

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

KEVIN McCABE,

Plaintiff,

-against-

CVS HEALTH CORPORATION and
CVS PHARMACY, INC.,

Defendants.

1:22-cv-03116-RPK-RML

AMENDED COMPLAINT

INTRODUCTION

1. In November, 2021, CVS Health Corporation and one of its wholly-owned subsidiaries, CVS Pharmacy, Inc. (collectively, “CVS”), asked CVS’s customers to make donations to the American Diabetes Association (the “ADA”). However, the fundraiser not what CVS made it seem. CVS told its customers that all of their donations would go to the ADA, but, instead, CVS used donations to reimburse itself for its own debt to the ADA, which was in the amount of \$10,000,000. One might be forgiven for thinking that any money raised from customers *beyond* \$10,000,000 would go to the ADA, and, indeed, CVS, initially, had explicitly agreed with the ADA that this would be the case. However, less than a week before the fundraiser was to begin, the agreement to give that money to the ADA was not only eliminated, but CVS was no longer required to give *any* of it to the ADA.

2. In short, CVS concluded millions of transactions by asking its customers to donate to the ADA even though CVS had seen to it that it would not have to give a single cent from those donations to the ADA.

3. CVS went out of its way to ensure that its customers would remain in the dark with respect to the dirty truths of the fundraiser:

- CVS falsely implied that the CVS's \$10 million debt would be paid with CVS's own money, not the money that its customers thought they were donating;
- CVS issued a press release that falsely implied that CVS's \$10 million debt was separate, apart, and independent of customer donations, and this same press release, which CVS issued after agreeing with the ADA that CVS would not have to give the ADA *any* money that customers donated in excess of \$10 million, clearly indicated that the *entirety* of each customer donations would go to the ADA;
- The receipts that CVS gave to those customers who made (that is, who thought they made) donations stated that their entire donations would go to the ADA, which CVS knew was false;
- Contrary to the clear implications, on the receipts that CVS gave to those customers who made (that is, who thought they made) donations, that the donations were entirely tax-deductible, the donations were not tax-deductible at all;
- CVS violated a Massachusetts law by operating the fundraiser in that state without filing, with the state's attorney general's office, a copy of the fundraising agreement and amendment, which the attorney general's office would then have posted online for the public to access.

4. In sum, CVS defrauded its customers; that is, those customers who, in response to being requested by CVS, spent their own money on what they thought was a donation to the ADA but that, instead, went fully or partly to CVS.

5. One might be forgiven for thinking that CVS would proudly announce the results of its campaign, but CVS, as part of its policy of non-transparency, keeps those results a secret.

PARTIES

6. Plaintiff, Kevin McCabe (“McCabe”), resides in the Eastern District of New York and is a citizen of the State of New York.

7. Defendant, CVS Health Corporation, is a corporation organized and existing under the laws of Delaware, and maintains its principal place of business at One CVS Drive, Woonsocket, Rhode Island 02895.

8. Defendant, CVS Pharmacy, Inc., is a corporation organized and existing under the laws of Rhode Island, and maintains its principal place of business at One CVS Drive, Woonsocket, Rhode Island 02895.

JURISDICTION AND VENUE

9. This Court has jurisdiction under 28 U.S.C. Section 1332(d)(2)(A).

10. The matter in controversy would exceed an aggregated sum or value of \$5,000,000, exclusive of interest and costs, if the putative class (described below) were certified.

11. Venue is proper in this District pursuant to 28 U.S.C. Section 1391(b)(2).

12. At least two thirds of the members of the putative class are not citizens of the State of New York.

FACTS

I. The In-Store Fundraising Campaign

13. From November 2, 2021, through November 27, 2021, CVS conducted a fundraising campaign (the “Campaign”) in which, prior to the completion of transactions at its nearly ten thousand retail stores in the 50 States and the District of Columbia, CVS’s customers (“Customers”) were asked on the checkout screen (also known as the pin pad) if they wished, as part of the checkout process, to make a donation (a “Campaign Donation”), above and beyond the price of their purchase, to the ADA by tapping one of several boxes on the checkout screen, each of which contained a pre-

selected amount, or to decline to make a Campaign Donation by tapping a box stating “no” (the “Checkout Message”).

14. The ADA is a non-profit corporation organized and existing under the laws of Ohio, and maintains its principal place of business in Arlington, Virginia.

15. The Checkout Message was the only term of the Campaign that CVS provided to Customers.

16. The Checkout Message had only one reasonable understanding: that CVS was merely collecting Campaign Donations and forwarding them to the ADA.

17. The Checkout Message was a material aspect of the Campaign.

18. CVS knew that the Checkout Message a material aspect of the Campaign.

19. CVS intended that Customers would rely upon the Checkout Message in deciding whether to make a Campaign Donation.

20. Customers had no reason to believe that the Checkout Message was anything but true and accurate.

II. CVS Uses Customer “Donations” to Pay Down CVS’s \$10,000,000 Debt

21. CVS executed the Campaign pursuant to an agreement between CVS and the ADA titled “Corporate Sponsorship Agreement” (“CSA”) (a copy of the CSA is attached as Exhibit “A” hereto).

22. The CSA deems its validity to exist from April 13, 2021 (the “Effective Date”), through April 12, 2024.

23. The CSA includes the following section (the “CSA Donation Section”):

Company [(i.e., CVS, both here and in each other quotation of “Company” from the CSA herein)] will offer opportunities to its customers to make a donation to the ADA. Company commits to raise for the ADA a minimum of \$10,000,000 for the Term of this Agreement. The Company agrees to make annual payments of funds

raised during each calendar year of this Agreement by December 31, beginning in 2021, as set forth below.

In the event the total funds raised through in-store fundraising and cause marketing and donated to the ADA from the Effective Date through December 31, 2023 total less than \$10,000,000, Company agrees to either (i) donate funds to the ADA equal to the difference in the funds donated and \$10,000,000, or (ii) Company may, in its sole discretion, elect to conduct additional consumer campaigns prior to April [xx], 2024. Should a difference still remain due after the additional consumer campaigns, if any, are completed, Company agrees to donate funds to the ADA equal to the difference between the total funds donated and \$10,000,000. Any amounts raised over \$10,000,000 minimum will be donated to the ADA as well.

Payment Due: December 31, 2021: Funds raised during 2021 consumer campaign

Payment Due: December 31, 2022: Funds raised during 2022 consumer campaign

Payment Due: December 31, 2023: Funds raised during 2023 consumer campaign.

Final Payment Due: April 30, 2024: Funds raised from any additional consumer campaigns plus, in the event that the total funds raised is less than \$10,000,000, an amount equal to the difference between the total funds raised and \$10,000,000.

Exh. "A" at 18 (bolding in original).

24. The CSA Donation Section's statement that "Company agrees to donate funds to the ADA equal to the difference between the total funds donated and \$10,000,000" (the "CVS Guarantee") became legally binding upon CVS on the CSA's Effective Date.

25. "Attachment A" to the CSA, titled "Acknowledgement of Support" (original in all caps), states: "Company has pledged \$10 million dollars over three years." Exh. "A" at 8.

26. The CVS Guarantee constituted a debt of \$10,000,000 from CVS to the ADA (the "CVS Debt").

27. Under the CSA Donation Section, the CVS Debt was required to be satisfied no later than April 30, 2024.

28. CVS, when entering into the CSA, necessarily intended to use Campaign Donations

toward the satisfaction of the CVS Debt to the extent that Campaign Donations reached \$10,000,000.

29. CVS, by definition, used Campaign Donations toward the satisfaction of the CVS Debt to the extent that Campaign Donations reached \$10,000,000.

30. Under the CSA Donation Section, CVS was obligated to try to satisfy the CVS Debt through Campaign Donations.

31. All Campaign Donations were voluntary in that they were not based on any legal obligation that Customers owed to the ADA, CVS, or any other person or entity.

