

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPREME JUDICIAL COURT
FOR SUFFOLK COUNTY

No. SJ-2010- 6103

_____)
DOROTHY ANN FINCH, ROXANNE S. PRINCE,))
and JANE DOES NOS. 1-2, the names of Jane Doe)
being fictitious,)
Individually and on Behalf of)
All Similarly Situated Persons,)

Plaintiffs)

vs.)

COMMONWEALTH HEALTH INSURANCE)
CONNECTOR AUTHORITY, and)
JON KINGSDALE, in his official capacity as)
the executive director of COMMONWEALTH)
HEALTH INSURANCE CONNECTOR)
AUTHORITY,)

Defendants)
_____)

RECEIVED

FEB 25 2010

MAURA S. DOYLE CLERK
OF THE SUPREME JUDICIAL COURT
FOR SUFFOLK COUNTY

COMPLAINT

INTRODUCTORY STATEMENT

1. This is a class action lawsuit challenging a statute that is unconstitutional on its face. Chapter 65, section 31(a) of the Acts of 2009 terminated the Commonwealth Care health coverage of 26,000 Massachusetts residents, solely because they are legal immigrants. It also barred participation in Commonwealth Care to 8,000 legal immigrants who were not yet members. The statute denied the plaintiffs their right to equal protection under the law, a violation of the Massachusetts Declaration of Rights and the United States Constitution.
2. The plaintiffs are members of a vulnerable minority singled out for discrimination. Legal immigrants pay taxes, they work, they have drivers' licenses, they

attend school, they participate in their communities, and they raise families. Many are on a legal path to citizenship. However, because they are not yet citizens, they do not vote. When it came time to close a budget shortfall last July, the Legislature chose to target its cuts at these non-voting residents. Its decision broke the Commonwealth's groundbreaking promise of universal health coverage for all residents, leaving thousands uninsured. It also deprived the plaintiffs of their constitutional rights.

JURISDICTION AND VENUE

3. This Court has jurisdiction over this action under G.L. c. 214, § 1, G.L. c. 231A, § 1 and 42 U.S.C. § 1983. Venue is established by G.L. c. 214, § 5. Original jurisdiction in the Supreme Judicial Court is justified by the fact that this is a matter clearly affecting the public interest, involving a claim that a recently enacted statute is unconstitutional on its face, raising a question of law that involves no genuine issues of material fact. Speedy resolution of the issues in this case will serve the interests of the individual plaintiffs and the class they represent and, as well, the interests of the Commonwealth in resolving doubts about the validity of a statute with budgetary implications.

PARTIES

4. Plaintiff Dorothy Ann Finch ("Finch") is a resident of Boston, County of Suffolk, Massachusetts and lawfully lives and works in Massachusetts. She is a recipient of the Diversity Visa Lottery Program of the United States Department of State. Prior to the enactment of § 31(a), she would have been entitled to participate in Commonwealth Care. Solely on account of § 31(a), she is barred from participation in Commonwealth Care and is uninsured.

5. Plaintiff Roxanne S. Prince ("Prince") is a resident of Boston, County of Suffolk, Massachusetts and lawfully lives and works in Massachusetts. She is the beneficiary of a family-based immigration petition filed by her brother who is a United States citizen. Prior to the implementation of § 31(a), she was entitled to participate in and did, in fact, participate in Commonwealth Care. On August 31, 2009, she was terminated from Commonwealth Care, solely on account of § 31(a).

6. Plaintiff Jane Doe 1 is a legal resident of Massachusetts and lawfully resides in the United States. She is an applicant for political asylum. Prior to the implementation of § 31(a), she was entitled to participate in and did, in fact, participate in Commonwealth Care. On August 31, 2009, she was terminated from Commonwealth Care, solely on account of § 31(a).

7. Plaintiff Jane Doe 2 is a legal resident of Massachusetts and lawfully resides and works in the United States. She has been a legal permanent resident for less than five years and was initially the beneficiary of a Massachusetts employer-based immigration petition. Prior to the implementation of § 31(a), she was entitled to participate in and did, in fact, participate in Commonwealth Care. On August 31, 2009, she was terminated from Commonwealth Care, solely on account of § 31(a).

8. The defendant, Commonwealth Health Insurance Connector Authority ("the Connector"), is a body politic and corporate and public instrumentality of the Commonwealth of Massachusetts. It is an independent state authority that is responsible for implementing the Commonwealth Care program ("Commonwealth Care" more fully defined in ¶ 15), a state-subsidized commercial insurance program created by G.L. c.

