

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

MCS ADVANTAGE, INC.; MCS
HEALTHCARE HOLDINGS LLC,

Plaintiffs,

v.

MMM HEALTHCARE, LLC; MMM
HOLDINGS, LLC; CASTELLANA
PHYSICIAN SERVICES, LLC; INSALUD,
INC.; PHM MULTISALUD, LLC; ISLAND
MEDICAL GROUP CORP.; EAST COAST
MEDICAL SERVICES, INC.; VILLA LOS
SANTOS ADVANTAGE, INC.; GRUPO
MÉDICO GERIÁTRICO DE PUERTO
RICO, INC.; COMPANY ABC; COMPANY
XYZ; JOHN DOE AND JOHN ROE,

Defendants.

Civ. No.:

Jury Trial Demanded

VERIFIED COMPLAINT

COMES NOW, plaintiffs MCS Advantage, Inc. (“**MCS Advantage**”) and MCS Healthcare Holdings LLC (“**MCS Holdings**”, and jointly with MCS Advantage, “**MCS**”) and through the undersigned attorney, respectfully states and prays:

NATURE OF ACTION

1. This lawsuit concerns Defendants’ flagrant, willful, and unethical attempt to deceive the elderly community of Puerto Rico regarding its health care options during the most critical Medicare enrollment period of the year.

2. For the past 36 years, MCS has been committed to providing direct access to health care for insured Puerto Ricans and has stood out for offering innovative products based on

a service delivery model that takes all aspects of human health into consideration. One of the most innovative and successful health care offerings by MCS Advantage is MCS Classicare (“**Classicare**”), a category of health plan products that is designed for people who are eligible to receive the benefits of Medicare Parts A and/or B. Classicare has been extremely well-received by the public and remains a very popular healthcare option among the elderly community.

3. MCS Advantage is the only health plan provider in Puerto Rico that has received approval from the Centers for Medicare and Medicaid (“**CMS**”) to include direct payments to a certain class of beneficiaries for a combination of food, water, electricity, and telephone service, as well as transportation to non-medical locations, and home repairs—exciting new benefits that further set the company’s offerings apart from its competitors. These benefits are approved by CMS under a new category of benefits defined as “Special Supplemental Benefits for the Chronically Ill” or “**SSBCI**.”

4. Unable to compete with MCS Advantage in the marketplace or offer equally attractive and innovative healthcare benefits (including MCS’ combination of benefits under SSBCI), Defendants have resorted to grossly unfair and deceptive practices to undermine the success of MCS Advantage and its MCS Classicare products. Most saliently, at the outset of this year’s Medicare Advantage Annual Coordinated Enrollment Period (“**ACEP**”)—the time period ending on December 7, 2019, during which Puerto Rican Medicare recipients must choose their healthcare plans—Defendants launched an advertising campaign that provides false and misleading information about MCS Advantage and Classicare, including MCS’ exclusive offering of SSBCI (the “**Campaign**”). This Campaign has been widely disseminated across numerous forms of media, including but not limited to Puerto Rico-wide commercials airing on television during the World Series, newspaper ads, flyers and handouts, social media posts, and

audio clips shared via radio and text message. Campaign videos that have been posted online have been viewed literally *hundreds of thousands* of times.

5. Campaign materials present at least three deeply troubling features.

6. *First*, Campaign materials present false and/or misleading information about MCS and its products and services.

7. For example, the Campaign falsely informs consumers that MCS Advantage does not “respect the elderly” and has “exploited,” “manipulated,” “fooled,” and lied to them with respect to Classicare benefits, including about eligibility to receive the SSBCI benefits. In fact, and as Defendants are well aware, MCS Advantage takes great care to amply disclose benefit information to consumers, stress the SSBCI eligibility requirements imposed by CMS, and fulfill all applicable contractual requisites imposed by CMS and all regulatory requirements applicable to the Medicare Advantage (“**MA**”) program.

8. In addition, the Campaign falsely suggests that virtually no one is actually eligible for SSBCI benefits under Classicare, and thus the offering of those benefits is illusory. Yet Defendants know full well that the various chronic conditions that are a prerequisite for receiving those benefits under CMS-established criteria are very common in Puerto Rico. Moreover, a clinical analysis by MCS Classicare of beneficiaries in its current health plans indicates that over 85% of them qualify for the new benefits.

9. *Second*, Defendants obscure the fact that the purpose of the Campaign is to undermine MCS *for the benefit of its competitors* by stating that the source of the ads is an unregistered, fictitious entity called “Médicos Preocupados por su Bienestar” (“*Medical Doctors Worried about your Health*”). This made-up moniker falsely suggests that the (incorrect) information being presented about MCS in the Campaign is endorsed by objective and

independent sources (*i.e.*, trustworthy physicians), rather than entities like Defendants that have an ulterior motive to benefit their own bottom line.

10. In that regard, upon information and belief, the Campaign was directed at least in part by Defendant MMM Healthcare, LLC (“MMM”), a direct competitor of MCS Advantage in the MA healthcare field that has long sought to undermine MCS’s market success, directly or through its related entities. MMM’s affiliate, Defendant Castellana Physician Services, is one of the parties that has affixed its name to Campaign ads as one of the supposed members of “Médicos Preocupados por su Bienestar.”

11. *Third*, Campaign materials seek to confuse consumers—and particularly elderly consumers—about whether MCS is responsible for deceptive ad content. For example, Campaign ads imitate numerous aspects of MCS’s distinctive and well-known marketing for its business and for Classicare in order to pass-off as materials affiliated or associated with MCS itself. Campaign materials (i) misappropriate MCS color combinations (*e.g.*, a highly identifiable combination of shades of green), font, and layout; (ii) simulate the trademarked “MCS” name and logo; (iii) in audio and audiovisual materials, use the same sound cue(s) and music that is used in MCS commercials; and (iv) specifically refer to MCS in audio clips and the social media link that grants access to the Campaign video.

