

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

IONIAN RE, LLC,

Plaintiff,

Case _____

v.

GORAYEB & ASSOCIATES, P.C.; CHRISTOPHER J. GORAYEB; NY ORTHO, SPORTS MEDICINE & TRAUMA, P.C.; JEFFREY STONE KAPLAN, MD; MATTHEW P. GRIMM, MD; JOSEPH WEINSTEIN, D.O., P.C. D/B/A COMPREHENSIVE & ORTHOPEDIC SPINE CARE; JOSEPH WEINSTEIN, DO; ANDREW MEROLA, MD; KOLB RADIOLOGY P.C.; THOMAS M. KOLB, MD; and LENOX HILL RADIOLOGY AND MEDICAL IMAGING ASSOCIATES, P.C.,

Defendants.

PLAINTIFF IONIAN RE, LLC’S ORIGINAL COMPLAINT

NOW COMES PLAINTIFF IONIAN RE, LLC (hereinafter referred to as “Plaintiff” or “Ionian”) by and through its attorneys THE WILLIS LAW GROUP, LLC, alleges as follows:

I. JURISDICTION AND VENUE

1. This is a civil action arising out of the Racketeer Influenced and Corrupt Organizations Act (“RICO”), 18 U.S.C. § 1961, *et seq.* This Court has subject matter jurisdiction pursuant to 18 U.S.C. § 1964, and 28 U.S.C. § 1331 in that certain of the claims arise under the laws of the United States and over other claims herein under its supplemental jurisdiction pursuant to 28 U.S.C. § 1367.
2. Venue is proper in this District under and pursuant to 18 U.S.C. § 1965, and pursuant to 28 U.S.C. § 1391, in that numerous of the acts, practices, and events giving rise to

the claims alleged in this Complaint occurred in this District, and many of the Defendants reside in this District.

II. **THE PARTIES**

A. **Plaintiffs**

3. Plaintiff IONIAN RE, LLC is a limited liability company duly organized and existing under the laws of Vermont. At all times relevant herein, Ionian was authorized to conduct business in New York.

B. **Defendants**

i. **Legal Service Defendants**

4. Defendant GORAYEB & ASSOCIATES, P.C. (“Gorayeb Firm”) is a professional corporation duly organized and existing under the laws of the State of New York. At all times relevant herein, the Gorayeb Firm maintained its principal place of business in the State of New York and is authorized to and does conduct business in New York.
5. Upon information and belief, Defendant CHRISTOPHER J. GORAYEB (“Gorayeb” and together with Gorayeb Firm, the “Gorayeb Defendants” or the “Legal Service Defendants”) resided in and was a citizen of the State of New Jersey. He is a named partner and sole shareholder of the Gorayeb Firm. At all times relevant herein, Gorayeb was licensed or otherwise authorized to practice law in the State of New York and was employed in the State of New York.

ii. **Medical Provider Defendants**

6. Defendant NY ORTHO, SPORTS MEDICINE & TRAUMA, P.C. (“NY Ortho”) is a professional corporation duly organized and existing under the laws of the State of New York. At all times relevant herein, NY Ortho maintained its principal place of business in the State of New York and is authorized to and does conduct business in New York.

7. Upon information and belief, Defendant JEFFREY STONE KAPLAN, MD (“Kaplan”) resides in and is a citizen of the State of New York. At all relevant times, Kaplan has been licensed or otherwise authorized to practice medicine in the State of New York and/or State of New Jersey and was an owner, operator, officer, director and/or employee of NY Ortho.
8. Upon information and belief, Defendant MATTHEW P. GRIMM, MD (“Grimm”), resides in and is a citizen of the State of New York. At all relevant times, Grimm has been licensed or otherwise authorized to practice medicine in the State of New York and/or State of New Jersey and was an owner, operator, officer, director and/or employee of NY Ortho.
9. Defendant JOSEPH WEINSTEIN, D.O., P.C. d/b/a Comprehensive & Orthopedic Spine Care (“Weinstein Practice”) is a professional corporation duly organized and existing under the laws of the State of New York. At all times relevant herein, the Weinstein Practice maintained its principal place of business in the State of New York and is authorized to and does conduct business in New York.
10. Upon information and belief, Defendant JOSEPH WEINSTEIN, DO (“Weinstein” and together with Weinstein Practice, the “Weinstein Defendants”) resides in and is a citizen of the State of New York. At all relevant times herein, Weinstein has been licensed or otherwise authorized to practice medicine in the State of New York and/or State of New Jersey and was the owner, operator, officer, director and/or employee of the Weinstein Practice.
11. Upon information and belief, Defendant ANDREW MEROLA, MD (“Merola”), resides in and is a citizen of the State of New York. At all relevant times herein, Merola

has been licensed or otherwise authorized to practice medicine in the State of New York and/or State of New Jersey.

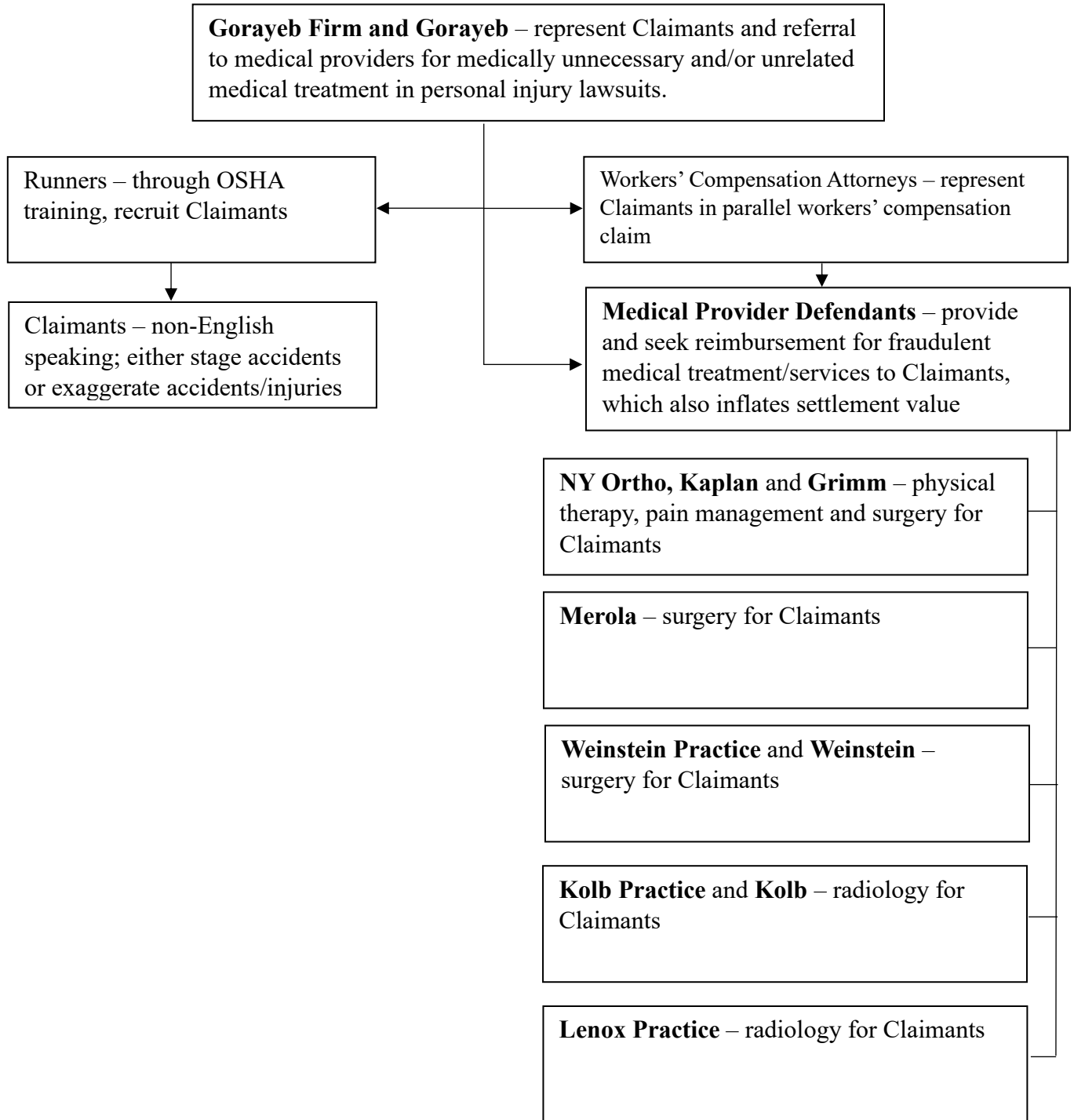
12. Defendant KOLB RADIOLOGY P.C. (“Kolb Practice”) is a professional corporation duly organized and existing under the laws of the State of New York. At all times relevant herein, Kolb Practice maintained its principal place of business in the State of New York and is authorized to and does conduct business in New York.
13. Upon information and belief, Defendant THOMAS M. KOLB, MD (“Kolb” and together with Kolb Practice, the “Kolb Defendants”) resides in and is a citizen of the State of New York. At all relevant times herein, Kolb has been licensed or otherwise authorized to practice medicine in the State of New York and/or State of New Jersey and was the owner, operator, officer, director and/or employee of Kolb Practice.
14. Defendant LENOX HILL RADIOLOGY AND MEDICAL IMAGING ASSOCIATES, P.C. (“Lenox Practice”), is a professional corporation duly organized and existing under the laws of the State of New York. At all times relevant herein, the Lenox Practice maintained its principal place of business in the State of New York and is authorized to and does conduct business in New York.
15. The NY Ortho Defendants, the Weinstein Defendants, Merola, the Kolb Defendants, and the Lenox Practice are collectively referred to herein as the “Medical Provider Defendants.”
16. The Legal Service Defendants and the Medical Provider Defendants are collectively referred to herein as “Defendants.”