32. Under the CSA Donation Section, CVS was the only person or entity that was legally responsible for the ADA's receiving of \$10,000,000.

33. The Checkout Message was false, deceptive, and misleading because CVS was not merely collecting Campaign Donations and forwarding them to the ADA, but was, in fact, using Campaign Donations toward the satisfaction of the CVS Debt.

34. CVS's using of Campaign Donations toward the satisfaction of the CVS Debt is a material aspect of the Campaign because, whether or not a Customer made a Campaign Donation, the ADA would receive at least \$10 million.

35. CVS knew that the Checkout Message was false, deceptive, and misleading.

36. CVS foresaw that Customers would rely upon the Checkout Message because the Checkout Message was material and was the only disclosure that CVS made to Customers regarding the Campaign.

36. CVS intended that Customers would rely upon the Checkout Message because such reliance increased the likelihood that the Customer would make a Campaign Donation.

37. The counting of Campaign Donations toward the satisfaction of the CVS Debt is a material aspect of the Campaign because Customers who believed that they were making a Campaign Donation necessarily took the risk, which CVS imposed upon them, that the amount of their

Campaign Donations would be received by the ADA whether or not they made the Campaign Donation, and this risk would be fully borne out if total Campaign Donations (“Total Campaign Donations”) did not exceed \$10 million.

38. The counting of Campaign Donations toward the satisfaction of the CVS Debt is a material aspect of the Campaign because, even if the entirety of the Total Campaign Donations were to exceed \$10 million, the amount of money that Campaign Donations would cause the ADA to receive that the ADA would not receive absent the Campaign Donations is only the amount by which the Total Campaign Donations exceeded \$10 million.

39. If, for example, Total Campaign Donations were \$15 million, then \$5 million is the portion of that \$15 million that the Total Campaign Donations would have actually caused the ADA to receive.

40. If, for example, Total Campaign Donations were \$40 million, then \$30 million is the portion of that \$40 million that the Total Campaign Donations would have actually caused the ADA to receive.

41. The fact that Campaign Donations were counted toward the satisfaction of the CVS Debt should have been disclosed to Customers because Customers, knowing of this fact and thus the fact that the ADA would receive at least \$10 million whether or not they made a Campaign Donation, would be less likely to make a Campaign Donation than if they did not have such knowledge.

42. The ability of a person to make a Campaign Donation is valuable because of the emotional satisfaction that making a Campaign Donation provides.

43. The ability of a person to make a Campaign Donation is valuable because it is a convenient way to make a donation to the ADA.

44. The ability of a person to make a Campaign Donation is valuable to the donor because it should have been tax-deductible.

45. CVS's enabling of Customers to make Campaign Donations is valuable to CVS because it provides CVS with goodwill and appreciation from Customers.

III. CVS Makes a Last-Minute Change So that, Even if its Customers Pay Down CVS's \$10,000,000 Debt, CVS Would Still Not be Required to Give Any of its Customers' Money to the ADA

46. On October 28, 2021, a document titled "Amendment to Corporate Sponsorship Agreement" included a single amendment to the CSA (the "CSA Amendment") (a copy of the CSA Amendment is attached as Exhibit "B" hereto).

47. The CSA Amendment amended the CSA Donation Section's statement that "[a]ny amounts raised over \$10,000,000 minimum will be donated to the ADA as well."

48. The CSA Amendment stated:

Effective as of the Amendment Effective Date, Attachment A to the Agreement is hereby amended to include the following paragraph after the second paragraph of the section entitled "Sponsorship Fee & Payment":

"The Company may direct any funds raised in excess of \$10,000,000 over the Term of the Agreement to support other initiatives at the Company's discretion, so long as such other initiatives advance the ADA's mission. Such direction shall be provided in writing by the Company to the ADA and shall be subject to the approval of the ADA, such approval not to be unreasonably withheld."

Exh. "B" at 1.

49. The use of Campaign Donations in a manner that is approved by the ADA is materially different than the giving of Campaign Donations to the ADA.

50. The Checkout Message was false, deceptive, and misleading because, even apart from CVS's using of Campaign Donations toward the satisfaction of the CVS Debt, CVS was not, in fact, committing to forward any part of any Campaign Donations to the ADA.

IV. CVS’s Press Release Announcing the Campaign Implies that CVS, not its Customers, Would Pay CVS’s \$10,000,000 Debt

51. Further reflecting CVS’s bad faith and fraudulent intent is that, in a press release posted on CVS’s website on November 2, 2021, titled “CVS Health announces \$10 million commitment to the American Diabetes Association to reach five million patients and transform health outcomes” (the “CVS Press Release,” a copy of which is attached as Exhibit “C” hereto), CVS clearly implied that CVS’s \$10 million commitment was separate, apart, and independent of Campaign Donations by stating the following:

CVS Health (NYSE: CVS) today announced a new partnership with the American Diabetes Association® (ADA) to support families in helping to prevent and manage diabetes, as well as fund research on the devastating health disparities that fuel the diabetes epidemic. *CVS Health has committed \$10 million over three years to support people in preventing and managing diabetes with increased awareness, knowledge, and action to improve health through Project Power.* The ADA’s Project Power program aims to break down barriers that limit access to vital resources and empower participants to effectively prevent and manage diabetes.

In addition, support will fund research to better understand and address the unmet needs in underserved communities leading to the future elimination of these disparities. *CVS Health will also host an in-store fundraising campaign at all CVS Pharmacy locations nationwide during American Diabetes Month, now through November 27, to give customers an opportunity to support the ADA and build a future without diabetes.*

Exh. “C” at (emphases added).

52. “CVS Health (NYSE: CVS)” is CVS Health Corporation.

53. The CVS Press Release clearly represented that CVS Health Corporation was operating the Campaign.

V. CVS Falsely Represents that Campaign Donations are Tax-Deductible

54. Further reflecting CVS’s bad faith and fraudulent intent is that, as set forth in paragraphs “55” through “61” herein, CVS issued false, deceptive, and misleading receipts to

Customers who made a Campaign Donation.

55. Receipts given to Customers who made a Campaign Donation (“Campaign Donation Receipts”) stated, in the itemization portion: “ADA \$[] DONATION” (the “Receipt Itemization”), in which the “[]” contained the amount of the Campaign Donation.

56. Campaign Donation Receipts stated, at the bottom: “[t]hank you for supporting the next step for a cure and a future without diabetes. 100% of donations go to the American Diabetes Association. EIN 13-1623888. Keep this receipt for your tax records” (the “Receipt Statement”).

57. Campaign Donation Receipts’ statement that “100% of donations go to the American Diabetes Association” was false, deceptive, and misleading because the ADA received, as a result of a Campaign Donation, only that portion that was neither used toward the satisfaction of the CVS Debt nor by CVS with the approval of the ADA.

58. The Receipt Statement clearly implied that Campaign Donations were tax-deductible.

59. The portion of a Campaign Donation that was used toward the satisfaction of the CVS Debt was not tax-deductible.

60. The portion of a Campaign Donation that is not received by the ADA but is instead used by CVS with the approval of the ADA was not tax-deductible.

61. As a result of the preceding two paragraphs, a Customer who made a Campaign Donation could not know what, if any, portion of the Campaign Donation was tax-deductible.

VI. CVS was Required to Publicly Disclose the CSA and the CSA Amendment, but Did Not So

62. Further reflecting CVS’s bad faith and fraudulent intent is that, as set forth in the next paragraphs “63” through “68” herein, CVS executed the Campaign in Massachusetts without satisfying that state’s requirement that the CSA and the CSA Amendment be disclosed.

