

**IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF  
TEXAS  
HOUSTON DIVISION**

**GERICARE MEDICAL SUPPLY, INC.**

**PLAINTIFF,**

**v.**

**J.L. SADICK, individually, and**

**J.L. SADICK, P.C.,**

**DEFENDANTS.**

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**Civil Action No. \_\_\_\_\_**

**COMPLAINT**

Plaintiff Gericare Medical Supply, Inc. (“GERICARE”) files this Complaint against J.L. Sadick (“SADICK”) and J.L. Sadick, P.C. (SADICK and J.L. SADICK, P.C. are referred to collectively as “J.L. SADICK”), stating as follows:

**Statement of Jurisdiction and Venue**

1. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1332.
2. Venue is proper in this Court pursuant to 28 U.S.C. § 1391.

**Parties**

3. GERICARE is an Alabama corporation whose principal place of business and headquarters are located in the State of Alabama.
4. SADICK is an attorney at law, natural person and citizen of the State of Texas whose primary residence is located in Houston, Texas.
5. J.L. SADICK, P.C. is a Texas professional corporation located in Houston, Texas.

6. J.L. SADICK, P.C. does not have the right to transact business in the State of Texas because its registration or certificate was revoked as a result of a tax forfeiture or an administrative forfeiture by the Texas Secretary of State.

7. SADICK is a principal of J.L. SADICK, P.C.

**FACTUAL ALLEGATIONS**

8. GERICARE is a medical supply company.

9. Due to the COVID-19 pandemic, buyers have faced a shortage of medical personal protective equipment (“PPE”).

10. In an effort to assist its customers in obtaining PPE, GERICARE has attempted to procure quality PPE from various sources.

11. On or around April 20, 2020, GERICARE learned of a potential opportunity to purchase medical gowns from a Michigan company named Imitari Corporation (“IMITARI”).

12. Individuals purportedly associated with IMITARI represented to GERICARE that IMITARI had access to 1 Million U.S. Food & Drug Administration (“FDA”) “Level 2” rated gowns (the “Gowns”).

13. Individuals purportedly associated with IMITARI also represented to GERICARE that the Gowns were located in the United States.

14. J.L. SADICK confirmed IMITARI’s representations regarding the number and location of the Gowns.

15. In response to phone inquiries from attorney Allen Sullivan acting on behalf of GERICARE on April 24, 2020, J.L. SADICK noted that IMITARI was a recently formed company that had been formed by Terry Barnes (“BARNES”) of Professional Medical Corporation

(“PROFESSIONAL MEDICAL”), and that both BARNES and PROFESSIONAL MEDICAL were well known in the healthcare industry.

16. Relying on representations from individuals purportedly associated with IMITARI and PROFESSIONAL MEDICAL, and confirmation from J.L. SADICK, GERICARE agreed to purchase the Gowns from IMITARI for a total cost of \$2.18 Million (“the Purchase Price”) with delivery to occur on or before May 4, 2020 in a purchase invoice (“Purchase Invoice”) signed by GERICARE’s Chief Executive Officer, Lynn Patterson (“PATTERSON”), and IMITARI president “Terry Barnes.”

17. A true and correct copy of the Purchase Invoice is attached as “Exhibit 1.”

18. The Purchase Invoice provided that GERICARE would deposit 50 percent of the Purchase Price into a designated account of J.L. SADICK.

19. GERICARE entered into an escrow agreement with J.L. SADICK (the “Escrow Agreement”) to deposit \$1,090,000 (the “Escrow Deposit”) into J.L. SADICK’s IOLTA escrow trust account (the “Escrow Trust Account”).

20. A true and correct copy of the Escrow Agreement is attached as “Exhibit 2.”

21. IMITARI was not a party to the Escrow Agreement.

22. Through the Escrow Agreement, J.L. SADICK agreed to act as an escrow agent in order to receive the Escrow Deposit from GERICARE. (*See* Exhibit 2.)

23. Pursuant to Rule 1.14 of the Texas Disciplinary Rules of Professional Conduct, “[a] lawyer should hold property of others with the care required of a professional fiduciary.”

24. Escrow agents owe fiduciary duties to parties to escrow agreements.

25. Escrow agents owe those who have entrusted them with funds a duty of loyalty.

26. Escrow agents owe those who have entrusted them with funds a duty of full disclosure.

27. Escrow agents owe those who have entrusted them with funds a duty to exercise a high degree of care to conserve the money.