III. FACTUAL BACKGROUND

A. Fraud Scheme

17. From at least 2018 to the present, Defendants, together with others known and unknown, for their financial benefit, orchestrated a widespread fraud scheme to defraud Plaintiff and others by (i) unlawfully grooming and recruiting construction workers into staging and perpetuating fake construction accidents that occurred in New York; (ii) preparing and collecting documentation as well as submitting, filing, prosecuting and asserting fraudulent workers' compensation claims and personal injury lawsuits on behalf of such construction workers; (iii) providing or alleging to have provided medically unnecessary and excessive healthcare services to such construction workers; and/or (iv) using the fraudulent diagnoses and medically unnecessary and excessive healthcare services to inflate settlement value (the "Fraud Scheme").
18. The Defendants together constituted an association-in-fact enterprise generally structured as depicted below in Figure 1:

Figure 1.



30. Generally, as part of the Fraud Scheme, individuals known as “runners” (“Runners”), under the sponsorship and direction of the Gorayeb Defendants and in furtherance of the Fraud Scheme, conducted Spanish-language OSHA training required to work on construction projects and recruited construction workers (“Claimants”) into staging and/or perpetuating fake construction accidents at various construction sites throughout New York.
31. On information and belief, as part of the recruitment process, Claimants were told that they would be paid for not working if they had a workplace injury. Further, Claimants were told that the amount of their economic benefits would increase if they had surgeries or rehabilitation, and that the economic benefits could continue for 225 weeks or more.
32. Regardless of any actual bodily injury stemming from the purported construction accidents, these Claimants were instructed by the Runners, under the direction of Gorayeb Defendants and on behalf of the Defendants, to fake and claim certain bodily injuries that purportedly resulted from such accidents and to seek medical treatment.
33. The Runners then referred and/or transported these Claimants to the Gorayeb Firm, where attorneys and/or other employees of the Gorayeb Firm met with these Claimants.
34. In return, the Runners generally received a referral fee for such referral.
35. The Gorayeb Firm represented the Claimants in personal injury lawsuits against the various parties involved with the construction project (*e.g.*, owner, general contractor, construction manager, etc.) for purported injuries that resulted from accidents on the construction projects.

36. The Gorayeb Defendants worked with Fogelgaren Forman & Bergman, LLP (“Fogelgaren Firm”), based on an agreement and understanding with the Fogelgaren Firm that Fogelgaren Firm would represent Claimants in workers’ compensation claims made to the New York State Workers’ Compensation Board (“NY WCB”) and Gorayeb Firm would represent Claimants in personal injury lawsuits, for the same purported injuries that resulted from accidents on the construction projects, in furtherance of the Fraud Scheme.
37. The Fogelgaren Firm’s office and Gorayeb Firm’s office are located on the same floor of the same building – the 19th floor of the building at 100 William St., New York, New York 10038.
38. For most Claimants, both personal injury lawsuits and workers’ compensation claims were initiated and proceeded in parallel to maximize profit for the Defendants.
39. In order to inflate settlement values and thereby effectuate higher profit for the Defendants, Gorayeb Defendants and/or others under their control, directed the Claimants to seek medical diagnosis and treatment from associated medical providers, including the Medical Provider Defendants, who provide a variety of services (radiology, physical therapy, pain management and orthopedic surgery) at facilities located in or to patients from multiple states, including New York and New Jersey.
40. Many of the Claimants are undocumented immigrants who do not speak English, and the Claimants, as part of the Fraud Scheme, were instructed to fake their injuries and to receive a myriad of healthcare services that were unnecessary, excessive, unwarranted and costly and/or not causally related to the alleged workplace accident.

41. As an incentive to attest to fraudulent accidents and injuries and to undergo unnecessary surgery, upon information and belief Claimants were offered litigation funding loans.
42. The Medical Provider Defendants provided false diagnoses, use of their facilities and resources, and unnecessary, excessive, unwarranted and costly medical services and/or medical services that were not causally related to the alleged workplace accident, for which the Medical Provider Defendants received compensation from workers' compensation insurance.
43. The Medical Provider Defendants understood and agreed that in turn for providing the false medical documentation needed for higher settlement values, the Gorayeb Defendants will continue to funnel patients to their offices.
44. Armed with the fraudulently documented medical diagnoses and medical services allegedly related to the workplace accident and the parallel workers' compensation submissions, the Gorayeb Defendants fraudulently inflate the settlement values of personal injury lawsuits to extract greater settlement from general liability carriers, including from Plaintiff Ionian.

B. Fraudulent Accident, Treatment and Claim/Lawsuit in Furtherance of Fraud Scheme

45. The Defendants engaged in the Fraud Scheme resulting in a number of fraudulent claims and lawsuits being filed.
46. For example, on behalf of the Defendants and in furtherance of the Fraud Scheme, the Legal Service Defendants represented the following individuals who staged an accident and/or claimed injuries that were either not sustained or were unrelated to the alleged accident in claims and lawsuits.
47. The Legal Service Defendants knew such accidents and injuries were fraudulent.

