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Attorneys for Plaintiff, DARKO VUKOVIC and all others similarly situated

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

DARKO VUKOVIC, individually,
and on behalf of all others similarly
situated,

Plaintiff,

vs.

GOVERNMENT EMPLOYEES
INSURANCE COMPANY and
DOES 1 – 10, inclusive,

Defendant.

Case No.

CLASS ACTION COMPLAINT

(1) Violation of the Colorado
Consumer Protection Act (C.R.S.A
§ 6-1-105 *et seq.*)

Jury Trial Demanded

1 Plaintiff Darko Vukovic (“Plaintiff”), individually and on behalf of all other
2 members of the public similarly situated, allege as follows:

3 **NATURE OF THE ACTION**

4 1. Plaintiff brings this class action Complaint against Defendant
5 GOVERNMENT EMPLOYEES INSURANCE COMPANY (hereinafter
6 “Defendant”) to stop Defendant’s practice of falsely advertising its insurance
7 services, and to obtain redress for a Colorado class of consumers (“Class
8 Members”) who changed position, within the applicable statute of limitations
9 period, as a result of Defendant’s false and misleading advertisements.

10 2. Defendant, GOVERNMENT EMPLOYEES INSURANCE
11 COMPANY, is a corporation with its principal place of business in Chevy Chase,
12 Maryland, state of incorporation in the state of Maryland, and is engaged in the
13 sale and distribution of insurance services.

14 3. Defendant represents that its insurance services will be billed at the
15 price quoted and agreed upon, when this is in fact false. Defendant misrepresented
16 and falsely advertised to Plaintiff and others similarly situated consumers their
17 insurance services (hereinafter “Class Products”).

18 4. Plaintiff and others similarly situated purchased or attempt to
19 purchase Defendant’s Class Products, and they did so on the basis that Defendant
20 quoted the pricing of the services and agreed to provide services in exchange for
21 premiums at the price quoted.

22 5. Defendant’s misrepresentations to Plaintiff and others similarly
23 situated caused them to purchase or attempt to purchase Defendant’s insurance
24 services, which Plaintiff and others similarly situated would not have purchased
25 or attempted to purchase absent these misrepresentations by Defendant and their
26 employees. In so doing, Defendant have violated Colorado Consumer Protection
27 Act statutes.

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1 **NATURE OF THE CASE & COMMON ALLEGATIONS OF FACT**

2 6. Consumers purchased insurance services advertised to be a certain
3 price, and in the case at bar, they did so under the impression that the price quoted
4 and agreed upon would accurately reflect the price Defendant would charge them
5 for insurance services.

6 7. Consumers rely on the representations and advertisements of
7 insurance companies in order to know which insurance services to purchase.
8 Details as to the price and features of the insurance services are important and
9 material to consumers at the time they purchase insurance services from a
10 particular insurance providers.

11 8. Defendant is engaged in the managing, advertising, marketing and
12 selling insurance services.

13 9. When consumers purchase insurance services from insurance
14 providers, they reasonably believe that they will receive insurance services for
15 their vehicles at the price quoted and agreed upon.

16 10. Defendant profits from the sale of insurance services. Many
17 consumers would not have purchased or attempted to purchase insurance services
18 that are more expensive than the price quoted, or they would have purchased
19 insurance services from a competitor.

20 11. Defendant conceals the fact that its quotes are subject to change and
21 subject to and advertised in order to deceive consumers into purchasing insurance
22 services more expensive than quoted or agreed upon.

23 12. Defendants do not present consumers with a written copy of the
24 correct terms of the purchase prior to purchase, in order to conceal the deception
25 that is at issue in this case.

26 13. Defendants make written and oral representations to consumers
27 which contradict the actual nature and quality of the products that will be delivered
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1 to the consumer after the consumer purchases the products.

2 14. The aforementioned written and oral representations are objectively
3 false, and constitute deceptive trade practices under C.R.S.A § 6-1-105 et. seq.