63. Under Mass. Gen. Laws ch. 68 § 18, CVS is a “professional solicitor,” which that

provision defines as “any person who is retained for a *financial or other consideration* by a charitable organization to solicit in this commonwealth contributions for charitable purposes *directly* or in the form of payment for goods or services” (emphases added) (the same section defines “person” as “any individual, organization, trust, foundation, group, association, partnership, corporation, society or any combination of them”).

64. Under the CSA, CVS received consideration from the ADA as follows: “[t]he ADA agrees to identify and acknowledge Company as a supporter of the organization and the diabetes cause”; “[t]he ADA grants Company a non-exclusive, limited, revocable and conditional license during the term to use the ADA Marks, solely to identify Company as a supporter of the ADA,” and CVS may use those marks “on and in conjunction with its product or brand” and “promotional materials”; “Company will be designated as the exclusive sponsor of the [ADA] Project Power Campaign in the national retail pharmacy category . . . , meaning that ADA . . . will not enter into a sponsor agreement of the [ADA] Project Power Campaign, with another company in this category without Company’s prior written consent.”

65. Mass. Gen. Laws ch. 68 § 19 states that “[e]very charitable organization . . . which intends to solicit contributions from persons within the commonwealth or have contributions solicited on its behalf by . . . professional solicitors shall, prior to any such solicitation, file an annual registration statement with the division [of public charities in the department of the attorney general] . . . [upon which] the director of the division shall issue a *certificate of registration* to a charitable organization within ten days of receipt of the registration statement. No charitable organization required to be registered under this section shall solicit funds without a valid certificate of registration” (emphasis added).

66. Although Mass. Gen. Laws ch. 68 § 19 applies only to the ADA, *i.e.*, not to CVS, Mass. Gen. Laws ch. 68 § 22(a) states that “[e]very contract or agreement between . . . a

professional solicitor and a charitable organization required to have a certificate of registration . . . shall be . . . filed with the director of the division within ten days after such contract or agreement is entered into. No solicitation shall be conducted prior to the filing of such contract or agreement” (emphases added).

67. Because the CSA was required to have a certificate of registration and was therefore required to be “filed with the director of the division” before the commencement of the Campaign in Massachusetts, CVS, as a result of the lack of filing of the CSA, commenced, and continued to execute, the Campaign in Massachusetts in violation of that state’s disclosure law.

68. The division of public charities in the department of the attorney general of Massachusetts publicly posts, online, agreements between a professional solicitor and a charitable organization required to have a certificate of registration. *See* masscharities.force.com/FilingSearch/s

VI. Plaintiff is a Victim of CVS’s Fraud

69. On November 15, 2021, McCabe, at the CVS store located at 1933 Victory Boulevard, Staten Island, New York 10314, made a Campaign Donation because he believed, based upon the Checkout Message, and as confirmed by his Receipt Itemization and Receipt Statement, that the entirety of his Campaign Donation would go to the ADA, and that, absent his Campaign Donation, the ADA would receive no part of it.

70. If McCabe had known that at least a portion of his Campaign Donation would not be given to the ADA, he would have not made that portion of his Campaign Donation if possible, or would not have made his Campaign Donation at all.

INTENTION TO REPRESENT A CLASS

71. McCabe intends to seek the certification of a class (the “Putative Class”) pursuant to Rules 23(a) and 23(b)(3) of the Federal Rules of Civil Procedure.

72. The Putative Class comprises McCabe and all other persons who made a Campaign

Donation.

73. There are thousands of other members of the Putative Class whose claims would be similar to McCabe's claims; and, furthermore, McCabe's claims are typical of those claims.

74. The members of the Putative Class are so numerous that joinder of all of them is impracticable.

75. McCabe would fairly and adequately protect the interests of the other members of the Putative Class. McCabe's interests would be, for purposes of this litigation, coincident with the interests of the other members of the Putative Class, and McCabe would have no interests that would be antagonistic to, or in conflict with, the other members of the Putative Class.

76. A class action would be superior to all other available methods for the fair and efficient adjudication of this controversy. Because the Putative Class is so numerous that joinder of all of its members would be impracticable, and because the damages sustained by most of the individual members would be too small to render prosecution of the claims asserted herein economically feasible on an individual basis, the expense and burden of individual litigation would make it impractical for all of the members to adequately address the wrongs complained of herein. McCabe knows of no impediments to the effective management of this action as a class action.

77. Common questions of law and fact predominate over questions that affect only individual Class Members. Among these questions are:

- (i) whether CVS Health Corporation wholly owns CVS Pharmacy, Inc.;
- (ii) whether, from November 2, 2021, through November 27, 2021, CVS presented the Checkout Message to Customers during the checkout process;
- (iii) whether the Checkout Message was the only term of the Campaign that CVS provided to Customers;
- (iv) whether the Checkout Message had only one reasonable

understanding: that CVS was merely collecting Campaign Donations and forwarding them to the ADA;

(v) whether the Checkout Message was a material aspect of the Campaign;

(vi) whether CVS knew that the Checkout Message a material aspect of the Campaign;

(vii) whether CVS intended that Customers would rely upon the Checkout Message in deciding whether to make a Campaign Donation;

(viii) whether Customers had any reason to believe that the Checkout Message was anything but true and accurate;

(ix) whether CVS executed the Campaign pursuant to the CSA;

(x) whether the term of the CSA is from April 13, 2021, through April 12, 2024;

(xi) whether the CSA stated that CVS “commits to raise [from Customers] for the ADA a minimum of \$10,000,000 for the Term of this Agreement”;

(xii) whether the CSA stated that CVS “agrees to donate funds to the ADA equal to the difference between the total funds donated and \$10,000,000”;

(xiii) whether the CSA stated that “[a]ny amounts raised over \$10,000,000 minimum will be donated to the ADA as well”;

(xiv) whether the CSA included an “Attachment A” titled “Acknowledgement of Support”;

(xv) whether the Acknowledgement of Support stated that CVS “has pledged \$10 dollars over three years” to the ADA;

(xvi) whether the CVS Guarantee was legally binding upon CVS;

(xvii) whether the CVS Guarantee became legally binding upon CVS on the CSA’s Effective Date;

(xviii) whether the CVS Guarantee constituted a debt of \$10,000,000 from CVS to the ADA;

(xix) whether, under the CSA Donation Section, the CVS Debt was

required to be satisfied no later than April 30, 2024;

(xx) whether CVS, when entering into the CSA, intended to Campaign Donations toward the satisfaction of the CVS Debt;

(xxi) whether CVS used Campaign Donations toward the satisfaction of the CVS Debt;

(xxii) whether CVS was obligated by the CSA to try to satisfy the CVS Debt through Campaign Donations;

(xxiii) whether CVS's using of Campaign Donations toward the satisfaction of the CVS Debt is a material aspect of the Campaign;

(xxiv) whether Campaign Donations were voluntary in that they were not based on any legal debt that Customers owed to the ADA, CVS, or any other person or entity;

(xxv) whether CVS was the only person or entity that was legally responsible for the ADA's receiving of \$10,000,000;

(xxvi) whether the Checkout Message was false, deceptive, and misleading;

(xxvii) whether CVS knew that the Checkout Message was false, deceptive, and misleading because CVS was not merely collecting Campaign Donations and forwarding them to the ADA, but was, in fact, using Campaign Donations toward the satisfaction of the CVS Debt;

(xxviii) whether CVS foresaw that Customers would rely upon the Checkout Message;

(xxix) whether CVS intended that Customers would rely upon the Checkout Message;

(xxx) whether Customers who believed that they were making a Campaign Donation necessarily took the risk, which CVS imposed upon them, that the amount of their Campaign Donations would be received by the ADA whether or not they make their Campaign Donation;

(xxxi) whether, even if Total Campaign Donations were to exceed \$10 million, the fungible nature of money means that the amount of money that Campaign Donations would cause the ADA to receive that the ADA would not have received absent the Campaign Donations is only the amount by which the Total Campaign Donations exceed \$10

million;