118H and G.L. c. 176Q. The defendant's place of business is 100 City Hall Plaza, 6th Floor, Boston, County of Suffolk, Massachusetts.

9. The defendant, Jon Kingsdale ("Kingsdale"), is the executive director of the Connector, and, as such, is charged with the responsibility to implement Commonwealth Care. He is sued in his official capacity as executive director of the Connector. The defendant's place of business is 100 City Hall Plaza, 6th Floor Boston, County of Suffolk, Massachusetts.

CLASS ACTION ALLEGATIONS

10. The individually named plaintiffs consist solely of immigrants to the United States, lawfully residing and working in Massachusetts. They are labeled "aliens with special status" by the Commonwealth and are referred to herein as "special status immigrants." For the most part, special status immigrants have possessed legal permanent residency for less than five years, and therefore, under the terms of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 8 U.S.C. § 1612(b)(2) et seq. ("PRWORA"), the Commonwealth may not receive partial reimbursement from the federal government for their medical costs.

11. The individually named plaintiffs bring this action on their own behalf and on behalf of a class of all other similarly situated persons, pursuant to Mass.R.Civ.P.23. This class is defined as all "residents" of Massachusetts, as that term is defined in G.L. c. 118H, § 1, who are legal immigrants terminated from Commonwealth Care or denied eligibility for Commonwealth Care solely as a result of their alienage, pursuant to § 31(a) (hereinafter referred to as "the plaintiff class").

12. A class action is proper because (1) the plaintiff class is so numerous that joinder of all members is impracticable, (2) there are questions of law or fact common to the plaintiff class that predominate over any questions affecting individual members, (3) the claims of the representative plaintiffs are typical of the claims of the plaintiff class, and (4) the representative plaintiffs will fairly and adequately protect the interests of the plaintiff class. The questions of law and fact common to the members of the plaintiff class that predominate over any questions affecting individual members include the constitutionality of § 31(a) and the legality of the defendants' policies and practices in denying and terminating Commonwealth Care to the plaintiff class. A class action is superior to other available methods for the fair and efficient adjudication of this controversy.

FACTS

Massachusetts' Policy of Providing Health Care Coverage For Special Status Immigrants under the Health Care Reform Act of 2006

13. In April 2006, the Massachusetts Legislature enacted chapter 58, § 45, of the Acts of 2006, "An Act Providing Access to Affordable, Quality, Accountable Health Care." This health care reform statute was explicitly designed to make affordable health insurance available to all legal residents of Massachusetts. Chapter 58 combined both statutory subsidies and statutory mandates to achieve its goal of universal insurance coverage for all legal Massachusetts residents age nineteen and older. To assist legal residents with limited means, chapter 58 sought to fill gaps in existing state subsidized coverage through the subsidization of premiums for those persons falling outside MassHealth eligibility but whose household income did not exceed 300 percent of the federal poverty level ("FPL").

14. To induce all legal residents whose income exceeds 150 percent of the FPL to enroll in a health insurance program, chapter 58 imposed an individual mandate on all legal residents to obtain and maintain affordable and creditable health insurance coverage. The sanction for non-compliance with the mandate imposed by chapter 58 is a tax penalty. To be exempted from the mandate, a resident must prove that his or her individual circumstances establish that no affordable insurance is available, under state regulations that define affordability.

15. An essential component of chapter 58 was the creation of Commonwealth Care, which is a state subsidized, commercial health insurance program for uninsured residents of the Commonwealth with incomes that fall within certain guidelines and who meet other qualifications. Commonwealth Care was created to reduce uninsurance in the Commonwealth by providing subsidies to assist eligible individuals in purchasing health insurance and creating sliding-scale premium contributions based on income.

16. Under Commonwealth Care all special status immigrants without access to other sources of affordable insurance, including MassHealth, and whose household income does not exceed 300 percent of the FPL were entitled to obtain state subsidized insurance through a newly created independent authority, the Connector. The premiums charged for participation in Commonwealth Care are limited by regulations promulgated by the Connector to levels that are deemed affordable based on income level.

17. Among the major goals of Commonwealth Care are the reduction of the number of legal residents of Massachusetts lacking health insurance, a lessening of the burden on the Health Safety Net program, under which the state pays for hospital and community

health center services for low-income residents, and a reduction of racial and ethnic disparities in the provision of health care.

18. Commonwealth Care is not part of MassHealth, the Commonwealth's Medicaid program, which is explicitly defined under G.L. c. 118E, § 9 and § 9A as a health benefits program operating pursuant to conditions set by federal law.