4 15. Defendant's violations of the law include without limitation the false
5 advertising, marketing, representations, and sale of the falsely advertised Class
6 Products to consumers in Colorado.

7 16. On behalf of the class, Plaintiff seeks an injunction requiring
8 Defendant to cease advertising and selling the Class Products in a manner that is
9 deceptive, to disclose the true nature and quality of its products in a conspicuous
10 manner at or prior to the point of sale, and an award of damages to the Class
11 Members, together with costs and reasonable attorneys' fees.

12 **JURISDICTION AND VENUE**

13 17. Jurisdiction is proper under 28 U.S.C. § 1332(d)(2) because Plaintiff, a
14 Colorado resident, seeks relief on behalf of a Class, which will result in at least
15 one class member belonging to a different state than that of Defendant, a
16 Maryland Corporation. Plaintiff also seeks damages for each violation alleged
17 herein which, when aggregated among each member of the class, exceed the
18 \$5,000,000.00 threshold for requisite amount in controversy. Therefore, both
19 minimal diversity of citizenship and the amount in controversy requirements are
20 satisfied for jurisdiction under the Class Action Fairness Act of 2005, 28 U.S.C.
21 § 1332(d)(2).

22 18. Venue is proper in the United States District Court for the District of
23 Colorado pursuant to 28 U.S.C. § 1391(b)(2) because a significant portion of the
24 events giving rise to this action took place here, Plaintiff lives here, and
25 Defendant does business here.

26 **THE PARTIES**

27 19. Plaintiff DARKO VUKOVIC is a citizen and resident of the State of
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1 Colorado, County of Denver.

2 20. GOVERNMENT EMPLOYEES INSURANCE COMPANY is a
3 corporation with its principal place of business in Chevy Chase Maryland, and its
4 state of incorporation in Chevy Chase, Maryland.

5 21. Plaintiff is informed and believes, and thereon alleges, that each and
6 all of the acts and omissions alleged herein were performed by, or is attributable
7 to, Defendant and/or its employees, agents, and/or third parties acting on its behalf,
8 each acting as the agent for the other, with legal authority to act on the other's
9 behalf. The acts of any and all of Defendant's employees, agents, and/or third
10 parties acting on its behalf, were in accordance with, and represent, the official
11 policy of Defendant.

12 22. The above named Defendant, and its subsidiaries and agents, are
13 collectively referred to as "Defendant." The true names and capacities of the
14 Defendant sued herein as DOE DEFENDANT 1 through 10, inclusive, are
15 currently unknown to Plaintiff, who therefore sues such Defendant by fictitious
16 names. Each of the Defendants designated herein as a DOE is legally responsible
17 for the unlawful acts alleged herein. Plaintiff will seek leave of Court to amend
18 the Complaint to reflect the true names and capacities of the DOE Defendant when
19 such identities become known.

20 23. Plaintiff is informed and believes, and thereon alleges, that said
21 Defendant is in some manner intentionally, negligently, or otherwise responsible
22 for the acts, omissions, occurrences, and transactions of each and all its employees,
23 agents, and/or third parties acting on its behalf, in proximately causing the
24 damages herein alleged.

25 24. At all relevant times, Defendant ratified each and every act or
26 omission complained of herein. At all relevant times, Defendant, aided and abetted
27 the acts and omissions as alleged herein.

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PLAINTIFF’S FACTS

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25. In or about May of 2018, Plaintiff contacted Defendant about purchasing insurance services for Plaintiff’s uninsured vehicle. Plaintiff requested a quote without inputting Plaintiff’s vehicle’s Vehicle Identification Number (hereinafter “VIN”).

26. On or about May 8, 2018, Defendant responded to Plaintiff, stating that Plaintiff’s 6 month premium would be \$629.10 for the uninsured vehicle.

27. On or about May 9, 2018, Plaintiff contacted Defendant to ask for an updated quote reflecting the vehicle’s VIN. After inputting his VIN number, Plaintiff received an email from Defendant, on or about May 9, 2018, stating, “If you were to apply the quoted vehicle changes, your new six-month premium would be \$629.10.”