12. As a mere example:

MCS Classicare Advertisement	Defendants' Deceptive Advertisement
<p>MCS Classicare Advertisement</p> <p>MEDICARE BENEFICIARY</p> <p>A GREAT WAY TO CARE FOR YOU NEED HELP TO PAY FOR YOUR ELECTRICITY BILL, WATER, PHONE AND/OR GROCERIES?</p> <p>THE CARD MCS Classicare TE PAGA</p> <p>\$960 ANNUAL (\$240 per trimester)</p> <p>A RELIEF WHEN IT COMES TO PAYING YOUR BILLS! You decide, with the MCS Classicare Te Paga card you may pay for your electricity, water, phone and/or groceries.</p> <p>Participating supermarkets: Amigo, WALMART, WALGREENS, Walmart</p> <p>In addition, you'll enjoy special discounts when you present your card at: CVS • Walgreens • Walmart</p> <p>MCS CLASSICARE REALLY CARES FOR YOU. CALL NOW! <#Free of Charge> (Free of Charge) <TTY number> (TTY (hearing impaired))</p> <p>VIVELA >> MCS Classicare (HMO)</p> <p><small>Paid endorsement. 1. To be eligible you must meet one or more comorbid chronic conditions, high risk of hospitalization and must require intensive care coordination. 2. If you did not use the trimester's full amount, the remaining amount will not be accumulated to be used in the next trimester. 3. You have a contribution of \$240 quarterly, to be used in purchases of healthy foods, payment of electricity, water and/or telephone through participating suppliers. Certain restrictions apply. MCS Advantage, Inc. complies with applicable Federal civil rights laws and does not discriminate on the basis of race, color, national origin, age, disability or sex. ATTENTION: If you speak English, language assistance services, free of charge, are available to you. Call 1.866.627.8183 (TTY: 1.866.627.8183). ATENCIÓN: Si habla español, tiene a su disposición servicios gratuitos de asistencia lingüística. Llame al 1.866.627.8183 (TTY: 1.866.627.8183). 注意: 如果您使用繁體中文, 您可以免費獲得語言協助服務。請致電 1.866.627.8183 (TTY: 1.866.627.8183).</small></p>	<p>Defendants' Deceptive Advertisement</p> <p>QUÉ MANERA DE ENGAÑARLOS, QUÉ MANERA...</p> <p>LES "PAGAN" AGUA, LUZ, TELÉFONO Y COMPRA</p> <p>SOLO SI PADECEN de:</p> <ul style="list-style-type: none"> • Condiciones crónicas comórbidas • Si tienen alto riesgo de hospitalización • Y si también requieren cuidado intensivo <p>ESTO NO ES PARA TODOS</p> <p><small>Endoso Pagado. 1. Para ser elegible usted debe cumplir con una o más condiciones crónicas comórbidas, alto riesgo de hospitalización y requerir coordinación de cuidado intensivo. 2. Puede ser elegible a transportation limitada para gestiones no médicas a localizaciones aprobadas por el plan a través de proveedores contratados. 3. Solo aplican las reparaciones simples según la evaluación que realice el explorador de servicios. Los servicios están limitados a ocho (8) visitas por año. Ciertas restricciones aplican.</small></p> <p>UN MENSAJE DE MÉDICOS PREOCUPADOS POR SU BIENESTAR</p> <p>CAPELLANA, In-Salud, mg, USA, PHM, ECMS, GRUPO MEDICO GERIATRICO</p>

13. Even worse, audio clips disseminated as part of the Campaign purport to be ads for and by MCS, falsely suggesting that MCS is purporting to offer an array of benefits that it never has actually claimed to offer (e.g., dog food and toys). Compounding the confusion created by these ads, they finish with the phrase, “Switch to MCS now.”

14. As intended by Defendants, the Campaign has succeeded in confusing consumers and harming MCS Advantage’s business, reputation, and goodwill. MCS Advantage already has received numerous calls, as well as reports of elderly consumers who are informing their health care providers that they are troubled and confused about Campaign materials, including whether MCS Advantage is providing incorrect information regarding SSBCI. In addition, MCS Advantage enrollment numbers this year are below expected levels.

15. MCS has been forced to commit substantial resources to addressing the public misconceptions created by the Campaign, including through its own corrective advertising efforts. But there is no way to ensure either that MCS is reaching all of the myriad consumers

that have been—and are continuing to be—exposed to Defendants’ misinformation scheme.

16. As a result of the Campaign, MCS has suffered both monetary harm and irreparable harm to its goodwill and reputation, and MCS will continue to suffer such harm if the Campaign is not immediately and completely stopped.

17. Accordingly, and for the reasons set forth in greater detail below, Defendants are liable for, among other things, false advertising, false association, unfair competition, trademark infringement, and trademark dilution under the federal Lanham Act and/or Puerto Rico law.

JURISDICTION AND VENUE

18. This Court has jurisdiction over MCS’s claims of violations to the Lanham Act, 15 U.S.C. §§ 1051, *et seq.*, under 28 U.S.C. § 1331. The Court has supplemental jurisdiction over MCS’ claims of violations to Puerto Rico law under 28 U.S.C. § 1367(a).

19. This district court is the proper venue for this Complaint under 28 U.S.C. § 1391, as all defendants are incorporated and doing business in Puerto Rico, and the acts that give rise to the claims alleged in this Complaint principally occurred in Puerto Rico.

THE PARTIES

20. Plaintiff MCS Holdings is limited liability company organized under Puerto Rico law, with physical offices at 255 Ponce de Leon, Suite 900, San Juan, PR 00918, and a member of the MCS Group of related legal entities (“**MCS Group**”).

21. MCS Holdings is the registered owner of numerous Puerto Rico Certificates of Registration of the various trademarks associated with the services rendered or products sold by the MCS Group affiliates, including those used by co-plaintiff MCS Advantage.

22. MCS Holdings is also the assignee of Certificate of Registration 3,733,547 issued by the United States Patent and Trademark Office for the MCS green and white logo (depicted

infra in Paragraph 49). See, Exhibit 1 and 2.

23. Plaintiff MCS Advantage is a corporation organized under Puerto Rico law and authorized as a health services organization under the Insurance Code of Puerto Rico. MCS Advantage is a member of the MCS Group, with a main office located at 255 Ponce de Leon, Suite 900, San Juan, PR 00918.

24. Defendant MMM Healthcare, LLC (“**MMM**”) is a health services organization organized under Puerto Rico law and one of many related entities that form the MMM Group (“**MMM Group**”), which competes with MCS Advantage in the MA insurance segment. MMM’s main office is located at 350 Ave. Carlos E. Chardón #500, Hato Rey, PR 00918.

25. Defendant MMM Holdings, LLC (“**MMM Holdings**”) is a limited liability company organized under the laws of Puerto Rico and a member of the MMM Group. MMM has the same principal place of business as MMM and, under an administrative services agreement with MMM, provides it with certain consulting, management and operational services in the operation of the Medicare Advantage plans.

26. Defendant Castellana Physician Services, LLC (“**Castellana**”) is a Puerto Rico limited liability company, with the same principal place of business as MMM. Castellana is a member of the MMM Group that describes itself on its website as “part of the MMM Holdings family.” See, <http://prmmmcastellana.azurewebsites.net/about-us/>.

27. On information and belief, MMM Holdings is the parent company of both MMM and Castellana, and MMM and/or MMM Holdings personnel have knowledge of, and/or some degree of control or supervision over, the activities of Castellana.