29. Escrow agents must follow and carry out the terms of the agreement creating the escrow agency.

30. Escrow agents have a duty to disclose facts that a reasonable escrow agent would perceive as fraud.

31. Escrow agents must act with the utmost good faith and avoid any act of self-dealing that places the escrow agent's interests in conflict with his obligations to the beneficiaries.

32. Pursuant to the Escrow Agreement, GERICARE agreed that "an early release of escrow funds is permitted to cover expenses regarding independent inspection report, shipping and legal, in an amount not to exceed seventy five thousand (\$75,000.00) US dollars." (*See Exhibit 2.*)

33. The Escrow Agreement further provided that:

the balance of the escrow funds will remain in said account subject to the following. Upon receipt of inventory at buyer's designated address, buyer will have four (4) hours to inspect inventory. Buyer will accept or decline inventory via email or phone call to Seller's Attorney at [jlsadick@sadicklaw.com](mailto:jlsadick@sadicklaw.com) or (713) 662-7880. Buyer must either approve in writing or phone call, or object in writing or phone call within the four (4) hour window (the "Approval Window"). Upon approval, the balance of the invoice \$2,180,000 minus the Escrow Deposit and the Cost Deposit) will be transferred to the designated account of Seller's Attorney. If the Buyer neither approves or objects in writing via email, as directed herein, within the Approval Window, Buyer will wire the remaining fifty (50%) percent balance of the order to Seller's Attorney within the first minute following the Approval Window.

(*See Exhibit 2.*)

34. With the exception of the early release of up to \$75,000 of the Escrow Deposit, the Escrow Agreement did not authorize J.L. SADICK to release any portion of the Escrow Deposit, whether to IMITARI or otherwise. (*See* Exhibit 1, 2.)

35. GERICARE withdrew funds from a line of credit with its bank to make the Escrow Deposit.

36. On April 27, 2020, GERICARE wired the Escrow Deposit to the Escrow Trust Account located at a Capital One Bank branch in Houston, Texas.

37. On the morning of April 28, 2020, GERICARE received a “proof of life” video, common in the medical supplies industry, purportedly serving as evidence that the Gowns existed and were ready to ship.

38. The “proof of life” video depicted numerous boxes on shipping pallets, as well as a woman opening one of the boxes revealing stacked blue gowns.

39. J.L. SADICK also informed Sullivan on April 27, 2020, via telephone, that if GERICARE wired the Escrow Deposit that day, then GERICARE could receive the Gowns by April 30, 2020 or May 1, 2020.

40. GERICARE did not receive the Gowns by the May 4, 2020 deadline set forth in the Purchase Invoice.

41. In discussions, text messages, and emails with PATTERSON, individuals purportedly associated with IMITARI provided numerous explanations for why the Gowns were not delivered on May 4 and various dates thereafter.

42. At approximately 2:50 p.m. CDT on May 29, 2002, 30,000 “gowns” were delivered to GERICARE (“the Delivery”).

43. The Delivery was only a fraction (3%) of the 1 Million Gowns GERICARE ordered from IMITARI.

44. Further, none of the “gowns” included in the Delivery were FDA Level 2 rated gowns. Rather, the “gowns” were ponchos made of inexpensive plastic. As such, the “gowns” were nonconforming.

45. None of the “gowns” included in the Delivery were located in the United States. Rather, they were shipped from China after GERICARE had been told they were located in the United States. As such, the Gowns were nonconforming.

46. Because the Delivery was only a fraction of the Gowns GERICARE ordered from IMITARI, not the 1 Million Gowns GERICARE ordered, GERICARE had no obligation to object to the Delivery.

47. J.L. SADICK received no authorization to release the Escrow Deposit.

48. Within less than four hours of receiving the Delivery, GERICARE informed individuals purportedly associated with IMITARI that the Delivery was nonconforming, rejected the Delivery, providing pictures of the Delivery.

49. On May 29, 2020, individuals purportedly associated with IMITARI told GERICARE that IMITARI would refund the full amount of the Escrow Deposit.

50. At no time did J.L. SADICK contact anyone associated with GERICARE to determine if the 1 Million Gowns had been delivered.

51. At no time did J.L. SADICK contact anyone associated with GERICARE to determine whether the Escrow Deposit could be transferred from the Escrow Trust Account.