(xxxii) whether the fact that Campaign Donations were counted toward the satisfaction of the CVS Debt should have been disclosed to Customers;

(xxxiii) whether the ability of a person to make a Campaign Donation is valuable because of the emotional satisfaction that making a Campaign Donation provides;

(xxxiv) whether the ability of a person to make a Campaign Donation is valuable because it is a convenient way to make a donation to the ADA;

(xxxv) whether the ability of a person to make a Campaign Donation is valuable to the donor because it is tax-deductible;

(xxxvi) whether CVS's enabling of Customers to make Campaign Donations is valuable to CVS because it provides CVS with goodwill from Customers;

(xxxvii) whether a document titled "Amendment to Corporate Sponsorship Agreement" (the "CSA Amendment") amended the CSA;

(xxxviii) whether the CSA Amendment was signed on October 28, 2021;

(xxxix) whether the CSA Amendment replaced the CSA's statement that "[a]ny amounts raised over \$10,000,000 minimum will be donated to the ADA as well" with the following: "[CVS] may direct any funds raised in excess of \$10,000,000 over the Term of the Agreement to support other initiatives at the [CVS]'s discretion, so long as such other initiatives advance the ADA's mission. Such direction shall be provided in writing by [CVS] to the ADA and shall be subject to the approval of the ADA, such approval not to be unreasonably withheld";

(xl) whether the use of donations by CVS in a manner that is approved by the ADA is materially different than the making of donations to the ADA;

(xli) whether the Checkout Message was false, deceptive, and misleading because, even apart from CVS's using of Campaign Donations toward the satisfaction of the CVS Debt, CVS was not, in fact, committing to forward the entirety of Campaign Donations to the ADA;

(xlii) whether, on November 2, 2021, CVS posted, on CVS's website, a press release titled "CVS Health announces \$10 million commitment to the American Diabetes Association to reach five million patients and transform health outcomes";

(xliii) whether the CVS Press Release CVS implied that CVS's \$10 million commitment to the ADA was separate, apart, and independent of Campaign Donations;

(xliv) whether the CVS Press Release represented that CVS Health Corporation was operating the Campaign;

(xlv) whether the CVS Press Release was issued after CVS agreed with the ADA that CVS would not have to give the ADA any money that customers donated in excess of \$10 million;

(xlvi) whether the CVS Press Release indicated that all Campaign Donations would go to the ADA;

(xlvii) whether the Receipt Itemization of Campaign Donation Receipts stated "ADA \$[] DONATION," in which the "[]" contained the amount of the Campaign Donation;

(xlviii) whether Campaign Donation Receipts stated, at the bottom: "[t]hank you for supporting the next step for a cure and a future without diabetes. 100% of donations go to the American Diabetes Association. EIN 13-1623888. Keep this receipt for your tax records";

(xlix) whether Campaign Donation Receipts' statement that "100% of donations go to the American Diabetes Association" was false, deceptive, and misleading because the ADA received, as a result of a Campaign Donation, only that portion that is neither used toward the satisfaction of the CVS Debt nor by CVS with the approval of the ADA;

(l) whether the Receipt Statement indicated that the entirety of a Campaign Donation was tax-deductible;

(li) whether the portion of a Campaign Donation that was used toward the satisfaction of the CVS Debt is tax-deductible;

(lii) whether the portion of a Campaign Donation that is not received by the ADA but is instead used by CVS with the approval of the ADA is tax-deductible;

(liii) whether CVS violated Massachusetts law by not filing the CSA

and the CSA Amendment with the division of public charities of that state's department of the attorney general;

(liv) whether CVS engaged in common-law fraud;

(lv) whether CVS engaged in breach of contract; and

(lvi) whether CVS violated the consumer-protection statutes that compose the Third Claim for Relief.

CLAIMS FOR RELIEF

78. McCabe incorporates, into each Claim for Relief, each and every allegation contained in paragraphs "1" through "77."

FIRST CLAIM

[Common-Law Fraud]

79. CVS engaged in fraud under the common law of the 50 States and the District of Columbia.

80. As a result of CVS's fraud, McCabe and the other members of the Putative Class are entitled to actual damages.

SECOND CLAIM

[Breach of Contract]

81. CVS engaged in breach of contract under the common law of the 50 States and the District of Columbia.

82. As a result of breaches of contract, McCabe and the other members of the Putative Class are entitled to actual damages.

[continued on next page]

THIRD CLAIM

[Violations of Consumer-Protection Laws]

ALABAMA

ALABAMA DECEPTIVE TRADE PRACTICES ACT

(Ala. Code §§ 8-19-1 - 8-19-15)

83. CVS violated the Alabama Deceptive Trade Practices Act, Ala. Code §§ 8-19-1 - 8-19-15, with respect to persons who made Campaign Donations in Alabama (the “Putative Alabama Class Members”); specifically, CVS violated Ala. Code § 8-19-5(27).

84. The Putative Alabama Class Members are entitled to statutory damages of \$100 pursuant to Ala. Code § 8-19-10(a)(1).

85. The Putative Alabama Class Members are entitled to reasonable legal fees pursuant to Ala. Code § 8-19-10(a)(3).

ALASKA

**ALASKA UNFAIR TRADE PRACTICES
AND CONSUMER PROTECTION ACT**

(Alaska Stat. §§ 45.50.471 - 45.50.561)

86. CVS violated the Alaska Unfair Trade Practices and Consumer Protection Act, Alaska Stat. §§ 45.50.471 - 45.50.561, with respect to persons who made Campaign Donations in Alaska (the “Putative Alaska Class Members”); specifically, CVS violated Alaska Stat. § 45.50.471(b)(11).

87. The Putative Alaska Class Members are entitled to statutory damages of \$500 pursuant to Alaska Stat. § 45.50.531(a).

88. The Putative Alaska Class Members are entitled to an order enjoining CVS’s unlawful practices pursuant to Alaska Stat. § 45.50.535(a).

89. The Putative Alaska Class Members are entitled to reasonable legal fees pursuant to

Alaska Stat. § 45.50.537(a).

ARKANSAS

ARKANSAS DECEPTIVE TRADE PRACTICES ACT

(Ark. Code Ann. §§ 4-88-101 - 4-88-117)

90. CVS violated the Arkansas Deceptive Trade Practices Act, Ark. Code Ann. §§ 4-88-101 - 4-88-117, with respect to persons who made Campaign Donations in Arkansas (the “Putative Arkansas Class Members”); specifically, CVS violated Ark. Code Ann. §§ 4-88-107(a)(10).

91. The Putative Arkansas Class Members are entitled to actual damages pursuant to Ark. Code Ann. § 4-88-113(f)(1)(a).

92. The Putative Arkansas Class Members are entitled to reasonable legal fees pursuant to Ark. Code Ann. § 4-88-113(f)(3).

CALIFORNIA

THE CALIFORNIA UNFAIR COMPETITION ACT

(Calif. Bus & Prof. Code §§ 17200 - 17210)

93. CVS violated the California Unfair Competition Act, Calif. Bus & Prof. Code §§ 17200 - 17210, with respect to persons who made Campaign Donations in California (the “Putative California Class Members”); specifically, CVS violated Calif. Bus & Prof. Code § 17200.

94. The Putative California Class Members are entitled to actual damages against CVS pursuant to Calif. Bus & Prof. Code § 17203.

95. The Putative California Class Members are entitled to an order enjoining CVS’s unlawful practices pursuant to Calif. Bus & Prof. Code § 17203.

96. The Putative California Class Members are entitled to reasonable legal fees pursuant to Calif. Code Civ. Proc. § 1021.5.

CONNECTICUT

THE CONNECTICUT UNFAIR TRADE PRACTICES ACT

(Conn. Gen. Stat. §§ 42-110a - 42-110q)

97. CVS violated the Connecticut Unfair Trade Practices Act, Conn. Gen. Stat. §§ 42-110a - 42-110q, with respect to persons who made Campaign Donations in Connecticut (the “Putative Connecticut Class Members”); specifically, CVS violated Conn. Gen. Stat. §§ 42-110b(a).