28. InSalud, Inc. (“**InSalud**”) is a Puerto Rico corporation with its main office at Urbanización Las Alondras, Barrio Tierra Santa, Carretera 149 KM 58.8, Villalba, PR 00766,

and, is an independent physician association. Upon information and belief, InSalud offers its services to MMM and/or other members of the MMM Group.

29. PHM Multisalud, LLC (“**PHM**”) is a Puerto Rico limited liability company with its main office at Urbanización Caribe 1551, Calle Aida, San Juan, P.R. 00926-2709. Upon information and belief, PHM is engaged in on-going and lengthy business relationships with MMM and its affiliates, providing healthcare and consulting services to the MMM Group.

30. Grupo Médico Geriátrico de Puerto Rico, Inc. (“**GMG**”) is a Puerto Rico corporation with offices located in Urbanización Santa Cruz, B-7 Calle Santa Cruz, Bayamón, PR 00959 and is engaged in providing health services in the Puerto Rico market. Upon information and belief, GMG is a provider of such services to the beneficiaries of the health plans offered by MMM and/or the MMM Group.

31. Defendant Island Medical Group Corp. (“**IMG**”) is a Puerto Rico corporation with official designated offices at 314 The Atrium Business Center, 530 Ave Constitución, San Juan, PR 00901, and which describes itself as a medical group that provides medical services to Medicare, the Health Plan of the Government of Puerto Rico and commercial patients. Upon information and belief, IMG is a provider of such services to the beneficiaries of the health plans offered by MMM and/or the MMM Group.

32. Defendant Villa Los Santos Advantage, Inc. (“**VLSA**”) is a Puerto Rico corporation with offices at Calle 16 V1, Urb. Villa Los Santos, Arecibo, PR, 00613, and describes itself as corporation that operates “an independent practice association.” Upon information and belief, VLSA is a provider of medical services to the beneficiaries of the health plans offered by MMM and/or the MMM Group.

33. Defendant East Coast Medical Services, Inc. (“**ECMS**”) is a Puerto Rico

corporation with offices at Urb. Baralt, Avenida Principal, Fajardo, PR 00738. Upon information and belief, ECMS is a provider of medical services to the beneficiaries of the health plans offered by MMM and/or the MMM Group.

34. Upon information and belief, unknown Defendants Company ABC, Company XYZ; John Doe and John Roe have participated and/or subsidized the illicit Campaign that is the subject of this Complaint.

STATEMENT OF FACTS

A. MCS Advantage's Success in the Health Insurance Coverage Market and Unique Ability to Offer SSBCI to Puerto Ricans

35. MCS Advantage is a managed care organization and a member of the MCS Group that serves over 360,000 beneficiaries in Puerto Rico, including 170,000 Medicare Advantage ("MA") beneficiaries and more than 190,000 beneficiaries in commercial plans for employers and individuals.

36. In 1983, the MCS Group began operating as a Third-Party Administrator of health care provider networks, partnering with insurers from the mainland and serving multinational manufacturers in Puerto Rico like Baxter and Pfizer, among others.

37. Since the 1990s, the MCS Group started offering fully insured health plans and was granted the first contract for Medicare Advantage in 2004.

38. With great success in generating organic growth with attractive products, excellent service, and community engagement, today MCS Advantage is one of the largest MA plans in Puerto Rico.

39. The capacity to grow has been such that MCS Advantage reached 206,000 total MA beneficiaries as recently as 2018. For 2020, MCS Advantage is positioned again at the top of the market with regards to its benefits coverage, which includes the new unique benefits

approved under the new CMS SSBCI policy for the chronically ill.

40. Specifically, MCS Advantage is the *first and only* MA plan in Puerto Rico to which CMS approved the coverage to pay the following SSBCI as part of its health benefits: electricity; water; telephone service; non-emergency transportation services to non-primarily health related destinations; and simple home repairs for electricity, plumbing, locksmithing, and broken glass.

41. As expressly stated in CMS's communication to all MA Organizations on April 24, 2019, the intended purpose of offering these SSBCI benefits is to enable MA plans "to better tailor benefit offerings, address gaps in care, and improve[s] health outcomes for the chronically ill population." See, Exhibit 3.

42. That is precisely what MCS Advantage has done by integrating SSBCI as part of its innovative health care coverage, including Classicare health plans.

43. As the only company on the market that can offer these important benefits in Puerto Rico, MCS Advantage has heavily promoted and marketed Classicare and its inclusion of these SSBCI benefits to consumers.

44. In both marketing and selling Classicare policies, MCS Advantage notifies consumers that, pursuant to CMS-established criteria, SSBCI are available to a particular subsection of Medicare recipients, albeit a substantial one—namely, individuals who meet one or more specific comorbid chronic conditions (which are very common in Puerto Rico), have a high risk of hospitalization, and require intensive care coordination. Notwithstanding these requirements, a large contingent of MCS Classicare beneficiaries are eligible for these new, additional benefits; a clinical analysis by MCS Classicare of those beneficiaries indicated that over 85% of them would be eligible for SSBCI benefits.

45. Disclosure of eligibility requirements appears in multiple forms. Print advertisements, for example, include disclosure language explaining eligibility requirements. Indeed, MCS managers, directors, employees and representatives devote a substantial amount of time and resources to creating marketing materials to effectively market the Classicare plans, including complying with the “File & Use” process implemented by CMS pertinent regulations at 42 C.F.R. §§ 422.2262(b), 423.2262(b).

46. Under the File & Use process, Plans/Part D sponsors such as MCS Advantage must submit eligible marketing materials at least five (5) calendar days prior to their distribution and certify that the materials comply with all applicable standards. CMS presumes that the officer of the Plan/Part D sponsor has, by submission, attested that the material complies with the File & Use requirements and Plans/Part D sponsor may be subject to compliance actions if they submit or use materials that do not meet the applicable requirements. Moreover, CMS may periodically conduct retrospective reviews of materials that Plans/Part D sponsors submit under File & Use to ensure compliance with requirements.

47. Information regarding eligibility for SSBCI through Classicare is also provided through other means, such as brochures. One example of the many similar brochures available to interested parties is the *2020 Summary of Benefits, MCS Classicare Activo (HMO)*, hand-delivered at the point of sale during ACEP and also available at the MCS website. In that document, MCS Advantage expressly and prominently sets forth the requirements to be eligible for SSBCI, by stating:

To be eligible for these additional benefits, you must meet the following requirements: You must have one or more comorbid and medically complex chronic conditions that are life threatening or significantly limit your health or general functioning -In addition, you must have a high risk of hospitalization or other adverse health outcomes; and must require intensive care coordination.