52. Wire transfers occur when an individual notifies its bank that it wishes to send a wire to another party. Once the individual’s bank begins the process of sending the money to the

recipient's bank, it creates a payment order, which is sent via one or more inter-bank networks to the recipient's bank. Once the recipient's bank accepts the payment order, the transfer is complete.

53. According to Capital One's April 27, 2020, Wire Transfer Disclosure Statement:

**Cut-Off Times:** We have cut-off hours for processing Wire Transfers. If a wire request is received by 2:00pm ET and verified through our security procedures outlined in the section below titled "Security Procedures," funds will be processed the same business day. If it is received after 2:00pm ET and verified through our security procedures, funds may be processed the next business day. We may treat any Wire Transfer Request received at our after our cut-off time as if it was received that business day, or we may treat it as if it were received at the opening of the next business day.

(See <https://www.capitalone.com/bank/wires/disclosures/>).

54. According to Capital One Bank's website, electronic transfers between a Capital One bank account and another bank may take up to three business days. Federal holidays and weekends are not considered business days. <https://www.capitalone.com/support-center/bank/transfer-times>.

55. Capital One's Wire Transfer Disclosure Statement further provides that:

**Cancellation or Amendment of Wire Transfer:** Once we receive a Wire Transfer Request, it may not be able to be canceled or amended. However, at our discretion, we may use reasonable efforts to act on any request for cancellation or amendment, provided that the method by which we are notified of the request for cancellation or amendment complies with our security procedures.

(See *Id.*).

56. If a wire is being sent between two different domestic banks, it may take one or more days for the payment order to get from the originating bank to the recipient's bank.

57. International wire transfers can take longer than domestic wire transfers.

58. A wire transfer can be canceled if the bank from which an individual has initiated a wire transfer sends a cancellation notice to the recipient bank and the cancellation notice is received before the recipient bank accepts the payment order.

59. At 11:38 a.m. CDT on June 1, 2020, Sullivan sent J.L. SADICK an email stating:

“As you may know, the product that was ultimately delivered to my client did not conform to the agreement between the parties, therefore the product was rejected. It’s my understanding that Imitari has therefore agreed to refund the escrow proceeds in full. Lynn Patterson is also under the impression that Billy [stet] Jones was contacting you this morning regarding that refund.”

60. A true and correct copy of Sullivan’s June 1 email is attached as “Exhibit 3.”

61. At 12:15 p.m. CDT on June 1, 2020, J.L. SADICK sent Sullivan an email stating:

“I have discussed the transaction with my client and have been advised that the delivered product was non-conforming. I’ll give you a call shortly after 1 pm my time, thanks”

62. A true and correct copy of J.L. SADICK’s June 1 email is attached as “Exhibit 4.”

63. J.L. SADICK also spoke with Sullivan by telephone on June 1, 2020.

64. During the June 1, 2020 telephone conversation, J.L. SADICK requested wiring instructions for GERICARE’s bank.

65. At no time during the June 1, 2020 telephone conversation did J.L. SADICK disclose that the Escrow Deposit had been removed from the Escrow Trust Account.

66. During the June 1, 2020 telephone conversation, J.L. SADICK told Sullivan that once a refund from DHL was processed, SADICK would wire the entire amount of the Escrow Deposit to GERICARE.

67. J.L. SADICK also spoke with Sullivan by telephone on June 2, 2020.

68. During the June 2, 2020 telephone conversation J.L. SADICK told Sullivan that he anticipated wiring the entire amount of the Escrow Deposit to GERICARE on June 4, 2020.

69. At no time during the June 2, 2020 telephone conversation did J.L. SADICK disclose that the Escrow Deposit had been removed from the Escrow Trust Account.

70. J.L. SADICK also spoke with Sullivan by telephone on June 4, 2020.



71. During the June 4, 2020 telephone conversation J.L. SADICK told Sullivan that he anticipated wiring the entire amount of the Escrow Deposit to GERICARE on June 5, 2020.

72. At no time during the June 4, 2020 telephone conversation did J.L. SADICK disclose that the Escrow Deposit had been removed from the Escrow Trust Account.

73. J.L. SADICK did not wire any of the Escrow Deposit to GERICARE on June 5, 2020.

74. J.L. SADICK also spoke with Sullivan by telephone on June 8, 2020.

75. During the June 8, 2020 telephone conversation J.L. SADICK told Sullivan that he anticipated wiring the entire amount of the Escrow Deposit to GERICARE on June 9, 2020.

