

UNITED STATES DISTRICT COURT
DISTRICT OF NORTHERN ALABAMA

FILED

DEC 12 2023

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA

RICHARD ARJUN KAUL, MD;
JOHN DOE; JANE DOE
Plaintiff

CIVIL ACTION: NO.:
2:23cv1688.ACA
COMPLAINT

v.

BLUE CROSS BLUE SHIELD ASSOCIATION;
HORIZON BLUE CROSS BLUE SHIELD;
ROBERT A. MARINO

Defendants.

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PARTIES

Plaintiff

RICHARD ARJUN KAUL, MD ("**PLAINTIFF KAUL**") – 24 Washington Valley Road, Morristown, NJ 07960: 973 876 2877: DRRICHARDKAUL@GMAIL.COM (**Exhibit 3**).

Defendants

1. BLUE CROSS BLUE SHIELD ASSOCIATION ("**DEFENDANT BCBSA**") – 225 NORTH MICHIGAN AVENUE, CHICAGO, IL 60601
2. HORIZON BLUE CROSS BLUE SHIELD OF NEW JERSEY ("**DEFENDANT HORIZON**") – 3 PENN PLAZA EAST, NEWARK, NJ 07105
3. ROBERT A. MARINO ("**DEFENDANY MARINO**") – 1 LIBERTY PLAZA, SUITE 1300, NEW YORK NY 10006

BASIS FOR ALL DISTRICT STANDING

1. Plaintiff Kaul has standing to bring suit against any/all of The Kaul Cases Defendants in any district court within the United States District Court, because The Kaul Cases Defendants caused him an illegal injury in April 2012 in all states/districts by using the US wires to disseminate, through the entities of the National Practitioners Data Bank and Defendant FSMB, Co-conspirator Alabama Medical Board ("**AMB**") and all state medical boards, information regarding the knowingly fraudulent suspension/revocation proceedings of Plaintiff Kaul's New Jersey license.
2. This information, procured through fraud and fraudulent in nature/form, was entered onto the official record and had the immediate injurious effect of preventing Plaintiff Kaul from obtaining a license in any/all states/districts.
3. Since April 2012, Plaintiff Kaul has continued to be caused injury in all states/districts because The Kaul Cases Defendants with Defendant FEDERATION STATE MEDICAL BOARDS ("**FSMB**") being the 'central cog' of the conspiracy, have perpetuated the injurious effect by obstructing Plaintiff Kaul's right/ability to procure a license and or have his NJ license reinstated.
4. Similarly, Plaintiff Kaul's economic standing/reputation/livelihood/liberty/life/social standing/professional standing/physical standing have been injured and have continued to be unlawfully exacerbated, consequent to The Kaul Cases Defendants willful/known and illegal obstruction of Plaintiff Kaul's litigation and license procurement efforts in the American courts and state medical boards.
5. On November 5, 2020, Plaintiff Kaul affirmatively established the licensing injury in every state, and in 2023, the fact that Plaintiff Kaul is not in possession of a license in any state/district, including New Jersey and Alabama despite a persistent/material/concerted effort since 2012 (Plaintiff Kaul's attempts at a 'peaceful' negotiation were ignored/rejected), and despite admitted fact that the 2012/2014 NJ suspension/revocation were/are illegal, DOES irrefutably establish standing in all districts (Exhibit 1).
6. Almost all of The Kaul Cases Defendants/their lawyers have 'minimal contacts' with every state/district within the United States, and either benefit or have benefited from a 'stream of commerce' within that state/district, including Alabama, and the one or two that do not, have used and continue to use the US wires/mail to cause injury to Plaintiff Kaul and to conduct personal/business affairs within all states/districts of the United States.

DEFENDANT FSMB'S MONOPOLIZATION OF THE MULTI-STATE AMERICAN PHYSICIAN REGULATORY MARKET SUBJECTS THEM TO REGULATORY MARKET RELATED MULTI-DISTRICT LITIGATION

7. Defendant FSMB's illegal procurement of monopoly power of the entire mechanism and all elements of the process of physician education, training, board certification, licensing, credentialing, certification and so called 'disciplining', constitutes and accounts for the deprivation to state actors of state sovereignty/immunity defenses in litigation related to licensing disputes.

8. Defendant FSMB's monopolization of this system is totalitarian in nature and effect, is designed to subjugate/enslave the medical profession to obey the edicts/orders/agendas of for-profit healthcare corporations and to increase corporate profits through a ruthless slave-like exploitation of the public and medical profession.

9. A critical element of this system, one required for absolute control, is the element that prevents a physician whose license is suspended/revoked in any state, from obtaining a license anywhere in the world, unless and until he forfeits all his property to the system (insurance corporations/medical boards/lawyers), admits to his guilt, even though innocent and submits himself to punitive/harsh/unconstitutional/illegal terms as condition of his re-commencement of clinical practice and regaining a livelihood.

10. The denial of Plaintiff Kaul's petition for an Alabama license constitutes both an example of this element and a "new racketeering injury", for which the law provides Plaintiff Kaul the right/standing to file suit in the Northern District of Alabama.

PRELIMINARY STATEMENT

11. Defendants are the Blue Cross Blue Shield Association and its thirty-eight Member Plans and their affiliated companies. The Blues provide health insurance coverage for approximately 100 million people in the United States and, according to the BCBSA's own estimates, more than 91% of professional providers and more than 96% of hospitals in the United States contract directly with the Blues. The BCBSA exists solely for the benefit of the Blues and to facilitate their concerted activities.

12. Plaintiff Kaul was a provider of healthcare services and/or equipment and/or supplies, as well as facilities where medical or surgical procedures are performed. Many of Plaintiffs' patients are insured by the Blues or are included in employee benefit plans administered by the Blues.

13. Defendants BCBSA/Horizon/Marino and all Blues members are for all intents/purposes one entity, the "**BCBCA-Blue Members**" ("**BBM**"), which have common portals of digital communication, agreed upon market allocations, prices and profit sharing. The artificial corporate divisions of Defendant BCBSA/Defendant Horizon/All Blue members are purposed to insulate the one entity "**BBM**" from the threat that litigation/judgment in one district for racketeering/antitrust violations would cause injury in every district to the one entity "**BBM**".

14. The structure employed by the one entity "**BBM**" is identical to the artificial "**families**" division employed by the Italian mafia, an organizational division, the dismantling of which propelled the enactment of RICO, a statute that pierces such division and exposes the underlying facts of the perpetrators one entity coordinated nationwide "**patterns of racketeering**". One demon with many different heads – a modern-day Hydra.

15. This underlying nationwide "**pattern of racketeering**" within the "**BBM**" does, pursuant to RICO, impute to each/every member, including Defendant Horizon and Defendant BCBSA, the liability of every other member's wrongful antitrust/racketeering and other offenses/injuries, including the denial of Plaintiff Kaul's Alabama license application.

16. In this action, Plaintiff Kaul exposes the corrupt capture of the American political and physician regulatory system (hereinafter the previously pled "**FEDERATION CARTEL**" "**FC**") by the "**BBM**" a capture the purpose of which has been to, and has in fact caused an illegal profiteering through the exploitation of the American medical profession.

17. Defendants corrupt capture/control of the "**FC**" has permitted them to continue the perpetration of this scheme to attempt to cause the elimination of Plaintiff Kaul and the truth-exposing threat presented by his ongoing prosecution of The Kaul Cases.

JURISDICTION + VENUE

Defendants BCBSA/Horizon corrupt capture of the “FC” of which the Alabama Medical Board is a member substantiates, in conjunction with other reasons, jurisdiction/venue in this district. Consequent to the Alabama Medical Board being a constituent of the “FC”, it has been/continues to be a co-conspirator in the perpetration/perpetuation of the within pled offenses/injuries committed against Plaintiff Kaul in Alabama. Defendants BCBSA/Horizon’s violations of Plaintiff Kaul’s life/liberty/property rights have occurred/are occurring in Alabama, in that his application for licensure continues to be denied consequent to Defendants BCBSA/Horizon’s nationwide “ongoing pattern of racketeering” and antitrust/civil rights violations.

JURISDICTION

General:

28 U.S.C. § 1331 – Plaintiff Kaul’s allegations arise pursuant to Section 1983 claims of violations of Kaul’s Constitutional rights and U.S.C. § 1964(a)(b)(c)(d) and 1962.

U.S.C. § 337 – Plaintiff Kaul’s alleges violations of an Act of Congress regulating commerce and monopolies.

28 U.S.C. § 1332 – 28 U.S.C. § 1332(d)(2)(A) – Plaintiff Kaul is a citizen of a different state to certain Defendants and the aggregate amount in controversy exceeds seventy-five thousand dollars (\$75,000).

PERSONAL

The Court has personal jurisdiction over all Defendants, as each Defendant has transacted business, maintained substantial contacts, and/or committed acts in furtherance of the illegal scheme and conspiracy throughout the United States, including in this district. The scheme and conspiracy have been directed at and have had the intended effect of causing injury to persons residing in, located in, or doing business throughout the United States including this District. This Court also has personal jurisdiction over all Defendants pursuant to Fed. R. Civ. P. 4(k)(1)(A) because they would be subject to a court of general jurisdiction in Alabama.

VENUE

28 U.S.C. § 1391(b)(1) – A civil action may be brought in (1) a judicial district in which any defendant resides, if all defendants are residents of the State in which the district is located and (2) a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated.

AMICI CURIAE BRIEF OF ANTITRUST PROFESSORS IN OPPOSITION TO DEFENDANTS MOTIONS TO DISMISS BASED ON THE FILED RATE DOCTRINE (IN RE: BLUE CROSS BLUE SHIELD ANTITRUST LITIGATION – 2:13-CV-20000-RDP)

Within this legal analysis as to the inapplicability of the filed rate doctrine, the ANTITRUST PROFESSORS highlight the schism between Supreme Court precedent in Parker v. Brown, 317 U.S. 341 (1943) + Cal. Retail Liquor Dealers' Ass'n v. Midcal Aluminum, Inc., 445 U.S. 97 (1980) + Brown v. Tigor Title Ins. Co., 982 F.2d 386 (9th Cir. 1992) and the interpretation of these cases in the Third Circuit in Sun City Taxpayers' Ass'n v. Citizens Utils. Co., 45 F.3d 58 (3d Cir. 1995) cert. denied + McCray v. Fidelity National Title Ins., 682 F.3d 229 (3d Cir. 2012), cert. denied, – U.S. –, 133 S. Ct. 1242 (2013). The Third Circuit, in analyzing Defendants filed rate defenses for state-action immunity, erroneously applied the filed rate doctrine instead of the Midcal test. The ANTITRUST PROFESSORS recommendation to the Court that Defendants filing rate defense be analyzed under the state-action doctrine was adopted in accordance with Supreme Court precedent, illustrates the pro antitrust disposition of the Third Circuit, a Circuit in which Defendants' tacitly permitted monopolistic schemes/violations now include "patterns of racketeering" involving, amongst other things, bribery/perjury/wire fraud/public corruption/kickbacks/false arrest/false imprisonment/kidnapping (Exhibit 4).

STATEMENT OF RELEVANT FACT

Overview:

18. The facts ADMITTED in K11-11 are incorporated into K11-22 as if re-pled and in conjunction with the below pled facts do substantiate the RICO/Antitrust/Civil Rights claims (Exhibit 2).

19. The facts and the fact “**pattern**” underpinning the K11-22 claims include, amongst other things, a felonious scheme of bribery/perjury/public corruption/fraud/kickbacks, facts not existent within the pending IN RE BLUE CROSS BLUE SHIELD MDL: 13-CV-20000 in this Court.

20. Defendants perpetrated such a scheme against Plaintiff Kaul, and it was not until December 2022, that evidence emerged of this scheme and it did so through three cases involving Defendant BCBSA/Members: (i) a civil matter pending in the Eastern District of Pennsylvania (Anand v Independence Blue Cross: 20-cv-06246); (ii) a criminal matter instigated by Defendant BCBSA/BCBS of Michigan, and tried in the Eastern District of Michigan (USA v Leslie Pompy: 18-cr-20454) in which Defendant, Dr. Lesly Pompy, was acquitted by a jury of all thirty-eight (38) charges on January 4, 2023; (iii) A FOIA campaign conducted by Drs. Anand/Pompy directed at the conspiratorial state power ‘hijacking’ schemes of Defendant BCBSA/Members.

21. This “**new**” evidence did not come into Plaintiff Kaul’s possession until recently, and was not available to Plaintiff Kaul nor reasonably could have been, as it remained in the guarded possession of investigators employed by the Defendants and other members of the Blue Cross Blue Shield family.

22. Defendants BCBSA/Horizon/Marino know that The Kaul Cases have exposed facts not exposed IN RE: BLUE CROSS BLUE SHIELD MDL: 13-CV-20000. These facts, unlike the civil ones underpinning the MDL case, are facts of felonious misconduct that is ongoing, and which presents a threat of “**ongoing racketeering activity**” that is criminal in nature.

23. K11-22 levels charges against Defendants BCBSA/Horizon/Marino of having perpetrated and continuing to perpetrate, amongst other things, massive nationwide schemes of racketeering, anti-trust infractions and civil rights violations, in which they have targeted and continue to target principally ethnic minority physicians (Indians, African-Americans, Hispanics), to whom they owe money and whom they victimize, in collusion/conspiracy with state/federal agencies, by causing the illegal revocation of their medical licenses, the incarceration of their person and the illegal seizure of their assets.

24. These felonies were caused into existence consequent to Plaintiff Kaul’s immense professional/economic success in a period from 2001 to 2012, a period in which Plaintiff Kaul provided interventional pain/minimally invasive spine surgical services to thousands of Defendants fee-paying clients.

25. A critical component of Plaintiff Kaul's success pertained to his 2005 invention/successful performance of an outpatient percutaneous spinal fusion, a procedure that revolutionized the field of spine and is today the standard of care.

26. Consequent to Plaintiff Kaul's delivery of care to Defendants clients, Defendants became legally obligated to reimburse him for his hard lengthily earned expertise (1983-2012) but violated that obligation and did not reimburse Plaintiff Kaul.

27. Defendants, did also, through their long-standing schemes of judicial/political corruption cause the loss to Plaintiff Kaul of every certificate/license relating to prescribing and every other function/facility necessary for the clinical practice of medicine in America, a system widely recognized as being overly/arbitrarily onerous, but a system nonetheless exploited by for-profit insurance corporations who operate with relatively limited or no oversight (It is noteworthy that despite such excessive regulation, America's mortality/morbidity are some of the highest in the so-called western world).

28. Defendants BCBSA/Horizon/Marino, entities/persons involved in the sale of insurance, have within the last few decades and through massive schemes of judicial-political corruption, perpetrated an illegal capture/corporate coup of state legislative/adjudicative/executive functions, such that the corporation is now the state, subject to human/civil/constitutional rights' violations claims.

29. Within the last few decades, Defendant BCBSA and its regional member partners have targeted over thirty-three thousand (33,000) principally ethnic minority physicians by referring them to state/federal investigative/prosecutorial agencies for license suspension/revocation and or indictment/conviction/incarceration.

2004 – 2012:

30. In a period from approximately 2004 to 2012, Kaul provided interventional pain and minimally invasive spine surgery care to thousands of patients with healthcare policies provided by Defendant BCBS.

31. The care provided to these patients was clinically indicated, and based on the patients' history, physical examination, and diagnostic studies, and was purposed to, and did in fact, reduce the patients' pain disability. These facts were supported in the documentation within the patient's clinical file.

32. Plaintiff Kaul submitted invoices to Defendant BCBS for payment of these services, and in over ninety (90%) of these pre-certified points of care, Defendant BCBS fraudulently refused payment, in order to increase compensation to their corporate executives and bribes to corrupted politicians/judges on their 'payroll'.

33. The approximate amounts of unpaid fees were not less than seven million dollars (\$7,000,000), and in the period from 2004 to 2012, Kaul became obligated to file suit on two (2) occasions against Defendant BCBS.

34. In a period from 2006 to 2012, Plaintiff Kaul sued Defendant Horizon twice, and in retaliation, as has been and is their nationwide “**pattern**”, they funneled bribes to governmental officials (in this case **The Kaul Cases** Defendant Christopher J. Christie) who ordered state regulatory agencies to revoke Plaintiff Kaul’s license in order to attempt to eradicate their debt to him and restrict future liability by obstructing his “**ongoing**” efforts to either have reinstated his New Jersey license or procure a new license in another state (2012-2023).

35. In retaliation, Defendant BCBS, in collusion/conspiracy with **The Kaul Cases** Defendants coopted, within the State of New Jersey, both state/federal investigative/prosecutorial/judicial agencies to have Kaul’s physician license revoked and to attempt to have him indicted and incarcerated, according to the rules of their ‘Elimination Scheme’ final-solution-esque manifesto.

36. In a period from approximately 2012 to 2016, Kaul, after having had his license illegally revoked in 2014, continued to be subjected to state/federal criminal investigations, orchestrated/conducted by Defendant BCBS in collusion/conspiracy with **The Kaul Cases** Defendants. None of these investigations produced any evidence of wrongdoing, the lack of which undermines the entirety of the case that caused the illegal revocation of Kaul’s license.

2012-2016:

37. From February 22, 2016, to August 19, 2021, Kaul filed suit in the United States District Court, against the individuals and corporations that had conspired to commit and did commit a “**pattern of racketeering**” against Kaul.

38. On June 17, 2013, consequent to the suspension of Kaul’s license, highly defamatory press coverage and Defendant BCBS’s scheme to refuse to pay Kaul’s invoices, Kaul’s corporations became obligated to file for Chapter 11 bankruptcy, a case in which Defendant BCBS was identified as a debtor.

39. During the bankruptcy proceedings, the trustee and his lawyer, the latter, Daniel Stolz, Esq, a Defendant in **The Kaul Cases**, conspired with insurance carriers to not file claims to collect the monies owed to Kaul’s estate by these entities, in return for which Defendant Stolz received bribes, disguised as ‘legal fees’

40. Upon information recently provided to Kaul, he now asserts that Defendant BCBS conspired with Defendant Stolz in the scheme to not collect monies owed to Kaul’s estate, as part of the quid pro quo scheme in which Defendant Stolz received bribes from Defendant BCBS, disguised as ‘legal fees’.

2016-2020:

41. In or around November 5, 2020, Plaintiff Kaul's application to the Alabama Medical Board was rejected, based on the 2014 illegal New Jersey license revocation, a revocation caused/aided and abetted/facilitated by Defendants.

42. Defendants, through their long-standing schemes of judicial/political corruption did cause and continue to cause ongoing injury to Plaintiff Kaul in the State/District of Northern Alabama, in that he continues to be improperly denied a license.

2020-2023:

43. The below facts were obtained from documents procured through freedom of information requests and relate principally to the so called 'Healthcare Fraud Preventive Partnership' (HFPP). This entity was manufactured by the insurance industry to provide 'cover' and immunization against prosecution for its ongoing and knowingly criminal activities, that include, amongst other things, bribery/public corruption/fraud/theft of services/wire fraud/filing knowingly false insurance rate increases with state agencies. The HFPP is a 'weapon' with which the insurance industry has targeted/caused the incarceration/asset seizure of principally ethnic minority physicians to whom it owes money, in its pursuit of increased shareholder/executive profit:

44. The "BMD", in conjunction with Qlarant (formerly Health Integrity NBI Medic), General Dynamics Information Technology (GDIT) and other private/state stakeholders in the trillion-dollar American health insurance business concocted the HFPP to further maximize corporate/shareholder profits through the exploitation and at the expense of the American public/medical profession.

45. The "BMD" and these stakeholders are interminably intertwined within the HFPP and share the same profit motive.

46. The interminable intertwining of the "BMD" and these stakeholders has rendered the "BMD" a 'state actor' for the purposes of claims pertaining to violations of human/civil/constitutional rights, wherein the "BMD" has 'hijacked' state investigative/prosecutorial/adjudicative functions.

47. The "BMD" has used its 'hijacked' state power to perpetrate ongoing schemes of mass incarceration of principally ethnic minority physicians to whom it owes money for the provision to its customers by these physicians of life-saving clinical care.

48. The "BMD"s scheme involved/involves the illegal multi-year non-payment to physicians for the necessary rendering of clinical services, followed by incarcerations when these physicians seek compensatory redress within the civil courts.

THE HFPP:

49. Within the last few decades, the global insurance industry has perpetrated a corrupt bureaucratic coup of the political/judicial/legislative arms of the American state, which it now operates as simply an element of its global corporate structure. The HFPP is in actuality an agreement between the global insurance industry (including the "BMD") and certain governmental elements which has given the global insurance industry 'carte blanche' to use American courts/judges/prosecutors to cause the incarceration and asset seizure of American physicians. It's title is purposefully misleading in that it attempts to convey its function is to combat so called fraud, when in actuality its only purpose is to illegally extract services/time/life from physicians without payment in a 'slave' like manner, and to then cause their incarceration after years of free service extraction. The HFPP has criminalized the normal practice of medicine.

50. The following facts substantiate the RICO/Antitrust/Civil Rights claims and are facts of gross misconduct/criminality that would not have come into existence but for the 'hijacking' of 'state' power through the instrument of the HFPP, and expose how "BMD" has used/uses the HFPP to cause/continue to cause license revocations/incarcerations of innocent physicians.

51. It has converted the HFPP into a "racketeering enterprise" through which it has conducted/conducts a "pattern of racketeering".

52. It has caused/causes the initiation of a criminal investigation by state/federal investigators of targeted physicians.

53. It has caused/causes a pre-trial seizure/forfeiture of the targeted physician's assets in order to incapacitate the targeted physician's ability to retain defense counsel.

54. It has falsified/falsifies its state/federal tax returns in fraudulently claiming losses allegedly caused by the targeted physicians alleged misconduct, allegations it knows are false.

55. It has falsified/falsifies so called 'restitution' by falsely claiming that the amount it actually disbursed to targeted physicians was the amount billed by the targeted physicians, when in fact it knew/knows that the disbursed amount was either zero or less than 5 percent (5%) of the billed amount.

56. It knew/knows that its fraudulent 'restitution' claims were/are an unenforceable penalty under the Thirteenth (13th) Amendment: "Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction."

(The insurance industry was born in London in the 1600s on the back of the British trans-Atlantic slaving industry, through Lloyd's of London, an insurance conglomerate that today ultimately underwrites every insurance policy, and that has since its ignominious beginnings profited from human suffering, including that associated with the Nazi Holocaust. As a consequence of Plaintiff Kaul's persistence within The Kaul Cases of exposing the American insurance industry's connection to Lloyd's dark slaving profiteering, this British corporation did, for the first time in its history, and unquestionably in a public relations 'damage-mitigation' effort, did publicly admit to these crimes against humanity: <https://www.lloyds.com/about-lloyds/history/the-trans-atlantic-slave-trade/lloyds-marine-insurance-and-slavery>. The insurance industry, which includes "BMD", has replaced shipping slaves with the human trafficking of Indian/African American physicians into the modern-day plantation equivalent, that of American jails.)

57. "BMD"'s crimes are a continuation of its four hundred (400) year-long "pattern of racketeering" in which it converted America into a "racketeering enterprise".

58. It, in conjunction with Qlarant/other data analysis companies, caused the profiling of targeted physicians based simply on ethnicity (Indian/African American/Hispanic), age (50-80), assets.

59. It used/uses these data algorithms to generate a never-ending list of physicians for targeting/elimination/asset seizure.

60. It, through and under the cover of the HFPP, orchestrates events from the investigation to the incarceration of targeted physicians, including the assignment of selected investigators/prosecutors/judges, who profit from being on the 'payroll' of "BMD".

61. It has paid/pays millions of dollars to criminal forensic software corporations to develop knowingly flawed applications that cause the generation of knowingly false data purposed to falsely 'convict' the targeted physician of purported crimes that it knows have not been committed.

62. It has submitted/submits the knowingly false evidence manufactured through these purposely flawed applications into many legal proceedings that have caused false convictions of principally ethnic minority physicians.

63. It, cognizant of the seriousness/scale/consequences of its crimes, has perpetrated its HFPP facilitated scheme with a highly restricted group of specifically selected persons (investigators/prosecutors/judges), in order to lessen the potentially decimating risk of the scheme's public exposure.

64. It, under the cover of the HFPP, has used/uses the Controlled Substances Act and other healthcare fraud statutes to cause the incarceration/asset seizure of targeted physicians.

65. It, under the cover of the HFPP, has illegally and in violation of HIPPA, seized/seizes highly confidential/privileged information of patients treated by the targeted physicians, information that it then sells to other healthcare corporations, internet search engines and persons involved in the business of incarcerating physicians.

66. It has used/uses the Prescription Monitoring Program in a knowingly false manner to cause the license revocation/investigation/arrest/indictment/incarceration of knowingly innocent physicians whose patient populations invariably include people with immense morbidities that require higher dosing schedules to control their pain/disability to permit them to function in society.

67. It, in conjunction with its HFPP partners, has violated/violates the due process rights of the targeted physicians and the rights of the targeted physicians' patients who become abandoned consequent to the revocations/incarcerations.

68. It, in conjunction with its HFPP partners, has perpetrated/perpetrates its crimes/violations under the cover of the HFPP, which is nothing more than an illegal antitrust agreement that has illegally monopolized the healthcare market through the illegal elimination of physician market competitors, and not through the provision of a superior product/service.

69. It, in conjunction with its HFPP partners perpetrates the HFPP in secrecy and hidden from the scrutiny of its over one hundred million (1,000,000) premium-paying customers and the American public.

70. It, in conjunction with its HFPP partners, did not/does not inform, as statutorily required, its physician market competitors of its meetings.

71. This violation of willful concealment has caused/continues to cause irreparable harm to the American public and medical profession, whose life/liberty/livelihood have been injured/continue to be injured by the schemes perpetrated by, through and under the cover of the HFPP.

72. The non-disclosures of these facts constitutes a knowing/ongoing violation of the Federal Advisory Committee Act.

73. Its knowledge of the illegality of its HFPP facilitated antitrust/racketeering/civil rights violations/offenses explains its concealment purposed violation of the Federal Advisory Committee Act.

Facts Corroborating The K11-22 Claims:

74. In a time period commencing in or around 2018, facts began emerging, as they did IN RE: BLUE CROSS BLUE SHIELD MDL: 13-CV-20000 case, from other administrative/civil/criminal proceedings involving Drs. Lesly Pompy (Michigan) and Neil Anand (Pennsylvania). One aspect of these proceedings has been a FOIA campaign which produced highly incriminating evidence of concerted antitrust/racketeering/civil rights violations by the BCBSA/Members of which Defendants BCBCA/Horizon BCBS/Marino are active members/participants.

75. In 2018, Dr. Lesly Pompy, a Michigan based interventional pain physician of Haitian origin, was indicted by the US Government on charges of healthcare fraud, in a case almost identical to that filed against Dr. Anand.

76. Dr. Pompy, upon being indicted, did initially consider pleading guilty, as he believed, that despite his innocence, it would be impossible to successfully contest the case. However, he was persuaded by Dr. Anand to “fight” the charges.

77. In approximately 2019, Kaul was contacted by a Dr. Neil Anand, a physician of Indian origin, who had recently been indicted by the federal government on charges of healthcare fraud. In late 2020 Kaul suggested Anand seek legal redress against the insurance carrier that owed him the most money, as this entity was likely the instigator of the indictment.

78. On December 11, 2020, Anand initiated suit against Independence Blue Cross, the Pennsylvania subsidiary of the Blue Cross Blue Shield corporate collective.

79. On September 27, 2022, Anand filed a ‘Third Amended Complaint’ (D.E. 57), in which he details the scheme perpetrated by BCBS, that involved, amongst other things, the use of the US wires to transmit knowingly fraudulent information in furtherance of its scheme to destroy Anand ‘s career and have him indicted and incarcerated.

80. The criminal trial of Dr. Pompy commenced on November 28, 2022, and concluded on January 4, 2023, with the jury acquitting him on all thirty-seven (37) charges.

81. However, during the trial evidence emerged of the fraudulent schemes perpetrated by the Blue Cross Blue Shield corporations in their efforts to entrap knowingly innocent physicians, mostly of whom belonged to ethnic minorities.

82. During the testimony of a James Howell, an ex-police officer employed by Blue Cross Blue Shield to manufacture entrapment schemes, Howell testified that in furtherance of these schemes he was provided fraudulent medical documents, driving licenses and other official documents by agencies/persons of the State of Michigan and physicians employed by Blue Cross Blue Shield.

83. Howell's prior testimony in various other prior court proceedings had resulted in the wrongful conviction and incarceration of other ethnic minority physicians, all of whom continue to languish in jail.

84. The trial of Dr. Pompy unequivocally establishes the "pattern of racketeering" being perpetrated by the American insurance industry and specifically the Blue Cross Blue Shield corporations, and corroborates the claims that Kaul has asserted within The Kaul Cases, since 2016.

85. Dr. Pompy's widely publicized verdict was announced on January 4, 2023, and on January 6, 2023, the district judge in Dr. Anand's suit against Independence Blue Cross Blue Shield, entered an order denying the Defendant's motion to dismiss, and ordering it to file answer to Dr. Anand's opposition to their motion.

86. Defendants' nationwide "pattern of racketeering" and antitrust violation were evidenced in 2022 in UNITED STATES OF AMERICA v. LESLY POMPY: 18-cr-20454 – UNITED STATES DISTRICT COURT, EASTERN DISTRICT OF MICHIGAN. Dr. Pompy was criminally charged on June 26, 2016, with a thirty-seven (37) count indictment in which he was accused of allegedly having dispensed opiates and other commonly prescribed pain reducing medications on certain dates to approximately fifteen (15) patients in 2016. Dr. Pompy, who had been in practice for over thirty (30) years was the largest provider of pain management services in his county, and had successfully treated tens of thousands of patients. The criminal trial commenced on November 28, 2022, and concluded on January 4, 2023, with an acquittal by the jury on all thirty-seven (37) counts. The trial resulted in the production by a BCBS investigator of testimony highly probative to Defendant BCBSA/Horizon's "ongoing pattern of racketeering", in which it, with its state-co-conspirators, had perpetrated through and under state-cover hundreds of RICO predicate acts, that included wire fraud/entrapment/evidence tampering/falsification medical records/issuance of fraudulent of state driving licenses by state police/subornation re production of fraudulent medical documents by physician employees of Defendant BCBS/formalization and education at special undercover training units for BCBS investigators of tactics of entrapment and their subsequent propagation against physicians.

87. Information regarding this scheme was procured through a FOIA campaign (2020-2023) conducted by Drs. Lesly Pompy and Neil Anand the latter a successful Pennsylvania based physician of Indian origin who was indicted on the same charges filed against Dr. Pompy, a Haitian physician.

88. BCBS's **"patterns"** of ongoing misconduct commenced against Plaintiff Kaul in 2005/2006, but were concealed from him until recently, when they came into his possession as a consequence of Dr. Anand's extensive state/federal Freedom of Information (FOI) requests that have exposed Defendants' so called 'Healthcare Fraud Prevention Partnership' (HFPP), in which certain persons/agencies within the government have entered into a de-facto business agreement with the insurance industry, to which Defendant BCBSA/Horizon belong.

89. Dr. Anand's evidence was conclusively corroborated during Dr. Pompy's trial and acquittal. A jury of twelve (12) people believed that there does indeed exist a **"vast conspiracy"** between government agencies and private/corporate interests, that targets successful ethnic minority physicians.

LEGAL CLAIMS

COUNT ONE

RICO

Defendants: Robert Marino, Horizon BCBS, BCBCA

Co-conspirators: "FC" including the Alabama Medical Board

RICO Predicate Acts: Bribery/Mail Fraud/Wire Fraud/Public Corruption/Theft

Association-In-Fact Enterprise: "Healthcare Fraud Prevention Partnership (HFPP) – FC" ("HFPP-FC Association-In-Fact Enterprise")

Overview:

90. At the crux of the RICO charge is the "BBM"'s corrupt control of the "FC"/Alabama Medical Board, a control it uses to have eliminated (license revocation) physicians to whom it owes money, in order to increase executive/shareholder profit, albeit through knowingly illegal schemes of racketeering/antitrust/civil right violations. The one entity "BBM", did authorize the illegal 2012/2014 New Jersey revocation 'hit' on Plaintiff Kaul by the New Jersey 'family', Defendants Horizon BCBS/Marino. The decision to perpetrate the crimes/facts detailed in K11-11 was one that required authorization from the "BBM", the insurance equivalent of the mafia 'Commission' as organized in 1931 by Charles 'Lucky' Luciano. The "BBM" is modelled on 'The Commission' and is thus perfectly suited to prosecution pursuant to RICO.

91. The thrust of the K11-22 RICO claim pertains principally to an "ongoing" scheme purposed to obstruct both the prosecution by Plaintiff Kaul of The Kaul Cases and his efforts to have reinstated his New Jersey license and or obtain a new license in another state, including Alabama. The scheme is motivated by The Kaul Cases Defendants, including the K11-22 Defendants, attempt to prevent Plaintiff Kaul from further exposing their decades-long Italian mafia-inspired criminal activities/enterprise.

92. The Defendants ability to evade prosecution is consequent to the "BBM"'s capture/corruption of the investigative/prosecutorial/adjudicative arms of state/federal government, a capture/corruption that was provided seemingly legitimate 'cover' in 2012 with the materialization of the so called "Healthcare Fraud Prevention Partnership" ("HFPP"). The "BBM" realized that the fatal mistake of the Italian mafia was its failure to purchase governmental agencies/persons/judges, schemes it now perpetrates with greater prevalence in the northern-eastern states of America (New Jersey/New York/Pennsylvania/Connecticut/Massachusetts/Michigan) the Italian mafia strongholds.

93. Since its inception, the Defendants have converted the HFPP into a racketeering enterprise, through which it has conducted a "pattern of racketeering" in the commission of the RICO predicate acts of, amongst other things, wire

fraud/bribery/public corruption/theft/perjury/false convictions/false arrests/false imprisonment/false asset seizures that targeted principally ethnic minority physicians.