The brochure further sets forth a complete listing of eligible chronic conditions, as well as other restrictions that apply to the SSBIC. See, **Exhibit 4**, at page 13-14.

B. The Longstanding and Distinctive Branding of MCS' Products and Services

48. For well-over thirty years, the MCS Group has consistently and continuously used a green and white color combination as part of its promotional materials and logos, including the medical cards that have been distributed throughout the years to the beneficiaries of its health insurance coverage products.

49. Moreover, the well-known MCS logo depicted below (the “**MCS Logo**”) is famous throughout Puerto Rico, as it has been consistently and continuously in use since at the very least 2003 to promote MCS's services in the Puerto Rico health coverage insurance market. The MCS Logo is protected by U.S. Trademark Registration No. 3,733,547 (see, **Exhibit 1**).



50. Thus, for decades, MCS has marketed itself with a distinctive color scheme of highly identifiable shades of green combined with white; as well as a distinctive font, layout and other advertising design elements and trade dress that consumers have come to associate with MCS's services, products and marketing. See, for example, **Exhibit 5**.

51. Many of MCS's trademarks, including those that include the MCS Logo and/or the MCS distinctive green-and-white color combination, are registered or are in the process of

being registered at the Puerto Rico Trademark Office. See, e.g., Exhibit 6.

52. Moreover, MCS has continued to use the foregoing MCS trademarks and trade dress specifically in promoting MCS Advantage’s unique ability to offer the SSBCI benefit.

53. For example, beneficiaries who enroll in a plan with SSBCI receive a card referred to as the “Te Paga Card” or “Classicare Card” that appears as follows:



54. The MCS Classicare plans, including those with SSBCI, are advertised on the MCS website, in print, on television, and on MCS’s social media platforms displaying the MCS trademarks and trade dress, along with the catchphrase “Nueva Manera de Quererte” (“*New Way to Love You*”).

55. Depicted below is an example of a print advertisement that prominently displays the MCS Logo and other MCS registered logos, displays the typical green-and-white color scheme, and stresses the “a great way to care for you” theme:

MEDICARE BENEFICIARY

A GREAT WAY TO CARE FOR YOU

NEED HELP TO PAY FOR YOUR ELECTRICITY BILL, WATER, PHONE AND/OR GROCERIES?



THE CARD

MCS Classicare (HMO)

TE PAGA (PAYS YOU)

\$960 ANNUAL^{1,2}
(\$240 per trimester)³

MCS CLASSICARE TE MUEVE (HMO)
MCS CLASSICARE MediOnlyNoRx (HMO)

A RELIEF WHEN IT COMES TO PAYING YOUR BILLS!

You decide, with the MCS Classicare Te Paga card you may pay for your electricity, water, phone and/or groceries.



Participating supermarkets: Amigo **ECONOM** **SELECCIONES** Walmart*

In addition, you'll enjoy special discounts when you present your card at: CVS • Walgreens • Walmart

MCS CLASSICARE REALLY CARES FOR YOU. CALL NOW!
<#Free of Charge> **<TTY number>**
 (Free of Charge) TTY (hearing impaired)



Paid endorsement. 1. To be eligible you must meet one or more comorbid chronic conditions, high risk of hospitalization and must require intensive care coordination. 2. If you did not use the trimester's full amount, the remaining amount will not be accumulated to be used in the next trimester. 3. You have a contribution of \$240 quarterly, to be used in purchase of healthy foods, payment of electricity, water and/or telephone through participating suppliers. Certain restrictions apply. MCS Advantage, Inc. complies with applicable Federal civil rights laws and does not discriminate on the basis of race, color, national origin, age, disability, or sex. ATTENTION: If you speak English, language assistance services, free of charge, are available to you. Call 1.866.627.8183 (TTY: 1.866.627.8182). ATENCIÓN: Si habla español, tiene a su disposición servicios gratuitos de asistencia lingüística. Llame al 1.866.627.8183 (TTY: 1.866.627.8182). 注意: 如果您使用繁體中文, 您可以免費獲得語言援助服務。請致電 1.866.627.8183 (TTY: 1.866.627.8182).

www.mcsclassicare.com

@MCSPuertoRico

56. Video and audio advertisements for such MCS Advantage products are accompanied by an interpretation of the catchy, sing-along composition “Qué Manera de Quererte” (“*What a Way to Love You*”), a well-known song composed by Luis Emilio Rios for which MCS obtained a license authorizing use.

57. For ease of reference, all of the foregoing identifying MCS indicia, including without limitation the MCS name, MCS Logo, the MCS distinctive green-and-white color combination, font, MCS Te Paga Card format, the “Nueva Manera de Quererte” slogan, and the “Que Manera de Quererte” song, are referred to collectively as the “**MCS Marks.**”

58. Based on their longstanding and pervasive use throughout Puerto Rico, the MCS Marks have acquired secondary meaning and consumers in Puerto Rico have come to associate them with the MCS brand and the MCS insurance coverage products.

C. Defendants’ Unfair, Deceptive, and Tortious Marketing Scheme During ACEP, Including Dissemination of False Information about MCS and Misappropriation of the MCS Marks

59. “ACEP” refers to the period between October 15 and December 7 of each year during which eligible consumers can change their Medicare prescription drug coverage or their Medicare Advantage plan (including switching from their original Medicare plan to a Medicare Advantage plan).

60. ACEP is peak season for both MCS and other purveyors of healthcare insurance products in Puerto Rico (such as MMM and its affiliates), as the Puerto Rican community eligible for Medicare is making critical, time-sensitive decisions.

61. As noted, MCS is the only company authorized by Medicare to offer various unique benefits under the SSBCI to Puerto Ricans in the coming year; notably, MCS’s competitors such as MMM are not able to provide these valuable benefits. Classicare, therefore,

is a particularly attractive and unique option for many consumers making decisions about their health care during this year's ACEP.

62. MCS created marketing materials for the new Classicare SSBCI plans specifically for dissemination and promotion during the ACEP period, and in order to either retain customers, or market to new customers. The print advertisement depicted in paragraph 55 above is one example of such marketing.

63. The false and illegal Campaign that is the subject of this Complaint commenced on or about the outset of this year's ACEP period.

64. Defendants Castellana, InSalud, PHM, GMG, IMG, VLSA, and ECMS are all expressly identified on Campaign materials as parties that claim responsibility for the deceptive and unlawful advertising.