19. Commonwealth Care eligibility under G.L. c. 118H, § 3(a) is devoid of any requirement for federal matching funds or federal financial support.

20. Commonwealth Care is funded under the Commonwealth Care Trust Fund pursuant to G.L. c. 29, § 2000, which provides in relevant part:

There is hereby established and set up on the books of the commonwealth a separate fund to be known as the Commonwealth Care Trust Fund, in this section called the trust fund. There shall be credited to the trust fund: (a) all contributions collected under section 188 of chapter 149, [Chapter 149: Section 188. Fair share employer contribution] (b) all revenue from surcharges imposed under section 18B of chapter 118G [Chapter 118G: Section 18B. Free rider surcharges on non-providing employers] , (c) any transfers from the Health Safety Net Trust Fund, established by section 57 of chapter 118E, (d) revenue deposited from penalties collected under chapter 111M [Chapter 111M: Section 2. Duty for certain adults to obtain and maintain creditable coverage; reporting of coverage on tax return; penalties for violation]. (brackets added).

21. If the defendants determine that amounts in the Commonwealth Care Trust Fund are insufficient to meet the projected costs of enrolling new eligible individuals into Commonwealth Care, Defendant Kingsdale "shall impose a cap on enrollment in the program." G.L. c. 118H, § 5. The defendants have not at any time capped enrollment in Commonwealth Care.

22. To promote the goals of chapter 58, the General Court defined a "resident" eligible for participation in Commonwealth Care to include ". . . a person who is not a citizen of the United States but who is otherwise permanently residing in the United

States under color of law; provided, however, that the person has not moved into the commonwealth for the sole purpose of securing health insurance under this chapter; . . .

G.L. c. 118H, § 1 (emphasis added).

23. The statutory definition of “resident” in G.L. c. 118H, § 1, includes the named plaintiffs and the class they represent.

24. From its inception and at all times until August 31, 2009, Commonwealth Care provided coverage on an equal basis for all legal Massachusetts residents who are otherwise eligible for benefits under state law, including the plaintiffs and the members of the class they represent.

Enactment of § 31(a)

25. Section 31(a) of chapter 65 of the Acts of 2009 was enacted on July 21, 2009. Its sole purpose was to exclude the plaintiff class from participation in Commonwealth Care.

It reads as follows:

SECTION 31. (a) Except as provided in subsection (b), notwithstanding any general or special law to the contrary, an eligible individual pursuant to section 3 of chapter 118H of the General Laws [Commonwealth Care] shall not include persons who cannot receive federally-funded benefits under sections 401, 402 and 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 [PRWORA], Pub. L. No. 104-193, as amended, for fiscal year 2010. (brackets and emphasis added).

26. Section 31(a)’s exclusion from Commonwealth Care of residents who cannot receive federally funded benefits under PRWORA is a newly imposed condition to Commonwealth Care eligibility applied solely against the plaintiff class.

27. As a result of the Legislature’s enactment of § 31(a), the defendants have been required to and have in fact terminated the individual plaintiffs and members of the plaintiff class from Commonwealth Care.

28. As a result of the Legislature's enactment of § 31(a), the Commonwealth estimates that 26,000 special status immigrants were terminated from Commonwealth Care and 8,000 special status immigrants were denied Commonwealth Care. All of these legal residents are the plaintiff class.

29. According to the defendants' estimates, the Commonwealth saved over \$80 million as a result of the Legislature's enactment of § 31(a).

30. United States citizens who were participating in Commonwealth Care when § 31(a) was enacted continue to be eligible for and enrolled in Commonwealth Care without any reduction or change in premiums or benefits under the terms of § 31(a).

31. There are other participants in Commonwealth Care for whom the federal government does not provide any financial support to the state on account of federal restrictions. These other participants in Commonwealth Care are ineligible for federal reimbursement and cannot receive federally funded benefits. These participants are United States citizens, not special status immigrants. Unlike the plaintiff class, these participants were neither terminated nor excluded from Commonwealth Care by § 31(a), despite the greater cost for their care imposed on the Commonwealth by virtue of their exclusion from federally funded benefits.

32. The plaintiff class remains subject to the individual mandate established by chapter 58 and enforced under G.L. c. 111M, § 2, unless their income is at or below 150 percent of the federal poverty level. All other special status immigrants remain subject to the individual mandate and must take affirmative steps under 2009 Schedule HC or file an appeal to avoid being fined for certain gaps in insurance coverage or lacking insurance.