94. The Italian mafia's 'crime on the streets' has moved to the 'crime in the suites'.

95. Plaintiff Kaul respectfully asserts that the RICO claim is central to understanding how the "BBM" achieved such immense monopoly power within the almost four trillion-dollar American healthcare market. To have so rapidly achieved this dominance required the commission of 'white-collar' and other crimes in an environment in which the regulators/prosecutors had been neutered. To essentially be permitted to illegally capture the market without any resistance. This is exactly how the scheme that now involves Alabama/other states did commence in the north-east with Defendant Robert Marino (ex-CEO Horizon BCBS-New Jersey/current CEO Empire BCBS-New York), **The Kaul Cases** Defendant, Christopher J. Christie, (ex-NJ Governor), then NJ AG, Jeffrey Chiesa, and others.

96. In order to more fully provide context to the K11-22 RICO claim, Plaintiff Kaul respectfully submits relevant sections from the K11-11 Complaint, the within facts of which are already ADMITTED:

97. In a period commencing approximately 2003/2004, Defendant BCBS commenced conspiring to commit and did commit a fraudulent scheme that targeted Plaintiff Kaul, an Indian physician, with concerted misrepresentations that caused him to provide clinical care to their clients, with the pre-certification promise of remuneration, but to then defraud him of his services by refusing to pay Plaintiff Kaul's invoices, after he had provided the service in good faith.

98. In the perpetration of this scheme, Defendant BCBS, conducted a "pattern of racketeering" through the willful and knowingly illegal commission of the RICO predicate acts of wire fraud, mail fraud and theft, in which its corporate officers, including Defendant Marino, converted the State of New Jersey and the BCBS corporation into the "State of New Jersey-BCBS Association-In-Fact Enterprise" ("NJ-BCBS AIF Enterprise) through which Defendants Marino/BCBS funneled bribes to multiple New Jersey based politicians, including **The Kaul Cases** Defendant, Christie, who, in exchange for these bribes, abused his executive power to order the state medical board/state AG to revoke, albeit illegally, Plaintiff Kaul's license and commence criminal investigations.

99. The revocation was purposed to eliminate Defendant BCBS's debt to Plaintiff Kaul and the legal liability posed by the lawsuit Plaintiff Kaul filed in February 2012, while the criminal investigations sought to incarcerate Plaintiff Kaul, in order to prevent him from exposing their crimes, as he/others have done/are doing.

The "pattern of racketeering":

100. To carry out, or attempt to carry out, the fraudulent scheme, the Defendants/Co-

conspirators, each of whom is associated-in-fact with the **“HFPP-FC Association-In-Fact Enterprise”** did knowingly conduct or participate, directly or indirectly, in the affairs of the enterprise through a pattern of racketeering activity within the meaning of 18 U.S.C. §§ 1961(1), 1961(5) and 1962(c), and employed the use of the mail and wire facilities, in violation of 18 U.S.C. § 1341 (mail fraud) and § 1343 (wire fraud).

101. Specifically, the Defendants/Co-conspirators have committed, conspired to commit, and/or aided and abetted in the commission of, at least two predicate acts of racketeering activity (i.e., violations of 18 U.S.C. §§ 1341 and 1343), within the past ten years.

102. The multiple acts of racketeering activity which the Defendants/Co-conspirators committed, or aided or abetted in the commission of, were related to each other, posed a threat of continued racketeering activity, and therefore constitute a **“pattern of racketeering activity”**.

103. The racketeering activity was and is facilitated by the Defendants/Co-conspirators regular use of the state-corporate facilities, services, distribution channels, and employees of the **“HFPP-FC Association-In-Fact Enterprise”**. The Defendants/Co-conspirators participated in the fraudulent scheme by using mail, telephone, and the Internet to transmit mailing and wires in interstate or foreign commerce.

104. The Defendants/Co-conspirators used, directed the use of, and/or caused to be used, thousands of interstate mail and wire communications in furtherance of their scheme through virtually uniform misrepresentations, concealments, and material omissions.

105. In devising and executing the illegal scheme, the Defendants/Co-conspirators devised and knowingly carried out a material scheme and/or artifice to defraud Plaintiff Kaul of the property rights of his reputation, medical license, and healthcare business, by communicating to the public, Plaintiff Kaul’s patients, and his professional colleagues, that the Plaintiff Kaul was not qualified to perform minimally invasive spine surgery, had committed insurance/bank fraud, materially false representations, and would be indicted.

106. For the purpose of executing the illegal scheme, the Defendants/Co-conspirators committed these RICO predicate acts on hundreds of occasions, with the specific intent to advance the knowingly illegal scheme.

RICO Predicate Acts

107. Mail Fraud: Defendants BCBCA/Marino/Horizon BCBS did, in the relevant period, with knowing illegality conspire to use and did use the US mail to transmit knowingly fraudulent

information to Plaintiff Kaul that he would be remunerated for the pre-certified provision of care to patients with health insurance provided by Defendant Horizon BCBS. In rendering these representations, Defendants knew the statements were materially false, and that they had no intention of paying Plaintiff Kaul, consistent with their schemes of theft of service and contractual derogation.

108. Wire Fraud: Defendants did, in the relevant period, with knowing illegality conspire to use and did use the US wires to transmit, during phone calls and other digital communications, knowingly fraudulent information to third parties, that included agents of the executive, investigative, prosecutorial, and adjudicative arms of state and federal government, and the knowing fraud was that Plaintiff Kaul had committed health insurance fraud. The purpose of the Defendants scheme was to have Plaintiff Kaul's license revoked, his reputation destroyed, his economic standing destroyed, to have him ostracized, to have him indicted/incarcerated and then to have him either leave the US and or be deported; in order to eradicate their debt to Plaintiff Kaul and to eliminate the competition he presented to their commercial agenda. In the digital and non-digital communications surrounding the scheme, the Defendants discussed with each other and with third party 'state actors' the various tactics that would be used to effectuate the scheme, and these included: **(i)** Use of the US mail and wires to organize and further schemes to bribe Defendant Christie, in order to have him order the medical board revoke Plaintiff Kaul's license and have him indicted; **(ii)** Use of law and public relation firms to funnel bribes to Christie as part of quid pro quo schemes to revoke Plaintiff Kaul's license, destroy his reputation and cause him to leave the United States; **(iii)** Use of the US mails and wires to transmit written, telephone, or electronic communications regarding discussions between the Defendants/co-conspirators and state and federal politicians/prosecutors/investigators about the illegal scheme to revoke Plaintiff Kaul's license and have him indicted/incarcerated;**(iv)** Use of US mail and wires to file knowingly false complaints against Plaintiff Kaul with the medical board; **(v)** Use of US mail and wires to send patients letters encouraging them to file frivolous lawsuits against Plaintiff Kaul; **(vi)** Use of the US mail and wires to communicate false information to patients, that Plaintiff Kaul was not qualified to perform minimally invasive spine surgery; **(vii)** Use of the US mail and wires to send false information to personal injury lawyers that Plaintiff Kaul was not qualified to perform minimally invasive spine surgery, had committed insurance fraud, that his accounts receivable could not be collected and that the legal cases had no monetary value; **(vii)** Use of the US mail and wires to send false information to New Jersey politicians, encouraging them, with the promise of political campaign 'donations' to coerce the medical board/state prosecutors to have Plaintiff Kaul's license revoked and have him indicted; **(viii)** Use of the US mail and wires to organize and further schemes to bribe Defendant Christie, in order to have him order Defendant NJBME to revoke Plaintiff Kaul's license; **(ix)** Use of the US mails and wires to transmit letters, emails and other materials indicating that the Defendants co-conspirator lawyers/physicians had been instructed to inform their colleague not to support Plaintiff Kaul in any litigation, in any form, be it financial and or professional; **(x)** Use of the US mails and wires to disseminate written,

telephone, or electronic communications regarding the knowingly fraudulent events surrounding the revocation and indictment investigations, in order to ostracize Plaintiff Kaul; (xi) Use of the US mails and wires to collect the increased revenues that flowed from the illegal elimination of Plaintiff Kaul from the practice of medicine; (xii) Use of the US mail and wires to transmit information in furtherance of their scheme of converting the United States Bankruptcy Court into a racketeering enterprise; (xiii) Use of the US mails and wires to transmit false information that Plaintiff Kaul has committed insurance fraud, was not qualified to perform minimally invasive spine surgery, had committed bank fraud and was going to be criminally indicted for Medicare fraud; (xiv) + Obstruction of justice and evidence tampering ('The Solomon Critique' + 'The Solomon Critique 2'); (xv) Use of the US mail and wires to transmit the illegal consequences of the obstruction of justice/evidence tampering ('The Solomon Critique' + 'The Solomon Critique 2')/indictment investigations to the public, national (state + federal) and international healthcare agencies and regulatory bodies, in furtherance of the defendants scheme to destroy Plaintiff Kaul's reputation globally, his livelihood, his economic standing and prevent him from obtaining a medical license anywhere in the world, or indeed any form of employment.

109. Theft: In a period commencing in or around 2004/2005, Defendants did conspire to commit and did commit thousands of separate instances of the RICO predicate act of theft against Plaintiff Kaul, in which the Defendants knowingly, and with malice aforethought, deceived Plaintiff Kaul into believing he would be paid for the rendering of life-saving care to their pain-ridden clients, but to then refuse to pay/honor the agreement, and to then coerce state/federal investigators/prosecutors to file knowingly false administrative/civil/criminal charges to have Plaintiff Kaul's license revoked and have him incarcerated, and to then use the US wires to propagate these fraudulent charges in order to ostracize/isolate Plaintiff Kaul from any financial/professional support; with the ultimate purpose being to destroy Plaintiff Kaul's economic standing, his reputation, his life and his liberty, in order to advance their economic agenda by eliminating their debt to Plaintiff Kaul and the market competition he presented. The intent and effect of the Defendants scheme, one that is "ongoing", has been to deprive Plaintiff Kaul and many other ethnic minority physicians of their right to a livelihood and life, and to secure their services and effectively enslave them through schemes of false promises/inducements, in violation of the Thirteenth (13th) Amendment.

110. Public Corruption: In a period commencing in or around 2000, the year in which The Kaul Cases Defendant, Christie, was appointed to the office of the US Attorney – DNJ, the Defendants, already entrenched in schemes of political/judicial corruption within the State of New Jersey, did, in collusion/conspiracy with Defendant Christie, convert the office of the US Attorney – DNJ into a "racketeering enterprise" in which they engaged in a series of quid pro quo schemes with Defendant Christie, in which they funneled him bribes in exchange for him filing knowingly fraudulent criminal charges of healthcare insurance fraud against cardiologists, most of whom were Indian. Many of these innocent physicians were jailed, bankrupted and or committed suicide. The Defendants profited by eliminating their debt to these physicians and

eradicating the threat to the interventional cardiac market of their business competition, thus increasing, albeit fraudulently, corporate and shareholder compensation.

Description of the “HFPP-FC Association-In-Fact Enterprise”:

111. RICO defines an enterprise as “any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity.” 18 U.S.C. § 1961(4). An association-in-fact enterprise requires three structural features **(1)** a purpose; **(2)** relationships among those associated with the enterprise; and **(3)** longevity sufficient to permit those associates to pursue the enterprise’s purpose.

112. The Defendants have, through the increased revenue generated through their decades old scheme of kickbacks and bribery, increased their control of the state government, its agencies, its legislature, and certain members of its judiciary. The Defendants have perpetrated this scheme through the “**HFPP-FC Association-In-Fact Enterprise**”, a criminal scheme that is “**ongoing**” and one that continues to funnel its criminal proceeds into the New York State Exchange. It was with this scheme and through this enterprise, that the Defendants exerted illegal control over the mechanism of physician regulation, a control they used to illegally revoke not only Plaintiff Kaul’s NJ medical license/cause a denial of his Alabama license application, but to commit the same offenses against other physicians, in order to eliminate their debt and eradicate the competitive threats posed by Plaintiff Kaul/other physicians.

113. The elements of the “**HFPP-FC Association-In-Fact Enterprise**” consist of: **(i)** the persons – the Defendants/**The Kaul Cases** co-conspirators/agencies and persons associated/employed by the Defendants; **(ii)** the motives – the elimination of debt and competition for the finite insurance premium ‘pool’/procurement of increased political power and control of government **(iii)** the mechanics and method – the structure is hierarchical in nature, in that the corporate Defendants, consequent to their financial superiority, are situated at the ‘top’ of the power pyramid, and issue orders/effectuate bribery related control to and of the subjugate public servants within the executive/judicial/legislative branches of government. **The Kaul Cases** Defendant Christie, an individual who had complete control of state/federal functions, provided the K11-11 Defendants with the use of state/federal agencies and personnel necessary to have revoked Plaintiff Kaul’s license and have him indicted. Defendant Christie provided these services in return for bribes and monies disguised as ‘campaign donations’. The monies were part of a quid pro quo scheme, not protected by Noerr-Pennington, in which there was an explicit understanding that the bribes were payment for the revocation of the Plaintiff Kaul’s license and potential indictment. Central to the scheme and operation of the “**HFPP-FC Association-In-Fact Enterprise**”, is the fact that the Defendants each affirmatively misrepresented or concealed from their shareholders and the public, the existence of bribes, and the fraudulent nature and purpose of the scheme to revoke Plaintiff Kaul’s license and have him, and other ethnic minority physicians wrongfully indicted. The Defendants understood that if their shareholders had become aware of the scheme, they would have passed a vote against it, realizing the liability it would incur. The

Defendants understood that if the public became aware of the illegal use of the public's taxes to fund their illegal scheme of revocation/indictment they would have demanded an investigation and not voted for Defendant Christie in the 2013 New Jersey Gubernatorial election. Specifically, the Defendants claimed that the bribes paid were intended to assist them in their legislative efforts, when in fact they were quid pro quo payments to Defendant Christie, in order to have Plaintiff Kaul's license revoked and attempt to have him indicted; (iv) the distinctness – at all relevant times, including the present, the **"HFPP-FC Association-In-Fact Enterprise"** had an existence separate and distinct from each of the Defendants, and was separate and distinct from the **"pattern of racketeering"**; (iv) the longevity – the **"HFPP-FC Association-In-Fact Enterprise"** and the schemes perpetrated through it, have been in existence since at least 2012, and are currently **"ongoing"**, as evidenced by the testimony adduced in the trial of Dr. Pompy, and involve other corporate and state related co-conspirators; (v) the **"open" or "closed ended"** continuity – the scheme and the **"HFPP-FC Association-In-Fact Enterprise"** remain **"open ended"** and there continue to remain pending indictments against many other innocent ethnic minority physicians, whose only 'crime' was to practice medicine and operate medical businesses.

114. The activities of the **"HFPP-FC Association-In-Fact Enterprise"** affected, interstate and foreign commerce because it involved commercial activities across state boundaries, such as the commercialization of risk and the investment of fraudulent proceeds into the NYSE, the consequences of which have generated enormous profits.

115. The **"HFPP-FC Association-In-Fact Enterprise"** used its common communication network to promote false information that Plaintiff Kaul was not qualified to perform minimally invasive spine surgery, had committed insurance fraud/Medicare fraud/bank fraud, which meant he would be criminally indicted. The purpose of this propaganda campaign was to isolate Plaintiff Kaul from the medico-legal community and any source of capital, and to dissuade him from pursuing his accounts receivable, in order to deprive him of his right to a legal defense. This permitted the Defendants to improperly profit from a scheme polluted with bribes, fraud, kickbacks, obstruction of justice and perjury.

116. Within the **"HFPP-FC Association-In-Fact Enterprise"** the Defendants/Co-conspirators maintain/conduct communication with each other through corporate-state channels, contractual relationships, financial ties, and a continuing coordination of activities. Through this enterprise, the Defendants continue to function as one **"ongoing"** unit with the purpose of furthering their profit purposed ethnic minority physician eradication/cleansing schemes.

117. The Defendants participated in the operation and management of the **"HFPP-FC Association-In-Fact Enterprise"** by directing the exchange of information and monies, as described herein. While the Defendants participated in, and are members of, the enterprise, they have a separate existence from the enterprise, including distinct legal

statuses, different offices and roles, bank accounts, officers, directors, employees, individual personhood, reporting requirements, and financial statements.

118. The Defendants exerted and exert substantial control over the “**HFPP-FC Association-In-Fact Enterprise**” and participate in the affairs of the enterprise by: **(a)** deciding how monies were/are dispersed from the political action committees; **(b)** communicating directly with lawyers, public relation agents and political lobbyists with direct connections to Defendant Christie, and state/federal investigators and prosecutors; **(c)** developing policies, guidelines and fee schedules for clinical care, in which the Defendants colluded with other insurance corporations to fix the prices paid to physicians; **(d)** procuring appointments to regulatory state agencies, which they abuse to further their corporate economic agendas; **(e)** writing healthcare related legislation; **(f)** funding state/federal administered prosecutions against physicians to whom they owed/owe substantial monies; **(g)** misrepresenting and/or concealing from the public the true nature of the relationship and agreements between the members of the enterprise and the scheme to bribe Defendant Christie in order to attempt to indict and revoke Plaintiff Kaul’s New Jersey license/cause a denial of his Alabama license application; **(h)** otherwise misrepresenting and/or concealing the increased personal profits that inured to their benefit as a consequence of the illegal elimination of Plaintiff Kaul from the healthcare market; **(i)** ensuring that the other unnamed co-conspirators complied with and concealed the fraudulent scheme.

119. Without each of the Defendants/Co-conspirators willing participation, the scheme and common course of conduct would not have been successful. The Defendants directed and controlled the ongoing organization necessary to implement the scheme at meetings and through digital communications.

ANTITRUST

Overview:

120. In a period commencing in at least, if not before 2005/2006, the Defendants did conspire to commit and did commit a scheme of ongoing per se antitrust violations, in which they continue, in conjunction with other members of the Blue Cross Blue Shield Association, to further their illegal monopoly of the finite financial 'pool' of the American health insurance industry, not through the provision of a superior service, but through grand schemes of corruption of the executive/legislative/judicial branches of both state and federal government.

121. The Defendants have directed their monopoly power towards the engineering of physician elimination schemes, that are perpetrated, in collusion and conspiracy with the investigative/prosecutorial/adjudicative branches of government, through state and federal courts, that continue to result in the filing of false indictments, convictions and incarcerations.

122. These illegal market elimination/exclusion schemes, which are "ongoing" in Alabama against Plaintiff Kaul and other principally ethnic minority physicians, are purposed to reduce the competitive threat posed to the market by these physicians. The Defendants false constriction of the market has caused a drastic nationwide physician shortage, and in reducing competition has caused the public a market injury, in that the price of healthcare has arbitrarily risen and its supply declined.

Relevant Chronological and Contextual Fact:

123. In February 2005, Plaintiff Kaul revolutionized the field of minimally invasive spine surgery, by inventing and successfully performing the first outpatient minimally invasive spinal fusion, in a same-day surgical center.

124. This event proved that such a surgery could be safely and effectively conducted in an outpatient surgical center by a non-orthopedic/neurosurgical physician with training in interventional pain/minimally invasive spine surgery.

125. This event also presented a market threat to hospitals, insurance companies and the orthopedic-neurosurgical community, who reacted not by attempting to deliver a competitive service based on price/quality, but instead directed their efforts toward corrupting the political/judicial/legislative processes to have their competition eliminated through the introduction of sham anti-competitive legislation and administrative/civil/criminal prosecutions, that resulted in restriction of hospital privileges/license revocations/incarcerations.

126. Plaintiff Kaul was the principal and primary target in this scheme, a scheme

authorized by Defendant BCBSA and in which the Defendants/The Kaul Cases Defendant Christie were principal orchestrators/perpetrators, in collusion and conspiracy with The Kaul Cases Defendants.

127. The scheme involved the commission of a “**pattern of racketeering**” to eliminate Plaintiff Kaul from the healthcare market in a knowingly illegal anticompetitive/antitrust manner. Defendants employed racketeering tactics in furtherance of their monopoly power.

Actual Monopolistic/Ongoing Injury To the Market:

128. Had the Defendants NOT perpetrated this illegal market elimination scheme, then the outpatient minimally invasive spine surgery market would have flourished in the United States with an increased availability/reduced cost of the service by physicians from multiple specialties (interventional pain/interventional radiology/physiatry/orthopedics/neurosurgery) and increased competition.

129. What has actually happened after Plaintiff Kaul’s widely/nationally publicized 2012 suspension/2014 revocation is a monopolization of the market by ortho-neurosurgeon physicians, a severe restriction of availability and increased cost per surgery to the public. The artificially reduced availability of the procedure generates greater/immense profits for the Defendants, who direct less than ten percent (10%) of patient premiums to patient care.

Specific Anticompetitive Tactics:

130. As a consequence of the expansion and increase in competition in the minimally invasive spine surgery market, the Defendants, in collusion and conspiracy with The Kaul Cases Defendants, did, in 2011, illegally manipulate the AMA CPT coding system to downgrade the relative value units for endoscopic discectomy, which injured the commercial potential of Plaintiff Kaul’s minimally invasive spine surgery practice.

131. This scheme, in which the Defendants played a central role, was concocted by a group of neurosurgeons, that included the then 2011 President of the North American Spine Society, Gregory Przybylski.

132. These individuals, because of their influential positions within their professional societies, had the codes’ RVUs reduced with the understanding that the majority of minimally invasive spine surgeons, from interventional pain backgrounds, would be unable to perform open micro-discectomies.

133. The neurosurgeons effectuated the change without publicizing it for comment, thus denying Plaintiff Kaul and other minimally invasive spine surgeons the opportunity to object. This pattern of secrecy operated/operates with the HFPP, another instrument continuing to be abused to effectuate antitrust injuries on the American healthcare market.

134. The secretly perpetrated RVU changes lowered the reimbursement rate for endoscopic discectomies, which caused a larger percentage of the insurance health fund to be diverted to the Defendants, who did not share the profit with the public in the form of reduced premiums.

135. As a consequence, Plaintiff Kaul sustained substantial losses and damage to his business and property, because of the reduced reimbursement associated with outpatient minimally invasive spine surgery.

136. The Defendants have, through the bribing of politicians, effectuated legislation and regulatory changes that harmed Plaintiff Kaul's minimally invasive spine surgery practice. These included **(i)** a downgrading in the Relative Value Unit associated with the CPT code for endoscopic discectomy **(ii)** the veto of a bill in 2011 by Defendant Christie, that was designed to permit state licensure of one-room surgical centers and **(iii)** the refusal of the Defendants to reimburse surgical centers for minimally invasive spine surgery.

137. These acts artificially/arbitrarily reduced the availability and increased cost to the public, of pain-relieving outpatient minimally invasive spine surgery, a causative factor in the opiate epidemic, with opiates being the only pain-relieving option to patients unable to pay the supra-competitive monopolistic prices of hospitals/ortho-neuro spine physicians.

138. The Defendants racketeering/antitrust schemes eliminated free-standing non-hospital owned outpatient surgical centers/non-ortho-neuro spine physicians from the minimally invasive spine surgery market.

139. The aforementioned acts constituted an illegal monopolistic effect on the healthcare premium-based fund element of the minimally invasive spine surgery market, and caused an illegal diversion of monopolistic profits to Defendants, at the expense of, and injury to Plaintiff Kaul and the healthcare premium paying public.

140. The Defendants scheme of non-reimbursement to Plaintiff Kaul and his surgical center for minimally invasive spine surgery, caused him to file suit against Defendant

Horizon BCBS, who retaliated by scheming with Defendant Christie/NJ state agencies to have Plaintiff Kaul's license revoked.

141. The Defendants scheme of non-reimbursement to Plaintiff Kaul and his surgical center for minimally invasive spine surgery, caused him to file suit against Defendant Horizon BCBS, who retaliated by scheming with the NJ US Attorney/FBI to attempt to have Plaintiff Kaul indicted and incarcerated, as they have done with many other ethnic minority physicians.

142. The Defendants illegal monopolization/availability reduction of the minimally invasive spine market resulted in a rise in opiate consumption as patients' options for pain relief became constricted to opiate medications.

143. The artificially restricted minimally invasive spine surgery market caused the Defendants to reap larger profits, at the expense of their clients and the public.

144. These grossly elevated profits increased Defendants corporate/executive profits, but did not only not result in a reduction in the premiums of their one hundred million plus (100,000,000 +) clients, but in fact have increased by obscene percentages procured through the submission of knowingly fraudulent state filing rates requests. Most state Department of Banking/Insurance Commissioners are on the insurance industry 'payroll'.

145. The rise in the Defendants profits, since the implementation of the aforesaid changes, is the product of nothing but bribery and legal chicanery.

146. The Defendants illegal per se monopolization of the aforementioned market has injured the public by reducing the availability and increasing the price of minimally invasive spine surgery.

147. Corporate greed and malfeasance continue to cause injury to the American public, an injury unabated by the dearth of government prosecutions, a dearth that is a consequence of political corruption, that is itself a consequence of how the political campaign finance system has legalized bribery, in a manner that, incredulously, violates the Foreign Corrupt Practices Act.

148. The Defendants anticompetitive conduct enabled it to indirectly charge consumers and third-party payors, prices in excess of what they would otherwise would have been able to charge, absent their unlawful actions, and excessive prices not related to the provision of a superior service.

149. The Defendants, in their annual applications to the state to increase the cost of healthcare premiums, employed their illegal monopolization of the market, by arguing that the billed cost per unit of minimally invasive spine surgery had increased, itself an improper consequence of the fact that outpatient surgery centers and non-neurosurgical/orthopedic physicians had been illegally eliminated from the market, which permitted hospitals/neurosurgeon-orthopedic surgeons to increase their billed amount per unit.

150. Thus, in submitting that the average billed amount per unit had increased, the Defendants, in collusion/conspiracy with the state, were permitted to raise, albeit illegally, the cost of premiums, while having substantially reduced the total amount of service. The end-result is that the public pays more for less, while the Defendants corporate/executive profits continue to rise.

Definition of market:

151. From 2000 to 2012, an increasing number of patients chose to have minimally invasive spine surgery performed in outpatient surgical centers by non-neurosurgical/orthopedic physicians, for reasons that included superior clinical service. Hospitals and neurosurgeon-orthopedic groups were unable to compete, and the Defendants perceived this evolution of care as a threat to their corporate/executive profits.

152. Plaintiff Kaul's 0% post-operative infection rate evidenced the superior patient outcomes that were one of the reasons for the clinical and commercial success of his practice and to his knowledge similar outcomes were achieved across the United States by other similarly trained physicians within the outpatient setting.

153. The illegal anticompetitive purposed suspension/revocation in 2012/2014 of Plaintiff Kaul's license caused an anti-trust like injury to the American minimally invasive spine surgery market, which caused it to contract, one consequence of which has been the exponential rise in opiate consumption and heroin use. Patients with spinal injuries, deprived of access to the contracted and more expensive American minimally invasive spine surgery market, have resorted to increased opiate use.

154. The market in which the so called "**Spine Turf Wars**" erupted in approximately 2000 is the American market for minimally invasive spine surgery, which includes the following procedures: 1. Cervical endoscopic discectomy; 2. Thoracic endoscopic discectomy; 3. Lumbar endoscopic discectomy; 4. Anterior cervical discectomy and fusion; 4. Interbody lumbar fusion; 5. Vertebroplasty; 6. Kyphoplasty; 7. Percutaneous pedicle screw placement; 8. Percutaneous facet screw placement; 9. Interspinous distraction; 10. Interspinous fusion; 11. Facet fusion; 12. Sacro-iliac joint fusion; 13. Cervical lateral mass screws; 14. Dorsal column stimulators; 15. Interlaminar decompression.

155. These clinical services are provided to the public to treat degenerative and traumatic spinal conditions that cause pain and functional disability, and are provided by physicians with training in the following areas of medicine and surgery: 1. Interventional pain; 2. Interventional radiology; 3. Neurosurgery; 4. Orthopedics; 5. Physiatry.

156. The locations in which the clinical services can be provided are hospitals and outpatient surgical centers, with the latter being associated with a lower cost and incidence of post-operative infection and complications.

157. The Defendants alleged anti-trust violations, as detailed within, have artificially reduced the availability of minimally invasive spine surgery, and has permitted a substantially greater percentage of the premium healthcare related fund to be illegally diverted to the Defendants, and to hospitals/neurosurgeons, their co-conspirators in the scheme to have Plaintiff Kaul's license revoked, whose ill-gotten profits are derived NOT from the provision of a superior service, but from having engaged in an antitrust purposed "**pattern of racketeering**", in which they, in collusion/conspiracy with their co-conspirators, including **The Kaul Cases** Defendant Christie, converted the "**HFPP**" and the "**FC**" into the "**HFPP-FC Association-In-Fact Enterprise**" that continues to cause injury to Plaintiff Kaul in Alabama.

158. The Defendants competed with Plaintiff Kaul for the reservoir of capital derived from the public/patients who purchased health insurance policies, with the understanding that if they required medical care, these monies would fund such care.

159. The Defendants bribed Defendant Christie and other New Jersey legislators to enact laws that either prohibited the provision of minimally invasive spine surgery in outpatient surgical centers or substantially reduced the reimbursements, through the introduction of fee schedules, which effectively prevented surgical centers from providing minimally invasive spine surgery.

160. The fee schedules did not apply to hospitals and discriminated against surgical centers, in which Plaintiff Kaul conducted his procedures.

161. However, the Defendants fee restriction/legislative/sham litigation restricting anticompetitive misconduct escalated into a criminal scheme that caused the administrative/judicial apparatus of the State of New Jersey to be illegally used, in an orchestrated effort by Defendant Christie in collusion/conspiracy with state actors, to have Plaintiff Kaul's license illegally revoked.

162. The state scheme was perpetrated in conjunction with the federal scheme, in which the Defendants conspired with the FBI and the NJ US Attorney's office to attempt, albeit unsuccessful, to indict and incarcerate Plaintiff Kaul on alleged charges of healthcare fraud.

163. Plaintiff Kaul asserts that his case was the first conducted pursuant to the 'playbook' developed as part of the Healthcare Fraud Preventive Partnership (HFPP), an antitrust purposed

scheme entered into in approximately 2012 by the insurance industry and certain governmental agencies/persons, in which Indian/African American/Hispanic physicians were targeted for elimination and asset seizure.

164. This scheme, deceptively names the Healthcare Fraud Preventive Partnership, is manufactured to disguise the Defendants racketeering/antitrust/civil rights crimes, and has since been employed against many innocent ethnic minority physicians in all sectors of healthcare, the majority of whom continue to languish in American jails.

165. All knowingly criminal schemes have covers with names of seeming legitimacy/higher civic anti-crime purposes. The HFPP is purposed to and does in fact permit the insurance industry to perpetrate illegal profiteering crimes on the American public without criminal consequence.

166. Since 2000, the year of emergence of minimally invasive spine surgery, the Defendants have competed within the American minimally invasive spine surgery market, for the revenue associated with the deliverance of these services to afflicted patients and as such, they are deemed to belong to the same “**relevant product/service market**”. See U.S. v. E. I. du Pont de Nemours & Co., 351 U.S. 377, 395, 76 S.Ct 994, 1007 (1956). See also Queen City Pizza, Inc. v. Domino’s Pizza, Inc. 124 F.3d 430, 436 (3rd Cir. 1997) (“**The outer boundaries of a product market are determined by the reasonable interchangeability of use or the cross-elasticity of demand between the product itself and substitutes for it.**”).

167. The Defendants alleged anti-trust violations, as detailed within, caused an artificial reduction in the supply of services, an artificial rise in price and a reduction in the outer boundaries of the market, due to a reduction in the level of interchangeable services and cross-elasticity of demand.

168. Within the American minimally invasive spine surgery market, the cross elasticity and interchangeability of the services rendered by Plaintiff Kaul and similarly trained physicians, provided the public with the same healthcare based premium service as that from which the Defendants profited through restriction of provision.

169. The Defendants’ monopolization of the fund underpinning the provision of minimally invasive spine surgery and their widely publicized and illegal elimination of Plaintiff Kaul, with its intended sentient effects on other non-neurosurgical/orthopedic physicians, caused a per se monopolization of the actual market for this service.

The Relevant Geographic Market:

170. The relevant geographic market in which Plaintiff Kaul competed and had the right to compete with Defendants was the United States, including Alabama. In fact, in 2011, Plaintiff Kaul had prepared plans to commence opening outpatient minimally invasive surgical centers in every American state. From approximately 2006 onwards Plaintiff Kaul had been referred

patients from physicians in almost every other state in the Union, including Alabama, this being a consequence of the national publicity surrounding his work and of his superior clinical outcomes.

171. In attracting these patients from other states, including Alabama, Plaintiff Kaul entered into competition with the Defendants for the finite healthcare insurance premium-based fund.

172. The relevant geographic market in this case is the intersectional area from which the public pays healthcare premiums to the Defendants, that are intended to, and should be used to fund the provision of minimally invasive spine surgery. See Tampa Elec. Co. v. Nashville Coal Co., 365 U.S. 320, 327 (U.S. 1961) (“**the area of effective competition in the known line of commerce must be charted by careful selection of the market area in which the seller operates, and to which the purchaser can practicably turn for supplies.**”). Defining the relevant market is a question of fact for the jury unless a party’s proposed markets are so unsupported by the evidence or proper antitrust economics that no reasonable jury could properly find in favor of the party on the issue. See Sportservice, Inc. v. Charles O. Finley, 676 F.2d 1291, 1299 (9th Cir., 1982). Also see:

173. The Kaul Cases Defendant Andrew Kaufman, MD: “That motherfucker Richard Kaul is trying to take over the spine business and we are going to put a stop to it.”

174. Third-Party Witness Anthony Yeung, MD: “There is a doctor in New Jersey, Richard Kaul, who is performing fusions, but they are going to get him.”