28. Plaintiff asked Defendant to clarify whether the vehicle’s VIN had been reflected in the quote. On or about May 9, 2018, Defendant emailed Plaintiff stating that Defendant’s records indicated that the VIN had been provided by Plaintiff and the quote reflected so.

29. In reliance on quote reflecting the Plaintiff’s vehicle’s VIN, Plaintiff purchased Defendant’s insurance services to cover his uninsured vehicle.

30. Later that summer, Plaintiff received a charge on his account from Defendant. As Plaintiff’s account was set to auto-pay, Defendant’s charge did not reflect the agreed upon \$629.10, but instead \$718.60.

31. Plaintiff subsequently contacted Defendant in hopes of correcting Defendant’s error and reducing the price to the quoted and agreed upon amount. Defendant denied Plaintiffs request.

32. To date, Plaintiff’s bill has not been lowered, nor has Defendant refunded any portion of Plaintiff’s payments that were in excess of the originally quoted amount.

1 33. Had Plaintiff known that Defendant had could charge Plaintiff an
2 amount above what was quoted and agreed upon, he would not have purchased
3 Defendant's insurance services.

4 34. Furthermore, Plaintiff did not discover, nor could he have discovered,
5 the true nature of the insurance services until after Plaintiff's purchase and
6 Defendant's subsequent over charging.

7 35. For the insurance services, Plaintiff paid more than valuable
8 consideration. Plaintiff relied on the fact that the insurance services were being
9 advertised at a particular price, namely that it would cost a certain amount as
10 quoted and agreed upon. Plaintiff was never informed, in writing, orally, or in any
11 conspicuous manner, that Defendant could increase the quoted and agreed upon
12 price without informing Plaintiff or letting him know that the quoted price has
13 been increased.

14 36. When purchasing Defendant's insurance services, Defendant
15 informed Plaintiff that he would be able to obtain insurance services for a 6 month
16 premium of \$629.10. Plaintiff relied on Defendant's statements about the price of
17 the insurance services in deciding to purchase insurance services. Plaintiff felt
18 assured by Defendant that the insurance services would be priced as represented
19 by Defendant, namely that price would reflect the quoted and agreed upon amount.
20 Plaintiff would not have agreed to purchase Defendant's insurance services if he
21 had known that Defendant would increase the price for insurance services to a
22 price other than what Defendant represented.

23 37. Knowledge of the true nature and quality of Defendant's insurance
24 services would have impacted Plaintiff's decision to purchase insurance services
25 from Defendant over other brands or sellers of insurance services. Plaintiff would
26 have found it important to his purchase decision to know exactly what price, the
27 insurance services were that he was purchasing, and he believed that he was
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1 purchasing insurance services at a price of \$629.10 as a sixth month premium.

2 38. Plaintiff felt ripped off and cheated by Defendant for receiving
3 insurance services at a price higher than quoted and agreed upon, contradicting
4 that that which Defendant represented. Plaintiff believes that Defendant will
5 continue its action of duping consumers into purchasing insurance services that
6 deviates significantly from Defendant's representations, namely in the form of
7 telling consumers that their insurance services will be priced as quoted and agreed,
8 when in fact may be increased without warning, unless Defendant's practices are
9 halted by way of an injunction.

10 39. As a result of Defendant's fraudulent practices, described herein,
11 Plaintiff has suffered emotional distress, wasted time, and anxiety.

12 40. Plaintiff alleges on information and belief that it is Defendant's policy
13 and practice to misrepresent the true price, nature and quality of its insurance
14 services. Plaintiff asserts that this practice constitutes a fraudulent omission of a
15 material fact relating to the nature and quality of its products that would be
16 important to a reasonable consumer to know at the time they purchase Defendant's
17 insurance services.