Impact of § 31(a) on Special Status Immigrants

33. Finch is a 51-year-old woman who lives and works in Massachusetts. Finch was granted lawful permanent residency and work authorization under the Diversity Immigrant Visa Program. She came to the United States in 2006. Because Finch's employer does not offer health insurance, Finch applied for Commonwealth Care. Solely on account of the implementation of § 31(a) by the defendants, Finch was denied insurance. Finch is a diabetic. She suffers from oral health infections, vision loss, and she requires monitoring of her heart, cholesterol level, kidneys, and pancreas, which necessitates ongoing treatment and blood tests. Because Finch has no health insurance, she incurred approximately \$1,500 in bills for medically necessary services, including ambulance, private physician, and diagnostic testing. Finch is subject to collection action by these medical providers. Finch requires follow-up medical treatment and fears accessing health care services because of past and future medical debt. *See* Affidavit of Dorothy Ann Finch attached hereto as Exhibit 1.

34. Prince is a 35-year-old single mother who lives in Massachusetts with her son, who is a United States citizen. Prince lawfully lives and works in Massachusetts because she is the sibling of a United States citizen who filed a family based immigration petition on her behalf. Prince's immigration preference category is F4, which means that it may take years before she can adjust her immigration status and apply for lawful permanent residency. From December 2007 through August 31, 2009, Prince was enrolled in Commonwealth Care and paid monthly premiums. Solely on account of the implementation of § 31(a) by the defendants, Prince was terminated from Commonwealth Care. She was uninsured for one month and then enrolled in another state subsidized

health plan. None of Prince's doctors or medical providers are in the network of the new health plan. Prince is concerned about losing her continuity of care and having to start over with new doctors for her medical treatment. Prince is also concerned about having to travel to new medical providers that are farther away and worries that increased cost sharing is unaffordable. As a result, Prince has been unable to access health care since her termination from Commonwealth Care. *See* Affidavit of Roxanne S. Prince attached hereto as Exhibit 2.

35. Jane Doe 1 is a 28-year-old divorced mother who lives in Massachusetts, with her two children, who are United States citizens. She is an applicant for political asylum. In December 2006, the Commonwealth automatically transferred her out of emergency care state subsidized health insurance into Commonwealth Care. On September 1, 2009, she became uninsured solely on account of the implementation of § 31(a) by the defendants. On November 1, 2009, Jane Doe 1 was enrolled in another state subsidized health plan, which does not cover any of her medical providers, such as her neighborhood health clinic. She has been unable to get her prescriptions filled or to see her doctors because she cannot afford the increased co-payments and other out-of-pocket costs in the new health plan and she is waitlisted until July 2010 before she can access a primary care physician that is culturally competent in Spanish. *See* Affidavit of Jane Doe 1, redacted pending Court approval to proceed pseudonymously, attached hereto as Exhibit 3.

36. Jane Doe 2 was initially the beneficiary of a Massachusetts employer-based petition that allowed her to live and work in the United States. She then applied for and received lawful permanent residency but has had this status for less than five years. She is diagnosed with cancer. She received treatment under Commonwealth Care, including

primary care physician, gynecologist, and oncologist. Jane Doe 2 was terminated from Commonwealth Care on August 31, 2009 solely on account of the implementation of § 31(a) by the defendants. Jane Doe 2 became uninsured. With the assistance of the Latino Health Insurance Program under the leadership of Dr. Milagros Abreu, an Assistant Professor at Boston University, School of Public Health Project, she was then enrolled in a state health insurance program because of her serious medical condition. On December 1, 2009, however, Jane Doe 2 was transferred into a new state subsidized health insurance plan, which is not Commonwealth Care. In compliance with the new health plan, she changed her primary care physician. Although she located a gynecologist within a 30-mile radius from her residence under the new plan, she is wait-listed. Jane Doe 2 cannot find a medical oncologist and fears the loss of continuity of care. *See* Affidavit of Jane Doe 2, redacted pending Court approval to proceed pseudonymously, attached hereto as Exhibit 4.

CAUSES OF ACTION

Violation of the Equal Protection Clause of Articles 1 and 10 of the Declaration of Rights of the Massachusetts Constitution

37. The acts, practices, and/or policies of the defendants in implementing G.L. c. 118H, § 31(a) discriminate against the individual plaintiffs and the members of the class they represent in violation of their rights to equal protection of the laws as guaranteed by Articles 1 and 10 of the Declaration of Rights of the Massachusetts Constitution by denying them health care benefits, to which they were entitled prior to the enactment of § 31(a), solely on account of their status as legal aliens, while continuing to provide such benefits to citizens.