76. At no time during the June 8, 2020 telephone conversation did J.L. SADICK disclose that the Escrow Deposit had been removed from the Escrow Trust Account.

77. J.L. SADICK also spoke with Sullivan by telephone on June 9, 2020.

78. During the June 9, 2020 telephone conversation J.L. SADICK told Sullivan that he anticipated wiring the entire amount of the Escrow Deposit to GERICARE on June 10, 2020.

79. At no time during the June 9, 2020 telephone conversation did J.L. SADICK disclose that the Escrow Deposit had been removed from the Escrow Trust Account.

80. On June 9, 2020, Sullivan sent J.L. SADICK an email stating:

“Recall that only \$75,000 of the funds were to be released prior to acceptance of the product by Gericare. Thus, at least \$1,015,000 of the deposit must be available to wire to Gericare under the terms of the purchase and escrow agreement. Can you please move forward with wiring that amount (\$1,015,000) immediately?”

81. A true and correct copy of Sullivan’s June 9 email is attached as “Exhibit 5.”

82. On June 10, 2020, J.L. SADICK made a telephone call to Sullivan.

83. During the June 10, 2020 telephone conversation, SADICK told Sullivan he was waiting on a wire from “the manufacturer” in order to wire the Escrow Deposit to GERICARE.

84. During the June 10, 2020 telephone conversation, SADICK also told Sullivan that he expected to wire the Escrow Deposit to GERICARE on June 11, 2020.

85. J.L. SADICK did not wire any portion of the Escrow Deposit to GERICARE on June 11, 2020.

86. On June 15, 2020, J.L. SADICK made a telephone call to Sullivan.

87. During the June 15, 2020 telephone conversation, J.L. SADICK told Sullivan that BARNES of IMITARI had “pledged” the Escrow Deposit and the funds were therefore “tied to Terry’s credit line.”

88. During the June 15, 2020 telephone conversation, J.L. SADICK also told Sullivan that because BARNES had pledged the Escrow Deposit, the Escrow Deposit was unavailable.

89. During the June 15, 2020 telephone conversation, J.L. SADICK refused to tell Sullivan to whom IMITARI had allegedly pledged the Escrowed Funds.

90. During the June 15, 2020 telephone conversation, J.L. SADICK refused to tell Sullivan how the Escrow Deposit could be pledged when it was located in his Escrow Trust Account.

91. On June 15, 2020, Sullivan sent J.L. SADICK an email requesting documentation regarding the Escrow Deposit, including proof that the Escrow Deposit remained in J.L. SADICK’s Escrow Trust Account.

92. A true and correct copy of Sullivan’s June 15 email is attached as “Exhibit 6.”

93. J.L. SADICK did not respond to Sullivan’s June 15 email and J.L. SADICK has not communicated with Sullivan and/or GERICARE since June 15.

94. Investigation by GERICARE has revealed that IMITARI is not affiliated with PROFESSIONAL MEDICAL or BARNES, the individuals with whom GERICARE believed it

was dealing on behalf of IMITARI are fraudsters and the entire Gown purchase transaction was a scam.

95. J.L. SADICK transferred the Escrow Deposit out of the Escrow Trust Account.

96. GERICARE has demanded that J.L. SADICK return the Escrow Deposit.

97. J.L. SADICK has refused to return the Escrow Deposit.

98. GERICARE has lost business opportunities as a result of not having access to the Escrow Deposit.

99. GERICARE has had to pay interest and fees on the loan it obtained to make the Escrow Deposit.

100. GERICARE has been required to incur attorneys' fees to obtain return of the Escrow Deposit.

### **CAUSES OF ACTION**

#### **First Cause of Action- Breach of Contract**

101. GERICARE adopts and incorporates the allegations contained in Paragraphs 3-100 the same as if fully set forth herein.

102. J.L. SADICK entered into a contract with GERICARE and GERICARE provided J.L. SADICK with the Escrow Deposit.

103. All but up to \$75,000 of the Escrow Deposit was supposed to remain in the Escrow Trust Account.

104. GERICARE fully performed all of its obligations under the Escrow Agreement or was excused from its performance by J.L. SADICK's actions and/or the actions of IMITARI.

105. J.L. SADICK breached its contract with GERICARE by transferring more than \$75,000 out of the Escrow Trust Account without GERICARE's permission.