48. The Medical Provider Defendants provided unnecessary and excessive treatment unrelated to the claimed accident.

49. The following individuals are just a fraction of the individuals who participated in the Fraud Scheme under Defendants' guidance.

i. Claimant A

50. Claimant A, who upon information and belief is an immediate relative of Claimant D herein, was allegedly injured on December 22, 2020, when struck by a piece of wood while working on a construction project in New York. The construction project is the same one where Claimant D was allegedly injured as demonstrated below.

51. Contrary to Claimant A's claim, however, there was absolutely no accident at the job site and nothing happened to Claimant A. *See* Affidavits dated March 25, 2021 attached hereto as **Exhibit 1** (redacted for the protection of personal identification information). Claimant A did not report any incident to their foreman, who is the designated person to report to, and was not working in the capacity for which the wood would fall on them. *See id.* Moreover, Claimant A returned to work the next day, never mentioned having been involved in an accident the day prior and worked the entire day without any issues. *Id.*

52. Claimant A retained the Gorayeb Firm, and the Gorayeb Defendants directed the aggressive and unnecessary medical treatment of Claimant A and filed a lawsuit on behalf of Claimant A alleging personal injuries and damages stemming from negligence at the construction site.

53. Claimant A also retained the Fogelgaren Firm to represent Claimant A before the NY WCB.

54. Under the direction of Gorayeb Defendants and the care of the Medical Provider Defendants, what started out as a chief complaint of headache and head injury, for which Claimant A was treated and released from the ER with a prescription for Tylenol and a Lidoderm patch, later became a fall on Claimant B's left knee and arms resulting in an alleged tear of the left ACL, neck and left shoulder injury, and immediate back pain in his low back. Years after the 2020 alleged injury, Dr. Merola diagnosed Claimant A as being 100% disabled from work.
55. Claimant A received a series of treatment for such newfound injuries including evaluations and MRI and physical therapy referrals by Dr. Kaplan of the NY Ortho Defendants, MRIs of the left knee, left shoulder, lumbar spine and cervical spine by the Kolb Defendants, epidural steroid injections by Dr. Grimm of the NY Ortho Defendants, and surgeries by Dr. Merola, including decompressive lumbar laminectomies, medial facetectomies, neuroforaminotomies, and decompression of neurological elements and nerve roots.
56. Based on Claimant A's medical and workers' compensation records, however, including independent medical exams conducted through the workers' compensation claim, many of the medical services provided to Claimant A were unnecessary, excessive and/or unwarranted and were not causally related to the alleged workplace accident. In fact, there was no degree of causally related temporary disability and Claimant A was able to return to pre-injury work at full duty. *See* Report of Dr. Thomas Albus, M.D. dated December 13, 2021, attached hereto as **Exhibit 2** (redacted for the protection of personal health identification information).

57. Furthermore, Claimant A's alleged post-concussion syndrome, post-traumatic headaches, cervical sprain/strain, and lumbar sprain/strain all resolved. Claimant A was not disabled secondary to injuries and could return to work on a full-time basis without any restrictions. *See* Report of Dr. Daniel O'Connell dated August 24, 2021, attached hereto as **Exhibit 3** (redacted for the protection of personal health identification information).
58. The Medical Provider Defendants, directly or indirectly through the Fogelgaren Firm, electronically transmitted fraudulent medical documents to the NY WCB for authorization and payment for medical services provided to Claimant A, which were unnecessary, excessive, unwarranted and/or costly and were not causally related to the alleged workplace accident, to the Gorayeb Firm knowing that providing favorable medical records would be rewarded with referrals and repeat business and to others in the normal course of business that they knew or should have known would be used in connection with the payment the monies in furtherance of Claimant A's pending workers' compensation and litigation claims.
59. Based on such submission of fraudulent claim documents to the NY WCB, to the Gorayeb Defendants and others, payments were issued by mail and/or by ACH payment directly to the Medical Provider Defendants and expenses were incurred for which Plaintiff had to pay.
60. The Gorayeb Defendants provided by mail or by electronic service to the New York State Supreme Court for the Court of New York and to all named parties in the personal injury lawsuit, fraudulent medical records, including fraudulent documents prepared by or on behalf of the Medical Provider Defendants, containing false assertions

regarding Claimant A's construction accident, the existence of and the extent of Claimant A's injuries, and the necessity of medical treatment that Claimant A received in connection with the construction accident, in order to falsely bolster and add value to Claimant A's personal injury lawsuit, thereby inflating settlement value and ultimately, the Gorayeb Defendants' financial gain from Claimant A's personal injury lawsuit.

61. The Gorayeb Defendants provided by mail or by electronic service to defense counsel medical authorizations and HIPAA releases signed by Claimant A for the release of Claimant A's medical records that Gorayeb Defendants knew or reasonably should have known were false.

ii. Claimant B

62. Claimant B was allegedly injured on July 1, 2019, when Claimant B fell from a ladder while working on a construction project in Brooklyn, New York.

63. On the date of the alleged accident, Claimant B was descending the ladder without assistance even though it required two people. *See* Statement dated July 2, 2019, attached hereto as **Exhibit 4** (redacted for the protection of personal identification information). Claimant B was aware of this safety requirement yet went down the ladder anyways without the proper support. *Id.*

64. Claimant B retained the Gorayeb Firm, and Gorayeb Defendants directed the aggressive, unnecessary medical treatment of Claimant B and filed a lawsuit on behalf of Claimant B alleging personal injuries and damages stemming from negligence at the construction site.

65. Initially, Claimant B told coworkers and the ambulance personnel that he had no injuries other than an alleged problem with his knee, but no other injuries. *See*

Statement dated July 2, 2019, attached hereto as **Exhibit 5** (redacted for the protection of personal identification information). Claimant B further said the he did not hit his head and had no spinal pain or injury. *Id.* At the emergency room, Claimant B complained of pain in the right knee, but reported no head injury and a CT of the cervical and lumbar spine were both normal, showing no acute injuries. Claimant B was then treated and released from the emergency room.

66. Thereafter, under the direction of Gorayeb Defendants and the care of the Medical Provider Defendants, Claimant B then claimed low back pain and lumbar disc herniations and received a host of medical services from the Medical Provider Defendants, including imaging services, physical therapy, epidural steroid injections, epidurograms, EMG/NCV testing, lumbar trigger point injections, surgeries and physical therapy. Among other things, the Medical Provider Defendants, including but not limited to Dr. Merola, assessed Claimant B as having a severe traumatic low back injury and gross instability at L3-4 with an annular tear. After one consultation with Dr. Merola, decompressive lumbar laminectomies at L3/L4/L5 were performed followed by extensive post-surgery physical therapy. Two years after the accident, Dr. Merola diagnosed Claimant A as being totally disabled from all work and duties.

67. Based on Claimant B's medical and workers' compensation records, however, many of the medical services provided to Claimant B were unnecessary, excessive and unwarranted and were not causally related to the alleged workplace accident. The alleged injuries for which Claimant B claimed were degenerative and not casually connected to the alleged accident, specifically, pre-existing lumbar degeneration and the L3-L5 laminectomy and fusion were wholly unrelated to the subject accident. *See*

Report of Dr. Charla Fischer dated December 22, 2023, attached hereto as **Exhibit 6** (redacted for the protection of personal health identification information).