COUNT TWO

For Declaratory and Injunctive Relief Under Section 16 of the Clayton Act for Defendants’ Violations of Sections 1 and 2 of the Sherman Act

175. Plaintiff incorporates by reference the preceding allegations.

176. Defendants knowingly and intentionally engaged in an anticompetitive scheme designed to block Plaintiff Kaul, his surgical center, and similarly trained physicians, from incorporating minimally invasive spine surgery into their outpatient practices.

177. This scheme included, amongst other things (i) obtaining through fraud a downgrading of the relative value unit associated with outpatient endoscopic discectomy; (ii) procuring through bribery the veto of a bill in 2009 by Governor Christie, that would have permitted one operating room surgical centers to become licensed, the licensing of which would have removed the principal reason employed by the Defendants to deny payment to Plaintiff Kaul, similarly trained physicians and outpatient facilities; (iii) the procuring through bribery of the introduction of arbitrarily

restricted fees that denied payment for the performance of outpatient minimally invasive spine surgery in free standing surgical centers; **(iv)** encouraging patients to initiate civil litigation and medical board complaints against Kaul and similarly trained physicians; **(v)** obtaining through bribery a moratorium in 2009 that prevented the issuance of licenses for one room outpatient surgical centers, unless they were commercially partnered with a hospital; **(vi)** otherwise engaging in an overarching scheme to unlawfully monopolize, conspire to monopolize, and/or, allocate the market for minimally invasive spine surgery.

178. Defendants conspired to monopolize, and did wrongfully and intentionally maintain monopoly power, with respect to minimally invasive spine surgery in violation of Section 2 of the Sherman Act.

179. As a result of this unlawful maintenance of monopoly power, Plaintiff Kaul and his surgical center were excluded from the minimally invasive spine fusion market, as were similarly trained physicians and the New Jersey surgical center community. By their agreements, Defendants intentionally and wrongfully conspired and combined in an unreasonable restraint of trade in violation of Section 1 of the Sherman Act.

180. As a result of this unreasonable restraint on competition, Plaintiff Kaul and his surgical center were excluded from the national minimally invasive spine surgery market, including that in Alabama, as have been similarly trained Alabama physicians and the Alabama surgical center community.

181. Defendant BCBSA + Defendant Horizon BCBS + Defendant Marino:

Date range: 2006 to 2016.

Mode of Communications: US mail + E-mail + Voice message + SMS (text) + Face to face.

Substance of communications: Scheme to have Plaintiff Kaul indicted and incarcerated on false charges of healthcare insurance fraud + Scheme to downgrade the relative value unit associated with outpatient endoscopic discectomy + Scheme to bribe Defendant Christie to veto a bill in 2009 that would have permitted one operating room surgical centers to become licensed, the licensing of which would have removed the principal reason employed by Defendant BCBS to deny payment to outpatient facilities and physicians + Scheme to bribe Defendant Christie in order to sign into law in 2011 a fee schedule that denied or reduced payment for the performance of outpatient minimally invasive spine surgery in free standing surgical centers + Scheme to encourage patients to initiate civil litigation and medical board complaints against Plaintiff Kaul and similarly trained physicians + Scheme to obtain through bribing Defendant Christie a moratorium in 2009 that prevented the issuance of licenses for one-room outpatient surgical centers, unless they were commercially partnered with a hospital + Scheme to engage in knowingly unlawful agreements to divide the minimally invasive spine surgery market in such a way, that physicians with similar training as Plaintiff Kaul, would be limited to performing only discectomies, and not fusions + Scheme to engage in an overarching conspiracy to unlawfully monopolize, conspire to monopolize, and/or, artificially allocate the market for minimally invasive spine surgery + Scheme to unlawfully conspire and combine to

intentionally and arbitrarily restrict, restrain and or prohibit Plaintiff Kaul's ability to trade in the American minimally invasive spine surgery market, including Alabama + Scheme to restrict, restrain and or exclude Plaintiff Kaul from participating in the American minimally invasive spine surgery market, including Alabama.

Tactics employed: Conspired to, and did bribe Defendant Christie as part of a series of quid pro quo schemes to have The Kaul Cases Defendant New Jersey Board of Medical Examiners ("NJBME") revoke Plaintiff Kaul's license + Conspired to, and did encourage patients to file lawsuits and complaints with Defendant NJBME against Plaintiff Kaul + Conspired to, and did encourage patients to file complaints with state and federal regulatory/investigative/prosecutorial authorities + Conspired to encourage, and did encourage sham litigation and knowingly false testimony that caused the revocation of Plaintiff Kaul's license + Conspired to encourage, and did encourage sham litigation and knowingly false testimony that caused the entry of false judgments against Plaintiff Kaul in civil malpractice cases + Conspired to encourage, and did encourage sham litigation against Plaintiff Kaul's physician employees, with false testimony that they were not qualified to perform minimally invasive spine surgery and had committed insurance fraud + Conspired to encourage, and did encourage sham litigation against the medical licenses of Plaintiff Kaul's physician employees
Location: National board meetings of Defendant BCBSA, including Alabama + Newark offices of Defendant Horizon BCBS + National Christie/Republican political fund raisers, including Alabama.

182. Plaintiff Kaul and his surgical center were injured in their business or property by Defendants' antitrust violations. The injury consists of, amongst other things, the deprivation of the ability to incorporate minimally invasive spine surgery into his commercial strategy. Such an injury of "exclusion" is of the type antitrust laws were designed to prevent and flows from that which makes Defendants conduct unlawful, and Kaul is the proper entity to bring a case concerning the Defendants misconduct.

183. Plaintiff Kaul continues to suffer and will continue to suffer in the future from being excluded from the minimally invasive spine surgery market, including that in Alabama, more than he would have absent the Defendants' anticompetitive/racketeering/civil rights violations.

184. These violations are ongoing, as evidenced in the ongoing denial of Plaintiff Kaul's Alabama license application and his nationally destroyed reputation/economic standing, including that in Alabama.

185. Defendants' anticompetitive conduct, pursued in the context of bribery, kickbacks, obstruction of justice, fraud, and falsified legal documents, is absolutely not entitled to Noerr-Pennington protection, a shield not for those with criminal intent/deed, as is the case with the Defendants. The misconduct in K11-22 exists in the criminal realm, unlike the market allocation/price fixing offenses IN RE BLUE CROSS BLUE SHIELD MDL ---.

186. Plaintiff Kaul, pursuant to Fed. R. Civ. P. 57 and U.S.C. § 2201(a) hereby seeks a declaratory judgment that Defendants' conduct in seeking, in a knowingly illegally manner to eliminate competition as described herein violates Sections 1 and 2 of the Sherman Act.

187. Plaintiff Kaul further seeks equitable and injunctive relief pursuant to Section 16 of the Clayton Act, 15 U.S.C. §26, and other applicable law, to correct for the anticompetitive market effects caused by the unlawful conduct of Defendants, and other relief so as to assure that similar anticompetitive conduct does not continue into the future.

COUNT THREE

For Monopolization of the Minimally Invasive Spine Surgery Market, under state law

188. Plaintiff incorporates by reference the preceding allegations described above.

189. Since at least 1990, the Defendants, in conjunction with neuro-orthopedic spine surgeons and hospitals maintained a monopoly on the spine surgical market. However, in 2005, this monopoly became threatened when Plaintiff Kaul successfully performed the first minimally invasive outpatient lumbar fusion, which allowed patients to be discharged the same day. This case proved that such surgeries could be safely and effectively performed by non-neuro-orthopedic physicians in an outpatient same-day surgical center.

190. The Defendants, in seeking to retain their monopoly, retaliated, not by delivering a superior service, but by perpetrating an illegal anticompetitive scheme that involved "patterns of racketeering" in the commission of multiple RICO predicate acts, such as bribery, fraud, evidential falsification, false arrest, false imprisonment, judicial corruption and public corruption.

191. The Defendants/Co-conspirators engaged in a quid pro quo scheme with Defendant Christie, in which he received bribes, disguised as 'campaign donations' in return for having the medical board revoke Plaintiff Kaul's medical license, albeit illegally, and to have initiated state/federal criminal investigations, in order to attempt to have Plaintiff Kaul indicted and incarcerated.

192. In addition, the Defendants misconduct caused the economic collapse of six medium sized corporations, and the commencement of Chapter 11 proceedings on June 17, 2013, and several medical emergencies that threatened Plaintiff Kaul's life.

193. The Defendants knowingly and intentionally engaged in an anticompetitive scheme to monopolize the minimally invasive spine surgery market. The Defendants accomplished this scheme by, amongst other things, encouraging patients to file lawsuits against the Plaintiff Kaul, and filing complaints against the Plaintiff Kaul, with state and federal investigative/prosecutorial/regulatory authorities.

194. The substance of the Defendants communications, and their tactics in furtherance of their anticompetitive scheme, as relevant to this Count, are the same as those perpetrated and pled in Count 6

195. The goal, purpose and effect of the Defendants' scheme was to prevent Plaintiff Kaul and similarly trained physicians from increasing the availability of outpatient minimally invasive spine surgery, and from increasing the number of physicians able to provide the service.

196. The Defendants illegal scheme allowed them to divert a greater percentage of the public's health insurance premiums into corporate/executive compensation, thus reaping substantial unlawful monopoly profits, while reducing the availability of the service to patients with spinal pain/disability.

197. The Defendants knowingly and intentionally encouraged sham litigation against Plaintiff Kaul, that included encouraging patients to file lawsuits and complaints with the medical board, and then encouraged fraudulent 'expert' testimony in the subsequent legal proceedings, in which Plaintiff Kaul was repeatedly, and fraudulently, accused of not being qualified to perform minimally invasive spine surgery.

198. The Defendants re-repeated and publicly disseminated knowingly false allegations that Plaintiff Kaul had deviated from the standard of care because he did not possess hospital or alternative privileges.

199. The Defendants re-repeated and publicly disseminated knowingly false allegations that Plaintiff Kaul had deviated from the standard of care because his training did not involve a neurosurgical residency.

200. These claims were knowingly/willfully false and were designed to protect and further the monopoly held by the Defendants on the fund underpinning the minimally invasive spine surgery market.

201. The Defendants aided and abetted these sham lawsuits for the purposes of using a governmental process as an anticompetitive weapon, to keep Plaintiff Kaul and similarly

trained physicians excluded from the minimally invasive spine surgery market.

202. The Defendants knowingly and intentionally aided and abetted sham litigation that resulted in the revocation of Plaintiff Kaul's medical license.

203. The Defendants encouraged the provision of knowingly false testimony that Plaintiff Kaul had deviated from a supposed standard of care for minimally invasive spine surgery.

204. The Defendants aided and abetted these falsehoods in multiple courts and in the public domain for the purpose of protecting their monopoly on minimally invasive spine surgery.

205. The knowingly false testimony encouraged by the Defendants during the licensing proceedings, fabricated a basis for to revoke Plaintiff Kaul's license.

206. The revocation caused the collapse of six medium sized corporations, the loss of jobs, the loss of tax revenue, the loss of healthcare to hundreds of patients with no insurance, which forced a number of these patients to seek pain relief through street grade heroin.

207. The Defendants co-opted Plaintiff Kaul's patients into their monopolistic scheme, by encouraging them to provide false testimony in the legal proceedings that caused the illegal revocation of Plaintiff Kaul's license.

208. The goal, purpose and effect of the Defendant's scheme was to prevent Plaintiff Kaul, his surgical center and those of similarly trained physicians from continuing to provide outpatient minimally invasive spine surgery.

209. This restricted the availability of the service to permitted them to illegally reduce competition and divert a greater percentage of the public's healthcare related premiums into corporate/executive profit.

210. The Defendants knew that Plaintiff Kaul had, in 2009, obtained one of the last surgical center licenses issued by the state, and had plans to develop a thirty-six thousand (36,000) square foot, four (4) operating room, multi-disciplinary surgical center, that was to provide the template for a national (including Alabama) and then global expansion program in minimally invasive spine surgery.

211. The goal, purpose and effect of the Defendants schemes were to maintain and extend their monopoly power in minimally invasive spine surgery.

212. The Defendants illegal scheme permitted them to continue diverting a greater percentage of the public's healthcare related premiums into corporate/executive profit

213. This illegal diversion harmed/harms the public by reducing the availability of the service, caused injury to Plaintiff Kaul's economic standing and permitted the Defendants to reap substantial unlawful monopoly profits.

214. The Defendants knowingly, intentionally and with malice aforethought aided and abetted sham litigation against Plaintiff Kaul's physician employees. The Defendants fraudulently asserted that the employees were not qualified to assist Plaintiff Kaul in the performance of minimally invasive spine surgery, and that they had engaged in insurance fraud.

215. The purpose of the sham litigation was to manufacture an excuse to not pay Plaintiff Kaul for the minimally invasive spine surgery services he had provided to the Defendants' clients.

216. The Defendants participated in these sham lawsuits for the purposes of using a governmental process as an anti-competitive weapon to exclude Plaintiff Kaul's employees and similarly trained physicians from the minimally invasive spine surgery market.

217. The Defendants also knowingly, intentionally and with malice aforethought engaged in sham litigation against Plaintiff Kaul's employees' medical licenses, initiating medical board investigations that were intended to ostracize Plaintiff Kaul from his professional colleagues, the purpose of which was to force Plaintiff Kaul to leave the country, and forego the opportunity to seek legal redress. The Defendants abused governmental process to extend their monopoly power.

218. As a result of Defendants' illegal conduct, Plaintiff Kaul and his physician employees were excluded from the minimally invasive spine surgery market and were compelled to incur substantial legal fees in the defense of the sham board investigations.

219. But for the Defendants' illegal conduct and consequent revocation, Plaintiff Kaul would have continued to expand his scope of practice, increase the availability of minimally invasive spine surgery services/reduce the price of the service/mitigate the severity of the opiate epidemic, including in Alabama, as more patients would have had

access to non-opiate modalities of spine care.

220. Had Plaintiff Kaul not been targeted by the Defendants, he would have continued to legitimately expand his scope of practice in minimally invasive spine surgery, and lawfully compete with the Defendants within the finite healthcare premium funded and professional elements of the minimally invasive spine surgery market, including Alabama, and the American public, including that in Alabama, would not have been denied the benefits of competition and of Plaintiff Kaul's internationally recognized expertise (**Exhibit 3**).

221. By engaging in the within detailed felonies and specifically the bribing of persons associated with the investigative/prosecutorial/adjudicative elements of state/government, the Defendants have knowingly and with malice aforethought violated the following **state antitrust laws; and have intentionally and wrongfully maintained monopoly power in the relevant market in violation of antitrust law in the following states with respect to the availability of minimally invasive spine surgery, in the knowledge that Plaintiff Kaul had plans to expand nationally:** (i) Arizona Rev. Stat. §§ 44-1401, et seq; (ii) Cal. Bus. Code §§ 16700, et seq., and Code §§ 17200, et seq; (iii) D.C. Code Ann. §§ 28-45031, et seq; (iv) Fla. Stat. §§ 501. Part II et seq; (v) Kan. Stat Ann. §§ 50-101 et seq; (vi) Me. Rev. Stat. Ann. 10, § 1101, et seq; (vii) Mich. Comp. Laws Ann. §§ 445.771, et seq; (viii) Minn. Stat. §§ 325D.52, et seq; (ix) Miss. Code Ann. §§ 59-801, et seq; (x) Neb. Code Ann. §§598A, et seq; (xi) Nev. Ret. Stat. Ann. § 598A, et seq; (xii) N.M. Stat. Ann. §§ 57-1-1, et seq; (xiii) New York General Business Law § 340, et seq; (xiv) N.C. Gen. Stat. §§ 75-1, et seq; (xv) N.D. Cent. Code § 51-08.1-01, et seq; (xvi) Or. Rev. Stat. §§ 646.705, et seq; (xvii) S.D. Codified Laws Ann. § 37-1, et seq; (xviii) S.D. Codified Laws Ann. § 37-1, et seq; (xix) S.D. Codified Laws Ann. § 37-1, et seq; (xx) Tenn. Code Ann. §§ 47-25-101, et seq; (xxi) Utah Code Ann. §§ 76-10-911, et seq; (xxii) Vt. Stat. Ann. 9, § 2453, et seq; (xxiii) W.Va. Code §§ 47-18-1, et seq; (xxiv) Wis Stat. § 133.01, et seq; (xxv) **Alabama Code § 6-5-60.**

222. Plaintiff Kaul has been injured, and continues to be injured in his business and property by Defendants' anti-trust violations. The injuries consist of: (1) the illegal revocation of Plaintiff Kaul's New Jersey medical license/ongoing denial of his Alabama license application/the loss to patients nationally, including Alabama, of their ability to benefit from Plaintiff Kaul's expertise in minimally invasive spine care; (2) exclusion of Plaintiff Kaul from the national minimally invasive spine surgery market, including Alabama, from which the Defendants have illegally, and continue to illegally profit; (3) the loss into bankruptcy of Plaintiff Kaul's healthcare corporations, to which were attached \$45 million in accounts receivable, a surgical center license and real estate; (4) the loss of Plaintiff Kaul's national professional reputation, including that in Alabama, that was built over thirty (30) years.

223. These injuries are of the nature for which the antitrust laws of the above States and

the District of Columbia were designed to prevent, and flow from that which makes Defendants' conduct unlawful.

COUNT FOUR
For Conspiracy to Monopolize under State Law

224. Plaintiff incorporates by reference the preceding allegations

225. As previously pled, and up until March 2005, the Defendants co-controlled monopoly power in the market for traditional inpatient 'open' spine surgery. This changed in March 2005 when Plaintiff Kaul performed the first minimally invasive outpatient spinal fusion, which caused the Defendants to willfully commence conspiring to extend their monopoly power to the outpatient minimally invasive spine surgery market.

226. To achieve this goal, they perpetrated, in collusion/conspiracy with state actors/agencies, a knowingly illegal anticompetitive scheme to exclude Plaintiff Kaul and similarly trained physicians from incorporating minimally invasive spine surgery into their practices, and not as a result of providing a superior service, legitimate business acumen or historical accident.

227. The Defendants knowingly and intentionally conspired to monopolize the minimally invasive spine surgery market, through a scheme that involved: **(i)** obtaining through fraud a downgrading of the relative value unit associated with outpatient endoscopic discectomy, **(ii)** procuring through bribery the veto of a bill that would have permitted one operating room surgical centers to become licensed, the licensing of which would have removed the principal reason employed by the Defendant Insurance Carriers to deny payment to physicians and one operating room outpatient facilities, **(iii)** procuring through bribery the introduction of a fee schedule in 2011 that denied payment for the performance of outpatient minimally invasive spine surgery, **(iv)** encouraging patients to initiate civil litigation and medical board complaints against Plaintiff Kaul and similarly trained physicians, **(v)** obtaining through bribery a moratorium in 2009 that prevented the issuance of licenses for free standing outpatient surgical centers, unless they were commercially partnered with a hospital, **(vi)** Defendant Neurosurgeons unlawfully agreeing with representatives of Defendant ASIPP that the market for minimally invasive spine surgery would be divided in a way, that physicians such as Plaintiff Kaul would be limited to performing only discectomies and not fusions, and **(vii)** otherwise engaging in an overarching scheme to unlawfully monopolize, conspire to monopolize, and allocate the market for minimally invasive spine surgery.

228. The substance of the Defendants communications, and their tactics in furtherance of their anticompetitive scheme, as relevant this Court, are the same as those perpetrated and pled in Count 2

229. The goal, purpose and effect of the Defendants' scheme was to extend its monopoly power to include minimally invasive spine surgery market. Defendants' illegal scheme allowed them to divert a greater percentage of the public's premium related healthcare fund to corporate/executive profit due simply to the illegal suppression of competition. This allowed the Defendants to reap substantial unlawful monopoly profits.

230. The agreements between the Defendants and their neuro-ortho-surgical and hospital co-conspirators are overt acts between separate economic entities-actual and potential competitors-and are illegal per se under state antitrust laws.

231. The agreements made between the Defendants and their neurosurgical-hospital co-conspirators were that payment for minimally invasive spine surgery, would be limited to cases performed in hospitals or their attached surgical centers, and not to independently owned surgical centers.

232. The Defendants neuro-ortho-surgical-hospital co-conspirators conspired not to credential minimally invasive spine surgeons, such as Plaintiff Kaul, for minimally invasive spine surgery. The effect of these agreements was to arbitrarily exclude Plaintiff Kaul and his surgical center from participating in the minimally invasive spine surgery market.

233. Thus, the Defendants illegally profited at the expense of Plaintiff Kaul and other independent surgical centers, that incurred substantial losses, which caused a severe contraction in the number of national surgical centers, including Alabama, and a reduction of availability of service to the public that persists to this day, including in Alabama.

234. Alternatively, Plaintiff Kaul alleges that the agreements and conspiracy to monopolize are a violation of state antitrust law under a "quick look" or "rule of reason" analysis.

235. The Defendants knowingly and intentionally aided and abetted sham litigation against Plaintiff Kaul that included encouraging patients to file lawsuits and complaints with the medical board, and then encouraging fraudulent testimony from so called 'experts' and patients in legal proceedings within the medical board/administrative courts.

236. The Defendants repeatedly and fraudulently re-asserted that Plaintiff Kaul was not qualified to perform minimally invasive spine surgery.

237. The Defendants repeatedly and fraudulently re-asserted that Plaintiff Kaul had deviated from a supposed standard of care because he did not possess hospital or alternative privileges.

238. The Defendants repeatedly and fraudulently re-asserted that Plaintiff Kaul had deviated from the standard of care because his training did not involve a neurosurgical residency. These claims were false and designed to further the Defendants monopoly to include minimally invasive spine surgery, a scheme that has constricted, and continues to constrict the availability of the service to the American public's detriment, including that in Alabama.

239. The Defendants perpetrated their knowingly illegal anticompetitive scheme, in collusion/conspiracy with state actors, and NJ based federal agencies, over which Defendant Christie had exerted control, recognizing/intending to cause an antitrust/racketeering/civil right injury to Plaintiff nationally, including in Alabama, in order to attempt to effectively cause him to cease to exist through a deprivation of his life/liberty/livelihood.

240. That knowingly illegal deprivation has continued for eleven-plus (11+) years and exists because Defendants recognize that Plaintiff Kaul's economic resurgence through either the courts and or the physician licensing process will further expose the massiveness of the decades-long crimes of the Defendants and The Kaul Cases Defendants.

241. The Defendants participated in the sham lawsuits for the purposes of using a governmental process as an anticompetitive weapon, to keep Plaintiff Kaul and similarly trained physicians out of the minimally invasive spine surgery market.

242. In furtherance of the scheme to monopolize the minimally invasive spine surgery market, the Defendants encouraged and aided/abetted massive schemes of evidential falsification, fraud, perjury and judicial corruption in the NJ administrative proceedings (April 9 to June 28, 2013), that caused the illegal revocation of Kaul's license IN THE MATTER OF THE SUSPENSION OR REVOCATION OF THE LICENSE OF RICHARD A. KAUL, M.D. TO PRACTICE MEDICINE AND SURGERY IN NEW JERSEY (April 9, 2013, to June 28, 2013).

243. The Defendants, in committing multiple felonies with impunity, did intend and did know that the illegal revocation of Plaintiff Kaul's New Jersey license would cause every other state to deny his license applications, including Alabama, and were convinced that Plaintiff Kaul would be eliminated, never to be seen or heard again, and thus they would have 'gotten away' with their mafia-like crimes.

244. The Defendants perpetrated the knowing fraud of the revocation in a coordinated campaign that commenced on December 13, 2013 (approximately two (2) months after the commencement of IN RE BLUE CROSS BLUE SHIELD MDL 20000) and continues today, with a global dissemination of this falsehood across the US and international wires to

healthcare/regulatory related agencies, including the DEA, Medicare, the FBI, the OIG and all state medical boards and associated entities, the purpose being to attempt to continue the illegal elimination of Plaintiff Kaul, in the belief that it will prevent him from exposing the Defendants and The Kaul Cases Defendants decades-plus-long criminal enterprise.

245. In April 2012, one of Plaintiff Kaul's lawyers, shocked at the never-before witnessed intensity and viciousness of attack from NJ state/NJ federal agencies/persons, communicated to Plaintiff Kaul his belief that Plaintiff Kaul was being targeted as if he were "**public enemy number one**". The Defendants, in keeping with their 'mafia-like' tactics of racketeering and per se antitrust violations, wanted to ensure an absolute elimination of Plaintiff Kaul, be it through professional/reputational destruction, incarceration, suicide and or death.

246. The Defendants, in collusion and conspiracy with The Kaul Cases Defendants both aided/abetted and facilitated the filing and wide publicization of knowingly fraudulent claims against Plaintiff Kaul that he was not qualified to perform minimally invasive spine surgery.

247. These falsehoods were purposed to permit the Defendants and their co-conspirators to monopolize not only the healthcare premium related fund, but the professional procedural aspect of the minimally invasive spine surgery market

248. The Defendants participated in sham lawsuits for the purposes of using a governmental process as an anticompetitive weapon, to keep Plaintiff Kaul and similarly trained physicians out of the minimally invasive spine surgery market.

249. The Defendants and their state/federal co-conspirators coopted Plaintiff Kaul's patients into their scheme, and 'coached' them to provide perjurious testimony, with the promise that if Plaintiff Kaul's license was revoked, they would be guaranteed money from a malpractice claim, despite knowing that the illegality of the revocation would render any revocation-based claim/judgment a fraud on the court.

250. The Defendants criminal-state-of-mind, and the facilitation of their felonies by state agencies/persons became subsequently exposed in USA v Pompy, and constitutes conclusive evidence of not just a "**vast conspiracy**", but a long-standing "**open ended pattern of racketeering**" that is being conducted by the Defendants through the investigative/prosecutorial/adjudicative elements of American state/federal governments, with the assistance of the US corporate media.

251. This grand scheme of never-before witnessed corruption, has caused mass incarceration of innocent Indian/African America/Hispanic and other ethnic minority physicians, and many physicians who delivered care in poverty-stricken areas, in which the public's healthcare related net balance to the insurance industry is negative, and the elimination of these physicians causes the eradication of these net negative patient units.

252. The goal, purpose, and effect of the Defendants' scheme, in collusion/conspiracy with The

Kaul Cases Defendants, was to maintain and extend monopoly power with respect to the minimally invasive spine surgery market, and to prevent Plaintiff Kaul and similarly trained physicians from continuing to provide outpatient minimally invasive spine surgery.

253. This restricted availability and suppressed competition, entirely consequent to their illegal scheme, permitted Defendants to artificially raise the cost of their premiums with the knowingly deceptive argument that because neuro-ortho surgeons were now the only providers within the minimally invasive spine surgery market, albeit through illegal market exclusion tactics, they had increased their unit prices, and so Defendants had to raise their annual premiums to continue to provide the service to their clients.

254. In this conspiratorial way, the Defendants further reaped illegal anticompetitive profits, as the overall cost for the provision of minimally invasive spine surgery had decreased because substantially fewer physicians were providing the service out of fear that they would be targeted like Plaintiff Kaul, whose case was globally publicized (2012-2016) in the media/trade publications/professional society meetings. Defendants criminal “**pattern of racketeering**” caused the monopolization related obscene executive/shareholder/corporate profits and unaffordable/ruinous healthcare premiums that exist today.

256. The effect of this scheme was purely anticompetitive in that it artificially and detrimentally reduced to the public, the availability of lifesaving/changing minimally invasive spine surgery, while simultaneously and artificially raising the cost to those that could still afford the service, in the form of increased provider/hospital fees and increased annual premiums with larger co-pays.

257. This scheme (2006-2020) permitted the Defendants and **The Kaul Cases** Defendants to reap substantial unlawful monopoly profits, and represents a prototypical-like variation of the illegal scheme (2016-2023) perpetrated against Dr. Pompy, but an illegal scheme that was a massive public failure, in that Dr. Pompy was acquitted by a jury on all thirty-nine (39) counts. The trial caused the emergence of “**new evidence**”, previously unknown or knowable to Plaintiff Kaul, of the Defendants state-sponsored systemic “**pattern of racketeering**” within the investigative/prosecutorial/adjudicative arms of American state/federal governments.

258. The Defendants, in seeking to ostracize Plaintiff Kaul, did aid/abet and encourage the filing by state agencies/actors of knowingly illegal sham litigation against the medical licenses of Plaintiff Kaul’s physician associates.

259. The initiation of these fraudulent medical board investigations was purposed to isolate Plaintiff Kaul from his professional colleagues, in the belief that he would leave the country, and forego the opportunity to seek legal redress and have exposed the Defendants crimes, ones in which they abused governmental process to extend their monopoly to the premium related healthcare fund underpinning minimally invasive spine surgery. The exposition of the Defendants long-standing “**open ended pattern**” of ongoing criminal conduct occurred in the trial of Dr. Pompy.

260. As a direct consequence of the Defendants knowingly illegal anticompetitive per violations, Plaintiff Kaul and his physician associates were artificially excluded from the minimally invasive spine surgery market, were caused to incur substantial legal fees in their defense of sham legal proceedings, and would, but for the Defendants wrongdoing, have continued to expand their scope of practice, increase the availability of minimally invasive spine surgery services, reduce the price of the service, and mitigate the severity of the opiate epidemic, as more patients would have had access to non-opiate modalities of spine care.

261. The public was denied the benefits of competition, as became evident from testimony adduced from the patients caused to become abandoned by the BCBS family Defendants' mafia-like conspiracy related indictment of Dr. Pompy. The related legal cases of Drs. Lesly Pompy and Neil Anand, constitute and contain further conclusive evidence of the claims Plaintiff Kaul has asserted since February 22, 2016, the filing date of K1, the first of The Kaul Cases.

262. The Defendants anticompetitive scheme, perpetrated in collusion/conspiracy with The Kaul Cases Defendants, increased their monopoly of the minimally invasive spine surgery market, the deleterious consequences to the public of which have been a reduction in the availability of services, an artificial elevation of healthcare premium price, reduced competition, and a reduction in the rate of innovation.

263. The last ten (10) years have witnessed a decrease in the development in the US of new spinal techniques, with the majority of innovations originating outside the United States. These are the exact problems for which the antitrust laws were designed, and for which the Defendants' violations are responsible. The reduced availability of service contributed to the opiate epidemic.

264. The Defendants, in conjunction with other members of the insurance industry and with the aiding/abetting of state/federal investigative/prosecutorial/adjudicative agencies/persons have engineered a system of totalitarian-esque tyrannical bureaucratic oppression, whose only purpose is the generation of profit through the usury-like exploitation of the public and slave-like manipulation of physicians, forced to work under the ever-looming threat of incarceration, if they dare to practice medicine and bill the insurance industry.

265. This "pattern" of human exploitation commenced in the 1600s with the insurance industry's critical involvement in and profiteering from the trans-Atlantic slaving industry. The slave plantations initially moved from the fields to the jails, but are now evident in American corporate healthcare, where the principal concern is the maximal exploitation of patients/physicians in the furtherance of corporate/executive profit.

266. By engaging in the within detailed felonies and specifically the bribing of persons associated with the investigative/prosecutorial/adjudicative elements of state/government, the Defendants have knowingly and with malice aforethought

violated the following state antitrust laws; and have intentionally and wrongfully maintained monopoly power in the relevant market in violation of antitrust law in the following states with respect to the availability of minimally invasive spine surgery, in the knowledge that Plaintiff Kaul had plans to expand nationally: (i) Arizona Rev. Stat. §§ 44-1401, et seq; (ii) Cal. Bus. Code §§ 16700, et seq., and Code §§ 17200, et seq; (iii) D.C. Code Ann. §§ 28-45031, et seq; (iv) Fla. Stat. §§ 501. Part II et seq; (v) Kan. Stat Ann. §§ 50-101 et seq; (vi) Me. Rev. Stat. Ann. 10, § 1101, et seq; (vii) Mich. Comp. Laws Ann. §§ 445.771, et seq; (viii) Minn. Stat. §§ 325D.52, et seq; (ix) Miss. Code Ann. §§ 59-801, et seq; (x) Neb. Code Ann. §§598A, et seq; (xi) Nev. Ret. Stat. Ann. § 598A, et seq; (xii) N.M. Stat. Ann. §§ 57-1-1, et seq; (xiii) New York General Business Law § 340, et seq; (xiv) N.C. Gen. Stat. §§ 75-1, et seq; (xv) N.D. Cent. Code § 51-08.1-01, et seq; (xvi) Or. Rev. Stat. §§ 646.705, et seq; (xvii) S.D. Codified Laws Ann. § 37-1, et seq; (xviii) S.D. Codified Laws Ann. § 37-1, et seq; (xix) S.D. Codified Laws Ann. § 37-1, et seq; (xx) Tenn. Code Ann. §§ 47-25-101, et seq; (xxi) Utah Code Ann. §§ 76-10-911, et seq; (xxii) Vt. Stat. Ann. 9, § 2453, et seq; (xxiii) W.Va. Code §§ 47-18-1, et seq; (xxiv) Wis Stat. § 133.01, et seq; (xxv) Alabama Code § 6-5-60.

267. Plaintiff Kaul has been, and continues to be injured (2012-2023) in his business and property by reason of Defendants' anti-trust violations, as alleged in this claim. The injuries consist of: **(1)** the illegal revocation of Plaintiff Kaul's New Jersey medical license/ongoing denial of his Alabama license application/loss to his patients of their ability to receive minimally invasive spine care and, **(2)** exclusion of Plaintiff Kaul and other similarly trained physicians from the minimally invasive spine surgery market which has caused an increase in the Defendants monopolization of the premium related healthcare fund and **(3)** the loss into bankruptcy of Plaintiff Kaul's healthcare corporations, to which were attached \$45 million in accounts receivable, a surgical center license, real estate, and **(4)** loss of Plaintiff Kaul's professional reputation developed over thirty years. These injuries are the type for which the antitrust laws of the above States and the District of Columbia were designed to prevent, and are injuries that flow from the Defendants misconduct, and which make the Defendants' misconduct unlawful.