98. The Putative Connecticut Class Members are entitled to their actual damages pursuant to Conn. Gen. Stat. § 42-110g(a).

99. The Putative Connecticut Class Members are entitled to an order enjoining CVS’s unlawful practices pursuant to Conn. Gen. Stat. § 42-110g(d).

100. The Putative Connecticut Class Members are entitled to reasonable legal fees pursuant to Conn. Gen. Stat. § 42-110g(d).

DELAWARE

THE DELAWARE CONSUMER FRAUD ACT

(6 Del. Code §§ 2511 - 2528)

101. CVS violated the Delaware Consumer Fraud Act, 6 Del. Code §§ 2511 - 2528, with respect to persons who made Campaign Donations in Delaware (the “Putative Delaware Class Members”); specifically, CVS violated 6 Del. Code § 2513(a).

102. The Putative Delaware Class Members are entitled to actual damages pursuant to Del. Code § 2525(a).

[continued on next page]

DISTRICT OF COLUMBIA

**THE DISTRICT OF COLUMBIA CONSUMER
PROTECTION PROCEDURES ACT**

(D.C. Code §§ 28-3901 - 3913)

103. CVS violated the District of Columbia Consumer Protection Procedures Act, D.C. Code §§ 28-3901 - 3913, with respect to persons who made Campaign Donations in District of Columbia (the “Putative District of Columbia Class Members”); specifically, CVS violated D.C. Code §§ 28-3904(e) and (f).

104. The Putative District of Columbia Class Members are entitled to statutory damages of \$1,500 pursuant to D.C. Code § 28-3901(k)(2)(A)(i).

105. The Putative District of Columbia Class Members are entitled to an order enjoining CVS’s unlawful practices pursuant to D.C. Code § 28-3901(k)(2)(D).

106. The Putative District of Columbia Class Members are entitled to reasonable legal fees pursuant to D.C. Code § 28-3901(k)(2)(B).

FLORIDA

FLORIDA UNFAIR AND DECEPTIVE TRADE PRACTICES ACT

(Fla. Stat. §§ 501.201 - 501.213)

107. CVS violated the Florida Unfair and Deceptive Trade Practices Act, Fla. Stat. §§ 501.201 - 501.213, with respect to persons who made Campaign Donations in Florida (the “Putative Florida Class Members”); specifically, CVS violated Fla. Stat. § 501.204(1).

108. The Putative Florida Class Members are entitled to actual damages pursuant to Fla. Stat. § 501.211(2).

109. The Putative Florida Class Members are entitled to an order enjoining CVS’s unlawful practices pursuant to Fla. Stat. § 501.211(1).

110. The Putative Florida Class Members are entitled to reasonable legal fees pursuant to Fla. Stat. § 501.2105(1).

GEORGIA

GEORGIA FAIR BUSINESS PRACTICES ACT

(Ga. Code Ann. §§ 10-1-390 - 10-1-408)

111. CVS violated the Georgia Fair Business Practices Act, Ga. Code Ann. §§ 10-1-390 - 10-1-408, with respect to persons who made Campaign Donations in Georgia (the “Putative Georgia Class Members”); specifically, CVS violated Ga. Code Ann. §§ 10-1-393(a).

112. The Putative Georgia Class Members are entitled to actual damages pursuant to Ga. Code. Ann. § 10-1-399(a).

113. The Putative Georgia Class Members are entitled to an order enjoining CVS’s unlawful practices pursuant to Ga. Code. Ann. § 10-1-399(a).

114. The Putative Georgia Class Members are entitled to reasonable legal fees pursuant to Ga. Code. Ann. § 10-1-399(d).

HAWAII

**PROHIBITION AGAINST UNFAIR AND
DECEPTIVE ACTS OR PRACTICES**

(Haw. Rev. Stat. §§ 480-1 - 480-24)

115. CVS violated Hawaii’s prohibition against unfair and deceptive acts or practices, Haw. Rev. Stat. §§ 480-1 - 480-24, with respect to persons who made Campaign Donations in District of Columbia (the “Putative District of Columbia Class Members”); specifically, CVS violated Haw. Rev. Stat. § 480-2(a).

116. The Putative Hawaii Class Members are entitled to statutory damages of \$1,000 pursuant to Haw. Rev. Stat. § 480-13(b)(1).

117. The Putative Hawaii Class Members are entitled to an order enjoining CVS's unlawful practices pursuant to Haw. Rev. Stat. § 480-13(b)(2).

118. The Putative Hawaii Class Members are entitled to reasonable legal fees pursuant to Haw. Rev. Stat. § 480-13(b)(1).

ILLINOIS

ILLINOIS CONSUMER FRAUD AND DECEPTIVE BUSINESS PRACTICES ACT

(815 ILCS §§ 505/1 - 505/12)

119. CVS violated the Illinois Consumer Fraud and Deceptive Business Practices Act, 815 ILCS §§ 505/1 - 505/1, with respect to persons who made Campaign Donations in Illinois (the "Putative Illinois Class Members"); specifically, CVS violated 815 ILCS 505/2.

120. The Putative Illinois Class Members are entitled to actual damages pursuant to 815 ILCS 505/10a(a).

121. The Putative Illinois Class Members are entitled to an order enjoining CVS's unlawful practices pursuant to 815 ILCS 505/10a(c).

122. The Putative Illinois Class Members are entitled to reasonable legal fees pursuant to 815 ILCS 505/10a(c).

INDIANA

INDIANA DECEPTIVE CONSUMER SALES ACT

(Ind. Code Ann. §§ 24-5-0.5-0.1 - 24-5-0.5-12)

123. CVS violated the Indiana Deceptive Consumer Sales Act, Ind. Code Ann. §§ 24-5-0.5-0.1 - 24-5-0.5-12, with respect to persons who made Campaign Donations in Indiana (the "Putative Indiana Class Members"); specifically, CVS violated Ind. Code Ann. § 24-5-0.5-3(a).

124. The Putative Indiana Class Members are entitled to statutory damages of \$500

pursuant to Ind. Code § 24-5-0.5-4(a).

125. The Putative Indiana Class Members are entitled to reasonable legal fees pursuant to Ind. Code Ann. § 24-5-0.5-4(a).

IOWA

IOWA CONSUMER FRAUD ACT

(Iowa Code Ann. §§ 714h.1 - 714h.8)

126. CVS violated the Iowa Consumer Protection Act, Iowa Code Ann. §§ 714h.1 - 714h.8, with respect to persons who made Campaign Donations in Iowa (the “Putative Iowa Class Members”); specifically, CVS violated Iowa Code Ann. § 714h.3(1).

127. The Putative Iowa Class Members are entitled to actual damages pursuant to Iowa Code Ann. § 714h.5(1)

128. The Putative Iowa Class Members are entitled to an order enjoining CVS’s unlawful practices pursuant to Iowa Code Ann. § 714h.5(1)

129. The Putative Iowa Class Members are entitled to reasonable legal fees pursuant to Iowa Code Ann. § 714h.5(2).

KANSAS

KANSAS CONSUMER PROTECTION ACT

(Kan. Stat. Ann. §§ 50-623 - 50-643)

130. CVS violated the Kansas Consumer Protection Act, Kan. Stat. Ann. §§ 50-623 - 50-643, with respect to persons who made Campaign Donations in Kansas (the “Putative Kansas Class Members”); specifically, CVS violated Kan. Stat. Ann. §§ 50-636(b)(2) and (3).

131. The Putative Kansas Class Members are entitled to statutory damages of \$10,000 pursuant to Kan. Stat. Ann. § 50-634(b).