68. The Medical Provider Defendants, directly or indirectly through the Fogelgaren Firm, electronically transmitted fraudulent medical documents to the NY WCB for authorization and payment for medical services provided to Claimant B, which were unnecessary, excessive, unwarranted and/or costly and were not causally related to the alleged workplace accident, to the Gorayeb Firm knowing that providing favorable medical records would be rewarded with referrals and repeat business and to others in the normal course of business that they knew or should have known would be used in connection with the payment the monies in furtherance of Claimant B's pending workers' compensation and litigation claims.
69. Based on such submission of fraudulent claim documents to the NY WCB, to the Gorayeb Defendants and others, payments were issued by mail and/or by ACH payment directly to the Medical Provider Defendants and expenses were incurred for which Plaintiff had to pay.
70. The Gorayeb Defendants provided by mail or by electronic service to the New York State Supreme Court for the Court of New York and to all named parties in the personal injury lawsuit, fraudulent medical records, including the fraudulent documents prepared by or on behalf of the Medical Provider Defendants, containing false assertions regarding Claimant B's construction accident, the existence of and the extent of Claimant B's injuries, and the necessity of medical treatment that Claimant B received in connection with the construction accident, in order to falsely bolster and add value to Claimant B's personal injury lawsuit, thereby inflating settlement value

and ultimately, the Gorayeb Defendants' financial gain from Claimant B's personal injury lawsuit.

71. The Gorayeb Defendants provided by mail or by electronic service to defense counsel medical authorizations and HIPAA releases signed by Claimant B for the release of Claimant B's medical records that Gorayeb Defendants knew or reasonably should have known were false.

iii. Claimant C

72. Claimant C was allegedly injured on July 7, 2022, while working on a scaffolding at a construction jobsite in New York.

73. Claimant C, however, gave a number of inconsistent histories to the medical providers named herein, including that he was hanging by a rope with his right arm, jumping over a balcony and holding onto a rope, and tripping and about to fall at work when he hyperextended his right upper extremity. Further, Claimant C inconsistently alleged in their verified lawsuit that Claimant C was caused to fall from said scaffold. In reality, Claimant was securely positioned in a permissible harness and was caught by his lifeline as he jumped from the scaffold onto the balcony due to having his rope grab connected too high on the safety line." See Affidavit dated July 13, 2022, attached hereto as **Exhibit 7** (redacted for the protection of personal identification information).

74. Claimant C did not report the alleged incident on the date of the accident, continued to work the rest of the day, and worked the entirety of the day after the alleged accident. Only thereafter did Claimant C then suspiciously report the alleged incident. In fact, coworkers of Claimant C, who were with Claimant C during the day of the alleged accident, did not witness any accident involving Claimant C and when Claimant C did report the accident, he indicated that he did not adjust the rope grab in a way that gave

himself sufficient rope, i.e. the accident, if any, was due Claimant's sole cause. *See* Affidavits dated July 13, 2022, attached hereto as **Exhibit 8** (redacted for the protection of personal identification information).

75. Claimant C also did not seek any medical treatment immediately following the accident nor the day after when he returned to work. Claimant C waited 11 days, until July 18, 2022, to seek treatment for his alleged injuries at Summit CityMD. Claimant C only complained of right shoulder pain at that time. He showed no signs of distress or pain as his pulse and blood pressure showed normal ranges. An x-ray of the right shoulder came back completely normal. The right clavicle, right shoulder and right upper arm all showed no swelling or bruising, which 11 days post-injury should have been readily visible had an acute injury occurred. Although Claimant C did not complain about his right hand, Summit CityMD made a routine observation during its evaluation and noted that the right digits showed no signs of swelling, bruising, lacerations or any other signs of injury.

76. Claimant C retained the Gorayeb Firm, and Gorayeb Defendants directed the aggressive and unnecessary medical treatment of Claimant C and filed a lawsuit on behalf of Claimant C alleging personal injuries and damages stemming from negligence at the construction site.

77. Under the direction of Gorayeb Defendants and the care of the Medical Provider Defendants, what started out as a chief complaint of only right shoulder pain with normal objective findings and normal diagnostic testing, later became a diagnosis by Dr. Kaplan of internal derangement of the right shoulder with a tear of the supraspinatus tendon resulting in surgery, and a back injury, with disc herniations, followed by a series

of epidural steroid injections and a surgery recommendation. Claimant C sought additional treatment from another provider for his right hand.

78. Based on Claimant C's medical and workers' compensation records, however, including independent medical exams, at least one of which was attended by an employee of the Gorayeb Defendants, many of the medical services provided to Claimant C were unnecessary, excessive and/or unwarranted and were not causally related to the alleged workplace accident. When Claimant C first sought medical treatment, he did not have actual symptoms or signs which referred to his neck, nor did he have evidence of nerve root injury; no lumbar complaints at all were documented in the course of several examinations by several different care providers, disc herniations on diagnostic testing were of uncertain cause, age, and consequence, and if real, cannot be assigned to the accident of record with any degree of reasonable medical certainty. *See* Report of Dr. Saran S. Rosner, M.D. dated November 6, 2023, attached hereto as **Exhibit 9** (redacted for the protection of personal health identification information). There was no medical evidence that Claimant C suffered any significant or permanent injury to his right hand/wrist, right elbow, right shoulder, or cervical or lumbar spine as a result of the alleged accident. *See* Report of Dr. Ramesh Gidumal, M.D. dated October 20, 2023, attached hereto as **Exhibit 10** (redacted for the protection of personal health identification information).

79. The Medical Provider Defendants, directly or indirectly through the Fogelgaren Firm, electronically transmitted fraudulent medical documents to the NY WCB for authorization and payment for medical services provided to Claimant C, which were unnecessary, excessive, unwarranted and/or costly and were not causally related to the

alleged workplace accident, to the Gorayeb Firm knowing that providing favorable medical records would be rewarded with referrals and repeat business and to others in the normal course of business that they knew or should have known would be used in connection with the payment the monies in furtherance of Claimant C's pending workers' compensation and litigation claims.

80. Based on such submission of fraudulent claim documents to the NY WCB, to the Gorayeb Defendants and others, payments were issued by mail and/or by ACH payment directly to the Medical Provider Defendants and expenses were incurred for which Plaintiff had to pay.

81. The Gorayeb Defendants provided by mail or by electronic service to the New York State Supreme Court for the Court of New York and to all named parties in the personal injury lawsuit, fraudulent medical records, including the fraudulent documents prepared by or on behalf of the Medical Provider Defendants, containing false assertions regarding Claimant C's construction accident, the existence of and the extent of Claimant C's injuries, and the necessity of medical treatment that Claimant C received in connection with the construction accident, in order to falsely bolster and add value to Claimant C's personal injury lawsuit, thereby inflating settlement value and ultimately, the Gorayeb Defendants' financial gain from Claimant C's personal injury lawsuit.

82. The Gorayeb Defendants provided by mail or by electronic service to defense counsel medical authorizations and HIPAA releases signed by Claimant C for the release of Claimant C's medical records that Gorayeb Defendants knew or reasonably should have known were false.

iv. Claimant D

83. Claimant D, who upon information and belief is an immediate relative of Claimant A herein, was allegedly injured on July 19, 2012, when they fell while coming down a ladder at a construction site in Brooklyn, New York. The construction project is the same one where Claimant A was allegedly injured as demonstrated above.
84. Although Claimant D alleges injuries from this unwitnessed fall off a ladder, in reality, the 12-foot extension ladder in question was sitting in the same position it had been all day after the alleged fall. There was nothing wrong with the ladder, it was upright and there was no debris, liquid or other foreign substance on any of its rungs. *See* Affidavit dated July 22, 2022, attached hereto as **Exhibit 11** (redacted for the protection of personal identification information). Further, the area of the floor of the roof in the area of the ladder had no debris, materials, or anything else in the vicinity of the ladder. *Id.* Importantly, the ladder had been used several times on the date of the alleged accident without issue and it was free from defects and did not break, shake, move or slide when it was used. *See* Affidavit dated July 22, 2022, attached hereto as **Exhibit 12** (redacted for the protection of personal identification information).
85. At the emergency room on the date of the alleged accident, Claimant D gave a history that they had sustained a shoulder injury to the left side after slipping and falling from the ladder at an estimated 3 feet high. Claimant D reported no head injury, and a CT of the cervical and lumbar spine were both normal, showing no acute injuries. The emergency records reflect a low fall, even and unlabored respirations, and no acute signs or symptoms of distress. All x-rays were normal. Claimant D was treated and released without any significant injuries.

