

# Hospital suits focus on fees

## Lawyers weigh local impact from dismissal of case against Duke Medical

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A lawsuit dismissed against Duke University Medical Center over its fees for uninsured patients could affect similar cases against three Charlotte-area hospitals.

Judge Ronald Stephens of Wake Superior Court dismissed the Duke case Friday but hasn't issued his written ruling. Gary Shipman of Wilmington, representing the Duke patient, says he will appeal.

Attorney Jim Cooney of Womble Carlyle Sandridge & Rice, who represents the hospitals here, says the judge's order could affect suits pending against Carolinas Medical Center, Rowan Regional Medical Center and Northeast Medical Center if it is upheld by the N.C. Court of Appeals.

The draft order in the Duke case holds that charging different fees for different patients do not constitute an unfair and deceptive trade practice.

But Gary Jackson, the Charlotte lawyer who filed the cases against the area hospitals, says it's too early to know the impact.

A handful of N.C. lawyers is attempting to bring class-action suits over uninsured patient fees. Hospitals charge more for medical procedures performed for those patients than they do for patients covered by insurance, Medicare or Medicaid. Jackson contends that is unfair, noting uninsured patients are usually less able than the insured to pay the additional costs.

Jackson, Shipman and others say hospitals don't tell uninsured patients they are paying higher fees. That makes them unable to determine what reasonable prices would be, they contend. All the N.C. cases allege breach of contract, unjust



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**Two of the seven lawsuits filed against N.C. hospitals over their fees involve Carolinas Medical Center, flagship hospital of Carolinas HealthCare System.**

enrichment and unfair and deceptive trade practices.

Cooney points out that nearly nine out of 10 uninsured patients pay nothing. In all of Jackson's cases, the suits were filed as counterclaims when the hospitals sued to force payment of bills. "They contend that the patients are damaged by the fees," Cooney says. "If you don't pay a bill, how can you be damaged by it?"

Denice Shelton, the plaintiff in the Duke case, paid her \$7,000 bill to Duke. In his ruling, Stephens accepted Duke's argument that once she paid the bill, the contract was complete and she had no recourse to sue the hospital over the charges.

Cooney contends hospital fees are

really the same for all patients, but that insurance companies and the government negotiate discounts because of the volume of business they bring. "Market power dictates the discount," he says, likening it to a customer negotiating a lower price when buying a car.

Jackson has filed seven lawsuits against N.C. hospitals — including two against CMC and one each against Northeast in Concord and Rowan Regional in Salisbury. He and Cooney, defending all seven, have had the suits classified as complex cases for consideration by a single judge. They are being transferred to Judge Don Bridges in Shelby. No trial date has been set.