106. GERICARE has suffered damages and injury as a result of J.L. SADICK's breach of the Escrow Agreement.

WHEREFORE, PREMISES CONSIDERED, GERICARE demands compensatory damages, including consequential damages, from J.L. SADICK, attorneys' fees, costs and whatever other relief that the trier of fact deems just and proper.

**Second Cause of Action-Breach of Fiduciary Duty**

107. GERICARE adopts and incorporates Paragraphs 3-100 of the Complaint the same as if fully set forth herein.

108. J.L. SADICK breached its fiduciary duty to GERICARE by transferring the Escrow Deposit out of the Escrow Trust Account.

109. J.L. SADICK breached its fiduciary duty to GERICARE by misrepresenting that J.L. SADICK was going to return the Escrow Deposit to GERICARE.

110. J.L. SADICK breached its fiduciary duty to GERICARE by not stopping the transfer of the Escrow Deposit from the Escrow Trust Account.

111. J.L. SADICK breached its fiduciary duty to GERICARE by not arranging for the immediate return of the Escrow Deposit.

112. J.L. SADICK breached its fiduciary duty to GERICARE by not keeping the Escrow Deposit safe.

113. J.L. SADICK breached its fiduciary duty to GERICARE by making statements of material fact that were false.

114. J.L. SADICK breached its fiduciary duty to GERICARE by not advising GERICARE that statements material fact it had previously made were false when it learned they were false.

115. J.L. SADICK breached its fiduciary duty to GERICARE by providing false information to GERICARE when GERICARE requested the information.

116. J.L. SADICK breached its fiduciary duty to GERICARE by not disclosing IMMITARI's fraudulent conduct to GERICARE.

117. J.L. SADICK breached its fiduciary duty to GERICARE by not disclosing to GERICARE that the Escrow Deposit had been transferred from the Escrow Trust Account.

118. J.L. SADICK breached its fiduciary duty of care to GERICARE by not carrying out the terms of the Escrow Agreement.

119. J.L. SADICK breached its fiduciary duty of care to GERICARE by not disclosing facts that a reasonable fiduciary would perceive as fraud.

120. J.L. SADICK's breaches of its fiduciary duty to GERICARE were willful, malicious and fraudulent conduct or, in the alternative negligent.

121. By breaching the duties set forth in Paragraphs 108-120, J.L. SADICK is also guilty of constructive fraud.

122. GERICARE has suffered damages and injury as a result of J.L. SADICK's breaches of its fiduciary duty.

WHEREFORE, PREMISES CONSIDERED, GERICARE demands equitable forfeiture, compensatory, including consequential damages, and exemplary damages from J.L. SADICK, attorneys' fees, costs and whatever other relief the trier of fact deems just and proper.

**Third Cause of Action-Fraudulent Misrepresentation**

123. GERICARE adopts and incorporates Paragraphs 3-100 of the Complaint the same as if fully set forth herein.

124. J.L. SADICK made the material misrepresentations to GERICARE including:

(a) Confirming that IMITARI's representations regarding the number and location of the Gowns was accurate;

(b) IMITARI was a recently formed company that had been formed by BARNES of PROFESSIONAL MEDICAL and that both BARNES and PROFESSIONAL MEDICAL were well known in the healthcare industry;

(c) That J.L. SADICK would act as an escrow agent in connection with the purchase of the Gowns;

(d) That J.L. SADICK was acting as an escrow agent in connection with the purchase of the Gowns;

(e) That if GERICARE wired the Escrow Deposit on April 27, 2020 that GERICARE could receive the Gowns by May 1, 2020;

(f) That the Escrow Deposit would be wired to GERICARE once a DHL refund was processed;

(g) That J.L. SADICK anticipated wiring the Escrow Deposit on June 4, 2020;

(h) That J.L. SADICK anticipated wiring the Escrow Deposit on June 5, 2020;

(i) That J.L. SADICK anticipated wiring the Escrow Deposit on June 9, 2020;

(j) That J.L. SADICK anticipated wiring the Escrow Deposit on June 10, 2020;

(k) That J.L. SADICK anticipated wiring the Escrow Deposit on June 11, 2020;

(l) That only \$75,000 of the Escrow Deposit would be released early;

(m) That J.L. SADICK was waiting on a wire from the "manufacturer" in order to wire the Escrow Deposit to GERICARE.