Violation of the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution, pursuant to 42 U.S.C. § 1983

38. Section 31(a) discriminates against the individual plaintiffs and the members of the class they represent in violation of their rights to equal protection of the laws as guaranteed by 42 U.S.C. § 1983 and the Fourteenth Amendment to the United States Constitution by invidiously treating them differently than citizens similarly situated solely on account of their status as legal aliens.

REQUESTS FOR RELIEF

WHEREFORE, the plaintiffs, individually and on behalf of all persons similarly situated, respectfully request that this Court:

1. Assume jurisdiction over this action;
2. Issue a short order of notice for a hearing on plaintiffs' prayer to reserve the questions presented herein and report this case for a plenary hearing before the Supreme Judicial Court;
3. Grant the Plaintiffs', Jane Does Nos. 1-2, Emergency Motion to Proceed in this Action Using Pseudonyms;
4. Determine pursuant to Rule 23 of the Massachusetts Rules of Civil Procedure that this action be maintained as a class action;
5. Issue a declaratory judgment that section 31(a) of chapter 65 of the Acts of 2009 violates Articles I and 10 of the Declaration of Rights of the Massachusetts Constitution and the Fourteenth Amendment to the United States Constitution;
6. Order the defendants to take prompt steps to (1) inform all class members of their eligibility for Commonwealth Care; (2) reinstate Commonwealth Care coverage for all members of the plaintiff class who have lost said coverage to date because of the

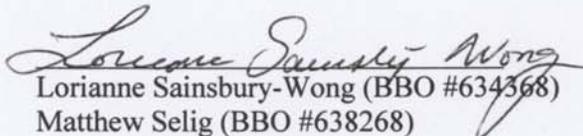
implementation of section 31(a) of chapter 65 of the Acts of 2009; and (3) provide Commonwealth Care coverage for all members of the plaintiff class who are presently uninsured because of the implementation of section 31(a) of chapter 65 of the Acts of 2009;

7. Grant such other declaratory or injunctive relief as may be appropriate;
8. Award the plaintiffs' attorneys' fees and costs; and
9. Grant such other and further relief as the Court determines is just and proper.

Respectfully submitted,

DOROTHY ANN FINCH, ROXANNE
S. PRINCE, and JANE DOES NOS. 1-2,
Individually and on Behalf of All Other
Similarly Situated Persons

By their Attorneys,


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Dated: February 25, 2010

Certificate of Service

I, Lorianne Sainsbury-Wong, hereby certify that on this day I caused a copy of the Plaintiffs' Complaint with exhibits to be served by hand delivery to

Commonwealth Health Insurance Connector Authority
Jamie Katz, General Counsel
100 City Hall Plaza, 6th Floor
Boston, MA 02108

Office of Attorney General Martha Coakley
Martha Coakley, Attorney General
One Ashburton Place, 20th Floor
Boston, MA 02108

Dated: February 25, 2010

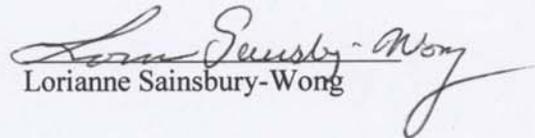

Lorianne Sainsbury-Wong

Exhibit 1

AFFIDAVIT OF DOROTHY ANN FINCH

I, Dorothy Ann Finch, have personal knowledge of the facts set forth below and hereby state as follows:

1. My name is Dorothy Ann Finch and I live at Rosie's Place, 889 Harrison Avenue, Boston, County of Suffolk, Massachusetts. I am 51 years old and was born in the Republic of Zimbabwe and lived for approximately 16 years in London, UK.
2. While living in London, I earned a BA degree in psychology with law from the University of Westminster and a postgraduate diploma in management from Birbeck University. My professional area of expertise is project management so that while living in London I worked on budget, strategy, and organizational issues to help private and nonprofit companies meet their goals.
3. On August 27, 2006, I was notified that I was a selected applicant for a permanent visa to live and work in the United States through the Diversity Visa Lottery Program of the U.S. Department of State. All of the immigration application forms, medical examinations, and interviews occurred while I was living in London. After I received final approval and an immigrant visa, I came to the United States in November 2006 with my two children who were allowed to come with me under the Program. My children have since returned to live in London.
4. I am a diabetic and suffer from related medical needs, including oral health infections, vision loss, and the need for monitoring my heart, cholesterol level, kidneys, and pancreas, which necessitates ongoing treatment and blood tests.