65. Campaign materials have been disseminated during ACEP in numerous forms of media, including but not limited to: on television via advertisements aired on Telemundo, Univisión and WAPA; audio advertisements aired on numerous radio stations such as WAPA 680 (WAPA Radio), WERR 104.1 (Redentor), WKAQ 580 (WKAQ 580), WNVM 97.7 (Nueva Vida 97.7), WOYE 97.3 (Magic), WSKN 1320 (Radio Isla), WUNO 630 (NotiUno), WVJP 103.3 (DIMENSION), and WZNT 93.7 (Z 93); print advertisements published in El Nuevo Día and El Vocero newspapers; social media posts; and audio clips spread through text messaging.

66. One of the print ads used in the Campaign (the "**Print Ad**") is as follows:

**QUÉ MANERA DE ENGAÑARLOS,
QUÉ MANERA...**

LES "PAGAN" AGUA, LUZ, TELÉFONO Y COMPRA

SOLO SI PADECEN de:

- **Condiciones crónicas comórbidas**
- **Si tienen alto riesgo de hospitalización**
- **Y si también requieren cuidado intensivo**

ESTO NO ES PARA TODOS

Endoso Pagado. 1. Para ser elegible usted debe cumplir con una o más condiciones crónicas comórbidas, alto riesgo de hospitalización y requerir coordinación de cuidado intensa. 2. Puede ser elegible a transportación ilimitada para gestiones no médicas a localizaciones aprobadas por el plan a través de suplidores contratados. 3. Solo aplican las reparaciones simples según la evaluación que realice el suplidor de servicios. Los servicios están limitados a ocho (8) visitas por año. Ciertas restricciones aplican.

**UN MENSAJE DE MÉDICOS PREOCUPADOS
POR SU BIENESTAR**

CAPELLANA
PHYSICIANS SERVICES

In-Salud

mg
MEDICAL GROUP

VISA

PHM
MULTISALUD

ECMS

GRUPO MEDICO
GERIATRICO

67. As can be observed, the Print Ad mimics the MCS distinctive green color combination and states at the top “Qué manera de engañarlos, qué manera...” (“*What a way to fool them, what a way....*”) in a direct reference to the MCS’s catchphrase “Nueva Manera de Quererte.”

68. The Print Ad also shows a copy of the MCS Te Paga card (with the company’s name and MCS Logo, albeit blurred), and sets forth a version of the benefits provided exclusively by MCS Advantage as part of its SSBCI CMS-approved benefits.

69. Furthermore, the Print Ad highlights a cut-out of the eligibility requirements that

are actually disclosed in an MCS ad, but falsely states that MCS seeks to “fool” consumers, and incorrectly suggests that eligibility requirements were not properly disclosed by MCS in its marketing.

70. The Print Ad also indicates that it is purportedly a message from a group called “Médicos Preocupados Por Su Bienestar” or “*Medical doctors Worried about your Health,*” an unregistered, fictitious entity, the name of which falsely suggests that the (incorrect) information about MCS is being put forth or endorsed by objective and independent sources.

71. Yet, as noted, the Print Ad lists as its members Defendants Castellana (MMM’s affiliate), and InSalud, PHM, GMG, IMG, VLSA and ECMS; all of which, upon information and belief, have active and on-going business relationships with MCS’s direct competitor, MMM.

72. In addition, the Print Ad was published on October 7, 2019 and remains available on a Facebook.com page purportedly owned by “Médicos Preocupados por su Bienestar,” accompanied by a post stating: “¡Una gran manera de engañarte! Protege a tu familia de explotación y manipulación. #RespetaAlEnvejeciente,” (“*A great way to fool you! Protect your family from exploitation and manipulation. #Respect the Elderly*”).



73. Upon information and belief, at the same time in which the Print Ad was first being widely disseminated through print and social media, individuals associated with one or more of the Defendants visited medical providers' offices and passed out similar flyers in patient waiting areas of health care providers.

74. Defendants' Campaign also involves a video that was aired on the WAPA TV station during the 2019 MLB World Series (the "**Video Ad**") which essentially included the following statements:

QUÉ MANERA DE ENGAÑARLOS, QUE MANERA ...
LES PROMETEN TRANSPORTACIÓN "ILIMITADA" Y REPARACIONES EN EL
HOGAR.
ESTO NO ES PARA TODOS. SOLO SI PADECEN DE:
CONDICIONES CRÓNICAS COMÓRBIDAS Y SI TIENEN ALTO RIESGO DE
HOPITALIZACIÓN Y SI ADEMÁS REQUIEREN CUIDADO INTENSIVO
¡LOS SIGUIEN ENGAÑANDO!

TRANSLATION:

*WHAT A WAY TO FOOL THEM, WHAT A WAY ...
THEY PROMISE "UNLIMITED" TRANSPORTATION AND HOME REPAIRS.
THIS ISN'T FOR EVERYONE. ONLY IF THEY HAVE:
CHRONIC COMORBID CONDITIONS AND IF THEY HAVE A HIGH RISK OF
HOSPITALIZATION AND IF THEY ALSO REQUIRE INTENSIVE CARE
THEY KEEP DECEIVING YOU!*

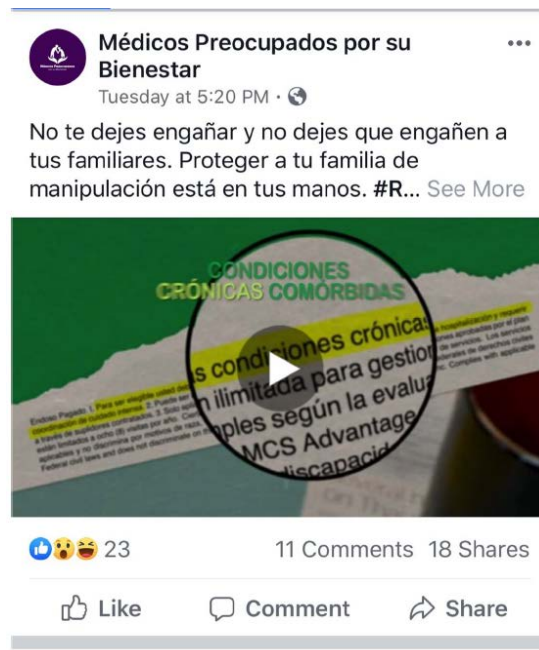
75. The Video Ad also used the same color scheme and font associated with the MCS Marks and brand, contains visuals of the MCS Te Paga card, and has an overall similar marketing design.

76. Aside from being aired on television, the Video Ad was and continues to be disseminated on the Facebook.com page of "Médicos Preocupados por su Bienestar" by at least two Facebook posts.

77. The Facebook page for "Médicos Preocupados Por Su Bienestar" further demonstrates that it is a sham organization designed principally in support of MCS' competitors.

That page was created on October 5, 2019—shortly before the start of ACEP—and its initial two posts, both on October 7, were Campaign materials. In fact, out of five total posts on the page, three are Campaign materials.