86. Claimant D then sought medical treatment 20 days later, on August 5, 2022, at Bay Ridge Chiropractic. Claimant D then had several additional complaints not mentioned at the emergency room, including but not limited to their upper and lower neck, upper back, mid back, lower back, bilateral shoulder pain, and bilateral knee pain. Claimant D also exaggerated his claim to include that his fall was now approximately 6-8 feet, up from the previous 3 feet when evaluated at the emergency room.
87. Claimant D retained the Gorayeb Firm, and Gorayeb Defendants directed the aggressive and unnecessary medical treatment of Claimant D and filed a lawsuit on behalf of Claimant D alleging personal injuries and damages stemming from negligence at the construction site.
88. Under the direction of Gorayeb Defendants and the care of the Medical Provider Defendants, what started out as a chief complaint of only a shoulder injury to the left side with normal objective findings and unremarkable diagnostic testing, later became a diagnosis of a back injury, with disc herniations, followed by an anterior cervical discectomy with fusion at C4-6 performed by Dr. Weinstein and post-surgical care from, among others, the NY Ortho Defendants.
89. Based on Claimant D's medical and workers' compensation records, however, many of the medical services provided to Claimant D were unnecessary, excessive and unwarranted and were not causally related to the alleged workplace accident. Specifically, Claimant D's injuries were degenerative in nature, pre-existing and/or did not exist at all. In fact, an independent medical exam performed through the Workers' Compensation claim showed Claimant D to have at most a mildly partial temporary disability (25%) and that Claimant D was capable of working albeit with restriction, a

far cry from the alleged total disability assessed by the Medical Services Defendants. See Report of Dr. Christopher Inzerillo, M.D., MBA dated November 1, 2022, attached hereto as **Exhibit 13** (redacted for the protection of personal health identification information).

90. The Medical Provider Defendants, directly or indirectly through the Fogelgaren Firm, electronically transmitted fraudulent medical documents to the NY WCB for authorization and payment for medical services provided to Claimant D, which were unnecessary, excessive, unwarranted and/or costly and were not causally related to the alleged workplace accident, to the Gorayeb Firm knowing that providing favorable medical records would be rewarded with referrals and repeat business and to others in the normal course of business that they knew or should have known would be used in connection with the payment the monies in furtherance of Claimant D's pending workers' compensation and litigation claims.
91. Based on such submission of fraudulent claim documents to the NY WCB, to the Gorayeb Defendants and others, payments were issued by mail and/or by ACH payment directly to the Medical Provider Defendants and expenses were incurred for which Plaintiff had to pay.
92. The Gorayeb Defendants provided by mail or by electronic service to the New York State Supreme Court for the Court of New York and to all named parties in the personal injury lawsuit, fraudulent medical records, including the fraudulent documents prepared by or on behalf of the Medical Provider Defendants, containing false assertions regarding Claimant D's construction accident, the existence of and the extent of Claimant D's injuries, and the necessity of medical treatment that Claimant D

received in connection with the construction accident, in order to falsely bolster and add value to Claimant D's personal injury lawsuit, thereby inflating settlement value and ultimately, the Gorayeb Defendants' financial gain from Claimant D's personal injury lawsuit.

93. The Gorayeb Defendants provided by mail or by electronic service to defense counsel medical authorizations and HIPAA releases signed by Claimant D for the release of Claimant D's medical records that Gorayeb Defendants knew or reasonably should have known were false.

C. Defendants' Participation in the Fraud Scheme

94. At all relevant times, the Defendants constituted an association-in-fact enterprise and were engaged in, and the activities of which affected, interstate commerce, and each of the Defendants participated in the operation or management of the enterprise.

i. Gorayeb Defendants' Participation in the Fraud Scheme

95. Since at least 2018, the Gorayeb Firm has been involved in hundreds of lawsuits involving purported construction work injuries, covered by various insurers and reinsurers, including Plaintiff Ionian in furtherance of the Fraud Scheme.

96. Defendant Gorayeb is the sole shareholder and principal of the Gorayeb Firm.

97. At all times relevant, Gorayeb Defendants sponsored, directed, authorized, coordinated, and controlled the conduct engaged in by the Runners to give OSHA training to construction workers and to recruit construction workers (*i.e.*, Claimants) to stage workplace accidents and/or falsely claim injuries unrelated to the alleged accidents.

98. At all relevant times, Gorayeb Defendants represented Claimants in personal injury lawsuits and directed, authorized, coordinated, and controlled the prosecution of

- Claimants' lawsuits, assigning duties and responsibilities to attorneys/employees of the Gorayeb Firm, and intentionally submitting or causing the filing of and submission of fraudulent assertions and medical documentation to various courts within the State of New York and all named parties in the personal injury lawsuit.
99. As part of the Fraud Scheme, the Gorayeb Defendants referred the Claimants to the Fogelgaren Firm for representation and prosecution of the Claimants' workers' compensation claims.
100. Gorayeb Defendants directed the Claimants to seek medical treatment from the Medical Provider Defendants, knowing and understanding that the Medical Provider Defendants would provide fraudulent medical documentation needed for higher settlement values in exchange for continuing to funnel patients to the Medical Provider Defendants.
101. Each of Gorayeb Defendants knowingly transmitted and received by mail, facsimile, and/or email documents that contained assertions of legitimate construction accidents, the existence of injuries, and the necessity of medical treatment that Gorayeb Defendants knew or reasonably should have known were false.
102. This unlawful conduct worked to falsely bolster and add value to Claimants' workers' compensation claims and personal injury lawsuits, thereby inflating settlement value and ultimately, Gorayeb Defendants' financial gain from the lawsuits.
- ii. NY Ortho Defendants' Participation in the Fraud Scheme
103. Since at least 2018, the NY Ortho has been involved in the medical treatment of numerous Claimants involving purported construction work injuries in furtherance of the Fraud Scheme.

104. Defendant Kaplan, as an orthopedic surgeon, and a principal of NY Ortho, controlled and directed the medical services provided to Claimants by NY Ortho, including a) evaluating and performing surgeries that were not medically necessary and/or not causally related to the alleged accidents; b) referring Claimants to his colleague, Dr. Grimm, also of NY Ortho, for unnecessary injections and physical therapy; and c) referring Claimants to the Lenox Practice and Kolb Defendants for unnecessary imaging services.

105. Defendant Grimm, as a physician specializing in physical medicine and rehabilitation and pain management, and upon information and belief, a principal of NY Ortho, controlled and directed the medical services provided to Claimants by NY Ortho, including a) evaluating and providing injections that were not medically necessary and/or not causally related to the alleged accidents; b) referring Claimants to his colleague, Dr. Kaplan, for unnecessary physical therapy; c) referring Claimants to Dr. Merola for unnecessary evaluations and surgeries; and d) referring Claimants to the Lenox Practice and Kolb Defendants for unnecessary imaging services.