132. The Putative Kansas Class Members are entitled to an order enjoining CVS’s unlawful

practices pursuant to Kan. Stat. Ann. § 50-634(a)(2).

133. The Putative Kansas Class Members are entitled to reasonable legal fees pursuant to Kan. Stat. Ann. § 50-634(e)(1).

LOUISIANA

LOUISIANA UNFAIR TRADE PRACTICES AND CONSUMER PROTECTION LAW

(La. Rev. Stat. §§ 51:1401 - 51:1430)

134. CVS violated the Louisiana Unfair Trade Practices and Consumer Protection Law, La. Rev. Stat. §§ 51:1401 - 51:1430, with respect to persons who made Campaign Donations in Louisiana (the “Putative Louisiana Class Members”); specifically, CVS violated La. Rev. Stat. § 51:1405(A).

135. The Putative Louisiana Class Members are entitled to actual damages pursuant to La. Rev. Stat. § 51:1409(A).

136. The Putative Louisiana Class Members are entitled to reasonable legal fees pursuant to La. Rev. Stat. § 51:1409(A).

MARYLAND

MARYLAND CONSUMER PROTECTION ACT

(Md. Code Com. Law §§ 13-101 - 13-501)

137. CVS violated the Maryland Consumer Protection Act, Md. Code Com. Law §§ 13-101 - 13-501, with respect to persons who made Campaign Donations in Maryland (the “Putative Maryland Class Members”); specifically, CVS violated Md. Code Com. Law § 13-101(1), (3).

138. The Putative Maryland Class Members are entitled to actual damages pursuant to Md. Code Com. Law §§ 13-408(a).

139. The Putative Maryland Class Members are entitled to reasonable legal fees pursuant

to Md. Code Com. Law §§ 13-408(b).

MASSACHUSETTS

MASSACHUSETTS CONSUMER PROTECTION ACT

(Mass. Gen. Laws Ch. 93a, §§ 1-11)

140. CVS violated the Massachusetts Consumer Protection Act, Mass. Gen. Laws Ch. 93a, §§ 1-11, with respect to persons who made Campaign Donations in Massachusetts (the “Putative Massachusetts Class Members”); specifically, CVS violated Mass. Gen. Laws Ch. 93a, § 2(a).

141. The Putative Massachusetts Class Members are entitled to statutory damages of \$25 pursuant to Mass. Gen. Laws Ch. 93a, § 9(3).

142. The Putative Massachusetts Class Members are entitled to an order enjoining CVS’s unlawful practices pursuant to Mass. Gen. Laws Ch. 93a, § 9(3).

143. The Putative Massachusetts Class Members are entitled to reasonable legal fees pursuant to Mass. Gen. Laws Ch. 93a, § 9(4).

MICHIGAN

MICHIGAN CONSUMER PROTECTION ACT

(Mich. Comp. Laws §§ 445.901 - 445.922)

144. CVS violated the Michigan Consumer Protection Act, Mich. Comp. Laws §§ 445.901 - 445.922, with respect to persons who made Campaign Donations in Michigan (the “Putative Michigan Class Members”); specifically, CVS violated Mich. Comp. Laws § 445.903(1)(s).

145. The Putative Michigan Class Members are entitled to statutory damages of \$5,000 pursuant to Mich. Comp. Laws § 445.911(3).

146. The Putative Michigan Class Members are entitled to an order enjoining CVS’s unlawful practices pursuant to Mich. Comp. Laws § 445.911(1)(b).

147. The Putative Michigan Class Members are entitled to reasonable legal fees pursuant

to Mich. Comp. Laws § 445.911(3).

MINNESOTA

MINNESOTA PREVENTION OF CONSUMER FRAUD ACT

(Minn. Stat. §§ 325f.68 - 325f.694)

148. CVS violated the Minnesota Prevention of Consumer Fraud Act, Minn. Stat. §§ 325f.68 - 325f.694, with respect to persons who made Campaign Donations in Michigan (the “Putative Minnesota Class Members”); specifically, CVS violated Minn. Stat. §§ 325f.69(1).

149. The Putative Minnesota Class Members are entitled to actual damages pursuant to Minn. Stat. § 8.31(3)(a).

150. The Putative Minnesota Class Members are entitled to an order enjoining CVS’s unlawful practices pursuant to Minn. Stat. § 8.31(3)(a).

151. The Putative Minnesota Class Members are entitled to reasonable legal fees pursuant to Minn. Stat. § 8.31(3)(a).

MONTANA

**MONTANA UNFAIR TRADE PRACTICES
AND CONSUMER PROTECTION ACT**

(Mont. Code Ann. §§ 30-14-101 - 30-14-157)

152. CVS violated the Montana Unfair Trade Practices and Consumer Protection Act, Mont. Code Ann. §§ 30-14-101 - 30-14-157, with respect to persons who made Campaign Donations in Montana (the “Putative Montana Class Members”); specifically, CVS violated Mont. Code Ann. § 30-14-103.

153. The Putative Montana Class Members are entitled to statutory damages of \$500 pursuant to Mont. Code Ann. § 30-14-133(1)(a).

154. The Putative Montana Class Members are entitled to an order enjoining CVS’s

unlawful practices pursuant to Mont. Code Ann. § 30-14-133(1)(a).

155. The Putative Montana Class Members are entitled to reasonable legal fees pursuant to Mont. Code Ann. § 30-14-133(3).

NEBRASKA

NEBRASKA CONSUMER PROTECTION ACT

(Neb. Rev. Stat. §§ 59-1601 - 59-1623)

156. CVS violated the Nebraska Consumer Protection Act, Neb. Rev. Stat. §§ 59-1601 - 59-1623, with respect to persons who made Campaign Donations in Nebraska (the “Putative Nebraska Class Members”); specifically, CVS violated Neb. Rev. Stat. § 59-1602.

157. The Putative Nebraska Class Members are entitled to actual damages pursuant to Neb. Rev. Stat. § 59-1609.

158. The Putative Nebraska Class Members are entitled to an order enjoining CVS’s unlawful practices pursuant to Neb. Rev. Stat. § 59-1609.

159. The Putative Nebraska Class Members are entitled to reasonable legal fees pursuant to Neb. Rev. Stat. § 59-1609.

NEVADA

NEVADA DECEPTIVE TRADE PRACTICES ACT

(Nev. Rev. Stat. §§ 598.0903 - 598.0999)

160. CVS violated the Nevada Deceptive Trade Practices Act, Nev. Rev. Stat. §§ 598.0903 - 598.0999, with respect to persons who made Campaign Donations in Nevada (the “Putative Nevada Class Members”); specifically, CVS violated Nev. Rev. Stat. § 598.0915(15).

161. The Putative Nevada Class Members are entitled to actual damages pursuant to Nev. Rev. Stat. § 41.600(3)(a).

162. The Putative Nevada Class Members are entitled to an order enjoining CVS’s unlawful

practices pursuant to Nev. Rev. Stat. § 41.600(3)(b).

163. The Putative Nevada Class Members are entitled to reasonable legal fees pursuant to Nev. Rev. Stat. § 41.600(3)(c).

NEW HAMPSHIRE

NEW HAMPSHIRE CONSUMER PROTECTION ACT

(N.H. Rev. Stat. Ann. §§ 358-A:1 - 358-A:13)

164. CVS violated the New Hampshire Consumer Protection Act, N.H. Rev. Stat. Ann. §§ 358-A:1 - 358-A:13, with respect to persons who made Campaign Donations in New Hampshire (the “Putative New Hampshire Class Members”); specifically, CVS violated N.H. Rev. Stat. Ann. § 358-A:2.

165. The Putative New Hampshire Class Members are entitled to statutory damages of \$1,000 pursuant to N.H. Rev. Stat. Ann. § 358-A:10(I).