125. J.L. SADICK knew these material misrepresentations were false, or made them recklessly without any knowledge of the truth and as a positive assertion thereof.

126. J.L. SADICK made these material representations with the intent that GERICARE act upon them and/or refrain from acting.

127. GERICARE was ignorant of the falsity of J.L. SADICK's material misrepresentations.

128. GERICARE acted in reliance on these misrepresentations, and has suffered injury and damages as a result thereof.

WHEREFORE, PREMISES CONSIDERED, GERICARE demands an award of compensatory, including consequential damages, and exemplary damages from J.L. SADICK, attorneys' fees, costs and whatever other relief the trier of fact deems just and proper.

**Fourth Cause of Action-Fraudulent Concealment/Suppression/Fraud by Non-Disclosure**

129. GERICARE adopts and incorporates the allegations set forth in Paragraphs 3-100 of the Complaint the same as if fully set forth herein.

130. GERICARE entrusted the Escrow Deposit to J.L. SADICK.

131. J.L. SADICK also served as an escrow agent for the Escrow Deposit.

132. SADICK is also a licensed attorney in the State of Texas.

133. By holding the Escrow Deposit, J.L. SADICK assumed the duties of a professional fiduciary.

134. J.L. SADICK concealed, suppressed and failed to disclose to GERICARE that:

(a) J.L. SADICK had transferred the Escrow Deposit from the Escrow Trust Account;

(b) J.L. SADICK, had no intention of returning the Escrow Deposit to GERICARE;

(c) IMMITARI was not a legitimate company;

(d) The sale of the Gowns was a fraudulent transaction; and

(e) Previous statements of material facts regarding the Gowns, IMITARI, BARNES and the Escrow Deposit were false.

135. J.L. SADICK concealed and suppressed material facts in response to questions from GERICARE.

136. J.L. SADICK also failed to speak the whole truth.

137. GERICARE has suffered injury and damages as a result of J.L. SADICK's fraudulent concealment and suppression.

WHEREFORE, PREMISES CONSIDERED, GERICARE demands an award of compensatory damages, including, consequential damages, and exemplary damages from J.L. SADICK, attorneys' fees, costs and whatever additional relief the trier of fact deems just and proper.

#### **Fifth Cause of Action – Conversion**

138. GERICARE adopts and incorporates the allegations found in Paragraphs 3-100 of the Complaint the same as if fully set forth herein.

139. GERICARE wired the Escrow Deposit to J.L. SADICK's Escrow Trust Account for safekeeping.

140. The Escrow Deposit is specifically identifiable, kept segregated and capable of conversion.

141. J.L. SADICK through negligence, gross negligence, willfully, unlawfully and/or maliciously and without authorization from GERICARE transferred the Escrow Deposit out of the Escrow Trust Account.

142. GERICARE demanded return of the Escrow Deposit.



143. J.L. SADICK has not returned the Escrow Deposit to GERICARE.

144. GERICARE has suffered injury and damages by J.L. SADICK's conversion of the Escrow Deposit.

WHEREFORE, PREMISES CONSIDERED, GERICARE demands an award of compensatory and exemplary damages from J.L. SADICK, costs and whatever other relief the trier of fact deems just and proper.

**Sixth Cause of Action- Negligence**

145. GERICARE adopts and incorporates the allegations found in Paragraphs 3-100 of the Complaint the same as if fully set forth herein.

146. J.L. SADICK had a duty to GERICARE not to transfer the Escrow Deposit out of the Escrow Trust Account without authorization from GERICARE.

147. J.L. SADICK had a duty stop the transfer of the Escrow Deposit from the Escrow Trust Account.

148. J.L. SADICK had a duty to keep the Escrow Deposit safe.

149. J.L. SADICK had a duty to inform GERICARE that the Escrow Deposit had been transferred out of the Escrow Trust Account.

150. J.L. SADICK had a duty to obtain return of the Escrow Deposit after it was transferred out of the Escrow Account.

151. J.L. SADICK had a duty to GERICARE to make truthful statements of material fact.

152. J.L. SADICK had a duty to GERICARE to correct previously made false statements of material fact when J.L. SADICK discovered that those statements were false.

153. J.L. SADICK breached these duties causing GERICARE to suffer injury and damages.

WHEREFORE, PREMISES CONSIDERED, GERICARE demands an award of compensatory damages from J.L. SADICK, costs and whatever other relief the trier of fact deems just and proper.