106. As part of the Fraud Scheme, Kaplan and Grimm intentionally submitted or caused the submission of fraudulent medical documentation by mail, facsimile and/or email to the NY WCB and others involved in the Claimants' workers' compensation claims for authorization and to seek reimbursement for medical services that were unnecessary, excessive, unwarranted and/or costly and were not causally related to the alleged workplace accident.

107. As part of the Fraud Scheme, Kaplan and Grimm provided fraudulent medical documentation by mail, facsimile and/or email to other medical service providers,

including the Medical Provider Defendants, knowing that the fraudulent medical documentation would be used or relied upon to render additional medical services that were unnecessary, excessive, unwarranted and/or costly and were not causally related to the alleged workplace accident.

108. As part of the Fraud Scheme, Kaplan and Grimm provided fraudulent medical documentation by mail, facsimile and/or email to Gorayeb Defendants knowing that the fraudulent medical documentation would be used to falsely bolster and add value to Claimants' personal injury lawsuits, thereby inflating the settlement value of such lawsuits.

109. The NY Ortho Defendants knowingly profited from reimbursements for the alleged medical and diagnostic services rendered by Kaplan and Grimm, that were unnecessary, excessive, unwarranted and/or costly and were not causally related to the alleged workplace accident but were rendered in furtherance of the Fraud Scheme.

110. The NY Ortho Defendants also knowingly profited from the increased number of patients who were referred to them as part of the Fraud Scheme, for whom Kaplan and Grimm provided medical and diagnostic services and received reimbursement for such services.

iii. Kolb Defendants' Participation in the Fraud Scheme

111. Since 2018, Kolb Practice has been involved in the medical treatment of numerous Claimants involving purported construction work injuries in furtherance of the Fraud Scheme.

112. Kolb, as a radiologist and a principal of Kolb Practice, controlled and directed the medical services provided to Claimants by providing radiological and imaging diagnostics and MRI reports identifying purported positive findings without correlation

- to degenerative conditions and providing inaccurate findings of the Claimants' conditions.
113. As part of the Fraud Scheme, Kolb intentionally submitted or caused the submission of fraudulent medical documentation by mail, facsimile and/or email to the NY WCB and others involved in the Claimants' workers' compensation claims for authorization and to seek reimbursement for medical services that were unnecessary, excessive, unwarranted and/or costly and were not causally related to the alleged workplace accident.
114. As part of the Fraud Scheme, Kolb provided fraudulent medical documentation by mail, facsimile and/or email to other medical service providers, including the Medical Provider Defendants, knowing that the fraudulent medical documentation would be used or relied upon to render additional medical services that were unnecessary, excessive, unwarranted and/or costly and were not causally related to the alleged workplace accident.
115. As part of the Fraud Scheme, Kolb provided fraudulent medical documentation by mail, facsimile and/or email to Gorayeb Defendants knowing that the fraudulent medical documentation would be used to falsely bolster and add value to Claimants' personal injury lawsuits, thereby inflating the settlement value of such lawsuits.
116. The Kolb Defendants knowingly profited from reimbursements for the alleged imaging and diagnostic services rendered by Kolb, that were unnecessary, excessive, unwarranted and/or costly and were not causally related to the alleged workplace accident but were rendered in furtherance of the Fraud Scheme.

117. The Kolb Defendants also knowingly profited from the increased number of patients who were referred to them as part of the Fraud Scheme, for whom Kolb provided imaging and diagnostic services and received reimbursement for such services.

iv. Lenox Practice Participation in the Fraud Scheme

118. Since 2018, the Lenox Practice has been involved in the medical treatment of numerous Claimants involving purported construction work injuries in furtherance of the Fraud Scheme.

119. The Lenox Practice, as radiologists, controlled and directed the medical services provided to Claimants by providing radiological and imaging diagnostics and MRI reports identifying purported positive findings without correlation to degenerative conditions and providing inaccurate findings of the Claimants' conditions.

120. As part of the Fraud Scheme, the Lenox Practice intentionally submitted or caused the submission of fraudulent medical documentation by mail, facsimile and/or email to the NY WCB and others involved in the Claimants' workers' compensation claims for authorization and to seek reimbursement for medical services that were unnecessary, excessive, unwarranted and/or costly and were not causally related to the alleged workplace accident.

121. As part of the Fraud Scheme, the Lenox Practice provided fraudulent medical documentation by mail, facsimile and/or email to other medical service providers, including the Medical Provider Defendants, knowing that the fraudulent medical documentation would be used or relied upon to render additional medical services that were unnecessary, excessive, unwarranted and/or costly and were not causally related to the alleged workplace accident.

122. As part of the Fraud Scheme, the Lenox Practice provided fraudulent medical documentation by mail, facsimile and/or email to Gorayeb Defendants knowing that the fraudulent medical documentation would be used to falsely bolster and add value to Claimants' personal injury lawsuits, thereby inflating the settlement value of such lawsuits.

123. The Lenox Practice knowingly profited from reimbursements for the alleged imaging and diagnostic services rendered by the Lenox Practice, that were unnecessary, excessive, unwarranted and/or costly and were not causally related to the alleged workplace accident but were rendered in furtherance of the Fraud Scheme.

124. The Lenox Practice also knowingly profited from the increased number of patients who were referred to them as part of the Fraud Scheme, for whom they provided imaging and diagnostic services and received reimbursement for such services.

v. Weinstein Defendants' Participation in the Fraud Scheme

125. Since 2018, the Weinstein Practice has been involved in the medical treatment of numerous Claimants involving purported construction work injuries in furtherance of the Fraud Scheme.

126. Weinstein, as an orthopedic surgeon and a principal of the Weinstein Practice, controlled and directed the medical services provided to Claimants by the Weinstein Practice, including evaluating and performing surgeries that were not medically necessary and/or not causally related to the alleged accidents.

127. As part of the Fraud Scheme, Weinstein intentionally submitted or caused the submission of fraudulent medical documentation by mail, facsimile and/or email to the NY WCB and others involved in the Claimants' workers' compensation claims for authorization and to seek reimbursement for medical services that were unnecessary,

excessive, unwarranted and/or costly and were not causally related to the alleged workplace accident.

128. As part of the Fraud Scheme, Weinstein provided fraudulent medical documentation by mail, facsimile and/or email to other medical service providers, including the Medical Provider Defendants, knowing that the fraudulent medical documentation would be used or relied upon to render additional medical services that were unnecessary, excessive, unwarranted and/or costly and were not causally related to the alleged workplace accident.

129. As part of the Fraud Scheme, Weinstein provided fraudulent medical documentation by mail, facsimile and/or email to Gorayeb Defendants knowing that the fraudulent medical documentation would be used to falsely bolster and add value to Claimants' personal injury lawsuits, thereby inflating the settlement value of such lawsuits.

130. The Weinstein Defendants knowingly profited from reimbursements for the alleged medical and diagnostic services rendered by Weinstein, that were unnecessary, excessive, unwarranted and/or costly and were not causally related to the alleged workplace accident but were rendered in furtherance of the Fraud Scheme.