COUNT FIVE

For Conspiracy and Combination in Restraint of Trade Under State Law

268. Plaintiff Kaul incorporates by reference the preceding allegations.

269. The Defendants willfully and unlawfully engaged in a continuing illegal contract, combination, and conspiracy to restrain trade in the minimally invasive spine surgery market, by engaging in an anticompetitive scheme to exclude Plaintiff Kaul and similarly trained physicians from the market, and to allocate the market funds between horizontal competitors.

270. Defendants aided/abetted, and encouraged the commission of a massive scheme of fraud and judicial corruption within the 2013 NJ administrative proceedings that caused the illegal revocation of Plaintiff Kaul's medical license.

271. Specifically, and as was their "pattern" in USA v Pompy, they conspired with state agencies/actors including The Kaul Cases Defendant, Christie, to commit two hundred and seventy-eight (278) separate instances of perjury, misrepresentation, evidential omission and gross mischaracterization IN THE MATTER OF THE SUSPENSION OR REVOCATION THE LICENSE OF RICHARD A. KAUL TO PRACTICE MEDICINE AND SURGERY IN NEW JERSEY (April 9, 2013 to June 28, 2013), in the knowledge that The Kaul Cases Defendant Solomon's (NJ administrative law judge) fraudulent Final Opinion (issued December 13, 2013) would cause the revocation of Plaintiff Kaul's license, eliminate him from the practice of medicine, eradicate their debt, eliminate the threat of future billing submissions and have a chilling sentinel effect on other similarly trained physicians and outpatient surgical centers, an effect that did illegally increase corporate/executive profit, at the expense of the public and medical profession.

272. In a period commencing in approximately 2006 the Defendants, as evidenced by internal memorandum obtained through FOIA requests, began conspiring to develop a policy whereby they schemed to target the most successful ethnic minority physicians, for license revocation and incarceration, in order to intimidate the medical community into not submitting professional fee invoices to members of Defendant BCBSA.

273. In 2006, The Kaul Cases Defendant Christie was part of a such a scheme, when he, in his capacity as the US Attorney for the District of New Jersey, caused the illegal indictment/conviction/incarceration of multiple innocent Indian cardiologists whose patient populations were covered by Defendant Horizon BCBS, and who were simply practicing medicine according to widely accepted medical standards.

274. The agreements between the Defendants were/are horizontal market allocation and price fixing agreements between actual or potential competitors and are illegal per se under state antitrust laws. Defendants conspired with The Kaul Cases hospital/neuro-ortho surgeons Defendants to restrict payment for minimally invasive spine surgery to neuro-ortho surgeons, hospitals, and or surgical centers owned by hospitals. This contract constituted an illegal horizontal market allocation agreement.

275. The substance of the Defendants communications, and their tactics in furtherance of their anticompetitive scheme, as relevant this Count, are the same as those perpetrated and pled in Count 2

276. Alternatively, Plaintiff Kaul alleges that these agreements are an unreasonable restraint of trade, in violation of state antitrust law, under a "quick look" or "rule of reason" analysis. The consequence of these improper agreements was the exclusion from the minimally invasive spine fusion market of Plaintiff Kaul and his surgical center, with regards to treating patients

who possessed insurance issued by Defendant Horizon BCBS.

278. The Defendants aided/abetted, and facilitated sham litigation against Plaintiff Kaul that included encouraging Plaintiff Kaul's patients to file lawsuits and complaints with the medical board, and encouraging Plaintiff Kaul's physician competitors to provide fraudulent 'expert' testimony for the patients and the medical board.

279. The Defendants repeatedly and fraudulently asserted that Plaintiff Kaul was not qualified to perform minimally invasive spine surgery, that he had deviated from the standard of care because he did not possess hospital or alternative privileges and that he had deviated from the standard of care because his training did not involve a neurosurgical residency.

280. The Defendants knew these claims were false and were designed to further their monopoly of the minimally invasive spine surgery related healthcare fund.

281. The Defendants participated in these sham lawsuits for the purposes of using a governmental process as an anticompetitive weapon, to keep Plaintiff Kaul and similarly trained physicians out of the minimally invasive spine surgery market.

282. The Kaul Cases Defendant James Howard Solomon (NJ administrative law judge) played a pivotal role in the perpetration of the Defendants' illegal schemes to have Plaintiff Kaul's license revoked.

283. Solomon, having received bribes from Defendants/others, committed and conspired to commit obstruction of justice and evidence tampering in the administrative board proceeding (April 9 to June 28, 2013). Solomon aided and abetted perjury/evidential falsification/evidential omission and other acts of official malfeasance, and in doing so, he converted his bench, and the New Jersey Office of Administrative Law, into a racketeering enterprise that has illegally deprived Plaintiff Kaul of his life/liberty/property for over a decade, in conjunction with ongoing violations of his human/civil/constitutional rights.

284. The goal, purpose and effect of the Defendant's scheme was to prevent Plaintiff Kaul, his surgical center and those of similarly trained physicians from continuing to provide outpatient minimally invasive spine surgery, and thus restrict the availability of the service to **The Kaul Cases** neuro-ortho surgeons and hospital Defendants, which has permitted, in the absence of competition, an artificial price elevation, which Defendants BCBS/Marino used, with knowingly falsity, to improperly raise the public's annual healthcare premiums.

285. This scheme of illegal profiteering caused a reduction in availability of minimally invasive spine surgery and an increase in corporate/executive profit. A scheme in which the Defendants

exploited and continue to exploit the medical profession and public, whose healthcare premiums have risen exorbitantly in the last decade, with greater out-of-pocket expenses and the ever-looming threat to physicians (particularly ethnic minority) of conviction for simply practicing medicine.

286. The Defendants knowingly and intentionally engaged in sham litigation against Plaintiff Kaul's physician associates, and repeatedly and fraudulently asserted that they were not qualified to assist Plaintiff Kaul in the performance of minimally invasive spine surgery, and that Plaintiff Kaul had engaged in insurance fraud. All knowingly false statements transmitted over the US wires.

287. The Defendants knowingly and intentionally engaged in sham litigation against Plaintiff Kaul's physician employees, initiated medical board investigations that sought to ostracize Plaintiff Kaul from his professional colleagues, and to force Plaintiff Kaul to leave the country and relinquish the opportunity to seek legal redress. The Defendants abused governmental process to extend their monopoly.

288. As a consequence of Defendants' illegal conduct, Plaintiff Kaul and his physician employees were excluded from the minimally invasive spine surgery market and were compelled to incur substantial legal fees in the defense of the sham board investigations.

289. Had it not been for the Defendants' illegal conduct, Plaintiff Kaul and his employees would have continued to expand their scope of practice, increase the availability of minimally invasive spine surgery services, reduce the price of the service, and mitigate the severity of the opiate epidemic, as more patients would have had access to non-opiate modalities of spine care. The Defendants' decade-plus-long campaign of crime contributed to the national opiate epidemic.

290. Had Plaintiff Kaul and similarly trained physicians been allowed to continue expanding their scope of practice in minimally invasive spine surgery, and lawfully compete with the Defendants, then the public would not have been denied the benefits of competition.

291. By engaging in the within detailed felonies and specifically the bribing of persons associated with the investigative/prosecutorial/adjudicative elements of state/government, the Defendants have knowingly and with malice aforethought violated the following state antitrust laws; and have intentionally and wrongfully maintained monopoly power in the relevant market in violation of antitrust law the following states with respect to the availability of minimally invasive spine surgery, in the knowledge that Kaul had plans to expand nationally: (i) Arizona Rev. Stat. §§ 44-1401, et seq; (ii) Cal. Bus. Code §§ 16700, et seq., and Code §§ 17200, et seq; (iii) D.C. Code Ann. §§ 28-45031, et seq; (iv) Fla. Stat. §§ 501. Part II et seq; (v) Kan. Stat Ann. §§ 50-101 et seq; (vi) Me. Rev. Stat. Ann. 10, § 1101, et seq; (vii) Mich. Comp. Laws Ann. §§

445.771, et seq; (viii) Minn. Stat. §§ 325D.52, et seq; (ix) Miss. Code Ann. §§ 59-801, et seq; (x) Neb. Code Ann. §§598A, et seq; (xi) Nev. Ret. Stat. Ann. § 598A, et seq; (xii) N.M. Stat. Ann. §§ 57-1-1, et seq; (xiii) New York General Business Law § 340, et seq; (xiv) N.C. Gen. Stat. §§ 75-1, et seq; (xv) N.D. Cent. Code § 51-08.1-01, et seq; (xvi) Or. Rev. Stat. §§ 646.705, et seq; (xvii) S.D. Codified Laws Ann. § 37-1, et seq; (xviii) S.D. Codified Laws Ann. § 37-1, et seq; (xix) S.D. Codified Laws Ann. § 37-1, et seq; (xx) Tenn. Code Ann. §§ 47-25-101, et seq; (xxi) Utah Code Ann. §§ 76-10-911, et seq; (xxii) Vt. Stat. Ann. 9, § 2453, et seq; (xxiii) W.Va. Code §§ 47-18-1, et seq; (xxiv) Wis Stat. § 133.01, et seq; (xxv) Alabama Code § 6-5-60.

292. Plaintiff Kaul has been, and continues to be injured in his business and property by reason of Defendants' anti-trust violations, as alleged in this claim. The injuries consist of: **(1)** the illegal revocation of Kaul's New Jersey medical license/ongoing denial of his Alabama license application/loss to his patients of their ability to receive minimally invasive spine care and, **(2)** exclusion of Plaintiff Kaul and other similarly trained physicians from the minimally invasive spine surgery market which has caused an increase in the Defendants monopolization of the premium related healthcare fund and **(3)** the loss into bankruptcy of Plaintiff Kaul's healthcare corporations, to which were attached \$45 million in accounts receivable, a surgical center license, real estate, and **(4)** loss of Plaintiff Kaul's professional reputation developed over thirty years. These injuries are the type for which the antitrust laws of the above States and the District of Columbia were designed to prevent, and are injuries that flow from the Defendants misconduct, and which make the Defendants' misconduct unlawful.

293. Plaintiff seeks damages and treble damages as permitted by law for their injuries by Defendants' violation of the aforementioned statutes.

COUNT SIX

For Unfair and Deceptive Trade Practices Under State Law

294. Plaintiff incorporates by reference the preceding allegations.

295. Defendants engaged in unfair competition or unfair, unconscionable, deceptive, and or fraudulent acts or practices in violation of the state consumer protection statutes.

296. As a direct and proximate result of the Defendants' anticompetitive, deceptive, unfair, unconscionable, and fraudulent conduct, Plaintiff Kaul was prevented from nationally developing his outpatient minimally invasive spine surgery business because the market had been illegally monopolized by Defendants and their neuro-ortho surgeon/hospital co-conspirators.

297. Plaintiff Kaul, a recognized innovator in the field, commenced training other minimally invasive spine surgeons in approximately 2007, and had plans to develop a fellowship and

standards, that would have increased the number of minimally invasive surgeons in the national market.

298. The Defendants' antitrust/racketeering/civil rights violations derailed Plaintiff Kaul's plans for economic and educational expansion. The Defendants' illegal suppression of competition has restricted the public's access to minimally invasive spine surgery, has caused a reduction in innovation, an elevation in price and contributed to the national opiate epidemic.

299. The illegal revocation of Plaintiff Kaul's license was disseminated over the US wires to every state medical board, including Alabama, and was widely publicized on the Internet with stories that commenced in April 2012 and whose effects persist to this day.

300. These events have caused/continué to cause permanent/irreparable damage to Plaintiff Kaul's reputation and caused/continue to cause the regulatory agencies and public in all states, including Alabama, to be deceived by the Defendants' fraudulent and anticompetitive scheme against Plaintiff Kaul.

301. The substance of the Defendants communications, and their tactics in furtherance of their anticompetitive scheme, as relevant this Count, are the same as those perpetrated and pled in Count 2

302. By engaging in the within detailed felonies and specifically the bribing of persons associated with the investigative/prosecutorial/adjudicative elements of state/government, the Defendants have knowingly and with malice aforethought violated the following state antitrust laws; and have intentionally and wrongfully maintained monopoly power in the relevant market in violation of antitrust law the following states with respect to the availability of minimally invasive spine surgery, in the knowledge that Kaul had plans to expand nationally: (i) Arizona Rev. Stat. §§ 44-1401, et seq; (ii) Cal. Bus. Code §§ 16700, et seq., and Code §§ 17200, et seq; (iii) D.C. Code Ann. §§ 28-45031, et seq; (iv) Fla. Stat. §§ 501. Part II et seq; (v) Kan. Stat Ann. §§ 50-101 et seq; (vi) Me. Rev. Stat. Ann. 10, § 1101, et seq; (vii) Mich. Comp. Laws Ann. §§ 445.771, et seq; (viii) Minn. Stat. §§ 325D.52, et seq; (ix) Miss. Code Ann. §§ 59-801, et seq; (x) Neb. Code Ann. §§598A, et seq; (xi) Nev. Ret. Stat. Ann. § 598A, et seq; (xii) N.M. Stat. Ann. §§ 57-1-1, et seq; (xiii) New York General Business Law § 340, et seq; (xiv) N.C. Gen. Stat. §§ 75-1, et seq; (xv) N.D. Cent. Code § 51-08.1-01, et seq; (xvi) Or. Rev. Stat. §§ 646.705, et seq; (xvii) S.D. Codified Laws Ann. § 37-1, et seq; (xviii) S.D. Codified Laws Ann. § 37-1, et seq; (xix) S.D. Codified Laws Ann. § 37-1, et seq; (xx) Tenn. Code Ann. §§ 47-25-101, et seq; (xxi) Utah Code Ann. §§ 76-10-911, et seq; (xxii) Vt. Stat. Ann. 9, § 2453, et seq; (xxiii) W.Va. Code §§ 47-18-1, et seq; (xxiv) Wis Stat. § 133.01, et seq; (xxv) Alabama Code § 6-5-60.

303. Plaintiff Kaul has been, and continues to be injured in his business and property by reason

of Defendants' anti-trust violations, as alleged in this claim. The injuries consist of: **(1)** the illegal revocation of Kaul's New Jersey medical license/ongoing denial of his Alabama license application/loss to his patients of their ability to receive minimally invasive spine care and, **(2)** exclusion of Plaintiff Kaul and other similarly trained physicians from the minimally invasive spine surgery market which has caused an increase in the Defendants monopolization of the premium related healthcare fund and **(3)** the loss into bankruptcy of Plaintiff Kaul's healthcare corporations, to which were attached \$45 million in accounts receivable, a surgical center license, real estate, and **(4)** loss of Plaintiff Kaul's professional reputation developed over thirty years. These injuries are the type for which the antitrust laws of the above States and the District of Columbia were designed to prevent, and are injuries that flow from the Defendants misconduct, and which make the Defendants' misconduct unlawful.

304. Plaintiff Kaul seeks damages and treble damages as permitted by law for their injuries by Defendants' violation of the aforementioned statutes.

COUNT SEVEN
Unjust enrichment

305. Plaintiff Kaul incorporates by reference the preceding allegations.

306. The Defendants have benefited from the monopoly profits on the increased revenues that have flowed from the illegal elimination of the competition presented by Plaintiff Kaul and similarly trained physicians.

307. The Defendants unjust profits result from their unlawful and inequitable conduct that facilitated a falsely substantiated increase in the public's healthcare insurance premiums, consequent to the elimination of the competition presented by Plaintiff Kaul and similarly trained physicians.

308. The Defendants misconduct conferred on them an economic benefit attributable to monopoly profits and a benefit to the economic detriment of Plaintiff Kaul and similarly trained physicians.

309. It would be futile for Plaintiff Kaul to seek a remedy from any party with whom they had privity of contract. Defendants have paid no *legal* consideration to anyone for any benefits received indirectly from Plaintiff Kaul.

310. Defendants engaged in the bribing of public officials in furtherance of their illegal anticompetitive scheme.

311. The substance of the Defendants communications, and their tactics in furtherance of their anticompetitive scheme, as relevant this Count, are the same as those perpetrated and pled in Count 2

312. The patient related insurance premium profits that flowed, and continue to flow to the Defendants from their illegal scheme rightfully belong to Plaintiff Kaul, because the monies were illegally diverted from the premiums purposed to pay for the provision of minimally invasive spine surgery, and monies legally/rightfully belonging to Plaintiff Kaul, and that Defendants would have been legally obligated to pay Plaintiff Kaul but for their crimes of amongst other things, theft/grand larceny.

313. It is inequitable under the laws of all states and jurisdictions within the United States for the Defendants to be permitted to retain, to the grave detriment and continued expense of Plaintiff Kaul, any of these illegally procured profits that are derived from their unfair and unconscionable methods, acts and trade practices, as are alleged in this Complaint. Defendants should be compelled to disgorge in a common fund for the benefit of Plaintiff Kaul all unlawful or inequitable proceeds received by them.

314. The Defendants conspired with The Kaul Cases Defendant, and counsel for the bankruptcy trustee, Daniel Stolz, to defraud Plaintiff Kaul and the creditors of his estate, by willfully failing to collect monies owed to Plaintiff Kaul by Defendants for the provision of interventional pain/minimally invasive spine surgery.

315. The Defendants procured monies through fraud and deceit at the expense of Plaintiff Kaul, his corporations, and the majority of his creditors

316. A constructive trust should be imposed upon all unlawful or inequitable sums received by Defendants traceable to Plaintiff Kaul and his corporations.

COUNT EIGHT

Deprivation of Right pursuant to Defendants violation of Section 1981/1983

317. Plaintiff Kaul hereby repeats and incorporates by reference each and every one of the foregoing paragraphs as though fully set forth.

318. The Defendants aided/abetted, and encouraged a deprivation of Plaintiff Kaul's human/constitutional right to due process by: **(i)** on December 13, 2013, causing to be published, in collusion/conspiracy with The Kaul Cases Defendant, Solomon, a knowingly false opinion that furthered the scheme to illegally revoke Plaintiff Kaul's license; **(ii)** encouraging the commission of two hundred and seventy-eight (278) separate instances of perjury, misrepresentation, evidential omission and gross mischaracterization in the administrative law proceeding (April 9 – June 28, 2013), that resulted in the illegal revocation of Plaintiff Kaul's license; **(iii)** encouraging the medical board to refuse to have conducted an independent analysis and comparison of the state authored transcripts, the independent transcripts, the court audio recordings, and Defendant Solomon's Final Opinion; **(iv)** encouraging the medical board to not respond

to Plaintiff Kaul's written pleas for an investigation of the tampered evidence and witness perjury; **(v)** encouraging the medical board to refuse to acknowledge its corrupted partiality in adjudicating Plaintiff Kaul's complaint of evidence tampering, in knowing violation of Plaintiff Kaul's Fourteenth Amendment right to an impartial tribunal. The Defendants facilitated this act with malicious and reckless disregard for Plaintiff Kaul's due process rights, in the knowledge that Plaintiff Kaul had, on June 7, 2012, requested that the Mercer County Court, NJ appoint a special prosecutor and ad hoc medical board. The latter request was submitted as a consequence of **The Kaul Cases** Defendant, and then NJ AG, **Jeffrey Chiesa**'s prejudicial comments to the media on May 9, 2012, and the illegal suspension of Kaul's CDS prescribing license on May 22, 2012, by AG Chiesa's subordinate, and acting director of the Division of Consumer Affairs, **Eric Kanefsky, Esq;** **(vi)** encouraging the medical board to not exclude **The Kaul Cases** Defendant, and then deputy AG **Doreen Hafner** from any involvement in Plaintiff Kaul's application for license reinstatement in 2014, on the basis that Plaintiff Kaul had filed an ethics complaint against Hafner, in September 2013; **(vii)** encouraging the medical board to not suspend the reinstatement application, until Hafner had recused herself from the matter. Hafner's personal animus towards Plaintiff Kaul, and her personal relationship with **The Kaul Cases** Defendant **Andrew Kaufman, MD** (state 'expert' and business competitor of Plaintiff Kaul who testified against Plaintiff Kaul in 2013 revocation proceedings) who violated Plaintiff Kaul's right to an impartial tribunal. **319.** This violation was magnified by the unconstitutional configuration of the mechanism of physician regulation.

320. The Defendants aided/abetted, and facilitated the commission of fraud and perjury in legal proceedings conducted in administrative/state/bankruptcy/federal courts within the geographic boundaries of the State of New Jersey, in a period that commenced in at least 2010 and continued into 2021.

321. **There exists no court within the geographic boundaries of New Jersey that has ever granted any relief to Plaintiff Kaul in a period from at least 2007 to 2023** and it was to this effect that in 2021 Plaintiff Kaul filed in SCOTUS a Petition for a Writ of Prohibition, precluding any further involvement of the District of New Jersey in any legal proceedings pertaining/involving/relating to Plaintiff Kaul.

322. With this knowledge, the failure of the District of New Jersey to transfer the case out of its court constitutes a willful/knowing and ongoing violation of law and Plaintiff Kaul's rights, that constitutes further evidence of the interminably conflicted position of that court.

323. The Defendants knew that Plaintiff Kaul was qualified, credentialed, and licensed to perform minimally invasive spine surgery.

324. The Defendants caused their co-conspirator public officials to abuse their positions of public authority to mislead the public into believing their lies about Plaintiff Kaul, and

thus violated, and continue to violate Plaintiff Kaul's human and constitutional right to life, liberty and property and due process.

325. The Defendants aided/abetted, and encouraged a conspiracy to commit a knowingly false interpretation of the alternative privileges regulation, that was used by The Kaul Cases Defendant, Solomon, as one of the knowingly false bases to revoke Plaintiff Kaul's license.

326. The Defendants knew the regulation was not required for the performance of minimally invasive spine surgery, and in fact, during the administrative proceedings, when The Kaul Cases Defendant Hafner was unable to articulate an argument in support of her contention, her co-conspirator, The Kaul Cases Defendant Solomon interjected with his own corrupt interpretation.

327. The Defendants committed and conspired to commit a knowingly dishonest interpretation of the rights afforded to Plaintiff Kaul by his plenary medical license that permitted him to practice both medicine and SURGERY.

328. The Defendants committed and conspired to commit a concealment of the truth of the clinical effectiveness of Plaintiff Kaul's minimally invasive spine surgery practice, by encouraging the medical board to refuse with fraudulent intent, Plaintiff Kaul's suggestion to have his practice independently analyzed and monitored.

329. The substance of the Defendants communications, and their tactics in furtherance of their anticompetitive scheme, as relevant this Court, are the same as those perpetrated and pled in Count 2

330. The Defendants are "persons" under 42 U.S.C. § 1981 and have funded and continue to fund the NJ Office of the Insurance Fraud Prosecutor, the Office of the NJ Attorney, with whom they share a common and private non-state server.

331. The Defendants drafted and continue to draft healthcare legislation for the state, a function that is governmental in nature, and for which the law prohibits the involvement of non-governmental entities.

332. In 2009, the Seventh Circuit summarized the US Supreme Court's criteria, to determine whether the actions of private parties constituted governmental functions. The tests were (i) the symbiotic relationship test (Burton v Wilmington Parking South., 365 U.S. 715, 81 S.Ct. 856, 6 L.Ed2d 45 (1961)), (ii) the state command and encouragement test (Moose Lodge No. 107, 407 U.S. at 176-77, 92 S.Ct (1965)), (iii) the joint participation doctrine (Lugar v Edmonton Oil Co., 1982), (iv) the public function test (Jackson v Metro Edison Co., 419 U.S. 345, 353 95 S.Ct 449, 42 L.Ed2d 477 (1974)).

333. The State Actor Tests that confirm that although this claim is filed pursuant to

section 1981, the Defendants do possess section 1983 “**person**” status pursuant to the (i) symbiotic test, (ii) joint participation doctrine, (iii) state command and encouragement test, (iv) public function test, (v) pervasive entwinement.

334. State action is found when a private corporation or actor provides a “**public function**” i.e., the drafting of healthcare legislation, as in Marsh v Alabama, 326 U.S. 501 (1946). See also Terry v Adams 345 U.S. 461 (1953); Evans v Newton, 382 U.S. 296 (1966) (“That is to say, when private individuals or groups are endowed by the State with powers or function governmental in nature, they become agencies or instrumentalities of the State and subject to Constitutional limitations.”). State action is found when the private corporation is heavily regulated by the state i.e., the Department of Banking and Insurance, thereby giving the state control of the corporations’ acts.

335. Defendants, if further evidence of their ‘state actor’ status was required under a section 1983 claim, have engaged, and continues to engage in the conception, construction and perpetration of state/federal criminal investigations and prosecutions ostensibly ‘spearheaded’ by state and federal investigative/prosecutorial/adjudicative persons and agencies.

336. It has been/is the practice of Defendant BCBS, in collusion/conspiracy with state/federal agencies, to use the civil process against innocent physicians to whom Defendant BCBS owes money to deceive these persons into believing that they can ignore the usual legal precautions associated with ostensible criminal investigations, and to then pervert these disclosures about the normal practice of medicine into criminal charges.

337. Defendants recognize that the more physicians they have incarcerated, the more entrenched is their monopolistic power and the greater is their executive/corporate/shareholder profit. The inevitable conclusion of such a scheme is the provision of no insurance related care (all care will be out of pocket), mandatory purchasing of insurance and inhumane profiteering at the expense of life.

338. Lawyers for Defendant BCBS in assisting in the co-drafting of The Kaul Cases Defendant Solomon’s Final Opinion, issued on December 13, 2013, did conduct a state function, and in doing so did adopt ‘state actor’ status for Plaintiff Kaul’s purpose of claiming a violation of his civil rights, under both sections 1983 and 1981.

339. Alternatively under sections 1981/1983, the Defendants abused their ‘state actor’ position to advance their private commercial interests, at the expense of Plaintiff Kaul’s constitutional right to due process, in that amongst other things, they, in collusion/conspiracy with The Kaul Cases Defendants public officials

(Christie/Hafner/Chiesa/Kanefsky/Solomon/Kaufman/Przybylski/NJBME/Lomazow) aided/abetted/facilitated the commission of two hundred and seventy-eight (278) separate instances of perjury, misrepresentation, evidential omission, and mischaracterization in the MATTER OF THE SUSPENSION OR REVOCATION OF THE LICENSE OF RICHARD A. KAUL, M.D. TO PRACTICE MEDICINE AND SURGERY IN NEW JERSEY (April 9, 2013, to June 28, 2013).

340. The Defendants conspired with The Kaul Cases Defendant Solomon to issue a fraudulent opinion (December 13, 2013) regarding the administrative proceeding that caused the revocation of Plaintiff Kaul's license, an opinion that contains two hundred and seventy-eight (278) separate acts of perjury and evidential omissions, misrepresentations, and gross mischaracterizations, and an opinion published on a document that was transmitted, and continues to be transmitted, with knowing fraudulence across the US wires.

341. The Defendants abused the power of their public function for personal gain, in the knowledge that they competed with Plaintiff Kaul for the public's healthcare premium related fund, in which the Defendants only function, under the law and as per their contracts with Plaintiff Kaul's patients, was that of premium collection.

342. However, the Defendants, as with many other such entities in the insurance industry, developed schemes to illegally divert an unauthorized percentage of these monies into corporate/executive/shareholder profits and private investment funds, and in furtherance of these schemes they perpetrated grand schemes of political/judicial corruption in an attempt to insulate themselves from prosecution for amongst other things, theft, and embezzlement.

343. It is more recently through the HFPP that the Defendants/others have inculcated state power into their criminal enterprise. A repeal of this antitrust agreement would cause a commencement of a reversal of the immense market injuries caused/continuing to be caused by Defendants/others.

344. The Defendants, in seeking to violate Plaintiff Kaul's right to due process, but in wanting to ensure that their wrongful conduct and long-standing conspiracy with public agencies/officials was concealed by the ostensible acts of public officials, and in wanting to mitigate against section 1983 claims, did aide/abet/facilitate the fraudulent testimony of The Kaul Cases Defendants Gregory Przybylski, MD/Andrew Kaufman, MD in the administrative proceedings (April 9 to June 28, 2013).

345. Specifically, and as evidenced by 'The Solomon Critique' and 'The Solomon Critique 2', there were committed two hundred and seventy-eight (278) separate acts of perjury and evidential omissions, misrepresentations, and gross mischaracterizations.

346. Within The Kaul Cases, Plaintiff Kaul has exposed the architecture and function of these state- corporate schemes of political/judicial/legislative corruption, but the evidence adduced in USA v Pompy and Anand v Independence BCBS has unequivocally un-buttressed/undermined this now exposed edifice of 21st century American corporate greed/corruption.

COUNT NINE
Commercial disparagement

347. Plaintiff Kaul hereby repeats and incorporates by reference each and every one of the foregoing paragraphs as though fully set forth.

348. Commencing in approximately 2005/2006, the Defendants knowingly and with malice commenced perpetrating anticompetitive purposed schemes of defamation and derogation, in which they used the US wires and face-to-face interactions to propagate false statements to Plaintiff Kaul's patients (e.g., Richard Barbetta), referring physicians, medical device suppliers and lawyers that Plaintiff Kaul was not qualified to perform minimally invasive spine surgery.

349. As a consequence of these schemes, the Defendants illegally diverted an un-contractually supported greater percentage of the public's healthcare premiums into corporate/executive profit and unauthorized investment vehicles.

350. The schemes' profits were not translated into reduced healthcare premiums, but were instead funneled into to the Defendants personal trusts/accounts and into their schemes of political/judicial corruption, to reduce, by state cooption, the threat of criminal prosecution.

351. The Defendants committed/are committing massive schemes of theft from the public (premium diversion to corporate profits)/medical profession (non-payment for clinical services), and schemes of theft that also involve the illegal diversion of the public's tax revenue to fund state/federal prosecutions against physicians owed money by the Defendants.

352. The Defendants false statements regarding Plaintiff Kaul were intended to cause damage to Plaintiff Kaul's reputation/his business and did in fact cause, and continue to cause immense harm to Plaintiff Kaul's reputation/business.

353. The Defendants are directly liable, as the Defendants knew that Plaintiff Kaul was indeed the most qualified person to perform minimally invasive spine surgery, as he had invented the percutaneous spinal fusion, but nonetheless they acted with a malicious/callous disregard of the truth.

354. The Defendants encouraged patients to file lawsuits against Plaintiff Kaul, and

criticized Plaintiff Kaul's work, the purpose of which was to attack Plaintiff Kaul's reputation and economic standing, and to have Plaintiff Kaul's medical license revoked.

355. The substance of the Defendants communications, and their tactics in furtherance of their anticompetitive scheme, as relevant this Count, are the same as those perpetrated and pled in Count 6

356. The Defendants' wrongful acts caused immense and permanent harm to the Plaintiff Kaul's economic standing and reputation.

COUNT TEN

Intentional Interference with prospective economic advantage

357. Plaintiff hereby repeats and incorporates by reference each and every one of the foregoing paragraphs as though fully set forth herein.

358. In approximately 2005/2006, the Defendants commenced filing complaints against **359.** Plaintiff Kaul with the medical board, the purpose of which was to eliminate him from the minimally invasive spine surgery market, in order to increase their share of the public's healthcare premium related fund.

360. As a consequence of these complaints, the medical board conducted a hearing before a preliminary evaluation committee in 2006 regarding Plaintiff Kaul's practice of minimally invasive spine surgery, and took no action, nor required Plaintiff Kaul to limit his practice nor take a neurosurgical/orthopedic residency.

361. In this same time period, the Defendants, in concert with The Kaul Cases Defendants commenced encouraging Plaintiff Kaul's patients to file lawsuits and complaints with the medical board against Plaintiff Kaul.

362. The Defendants inciting of lawsuits was in furtherance of their scheme to have Plaintiff Kaul's license revoked, in the belief it would cause him to leave the United States, as was incorrectly predicted by a member of the office of the NJ attorney general, who in April 2012, commented to one of Plaintiff Kaul's lawyers: "He [Kaul] is probably going to pack his bags and leave"

363. In this same time period, the Defendants in collusion/conspiracy with The Kaul Cases neuro-ortho surgeons/hospital Defendants encouraged spine device representatives to cease supplying Plaintiff Kaul and his surgical center with the devices he required to perform minimally invasive spine surgery.

364. From 2005 to 2012 the Defendants encouraged physicians in their network to not

to refer patients to Plaintiff Kaul and slandered Plaintiff Kaul's reputation by stating, amongst other things, that he was not qualified to perform minimally invasive spine surgery.

365. Commencing in approximately 2005, the Defendants met with Defendant Christie and other New Jersey politicians on multiple occasions, during which they planned their schemes to not only have Plaintiff Kaul's license revoked, but those of other ethnic minority physicians to whom they owed money.

366. By 2005, the Defendants were perpetrating this scheme of revocation/incarceration across the country in multiple states, with a particular focus on successful ethnic minority physicians. The January 4, 2023, acquittal of Dr. Lesly Pompy exposed the inner machinations of the scheme, and caused Dr. Neil Anand to seek an injunction against the BCBS family, from any further perpetration of this nationwide racial targeting scheme, that included/includes Alabama.

367. The substance of the Defendants communications, and their tactics in furtherance of their anticompetitive scheme, as relevant this Court, are the same as those perpetrated and pled in Count 2.

368. The Defendant's aforesaid actions constituted knowing, intentional and voluntary interference with Plaintiff Kaul's minimally invasive spine surgery practice.

369. The Defendant's aforesaid actions constituted negligent interference with Plaintiff Kaul's minimally invasive spine surgery practice and caused the illegal revocation of Plaintiff Kaul's license in 2014.

370. The Defendant actions constitute unjustified and wrongful interference with Plaintiff Kaul's minimally invasive spine surgery, and a reasonable expectation of economic advantage as aforesaid.

371. The Defendants wrongful interference did not rest upon a legitimate interest or have a legitimate purpose, and was fraudulently perpetrated in collusion/conspiracy with investigative/prosecutorial/adjudicative agencies and persons associated with the state/federal governments, that sought to eliminate Plaintiff Kaul from the relevant market, through license revocation/reputational destruction/incarceration/suicide/death.

372. This elimination scheme was an attempt to ensure Plaintiff Kaul was prevented/dissuaded from seeking legal redress and exposing the truth of the Defendants long-standing criminal state-corporate "**pattern**" of human rights violations.