**Seventh Cause of Action- Gross Negligence**

154. GERICARE adopts and incorporates the allegations found in Paragraphs 3-100 and 145-152 of the Complaint the same as if fully set forth herein.

155. J.L. SADICK tbreached the duties set forth in Paragraphs 146-152 of the Complaint in the face of an extreme degree of risk to GERICARE without regard for the consequences to GERICARE.

156. As a result of J.L. SADICK's gross negligence, GERICARE has suffered injury and damage.

WHEREFORE, PREMISES CONSIDERED, GERICARE demands an award of compensatory damages, including consequential damages, and exemplary damages from J.L. SADICK, costs and whatever other relief the trier of fact deems just and proper.

**Eighth Cause of Action- Negligent Misrepresentation**

157. GERICARE adopts and incorporates Paragraphs 3-100 of the Complaint the same as if fully set forth herein.

158. J.L. SADICK provided false information and guidance to GERICARE during the course of his business as well as in a transaction in which J.L. SADICK had a pecuniary interest:

(a) Confirming that IMITARI's representations regarding the number and location of the Gowns was accurate;

(b) IMITARI was a recently formed company that had been formed by BARNES of PROFESSIONAL MEDICAL and that both BARNES and PROFESSIONAL MEDICAL were well known in the healthcare industry;

(c) That J.L. SADICK would act as an escrow agent in connection with the purchase of the Gowns;

(d) That J.L. SADICK was acting as an escrow agent in connection with the purchase of the Gowns;

(e) That the only thing preventing J.L. SADICK from wiring the Escrow Deposit to GERICARE was a refund from DHL;

(f) That the only thing preventing J.L. SADICK from wiring the Escrow Deposit to GERICARE was a wire transfer from the “manufacturer;”

159. J.L. SADICK failed to exercise reasonable care and competence in obtaining and communicating the information to GERICARE.

160. GERICARE justifiably relied on J.L. SADICK’s negligent misrepresentations.

161. GERICARE suffered injury and damages, including pecuniary loss, as a result of J.L. SADICK’s negligent misrepresentations

WHEREFORE, PREMISES CONSIDERED GERICARE demands an award of compensatory damages, including consequential damages, from J.L. SADICK, costs and whatever other relief the trier of fact deems just and proper.

**Ninth Cause of Action- Unjust Enrichment/Restitution/Disgorgement**

162. GERICARE adopts and incorporates Paragraphs 3-100 of the Complaint the same as if fully set forth herein.

163. GERICARE wired the Escrow Deposit to J.L. SADICK for safekeeping.

164. GERICARE provided a benefit to J.L. SADICK by entrusting him with the Escrow Deposit from which he retained/would be paid a fee.

165. GERICARE held a reasonable expectation that J.L. SADICK would act in GERICARE's interest in the disposition of Escrow Deposit.

166. J.L. SADICK accepted and retained a benefit from the Escrow Deposit and improperly disposed of the Escrow Deposit.

167. J.L. SADICK holds money that in equity and good conscience should be returned to GERICARE.

168. J.L. SADICK disposed of the Escrow Deposit without authorization or permission.

169. J.L. SADICK has been unjustly enriched and should be required to pay restitution, return and disgorge to GERICARE the amount of the Escrow Deposit.

WHEREFORE, PREMISES CONSIDERED, GERICARE demands restitution, return and disgorgement of all portions of the Escrow Deposit from J.L. SADICK.

WHEREFORE, PREMISES CONSIDERED, GERICARE respectfully prays that the trier of fact enter a judgment against J.L. SADICK individually and jointly awarding GERICARE:

- (a) Compensatory damages, including consequential damages;
- (b) Exemplary damages;
- (c) Attorneys' Fees;
- (d) Costs;
- (e) Restitution;
- (f) Disgorgement;
- (g) Equitable forfeiture; and
- (h) Whatever other relief the trier of fact deems just and proper.

Dated: July 9, 2020

Respectfully Submitted,

/s/ Joshua H. Threadcraft

Joshua H. Threadcraft

AL Bar No.: ASB-7136-H36T

S.D. Tex. Bar. No.: 2330484

**BURR & FORMAN, LLP**

420 N. 20th Street, Suite 3400

Birmingham, Alabama 35203

Telephone: (205) 251-3000

Facsimile: (205) 458-5100

Email: Joshua.Threadcraft@burr.com