131. The Weinstein Defendants also knowingly profited from the increased number of patients who were referred to them as part of the Fraud Scheme, for whom Weinstein provided medical and diagnostic services and received reimbursement for such services.

vi. Merola's Participation in the Fraud Scheme

132. Since 2018, Merola has been involved in the medical treatment of numerous Claimants involving purported construction work injuries in furtherance of the Fraud Scheme.
133. Merola, as an orthopedic surgeon, controlled and directed the medical services provided to Claimants, including evaluating and performing surgeries that were not medically necessary and/or not causally related to the alleged accidents.
134. As part of the Fraud Scheme, Merola intentionally submitted or caused the submission of fraudulent medical documentation by mail, facsimile and/or email to the NY WCB and others involved in the Claimants' workers' compensation claims for authorization and to seek reimbursement for medical services that were unnecessary, excessive, unwarranted and/or costly and were not causally related to the alleged workplace accident.
135. As part of the Fraud Scheme, Merola provided fraudulent medical documentation by mail, facsimile and/or email to other medical service providers, including the Medical Provider Defendants, knowing that the fraudulent medical documentation would be used or relied upon to render additional medical services that were unnecessary, excessive, unwarranted and/or costly and were not causally related to the alleged workplace accident.
136. As part of the Fraud Scheme, Merola provided fraudulent medical documentation by mail, facsimile and/or email to Gorayeb Defendants knowing that the fraudulent medical documentation would be used to falsely bolster and add value to Claimants' personal injury lawsuits, thereby inflating the settlement value of such lawsuits.

137. Merola knowingly profited from reimbursements for the alleged medical and diagnostic services that he rendered, that were unnecessary, excessive, unwarranted and/or costly and were not causally related to the alleged workplace accident but were rendered in furtherance of the Fraud Scheme.

138. Merola also knowingly profited from the increased number of patients who were referred to him as part of the Fraud Scheme, for whom he provided medical and diagnostic services and received reimbursement for such services.

D. Defendants' Pattern of Racketeering Activity

The pattern of racketeering engaged in by Defendants involving a scheme to defraud and steal from Plaintiff and others, began on or before 2018, and continues to the present day, and includes among others: *See* Pattern of Racketeering Activity – Predicate Acts, attached hereto as **Exhibit 14**.

IV. PLAINTIFFS' JUSTIFIABLE RELIANCE

139. Ionian has a duty to promptly and fairly pay for expenses incurred in connection with the claims made the basis of this lawsuit and others.

140. The invoices and documentation supporting the Fraud Scheme submitted to Ionian, either directly or indirectly, the New York State Workers' Compensation Board, the New York Unified Court System, and others contained materially false statements and were designed to mislead and conceal materially false statements.

141. As such, Ionian justifiably and reasonably relied on them as facially valid and incurred damages as a result.

V. DAMAGES

142. Plaintiff Ionian is a reinsurer which underwrites policies and provides reinsurance that covers the personal injury lawsuits filed and prosecuted by the Legal Service

Defendants as part of the Fraud Scheme. As such, Ionian is a party directly and ultimately damaged by the Fraud Scheme.

143. Due to Defendants' perpetration of the Fraud Scheme, Ionian has incurred expenses paid as reimbursement to primary insurers providing coverage for the lawsuits filed and/or prosecuted by the Legal Service Defendants on behalf of Claimants.

144. But for Defendants' perpetration of the Fraud Scheme, Ionian's expenses paid as reimbursement to primary insurers would be less because the Claimants' injuries, if any, would be less severe and the medical services necessary to treat any accident-related injury, if any, would be less significant, resulting in lower settlement value of such lawsuits and thus, less litigation expenses.

145. Due to Defendants' perpetration of the Fraud Scheme, Ionian has incurred general liability claim adjustment expenses progressively rising from \$3,150,000 in 2018 to \$5,150,000 in 2019 (63.49% increase from 2018), to \$6,150,000 in 2020 (19.42% increase from 2019), to \$14,250,000 in 2021 (131.71% increase from 2020), to \$16,250,000 in 2022 (14.04% increase from 2021), to \$18,400,000 in 2023 (13.23% increase from 2022). This represents a 484% increase in effectively the three years after the COVID - 19 pandemic during 2020, which led to the single largest one-year decline for the construction industry in New York City since 1990. *See* Office of the New York State Comptroller, "The Construction Industry in New York City: Recent Trends and Impact of COVID-19," March 3, 2022, at 3. *See* <https://www.osc.ny.gov/files/reports/osdc/pdf/report-3-2021.pdf>, incorporated herein by reference, last accessed February 15, 2024.

146. Further, during the period of 2021, 2022 and 2023, Ionian's net outstanding liability under general liability increased from \$7,150,000.00 to \$33,125,000 to \$58,750,000 respectively, an increase of nearly 722%.
147. The drastically escalating cost of construction-related claims in general liability areas stands in marked contrast to the overall decreasing number of workplace injuries, which in New York City reportedly decreased from 759 in 2018 to 554 in 2022 (a 27% decrease). *See e.g.*, “2022 New York City Construction Safety Report,” at https://www.nyc.gov/assets/buildings/pdf/con_safe_2022.pdf, incorporated herein by reference, last accessed February 15, 2024. The number of workplace incidents decreased from 1,193 in 2018 to 751 in 2022, a 37% decrease. *Id.*
148. In an April 2024 study, the New York Civil Justice Institute indicated that insurance costs in New York are higher than any other state and that insurance professionals warn that the market is headed toward a crisis that will have long term implications for consumers.” *See* <https://acrobat.adobe.com/id/urn:aaid:sc:us:2de7b5f8-2913-4ed4-8ec4-625d1ca07466>, incorporated herein by reference, last accesses August 5, 2024.
149. The study goes on to say that construction insurance costs are the highest when compared to nearby states such as Connecticut, New Jersey and Pennsylvania at a rate of 12.5% of a project’s costs versus 2.5%, respectively. *Id.*
150. Further, the study cites information that an average Labor Law 240(1) claim will settle for above \$1 million, however, if there is a neck or back surgery involved, the claim value averages between \$2 million to \$3 million or more. *Id.*
151. In the face of fraudulent insurance claims, much like the defendants’ Fraud Scheme, the New York Legislature has introduced a bill making the staging of a construction

accident and the encouraging and assisting the same, a Class E Felony in the State of New York. That bill is currently pending.

152. Defendants' patterns of fraudulent conduct caused injury to Plaintiff in its business and property by reason of the aforesaid violations of state and federal law. Although it is not necessary for Plaintiff to calculate damages with specificity at this stage in the litigation (whereas Plaintiff's damages continue to accrue), Plaintiff's injuries include, but are not limited to the following:

- a. Actual and consequential damages for the payments Plaintiff made as reimbursement for payments made directly to the Defendants and/or to others due to Defendants' pattern of fraudulent conduct in connection with the Fraud Scheme, the exact amount to be determined at trial.
- b. Actual and consequential damages for the damage to Plaintiff's business including, but not limited to, expenses incurred for the administration of these lawsuits and the retention of additional staff to perform investigative and support services for lawsuits due to Defendants' pattern of fraudulent conduct in connection with the Fraud Scheme, the exact amount to be determined at trial.

VI. CAUSES OF ACTION

COUNT I **RICO Violation (§ 1962(c))**

153. Plaintiff incorporates herein by reference the allegations contained in the above paragraphs as though set forth in their entirety.