373. As a result of the Defendants' actions, the Defendants are liable for the permanent damages caused by their interference with Plaintiff Kaul's

life/liberty/livelihood/career/reputation/property, in both a retroactive and prospective manner.

374. Plaintiff Kaul had a reasonable expectation of economic advantage or benefit flowing from the revenues of not just his minimally invasive spine surgery practice in New Jersey, but from his planned expansion across the United States, including Alabama, and globally, of this service and others, such as intellectual property development and education. The calculated damages are identified in the 'Settlement Terms' filed in K1 on February 22, 2016.

375. The Defendants knew or should have known of the expectancy of the aforesaid economic advantage of Plaintiff Kaul's minimally invasive spine surgery practice and its attendant expansion.

376. In the absence of the Defendant's wrongful acts as foresaid, it is highly likely, based on Plaintiff Kaul's immensely successful commercial history in the period from 2001 to 2012, that he would have actualized its aforesaid economic advantage or benefit with respect to his ongoing minimally invasive spine surgery practice and its attendant national/global expansion.

377. As a result of the Defendant's aforesaid wrongful acts, Plaintiff Kaul has suffered and continues to suffer immense/permanent damage to his life/liberty/livelihood/career/reputation/property.

COUNT ELEVEN

Violation of Kaul's due process rights pursuant to the Excessive Fines Clause of the Eight Amendment and due process Clause of the Fourteenth Amendment

378. The Defendants, in furtherance of their state-corporate scheme, did aid/abet, and encourage The Kaul Cases Defendant, New Jersey Medical Board to, on March 12, 2014, enter a knowingly illegal order that not only unlawfully revoked Plaintiff Kaul's license to practice medicine and surgery in New Jersey, but 'fined' him over \$475,000.

379. The Defendants were motivated to have such an illegal 'fine' entered, that further violated Plaintiff Kaul's fundamental human/constitutional rights, as they wanted to eliminate Plaintiff Kaul, and attempt to render impossible his return, in order to stymie his right to legal redress and his exposition of their criminal scheme.

380. The Defendants efforts failed, in that there has emerged in USA v Pompy and Anand v Independence BCBS highly incriminating "new" evidence of their state sponsored "pattern of racketeering", evidence that corroborates the claims asserted in The Kaul Cases, and directly implicates the Defendants in the same crimes, and evidence that only recently came into Plaintiff Kaul's possession.

381. On February 28, 2019, the United States Supreme Court in Timbs v. Indiana, 586 U.S. 139 S.Ct. 682; 203 L.Ed. 2d 11 held that the State of Indiana, in confiscating a car worth no more than \$42,000 from an individual convicted of drug dealing, had violated his constitutional rights.

382. Defendants conspired with The Kaul Cases Defendant, New Jersey Board of Medical Examiners, to use the illegal fine of \$475,000 to obstruct Plaintiff Kaul's 2014 application for reinstatement of his medical license, denying him the right to even present his case for reinstatement, until he had paid the knowingly illegal 'fine'.

383. The purpose of such an obstruction was the Defendants motivation to eliminate Plaintiff Kaul, and attempt to render impossible his return, in order to stymie his right to legal redress and his exposition of their criminal scheme.

384. In early 2019, Plaintiff Kaul submitted another application to The Kaul Cases Defendant NJBME in order to obtain his license in New Jersey. The application, with a money order for \$325.00 was delivered to the offices of Defendant NJBME by Fedex in mid-March.

385. In late May 2019, Plaintiff Kaul was informed by an employee of Defendant NJBME, that his application had not been processed because it had to be submitted online through a website administered by Defendant NJBME.

386. Plaintiff Kaul attempted on several occasions to initiate the process, but after having submitted his name, the website prevented him from filing his application. Plaintiff Kaul contacted the employee ("Maisha") at Defendant NJBME and explained that his online application had been blocked.

387. Plaintiff Kaul was routed through to another employee, who communicated to Plaintiff Kaul that he would have to talk with an individual by the name of "Jacqueline Johnson" in order to ascertain what steps were required of him to submit his application.

388. The Defendants, for the above stated reasons, not only continued to conspire with NJBME to obstruct Plaintiff Kaul's efforts to have returned the illegally seized property of his NJ license, but continue to the present in the perpetration of this scheme, in a manner that violates Plaintiff Kaul's right to his life/liberty/property/livelihood/reputation.

389. From late May 2019 to late 2021, Plaintiff Kaul has continued to attempt to have his NJ license reinstated, and the Defendants, Plaintiff Kaul now asserts in light of the "new evidence" have continued to obstruct his efforts, in order to attempt to eliminate Plaintiff Kaul, and to render impossible his return, in order to stymie his right to legal

redress and his exposition of their criminal scheme.

COUNT TWELVE
Aid in the Commission of Tort

390. Plaintiff Kaul repeats and re-alleges the allegations set forth in the preceding paragraphs and incorporates same as if set forth fully herein

391. The Defendants pursued a common plan or design to commit a series of torts upon Plaintiff Kaul, through their active participation, encouragement, or ratification of the harm committed, and continuing to be committed against Plaintiff Kaul.

392. The Defendant common plan is also causing a grave and ongoing detriment to the public, whose access to lifesaving minimally invasive spine surgery remains illegally restricted, while the Defendants profiteering continues unabated with increased profits from fraudulently procured raised healthcare premiums, and illegal diversion of premium related healthcare funds into corporate/executive profits and unauthorized investment funds.

393. The self-serving insurance industry 'fox' cannot be permitted to remain in charge of the 'henhouse' of the lives and health of the American people, and this case, along with USA v Pompy and Anand v Independence BCBS establish the factual/legal basis on which to place the lives of Americans, before the greed and profits of corporations/executives, such as that of the Defendants.

394. The Defendants are jointly and severally liable to Plaintiff Kaul for the damages suffered as a consequence of all of the aforementioned torts, claims and counts.

DEMAND FOR JUDGMENT

WHEREFORE, Kaul seeks judgment against the Defendants jointly and severally, as follows:

1. Compensatory + Consequential + Punitive Damages.
2. Declaring that the revocation of the Plaintiff Kaul's NJ medical license was procured through illegal means and was an illegal act.
3. Declaring that the conduct alleged herein is in violation of Sections 1 and 2 of the Sherman Act, of the other statutes set forth above, and of the common law of unjust enrichment under the laws of all states and jurisdictions within the United States.
4. Enjoining Defendants from continuing the illegal activities alleged herein.
5. Granting Plaintiff Kaul equitable relief in the nature of disgorgement, restitution, and the creation of a constructive trust to remedy Defendants' unjust enrichment.
6. Awarding Plaintiff Kaul treble, multiple, punitive and/or other damages.
7. Awarding Plaintiff Kaul the costs of suit, including reasonable attorneys' fees as provided by law.
8. Granting such other relief as is necessary to correct for the anti-competitive effects caused by the unlawful conduct of Defendants, and as the Court deems just.

Jury Demand

Plaintiff Kaul demands trial by jury on all issues so triable.

Demand for Insurance

Demand is hereby made for all insurance policies, which may cover the damages alleged in this Complaint.

I certify that the above statements are true and accurate to the best of my knowledge, and that if it is proved that I willfully and knowingly misrepresented the facts, then I am subject to punishment.

RESPECTFULLY SUBMITTED ON THIS 13TH DAY OF DECEMBER 2023.

By: R.K.

RICHARD ARJUN KAUL, MD

Exhibit 1

www.drRichardKaul.com

August 19, 2020

To: Sarah H. Moore
Executive Director
Physical Address:
848 Washington Avenue
Montgomery, AL 36104

Re: Application for license to practice medicine and surgery

Dear Ms. Moore,

I write this letter to inquire as to whether I would be granted a license to practice medicine and surgery in your state, based on:

1. My medical education, training and experience, as detailed in my CV (copy on enclosed flash drive).
2. The May 28, 2020 opinion of David M. Green, Esq, a Hearing Officer for the State of Pennsylvania, in which he grants my application for medical licensure (copy of opinion + transcript on enclosed flash drive).
3. A case pending in the United States District Court for the District of Columbia, in which there exists irrefutable evidence that the revocation of my New Jersey license was procured illegally and is illegal (copy of Kaul v Federation: 19-CV-3050-KS enclosed on flash drive).
4. A book and documentary that were published respectively on April 15 and July 28, 2020, that publicly assert the irrefutable evidence contained in Kaul v Federation: 19-CV-3050-TSC. The Defendants have filed no legal challenge contesting/rebutting/refuting the within evidence/facts. The publications are:
 - (a) **"An Impossible Victory: Kaul v Christie"** – The electronic and audio books can be found online.
 - (b) **"An Impossible Victory: Kaul v Christie – The Story Within The Story: A Documentary Film"** – The documentary can be found on YouTube.
5. The facts of my professional/personal history as provided in my application form for licensure in the State of Pennsylvania (copy on enclosed flash drive).

I respectfully assert that according to the Medical Practices Act within your state, there exists no reason for the state to not grant me a license. The UK case has no legal validity in the US (detailed in response to initial denial of licensure application by PA Medical Board-copy on enclosed flash drive) and the revocation of the New Jersey license was illegally obtained. I meet the requisite educational criteria for licensure.

This preliminary request is made principally for the purpose of ascertaining the likelihood of obtaining a license in your state, but secondarily to establish whether the K5 defendants have caused me a **"new racketeering injury"** consequent to that illegal injury (revocation of New Jersey license on March 12, 2014) they caused by engaging in a **"pattern of racketeering"**, as detailed in K5.

If your response is anything other than I would be granted a license, it will constitute a **"new racketeering injury"**, and will provide a legal basis for the submission in the United States District Court of a RICO claim. It will also constitute further evidence in K5 of the damages caused to my estate by the Defendants.

Please note that if I receive no response by September 22, 2020, then this too will constitute a **"new racketeering injury"**.

If, however, by September 22, 2020 you confirm that based on the submitted information, I would be granted a license, then I shall file the necessary forms for verification of education/training/experience.

I would like to thank you for taking the time to read this letter and enclosed information.

Yours sincerely

Richard Arjun Kaul, MD

Cell: 862 881 9703

Email: drrichardkaul@gmail.com

Exhibit 2

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FACTS

The undisputed/admitted facts material to the Summary Judgment proof of all elements of all claims are:

1. In a time period commencing in or around 2005/6, Defendants did perpetrate massive nationwide schemes of racketeering against Plaintiff Kaul that are ongoing.
2. In a time period commencing in or around 2005/6, Defendants did perpetrate anti-trust infractions against Plaintiff Kaul that are ongoing.
3. In a time period commencing in or around 2005/6, Defendants did perpetrate civil rights violations against Plaintiff Kaul that are ongoing.
4. In a time period commencing in at least 2000, the Defendants did submit knowingly false data to the New Jersey Department of Banking and Insurance in support of their annual applications to increase the public's cost of health insurance premiums.
5. The New Jersey Department of Banking and Insurance was either willfully blind/failed to conduct proper due diligence in its verification of the accuracy and truthfulness of the Defendants fraudulent data.
6. Defendant BCBS did, in a time period that commenced in at least 2000, enter into conspiracies with certain governmental agencies/persons under the subsequent cover of the so called 'Healthcare Fraud Prevention Partnership' (HFPP) (2012) that targeted principally ethnic minority physicians for elimination (license revocation/indictment/conviction/incarceration) and asset seizure.

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7. Defendant BCBS fraudulently refused to pay Plaintiff Kaul for clinical services he rendered to their fee-paying clients.

8. Defendant BCBS's illegal non-payment was purposed to increase compensation to their corporate executives and bribes to corrupted politicians/judges on their 'payroll', through the exploitation/theft of services from Plaintiff Kaul and other physicians.

9. Consequent to Defendant BCBS's non-payment Plaintiff Kaul filed suit against them on two (2) occasions between 2004 to 2012.

10. In retaliation for the lawsuits, Defendant BCBS in collusion/conspiracy with The Kaul Cases Defendants coopted, within the State of New Jersey, both state/federal investigative/prosecutorial/judicial agencies to have Plaintiff Kaul's physician license revoked

11. In retaliation for the lawsuits, Defendant BCBS in collusion/conspiracy with The Kaul Cases Defendants coopted, within the State of New Jersey, both state/federal investigative/prosecutorial/judicial agencies to have to attempt to have Plaintiff Kaul indicted.

12. In retaliation for the lawsuits, Defendant BCBS in collusion/conspiracy with The Kaul Cases Defendants coopted, within the State of New Jersey, both state/federal investigative/prosecutorial/judicial agencies to have to attempt to have Plaintiff Kaul convicted.

13. In retaliation for the lawsuits, Defendant BCBS in collusion/conspiracy with The Kaul Cases Defendants coopted, within the State of New Jersey, both state/federal investigative/prosecutorial/judicial agencies to have to attempt to have Plaintiff Kaul incarcerated.

14. In May 2016 Defendant BCBS aided/abetted a similar retaliation scheme in retaliation for Plaintiff Kaul having filed K1.

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16. In a period from approximately 2012 to 2016, Defendants BCBS/Marino, after having aided/abetted the 2014 illegal revocation of Plaintiff Kaul's New Jersey license, did, in collusion/conspiracy with both state/federal investigative/prosecutorial/judicial agencies and The Kaul Cases Defendants cause him to be continually subjected to state/federal criminal investigations,

17. None of these investigations produced any evidence of wrongdoing,

18. The lack of evidence constitutes further proof of the fraudulence of the entire case that caused the illegal revocation of Plaintiff Kaul's license.

19. In a period from February 22, 2016, to January 27, 2023, Plaintiff Kaul filed suit in the United States District Court, against the individuals/corporations that had conspired to commit and did commit a "pattern of racketeering" against Plaintiff Kaul.

20. On June 17, 2013, consequent to the suspension of Plaintiff Kaul's license, Plaintiff Kaul's corporations became obligated to file for Chapter 11 bankruptcy.

21. Defendant BCBS was identified as a debtor in the Chapter 11 bankruptcy.

22. In a period from 2012 to approximately 2016, Defendant BCBS conspired with The Kaul Cases Defendants to cause the publication of highly defamatory press coverage.

23. The purpose of the knowingly false and highly defamatory press coverage was to economically/professionally/socially/reputationally alienate Plaintiff Kaul.

24. Defendant BCBS's purpose of alienation was to attempt to eliminate the risk of Plaintiff Kaul's continued existence.

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25. Defendant BCBS's purpose in attempting to eliminate Plaintiff Kaul was to attempt to ensure he would be unable to fight the revocation.

26. Defendant BCBS's purpose in attempting to eliminate Plaintiff Kaul was to attempt to ensure he would be unable to file charges against The Kaul Cases Defendants, including Defendants BCBS/Marino.

27. During the bankruptcy proceedings, the trustee and his lawyer, the latter, Daniel Stolz, Esq, a Defendant in The Kaul Cases, conspired with Defendant BCBS/other insurance carriers to not file claims to collect the monies owed to Plaintiff Kaul's estate by Defendant BCBS/other insurance carriers.

28. The Kaul Cases Defendant, Daniel Stolz, did enter into a quid pro quo with Defendant BCBS, in which in return for the bankruptcy related fraud of non-collection of Plaintiff Kaul's fees, he received bribes, disguised as 'legal fees'.

29. In 2018, Dr. Lesly Pompy, a Michigan based interventional pain physician of Haitian origin, was indicted by the US Government on charges of healthcare fraud.

30. Defendant BCBS's BCBS Association's partner, BCBS of Michigan, caused the filing of the indictment, in order to eliminate its debt to Dr. Pompy/eliminate him from the healthcare market.

31. During the trial evidence emerged of the fraudulent schemes perpetrated by the Blue Cross Blue Shield Association corporate members in their efforts to entrap knowingly innocent physicians, mostly of whom belonged to ethnic minorities.

32. During the testimony of a James Howell, an ex-police officer employed by Blue Cross Blue Shield to manufacture entrapment schemes, Howell testified that in furtherance of these

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schemes he was provided fraudulent medical documents by agencies/persons of the State of Michigan and physicians employed by Blue Cross Blue Shield.

33. During the testimony of a James Howell, an ex-police officer employed by Blue Cross Blue Shield to manufacture entrapment schemes, Howell testified that in furtherance of these schemes he was provided fraudulent driving licenses by agencies/persons of the State of Michigan and physicians employed by Blue Cross Blue Shield.

34. During the testimony of a James Howell, an ex-police officer employed by Blue Cross Blue Shield to manufacture entrapment schemes, Howell testified that in furtherance of these schemes he was provided other official documents by agencies/persons of the State of Michigan and physicians employed by Blue Cross Blue Shield.

35. Howell's prior testimony in various other prior court proceedings had resulted in the wrongful conviction and incarceration of other ethnic minority physicians, many of whom continue to languish in jail.

36. Evidence from the trial of Dr. Pompy/others substantiates the perpetration of long-standing "patterns of racketeering" by the Blue Cross Blue Shield Association members, of which Defendant Horizon BCBS is one.

37. The evidence from the trial of Dr. Pompy/others corroborates the claims that Plaintiff Kaul has asserted within The Kaul Cases, since 2016.

38. In a period commencing approximately 2003/2004, Defendant BCBS commenced conspiring to commit and did commit a fraudulent scheme that targeted Plaintiff Kaul, an Indian physician.

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39. The scheme involved misrepresentations by Defendant BCBS that caused Plaintiff Kaul to provide clinical care to their fee-paying clients, with the pre-certification promise of renumeration.

40. Defendant BCBS defrauded Plaintiff Kaul of his services by refusing to pay his invoices for pre-certified care he had provided in good faith.

41. In the perpetration of this scheme, Defendant BCBS, conducted a "pattern of racketeering" through the willful and knowingly illegal commission of the RICO predicate acts of wire fraud/mail fraud/theft.

42. In the perpetration of this scheme, Defendant BCBS's corporate officers, including Defendant Marino, converted the State of New Jersey and the BCBSA corporation into the "State of New Jersey-BCBS Association-In-Fact Enterprise" ("NJ-BCBS AIF Enterprise")

43. Through the NJ-BCBS AIF Enterprise Defendants Marino/BCBS funneled bribes to multiple New Jersey based politicians, including The Kaul Cases Defendant, Christie,

44. The Kaul Cases Defendant Christie did, in exchange for these bribes, abuse his executive power to order the state medical board to cause a knowingly illegal revocation of Plaintiff Kaul's license.

45. The revocation was purposed to eliminate Defendant BCBS's debt to Plaintiff Kaul.

46. The revocation was purposed to eliminate the legal liability posed by the lawsuit filed by Plaintiff Kaul in February 2012.

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47. The Kaul Cases Defendant Christie did, in exchange for these bribes, abuse his executive power to order the state medical board to cause a knowingly illegal commencement of criminal investigations.

48. The criminal investigations sought to incarcerate Plaintiff Kaul, in order to prevent him from exposing the crimes of The Kaul Cases Defendants, including Defendants Horizon/Marino.

49. In the perpetration of the fraudulent scheme, Defendants Horizon/Marino did knowingly conduct a "pattern of racketeering" (18 U.S.C. §§ 1961(1), 1961(5) and 1962(c)).

50. In the perpetration of the fraudulent scheme, Defendants Horizon/Marino did knowingly commit mail fraud (§ 1341).

51. In the perpetration of the fraudulent scheme, Defendants Horizon/Marino did knowingly commit wire fraud (§ 1343).

52. Defendants Horizon/Marino knowingly committed multiple state felonies in their commission of RICO predicate acts.

53. Defendants Horizon/Marino knowingly conspired to commit multiple state felonies in their commission of RICO predicate acts within the last ten (10) years.

54. Defendants Horizon/Marino knowingly aided/abetted the commission of multiple state felonies (RICO predicate acts) in their commission of RICO predicate acts within the last ten (10) years.

55. Defendants Horizon/Marino's knowingly illegal commission of these multiple state felonies (RICO predicate acts) did constitute a "pattern of racketeering".

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56. Defendants Horizon/Marino, in their knowingly illegal commission of state felonies (RICO predicate acts) did know the legal interpretation of the term “pattern of racketeering”.

57. Defendants Horizon/Marino did aide/abet in the commission of the “pattern of racketeering”.

58. Defendants Horizon/Marino, in their commission of the “pattern of racketeering” did know that the state felonies (RICO predicate acts) posed a threat of continued racketeering activity.

59. Defendants Horizon/Marino, in their knowingly illegal commission of state felonies (RICO predicate acts) did know the legal interpretation of the term ‘racketeering activity’.

60. Defendants Horizon/Marino facilitated the ‘racketeering activity’ through the use of state-corporate facilities.

61. Defendants Horizon/Marino facilitated the ‘racketeering activity’ through the use of state-corporate services.

62. Defendants Horizon/Marino facilitated the ‘racketeering activity’ through the use of state-corporate distribution channels.

63. Defendants Horizon/Marino facilitated the ‘racketeering activity’ through the use of state-corporate employees associated with the “NJ-BCBS AIF Enterprise”

64. Defendants Horizon/Marino participated in the fraudulent scheme by ‘hijacking’ the interstate/foreign commerce functions of the US mail.

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65. Defendants Horizon/Marino participated in the fraudulent scheme by 'hijacking' the interstate/foreign commerce functions of the US telephonic system.

66. Defendants Horizon/Marino participated in the fraudulent scheme by 'hijacking' the interstate/foreign commerce functions of the US wires/internet.

67. The Defendants used thousands of interstate mail and wire communications in furtherance of their fraudulent scheme through virtually uniform misrepresentations.

68. The Defendants used thousands of interstate mail and wire communications in furtherance of their fraudulent scheme through virtually uniform concealments.

69. The Defendants used thousands of interstate mail and wire communications in furtherance of their fraudulent scheme through virtually uniform material omissions.

70. Defendants BCBS/Marino directed the use of thousands of interstate mail and wire communications in furtherance of their fraudulent scheme through virtually uniform misrepresentations.

71. Defendants BCBS/Marino directed the use of thousands of interstate mail and wire communications in furtherance of their fraudulent scheme through virtually uniform concealments.

72. Defendants BCBS/Marino directed the use of thousands of interstate mail and wire communications in furtherance of their fraudulent scheme through virtually uniform omissions.

73. In perpetrating the fraudulent scheme, Defendants BCBS/Marino devised and knowingly carried out a scheme purposed to defraud Plaintiff Kaul of the property rights

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of his reputation by communicating to the public that the Plaintiff was not qualified to perform minimally invasive spine surgery (a materially false representation).

74. In perpetrating the fraudulent scheme, Defendants BCBC/Marino devised and knowingly carried out a scheme purposed to defraud Plaintiff Kaul of the property rights of his reputation by communicating to the public that the Plaintiff had committed insurance fraud (a knowing falsity) and would be indicted.

75. In perpetrating the fraudulent scheme, Defendants BCBC/Marino devised and knowingly carried out a scheme purposed to defraud Plaintiff Kaul of the property rights of his reputation by communicating to the public that the Plaintiff had committed bank fraud (a knowing falsity) and would be indicted.

76. In perpetrating the fraudulent scheme, Defendants BCBC/Marino devised and knowingly carried out a scheme purposed to defraud Plaintiff Kaul of the property rights of his reputation by communicating to Plaintiff Kaul's patients that the Plaintiff was not qualified to perform minimally invasive spine surgery (a materially false representation).

77. In perpetrating the fraudulent scheme, Defendants BCBC/Marino devised and knowingly carried out a scheme purposed to defraud Plaintiff Kaul of the property rights of his reputation by communicating to Plaintiff Kaul's patients that the Plaintiff had committed insurance fraud (a knowing falsity) and would be indicted.

78. In perpetrating the fraudulent scheme, Defendants BCBC/Marino devised and knowingly carried out a scheme purposed to defraud Plaintiff Kaul of the property rights of his reputation by communicating to Plaintiff Kaul's patients that the Plaintiff had committed bank fraud (a knowing falsity) and would be indicted.

79. In perpetrating the fraudulent scheme, Defendants BCBC/Marino devised and knowingly carried out a scheme purposed to defraud Plaintiff Kaul of the property rights

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of his reputation by communicating to Plaintiff Kaul's professional colleagues that the Plaintiff was not qualified to perform minimally invasive spine surgery (a materially false representation).

80. In perpetrating the fraudulent scheme, Defendants BCBC/Marino devised and knowingly carried out a scheme purposed to defraud Plaintiff Kaul of the property rights of his reputation by communicating to Plaintiff Kaul's professional colleagues that the Plaintiff had committed insurance fraud (a knowing falsity) and would be indicted.

81. In perpetrating the fraudulent scheme, Defendants BCBC/Marino devised and knowingly carried out a scheme purposed to defraud Plaintiff Kaul of the property rights of his reputation by communicating to Plaintiff Kaul's professional colleagues that the Plaintiff had committed bank fraud (a knowing falsity) and would be indicted.

82. In perpetrating the fraudulent scheme, Defendants BCBC/Marino devised and knowingly carried out a scheme purposed to defraud Plaintiff Kaul of the property rights of his medical license by communicating to the public that the Plaintiff was not qualified to perform minimally invasive spine surgery (a materially false representation).

83. In perpetrating the fraudulent scheme, Defendants BCBC/Marino devised and knowingly carried out a scheme purposed to defraud Plaintiff Kaul of the property rights of his medical license by communicating to the public that the Plaintiff had committed insurance fraud (a knowing falsity) and would be indicted.

84. In perpetrating the fraudulent scheme, Defendants BCBC/Marino devised and knowingly carried out a scheme purposed to defraud Plaintiff Kaul of the property rights of his medical license by communicating to the public that the Plaintiff had committed bank fraud (a knowing falsity) and would be indicted.

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85. In perpetrating the fraudulent scheme, Defendants BCBC/Marino devised and knowingly carried out a scheme purposed to defraud Plaintiff Kaul of the property rights of his medical license by communicating to Plaintiff Kaul's patients that the Plaintiff was not qualified to perform minimally invasive spine surgery (a materially false representation).

86. In perpetrating the fraudulent scheme, Defendants BCBC/Marino devised and knowingly carried out a scheme purposed to defraud Plaintiff Kaul of the property rights of his medical license by communicating to Plaintiff Kaul's patients that the Plaintiff had committed insurance fraud (a knowing falsity) and would be indicted.

87. In perpetrating the fraudulent scheme, Defendants BCBC/Marino devised and knowingly carried out a scheme purposed to defraud Plaintiff Kaul of the property rights of his medical license by communicating to Plaintiff Kaul's patients that the Plaintiff had committed bank fraud (a knowing falsity) and would be indicted.

88. In perpetrating the fraudulent scheme, Defendants BCBC/Marino devised and knowingly carried out a scheme purposed to defraud Plaintiff Kaul of the property rights of his medical license by communicating to Plaintiff Kaul's professional colleagues that the Plaintiff was not qualified to perform minimally invasive spine surgery (a materially false representation).

89. In perpetrating the fraudulent scheme, Defendants BCBC/Marino devised and knowingly carried out a scheme purposed to defraud Plaintiff Kaul of the property rights of his medical license by communicating to Plaintiff Kaul's professional colleagues that the Plaintiff had committed insurance fraud (a knowing falsity) and would be indicted.

90. In perpetrating the fraudulent scheme, Defendants BCBC/Marino devised and knowingly carried out a scheme purposed to defraud Plaintiff Kaul of the property rights

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of his medical license by communicating to Plaintiff Kaul's professional colleagues that the Plaintiff had committed bank fraud (a knowing falsity) and would be indicted.

91. In perpetrating the fraudulent scheme, Defendants BCBC/Marino devised and knowingly carried out a scheme purposed to defraud Plaintiff Kaul of the property rights of his healthcare business by communicating to the public that the Plaintiff was not qualified to perform minimally invasive spine surgery (a materially false representation).

92. In perpetrating the fraudulent scheme, Defendants BCBC/Marino devised and knowingly carried out a scheme purposed to defraud Plaintiff Kaul of the property rights of his healthcare business by communicating to the public that the Plaintiff had committed insurance fraud (a knowing falsity) and would be indicted.

93. In perpetrating the fraudulent scheme, Defendants BCBC/Marino devised and knowingly carried out a scheme purposed to defraud Plaintiff Kaul of the property rights of his healthcare business by communicating to the public that the Plaintiff had committed bank fraud (a knowing falsity) and would be indicted.

94. In perpetrating the fraudulent scheme, Defendants BCBC/Marino devised and knowingly carried out a scheme purposed to defraud Plaintiff Kaul of the property rights of his healthcare business by communicating to Plaintiff Kaul's patients that the Plaintiff was not qualified to perform minimally invasive spine surgery (a materially false representation).

95. In perpetrating the fraudulent scheme, Defendants BCBC/Marino devised and knowingly carried out a scheme purposed to defraud Plaintiff Kaul of the property rights of his healthcare business by communicating to Plaintiff Kaul's patients that the Plaintiff had committed insurance fraud (a knowing falsity) and would be indicted.

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96. In perpetrating the fraudulent scheme, Defendants BCBC/Marino devised and knowingly carried out a scheme purposed to defraud Plaintiff Kaul of the property rights of his healthcare business by communicating to Plaintiff Kaul's patients that the Plaintiff had committed bank fraud (a knowing falsity) and would be indicted.

97. In perpetrating the fraudulent scheme, Defendants BCBC/Marino devised and knowingly carried out a scheme purposed to defraud Plaintiff Kaul of the property rights of his healthcare business by communicating to Plaintiff Kaul's professional colleagues that the Plaintiff was not qualified to perform minimally invasive spine surgery (a materially false representation).

98. In perpetrating the fraudulent scheme, Defendants BCBC/Marino devised and knowingly carried out a scheme purposed to defraud Plaintiff Kaul of the property rights of his healthcare business by communicating to Plaintiff Kaul's professional colleagues that the Plaintiff had committed insurance fraud (a knowing falsity) and would be indicted.

99. In perpetrating the fraudulent scheme, Defendants BCBC/Marino devised and knowingly carried out a scheme purposed to defraud Plaintiff Kaul of the property rights of his healthcare business by communicating to Plaintiff Kaul's professional colleagues that the Plaintiff had committed bank fraud (a knowing falsity) and would be indicted.

100. Defendants BCBS/Marino did, in the relevant period, with knowing illegality conspire to use the US mail to transmit knowingly fraudulent information to Plaintiff Kaul that he would be renumarated for the pre-certified provision of care to patients with health insurance provided by Defendant BCBS.

101. Defendants BCBS/Marino did, in the relevant period, and with knowing illegality use the US mail to transmit knowingly fraudulent information to Plaintiff Kaul that he would be

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renumerated for the pre-certified provision of care to patients with health insurance provided by Defendant BCBS.

102. In rendering these representations, Defendants BCBS/Marino knew the statements were materially false, consistent with their schemes of theft of service and contractual derogation.

103. In rendering these representations, Defendants BCBS/Marino knew they had no intention of paying Plaintiff Kaul, consistent with their schemes of theft of service and contractual derogation.

104. Defendants Marino/BCBS did, in the relevant period, with knowing illegality conspire to use the US wires to transmit, during phone calls and other digital communications, knowingly fraudulent information to agents of the executive arm of state government that Plaintiff Kaul had committed health insurance fraud.

105. Defendants Marino/BCBS did, in the relevant period, with knowing illegality conspire to use the US wires to transmit, during phone calls and other digital communications, knowingly fraudulent information to agents of the executive arm of federal government that Plaintiff Kaul had committed health insurance fraud.

106. Defendants Marino/BCBS did, in the relevant period, with knowing illegality conspire to use the US wires to transmit, during phone calls and other digital communications, knowingly fraudulent information to agents of the investigative arm of state government that Plaintiff Kaul had committed health insurance fraud.

107. Defendants Marino/BCBS did, in the relevant period, with knowing illegality conspire to use the US wires to transmit, during phone calls and other digital communications, knowingly fraudulent information to agents of the investigative arm of federal government that Plaintiff Kaul had committed health insurance fraud.

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108. Defendants Marino/BCBS did, in the relevant period, with knowing illegality conspire to use the US wires to transmit, during phone calls and other digital communications, knowingly fraudulent information to agents of the prosecutorial arm of state government that Plaintiff Kaul had committed health insurance fraud.

109. Defendants Marino/BCBS did, in the relevant period, with knowing illegality conspire to use the US wires to transmit, during phone calls and other digital communications, knowingly fraudulent information to agents of the prosecutorial arm of federal government that Plaintiff Kaul had committed health insurance fraud.

110. Defendants Marino/BCBS did, in the relevant period, with knowing illegality conspire to use the US wires to transmit, during phone calls and other digital communications, knowingly fraudulent information to agents of the adjudicative arm of state government that Plaintiff Kaul had committed health insurance fraud.

111. Defendants Marino/BCBS did, in the relevant period, with knowing illegality conspire to use the US wires to transmit, during phone calls and other digital communications, knowingly fraudulent information to agents of the adjudicative arm of federal government that Plaintiff Kaul had committed health insurance fraud.

112. The purpose of the Defendants BCBS/Marino's scheme was to have Plaintiff Kaul's license revoked, in order to eradicate their debt to Plaintiff Kaul.

113. The purpose of Defendants BCBS/Marino's scheme was to have Plaintiff Kaul's license revoked in order to eliminate the competition he presented to their commercial agenda.

114. The purpose of the Defendants BCBS/Marino's scheme was to have Plaintiff Kaul's reputation destroyed, in order to eradicate their debt to Plaintiff Kaul.

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115. The purpose of Defendants BCBS/Marino's scheme was to have Plaintiff Kaul's reputation destroyed in order to eliminate the competition he presented to their commercial agenda.

116. The purpose of the Defendants BCBS/Marino's scheme was to have Plaintiff Kaul's economic standing destroyed in order to eradicate their debt to Plaintiff Kaul.

117. The purpose of Defendants BCBS/Marino's scheme was to have Plaintiff Kaul's economic standing destroyed in order to eliminate the competition he presented to their commercial agenda.

118. The purpose of the Defendants BCBS/Marino's scheme was to have Plaintiff Kaul ostracized in order to eradicate their debt to Plaintiff Kaul.