5. Through a clinic at Rosie's Place, I applied for state subsidized health insurance in late June 2009, using an electronic MassHealth Medical Benefit Request form.
6. In July 2009, I went to work at my part-time job in Boston when I collapsed at work and became unconscious. I did not have private health insurance offered to me at work because I was a part-time employee. I was taken by ambulance to the emergency department at a local hospital. I ended up in-patient for several days. Since then, I have not been able to return to work because of my medical condition.
7. On July 28, 2009, the Office of MassHealth approved me for Commonwealth Care. The approval notice said that I did not have to pay a premium and that I would receive a separate packet in the mail from the Connector. Thereafter, I did receive the Commonwealth Care packet, and I chose a Commonwealth Care health plan to enroll in through the Connector.
8. On August 5, 2009, I went to a local hospital for routine tests. I was billed \$583, and I cannot afford to pay the bill. The test result findings indicate that I need to have a biopsy, but I have not scheduled this procedure because of medical debt.
9. On August 11, 2009, the Office of MassHealth sent me another notice stating that my Commonwealth Care coverage would end. The notice said that I am not eligible for Commonwealth Care because I did not meet the immigration and citizenship requirements. It said that the Health Safety Net might be able to pay for medical services at Massachusetts hospitals or community health centers.
10. Because I was under the federal poverty level^{us}, I did not have to pay a Health Safety Net deductible. But, I did not have health insurance. My July 28, 2009 medical services resulted in approximately \$1,500 medical debt. The ambulance, private physician, and diagnostic testing were not covered by the Health Safety Net, so I am

receiving bills for these medical services. These medical providers are collecting against me and demanding payment.

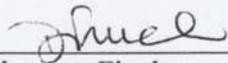
11. On August 14, 2009, the Connector sent me a letter congratulating me on my enrollment in Commonwealth Care. The notice my insurance would begin September 1, 2009. The notice said that I would have coverage for preventive care checkups, vision care, dental, and for care when I am sick or injured.

12. Because of the change in state law, I was not enrolled in the Commonwealth Care health plan. I was left uninsured. I was put in the Health Safety Net. I am still uninsured today.

13. I am afraid to receive medical treatment because I cannot pay the bills. I am also concerned that the bad debt and collection notices might result in delinquencies in my consumer credit report.

14. This event turned my life upside down. I cannot even have my eyes tested. Any kind of water or liquid in my lower teeth causes me pain, and I cannot hold liquid in my mouth because of my infected jaw. I now lack bone density in m jaw, and I cannot get the dental services and extractions that I need because I only have Health Safety Net and the provider needs to wait until I have insurance. I have no primary health care doctor to consult with when I am feeling dizzy or experiencing headaches and other symptoms. I feel embarrassed, and I worry about accessing medical treatment that I cannot pay for.

Signed under the pains and penalties of perjury, this th 22nd day of January 2010.



Dorothy Ann Finch

Exhibit 2

AFFIDAVIT OF ROXANNE S. PRINCE

I, Roxanne S. Prince, have personal knowledge of the facts set forth below and hereby state as follows:

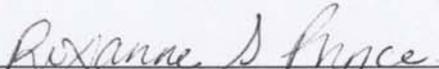
1. My name is Rosanne S. Prince, and I live at 88 Regent Street, Apartment 2, Boston, County of Suffolk, Massachusetts. I am a single income household. I work part-time and take care of my son. My employer does not offer health insurance.
2. I was born in Saint Vincent and the Grenadines. My son has a United States passport based on derivative status from his U.S. citizen father. My son and I have lived in the United States since 1993.
3. Since 2001, my son and I have been living in Massachusetts. I legally work in Massachusetts and I pay taxes.
4. My current legal status is a person permanently residing under color of law, which gives me permission to live and work in the United States. In 2001, my U.S. citizen brother submitted a family based immigration petition that was approved by the U.S. Citizenship and Immigration Services. My immigration preference category is F4. The National Visa Center advises me that because it is currently processing F-4 visas issued in June 1999. That means that it may be several more years until I can adjust my immigration status and apply for lawful permanent residency or a green card.
5. Several years ago, I was covered by MassHealth Limited, which provides emergency care services only. Because I took on more hours at work, my income went up, so I was no longer eligible for MassHealth. I was then put into Health Safety Net - Partial, which meant that my I had to accrue a deductible before any medical expenses would be covered and even then, only certain expenses would be covered. I stayed in

Health Safety Net Partial until I was enrolled in this state's new health care reform program, Commonwealth Care.