18 41. Plaintiff alleges on information and belief that Defendant's policy and
19 practice is to materially misrepresent the price, nature and quality of its insurance
20 services, through said fraudulent omissions and misrepresentations, to induce
21 consumers to reasonably rely on the said misrepresentations, in order to induce
22 their purchase of insurance services from Defendant over law abiding competitors.

23 42. Defendant have a duty to disclose the true price, nature and quality of
24 its insurance services to consumers prior to the time they agree to purchase
25 insurance services from Defendant. Defendant have a duty to disclose these
26 material features of their products because such features would be highly
27 important to a reasonable consumer.

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1 Procedure 23.

2 53. The class Plaintiff seeks to represent (the “Class”) is defined as
3 follows:

4 All consumers, who, between the applicable statute of
5 limitations and the present, purchased or attempted to
6 purchase Class Products, and whose Class Products,
7 namely Defendant’s insurance services, were increased
8 in price after agreeing to a quoted price.

9 54. As used herein, the term “Class Members” shall mean and refer to the
10 members of the Class described above.

11 55. Excluded from the Class is Defendant, its affiliates, employees,
12 agents, and attorneys, and the Court.

13 56. Plaintiff reserves the right to amend the Class, and to add additional
14 subclasses, if discovery and further investigation reveals such action is warranted.

15 57. Upon information and belief, the proposed class is composed of
16 thousands of persons. The members of the class are so numerous that joinder of
17 all members would be unfeasible and impractical.

18 58. No violations alleged in this complaint are contingent on any
19 individualized interaction of any kind between Class members and Defendant.

20 59. Rather, all claims in this matter arise from the identical, false,
21 affirmative representations of the services, when in fact, such representations were
22 false.

23 60. There are common questions of law and fact as to the Class Members
24 that predominate over questions affecting only individual members, including but
25 not limited to:

26 (a) Whether Defendant engaged in unlawful, unfair, or deceptive
27 business practices in selling Class Products to Plaintiff and
28 other Class Members;

(b) Whether Defendant made misrepresentations with respect to

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- the Class Products sold to consumers;
- (c) Whether Defendant profited from the sale of the wrongly advertised insurance services;
- (d) Whether Defendant violated C.R.S.A. §6-1-105 *et seq.*;
- (e) Whether Plaintiff and Class Members are entitled to equitable and/or injunctive relief;
- (f) Whether Defendant’s unlawful, unfair, and/or deceptive practices harmed Plaintiff and Class Members; and
- (g) The method of calculation and extent of damages for Plaintiff and Class Members.

61. Plaintiff is a member of the Class he seeks to represent

62. The claims of Plaintiff are not only typical of all Class members, they are identical.

63. All claims of Plaintiff and the Class are based on the exact same legal theories.

64. Plaintiff has no interest antagonistic to, or in conflict with, the Class.

65. Plaintiff is qualified to, and will, fairly and adequately protect the interests of each Class Member, because Plaintiff bought Class Products from Defendant during the Class Period. Defendant’s unlawful, unfair and/or fraudulent actions concerns the same business practices described herein irrespective of where they occurred or were experienced. Plaintiff’s claims are typical of all Class Members as demonstrated herein.

66. Plaintiff will thoroughly and adequately protect the interests of the Class, having retained qualified and competent legal counsel to represent herself and the Class.

67. Common questions will predominate, and there will be no unusual manageability issues.

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FIRST CAUSE OF ACTION

Violation of the Colorado Consumer Protection Act

(C.R.S.A § 6-1-105 *et seq.*)

68. Plaintiff incorporates by reference each allegation set forth above as fully set forth herein.

69. Pursuant to Colorado Consumer Protection section 6-1-105, *et seq.*, it is unlawful to engage in deceptive trade practices. A person engages in a deceptive trade practice when, in the course of the person’s business, vocation, or occupation, the person:

- a. Knowingly passes off goods, services, or property as those of another;
- b. Knowingly makes a false representation as to the source, sponsorship, approval, or certification of goods, services, or property;
- c. Knowingly makes a false representation as to affiliation, connection, or association with or certification by another;
- d. Uses deceptive representations or designations of geographic origin in connection with goods or services;
- e. Knowingly makes a false representation as to the characteristics, ingredients, uses, benefits, alterations, or quantities of goods, food, services, or property or a false representation as to the sponsorship, approval, status, affiliation, or connection of a person therewith;
- f. Represents that goods are original or new if he knows or should know that they are deteriorated, altered, reconditioned, reclaimed, used, or second-hand;
- g. Represents that goods, food, services, or property are of a

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- particular standard, quality, or grade, or that goods are of a particular style or model, if he knows or should know that they are of another;
- h. Disparages the goods, services, property, or business of another by false or misleading representation of fact;
 - i. Advertises goods, services, or property with intent not to sell them as advertised;
 - j. Advertises goods or services with intent not to supply reasonably expectable public demand, unless the advertisement discloses a limitation of quantity;
 - k. Advertises under the guise of obtaining sales personnel when in fact the purpose is to first sell a product or service to the sales personnel applicant;
 - l. Makes false or misleading statements of fact concerning the price of goods, services, or property or the reasons for, existence of, or amounts of price reductions;
 - m. Fails to deliver to the customer at the time of an installment sale of goods or services a written order, contract, or receipt setting forth the name and address of the seller, the name and address of the organization which he represents, and all of the terms and conditions of the sale, including a description of the goods or services, stated in readable, clear, and unambiguous language;
 - n. Employs “bait and switch” advertising, which is advertising accompanied by an effort to sell goods, services, or property other than those advertised or on terms other than those advertised and which is also accompanied by one or more of the following practices:

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- i. Refusal to show the goods or property advertised or to offer the services advertised;
- ii. Disparagement in any respect of the advertised goods, property, or services or the terms of sale;
- iii. Requiring tie-in sales or other undisclosed conditions to be met prior to selling the advertised goods, property, or services;
- iv. Refusal to take orders for the goods, property, or services advertised for delivery within a reasonable time;
- v. Showing or demonstrating defective goods, property, or services which are unusable or impractical for the purposes set forth in the advertisement;
- vi. Accepting a deposit for the goods, property, or services and subsequently switching the purchase order to higher-priced goods, property, or services; or
- vii. Failure to make deliveries of the goods, property, or services within a reasonable time or to make a refund therefor;
- o. Knowingly fails to identify flood-damaged or water-damaged goods as to such damages;
- p. Solicits door-to-door as a seller, unless the seller, within thirty seconds after beginning the conversation, identifies himself or herself, whom he or she represents, and the purpose of the call;
- q. Contrives, prepares, sets up, operates, publicizes by means of advertisements, or promotes any pyramid promotional scheme;
- r. Advertises or otherwise represents that goods or services are guaranteed without clearly and conspicuously disclosing the

1 nature and extent of the guarantee, any material conditions or
2 limitations in the guarantee which are imposed by the guarantor,
3 the manner in which the guarantor will perform, and the identity
4 of such guarantor. Any representation that goods or services are
5 “guaranteed for life” or have a “lifetime guarantee” shall contain,
6 in addition to the other requirements of this paragraph (r), a
7 conspicuous disclosure of the meaning of “life” or “lifetime” as
8 used in such representation (whether that of the purchaser, the
9 goods or services, or otherwise). Guarantees shall not be used
10 which under normal conditions could not be practically fulfilled
11 or which are for such a period of time or are otherwise of such a
12 nature as to have the capacity and tendency of misleading
13 purchasers or prospective purchasers into believing that the goods
14 or services so guaranteed have a greater degree of serviceability,
15 durability, or performance capability in actual use than is true in
16 fact. The provisions of this paragraph (r) apply not only to
17 guarantees but also to warranties, to disclaimer of warranties, to
18 purported guarantees and warranties, and to any promise or
19 representation in the nature of a guarantee or warranty; however,
20 such provisions do not apply to any reference to a guarantee in a
21 slogan or advertisement so long as there is no guarantee or
22 warranty of specific merchandise or other property.