119. The purpose of Defendants BCBS/Marino's scheme was to have Plaintiff Kaul's ostracized in order to eliminate the competition he presented to their commercial agenda.

120. The purpose of the Defendants BCBS/Marino's scheme was to have Plaintiff Kaul indicted in order to eradicate their debt to Plaintiff Kaul.

121. The purpose of Defendants BCBS/Marino's scheme was to have Plaintiff Kaul indicted in order to eliminate the competition he presented to their commercial agenda.

122. The purpose of the Defendants BCBS/Marino's scheme was to have Plaintiff Kaul incarcerated in order to eradicate their debt to Plaintiff Kaul.

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123. The purpose of Defendants BCBS/Marino's scheme was to have Plaintiff Kaul incarcerated in order to eliminate the competition he presented to their commercial agenda.

124. The purpose of the Defendants BCBS/Marino's scheme was to have Plaintiff Kaul leave the United States in order to eradicate their debt to Plaintiff Kaul.

125. The purpose of Defendants BCBS/Marino's scheme was to have Plaintiff Kaul leave the United States in order to eliminate the competition he presented to their commercial agenda.

126. The purpose of the Defendants BCBS/Marino's scheme was to have Plaintiff Kaul be deported in order to eradicate their debt to Plaintiff Kaul.

127. The purpose of Defendants BCBS/Marino's scheme was to have Plaintiff Kaul be deported in order to eliminate the competition he presented to their commercial agenda.

128. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US mail to perpetrate the scheme to bribe Defendant Christie, in order to have him order the medical board revoke Plaintiff Kaul's license.

129. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US wires to perpetrate the scheme to bribe Defendant Christie, in order to have him order the medical board revoke Plaintiff Kaul's license.

130. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US mail to perpetrate the scheme to bribe Defendant Christie, in order to have Plaintiff Kaul indicted.

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131. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US wires to perpetrate the scheme to bribe Defendant Christie, in order to have Plaintiff Kaul indicted.

132. In the communications of the scheme, Defendants BCBS/Marino discussed with third-party state actors their use of the US mail to perpetrate the scheme to bribe Defendant Christie, in order to have him order the medical board revoke Plaintiff Kaul's license.

133. In the communications of the scheme, Defendants BCBS/Marino discussed with third-party state actors their use of the US wires to perpetrate the scheme to bribe Defendant Christie, in order to have him order the medical board revoke Plaintiff Kaul's license.

134. In the communications of the scheme, Defendants BCBS/Marino discussed with third-party state actors their use of the US mail to perpetrate the scheme to bribe Defendant Christie, in order to have Plaintiff Kaul indicted.

135. In the communications of the scheme, Defendants BCBS/Marino discussed with third-party state actors their use of the US wires to perpetrate the scheme to bribe Defendant Christie, in order to have Plaintiff Kaul indicted.

136. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US mail to perpetrate the scheme to use of law firms to funnel bribes to Christie to have revoked Plaintiff Kaul's license as part of a quid pro quo scheme.

137. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US mail to perpetrate the scheme to use of public relations.

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firms to funnel bribes to Christie to have revoked Plaintiff Kaul's license as part of a quid pro quo scheme.

138. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US mail to perpetrate the scheme to use of law firms to funnel bribes to Christie to have Plaintiff Kaul's reputation destroyed as part of a quid pro quo scheme.

139. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US mail to perpetrate the scheme to use of public relations firms to funnel bribes to Christie to have Plaintiff Kaul's reputation destroyed as part of a quid pro quo scheme.

140. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US mail to perpetrate the scheme to use of law firms to funnel bribes to Christie to have Plaintiff Kaul leave the United States as part of a quid pro quo scheme.

141. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US mail to perpetrate the scheme to use public relations firms to funnel bribes to Christie to have Plaintiff Kaul leave the United States as part of a quid pro quo scheme.

142. In the communications of the scheme, Defendants BCBS/Marino discussed with third-party state actors their use of the US mail to perpetrate the scheme to use of law firms to funnel bribes to Christie to have revoked Plaintiff Kaul's license as part of a quid pro quo scheme.

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143. In the communications of the scheme, Defendants BCBS/Marino discussed with third-party state actors their use of the US mail to perpetrate the scheme to use of public relations firms to funnel bribes to Christie to have revoked Plaintiff Kaul's license as part of a quid pro quo scheme.

144. In the communications of the scheme, Defendants BCBS/Marino discussed with third-party state actors their use of the US mail to perpetrate the scheme to use of law firms to funnel bribes to Christie to have Plaintiff Kaul's reputation destroyed as part of a quid pro quo scheme.

145. In the communications of the scheme, Defendants BCBS/Marino discussed with third-party state actors their use of the US mail to perpetrate the scheme to use of public relations firms to funnel bribes to Christie to have Plaintiff Kaul's reputation destroyed as part of a quid pro quo scheme.

146. In the communications of the scheme, Defendants BCBS/Marino discussed with third-party state actors their use of the US mail to perpetrate the scheme to use of law firms to funnel bribes to Christie to have Plaintiff Kaul leave the United States as part of a quid pro quo scheme.

147. In the communications of the scheme, Defendants BCBS/Marino discussed with third-party state actors their use of the US mail to perpetrate the scheme to use public relations firms to funnel bribes to Christie to have Plaintiff Kaul leave the United States as part of a quid pro quo scheme.

148. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US wires to perpetrate the scheme to use of law firms to funnel bribes to Christie to have revoked Plaintiff Kaul's license as part of a quid pro quo scheme.

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149. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US wires to perpetrate the scheme to use of public relations firms to funnel bribes to Christie to have revoked Plaintiff Kaul's license as part of a quid pro quo scheme.

150. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US wires to perpetrate the scheme to use of law firms to funnel bribes to Christie to have Plaintiff Kaul's reputation destroyed as part of a quid pro quo scheme.

151. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US wires to perpetrate the scheme to use of public relations firms to funnel bribes to Christie to have Plaintiff Kaul's reputation destroyed as part of a quid pro quo scheme.

152. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US wires to perpetrate the scheme to use of law firms to funnel bribes to Christie to have Plaintiff Kaul leave the United States as part of a quid pro quo scheme.

153. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US wires to perpetrate the scheme to use public relations firms to funnel bribes to Christie to have Plaintiff Kaul leave the United States as part of a quid pro quo scheme.

154. In the communications of the scheme, Defendants BCBS/Marino discussed with third-party state actors their use of the US wires to perpetrate the scheme to use of law firms to funnel bribes to Christie to have revoked Plaintiff Kaul's license as part of a quid pro quo scheme.

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155. In the communications of the scheme, Defendants BCBS/Marino discussed with third-party state actors their use of the US wires to perpetrate the scheme to use of public relations firms to funnel bribes to Christie to have revoked Plaintiff Kaul's license as part of a quid pro quo scheme.

156. In the communications of the scheme, Defendants BCBS/Marino discussed with third-party state actors their use of the US wires to perpetrate the scheme to use of law firms to funnel bribes to Christie to have Plaintiff Kaul's reputation destroyed as part of a quid pro quo scheme.

157. In the communications of the scheme, Defendants BCBS/Marino discussed with third-party state actors their use of the US wires to perpetrate the scheme to use of public relations firms to funnel bribes to Christie to have Plaintiff Kaul's reputation destroyed as part of a quid pro quo scheme.

158. In the communications of the scheme, Defendants BCBS/Marino discussed with third-party state actors their use of the US wires to perpetrate the scheme to use of law firms to funnel bribes to Christie to have Plaintiff Kaul leave the United States as part of a quid pro quo scheme.

159. In the communications of the scheme, Defendants BCBS/Marino discussed with third-party state actors their use of the US wires to perpetrate the scheme to use public relations firms to funnel bribes to Christie to have Plaintiff Kaul leave the United States as part of a quid pro quo scheme.

160. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US mail to exchange with New Jersey state politicians details of the illegal scheme to have revoked Plaintiff Kaul's license.

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161. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US wires to exchange with New Jersey state politicians details of the illegal scheme to have revoked Plaintiff Kaul's license.

162. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US mail to exchange with New Jersey state politicians details of the illegal scheme to have Plaintiff Kaul indicted.

163. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US wires to exchange with New Jersey state politicians details of the illegal scheme to have Plaintiff Kaul indicted.

164. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US mail to exchange with New Jersey state politicians details of the illegal scheme to have Plaintiff Kaul incarcerated.

165. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US wires to exchange with New Jersey state politicians details of the illegal scheme to have Plaintiff Kaul incarcerated.

166. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US mail to exchange with New Jersey federal politicians details of the illegal scheme to have revoked Plaintiff Kaul's license.

167. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US wires to exchange with New Jersey federal politicians details of the illegal scheme to have revoked Plaintiff Kaul's license.

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168. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US mail to exchange with New Jersey federal politicians' details of the illegal scheme to have Plaintiff Kaul indicted.

169. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US wires to exchange with New Jersey federal politicians' details of the illegal scheme to have Plaintiff Kaul indicted.

170. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US mail to exchange with New Jersey federal politicians' details of the illegal scheme to have Plaintiff Kaul incarcerated.

171. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US wires to exchange with New Jersey federal politicians' details of the illegal scheme to have Plaintiff Kaul incarcerated.

172. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US mail to exchange with New Jersey state prosecutors' details of the illegal scheme to have revoked Plaintiff Kaul's license.

173. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US wires to exchange with New Jersey state prosecutors' details of the illegal scheme to have revoked Plaintiff Kaul's license.

174. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US mail to exchange with New Jersey state prosecutors' details of the illegal scheme to have Plaintiff Kaul indicted.

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175. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US wires to exchange with New Jersey state prosecutors details of the illegal scheme to have Plaintiff Kaul indicted.

176. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US mail to exchange with New Jersey state prosecutors details of the illegal scheme to have Plaintiff Kaul incarcerated.

177. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US wires to exchange with New Jersey state prosecutors details of the illegal scheme to have Plaintiff Kaul incarcerated.

178. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US mail to exchange with New Jersey federal prosecutors details of the illegal scheme to have revoked Plaintiff Kaul's license.

179. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US wires to exchange with New Jersey federal prosecutors details of the illegal scheme to have revoked Plaintiff Kaul's license.

180. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US mail to exchange with New Jersey federal prosecutors details of the illegal scheme to have Plaintiff Kaul indicted.

181. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US wires to exchange with New Jersey federal prosecutors details of the illegal scheme to have Plaintiff Kaul indicted.

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182. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US mail to exchange with New Jersey federal prosecutors details of the illegal scheme to have Plaintiff Kaul incarcerated.

183. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US wires to exchange with New Jersey federal prosecutors details of the illegal scheme to have Plaintiff Kaul incarcerated.

184. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US mail to exchange with New Jersey state investigators details of the illegal scheme to have revoked Plaintiff Kaul's license.

185. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US wires to exchange with New Jersey state investigators details of the illegal scheme to have revoked Plaintiff Kaul's license.

186. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US mail to exchange with New Jersey state investigators details of the illegal scheme to have Plaintiff Kaul indicted.

187. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US wires to exchange with New Jersey state investigators details of the illegal scheme to have Plaintiff Kaul indicted.

188. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US mail to exchange with New Jersey state investigators details of the illegal scheme to have Plaintiff Kaul incarcerated.

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189. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US wires to exchange with New Jersey state investigators details of the illegal scheme to have Plaintiff Kaul incarcerated.

190. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US mail to exchange with New Jersey federal investigators details of the illegal scheme to have revoked Plaintiff Kaul's license.

191. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US wires to exchange with New Jersey federal investigators details of the illegal scheme to have revoked Plaintiff Kaul's license.

192. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US mail to exchange with New Jersey federal investigators details of the illegal scheme to have Plaintiff Kaul indicted.

193. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US wires to exchange with New Jersey federal investigators details of the illegal scheme to have Plaintiff Kaul indicted.

194. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US mail to exchange with New Jersey federal investigators details of the illegal scheme to have Plaintiff Kaul incarcerated.

195. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US wires to exchange with New Jersey federal investigators details of the illegal scheme to have Plaintiff Kaul incarcerated.

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196. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US mail to file knowingly false complaints against Plaintiff Kaul with the medical board to have the medical board revoke Plaintiff Kaul's license.

197. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US wires to file knowingly false complaints against Plaintiff Kaul with the medical board to have the medical board revoke Plaintiff Kaul's license.

198. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US mail to file knowingly false complaints against Plaintiff Kaul with the medical board to have the medical board revoke Plaintiff Kaul's license.

199. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US wires to file knowingly false complaints against Plaintiff Kaul with the medical board to have the medical board revoke Plaintiff Kaul's license.

200. In the communications of the scheme, Defendants BCBS/Marino discussed with third-party state actors their use of the US mail to file knowingly false complaints against Plaintiff Kaul with the medical board to have the medical board revoke Plaintiff Kaul's license.

201. In the communications of the scheme, Defendants BCBS/Marino discussed with third-party state actors their use of the US wires to file knowingly false complaints against Plaintiff Kaul with the medical board to have the medical board revoke Plaintiff Kaul's license.

202. In the communications of the scheme, Defendants BCBS/Marino discussed with third-party state actors their use of the US mail to file knowingly false complaints

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against Plaintiff Kaul with the medical board to have the medical board revoke Plaintiff Kaul's license.

203. In the communications of the scheme, Defendants BCBS/Marino discussed with third-party state actors their use of the US wires to file knowingly false complaints against Plaintiff Kaul with the medical board to have the medical board revoke Plaintiff Kaul's license.

204. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US mail to send patients letters encouraging them to file frivolous lawsuits against Plaintiff Kaul

205. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US wires to send patients letters encouraging them to file frivolous lawsuits against Plaintiff Kaul

206. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US mail to send patients letters encouraging them to file frivolous lawsuits against Plaintiff Kaul

207. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US wires to send patients letters encouraging them to file frivolous lawsuits against Plaintiff Kaul

208. In the communications of the scheme, Defendants BCBS/Marino discussed with third-party state actors their use of the US mail to send patients letters encouraging them to file frivolous lawsuits against Plaintiff Kaul

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209. In the communications of the scheme, Defendants BCBS/Marino discussed with third-party state actors their use of the US wires to send patients letters encouraging them to file frivolous lawsuits against Plaintiff Kaul

209. In the communications of the scheme, Defendants BCBS/Marino discussed with third-party state actors their use of the US mail to send patients letters encouraging them to file frivolous lawsuits against Plaintiff Kaul

210. In the communications of the scheme, Defendants BCBS/Marino discussed with third-party state actors their use of the US wires to send patients letters encouraging them to file frivolous lawsuits against Plaintiff Kaul

211. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US mail to communicate false information to patients, that he was not qualified to perform minimally invasive spine surgery.

212. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US wires to communicate false information to patients, that he was not qualified to perform minimally invasive spine surgery.

213. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US mail to communicate false information to patients, that he was not qualified to perform minimally invasive spine surgery.

214. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US wires to communicate false information to patients, that he was not qualified to perform minimally invasive spine surgery.

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215. In the communications of the scheme, Defendants BCBS/Marino discussed with third-party state actors their use of the US mail to communicate false information to patients, that he was not qualified to perform minimally invasive spine surgery.

216. In the communications of the scheme, Defendants BCBS/Marino discussed with third-party state actors their use of the US wires to communicate false information to patients, that he was not qualified to perform minimally invasive spine surgery.

217. In the communications of the scheme, Defendants BCBS/Marino discussed with third-party state actors their use of the US mail to communicate false information to patients, that he was not qualified to perform minimally invasive spine surgery.

218. In the communications of the scheme, Defendants BCBS/Marino discussed with third-party state actors their use of the US wires to communicate false information to patients, that he was not qualified to perform minimally invasive spine surgery.

219. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US mail to send false information to personal injury lawyers that Kaul was not qualified to perform minimally invasive spine surgery, had committed insurance fraud, that his accounts receivable could not be collected and that the legal cases had no monetary value.

220. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US wires to send false information to personal injury lawyers that Kaul was not qualified to perform minimally invasive spine surgery, had committed insurance fraud, that his accounts receivable could not be collected and that the legal cases had no monetary value.

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221. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US mail to send false information to personal injury lawyers that Kaul was not qualified to perform minimally invasive spine surgery, had committed insurance fraud, that his accounts receivable could not be collected and that the legal cases had no monetary value.

222. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US wires to send false information to personal injury lawyers that Kaul was not qualified to perform minimally invasive spine surgery, had committed insurance fraud, that his accounts receivable could not be collected and that the legal cases had no monetary value.

223. In the communications of the scheme, Defendants BCBS/Marino discussed with third-party state actors their use of the US mail to send false information to personal injury lawyers that Kaul was not qualified to perform minimally invasive spine surgery, had committed insurance fraud, that his accounts receivable could not be collected and that the legal cases had no monetary value.

224. In the communications of the scheme, Defendants BCBS/Marino discussed with third-party state actors their use of the US wires to send false information to personal injury lawyers that Kaul was not qualified to perform minimally invasive spine surgery, had committed insurance fraud, that his accounts receivable could not be collected and that the legal cases had no monetary value.

225. In the communications of the scheme, Defendants BCBS/Marino discussed with third-party state actors their use of the US mail to send false information to personal injury lawyers that Kaul was not qualified to perform minimally invasive spine surgery, had committed insurance fraud, that his accounts receivable could not be collected and that the legal cases had no monetary value.

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226. In the communications of the scheme, Defendants BCBS/Marino discussed with third-party state actors their use of the US wires to send false information to personal injury lawyers that Kaul was not qualified to perform minimally invasive spine surgery, had committed insurance fraud, that his accounts receivable could not be collected and that the legal cases had no monetary value.

227. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US mail to send false information to New Jersey politicians, encouraging them, with the promise of political campaign 'donations' to coerce the medical board/state prosecutors to have Kaul's license revoked and have him indicted.

228. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US wires to send false information to New Jersey politicians, encouraging them, with the promise of political campaign 'donations' to coerce the medical board/state prosecutors to have Kaul's license revoked and have him indicted.

229. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US mail to send false information to New Jersey politicians, encouraging them, with the promise of political campaign 'donations' to coerce the medical board/state prosecutors to have Kaul's license revoked and have him indicted.

230. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US wires to send false information to New Jersey politicians, encouraging them, with the promise of political campaign 'donations' to coerce the medical board/state prosecutors to have Kaul's license revoked and have him indicted.

231. In the communications of the scheme, Defendants BCBS/Marino discussed with third-party state actors their use of the US mail to send false information to New Jersey politicians, encouraging them, with the promise of political campaign 'donations' to

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coerce the medical board/state prosecutors to have Kaul's license revoked and have him indicted.

232. In the communications of the scheme, Defendants BCBS/Marino discussed with third-party state actors their use of the US wires to send false information to New Jersey politicians, encouraging them, with the promise of political campaign 'donations' to coerce the medical board/state prosecutors to have Kaul's license revoked and have him indicted.

233. In the communications of the scheme, Defendants BCBS/Marino discussed with third-party state actors their use of the US mail to send false information to New Jersey politicians, encouraging them, with the promise of political campaign 'donations' to coerce the medical board/state prosecutors to have Kaul's license revoked and have him indicted.

234. In the communications of the scheme, Defendants BCBS/Marino discussed with third-party state actors their use of the US wires to send false information to New Jersey politicians, encouraging them, with the promise of political campaign 'donations' to coerce the medical board/state prosecutors to have Kaul's license revoked and have him indicted.

235. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US mail to transmit letters, emails and other materials indicating that the Defendants co-conspirator lawyers/physicians had been instructed to inform their colleague not to support Plaintiff Kaul in any litigation, in any form, be it financial and or professional.

236. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US wires to transmit letters, emails and other materials

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indicating that the Defendants co-conspirator lawyers/physicians had been instructed to inform their colleague not to support Plaintiff Kaul in any litigation, in any form, be it financial and or professional.

237. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US mail to transmit letters, emails and other materials indicating that the Defendants co-conspirator lawyers/physicians had been instructed to inform their colleague not to support Plaintiff Kaul in any litigation, in any form, be it financial and or professional.

238. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US wires to transmit letters, emails and other materials indicating that the Defendants co-conspirator lawyers/physicians had been instructed to inform their colleague not to support Plaintiff Kaul in any litigation, in any form, be it financial and or professional.

239. In the communications of the scheme, Defendants BCBS/Marino discussed with third-party state actors their use of the US mail to transmit letters, emails and other materials indicating that the Defendants co-conspirator lawyers/physicians had been instructed to inform their colleague not to support Plaintiff Kaul in any litigation, in any form, be it financial and or professional.

240. In the communications of the scheme, Defendants BCBS/Marino discussed with third-party state actors their use of the US wires to transmit letters, emails and other materials indicating that the Defendants co-conspirator lawyers/physicians had been instructed to inform their colleague not to support Plaintiff Kaul in any litigation, in any form, be it financial and or professional.

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241. In the communications of the scheme, Defendants BCBS/Marino discussed with third-party state actors their use of the US mail to transmit letters, emails and other materials indicating that the Defendants co-conspirator lawyers/physicians had been instructed to inform their colleague not to support Plaintiff Kaul in any litigation, in any form, be it financial and or professional.

242. In the communications of the scheme, Defendants BCBS/Marino discussed with third-party state actors their use of the US wires to transmit letters, emails and other materials indicating that the Defendants co-conspirator lawyers/physicians had been instructed to inform their colleague not to support Plaintiff Kaul in any litigation, in any form, be it financial and or professional.

243. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US mail to disseminate written, telephone, or electronic communications regarding the knowingly fraudulent events surrounding the revocation and indictment investigations, in order to ostracize Plaintiff Kaul.

244. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US wires to disseminate written, telephone, or electronic communications regarding the knowingly fraudulent events surrounding the revocation and indictment investigations, in order to ostracize Plaintiff Kaul.

245. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US mail to disseminate written, telephone, or electronic communications regarding the knowingly fraudulent events surrounding the revocation and indictment investigations, in order to ostracize Plaintiff Kaul.

246. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US wires to disseminate written, telephone, or electronic

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communications regarding the knowingly fraudulent events surrounding the revocation and indictment investigations, in order to ostracize Plaintiff Kaul.

247. In the communications of the scheme, Defendants BCBS/Marino discussed with third-party state actors their use of the US mail to disseminate written, telephone, or electronic communications regarding the knowingly fraudulent events surrounding the revocation and indictment investigations, in order to ostracize Plaintiff Kaul.

248. In the communications of the scheme, Defendants BCBS/Marino discussed with third-party state actors their use of the US wires to disseminate written, telephone, or electronic communications regarding the knowingly fraudulent events surrounding the revocation and indictment investigations, in order to ostracize Plaintiff Kaul.

249. In the communications of the scheme, Defendants BCBS/Marino discussed with third-party state actors their use of the US mail to disseminate written, telephone, or electronic communications regarding the knowingly fraudulent events surrounding the revocation and indictment investigations, in order to ostracize Plaintiff Kaul.

250. In the communications of the scheme, Defendants BCBS/Marino discussed with third-party state actors their use of the US wires to disseminate written, telephone, or electronic communications regarding the knowingly fraudulent events surrounding the revocation and indictment investigations, in order to ostracize Plaintiff Kaul.

251. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US mail to disseminate written, telephone, or electronic communications regarding the knowingly fraudulent events surrounding the revocation and indictment investigations, in order to ostracize Plaintiff Kaul.

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252. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US wires to disseminate written, telephone, or electronic communications regarding the knowingly fraudulent events surrounding the revocation and indictment investigations, in order to ostracize Plaintiff Kaul.

253. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US mail to disseminate written, telephone, or electronic communications regarding the knowingly fraudulent events surrounding the revocation and indictment investigations, in order to ostracize Plaintiff Kaul.

254. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US wires to disseminate written, telephone, or electronic communications regarding the knowingly fraudulent events surrounding the revocation and indictment investigations, in order to ostracize Plaintiff Kaul.

255. In the communications of the scheme, Defendants BCBS/Marino discussed with third-party state actors their use of the US mail to disseminate written, telephone, or electronic communications regarding the knowingly fraudulent events surrounding the revocation and indictment investigations, in order to ostracize Plaintiff Kaul.

256. In the communications of the scheme, Defendants BCBS/Marino discussed with third-party state actors their use of the US wires to disseminate written, telephone, or electronic communications regarding the knowingly fraudulent events surrounding the revocation and indictment investigations, in order to ostracize Plaintiff Kaul.

257. In the communications of the scheme, Defendants BCBS/Marino discussed with third-party state actors their use of the US mail to disseminate written, telephone, or electronic communications regarding the knowingly fraudulent events surrounding the revocation and indictment investigations, in order to ostracize Plaintiff Kaul.

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258. In the communications of the scheme, Defendants BCBS/Marino discussed with third-party state actors their use of the US wires to disseminate written, telephone, or electronic communications regarding the knowingly fraudulent events surrounding the revocation and indictment investigations, in order to ostracize Plaintiff Kaul.

259. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US mail to collect the increased revenues that flowed from the illegal elimination of Plaintiff Kaul from the practice of medicine.

260. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US wires to collect the increased revenues that flowed from the illegal elimination of Plaintiff Kaul from the practice of medicine.

261. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US mail to collect the increased revenues that flowed from the illegal elimination of Plaintiff Kaul from the practice of medicine.

262. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US wires to collect the increased revenues that flowed from the illegal elimination of Plaintiff Kaul from the practice of medicine.

263. In the communications of the scheme, Defendants BCBS/Marino discussed with third-party state actors their use of the US mail to collect the increased revenues that flowed from the illegal elimination of Plaintiff Kaul from the practice of medicine.

264. In the communications of the scheme, Defendants BCBS/Marino discussed with third-party state actors their use of the US wires to collect the increased revenues that flowed from the illegal elimination of Plaintiff Kaul from the practice of medicine.

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265. In the communications of the scheme, Defendants BCBS/Marino discussed with third-party state actors their use of the US mail to collect the increased revenues that flowed from the illegal elimination of Plaintiff Kaul from the practice of medicine.

266. In the communications of the scheme, Defendants BCBS/Marino discussed with third-party state actors their use of the US wires to collect the increased revenues that flowed from the illegal elimination of Plaintiff Kaul from the practice of medicine.

267. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US mail to transmit information in furtherance of their scheme of converting the United States Bankruptcy Court into a racketeering enterprise.

268. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US wires to transmit information in furtherance of their scheme of converting the United States Bankruptcy Court into a racketeering enterprise.

269. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US mail to transmit information in furtherance of their scheme of converting the United States Bankruptcy Court into a racketeering enterprise.

270. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US wires to transmit information in furtherance of their scheme of converting the United States Bankruptcy Court into a racketeering enterprise.

271. In the communications of the scheme, Defendants BCBS/Marino discussed with third-party state actors their use of the US mail to transmit information in furtherance of their scheme of converting the United States Bankruptcy Court into a racketeering enterprise.

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272. In the communications of the scheme, Defendants BCBS/Marino discussed with third-party state actors their use of the US wires to transmit information in furtherance of their scheme of converting the United States Bankruptcy Court into a racketeering enterprise.

273. In the communications of the scheme, Defendants BCBS/Marino discussed with third-party state actors their use of the US mail to transmit information in furtherance of their scheme of converting the United States Bankruptcy Court into a racketeering enterprise.

274. In the communications of the scheme, Defendants BCBS/Marino discussed with third-party state actors their use of the US wires to transmit information in furtherance of their scheme of converting the United States Bankruptcy Court into a racketeering enterprise.

275. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US mail to transmit false information that Plaintiff Kaul had committed insurance/bank fraud, was not qualified to perform minimally invasive spine surgery.

276. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US wires to transmit false information that Plaintiff Kaul had committed insurance/bank fraud, was not qualified to perform minimally invasive spine surgery.

277. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US mail to transmit false information that Plaintiff Kaul had committed insurance/bank fraud, was not qualified to perform minimally invasive spine surgery.

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278. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US wires to transmit false information that Plaintiff Kaul had committed insurance/bank fraud, was not qualified to perform minimally invasive spine surgery.

279. In the communications of the scheme, Defendants BCBS/Marino discussed with third-party state actors their use of the US mail to transmit false information that Plaintiff Kaul had committed insurance/bank fraud, was not qualified to perform minimally invasive spine surgery.

280. In the communications of the scheme, Defendants BCBS/Marino discussed with third-party state actors their use of the US wires to transmit false information that Plaintiff Kaul had committed insurance/bank fraud, was not qualified to perform minimally invasive spine surgery.

281. In the communications of the scheme, Defendants BCBS/Marino discussed with third-party state actors their use of the US mail to transmit false information that Plaintiff Kaul had committed insurance/bank fraud, was not qualified to perform minimally invasive spine surgery.

282. In the communications of the scheme, Defendants BCBS/Marino discussed with third-party state actors their use of the US wires to transmit false information that Plaintiff Kaul had committed insurance/bank fraud, was not qualified to perform minimally invasive spine surgery.

283. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US mail to discuss their acts of obstruction of justice and evidence tampering ('The Solomon Critique' + 'The Solomon Critique 2') in Plaintiff Kaul's licensing proceedings.

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284. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US mail to discuss their acts of obstruction of justice and evidence tampering ('The Solomon Critique' + 'The Solomon Critique 2') in Plaintiff Kaul's licensing proceedings.

285. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US mail to discuss their acts of obstruction of justice and evidence tampering ('The Solomon Critique' + 'The Solomon Critique 2') in Plaintiff Kaul's licensing proceedings.

286. In the communications of the scheme, Defendants BCBS/Marino discussed with each other their use of the US mail to discuss their acts of obstruction of justice and evidence tampering ('The Solomon Critique' + 'The Solomon Critique 2') in Plaintiff Kaul's licensing proceedings.

287. In the communications of the scheme, Defendants BCBS/Marino discussed with third-party state actors their use of the US mail to discuss their acts of obstruction of justice and evidence tampering ('The Solomon Critique' + 'The Solomon Critique 2') in Plaintiff Kaul's licensing proceedings.

288. In the communications of the scheme, Defendants BCBS/Marino discussed with third-party state actors their use of the US mail to discuss their acts of obstruction of justice and evidence tampering ('The Solomon Critique' + 'The Solomon Critique 2') in Plaintiff Kaul's licensing proceedings.

289. In the communications of the scheme, Defendants BCBS/Marino discussed with third-party state actors their use of the US mail to discuss their acts of obstruction of justice and evidence tampering ('The Solomon Critique' + 'The Solomon Critique 2') in Plaintiff Kaul's licensing proceedings.

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290. In the communications of the scheme, Defendants BCBS/Marino discussed with third-party state actors their use of the US mail to discuss their acts of obstruction of justice and evidence tampering ('The Solomon Critique' + 'The Solomon Critique 2') in Plaintiff Kaul's licensing proceedings.

291. In furthering their fraudulent scheme/seeking to cause ongoing injury to Plaintiff Kaul, Defendants BCBS/Marino did transmit over the US wires, information pertaining to the illegal revocation to the public in furtherance of their scheme to attempt to destroy Plaintiff Kaul's reputation globally.

292. In furthering their fraudulent scheme/seeking to cause ongoing injury to Plaintiff Kaul, Defendants BCBS/Marino did transmit over the US wires, information pertaining to the illegal revocation to the public in furtherance of their scheme to attempt to destroy Plaintiff Kaul's livelihood globally.

293. In furthering their fraudulent scheme/seeking to cause ongoing injury to Plaintiff Kaul, Defendants BCBS/Marino did transmit over the US wires, information pertaining to the illegal revocation to the public in furtherance of their scheme to attempt to destroy Plaintiff Kaul's economic standing globally.

294. In furthering their fraudulent scheme/seeking to cause ongoing injury to Plaintiff Kaul, Defendants BCBS/Marino did transmit over the US wires, information pertaining to the illegal revocation to the public in furtherance of their scheme to attempt to destroy Plaintiff Kaul's ability to obtain a medical license anywhere in the world.

295. In furthering their fraudulent scheme/seeking to cause ongoing injury to Plaintiff Kaul, Defendants BCBS/Marino did transmit over the US wires, information pertaining to the illegal revocation to the public in furtherance of their scheme to attempt to destroy Plaintiff Kaul's ability to obtain any form of employment.

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296. In furthering their fraudulent scheme/seeking to cause ongoing injury to Plaintiff Kaul, Defendants BCBS/Marino did transmit over the US wires, information pertaining to the illegal revocation to domestic healthcare regulators in furtherance of their scheme to attempt to destroy Plaintiff Kaul's reputation globally.

297. In furthering their fraudulent scheme/seeking to cause ongoing injury to Plaintiff Kaul, Defendants BCBS/Marino did transmit over the US wires, information pertaining to the illegal revocation to domestic health care regulators in furtherance of their scheme to attempt to destroy Plaintiff Kaul's livelihood globally.

298. In furthering their fraudulent scheme/seeking to cause ongoing injury to Plaintiff Kaul, Defendants BCBS/Marino did transmit over the US wires, information pertaining to the illegal revocation to domestic health care regulators in furtherance of their scheme to attempt to destroy Plaintiff Kaul's economic standing globally.

299. In furthering their fraudulent scheme/seeking to cause ongoing injury to Plaintiff Kaul, Defendants BCBS/Marino did transmit over the US wires, information pertaining to the illegal revocation to domestic health care regulators in furtherance of their scheme to attempt to destroy Plaintiff Kaul's ability to obtain a medical license anywhere in the world.

300. In furthering their fraudulent scheme/seeking to cause ongoing injury to Plaintiff Kaul, Defendants BCBS/Marino did transmit over the US wires, information pertaining to the illegal revocation to domestic health care regulators in furtherance of their scheme to attempt to destroy Plaintiff Kaul's ability to obtain any form of employment.

301. In furthering their fraudulent scheme/seeking to cause ongoing injury to Plaintiff Kaul, Defendants BCBS/Marino did transmit over the US wires, information pertaining to

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the illegal revocation to international healthcare regulators in furtherance of their scheme to attempt to destroy Plaintiff Kaul's reputation globally.