78. In the first posting, the link to the Video Ad highlights the name of MCS Advantage within a simulated magnifying class and is headlined by: “No te dejes engañar y no dejes que engañen a tus familiares. Proteger a tu familia de manipulación está en tus manos. #RespetalEnvejeciente.” (*“Don't be fooled and don't let them fool your relatives. Protecting your family from manipulation is in your hands. #RespectTheEldery.”*)



79. In the second post, the Video Ad includes the following caption: “Toda persona tiene derecho a recibir la información correcta sin manipulación. ¡Protege a tus seres queridos y oriéntate! #RespetalEnvejeciente”. (*“Everyone has the right to receive the correct information without manipulation. Protect your loved ones and orient yourself! #RespectTheElderly”*).

80. The Video Ad also was and continues to be disseminated on a YouTube channel owned by “Médicos Preocupados por su Bienestar”.



81. Moreover, the Campaign includes at least two audio promotions which were disseminated through the messenger service Whatsapp (the “**Audio Ads**”).

82. The Audio Ads are professionally produced, include a voice over by a Teatro Breve actress and have background music from the composition “Qué manera de quererte” which MCS has been using to promote its SSBCI Classicare plans.

83. A transcript of the first Audio Ad is as follows:

Qué manera de quererte, que manera.... MCS te ofrece transportación ilimitada al colmado, al banco a las citas médicas y hasta a la iglesia. Te ofrecemos servicios de plomería, electricidad, cerrajería y zapatería. Te pagamos el agua, la luz, el celular de Obama y hasta la comida de “Firulais” y, por si fuera poco, te llevamos de chinchorro y cubrimos los juguetitos que tanto te gustan para que, mmmmmmmmm, te la vivas. Recuerda ciertas restricciones aplican. Si respiras, si caminas, si hablas, si comes, si te mueves, si miras, si oyes, si piensas.... no calificas. Qué manera de quererte. No te dejes engañar. Vívela y cámbiate ya a MCS.

TRANSLATION:

What a way to love you, what way.... MCS offers you unlimited transportation to the grocery store, the bank, medical appointments and even to church. We offer plumbing, electricity, locksmith and shoemaking services. We pay you for the water, electricity, Obama's cell phone and even “Firulais’s¹” food, and if that's not enough, we'll take you “on a party bus” and cover the toys that you love so that, mmmmmmmmm, you live it.

¹ “Firulais” is commonly used in social media to refer to a dog.

Remember certain restrictions apply. If you breathe, if you walk, if you talk, if you eat, if you move, if you see, if you hear, if you think... you don't qualify. What a way to love you. Don't allow yourself to be fooled. Live it and switch to MCS now.

84. A transcript of the second Audio Ad is as follows:

En MCS, tratamos de prometerte y darte más y más, pero no pudimos porque la media estrella que ganamos el año pasado nos la acaban de quitar. Esto sólo representa \$50 millones menos en beneficios para ustedes. Ahora somos un “plancito” de 4 estrellas. Qué manera de estrellarte... ¡Qué manera!

Translation:

At MCS, we tried to promise you more and more, but we couldn't because the half star we won last year was just taken away from us. This only represents \$50 million less in benefits for you. Now we're a 4-star “small plan”. What a way to crash.... What a way!

85. The Campaign was launched in the same media venues as MCS markets its Classicare plans, including but not limited to print newspapers, social media platforms, messenger services, and television.

86. Upon information and belief, MMM Holdings, MMM and/or its principal officers or executives have financed, produced, sponsored, and/or have been involved in the Campaign, and orchestrated the dissemination of the same either directly or through the codefendants, its related entities and business partners.

87. As noted, Defendant Castellana, which is expressly listed on Campaign materials as a member of the fictitious “Médicos” group, is an MMM Holdings subsidiary and a MMM affiliate, and even shares the same principal place of business as MMM.

D. Consumer Confusion and Harm Due to the False and Misleading Campaign

88. Defendant’s Campaign was calculated to run during ACEP in order to maximize the negative effect on MCS’s business and reputation, and directly influence the purchasing decision of MCS’s potential and current beneficiaries during the most critical period of enrollment.

89. The Campaign targets these consumers—notably comprised of an elderly population that may be more likely to be confused and respond particularly adversely to messages blatantly stating that they are supposedly being taken advantage of.

90. By proliferating false messages about MCS and illegally using the MCS Marks, Defendants have created an utterly false and negative image of MCS in the minds of consumers: that of a manipulative company that sells deceptive products.

91. The Campaign materials have already been viewed by many hundreds of thousands of people; in fact, between the Facebook and YouTube pages created by “Médicos Preocupados Por Su Bienestar,” deceptive campaign videos have been viewed over 800,000 times.

92. As a direct result of the Campaign, MCS’s call center has received hundreds of calls from customers who believe MCS Advantage has deceived them. Many customers expressed a desire to change providers and, in some instances, requested to unsubscribe from MCS Advantage’s plans.

93. As a direct result of the Campaign, MCS Advantage enrollment numbers this year are *below the expected level*, and should such trend continue, may negatively impact the company’s goals for this new and distinct product in its MA portfolio.

94. Once the ACEP enrollment period closes on December 7, 2019, individuals misled by the Campaign into making the wrong or less beneficial health care decision will have little recourse to correct that error.

95. MCS is at immediate and serious risk of having to wait an entire year (until ACEP again commences in 2020) to regain any sales lost as a result of the Campaign and the impact to its goodwill may continue to be felt for years.

E. MCS' Attempts to Contact Defendants Regarding the Campaign

96. On Friday, October 25, 2019, MMM was hand-delivered a cease and desist letter from MCS' counsel regarding the Campaign. On the following Monday, October 28, Defendants Castellana, GMG, InSalud, PHM, and IMG were hand-delivered a similar cease and desist letter. On Tuesday, October 29, Defendant InSalud similarly received a cease and desist letter. MCS was not able to locate relevant contact information for the other Defendants.

97. In each of the letters, MCS expressed the deeply troubling and deceptive nature of the Campaign and insisted that it immediately be halted. Given the time sensitivity and continuing immediate irreparable harm from public access to the Campaign materials, MCS requested written responses in approximately one business day.

98. Defendants Castellana, GMG, InSalud, and PHM never responded in any manner.

99. An attorney representing IMG called counsel for MCS on Tuesday, October 29, and explained that they would investigate the matter. As of this filing, no further information has been provided to MCS.

100. Defendant MMM did provide a written response to the cease and desist letter on Tuesday, October 29, and in subsequent correspondence between the parties, denied any involvement in, or responsibility for, the Campaign while recognizing the involvement of its affiliate Castellana. MMM represented that it "inquired about the campaign" with Castellana and learned that the "campaign is no longer being aired or run," despite the fact that Castellana itself never responded to MCS.