6. In December 2007, I enrolled in Commonwealth Care. I always paid a monthly premium.
7. I was terminated from Commonwealth Care on August 31, 2009 because of the change in state law. I was then put in MassHealth Limited again.
8. On October 1, 2009, I was automatically placed in the Commonwealth Care Bridge Program.
9. I see medical providers for routine preventive care check ups and annual exams. I have a doctor and medical facility that I have been going to since my original enrollment in Commonwealth Care.
10. Based on information and belief, my provider has requested to be a member of the Commonwealth Care Bridge Program but has been declined membership in the provider network.
11. I am required to pay monthly premiums for the Commonwealth Care Bridge Program, but I cannot find a doctor that accepts this new insurance. I have to switch doctors because my current treating doctors and providers are not in the limited provider network of the new insurance. This is not the same insurance I had before the law changed and it does not meet my medical needs.
12. I am concerned about losing my continuity of care and starting over with a new doctor. I am also worried about having to travel to a new medical provider that is farther away. I am also concerned that this new insurance is not affordable for me because of increased cost sharing.
13. I refuse to change doctors, so I have not yet used the Bridge Program. I was threatened with Bridge Program termination for not paying my premiums. I called Customer Service and was told to pay \$215.00 plus \$77, which I cannot afford. No one offered me a payment plan.
14. I am advised by both Customer Service and Bridge Program that if I am terminated from the Bridge Program I will lose all benefits including any Health Safety Net or Free Care services.

15. I am concerned about the costs of the Bridge Program. I would like to continue to see my own doctors and medical providers for preventive care services. These services used to be covered at no added cost under my Commonwealth Care plan but are not covered under the Bridge Program.

Signed under the pains and penalties of perjury, this 25 day of January 2010.



Roxanne S. Prince

Exhibit 3

AFFIDAVIT OF JANE DOE 1 [Redacted]

I, Jane Doe 1, have personal knowledge of the facts set forth below and hereby state as follows:

1. My name is Jane Doe 1, and I live at [REDACTED], [REDACTED], County of Middlesex, Massachusetts [REDACTED].
2. I was born in Guatemala. Spanish is my primary language. I also speak and understand some English. I have lived in Massachusetts for approximately ten years.
3. I am a single mother of two children. My two children are United States citizens. My oldest child has a disability and needs hospitalization at times to control his medical condition. I have cooperated with the Massachusetts Department of Revenue regarding child support for my children. I was a victim of domestic violence and abuse.
4. For approximately nine years now, I have been living legally in Massachusetts, and I pay taxes.
5. My current legal status is permanently residing under color of law because I am an applicant for Political Asylum and have permission to live in the United States while my application is pending. I am not yet permitted to adjust my legal status to lawful permanent resident, but I am issued work authorization. I am no longer able to work, however, because of my older child's medical condition and my younger child is two years old, so I am primary caretaker of my children.
6. Since my arrival in the United States, I have been receiving medical treatment from the same neighborhood clinic. In addition, my children's medical records are at this local clinic. It is a clinic that we know and trust and it services my family. I trust and value my doctors at the clinic and communicate with them in Spanish because when it

comes to health care concerns for my children and me, I find it is easier to express myself in my native language.

7. In December 2006, the Commonwealth automatically transferred me out of MassHealth Limited, which covers emergency room treatment services only, and enrolled me in Commonwealth Care. Commonwealth Care covered all my doctors and clinic visits. I did not have any premium or co-payments. The health plan allowed me to get preventative care services and avoid emergency room services.

8. All of this changed on August 31, 2009. The state sent me a notice that said that my health plan will terminate on September 1, 2009 and that I receive coverage from MassHealth Limited for emergency treatment only. As a result, I had to stop seeing my doctors because I feared getting medical bills. I was also unable to get my prescriptions filled because, even at a discount pharmacies, the cost was \$75.

9. On November 1, 2009, the state enrolled me in the Commonwealth Care Bridge Program. This health plan does not meet my medical needs and is less comprehensive than the Commonwealth Care plan that I was terminated from. For example, my provider was denied provider status of the bridge network, so my provider cannot accept my Bridge insurance card. If I continue to see my doctors, the visits will not be covered and I will owe the money. Also, the Bridge plan requires a \$25 co-payment each time I see my therapist. I cannot afford to pay this. The Bridge plan costs me \$50 dollars each time to fill my prescription medicine. I cannot pay this. I am supposed to take the medication daily. The Bridge plan offers no dental converge and will charge me \$250 if I go to the emergency room, which I cannot afford. The new plan has a wait list for new doctors and none of the doctors speaks Spanish. I had none of these health care barriers under my Commonwealth Care plan.