302. In furthering their fraudulent scheme/seeking to cause ongoing injury to Plaintiff Kaul, Defendants BCBS/Marino did transmit over the US wires, information pertaining to the illegal revocation to international healthcare regulators in furtherance of their scheme to attempt to destroy Plaintiff Kaul's livelihood globally.

303. In furthering their fraudulent scheme/seeking to cause ongoing injury to Plaintiff Kaul, Defendants BCBS/Marino did transmit over the US wires, information pertaining to the illegal revocation to international healthcare regulators in furtherance of their scheme to attempt to destroy Plaintiff Kaul's economic standing globally.

304. In furthering their fraudulent scheme/seeking to cause ongoing injury to Plaintiff Kaul, Defendants BCBS/Marino did transmit over the US wires, information pertaining to the illegal revocation to international healthcare regulators in furtherance of their scheme to attempt to destroy Plaintiff Kaul's ability to obtain a medical license anywhere in the world.

305. In furthering their fraudulent scheme/seeking to cause ongoing injury to Plaintiff Kaul, Defendants BCBS/Marino did transmit over the US wires, information pertaining to the illegal revocation to international healthcare regulators in furtherance of their scheme to attempt to destroy Plaintiff Kaul's ability to obtain any form of employment.

306. In furthering their fraudulent scheme/seeking to cause ongoing injury to Plaintiff Kaul, Defendants BCBS/Marino did transmit over the US wires, information pertaining to the indictment investigations to the public in furtherance of their scheme to attempt to destroy Plaintiff Kaul's reputation globally.

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307. In furthering their fraudulent scheme/seeking to cause ongoing injury to Plaintiff Kaul, Defendants BCBS/Marino did transmit over the US wires, information pertaining to the indictment investigations to the public in furtherance of their scheme to attempt to destroy Plaintiff Kaul's livelihood globally.

308. In furthering their fraudulent scheme/seeking to cause ongoing injury to Plaintiff Kaul, Defendants BCBS/Marino did transmit over the US wires, information pertaining to the indictment investigations to the public in furtherance of their scheme to attempt to destroy Plaintiff Kaul's economic standing globally.

309. In furthering their fraudulent scheme/seeking to cause ongoing injury to Plaintiff Kaul, Defendants BCBS/Marino did transmit over the US wires, information pertaining to the indictment investigations to the public in furtherance of their scheme to attempt to destroy Plaintiff Kaul's ability to obtain a medical license anywhere in the world.

310. In furthering their fraudulent scheme/seeking to cause ongoing injury to Plaintiff Kaul, Defendants BCBS/Marino did transmit over the US wires, information pertaining to the indictment investigations to the public in furtherance of their scheme to attempt to destroy Plaintiff Kaul's ability to obtain any form of employment.

311. In furthering their fraudulent scheme/seeking to cause ongoing injury to Plaintiff Kaul, Defendants BCBS/Marino did transmit over the US wires, information pertaining to the indictment investigations to domestic healthcare regulators in furtherance of their scheme to attempt to destroy Plaintiff Kaul's reputation globally.

312. In furthering their fraudulent scheme/seeking to cause ongoing injury to Plaintiff Kaul, Defendants BCBS/Marino did transmit over the US wires, information pertaining to the indictment investigations to domestic health care regulators in furtherance of their scheme to attempt to destroy Plaintiff Kaul's livelihood globally.

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313. In furthering their fraudulent scheme/seeking to cause ongoing injury to Plaintiff Kaul, Defendants BCBS/Marino did transmit over the US wires, information pertaining to the indictment investigations to domestic health care regulators in furtherance of their scheme to attempt to destroy Plaintiff Kaul's economic standing globally.

314. In furthering their fraudulent scheme/seeking to cause ongoing injury to Plaintiff Kaul, Defendants BCBS/Marino did transmit over the US wires, information pertaining to the indictment investigations to domestic health care regulators in furtherance of their scheme to attempt to destroy Plaintiff Kaul's ability to obtain a medical license anywhere in the world.

315. In furthering their fraudulent scheme/seeking to cause ongoing injury to Plaintiff Kaul, Defendants BCBS/Marino did transmit over the US wires, information pertaining to the indictment investigations to domestic health care regulators in furtherance of their scheme to attempt to destroy Plaintiff Kaul's ability to obtain any form of employment.

316. In furthering their fraudulent scheme/seeking to cause ongoing injury to Plaintiff Kaul, Defendants BCBS/Marino did transmit over the US wires, information pertaining to the indictment investigations to international healthcare regulators in furtherance of their scheme to attempt to destroy Plaintiff Kaul's reputation globally.

317. In furthering their fraudulent scheme/seeking to cause ongoing injury to Plaintiff Kaul, Defendants BCBS/Marino did transmit over the US wires, information pertaining to the indictment investigations to international healthcare regulators in furtherance of their scheme to attempt to destroy Plaintiff Kaul's livelihood globally.

318. In furthering their fraudulent scheme/seeking to cause ongoing injury to Plaintiff Kaul, Defendants BCBS/Marino did transmit over the US wires, information pertaining to

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the indictment investigations to international healthcare regulators in furtherance of their scheme to attempt to destroy Plaintiff Kaul's economic standing globally.

319. In furthering their fraudulent scheme/seeking to cause ongoing injury to Plaintiff Kaul, Defendants BCBS/Marino did transmit over the US wires, information pertaining to the indictment investigations to international healthcare regulators in furtherance of their scheme to attempt to destroy Plaintiff Kaul's ability to obtain a medical license anywhere in the world.

320. In furthering their fraudulent scheme/seeking to cause ongoing injury to Plaintiff Kaul, Defendants BCBS/Marino did transmit over the US wires, information pertaining to the indictment investigations to international healthcare regulators in furtherance of their scheme to attempt to destroy Plaintiff Kaul's ability to obtain any form of employment.

321. In a period commencing in at least, if not before 2005/2006, the Defendants did conspire to perpetrate a scheme of ongoing per se antitrust violations,

322. In a period commencing in at least, if not before 2005/2006, the Defendants did commit a scheme of per se antitrust violations, the effects of which are ongoing.

323. Defendants Horizon BCBS/Marino, in conjunction with other members of the Blue Cross Blue Shield Association, did perpetrate their scheme in furtherance their illegal monopoly of the finite financial 'pool' of the American health insurance industry.

324. Defendants Horizon BCBS/Marino procured this illegal per se monopoly through grand schemes of corruption of the executive/legislative/judicial branches of both state and federal government.

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325. The Defendants have directed their monopoly power towards the engineering of illegal anticompetitive schemes to eliminate physician competitors, such as Plaintiff Kaul.

326. Defendants Horizon BCBS/Marino have perpetrated these illegal anticompetitive schemes through state courts in collusion/conspiracy with the investigative arm of government that continues to cause the filing of false indictments against innocent principally ethnic minority physicians to whom Defendant Horizon BCBS owes money.

327. Defendants Horizon BCBS/Marino have perpetrated these illegal anticompetitive schemes through state courts in collusion/conspiracy with the prosecutorial arm of government that continues to cause the filing of false indictments against innocent principally ethnic minority physicians to whom Defendant Horizon BCBS owes money.

328. Defendants Horizon BCBS/Marino have perpetrated these illegal anticompetitive schemes through state courts in collusion/conspiracy with the prosecutorial arm of government that continues to cause the filing of false convictions against innocent principally ethnic minority physicians to whom Defendant Horizon BCBS owes money.

329. Defendants Horizon BCBS/Marino have perpetrated these illegal anticompetitive schemes through state courts in collusion/conspiracy with the adjudicative arm of government that continues to cause the filing of false convictions against innocent principally ethnic minority physicians to whom Defendant Horizon BCBS owes money.

330. Defendants Horizon BCBS/Marino have perpetrated these illegal anticompetitive schemes through state courts in collusion/conspiracy with the adjudicative arm of government that continues to cause the filing of false incarcerations against innocent principally ethnic minority physicians to whom Defendant Horizon BCBS owes money.

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331. Defendants Horizon BCBS/Marino have perpetrated these illegal anticompetitive schemes through federal courts in collusion/conspiracy with the investigative arm of government that continues to cause the filing of false indictments against innocent principally ethnic minority physicians to whom Defendant Horizon BCBS owes money.

332. Defendants Horizon BCBS/Marino have perpetrated these illegal anticompetitive schemes through federal courts in collusion/conspiracy with the prosecutorial arm of government that continues to cause the filing of false indictments against innocent principally ethnic minority physicians to whom Defendant Horizon BCBS owes money.

333. Defendants Horizon BCBS/Marino have perpetrated these illegal anticompetitive schemes through federal courts in collusion/conspiracy with the prosecutorial arm of government that continues to cause the filing of false convictions against innocent principally ethnic minority physicians to whom Defendant Horizon BCBS owes money.

334. Defendants Horizon BCBS/Marino have perpetrated these illegal anticompetitive schemes through federal courts in collusion/conspiracy with the adjudicative arm of government that continues to cause the filing of false convictions against innocent principally ethnic minority physicians to whom Defendant Horizon BCBS owes money.

335. Defendants Horizon BCBS/Marino have perpetrated these illegal anticompetitive schemes through federal courts in collusion/conspiracy with the adjudicative arm of government that continues to cause the filing of false incarcerations against innocent principally ethnic minority physicians to whom Defendant Horizon BCBS owes money.

336. Defendants Horizon BCBS/Marino's illegal anticompetitive elimination schemes, the principal targets of which are ethnic minority physicians, are purposed to reduce the competitive threat posed to the market by these physicians.

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337. Defendants Horizon BCBS/Marino's false/illegal constriction of the market has caused a drastic nationwide physician shortage.

338. The artificial physician shortage has artificially reduced competition.

339. The artificially/illegally caused reduction in competition has caused the public a market injury, in that the price of healthcare has arbitrarily risen.

340. The artificially/illegally caused reduction in competition has caused the public a market injury, in that the supply of health care has been reduced.

341. The artificially/illegally caused reduction in supply of healthcare has caused the public a market injury, in that the price of healthcare has arbitrarily risen.

342. In February 2005, Plaintiff Kaul revolutionized the field of minimally invasive spine surgery, by inventing and successfully performing the first outpatient minimally invasive spinal fusion in a same-day surgical center.

343. This event proved that such a surgery could be safely and effectively conducted in an outpatient surgical center by a non-orthopedic/neurosurgical physician with training in interventional pain/minimally invasive spine surgery.

344. This event presented a market threat to hospitals.

345. This event presented a market threat to insurance companies

346. This event presented a market threat to the orthopedic-neurosurgical community,

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347. The hospitals reacted not by attempting to deliver a competitive service based on price/quality, but instead directed their efforts toward corrupting the political/judicial/legislative processes to have their competition eliminated through the introduction of sham anti-competitive legislation.

348. The insurance companies, including Defendants Horizon BCBS reacted not by attempting to deliver a competitive service based on price/quality, but instead directed their efforts toward corrupting the political/judicial/legislative processes to have their competition eliminated through the introduction of sham anti-competitive legislation.

349. The orthopedic-neurosurgical community reacted not by attempting to deliver a competitive service based on price/quality, but instead directed their efforts toward corrupting the political/judicial/legislative processes to have their competition eliminated through the introduction of sham anti-competitive legislation.

350. The hospitals reacted not by attempting to deliver a competitive service based on price/quality, but instead directed their efforts toward corrupting the political/judicial/legislative processes to have their competition eliminated through the filing of sham anti-competitive lawsuits.

351. The insurance companies, including Defendants Horizon BCBS reacted not by attempting to deliver a competitive service based on price/quality, but instead directed their efforts toward corrupting the political/judicial/legislative processes to have their competition eliminated through the filing/aiding and abetting of filing/aiding and abetting of filing of sham anti-competitive lawsuits.

352. The orthopedic-neurosurgical community reacted not by attempting to deliver a competitive service based on price/quality, but instead directed their efforts toward

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corrupting the political/judicial/legislative processes to have their competition eliminated through the filing/aiding and abetting of filing of sham anti-competitive lawsuits.

353. The hospitals reacted not by attempting to deliver a competitive service based on price/quality, but instead directed their efforts toward corrupting the political/judicial/legislative processes to have their competition eliminated through the filing of sham anti-competitive administrative complaints that restricted hospital privileges.

354. The hospitals reacted not by attempting to deliver a competitive service based on price/quality, but instead directed their efforts toward corrupting the political/judicial/legislative processes to have their competition eliminated through the filing of sham anti-competitive administrative complaints that caused license revocations.

355. The insurance companies, including Defendants Horizon BCBS reacted not by attempting to deliver a competitive service based on price/quality, but instead directed their efforts toward corrupting the political/judicial/legislative processes to have their competition eliminated through the filing/aiding and abetting of filing/aiding of sham anti-competitive administrative complaints that caused license revocations.

356. The insurance companies, including Defendants Horizon BCBS reacted not by attempting to deliver a competitive service based on price/quality, but instead directed their efforts toward corrupting the political/judicial/legislative processes to have their competition eliminated through the filing/aiding and abetting of filing of sham anti-competitive administrative complaints that caused restricted hospital privileges.

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357. The orthopedic-neurosurgical community reacted not by attempting to deliver a competitive service based on price/quality, but instead directed their efforts toward corrupting the political/judicial/legislative processes to have their competition eliminated through the filing/aiding and abetting of filing of sham anti-competitive lawsuits that caused license revocations.

358. The orthopedic-neurosurgical community reacted not by attempting to deliver a competitive service based on price/quality, but instead directed their efforts toward corrupting the political/judicial/legislative processes to have their competition eliminated through the filing/aiding and abetting of filing of sham anti-competitive lawsuits that caused restricted hospital privileges.

359. The hospitals reacted not by attempting to deliver a competitive service based on price/quality, but instead directed their efforts toward corrupting the political/judicial/legislative processes to have their competition eliminated through the filing of complaints with state prosecutors that caused the false incarceration of their market competitors.

360. The hospitals reacted not by attempting to deliver a competitive service based on price/quality, but instead directed their efforts toward corrupting the political/judicial/legislative processes to have their competition eliminated through the filing of complaints with federal prosecutors that caused the false incarceration of their market competitors.

361. The insurance companies reacted not by attempting to deliver a competitive service based on price/quality, but instead directed their efforts toward corrupting the political/judicial/legislative processes to have their competition eliminated through the filing of complaints with state prosecutors that caused the false incarceration of their

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market competitors.

362. The insurance companies reacted not by attempting to deliver a competitive service based on price/quality, but instead directed their efforts toward corrupting the political/judicial/legislative processes to have their competition eliminated through the filing of complaints with federal prosecutors that caused the false incarceration of their market competitors.

363. The orthopedic-neurosurgical community reacted not by attempting to deliver a competitive service based on price/quality, but instead directed their efforts toward corrupting the political/judicial/legislative processes to have their competition eliminated through the filing of complaints with state prosecutors that caused the false incarceration of their market competitors.

364. The orthopedic-neurosurgical community reacted not by attempting to deliver a competitive service based on price/quality, but instead directed their efforts toward corrupting the political/judicial/legislative processes to have their competition eliminated through the filing of complaints with federal prosecutors that caused the false incarceration of their market competitors.

365. Plaintiff Kaul was the principal and primary target in this grand anticompetitive scheme, a scheme in which the Defendants Horizon BCBS/Marino were principal perpetrators.

366. This grand anticompetitive scheme was orchestrated by The Kaul Cases Defendant Christie, in collusion and conspiracy with The Kaul Cases Defendants.

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367. Consequence to the increase in competition in the minimally invasive spine surgery market, Defendants Horizon BCBS/Marino, in collusion and conspiracy with The Kaul Cases Defendants, did, in 2011, illegally manipulate the AMA CPT coding system to downgrade the relative value units for endoscopic discectomy.

368. The corruptly procured downgrading scheme injured the commercial potential of Plaintiff Kaul's rapidly expanding outpatient minimally invasive spine surgery practice.

369. The downgrading scheme, in which the Defendants Horizon BCBS/Marino played a central role, was concocted by a group of neurosurgeons, that included the then 2011 President of the North American Spine Society, Gregory Przybylski.

370. These individuals, because of their influential positions within their professional societies, had the codes' RVUs reduced with the understanding that the majority of minimally invasive spine surgeons, from interventional pain backgrounds, would be unable to perform open micro-discectomies.

371. The neurosurgeons effectuated the change without publicizing it for comment, thus denying Plaintiff Kaul and other minimally invasive spine surgeons the opportunity to object.

372. The Kaul Cases Defendant, Gregory Przybylski, was the state's principal 'expert' witness against Plaintiff Kaul in the revocation proceedings.

373. In April 2018, The Kaul Cases Defendant, Gregory Przybylski, was found guilty by the American Association of Neurological Surgeons for having committed perjury while an 'expert' in a civil case against another neurosurgeon.

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374. The downgrading scheme reduced the reimbursement rate for endoscopic discectomies.

375. The reduced reimbursement caused a larger percentage of the insurance health fund to be diverted to Defendants Horizon BCBS/Marino's profits.

376. Defendants Horizon BCBS/Marino did not share the increased profits with their clients by reducing premiums.

377. In fact, despite the increased profits, Defendants Horizon BCBS/Marino increased annual premiums despite internal actuarial calculations that substantiated a decrease.

378. The downgrading scheme caused sustained/substantial losses and damage to Plaintiff Kaul personally consequent to reduced reimbursement associated with outpatient minimally invasive spine surgery.

379. The downgrading scheme caused sustained/substantial losses and damage to Plaintiff Kaul's business consequent to reduced reimbursement associated with outpatient minimally invasive spine surgery.

380. The downgrading scheme caused sustained/substantial losses and damage to Plaintiff Kaul's property, consequent to reduced reimbursement associated with outpatient minimally invasive spine surgery.

381. Defendants Horizon BCBS/Marino did, through the bribing of politicians/legislators, effectuate illegitimate legislative change the sole purpose of which was to arbitrarily increase their profit at the expense/exploitation of the public and medical profession.

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382. The illegitimate legislative/regulatory change did not serve the public interest in that it did not improve patient outcomes.

383. The illegitimate legislative/regulatory change did not serve the public interest in that it did not improve patient safety.

384. The illegitimate legislative/regulatory change did not serve the public interest in that it did not reduce patient annual premiums.

385. The illegitimate legislative/regulatory change did not serve the public interest as Defendants Horizon BCBS/Marino continued to increase annual patient premiums.

386. The illegitimate legislative/regulatory change harmed Plaintiff Kaul's minimally-invasive spine surgery practice.

387. The harm included a downgrading in the Relative Value Unit associated with the CPT code for endoscopic discectomy.

388. The harm included a veto of a bill in 2011 by Defendant Christie, that was designed to permit state licensure of one-room surgical centers.

389. The harm included illegitimate refusal of Defendant Horizon BCBS to reimburse surgical centers for minimally invasive spine surgery.

390. These harms artificially/arbitrarily reduced the availability to the public of outpatient minimally invasive spine surgery.

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391. The reduction in the availability to the public of outpatient minimally invasive spine surgery contributed to the opiate epidemic, due to opiates being the only available option for pain treatment.

392. The false indictments caused an illegal monopolistic effect on the healthcare premium-based fund element of the minimally invasive spine surgery market.

393. The monopolistic effect of the false indictments caused an illegal diversion of monopolistic profits to Defendants Horizon BCBS/Marino

394. The illegal diversion of false indictments related monopolistic profits to Defendants Horizon BCBS/Marino caused/continues to cause injury to Plaintiff Kaul/healthcare premium paying public.

395. The false convictions caused an illegal monopolistic effect on the healthcare premium-based fund element of the minimally invasive spine surgery market.

396. The monopolistic effect of the false convictions caused an illegal diversion of monopolistic profits to Defendants Horizon BCBS/Marino

397. The illegal diversion of false convictions related monopolistic profits to Defendants Horizon BCBS/Marino caused/continues to cause injury to Plaintiff Kaul/healthcare premium paying public.

398. The false incarcerations caused an illegal monopolistic effect on the healthcare premium-based fund element of the minimally invasive spine surgery market.

The monopolistic effect of the false incarcerations caused an illegal diversion of

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monopolistic profits to Defendants Horizon BCBS/Marino

399. The illegal diversion of false incarcerations related monopolistic profits to Defendants Horizon BCBS/Marino caused/continues to cause injury to Plaintiff Kaul/healthcare premium paying public.

400. The sham anti-competitive legislation caused an illegal monopolistic effect on the healthcare premium-based fund element of the minimally invasive spine surgery market.

401. The monopolistic effect of the sham anti-competitive legislation caused an illegal diversion of monopolistic profits to Defendants Horizon BCBS/Marino

402. The illegal diversion of sham anti-competitive legislation related monopolistic profits to Defendants Horizon BCBS/Marino caused/continues to cause injury to Plaintiff Kaul/healthcare premium paying public.

403. The sham anti-competitive lawsuits caused an illegal monopolistic effect on the healthcare premium-based fund element of the minimally invasive spine surgery market.

404. The monopolistic effect of the sham anti-competitive lawsuits caused an illegal diversion of monopolistic profits to Defendants Horizon BCBS/Marino

405. The illegal diversion of sham anti-competitive lawsuits related monopolistic profits to Defendants Horizon BCBS/Marino caused/continues to cause injury to Plaintiff Kaul/healthcare premium paying public.

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406. The sham anti-competitive administrative complaints caused an illegal monopolistic effect on the healthcare premium-based fund element of the minimally invasive spine surgery market.

407. The monopolistic effect of the sham anti-competitive administrative complaints caused an illegal diversion of monopolistic profits to Defendants Horizon BCBS/Marino

408. The illegal diversion of sham anti-competitive administrative complaints related monopolistic profits to Defendants Horizon BCBS/Marino caused/continues to cause injury to Plaintiff Kaul/healthcare premium paying public.

409. The illegitimate legislative/regulatory change caused an illegal monopolistic effect on the healthcare premium-based fund element of the minimally invasive spine surgery market.

410. The monopolistic effect of the illegitimate legislative/regulatory change caused an illegal diversion of monopolistic profits to Defendants Horizon BCBS/Marino

411. The illegal diversion of the illegitimate legislative/regulatory change related monopolistic profits to Defendants Horizon BCBS/Marino caused/continues to cause injury to Plaintiff Kaul/healthcare premium paying public.

412. The Defendants illegitimate scheme of non-reimbursement to Plaintiff Kaul/his surgical center for minimally invasive spine surgery, caused him to file suit against the Defendant Horizon BCBS.

413. Defendant BCBS retaliated by scheming with The Kaul Cases Defendant Christie/NJ state agencies to have Plaintiff Kaul's license revoked, a knowingly illegal act that is ongoing.

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414. Defendant BCBS retaliated by scheming with the NJ US Attorney/FBI to attempt to have Plaintiff Kaul indicted/incarcerated, as they had/have done with many other ethnic minority physicians.

415. Defendant Horizon BCBS's illegal anticompetitive conduct caused it to procure monopoly power.

416. Defendant Horizon BCBS's illegally procured power enabled it to charge consumers prices in excess of what it would otherwise would have been able to charge, absent its unlawful anticompetitive conduct.

417. Defendant Horizon BCBS's excessive prices were not due to the provision of a superior service but due only to its illegally procured monopolistic market power.

418. Defendant Horizon BCBS, in its annual application to the state to increase the cost of healthcare premiums, argued with fraudulent intent and in a knowingly fraudulent manner that the price charged for minimally invasive spine surgery had increased.

419. Defendant Horizon BCBS omitted with fraudulent intent, the fact that although the individual price had increased, the overall volume of surgery had decreased.

420. Defendant Horizon BCBS omitted with fraudulent intent, the fact that their overall cost for minimally invasive spine surgery had decreased.

421. Defendant Horizon BCBS omitted with fraudulent intent, the fact that reason for the increase in individual price was the illegal anticompetitive exclusion from the minimally invasive spine surgery market of outpatient surgery centers and non-

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neurosurgical/orthopedic physicians.

422. Defendant Horizon BCBS omitted with fraudulent intent that the illegal anticompetitive exclusion from the minimally invasive spine surgery market of outpatient surgery centers and non-neurosurgical/orthopedic physicians permitted hospitals/neurosurgeon-orthopedic surgeons to arbitrarily increase the billed amounts.

423. Defendant Horizon BCBS used with fraudulent intent the average billed amount as if it were the paid amount to substantiate their fraudulent request to increase the public's annual premiums.

424. Thus, in submitting that the average paid amount had increased, Defendant Horizon BCBS was, in collusion/conspiracy with the state, permitted to raise, albeit illegally, the cost of premiums, while having substantially reduced availability to the public of minimally invasive spine surgery.

425. The end-result is that the public pays more for less, while the Defendants corporate/executive profits continue to rise.

426. Plaintiff Kaul's invention and 2005 successful performance of an outpatient percutaneous spinal fusion opened up the minimally invasive spine surgery market to outpatient surgery centers and non-neurosurgical/orthopedic physicians.

Exhibit 3

CURRICULUM VITAE

RICHARD ARJUN KAUL, M.D.

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drrichardkaul@gmail.com

DATE OF BIRTH: NOVEMBER 5TH, 1964

EDUCATION:

- October 1983 - June 1988:** The Royal Free Hospital School of Medicine, London University, London, England. (Rowland Hill Street, Hampstead, London, NW3. Tel- 011442077940500).
- July 1988 - December 1989:** Surgical House Officer, Lister Hospital, Stevenage, Hertfordshire, England. (Preceptor: Keith Giles, M.D.) (Contact Clare Randall, Medical Staffing, Corey's Mill Lane, Stevenage, Hertfordshire, SG1 4AB. Tel- 011441438314333).
- January 1989 – June 1989:** Medical House Officer, Academic Unit of Medicine, Royal Free Hospital, London, England. (Preceptor: Professor Neil Macintyre M.D.) (Contact Kerry Dolan, Center for Hepatology, Upper 3rd floor, Rowland Hill Street, NW3 2PF. Tel- 011442077940500).
- December 1989 – April 1990:** Surgical Intern, Catholic Medical Center, Queens, New York. (Preceptor: Walter Pizzi, M.D.) (Contact Rita Raio, Department of Surgery, 88-25 153rd Street, Suite 1L, Jamaica, Queens, NY, 11432. Tel-718-558 7216).
- July 1990 – June 1991:** Surgical Intern, Nassau County Medical Center, East Meadow, New York. (Preceptor: James Evans, M.D.) (Contact Ann Marksteiner, 8th floor, Resident Resource Officer, 2201 Hempstead Turnpike, East Meadow, NY, 11554. Tel-516-572 6273).
- July 1991 – April 1992:** PGY-2 Surgery Resident, Booth Memorial Medical Center, Queens, New York. (Preceptor: Jameson Chassin, M.D.) (Contact Donna DeChirico, The New York Hospital of Queens, 5645 Main Street, Flushing, NY, 11355. Tel-718 670 1120).
- July 1992 – July 1995:** Anesthesiology Residency, Albert Einstein- Montefiore Medical Center, Bronx, New York. (Preceptor: Albert Saubermann, M.D.) (Contact Department of Anesthesiology, 4th floor. Tel 718-920 4316).

September 1995 – September 1996: Pain Fellowship, Department of Anesthetics, Bristol Royal Infirmary, Bristol, England. (Preceptor: Robert Johnson M.D.) (Contact Tel-011441179230000).

PROFESSIONAL + EMPLOYMENT APPOINTMENTS:

April 2014 – Present: During this period, I have been unemployed, but have devoted my time to learning the law, in order to initiate and prosecute *Kaul v Christie, et als*. The matter was filed on February 22, 2016, and is pending in the United States District Court for the District of New Jersey.

June 2012 – March 2014: Administrator for New Jersey Spine and Rehabilitation, Pompton Lakes, New Jersey

December 2008-Present-President, The Spine Africa Project-www.spineafricaproject.org (inactive)

March 2007 – June 2012: Private Practitioner, New Jersey Spine & Rehabilitation, Pompton Lakes, New Jersey.

April 2010 – February 2011: Attending in Interventional Pain and Minimally Invasive Spine, North Jersey Surgery Center, Englewood Cliffs, New Jersey.

April 2007 – October 2010: Director of Outpatient Spine Surgery, The Bergen Passaic Ambulatory Surgery Center, Clifton, New Jersey.

May 2007 – December 2007: Attending in Interventional Pain and Minimally Invasive Spine, Pain & Surgery Ambulatory Center, Wyckoff, New Jersey.

November 2006 – March 2007: Medical Director of The North Jersey Center for Surgery, Newton, New Jersey.

September 2004 – March 2007: Medical Director of Market Street Surgical Center, Saddle Brook, New Jersey.

June 2004 – May 2007: Attending in Interventional Pain and Minimally Invasive Spine, The North Jersey Center for Surgery, Newton, New Jersey.

June 2004 – March 2007: Private Practitioner in Interventional Pain and Minimally Invasive Spine, Saddle Brook, New Jersey.

October 2002 – December 2003: Attending, Pain Management Center, St. Clare's Hospital, Denville and Dover, New Jersey.

February 2002 – August 2002: Attending Anesthesiologist and Director of Pain Services, Columbus Hospital, Newark, New Jersey.

October 2001 – December 2001: Attending Anesthesiologist, Hackensack University Medical Center, Hackensack, New Jersey. (Contact Dr. Mark Schlesinger, Chairman Dept. of Anesthesiology. Tel 201 996 2419).

January 1997 –February 2001: Attending, The Regency Clinic, London, England. (Contact 27 Welbeck Street, London W1M 7PG, England. Tel-011448454583589)

September 1996 – December 1996: Attending in charge of pain clinic, Macclesfield General Hospital, Macclesfield, Chesire, England. (Contact Tel-011441625421000).

CERTICATION/LICENSURE:

2006 Member of The American Society of Interventional Pain Physicians.
2004 Completion of visiting fellowship in Minimally Invasive Spine Surgery, Wooridul Spine Hospital, Seoul, Korea.
2004 Member of The American Academy of Minimally Invasive Spinal Medicine and Surgery.
2004 Diplomate of the American Board of Interventional Pain Management.
1993 F.L.E.X
1989 E.C.F.M.G.
1988 MB.BS (London University).

CREDENTIALS AND CERTIFICATES:

North American Spine Society – Evaluation & Treatment of Adult Spinal Deformity: Hands-On Course. March 16 – 17, 2012. Burr Ridge, IL. Certificate of Participation.

Beckers ASC 18th Annual Ambulatory Surgery Centers Conference. Improving Profitability and Business and Legal Issues. Featured Speaker: Orthopedics and Spine in ASC's – Key Trends and Ideas. October 28, 2011. Chicago, IL.

The Philipinno-American Medical Conference – The Future of Outpatient Spine Surgery. Featured Speaker. September 24, 2011. Atlantic City, NJ.

AOSpine Live Tissue Training – The Prevention and Management of Complications in Spine Access Surgery. September 17, 2011. Strasbourg, France. Certificate of Participation and Completion.

SI-Bone – iFuse Implant System Surgeon Training Program. May 21, 2011. Jamesburg, NJ. Certificate of Completion.

LDR – Anterior Stand-alone Clinical Solutions utilizing VerteBRIDGE Technology. A hands-on cadaver skills lab. May 13, 2011. Las Vegas, NV.

The 3rd Annual ASC Review Seminar. April 27, 2011. Somerset, NJ.

Utilizing Urine Drug Screens Appropriately sponsored by Avey Laboratories. March 15, 2011. East Hanover, NJ. Certificate of Attendance.

Spine Arthoplasty Society. The Second Annual Meeting of the International Society for the Advancement of Spine Surgery – Middle East Chapter (SASME). February 3 – 5, 2011. Movenpick Dead Sea, Jordan.

20th Annual Dr. Tom Lowe Spine Symposium: The Surgical Management of Spinal Disorders. January 14 – 17, 2011. Beaver Creek, CO. Certificate of Participation.

Weill Cornell Medical College. Indications and Controversies: Minimally Invasive Spinal Surgery and Navigation. Hands-on Symposium. December 2 – 4, 2010. New York, NY. Certificate of Participation.

2010 Annual Meeting of the Society for Minimally Invasive Spine Surgery. November 5 – 7, 2010. Miami, FL. Certificate of Participation.

Informed - Cultural Competency Update for the Physician. October 12, 2010. Certificate of Completion.

X-Spine - Advances in Interspinous and Transfacet Fixation: A Hands-On Cadaver Course. August 27, 2010. Henderson, NV.

American Society of Interventional Pain Physicians Webinar -- Urine Drug Screen Testing Compliance conducted on July 15, 2010.

Columbia University College of Physicians & Surgeons – 19th Annual Course & Symposium, Basic & Advanced Techniques in Electrodiagnostic Medicine. June 16 – 17, 2010. New York, NY. Certificate of Participation.

Dubai Spine Masters: Interventional and Pain Management Techniques. May 26 – 27, 2010. Dubai, UAE. Certificate of Participation.

Dubai Spine Masters: Minimally Invasive Surgical Strategies. May 23 – 25, 2010. Dubai, UAE. Certificate of Participation.

10th Annual Global Symposium on Motion Preservation Technology. April 27 – 30, 2010. New Orleans, LA. Certificate of Participation.

American Society of Interventional Pain Physicians Webinar – Evidence-Based Interventional Techniques: An Algorithmic Approach To Keeping It Simple, Safe and Successful conducted on March 30, 2010. Certificate of Participation.

Spine Arthroplasty Society. February 18, 2010. Certificate of Membership.

North American Spine Society -- 24th Annual Meeting. November 11 – 14, 2009. San Francisco, CA. Certificate of Completion.

North American Spine Society – 24th Annual Meeting Technique Workshop: Interbody Fusion Technologies. November 10, 2009. San Francisco, CA. Certificate of Completion.

2009 Annual Meeting of the Society for Minimally Invasive Spine Surgery. Oct. 9 – 12, 2009. Las Vegas, NV. Certificate of Participation.

North American Spine Society - Spine Across The Sea 2009. July 26 – 30, 2009. Maui, Hawaii. Certificate of Completion.