101. Whether the representation regarding the supposed status of the Campaign originated with MMM or Castellana, the statement is not true. As of this filing, Campaign materials are still publicly available, including on the social media and YouTube pages of

“Médicos Preocupados Por Su Bienestar.”

102. In its letter, MMM also refused MCS’s invitation to rebuke or publicly disavow the deceptive content of the Campaign even though such a statement would have reduced consumer confusion and would not have required MMM to acknowledge that it was responsible for that content.

103. Despite MMM’s protestations, MCS remains deeply concerned about MMM and/or MMM Holding’s involvement not only due to the involvement of Castellana (which shares the same parent and principal place of business with MMM), but also because of the various business relationships that, upon information and belief, MMM has with other Defendants who are identified on Campaign materials.

**FIRST CAUSE OF ACTION AGAINST ALL DEFENDANTS:
False and Misleading Advertising Under Section 43(a)(1)(B) of the Lanham Act (15 U.S.C.
§ 1125(a)(1)(B)) and Sections 26 and 27 of the Puerto Rico Trademark Act (P.R. LAWS
ANN. tit. 10, §§ 223w-223x)**

104. Paragraphs 1 through 103 are incorporated by reference.

105. Defendants’ advertising, marketing, and promotional materials disseminated as part of the Campaign convey false and/or misleading messages to consumers that, among other things, (i) MCS has lied to them and/or failed to disclose important information regarding eligibility for the SSBCI benefits under Classicare, and (ii) virtually no one is actually eligible for those benefits.

106. The Campaign further conveys a false and/or misleading message to consumers that the (incorrect) information regarding MCS in Campaign materials is being provided by independent and objective physicians and/or an organization or group with no financial or competitive stake in whether consumers choose MCS for their healthcare needs.

107. Many of the Campaign materials expressly refer to MCS by name or purport to be

advertisements created by MCS. But even in those Campaign materials that do not expressly refer to “MCS” or “Classicare” by name, the use of the color combinations, fonts, music, and other distinctive and readily recognizable features of MCS marketing eliminate any doubt that the false and/or misleading messages are directed to MCS and its products and services.

108. The Defendants’ Campaign disseminated the foregoing false and/or misleading messages through various forms of media that constitute commercial speech, including but not limited to television commercials, newspaper advertisements, audio clips and radio ads, and posts on social media pages.

109. The Campaign materials were disseminated with the intent of influencing a substantial portion of potential consumers during ACEP not to purchase MCS Advantage’s services in favor of purchasing services offered by MCS’s competitors.

110. The false and/or misleading messages conveyed by the Campaign orchestrated by Defendants’ and disseminated through television, radio, newspapers, YouTube and social media and/or communication platforms is material to consumer purchasing decisions.

111. MCS Advantage engages in interstate commerce and has contracts with federal and Puerto Rico governmental entities supervised by CMS. Among other things, the SSBCI plan offering targeted by the Campaign was approved by CMS.

112. Defendants’ conduct in disseminating the Campaign was willful and malicious, made with the knowledge that the messages conveyed to the public were false and/or misleading.

113. The Campaign is likely to confuse and, upon information and belief, has actually confused, numerous consumers in the Puerto Rico elderly community regarding Classicare.

114. In addition to monetary harm, MCS has suffered and will continue to suffer immediate irreparable harm as a result of Defendants’ false and/or misleading advertising via

the Campaign by a lessening of MCS's sales, goodwill, customer base, brand and reputation.

115. The foregoing harm is exacerbated by the fact that Defendants intentionally timed the Campaign to coincide with ACEP, the most important enrollment period of the year for many elderly consumers who must make a critical decision regarding their healthcare, including whether to enroll in Classicare. Individuals deceived by the Campaign into making the wrong health care decision for them will have little recourse to correct that error or to enroll with MCS Advantage.

SECOND CAUSE OF ACTION AGAINST ALL DEFENDANTS:
False Association and Unfair Competition Under Section 43(a)(1)(A) of the Lanham Act
(15 U.S.C. § 1125(a)(1)(A)) and Sections 26 and 27 of the Puerto Rico Trademark Act
(P.R. LAWS ANN. tit. 10, §§ 223w-223x)

116. Paragraphs 1 through 115 are incorporated by reference.

117. MCS Holdings is the exclusive owner of the MCS Marks, including but not limited to the MCS name, MCS Logo, color combinations, fonts, and other trade dress and distinctive features reflected in MCS's marketing materials identified above.

118. Due to MCS's longstanding and pervasive uses of the MCS Marks in connection with its business and advertising therefor, consumers readily identify goods, services, and marketing bearing the MCS Marks as being affiliated, connected, or associated with MCS, or sponsored or approved by MCS.

119. The MCS Marks and the goodwill associated therewith are valid, of great and incalculable value, and denote goods and services of the highest quality and reputation.

120. Without MCS's authorization or consent, and with full knowledge of MCS's longstanding use of, and rights in, the MCS Marks, Defendants willfully misappropriated and incorporated the MCS Marks into the Campaign.

121. Defendants' use of the MCS Marks is intended to, and are likely to, confuse and

deceive consumers—and, upon information and belief, have confused and deceived consumers—into believing that (i) certain ads (such as the audio clips) were created by MCS; (ii) Defendants and/or “Médicos Preocupados por su Bienestar” are affiliated, connected, or associated with MCS, or sponsored or approved by MCS; and (iii) the Campaign materials (and the false and misleading messages contained therein) are affiliated, connected, or associated with MCS, or sponsored or approved by MCS.

122. Defendants’ acts demonstrate a willful intent to confuse elderly, vulnerable consumers and improperly exploit the goodwill associated with the MCS Marks.

123. In addition to monetary harm, MCS has suffered and will continue to suffer immediately irreparable harm as a result of Defendants’ misappropriation of the MCS Marks via the Campaign.

124. The foregoing harm is exacerbated by the fact that Defendants intentionally timed the Campaign to coincide with ACEP, the most important enrollment period of the year for many elderly consumers who must make a critical decision regarding their healthcare, including whether or not to enroll in Classicare. Individuals deceived by the Campaign into making the wrong health care decision for them will have little recourse to correct that error or to enroll with MCS Advantage.

THIRD CAUSE OF ACTION AGAINST ALL DEFENDANTS:
Trademark Infringement under Section 32 of the Lanham Act (17 U.S.C. § 1114)
and Section 30 of the Puerto Rico Trademark Act (P.R. LAWS ANN. tit. 10, § 224)

125. Paragraphs 1 through 124 are incorporated by reference.

126. MCS Holdings is the exclusive owner of the federally registered MCS Logo. Due to MCS’s longstanding and pervasive use of the MCS Logo in connection with its business and advertising therefor, consumers readily identify goods, services, and marketing bearing the MCS

Logo as being affiliated, connected, or associated with MCS, or sponsored or approved by MCS.

