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**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

NAVAJO HEALTH FOUNDATION – SAGE  
 MEMORIAL HOSPITAL, INC. (doing  
 business as “Sage Memorial Hospital”); an  
 Arizona non-profit corporation,

Plaintiff,

v.

RAZAGHI DEVELOPMENT COMPANY,  
 LLC; a Nevada limited liability company  
 (doing business as “Razaghi Healthcare”),  
 AHMAD R. RAZAGHI; individually, TAUSIF  
 HASAN; individually, DOES 1-10; ROES A-Z;

Defendants.

Case No. 2:19-cv-00329-GMN-EJY

**DEFENDANTS’ MOTION TO STRIKE  
 PORTIONS OF COMPLAINT FOR  
 MONEY DAMAGES AND  
 EMERGENCY INJUNCTIVE RELIEF**

(Oral Argument Requested)

Defendants Razaghi Development Company, LLC, Ahmad R. Razaghi, and Tausif Hasan  
 (hereinafter collectively “Defendants”), by and through their undersigned counsel, respectfully  
 move this Court to strike certain portions of Plaintiff’s Complaint for Money Damages and  
 Emergency Injunctive Relief (“Complaint”) pursuant to Fed. R. Civ. P. 12(f). This Motion is more

1 fully supported by the following Memorandum of Points and Authorities, all pleadings and papers  
 2 on file in this action, and such matters as may be introduced at the hearing on this Motion.

### 3 **MEMORANDUM OF POINTS AND AUTHORITIES**

#### 4 **I. LEGAL STANDARDS FOR REVIEW**

5 Fed. R. Civ. P. Rule 12(f) states that a judge may strike from a pleading “any redundant,  
 6 immaterial, impertinent, or scandalous matter.” “‘Immaterial’ matter is that which has no essential  
 7 or important relationship to the claim for relief or the defenses being pleaded.” *Randazza v. Cox*,  
 8 No. 2:12-CV-02040-GMN, 2013 WL 1767966, at \*1 (D. Nev. Feb. 22, 2013) (citing *Fantasy*,  
 9 *Inc. v. Fogerty*, 984 F.2d 1524, 1527 (9th Cir.1993) *rev’d on other grounds*, 510 U.S. 517 (1994)).  
 10 “‘Impertinent’ matter consists of statements that do not pertain, and are not necessary, to the issues  
 11 in question.” *Id.* Further, Rule 8 requires “a short and plain statement of the claim showing that  
 12 the pleader is entitled to relief.” Fed.R.Civ.P. 8(a)(2); *see also Randazza*, 2013 WL 1767966, at  
 13 \*2 (finding that a pleading “replete with irrelevant material, inappropriate commentary, baseless  
 14 speculation, and derogatory statements none of which relate to Plaintiff’s Complaint” must be  
 15 stricken). “[T]he function of a 12(f) motion to strike is to avoid the expenditure of time and money  
 16 that must arise from litigating spurious issues by dispensing with those issues prior to trial....”  
 17 *Sidney–Vinstein v. A.H. Robins Co.*, 697 F.2d 880, 885 (9th Cir.1983).  
 18

#### 19 **II. ARGUMENT**

20 Here, Defendants respectfully move the Court to strike the following paragraphs and  
 21 information, which are immaterial to the case, impertinent in nature, and scandalous, having been  
 22 pled merely to shock and/or prejudice the reader.  
 23

##### 24 **A. Paragraphs 1 and 2 – Alleged History of Treatment of Navajo People**

25 Defendants request Paragraphs 1 and 2 of the Complaint be stricken because they are  
 26 irrelevant, immaterial, and solely meant to prejudice the reader.  
 27  
 28

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**Paragraph 1:** The Navajo people have a saying: “A man can’t get rich if he takes proper care of his family.” The concept of “family” is central to the ethos of Navajo culture. It is this ethos that has caused the Navajo to treat even strangers as they would immediate family members resulting in a belief that the entire ‘community’ is part of one’s “family” and that family comes first. Unfortunately, this warmth, kindness and trusting nature has sometimes led to tragic results for not only the Navajo but many other native peoples. The historical record chronicling the experiences of native peoples is riddled with instances of deep injustice, deception, deceit and misappropriation by outsiders, many of whom approached native communities with larceny in their hearts and duplicitous motives.