10. I have called the Bridge Customer Service and expressed my concerns. I received no assistance except that I am told there is a translation phone line that I can use. An interpreter over the phone or even if someone in-person to interpret is not communicating with my doctor as I have done for many years. Because of the complexity of my physical and mental health needs, I need to communicate directly with my doctors in Spanish.

11. I have continued to call Bridge Customer Service, and with the help of an advocate, I am now told that I can get an appointment with a bilingual Primary Care Physician, but I have to wait until July 2010. I will therefore keep calling that provider weekly to see if there is a cancellation to get me in sooner.

12. I am worried because the Bridge plan forces me to get new doctors or pay the bill for medical treatment with my existing doctors. I have had a long-term patient/doctor relationship with my neighborhood clinic, and I have made progress with these doctors. I am worried about being forced to get new doctors and provider. I also cannot afford the transportation costs that I will have to pay to travel to a one of the new medical providers that are covered under the Bridge plan. It would also be very difficult for me to get to a new doctor because I take care of my disabled daughter and young child and would need to take them with me on public transportation. I fear losing access to my neighborhood clinic and doctors and cannot pay the \$25 co-payments for my doctor visits.

Signed under the pains and penalties of perjury, this [24th] day of February 2010.

Jane Doe 1

Exhibit 4

AFFIDAVIT OF JANE DOE 2 [Redacted]

I, Jane Doe 2, have personal knowledge of the facts set forth below and hereby state as follows:

1. My name is Jane Doe 2, and I live at [REDACTED], [REDACTED], County of [REDACTED], Massachusetts. I am 45 years old. I was born in the Philippines and have lived in the United States for more than eight years. My primary language is Filipino, but I also speak English.

2. Before arriving in the United States, I earned a master's degree in Building Science from the National University of Singapore. My professional experience includes employment for many years as a licensed architect in the Philippines. In the United States, I am certified as an Accredited Professional, through the Leadership in Energy and Environmental Design (LEED), which promotes environmentally responsible materials, sustainable architecture techniques, and public policy. As a LEED Accredited Professional, I have an advanced knowledge in green building practices.

3. I have been lawfully in the United States for more than eight years now. For the first six years, I lived and worked in the United States under an H-1B Visa. The H-1B allowed my employer to hire me as a foreign worker in my specialty occupation as an architect. I came to this country legally, worked and continue working, and I pay taxes. I left my job voluntarily due to medical reasons. ²⁴

4. For two years now, I have had my permanent resident status, e.g., my green card. When I was ready to go back to the workforce after receiving treatment for my medical

condition, there were no jobs available. I am currently working a part-time job and I do volunteer work too. I do not have health insurance offered to me at work.

5. I am diagnosed with breast cancer. I was able to get health coverage through Commonwealth Care until my insurance was cancelled on August 31, 2009 because of the change in law. I then became uninsured. I sought the help of the Latino Health Insurance Program (LHIP) under the leadership of Dr. Milagros Abreu, an Assistant Professor at Boston University, School of Public Health Project. Through LHIP, I was put into a temporary state health insurance program because of my medical condition. [REDACTED].

6. On December 1, 2009, the Commonwealth automatically transferred me again. This time I was placed into a new health insurance plan called Bridge, which is not Commonwealth Care. The Bridge has lesser coverage than Commonwealth Care. I am very concerned about this new health insurance plan. My Primary Care Physician and my medical oncologist, for example, are not in the provider network of this new plan. Also, my local hospital does not accept this new plan.

7. To avoid having to pay for my medical bills, I had to change Primary Care Physicians, even though I would have preferred to keep my existing doctor who knows my medical condition and me and a doctor that I trust. I do not want to keep losing the doctors and medical staff who have been helping me with my medical condition, but I am afraid to incur medical debt if I do not get new medical providers.

8. I have difficulty finding another medical oncologist and another gynecologist in the new plan. I have searched on the new plan's website and I called for assistance. I

cannot locate specialists within a reasonable radius of where I live. I finally found a GYN in Norwood but with a waiting list. I cannot find a medical oncologist, and I am worried about my health care.

9. Just before the Commonwealth automatically put me into this new plan, I was scheduled for a pelvic ultrasound at a local hospital. I had to cancel that procedure because the provider does not accept this new plan. I still have medical testing and examinations that need to be done, but I cannot make these medical appointments. I am concerned that I am not getting continuity of medical care. I fear not getting the complete medical services for my follow up tests on my breast cancer. I cannot afford to pay for these medical services. I need a full insurance plan, like Commonwealth Care, that will cover my medically necessary treatment.

Signed under the pains and penalties of perjury, this [17th] day of February 2010.

Jane Doe 2