166. The Putative New Hampshire Class Members are entitled to an order enjoining CVS’s unlawful practices pursuant to N.H. Rev. Stat. Ann. § 358-A:10(I).

167. The Putative New Hampshire Class Members are entitled to reasonable legal fees pursuant to N.H. Rev. Stat. Ann. § 358-A:10(I).

NEW JERSEY

NEW JERSEY CONSUMER FRAUD ACT

(N.J. Stat. Ann. §§ 56:8-1 - 56:8-227)

168. CVS violated the New Jersey Consumer Fraud Act, N.J. Stat. Ann. §§ 56:8-1 - 56:8-227, with respect to persons who made Campaign Donations in New Jersey (the “Putative New Jersey Class Members”); specifically, CVS violated N.J. Stat. Ann. § 56:8-2.

169. The Putative New Jersey Class Members are entitled to threefold actual damages pursuant to N.J. Stat. Ann. § 56:8-19.

170. The Putative New Jersey Class Members are entitled to an order enjoining CVS's unlawful practices pursuant to N.J. Stat. Ann. § 56:8-19.

171. The Putative New Jersey Class Members are entitled to reasonable legal fees pursuant to N.J. Stat. Ann. § 56:8-19.

NEW MEXICO

NEW MEXICO UNFAIR PRACTICES ACT

(N.M. Stat. Ann. §§ 57-12-1- 57-12-26)

172. CVS violated the New Mexico Unfair Practices Act, N.M. Stat. Ann. §§ 57-12-1-57-12-26, with respect to persons who made Campaign Donations in New Mexico (the "Putative New Mexico Class Members"); specifically, CVS violated N.M. Stat. Ann. § 57-12-3.

173. The Putative New Mexico Class Members are entitled to statutory damages of \$100 pursuant to N.M. Stat. Ann. § 57-12-10(B).

174. The Putative New Mexico Class Members are entitled to an order enjoining CVS's unlawful practices pursuant to N.M. Stat. Ann. § 57-12-10(A).

175. The Putative New Mexico Class Members are entitled to reasonable legal fees pursuant to N.M. Stat. Ann. § 57-12-10(C).

NEW YORK

NEW YORK GENERAL BUSINESS LAW § 349

(N.Y. Gen. Bus. Law § 349)

176. CVS violated the N.Y. Gen. Bus. Law § 349, with respect to persons who made Campaign Donations in New York (the "Putative New York Class Members"); specifically, CVS violated N.Y. Gen. Bus. Law § 349(a).

177. The Putative New York Class Members are entitled to statutory damages of \$50 pursuant to N.Y. Gen. Bus. Law § 349(h).

178. The Putative New York Class Members are entitled to an order enjoining CVS's unlawful practices pursuant to N.Y. Gen. Bus. Law § 349(h).

179. The Putative New York Class Members are entitled to reasonable legal fees pursuant to N.Y. Gen. Bus. Law § 349(h).

NORTH CAROLINA

**NORTH CAROLINA UNFAIR AND
DECEPTIVE TRADE PRACTICES ACT**

(N.C. Gen. Stat. Ann. §§ 75-1 - 75-43)

180. CVS violated the North Carolina Unfair And Deceptive Trade Practices Act, N.C. Gen. Stat. Ann. §§ 75-1 - 75-43, with respect to persons who made Campaign Donations in North Carolina (the "Putative North Carolina Class Members"); specifically, CVS violated N.C. Gen. Stat. Ann. § 75-1.1(a).

181. The Putative North Carolina Class Members are entitled to treble actual damages pursuant to N.C. Gen. Stat. Ann. § 75-16.

182. The Putative North Carolina Class Members are entitled to reasonable legal fees pursuant to N.C. Gen. Stat. Ann. § 75-16.1(1).

NORTH DAKOTA

**NORTH DAKOTA UNLAWFUL SALES
OR ADVERTISING PRACTICES ACT**

(N.D. Cent. Code §§ 51-15-01- 51-15-12)

183. CVS violated the North Dakota Unlawful Sales or Advertising Practices Act, N.D. Cent. Code §§ 51-15-01- 51-15-12, with respect to persons who made Campaign Donations in North Dakota (the "Putative North Dakota Class Members"); specifically, CVS violated N.D. Cent. Code § 51-15-02.

184. The Putative North Dakota Class Members are entitled to actual damages pursuant

to N.D. Cent. Code § 51-15-09.

185. The Putative North Dakota Class Members are entitled to reasonable legal fees pursuant to N.D. Cent. Code § 51-15-09.

OHIO

OHIO CONSUMER SALES PRACTICES ACT

(Ohio Rev. Code §§ 1345.01 - 1345.13)

186. CVS violated the Ohio Consumer Sales Practices Act, Ohio Rev. Code §§ 1345.01 - 1345.13, with respect to persons who made Campaign Donations in Ohio (the “Putative Ohio Class Members”); specifically, CVS violated Ohio Rev. Code § 1345.02(A).

187. The Putative Ohio Class Members are entitled to actual damages pursuant to Ohio Rev. Code § 1345.09(A).

188. The Putative Ohio Class Members are entitled to an order enjoining CVS’s unlawful practices pursuant to Ohio Rev. Code § 1345.09(D).

189. The Putative Ohio Class Members are entitled to reasonable legal fees pursuant to Ohio Rev. Code § 1345.09(F)(2).

OKLAHOMA

OKLAHOMA CONSUMER PROTECTION ACT

(15 Okla. St. Ann. §§ 751 - 764.1)

190. CVS violated the Oklahoma Consumer Protection Act, 15 Okla. St. Ann. §§ 751 - 764.1, with respect to persons who made Campaign Donations in Oklahoma (the “Putative Oklahoma Class Members”); specifically, CVS violated 15 Okla. St. Ann. § 753(20).

191. The Putative Oklahoma Class Members are entitled to actual damages pursuant to 15 Okla. St. Ann. § 761.1(A).

192. The Putative Oklahoma Class Members are entitled to reasonable legal fees pursuant

to 15 Okla. St. Ann. § 761.1(A).

OREGON

OREGON UNLAWFUL TRADE PRACTICES ACT

(Ore. Rev. Stat. §§ 646.605 - 646.691)

193. CVS violated the Oregon Unlawful Trade Practices Act, Ore. Rev. Stat. §§ 646.605 - 646.691, with respect to persons who made Campaign Donations in Oregon (the “Putative Oregon Class Members”); specifically, CVS violated Ore. Rev. Stat. § 646.607(1).

194. The Putative Oregon Class Members are entitled to statutory damages of \$200 pursuant to Ore. Rev. Stat. § 646.638(1).

195. The Putative Oregon Class Members are entitled to an order enjoining CVS’s unlawful practices pursuant to Ore. Rev. Stat. § 646.638(1).

196. The Putative Oregon Class Members are entitled to reasonable legal fees pursuant to Ore. Rev. Stat. § 646.638(3).

SOUTH CAROLINA

SOUTH CAROLINA UNFAIR TRADE PRACTICES ACT

(S.C. Code Ann. §§ 39-5-10 - 39-5-180)

197. CVS violated the South Carolina Unfair Trade Practices Act, S.C. Code Ann. §§ 39-5-10 - 39-5-180, with respect to persons who made Campaign Donations in South Carolina (the “Putative South Carolina Class Members”); specifically, CVS violated S.C. Code Ann. § 39-5-20(a).

198. The Putative South Carolina Class Members are entitled to actual damages pursuant to S.C. Code Ann. § 39-5-140(a).

199. The Putative South Carolina Class Members are entitled to an order enjoining CVS’s unlawful practices pursuant to S.C. Code Ann. § 39-5-140(a).

200. The Putative South Carolina Class Members are entitled to reasonable legal fees

pursuant to S.C. Code Ann. § 39-5-140(a).