127. The MCS Logo is also a prominent element of the Puerto Rico Trademark Registration of the MCS Advantage logo, Registration Number 202009; MCS Balance logo, Registration Number 207006; MCS Rewards logo, Registration Number 208906; and the MCS Advantage Discounts logo, Registration Number 213973. See, Exhibit 7.

128. The MCS Logo and the goodwill associated therewith are valid, of great and incalculable value, and denote goods and services of the highest quality and reputation.

129. Without MCS's authorization or consent, and with full knowledge of MCS's longstanding use of, and rights in, the MCS Logo, Defendants willfully misappropriated and incorporated the MCS Logo and/or colorable imitations thereof into the Campaign.

130. Such uses of the MCS Logo and/or colorable imitations thereof by Defendants are intended to, and are likely to, confuse and deceive consumers—and, upon information and belief, have confused and deceived consumers—into believing that (i) Defendants and/or “Médicos Preocupados por su Bienestar” are affiliated, connected, or associated with MCS, or sponsored or approved by MCS; and (ii) the Campaign materials (and the false and/or misleading messages contained therein) are affiliated, connected, or associated with MCS, or sponsored or approved by MCS.

131. Defendants' acts demonstrate a willful intent to confuse elderly, vulnerable consumers and improperly exploit the goodwill associated with the MCS Logo.

132. In addition to monetary harm, MCS has suffered and will continue to suffer immediately irreparable harm as a result of Defendants' misappropriation of the MCS Logo via the Campaign.

133. The foregoing harm is exacerbated by the fact that Defendants intentionally timed

the Campaign to coincide with ACEP, the most important enrollment period of the year for many elderly consumers who must make a critical decision regarding their healthcare, including whether or not to enroll in Classicare. Individuals deceived by the Campaign into making the wrong health care decision for them will have little recourse to correct that error or to enroll with MCS Advantage.

**FOURTH CAUSE OF ACTION AGAINST ALL DEFENDANTS:
Dilution under Section 28 of the Puerto Rico Trademark Act
(P.R. LAWS ANN. tit. 10, § 223y)**

134. Paragraphs 1 through 134 are incorporated by reference.

135. The MCS Logo, the MCS trade name, and the MCS trade dress (including distinctive green-and-white color combinations) are all famous marks that are widely recognized by the general consumer in Puerto Rico, as they have been consistently and continuously in use for many years to promote MCS's services in the Puerto Rico health coverage insurance market.

136. The Defendants' use of the MCS Logo, the MCS trade name and the MCS trade dress in the Campaign tends to create an association between Defendants (and/or their use of the mark to advertise on behalf of MMM) and the MCS famous marks.

137. The famous MCS Logo, MCS trade name and MCS trade dress are being diluted, blurred and/or tarnished by Defendants' Campaign, as it creates an illicit association that impairs their distinctiveness, regardless of whether there is a likelihood of confusion, financial injury or the goods or services of Defendants are different.

**FIFTH CAUSE OF ACTION AGAINST ALL DEFENDANTS:
Permanent Injunction Ordering Defendants
Cease Promoting the Campaign and Using MCS Marks
Under the Lanham Act and the Puerto Rico Trademark Act**

138. Paragraphs 1 through 137 are incorporated by reference.

139. The violations referenced above have caused MCS irreparable damages. The

Defendants' continued use of the MCS marks in connection with false and/or misleading advertising will continue to cause irreparable damages if the Defendants are not enjoined from continuing this conduct.

140. These damages to MCS' goodwill and reputation and to the MCS famous brands will not be compensated by a monetary award.

141. Since MCS is without an adequate remedy at law, and because the Campaign continues to run, thus tarnishing and diluting the brand and confusing consumers, MCS has a right to seek and be granted a permanent injunction against the Defendants. 15 U.S.C. § 1116(a); 10 L.P.R.A. §§ 223w & 223y.

SIXTH CAUSE OF ACTION AGAINST ALL DEFENDANTS:
Damages Under Article 1802 of the Puerto Rico Civil Code
(P.R. LAWS ANN. tit. 10, § 5141)

142. Paragraphs 1 through 141 are incorporated by reference.

143. The negligent or willful dissemination of the Campaign by the Defendants, directly or indirectly caused damages to MCS Advantage.

144. Pursuant to Article 1802 of the Puerto Rico Civil Code. 31 L.P.R.A. §5141, Defendants are liable to Plaintiffs for such damages, which are estimated at no less than \$2,000,000.00.

CLAIMS FOR RELIEF

Wherefore, MCS Advantage, Inc. and MCS Healthcare Holdings, LLC respectfully request that this Honorable Court:

- a. Declare that Defendants have willfully engaged in false and/or misleading advertising by producing and disseminating the Campaign, in violation of the Lanham Act and Puerto Rico law;

- b. Declare that Defendants have willfully engaged in trademark infringement, false association, and unfair competition by producing and disseminating the Campaign, in violation of the Lanham Act and Puerto Rico law;
- c. Declare that Defendants have willfully engaged in trademark dilution by producing and disseminating the Campaign, in violation of Puerto Rico law;
- d. Preliminarily and permanently restrain and enjoin Defendants (and Defendants' agents, servants, employees, representatives, and all others in active concert and participation with Defendants) from (i) further creation or dissemination of Campaign materials, (ii) use of MCS Marks (including but not limited to the MCS Logo) in future advertising or marketing, and (iii) making any false and/or misleading claims regarding MCS in future advertising or marketing;
- e. Award MCS monetary damages in an amount to be determined, including but not limited to actual damages, Defendants' profits, and enhanced, statutory, and/or treble damages as available under the pertinent statutes;
- f. Award MCS all of its reasonable attorneys' fees and costs pursuant to the fee-shifting provision of the Lanham Act, 15 U.S.C. § 1117(a) and 10 P.R. Laws Annot. § 223w; and
- g. Grant MCS such other and further relief as the Court deems just and proper.

VERIFICATION

I, **ROBERTO PANDO CINTRÓN**, President of MCS Advantage, Inc., and under penalty of perjury under the laws of the United States of America, declare and state that, based upon information provided to the company by third-parties, my personal review of the company's business records, and my personal knowledge of some of the facts set forth above, the above stated facts are true and correct, to the best of my knowledge, information, and belief.

In San Juan, Puerto Rico, this 31st day of October 2019.

By: _____


ROBERTO PANDO CINTRÓN

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 31st day of October 2019.

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