**Paragraph 2:** Defendant Ahmad R. Razaghi (“Razaghi”) is exactly that type of outsider. He came to the Navajo Nation to enrich himself at the expense of the Navajo. Through an enterprise developed by Razaghi, which continues to this day and threatens to expand its pattern of deceit and fraud, he enriched himself to the significant detriment of the Navajo family/community, especially its most vulnerable and indigent members who rely upon Plaintiff for their basic medical needs. So brazen has been Razaghi’s arrogance and deceit that he, with the assistance of others, has fraudulently and illegally obtained more than \$10.8 million of Plaintiff’s funds, and even subsequently and to this day attempts to procure Plaintiff’s monies under dubious invoices seeking payment for services never rendered. Razaghi has engaged in these acts because he apparently believes he is both entitled and invincible. This lawsuit seeks justice for the Navajo people and to hold Razaghi and his co-Defendants accountable for their shameful acts of deception and fraud.

These Paragraphs add no factual value to Plaintiff’s claims and instead merely seek to prejudice the reader. They are “replete with irrelevant material, inappropriate commentary, baseless speculation, and derogatory statements none of which relate to Plaintiff’s Complaint” and must be stricken. *Randazza*, 2013 WL 1767966, at \*2.

#### **B. Paragraphs 19, 20, 21, and 22 – Alleged History of Sage Memorial**

Defendants request Paragraphs 19, 20, 21, and 22 be stricken because they too are immaterial, irrelevant, and do not advance Plaintiff’s claims.

**Paragraph 19:** In 1901 the Presbyterian Church began what was at the time known as the “Ganado Mission,” focusing upon educational, healthcare and religious outreach to the Navajo people. At that time, the Navajo Nation sold the Presbyterian mission several acres of land in “fee simple,” all of which was located within the territorial boundaries of the tribal nation. In 1911, Dr. James Kennedy started the mission’s first “hospital,” at the time a small makeshift facility, to serve the healthcare needs of the Navajo people.

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**Paragraph 20:** In the 1930s a school of nursing was created on mission property. The nursing school (no longer in existence) trained women from approximately twenty different Indian tribes and several foreign countries. The nursing school subsequently became accredited by the State of Arizona and was highly regarded at the time for its training programs. At or around this same period, the Presbyterian mission constructed “Poncel Hall” which became the main building from which “Sage Memorial Hospital” formally commenced operations.

**Paragraph 21:** In the 1970s (which was a period of greater awareness in American society regarding the self-determination movement of native communities) the Presbyterian Church, while still maintaining ownership of the land, handed over to the Navajo Nation Health Foundation (a tribal entity) the physical operations and plant of Sage Memorial. Later, on or about October 24, 1978, Articles of Incorporation were filed with the State of Arizona registering a newly created non-profit corporation known as “Navajo Health Foundation — Sage Memorial Hospital, Inc.” Per the bylaws of the newly created company, the BOD of the corporation were to be drawn exclusively from the Navajo population as part of an effort to foster greater self-determination by local members of the Indian community over their own affairs.

**Paragraph 22:** Between the late 1970s, when Plaintiff was formally incorporated, until the early 2000s, the hospital did well. It was almost entirely financed through government health insurance programs (Medicare, Medicaid and Indian Health Service), all of which still remains the case today. Given the rural and indigent population serviced by Sage Memorial, there are very few patients with private insurance or who pay cash for services.

Defendants should not be required to investigate and litigate the alleged history of the Presbyterian Church, the Ganado Mission, the 1930s school of nursing, and Sage Memorial prior to 2000. This information is immaterial, irrelevant, and redundant and should be stricken.

### **C. Paragraph 25 – Alleged Personal History of Ahmad Razaghi**

Defendants request Paragraph 25 be removed from the Complaint because the allegations therein are of a personal nature not relevant to this matter. Indeed, references to Defendant Razaghi’s hometown, national origin, and year of birth are wholly inappropriate in this litigation.

**Paragraph 25:** Ahmad Razaghi grew up in Salt Lake City, Utah following his family’s emigration to the United States from Iran where he was born in 1966. Following graduation from college, Razaghi worked as a project manager in the construction industry. Upon information and belief, Razaghi had no experience at that time in the field of healthcare.