23 s. Fails to disclose material information concerning goods, services,
24 or property which information was known at the time of an
25 advertisement or sale if such failure to disclose such information
26 was intended to induce the consumer to enter into a transaction;

27 70. Defendant misled consumers by making misrepresentations and
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1 untrue statements about the Class Products, namely, Defendant sold insurance
2 services that were of a price, nature and quality different than advertised, quoted
3 and agreed upon, and made false representations to Plaintiff and other putative
4 class members in order to solicit these transactions

5 71. Defendant knew that its representations and omissions were untrue
6 and misleading, and deliberately made the aforementioned representations and
7 omissions in order to deceive reasonable consumers like Plaintiff and other Class
8 Members.

9 72. As a direct and proximate result of Defendant's misleading and false
10 advertising, Plaintiff and the other Class Members have suffered injury in fact and
11 have lost money or property, time, and attention. Plaintiff reasonably relied upon
12 Defendant's representations regarding the Class Products. In reasonable reliance
13 on Defendant's false advertisements, Plaintiff and other Class Members purchased
14 the Class Products. In turn Plaintiff and other Class Members ended up with
15 products that were different in ways that put them in danger, and therefore Plaintiff
16 and other Class Members have suffered injury in fact.

17 73. Plaintiff alleges that these false and misleading representations made
18 by Defendant constitute a "scheme with the intent not to sell that personal property
19 or those services, professional or otherwise, so advertised at the price stated
20 therein, or as so advertised."

21 74. Defendant advertised to Plaintiff and other putative class members,
22 through written representations and omissions made by Defendant and their
23 employees, that the Class Products would be of a particular nature and quality.

24 75. Thus, Defendant knowingly sold Class Products to Plaintiff and other
25 putative class members.

26 76. The misleading and false advertising described herein presents a
27 continuing threat to Plaintiff and the Class Members in that Defendant persist and
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1 continue to engage in these practices, and will not cease doing so unless and until
2 forced to do so by this Court. Defendant's conduct will continue to cause
3 irreparable injury to consumers unless enjoined or restrained. Plaintiff is entitled
4 to preliminary and permanent injunctive relief ordering Defendant to cease its
5 false advertising, as well as disgorgement and restitution to Plaintiff and all Class
6 Members Defendant's revenues associated with their false advertising, or such
7 portion of those revenues as the Court may find equitable.

8 **PRAYER FOR RELIEF**

9 77. Plaintiff, on behalf of herself and the Class, requests the following
10 relief:

- 11 (a) An order certifying the Class and appointing Plaintiff as
12 Representative of the Class;
- 13 (b) An order certifying the undersigned counsel as Class Counsel;
- 14 (c) An order requiring GOVERNMENT EMPLOYEES
15 INSURANCE COMPANY, at its own cost, to notify all Class
16 Members of the unlawful and deceptive conduct herein;
- 17 (d) An order requiring GOVERNMENT EMPLOYEES
18 INSURANCE COMPANY to engage in corrective advertising
19 regarding the conduct discussed above;
- 20 (e) Actual damages suffered by Plaintiff and Class Members as
21 applicable or full restitution of all funds acquired from Plaintiff
22 and Class Members from the sale of misbranded Class Products
23 during the relevant class period;
- 24 (f) Punitive damages, as allowable, in an amount determined by
25 the Court or jury;
- 26 (g) All reasonable and necessary attorneys' fees and costs provided
27 by statute, common law or the Court's inherent power;
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- (h) Pre- and post-judgment interest; and
- (i) All other relief, general or special, legal and equitable, to which Plaintiff and Class Members may be justly entitled as deemed by the Court.

REQUEST FOR JURY TRIAL

78. Plaintiff requests a trial by jury as to all claims so triable.

Dated: November 16, 2018 Respectfully submitted,

LAW OFFICES OF TODD M. FRIEDMAN, PC

By: /s/Todd M. Friedman
TODD M. FRIEDMAN, ESQ.
Attorney for Plaintiff