21st Annual International Bethesda Spine Workshop: Thoraco-Lumbar Course. April 19-20, 2009. Certificate of Participation.

13th Annual International Argospine Symposium. January 29-30, 2009. Paris, France. Certificate of Attendance.

SRH Klinikum Karlsbad-Langensteinbach gGmbH. Akademisches Lehrkrankenhaus der Universität Heidelberg. Guttmannstrasse 1, 76307 Karlsbad, Germany. January 26-28, 2009. Visiting doctor, rounds with Dr. Robert Melcher.

University of California, San Diego School of Medicine. 2008 Annual Meeting of the Society for Minimally Invasive Spine Surgery. November 13-15, 2008. Henderson, NV. Physician Certificate of Credit.

North American Spine Society – 23rd Annual Meeting. October 14-18, 2008. Toronto, Canada. Certificate of Completion.

North American Spine Society – 23rd Annual Meeting Technique Workshop: Interbody Fusion Technologies. October 14, 2008. Toronto, Canada. Certificate of Completion.

Cleveland Clinic Foundation Center for Continuing Education – Spine Review – July 16-22, 2008. Cleveland, OH. Certification of Participation.

Columbia University College of Physicians & Surgeons – Basic & Advanced Techniques in Electrodiagnostic Medicine. June 11-12, 2008. New York, NY. Certificate of Participation.

North American Spine Society – Minimally Invasive Spine Surgery: A Hands-on Course. June 6-7, 2008. Spine Masters Institute. Burr Ridge, IL. Certificate of Participation.

Interventional Spine. PERPOS Surgical Training Program. February 15, 2008. Clifton, NJ. Certificate of Recognition.

Spineology Physician Instructor at Bergen Passaic Ambulatory Surgery Center. Didactic and Hands-on Cadaver Implantation of OptiMesh Surgical Mesh System. February 15, 2008. Clifton, NJ.

Cedar-Sinai Institute for Spinal Disorders - 7th Annual Symposium on Current Concepts in Spinal Disorders. February 1-2, 2008. Las Vegas, NV. Certificate of Participation.

Saint Louis University School of Medicine – The 1st CSRS Hands-On Cadaver Course. Cervical Spine Decompression & Stabilization Techniques. January 18-19, 2008. Certificate of Participation.

Saint Louis University School of Medicine - The 1st CSRS Cervical Spine Decompression & Stabilization. January 18-19, 2008. Certificate of Attendance.

Medtronic Midas Rex Institute – Instruction in advanced high-speed instrumentation for surgeons. St. Louis, MO. January 17, 2008. Certificate of Attendance.

Spine Conference Case Presenter – Lenox Hill Hospital, NY. December 13, 2007.

Weill Cornell Medical College, NY – Minimally Invasive Spinal Surgery and Navigation. November 30 – December 1, 2007. Certificate of Attendance.

University of California, San Diego School of Medicine – Minimally Invasive Surgery of the Spine 2007. November 16-17, 2007. Physician Certificate of Credit.

North American Spine Society – 22nd Annual Meeting. Austin, TX. October 23-27, 2007. Certificate of Completion.

North American Spine Society – Interbody Fusion Technologies. Austin, TX. October 23, 2007. Certificate of Completion.

North American Spine Society - Motion Stabilization: A Hands-On Course. May 18-19, 2007. Spine Masters Institute. Burr Ridge, IL. Certificate of Participation.

19th Annual International Bethesda Spine Workshop: Thoraco-Lumbar Course. May 6-7, 2007. Certificate of Participation.

19th Annual International Bethesda Spine Workshop: Cervical Course. May 4-5, 2007. Certificate of Participation.

AOSpine North America Challenges and Complications in Complex Spine Surgery Symposium. San Francisco, CA. April 28-29, 2007. Certificate of Participation.

North American Spine Society – NASS Spring Break 2007: Back to the Future: Straight Spines, Straight Talk. March 14-17, 2007. Certificate of Attendance.

MinSurg Biomechanical Innovations – TruFUSE Surgical Training. February 17, 2007. Certificate of Completion.

Surgeon Training Program for Atavi Minimally Invasive Posterior Cervical & Upper Thoracic Surgery conducted by Endius, Inc. September 9, 2006. Certificate of Attendance.

Zimmer Spine – Dynesys Dynamic-Stabilization Workshop at St. John's Health Center – Santa Monica, CA. July 21-22, 2006. Certificate of Attendance.

Zimmer Spine – Center of Excellence Program at St. Mary's Hospital – West Palm Beach, FL. June 1-2, 2006. Certificate of Attendance.

University of South Florida – Preservation of Motion in the Spine. April 5-8, 2006. Certificate of Completion.

North American Spine Society – NASS Spring Break: Back to the Evidence. March 8-11, 2006. Certificate of Completion.

The Royal College of Physicians & Surgeons of the United States of America. 5th Global Congress of Minimally Invasive Spinal Specialists. Laser Assisted Spinal Endoscopy, Nucleoplasty & Coblation, Percutaneous Cervical Discectomy, Vertebral Augmentation, Foraminal Decompression, Laser Facet Rhizotomy, Laser Sympathectomy, Epiduroscopy. December 15-18, 2005. Certificate of Attendance.

18th Annual Meeting of the International Intradiscal Therapy Society (IITS). May 25-28, 2005. Certificate of Participation.

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PHILANTHROPY:

The Spine Africa Project: www.spineafricaproject.org

Founded in August 2008.

The mission of The Spine Africa Project focuses on three objectives: (1) the treatment of those afflicted with spinal conditions; (2) the education of local medical personnel and; (3) social change.

- Jason Sendwe Hospital-Lubumbashi, Democratic Republic of Congo. December 1 – 5, 2008.
- MyungSung Christian Medical Center-Addis Ababa, Ethiopia. December 11 – 15, 2010.
- Panzi Hospital-Bukavu, Democratic Republic of Congo. August 20 – 25, 2011.
- Panzi Hospital-Bukavu, Democratic Republic of Congo. February 5 – 10, 2012

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Richard Arjun Kaul Recognized by Marquis Who's Who

Dr. Richard Arjun Kaul has made remarkable contributions to the field of spine surgery and is touching the lives of many

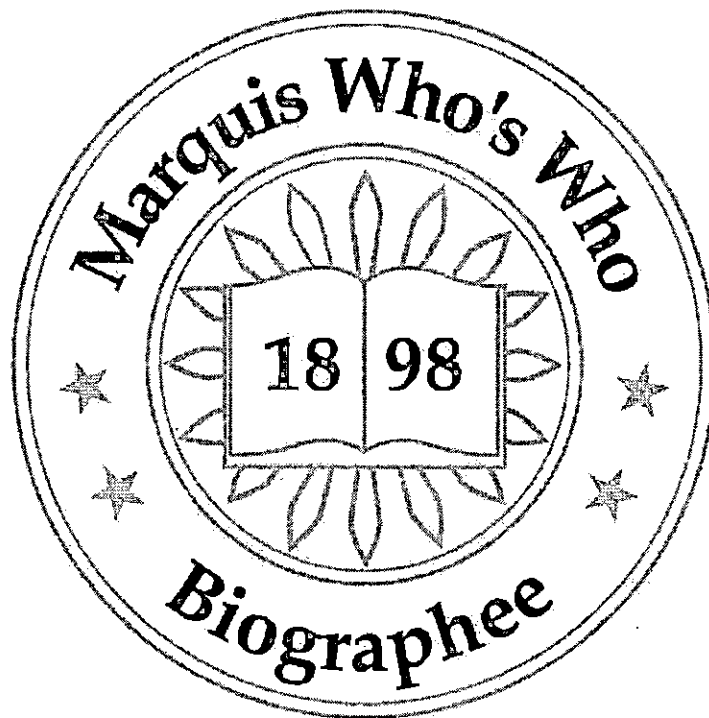
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“Thanks to Dr. Kaul's 2005 invention, patients benefit from same-day surgery, minimal blood loss, and low incidences of infections.”

YONKERS, NY, October 13, 2023 **/24-7PressRelease/** -- Richard Arjun Kaul, MD, has been included in Marquis Who's Who. As in all Marquis Who's Who biographical volumes, individuals profiled are selected on the basis of current reference value. Factors such as position, noteworthy accomplishments, visibility, and prominence in a field are all taken into account during the selection process.

A native of London, Dr. Kaul attended the Royal Free Hospital School of Medicine at the University College London from 1983 to 1988, where he graduated with a Bachelor of Medicine, Bachelor of Surgery. Following the receipt of a dual bachelor's degree, he served as a surgical house officer at The Lister Hospital, part of ACA Healthcare U.K., and a medical house officer in the Academic Department of Medicine at his alma mater. After completing two six-month internships, first in internal medicine and then in surgery, Dr. Kaul pursued his residency in surgery and anesthesiology in the United States at Montefiore Medical Center in New York.

Following the completion of his residency program in 1995, Dr. Kaul returned to his home country for fellowship in interventional pain management at the Bristol Royal Infirmary and worked as a general physician for six years before going into private practice, focusing on minimally invasive spine surgery. Since settling in the U.S. in 2001, he opened his own practice in 2005, New Jersey Spine and Rehabilitation. As the owner, president, and lead physician and surgeon, he consulted with patients, performed procedures, and applied his now 35 years of expertise in spine rehabilitation and background and training in general surgery, anesthesiology, and interventional pain management.

Since practicing in the field of spine surgery, Dr. Kaul's most remarkable contribution has been the invention of the revolutionary percutaneous lumbar fusion procedure—a procedure that eliminates the need for aggressive surgical interventions that are associated with a high incidence of infection, nerve damage and poor patient outcomes. Now, thanks to Dr. Kaul's 2005 invention, patients who undergo this procedure benefit from same-day surgery, minimal blood loss, and low incidences of infection, which allows them to return to their daily routines quicker. As a recognized pioneer within the field of minimally invasive spine surgery Dr. Kaul taught his technique to many other minimally invasive spine surgeons.

^

Along with his degrees and career experience, Dr. Kaul maintained membership in multiple minimally

invasive spine surgery societies and is also the founder and president of The Spine Africa Project.

- Since its inception in 2008, the principal purpose of The Spine Africa Project has been to provide minimally invasive spine surgery to the peoples of Africa through the establishing of surgical centers across the African continent, and in conjunction with this part of the project is 'The Invictus Initiative', a program which seeks to help men imprisoned in American jails by showing them that in changing their perspective on their life challenges, they can change the course of their life for the better.

Dr. Kaul lives by the motto "Never give up and never lose hope", and it is this philosophy that guides his life's work. Besides his medical career, he is a public speaker, whose public speaking engagement, "Adversity into Advantage", embodies his motto.

Throughout his life, Dr. Kaul was fortunate enough to encounter those who motivated him to pursue his dreams and reach his greatest potential. Along with the inspiration he drew from the courage and steadfastness of Nelson Mandela, he gained wisdom from those like Fr. Bryan Hanrahan, his history professor and one of the priests at his high school, St. Mary's, who imbued his students with a belief in the realization of their potential for greatness. Moreover, his parents, particularly his father, instilled in him the value of education and its significance in life. Through this inspiration, Dr. Kaul was motivated to pursue his dream and education to become a physician and lead a life helping others find their purpose and realize their potential.

Dr. Kaul attributes his achievements, accomplishments, and ability to face and overcome life's obstacles to his unwavering self-belief and unrelenting determination, qualities instilled in him by his mother and father.

Guided by his faith, Dr. Kaul has always felt supported to carry on, even through life's tragedies and profound loss. Despite the immense challenges he has confronted, he chose to view adversity as an opportunity for growth and learning. Through his unwavering resilience and determination, Dr. Kaul was able to transform his struggles into gifts, pave the way for a successful and fulfilling life, and inspire others to have the same outlook in order to achieve their own success.

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Exhibit 4

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U.S. DISTRICT COURT
N.D. OF ALABAMA

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

IN RE: BLUE CROSS BLUE SHIELD ANTITRUST LITIGATION (MDL No. 2406)	No. 2:13-CV 20000-RDP This document relates to all cases.
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***AMICI CURIAE* BRIEF OF ANTITRUST PROFESSORS IN OPPOSITION TO
DEFENDANTS' MOTIONS TO DISMISS BASED ON THE FILED RATE DOCTRINE**

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STATEMENT OF INTEREST

Amici (Professors Joseph P. Bauer, Darren Bush, Andrew Chin, Harry First, Eleanor M. Fox, Jeffrey L. Harrison, Doron M. Kalir, John B. Kirkwood, Robert H. Lande, Mark A. Lemley, Jim Rossi, Christopher L. Sagers, D. Daniel Sokol, and Maurice E. Stucke), are highly regarded scholars who research, write and lecture about antitrust law and competition policy. *See* Appendix. As such, they have an interest in the proper application of the antitrust laws and the Supreme Court's interpretation thereof.

Exceptions to the Sherman Act – including the filed rate doctrine and the state action doctrine – are narrowly tailored. *Amici* are concerned that the distinction that the Supreme Court has so carefully drawn between the two doctrines is being disregarded, as courts continue to expand the filed rate doctrine beyond its logical (and permissible) bounds. Accordingly, *Amici* submit this brief to elucidate the distinction between the doctrines, their different jurisprudential underpinnings, and to apprise the Court of the negative consequences of such an expansion.

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SUMMARY OF ARGUMENT

The question before the Court is whether the filed rate doctrine – which the Supreme Court developed and has applied to reconcile the conflicting demands of two different *federal* statutes – immunizes private businesses from federal antitrust damages liability merely because, pursuant to *state* regulations, they have filed their rates with a state agency. The answer is simple: it does not.

As a rule, any exceptions to the antitrust laws are narrowly construed in recognition of the fundamental role they play in national economic policy. *United States v. Topco Associates*, 405 U.S. 596, 610 (1972) (“Antitrust laws in general, and the Sherman Act in particular, are the Magna Carta of free enterprise.”). Exceptions do exist, of course, but they are tied to whether they are essential to resolve a conflict between competing federal laws, or between federal and state laws. Under the former scenario, the filed rate doctrine may apply to grant actors protection from claims for antitrust damages, where the alleged anticompetitive price was set by a federal agency; under the latter, the state-action doctrine may grant actors immunity from antitrust liability, where the anticompetitive nature of the conduct at issue was “clearly articulated and affirmatively expressed” as state policy and “supervised” by the state such that it was in substance state action, rather than individual behavior, which is the subject of the federal antitrust laws.

Here, Defendants argue that because “many Defendants charged premium rates that were filed with state insurance regulators,” Defs. Br. at 16 (Dkt. 115), Defendants are protected from antitrust liability pursuant to the filed rate doctrine.¹ But Supreme Court jurisprudence is to the

¹ If a rate is not filed, then neither the filed rate doctrine nor the state-action doctrine excuses antitrust liability. *See, e.g., Florida Mun. Power Agency v. Florida Power & Light Co.*, 64 F.3d 614 (11th Cir. 1995) (filed rate doctrine did not apply where service in dispute was not covered

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contrary. The Supreme Court has never applied the filed rate doctrine to bar a federal antitrust action based on a state filed rate, or indeed, state regulation. *See, e.g., Keogh v. Chicago & N.W. Ry.*, 260 U.S. 156 (1922); *Square D Co. v. Niagara Frontier Tariff Bureau, Inc.*, 476 U.S. 409 (1986). Doing so would not only invert the Supremacy Clause of the Constitution (which holds that a federal statute would trump a conflicting state regulation and not the other way around), but would also conflict with established Supreme Court jurisprudence, which analyzes the impact, if any, of state regulation on federal antitrust claims under the state-action doctrine (and not the filed rate doctrine). *See Parker v. Brown*, 317 U.S. 341 (1943); *Cal. Retail Liquor Dealers' Ass'n v. Midcal Aluminum, Inc. ("Midcal")*, 445 U.S. 97 (1980).

The state-action doctrine accounts for situations in which the state affirmatively permits the anti-competitive conduct at issue. Because the federal antitrust laws were intended to reach individual conduct, and not state action, the Supreme Court has held that a trade restraint that is “clearly articulated and affirmatively expressed as state policy” and that is “actively supervised” by the state itself is immune from the federal antitrust laws. *Midcal*, 445 U.S. at 105.

That limited exception to the federal antitrust laws for conduct amounting to state action – and not the filed rate doctrine – is the proper test for evaluating whether Defendants are immune from antitrust liability in this case. By moving to dismiss Plaintiffs’ action, Defendants are asking the Court to ignore the Supreme Court, to ignore the state-action doctrine, and to permit the mere mechanical act of filing a rate with a state agency to be the determinative factor of Defendants’ liability when a state regulatory scheme is involved. This the Court should not do. Defendants’ motions to dismiss based on the filed rate doctrine should be denied.

by filed tariff). *Amici* do not analyze which Defendants filed rates with state regulatory agencies and which did not.

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ARGUMENT

I. EXCEPTIONS TO THE ANTITRUST LAWS ARE NARROWLY CONSTRUED

The Supreme Court has long acknowledged that the antitrust laws are the centerpiece of this country's national economic policy:

On numerous occasions, this Court has affirmed the comprehensive coverage of the antitrust laws and has recognized that these laws represent "a carefully studied attempt to bring within [them] every person engaged in business whose activities might restrain or monopolize commercial intercourse among the states."

Jefferson County Pharm. Ass'n v. Abbott Labs., 460 U.S. 150, 158 (1983) (quoting *United States v. South-Eastern Underwriters Assn.*, 322 U.S. 533, 553 (1944)). See also *Carnation Co. v. Pac. Westbound Conference*, 383 U.S. 213, 218 (1966) ("the antitrust laws represent a fundamental national economic policy"); *United States v. Philadelphia Nat'l Bank*, 374 U.S. 321, 374 (1963) ("competition is our fundamental national economic policy").

Exemptions from the operation of the antitrust laws are to be construed narrowly. *Union Labor Life Ins. Co. v. Pireno*, 458 U.S. 119, 126 (1982); *FMC v. Seatrain Lines, Inc.*, 411 U.S. 726, 733 (1973). See also *Square D*, 476 U.S. at 421 ("exemptions from antitrust laws are strictly construed and strongly disfavored"). Implied antitrust immunity is particularly disfavored, "and can be justified only by a convincing showing of clear repugnancy between the antitrust laws and the regulatory system." *United States v. Nat'l Ass'n of Sec. Dealers*, 422 U.S. 694, 719-720 (1975); see also *Carnation*, 383 U.S. at 217-218 ("Repeals of the antitrust laws by implication from a regulatory statute are strongly disfavored, and have only been found in cases of plain repugnancy between the antitrust and regulatory provisions.") (quoting *Philadelphia Nat'l Bank*, 374 U.S. at 350-351). Accordingly, any attempt by Defendants to claim antitrust immunity, or to expand the application of a doctrine providing for protection from antitrust damage claims, must be viewed with suspicion.

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II. UNDER SUPREME COURT JURISPRUDENCE, THE FILED RATE DOCTRINE HAS NO APPLICABILITY TO RATES FILED WITH A STATE AGENCY

The filed rate doctrine was developed by the Supreme Court in order to resolve a conflict between two “plainly repugnant” *federal* statutory schemes: the antitrust laws and the federal regulatory laws. Characterized by the Supreme Court as “an established guidepost at the intersection of antitrust and interstate commerce regimes,” *Square D*, 476 U.S. at 423, the doctrine operates as a limited, context-driven rule for adjusting the conflicting demands of two federal statutes.²

The filed rate doctrine was first articulated by the Supreme Court in the oft-cited, but much maligned, *Keogh*, 260 U.S. 156.³ There, the plaintiff shipper sued a group of interstate freight carriers, alleging that they had violated the Sherman Act by collectively setting uniform freight rates. The rates in dispute, however, had been filed with and approved by the Interstate Commerce Commission. The Court was thus faced with the problem of reconciling the demands of the Sherman Act and of the Interstate Commerce Act (now repealed).

In resolving the statutory conflict, the Court rejected the notion that Congress intended to provide the shipper with an antitrust remedy over and above those already provided for by the Interstate Commerce Act. *See Keogh*, 260 U.S. at 162-163. The Court held that, under the

² The filed rate doctrine is not a grant of total immunity from the antitrust laws. *Square D*, 476 U.S. at 422. Individuals who file rates with a federal regulatory agency are still subject to antitrust scrutiny by the federal government as well as private claims seeking equitable relief under the Sherman Act. *Id.*; *see also Keogh*, 260 U.S. at 162 (“The fact that these rates had been approved by the Commission would not, it seems, bar proceedings by the Government.”).

³ The continuing rationale of *Keogh* has been questioned by the Supreme Court. In *Square D*, the Court suggested that, although “the *Keogh* decision was unwise as a matter of policy,” 476 U.S. at 420, absent Congressional action, *stare decisis* demanded that it was “more important that the applicable rule of law be settled than it be settled be right ...,” *id.* at 424 (quoting *Burnet v. Coronado Oil & Gas Co.*, 285 U.S. 393, 406 (1932) (Brandeis, J., dissenting)). *See also* Phillip E. Areeda and Herbert Hovenkamp, ANTITRUST LAW, AN ANALYSIS OF ANTITRUST PRINCIPLES AND THEIR APPLICATION § 247 (Lexis 2013) (criticizing rationale for filed rate doctrine articulated in *Keogh*), attached hereto as Exhibit A.

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narrow circumstances presented there, and because the rates were filed and approved by a federal regulatory agency, the filer could not be held liable for damages under the Sherman Act. *Keogh*, 260 U.S. at 163; *Square D*, 476 U.S. at 416. Instead, “the legal right of the shippers against the carrier had to be measured by the published tariff.” *Id.*

Revisiting the *Keogh* rule 60 years after its articulation, the Supreme Court noted that the question whether a filed rate is subject to collateral attack under the antitrust laws required the Court “to give careful consideration to the way in which Congress has accommodated the sometimes conflicting policies of the antitrust laws and the Interstate Commerce Act” *Square D*, 476 U.S. at 411. The Court’s focus in *Square D*, just as it was in *Keogh*, was on the conflict between *federal* statutory regimes. In fact, the Supreme Court has never applied the filed rate doctrine to resolve conflicts outside of a federal statutory scheme.

This case, however, raises the question whether rates filed with *state* regulatory agencies violate the *federal* antitrust laws. Such a conflict implicates an entirely different set of jurisprudential concerns from those presented in *Keogh* and *Square D*, such as federalism, and has been consistently evaluated by the Supreme Court pursuant to another standard – the state-action doctrine.

III. THE STATE-ACTION DOCTRINE IS THE EXCLUSIVE TEST EMPLOYED BY THE SUPREME COURT TO DETERMINE WHETHER RATES FILED WITH A STATE AGENCY ARE IMMUNE FROM FEDERAL ANTITRUST LAWS

Although our federal system of government involves two different levels of sovereignty, national and state, when the two conflict the Constitution leaves no doubt that the national sovereignty prevails:

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

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CONST., ART. VI, CL. 2. “Under the Supremacy Clause, state laws that require a private party to violate federal law are pre-empted and, thus, are ‘without effect.’” *Mut. Pharm. Co. v. Bartlett*, — U.S. —, 133 S. Ct. 2466, 2470 (2013), quoting *Maryland v. Louisiana*, 451 U. S. 725, 746 (1981). Thus, “a state does not give immunity to those who violate the Sherman Act by authorizing them to violate it, or by declaring that their action is lawful.” *Parker*, 317 U.S. 341.

In *Parker*, the Supreme Court addressed whether the Sherman Act applied to a California statutory scheme for joint marketing of raisins by producers, where the avowed purpose of the system was anticompetitive – “to prevent excessive supplies of agricultural commodities from ‘adversely affecting’ the market ... by raising and maintaining prices” *Id.* at 355. The Court avoided finding liability under federal law for the state’s scheme solely by concluding that Congress, in furtherance of the policy of federalism, did not intend the Sherman Act to prohibit the states’ exercise of their sovereign regulatory powers. *See also FTC v. Ticor Title Ins. Co.*, 504 U.S. 621, 632-633 (1992) (state action doctrine is “grounded in principles of federalism”). The Court concluded that California’s joint marketing system was immune from antitrust challenge because “[t]he state ... as sovereign, imposed the restraint as an act of government which the Sherman Act did not undertake to prohibit.” *Id.* at 352. This approach has come to be known as the state-action doctrine. The continuing vitality of this doctrine was reaffirmed just last year, 70 years after *Parker*, in *FTC v. Phoebe Putney Health Sys.*, — U.S. —, 133 S. Ct. 1003 (2013) (appeal from 11th Circuit). *Id.* at 1016 (“*Parker* and its progeny are premised on an understanding that respect for the States’ coordinate role in government counsels against reading the federal antitrust laws to restrict the States’ sovereign capacity to regulate their economies and provide services to their citizens.”).

State-action immunity only arises in very specific, narrow circumstances and is disfavored. *See id.*, 133 S. Ct. at 1010 (“given the fundamental national values of free enterprise

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and economic competition that are embodied in the federal antitrust laws, state-action immunity is disfavored”) (internal quotation marks omitted). Under the doctrine a state, acting through its political subdivisions or agents, is immune from antitrust liability only when the challenged restraint is “one clearly articulated and affirmatively expressed as state policy.” *Midcal*, 445 U.S. at 105.

Private parties may also invoke the immunity. They may do so, however, only when “a state policy ... expressly permits ... [their] anticompetitive conduct.” *Southern Motor Carriers Rate Conf., Inc. v. U.S.*, 471 U.S. 48, 61 (1985) (italics omitted). Even then, their anticompetitive conduct must also be “actively supervised by the State itself.” *Midcal*, 445 U.S. at 105 (internal quotation marks omitted). Specifically, “no antitrust immunity [is] conferred when a state agency passively accept[s] a ... [filed] tariff. *Id.* at 104 (discussing *Cantor v. Detroit Edison Co.*, 428 U.S. 579 (1976)). “The national policy in favor of competition cannot be thwarted by casting such a gauzy cloak of state involvement over what is essentially a private price-fixing arrangement.” *Id.* at 105. *See also Patrick v. Burgett*, 486 U.S. 94 (1988) (physicians’ participation in hospital peer-review process not immune from antitrust liability where, although the process was dictated by state law, there was no active state supervision or review of the actual process).

The Supreme Court has insisted upon the active supervision requirement when private conduct is involved for a significant reason. As the Court explained in *Patrick*, if the state does not actively supervise the private conduct, “there is no realistic assurance that a private party’s anticompetitive conduct promotes state policy, rather than merely the party’s individual interests.” *Patrick*, 486 U.S. at 101.

The Supreme Court has decided cases involving tariffs filed with a state agency no differently than other instances of private conduct commanded by state law. In each such case

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the Court has consistently resorted to the strict state-action doctrine as the applicable test. And when the standards of the doctrine have not been met, the Court has permitted antitrust claims to proceed. *See Ticor*, 504 U.S. 621; *Cantor*, 428 U.S. 579.

In *Ticor*, for example, title insurance companies engaged in the joint setting, through the use of rating bureaus, of rates for title search, examination, and settlement services. The FTC applied the state-action doctrine and found that the companies were guilty of “unfair methods of competition” in violation of the Federal Trade Commission Act, 15 U.S.C. § 45(a)(1). The Supreme Court upheld the FTC’s application of the state-action doctrine. The Court rejected the title insurance companies’ argument that active state supervision was established – and hence antitrust immunity arose – where, under a so-called negative option rule, filed rates became effective unless the state agency disapproved them within a set time. “The mere potential for state supervision,” the Court explained, “is not an adequate substitute for a decision by the State” on the acceptability of the rates filed. *Id.* at 638. *See also id.* at 639 (“This case involves horizontal price fixing under a vague *imprimatur* in form and agency inaction in fact....”) (italics original). As it had in *Patrick*, the Court in *Ticor* explained:

[T]he purpose of the active supervision inquiry ... is to determine whether the State has exercised sufficient independent judgment and control so that the details of the rates or prices have been established as a product of deliberate state intervention, not simply agreement among private parties.

Id. at 634-35.

As these cases demonstrate, the state-action doctrine is the appropriate – and only – legal standard employed by the Supreme Court for evaluating whether rates filed with a state regulatory body are exempt from antitrust scrutiny. In none of these cases did the Court apply the filed rate doctrine that arises in a federal regulatory context.

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IV. EXPANSION OF THE FILED RATE DOCTRINE TO COVER STATE REGULATORY SCHEMES IGNORES SUPREME COURT PRECEDENT AND IMPROPERLY BROADENS THE LIMITED EXCEPTIONS TO ANTITRUST LIABILITY

Notwithstanding the difference in purposes of and constitutional concerns addressed by the two doctrines, several courts have extended the filed rate doctrine to protect businesses that filed rates with state regulatory agencies. *See, e.g., Sun City Taxpayers' Ass'n v. Citizens Utils. Co.*, 45 F.3d 58 (3d Cir. 1995), *cert. denied*, 514 U.S. 1064 (1995); *Texas Commercial Energy v. TXU Energy, Inc.*, 2004-2 Trade Cas. (CCH) ¶ 74497, 2009 U.S. Dist. LEXIS 13908 (S.D. Tex. June 24, 2004), *aff'd*, 413 F.3d 503 (5th Cir. 2005), *cert. denied*, 546 U.S. 1091 (2006); *Goldwasser v. Ameritech Corp.*, No. 97 C 6788, 1998 U.S. Dist. LEXIS 23988 (N.D. Ill. Feb. 4, 1998), *aff'd*, 222 F.3d 390 (7th Cir. 2000); *H.J. Inc. v. Northwestern Bell Tel. Co.*, 954 F.2d 485 (8th Cir. 1992); *Taffet v. Southern Co.*, 967 F.2d 1483 (11th Cir. 1992). Generally, these courts have not analyzed the substantive distinctions between the filed rate doctrine and the state-action doctrine and, like Defendants, have extended the filed rate doctrine beyond its intended parameters. Not all courts have made this mistake. *See Brown v. Tigor Title Ins. Co.*, 982 F.2d 386 (9th Cir. 1992) (applying state action doctrine, not filed rate doctrine, to tariffs filed with state regulatory agency).

The extension of the filed rate doctrine to state regulatory agencies conflicts with Supreme Court precedent and its rationale. The Court's holdings in *Parker*, *Midcal*, and *Tigor* clearly set forth the limited terms under which "federal antitrust laws are subject to supercession by state regulatory programs." *Tigor*, 504 U.S. at 632-633 (citing *Parker*, 317 U.S. at 350-352). By contrast, *Keogh* and its progeny provide a mechanism for resolving conflicts between competing federal statutes. By simply extending *Keogh*, without reference to the very different underlying statutory schema, Defendants ignore explicit Supreme Court precedent regarding the appropriate analysis to be applied to state regulatory schemes.

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As discussed above, the Supreme Court requires that, before an actor can obtain state-action immunity, two prerequisites must be satisfied: (1) the restraint on competition must be clearly articulated and affirmatively expressed as state policy, and (2) the anticompetitive conduct must be actively supervised by the state. *See Midcal*, 445 U.S. at 105. The filed rate doctrine does not address the underlying constitutional concerns and hence has no such prerequisites; under this doctrine the mechanical filing of the rate confers protection. If the filed rate doctrine were extended to state regulatory filings, *Midcal* could become superfluous, leading to unprincipled, arbitrary grants of immunity. *See* P. Areeda and H. Hovenkamp, ANTITRUST LAW at ¶ 247e (“Extending the doctrine to state agencies raises the troublesome issue that rate filings may serve to confer an effective antitrust immunity in situations where antitrust’s ‘state action’ doctrine would not apply.”), attached hereto as Exhibit A.

This problem is not an imagined one. In *McCray v. Fidelity National Title Ins.*, 682 F.3d 229 (3d Cir. 2012), *cert. denied*, – U.S. –, 133 S. Ct. 1242 (2013), the court was presented with facts virtually identical to those in *Ticor*. In *McCray*, the plaintiffs sued a group of title insurance companies for fixing the price of title insurance in violation of the antitrust laws, 692 F.3d at 283; in *Ticor*, the plaintiff sued a group of title insurance companies for fixing the price of title searches and examinations in violation of the Federal Trade Commission Act, 504 U.S. at 627. In both cases, the defendants’ rates were filed with state regulatory agencies. Pursuant to Supreme Court precedent, the rate filings in both cases should have been evaluated under the *Midcal* test for state-action immunity. The *McCray* court, however, utilized the filed rate doctrine instead. Notwithstanding the involvement of a state regulatory scheme, the *McCray* court rejected the need for any “meaningful review” of the rates by the state, and also found it unnecessary “to reconcile the filed rate and state action doctrines” 682 F.3d at 239 n.6. Defendants were granted immunity from antitrust damages by the Third Circuit pursuant to the

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federal filed rate doctrine. In the comparable circumstances in *Ticor*, the Supreme Court applied the state-action doctrine and found no antitrust exemption.

We respectfully submit that the Third Circuit erred in *McCray* and that this Court should adhere to Supreme Court precedent and apply the established state-action doctrine in this case.

There is no legitimate reason or authority for extending the filed rate doctrine to protect filers of rates authorized by state regulatory schemes. Congress has chosen to leave the *Keogh* rule intact and not to extend its doctrine beyond the sphere of federal commercial regulation. *See Square D*, 476 U.S. at 424 (any modification to *Keogh* must come from Congress and not the Supreme Court). The states, moreover, have no inherent authority to create exceptions to the federal antitrust laws for unauthorized and unsupervised private conduct. *See Ticor*, 504 U.S. at 633 (“a State may not confer antitrust immunity on private persons by fiat”). Accordingly, the Court should evaluate Defendants’ filing of insurance rates with state regulatory agencies under the established and well-justified state-action doctrine, *not* the filed rate doctrine.

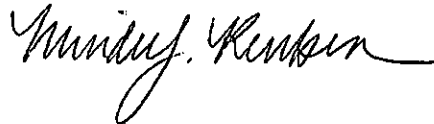
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CONCLUSION

For the foregoing reasons, Defendants' motions to dismiss based on the filed rate doctrine should be denied.

Dated: January 22, 2014

Respectfully submitted,



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