The allegations in the foregoing paragraph could only be pled with the intent of causing

1 some type of improper prejudice or bias against Defendant Razaghi due to his personal  
 2 background. This information is not otherwise relied upon to form the factual basis of Plaintiff's  
 3 claims for relief. This personal information (hometown, national origin, and age) is certainly  
 4 immaterial and irrelevant to this litigation and must be stricken.

#### 5 **D. Paragraphs 31, 32, and 33 – Dismissed FCA Allegations**

6 Defendants also request Section III, Paragraphs 31, 32, and 33 be stricken in their entirety,  
 7 including the removal of Exhibit A as attached to the Complaint.  
 8

9 **Paragraph 31:** On October 16, 2014 several whistleblowers (which included  
 10 physicians, dentists and the former Controller of Sage Memorial) filed a complaint  
 11 in the United States District Court for the District of Arizona, Case No. 3:14-cv-  
 8196-PCT-SRB, naming Razaghi and others with having violated the False Claims  
 Act, 31 U.S.C. § 3729 et. seq. from 2007 onwards.

12 **Paragraph 32:** Later, the whistleblowers filed a First Amended Complaint on  
 13 August 31, 2016 which alleged, among other things, the following: “[a]t the center  
 14 of the fraudulent activity that caused violations of the FCA is Defendant Ahmad  
 15 Razaghi who devised a massive scheme through which he abused his relationship  
 16 with [Sage Memorial] to divert millions of dollars of federal funds provided by  
 17 federal programs and contracts from Sage to himself and the other [d]efendants”  
 and that “Razaghi caused Sage to enter into contracts with individuals and related  
 business entities over which he exercised control and undue influence, all to siphon  
 federal  
 funds to himself and away from their intended purposes.” See Exhibit A.

18 **Paragraph 33:** After the United States declined to intervene, the whistleblowers  
 19 voluntarily dismissed their FCA action in or around January 2017.

20 The allegations in a law suit filed and voluntarily dismissed years prior to the current  
 21 events involved herein are immaterial to this litigation. Plaintiff does not rely on these factual  
 22 assertions to support any of its claims for relief, and it is clear that the addition of this information  
 23 was meant to prejudice and improperly influence the reader. Further, this information would likely  
 24 be inadmissible under Rule 404 of the Federal Rules of Evidence. For all of these reasons, the  
 25 above cited paragraphs must be stricken pursuant to Rule 12(f).  
 26  
 27  
 28

**E. Defendants “Does” and “Roes”**

Defendants also respectfully request this Court strike the Defendants listed as “DOES 1-10” and “ROES A-Z” and Paragraphs 140-143 (Aiding and Abetting) as these paragraphs only contain allegations as to “Does” and “Roes” defendants. These fictitious defendants are legally improper in federal court. *See Turner v. Cty. of Los Angeles*, 18 F. App’x 592, 596 (9th Cir. 2001) (“As a general rule, the use of Doe pleading is disfavored in federal court”); *Graziose v. Am. Home Prod. Corp.*, 202 F.R.D. 638, 643 (D. Nev. 2001) (“If there are unknown persons or entities, whose role is known, that fact should be expressed in the complaint, but it is unnecessary and improper to include ‘Doe’ parties in the pleadings”). As a result, these defendants and Paragraphs 140-143 should be stricken from the record as legally improper.

**III. CONCLUSION**

For the reasons stated herein, Defendants request the Court strike certain portions of the Complaint outlined herein as redundant, immaterial, impertinent, or scandalous matter.

RESPECTFULLY SUBMITTED this 5<sup>th</sup> day of June 2020.

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By: /s/ Brian L. Bradford, Esq.

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**CERTIFICATE OF SERVICE**

This is to certify that on June 5, 2020 the undersigned, an employee of Fisher & Phillips LLP, electronically filed the foregoing Defendants' Motion to Strike Portions of Complaint and Motion to Dismiss Complaint for Money Damages and Emergency Injunctive Relief in Its Entirety with the U.S. District Court, and a copy was electronically transmitted from the court to the e-mail address on file for:

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