154. At all times relevant herein, Defendants constituted an "enterprise" as that term is defined in 18 U.S.C. § 1961(4) – that is, a group of individuals and legal entities

- associated in fact, which was engaged in, and the activities of which affected, interstate commerce, and foreign commerce. Each of the Defendants participated in the operation or management of the enterprise, which Gorayeb orchestrated, coordinated and led.
155. In addition to any legitimate transactions, the course of conduct of this enterprise included a pattern of racketeering activity carried out by Defendants. *See* Exhibit 4.
156. Each of the Defendants knowingly and willfully associated with the association-in-fact enterprise and conducted and participated in the conduct of the enterprise's affairs, directly and indirectly, through a pattern of racketeering activity in violation of 18 U.S.C. § 1962(c).
157. The pattern of racketeering activity in which the Defendants engaged involved numerous specific acts and conducts as described in detail in this Complaint and the accompanying exhibits, constituting mail fraud (18 U.S.C. § 1341), wire fraud (18 U.S.C. § 1343) and bribing a witness under New York law (NY Penal Code § 215) – all of which is “racketeering activity” as defined in 18 U.S.C. § 1961(1)(A).
158. The predicate acts of mail fraud, wire fraud, and bribing a witness or victim involved the transmission and use of false and misleading documentation in furtherance of the Defendants' scheme to defraud Plaintiff in connection with submitting, filing, prosecuting and asserting workers' compensation claims and personal injury lawsuits arising out of fraudulent construction accidents.
159. As a result of the pattern of racketeering activity, Plaintiff has suffered damage to its business and property.

WHEREFORE, Plaintiff demands judgment against the Defendants, and each of them, jointly and severally, for:

- a. An award of Plaintiff's actual and consequential damages to be established at trial, and trebling of such damages pursuant to 18 U.S.C. § 1964;
- b. Plaintiff's reasonable attorneys' fees, expenses, costs, and interest;
- c. Injunctive relief enjoining the Defendants from engaging in the wrongful conduct alleged in this Complaint; and
- d. Such other relief as the Court deems just and proper.

COUNT II
RICO Violation (§ 1962(d))

160. Plaintiff incorporates herein by reference the allegations contained in the above paragraphs as though set forth in their entirety.

161. From at least 2018 to the present, Defendants did unlawfully, knowingly, and intentionally, combine, conspire, confederate, and agree together with each other, and with others whose names are known or unknown, to conduct and participate, directly and indirectly, in the conduct of the affairs of the enterprise through a pattern of racketeering activity set forth herein in violation of 18 U.S.C. § 1962(d).

162. The pattern of racketeering activity in which the Defendants intentionally combined to engage in or otherwise conspired to engage in involved numerous specific acts and conducts as described in detail in this Complaint and the accompanying exhibits, constituting mail fraud (18 U.S.C. § 1341), wire fraud (18 U.S.C. § 1343) and bribing a witness under New York law (NY Penal Code § 215) – all of which is “racketeering activity” as defined in 18 U.S.C. § 1961(1)(A).

163. The predicate acts of mail fraud, wire fraud, and bribing a witness or victim also involved the transmission and use of false and misleading documentation in furtherance of the Defendants' scheme to defraud Plaintiff in connection with submitting, filing,

prosecuting and asserting personal injury lawsuits arising out of fraudulent construction accidents.

164. As a result of the pattern of racketeering activity, Plaintiff has suffered damage to its business and property.

WHEREFORE, Plaintiff demands judgment against the Defendants, and each of them, jointly and severally, for:

- a. An award of Plaintiff's actual and consequential damages to be established at trial, and trebling of such damages pursuant to 18 U.S.C. § 1964;
- b. Plaintiff's reasonable attorneys' fees, expenses, costs, and interest;
- c. Injunctive relief enjoining the Defendants from engaging in the wrongful conduct alleged in this Complaint; and
- d. Such other relief as the Court deems just and proper.

COUNT III
Common Law Fraud

165. Plaintiff incorporates herein by reference the allegations contained in the above paragraphs as though set forth in their entirety.

166. The Legal Service Defendants made misrepresentations of facts, deliberately concealed, omitted material facts that they had a duty to disclose in connection with their prosecution of Claimants' lawsuits.

167. The Medical Provider Defendants made misrepresentations of facts, deliberately concealed, omitted materials facts that they had a duty to disclose in connection with their claims for reimbursement and/or payment under New York law, which they knew or should have known would also be used in connection with the Legal Service Defendants' prosecution of Claimants' lawsuits.

168. These misrepresentations of fact by Defendants included, but were not limited to, the material misrepresentations of fact made in asserting the legitimacy of accidents, the existence of injuries and the necessity of treatment.
169. Defendants' representations were false or required disclosure of additional facts to render the information furnished not misleading.
170. Defendants made these misrepresentations in furtherance of the scheme to defraud Plaintiff by submitting claims for general liability insurance benefits.
171. Defendants' misrepresentations were known to be false from the onset and were made for the purpose of inducing Plaintiff to make payments for claims that were not legitimate.
172. Plaintiff reasonably and justifiably relied, to its detriment, on the truthfulness of Defendants' representations concerning their eligibility to receive payments of general liability insurance benefits, and without knowledge of Defendants' scheme and artifice to defraud them.
173. Defendants knew, or should have known, that Plaintiff would so rely on and intended that they so rely on their truthfulness.
174. But for the Defendants' misrepresentations, omissions, concealment of material facts, and fraudulent course of conduct, Plaintiff would not have paid general liability insurance benefits.
175. Plaintiff at no time knew or had reason to know in the exercise of due diligence or reasonable care that Defendants were engaged in misrepresentations, omissions, and fraudulent conduct.

176. As a direct and proximate cause of Defendants' misrepresentations, omissions, concealment of material facts, and fraudulent course of conduct by Defendants, Plaintiff has been damaged. Plaintiff's damages include, but are not necessarily limited to, benefit payments, administration costs, investigative and defense costs paid by Plaintiff's to Defendants or caused by Defendants.

177. Because Defendants' conduct was knowing, intentional, willful, wanton, and reckless, Plaintiff is entitled to an award of punitive damages.

WHEREFORE, Plaintiff demands judgment against the Defendants, and each of them, jointly and severally, for:

- a. An award of Plaintiff's actual and consequential damages to be established at trial;
- b. Plaintiff's costs, including, but not limited to, investigative costs incurred in the detection of Defendant's illegal conduct; and
- c. Such other relief as the Court deems just and proper.

Count IV
Declaratory Relief Pursuant to 28 U.S.C. § 2201

178. Plaintiff incorporates herein by reference the allegations contained in the above paragraphs as though set forth in their entirety.

179. Pursuant to 18 U.S.C. § 2201(a), the Court may determine the rights and legal obligations of the parties.

180. There is an actual case and controversy between Plaintiff on the one hand, and Defendants on the other hand, as to all charges for examinations, treatments, testing, injections, surgeries, and physical therapy that have not been paid to date and through

the pendency of this litigation. Plaintiff contends these Defendants are not entitled to reimbursement for any of these charges.

181. Because these Defendants have made false and fraudulent statements and otherwise engaged in the fraudulent conduct described above with the intent to conceal, mislead and misrepresent material facts and circumstances regarding each claim submitted, these Defendants are not entitled to any reimbursement for alleged services relating to any of the claims at issue.

WHEREFORE, Plaintiff demands judgment against Defendants for:

- a. A declaration that Defendants, at all times relevant, have submitted claims and bills to Plaintiff for staged accidents and/or unnecessary healthcare services in violation of New York law;
- b. Declare that Defendants' activities are unlawful;
- c. Declare that Plaintiff has no obligation to pay or reimburse any pending, previously denied, and/or general liability insurance claims or related expenses submitted or caused by the Defendants; and
- d. Such other relief as the Court deems just and proper.

VII. JURY TRIAL DEMAND

182. Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiff demands a trial by jury on all claims.

Dated: October 8, 2024

Respectfully submitted,

THE WILLIS LAW GROUP, PLLC

By: /s/ William J. Clay

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