SOUTH DAKOTA

**SOUTH DAKOTA DECEPTIVE TRADE
PRACTICES AND CONSUMER PROTECTION ACT**

(S.D. Codified Laws §§ 37-24-1 - 37-24-58)

201. CVS violated the South Dakota Deceptive Trade Practices and Consumer Protection Act, S.D. Codified Laws §§ 37-24-1 - 37-24-58, with respect to persons who made Campaign Donations in South Dakota (the “Putative South Dakota Class Members”); specifically, CVS violated S.D. Codified Laws § 37-24-6(1).

202. The Putative South Dakota Class Members are entitled to actual damages pursuant to S.D. Codified Laws § 37-24-31.

TENNESSEE

TENNESSEE CONSUMER PROTECTION ACT

(Tenn. Code Ann. §§ 47-18-101 - 47-18-132)

203. CVS violated the Tennessee Consumer Protection Act, Tenn. Code Ann. §§ 47-18-101 - 47-18-132, with respect to persons who made Campaign Donations in Tennessee (the “Putative Tennessee Class Members”); specifically, CVS violated Tenn. Code Ann. § 47-18-104(a).

204. The Putative Tennessee Class Members are entitled to actual damages pursuant to Tenn. Code Ann. § 47-18-109(a)(1).

205. The Putative Tennessee Class Members are entitled to an order enjoining CVS’s unlawful practices pursuant to Tenn. Code Ann. § 47-18-109(a)(3).

206. The Putative Tennessee Class Members are entitled to reasonable legal fees pursuant to Tenn. Code Ann. § 47-18-109(e)(1).

TEXAS

**TEXAS DECEPTIVE TRADE PRACTICES
ACT – CONSUMER PROTECTION ACT**

(Tex. Bus. & Com. Code §§ 17.41 - 17.63)

207. CVS violated the Texas Deceptive Trade Practices Act – Consumer Protection Act, Tex. Bus. & Com. Code §§ 17.41 - 17.63, with respect to persons who made Campaign Donations in Texas (the “Putative Texas Class Members”); specifically, CVS violated Tex. Bus. & Com. Code § 17.46(a).

208. The Putative Texas Class Members are entitled to actual damages pursuant to Tex. Bus. & Com. Code § 17.50(b)(1).

209. The Putative Texas Class Members are entitled to an order enjoining CVS’s unlawful practices pursuant to Tex. Bus. & Com. Code § 17.50(b)(2).

210. The Putative Texas Class Members are entitled to reasonable legal fees pursuant to Tex. Bus. & Com. Code § 17.50(d).

UTAH

UTAH CONSUMER SALES PRACTICES ACT

(Utah Code Ann. §§ 13-11-1 - 13-11-23)

211. CVS violated the Utah Consumer Sales Practices Act, Utah Code Ann. §§ 13-11-1 - 13-11-23, with respect to persons who made Campaign Donations in Utah (the “Putative Utah Class Members”); specifically, CVS violated Utah Code Ann. §§ 13-11-4(1).

212. The Putative Utah Class Members are entitled to statutory damages of \$2,000 pursuant to Utah Code Ann. § 13-11-19(2).

213. The Putative Utah Class Members are entitled to an order enjoining CVS’s unlawful practices pursuant to Utah Code Ann. § 13-11-19(1)(b).

214. The Putative Utah Class Members are entitled to reasonable legal fees pursuant to Utah Code Ann. § 13-11-19(5)(b).

VERMONT

VERMONT CONSUMER FRAUD ACT

(9 Vt. Stat. Ann. §§ 2451 - 2466c)

215. CVS violated the Vermont Consumer Fraud Act, 9 Vt. Stat. Ann. §§ 2451 - 2466c, with respect to persons who made Campaign Donations in Vermont (the “Putative Vermont Class Members”); specifically, CVS violated 9 Vt. Stat. Ann. § 2453(a).

216. The Putative Vermont Class Members are entitled to statutory damages of \$2,000 pursuant to 9 Vt. Stat. Ann. § 2461(b).

217. The Putative Vermont Class Members are entitled to an order enjoining CVS’s unlawful practices pursuant to 9 Vt. Stat. Ann. § 2461(b).

218. The Putative Vermont Class Members are entitled to reasonable legal fees pursuant to 9 Vt. Stat. Ann. § 2461(b).

VIRGINIA

VIRGINIA CONSUMER PROTECTION ACT

(Va. Code §§ 59.1-196- 59.1-207)

219. CVS violated the Virginia Consumer Protection Act, Va. Code §§ 59.1-196-59.1-207, with respect to persons who made Campaign Donations in Virginia (the “Putative Virginia Class Members”); specifically, CVS violated Va. Code § 59.1-200(14).

220. The Putative Virginia Class Members are entitled to statutory damages of \$500 pursuant to 9 Va. Code § 59.1-204(A).

221. The Putative Virginia Class Members are entitled to reasonable legal fees pursuant to 9 Va. Code § 59.1-204(B).

WASHINGTON

WASHINGTON CONSUMER PROTECTION ACT

(Rev. Code Wash. Ann. §§ 19.86.010 - 19.86.920)

222. CVS violated the Washington Consumer Protection Act, Rev. Code Wash. Ann. §§ 19.86.010 - 19.86.920, with respect to persons who made Campaign Donations in Washington (the “Putative Washington Class Members”); specifically, CVS violated Rev. Code Wash. Ann. § 19.86.020.

223. The Putative Washington Class Members are entitled to actual damages pursuant to Rev. Code Wash. Ann. § 19.86.090.

224. The Putative Washington Class Members are entitled to an order enjoining CVS’s unlawful practices pursuant to Rev. Code Wash. Ann. § 19.86.090.

225. The Putative Washington Class Members are entitled to reasonable legal fees pursuant to Rev. Code Wash. Ann. § 19.86.090.

WISCONSIN

WISCONSIN DECEPTIVE TRADE PRACTICES ACT

(Wis. Stat. § 100.18)

226. CVS violated the Wisconsin Deceptive Trade Practices Act, Wis. Stat. § 100.18, with respect to persons who made Campaign Donations in Wisconsin (the “Putative Wisconsin Class Members”); specifically, CVS violated Wis. Stat. § 100.18(1).

227. The Putative Wisconsin Class Members are entitled to actual damages pursuant to Wis. Stat. § 100.18(11)(b)(2).

228. The Putative Wisconsin Class Members are entitled to reasonable legal fees pursuant to Wis. Stat. § 100.18(11)(b)(2).

WYOMING

WYOMING CONSUMER PROTECTION ACT

(Wyo. Stat. §§ 40-12-101 - 40-12-114)

229. CVS violated the Wyoming Consumer Protection Act, Wyo. Stat. §§ 40-12-101 - 40-12-114, with respect to persons who made Campaign Donations in Wyoming (the “Putative Wyoming Class Members”); specifically, CVS violated Wyo. Stat. § 40-12-105(a)(xv).

230. The Putative Wyoming Class Members are entitled to actual damages pursuant to Wyo. Stat. § 40-12-108(a).

231. The Putative Wyoming Class Members are entitled to reasonable legal fees pursuant to Wyo. Stat. § 40-12-108(b).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests a judgment against Defendant:

(a) Awarding, to Plaintiff and the other members of the Putative Class, damages as a result of Defendant’s fraud under the common law of the 50 States and the District of Columbia;

(a) Awarding, to Plaintiff and the other members of the Putative Class, damages as a result of Defendant’s breaches of contract under the common law of the 50 States and the District of Columbia;

(c) Awarding, to Plaintiff and the other members of the Putative Class, the relief available under the Putative Class members’ respective consumer-protection statutes; and

(d) Awarding, to Plaintiff and the other members of the Putative Class, the costs and disbursements of this action, and such other and further relief as the Court deems just and proper.

[continued on next page]

Dated: September 15, 2022

Respectfully submitted,

s/ **Todd C. Bank**

TODD C. BANK
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