien claimants should not be punished under a rule of strict construction given the
20 lack of any suggestion that they "acted fraudulently in filing [their] claim of lien"). For all
21 these reasons, Plaintiff is likely to succeed on the merits of demonstrating the invalidity of
22 Defendants' liens, and, thus, she has a clear legal or equitable right requiring injunctive relief.
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25 ⁵ Defendants argument that a corporation cannot sign a lien, but must have agent Hunter Donaldson do so is
26 misguided. As the May 24, 2013 Notice of Lien Claim, filed by MultiCare after the *Walker* suit was filed,
demonstrates, when challenged about the necessary signatures, a MultiCare manager of patient accounts
subscribed and verified this particular instrument. Exhibit 6 to Cochran Decl.

REPLY IN SUPPORT OF PLAINTIFF'S MOTION FOR
A TEMPORARY RESTRAINING, A PRELIMINARY
INJUNCTION AND A SHOW CAUSE ORDER
AGAINST HUNTER DONALDSON AND
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1 **II. CONCLUSION**

2 The issues raised by Defendants in response to this motion by Plaintiff Christina
3 Miesmer have nothing to do with her fate. She has correctly filed her case in Pierce County
4 where the crash occurred, the medical care was received, and the lien was filed. As she stated
5 in her Complaint, the class action filed by a group of plaintiffs in Pierce County is an
6 excellent method for resolving the thousands of identical claims but it was removed to federal
7 court by MultiCare and Hunter Donaldson, sidestepping the injunction those plaintiffs sought
8 in front of Judge Serko and affording themselves a substantial delay in the administration of
9 justice. These two corporate defendants have used the delay to continue using their invalid
10 liens to leverage money from Christina Miesmer, a young lady with a baby who had insurance
11 coverage for her car crash injuries through Molina, but learned that MultiCare had decided to
12 increase its profits by disregarding the Molina coverage and filing a lien against her tort
13 claim.

14 The Defendants point out that services were rendered and amounts owed are due:
15 while that point has nothing to do with this motion, it merits a brief reply. MultiCare did
16 provide medical services for which payment was due: but the question is how much is
17 actually owed and who or what is responsible for payment. Plaintiff Christina Miesmer
18 presented to a MultiCare-owned hospital with Molina insurance to cover her medical bills.
19 MultiCare decided against submitting the bills to Molina because it made a business decision
20 that it could make more money by utilizing a California company to file a lien against her tort
21 claim under Washington’s Medical Lien Services statutes and collect from her recovery in the
22 event of a settlement. But the decision to by-pass the Molina coverage in favor of the lien
23 process required MultiCare to use care in following the statutory requirements for that type of
24 recovery. MultiCare chose to use Hunter Donaldson. Multicare chose to provide a false
25 residence address for purposes of fraudulently obtaining a notary. The lien it has filed against
26 Plaintiff Christina Miesmer has no legal merit and the defendants cannot use it to affect the

1 settlement recovery by Plaintiff. MultiCare and Hunter Donaldson now must figure out what
2 other legal mechanism there is available to recover for services rendered by MultiCare.
3 Perhaps MultiCare will now submit the medical bills to Molina. Perhaps MultiCare will sue
4 Hunter Donaldson for the tortious activity which has invalidated the medical care lien.
5 MultiCare and Hunter Donaldson have explored all of the available options there are to
6 recoup payment for its services and they will no doubt make it clear which route they will
7 take after this lien issue is decided. But that is not the issue here at bar: only the validity of
8 the lien is at issue here.

9 For these reasons, and for the reasons set out previously in Plaintiff's original motion
10 and memorandum in support, Plaintiff Christina Miesmer asks this Court for a temporary
11 restraining order under CR 65(b) or in the alternative, because all parties have been served
12 and are on notice, a preliminary injunction under CR 65(a), enjoining Defendants MultiCare
13 and Hunter Donaldson from collecting or enforcing liens on behalf of Defendant MultiCare
14 which violate Washington law.

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REPLY IN SUPPORT OF PLAINTIFF'S MOTION FOR
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DATED this 12th day of September, 2013.

PFAU COCHRAN VERTETIS AMALA, PLLC

By: 
Darrell L. Cochran, WSBA No. 22851
darrell@pcvalaw.com
Loren A. Cochran, WSBA No. 32773
loren@pcvalaw.com
Kevin M. Hastings, WSBA No. 42316
kevin@pcvalaw.com
Attorneys for Plaintiff

THE LAW OFFICES OF WATSON
& GALLAGHER, P.S.

By: /s/ Thomas F. Gallagher
Thomas F. Gallagher, WSBA No. 24199
tom@wglaw.comcastbiz.net
Attorney for Plaintiff

REPLY IN SUPPORT OF PLAINTIFF'S MOTION FOR
A TEMPORARY RESTRAINING, A PRELIMINARY
INJUNCTION AND A SHOW CAUSE ORDER
AGAINST HUNTER DONALDSON AND
MULTICARE



911 Pacific Avenue, Suite 200
Tacoma, WA 98402
Phone: (253) 777-0799 Facsimile: (253) 627-0654
www.pcvalaw.com

1 **CERTIFICATE OF SERVICE**

2 I, **Laura Neal**, hereby declare under penalty of perjury under the laws of the State of
3 Washington that I am employed at Pfau Cochran Vertetis Amala PLLC and that on today's
4 date, I served the foregoing to the following individuals via Email per agreement:

5 Michael Madden
6 Amy Magnano
7 Jenny Churas
8 Bennett Bigelow & Leedom
9 601 Union St., Ste. 1500
10 Seattle, WA 98101
11 Attorney for Multicare

12 Thomas L. Boeder
13 Cori Moore
14 Perkins Coie LLP
15 1201 Third Ave. Ste. 4800
16 Seattle, WA 98101

17 DATED this 12th day of September, 2013.

18 
19 _____
20 Laura Neal
21 Legal Assistant to Darrell L. Cochran

22 4835-2938-2677, v. 1

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