UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

UNION MUTUAL FIRE INSURANCE COMPANY,

Plaintiff,

v.

Case #: 25-cv-01857-FB-JRC

LIAKAS LAW, P.C.,
DEAN N. LIAKAS,
JOHN DOE NOS. 1-25,
PRIME CASE, LLC,
XYZ CORPORATION NOS. 1-25,
ORTHOPAEDICS SPINE & SPORTS MEDICINE, LLC,
d/b/a TOTAL ORTHOPAEDICS,
KAREN AVANESOV, D.O.,
VADIM LERMAN, D.O.,
DANTE LEVEN, D.O.,
MCCULLOCH ORTHOPAEDIC SURGICAL SERVICES,
P.L.L.C. s/d/b/a NEW YORK SPORTS AND JOINTS
ORTHOPAEDIC SPECIALISTS,
DAVID R. CAPIOLA, M.D.;
GOTHAM NEUROSURGERY, P.L.L.C.;
ANDERS COHEN, D.O.;
NJMHMC, LLC d/b/a HUDSON REGIONAL HOSPITAL,
ACCELERATE RADIOLOGY, P.C.
d/b/a PRECISION ACCELERAD,
SIDDHARTH PRAKASH, M.D.,
PAIN PHYSICIANS OF NEW YORK, P.C.,
BOLESLAV KOSHARSKYY, M.D.,
LEONID REYFMAN, M.D., and
JEAN PAUL ERROL TOUSSAINT, M.D.,

Defendants.

FIRST AMENDED COMPLAINT

Plaintiff UNION MUTUAL FIRE INSURANCE COMPANY (hereinafter referred to as "Union") by and through their attorneys THE WILLIS LAW GROUP, PLLC, as and for their FIRST AMENDED COMPLAINT allege 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 the remaining 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. PARTIES

A. Plaintiff

3. UNION MUTUAL FIRE INSURANCE COMPANY is an insurance company duly organized and existing under the laws of the State of Vermont and maintains its office in that state.

B. Defendants

i. Legal Service Defendants

4. Defendant LIAKAS LAW P.C. ("Liakas Firm") is a professional corporation duly organized and existing under the laws of the State of New York. At all times relevant herein, the Liakas Firm maintained its principal place of business in the State of New York.

5. Upon information and belief, Defendant DEAN N. LIAKAS ("Dean Liakas") resides in and is a citizen of the State of New York. He is also the managing partner of Liakas Firm. At all times relevant, Dean Liakas was licensed or otherwise authorized to practice law in the State of New York.

6. Liakas Firm and Dean Liakas are collectively referred to herein as the "Liakas Defendants" or the "Legal Service Defendants."

ii. Runner Defendants

7. Defendants JOHN DOE NOS. 1-25 (collectively "Runner Defendants") are persons of unknown citizenship who participated in the fraudulent scheme described below by recruiting potential claimants into staging and/or perpetuating fake trip and fall accidents at various sites throughout New York.

8. Similar to the scheme set forth in *United States v. Rainford et al.*, 110 F.4th 455 (2d Cir. 2024), Runner Defendants typically have their own claims, which may be presented before, after, or in conjunction with their recruiting activities.

9. Upon information and belief, defendant Liakas Firm employs or has employed at least two individuals purportedly as "paralegals" or employees retained to perform "client relations" who were in fact tasked with recruiting potential claimants in order to further the fraudulent scheme. Liakas Firm further employed "medical coordinators" who would shepherd the Claimants to co-conspirator medical providers and through pre-determined rote protocol treatments.

10. The Liakas Firm further conspired with another law firm ("Co-Conspirator Firm 1"), Co-Conspirator Firm 1's "investigator," and Co-Conspirator Firm 1's paralegal, who operated as Runners and recruited potential claimants in order to further the fraudulent scheme (the "Fraud

Scheme"), and further split the proceeds from such scheme through payments disguised as referral fees, "trial counsel" fee arrangements, and as case-related expenses.

iii. Funding Defendants

11. Defendant PRIME CASE LLC ("Prime") is a Delaware limited liability company. At all times relevant herein, Prime was authorized to and does/did conduct business in New York. Prime provides cash advances to personal injury plaintiffs in the form of payments to medical providers for procedures and as direct advances to personal injury plaintiffs. At all times relevant herein, Prime also operated through affiliated entities with the same business purpose, under shared ownership, management, and control.

12. Defendants XYZ CORPORATION NOS. 1-25 (collectively, the "Funding Defendants") are business entities of unknown organization that participated in the fraudulent scheme described below by providing funds directly and/or indirectly to the Legal Service Defendants, the Runner Defendants, the Claimants (defined below) and/or the Medical Provider Defendants.

iv. Medical Provider Defendants

13. At all times relevant herein, Defendant ORTHOPAEDICS SPINE & SPORTS MEDICINE, LLC a/k/a Total Orthopaedics & Sports Medicine ("Total Ortho") is and was limited liability company organized and existing under the laws of the State of New York. At all times relevant herein, Total Ortho maintained its principal place of business in the State of New York and is ostensibly authorized to and does conduct business in New York.

14. Defendant KAREN AVANESOV, D.O. ("Avanesov" and together with Total Ortho, the "Total Ortho Defendants") resides in and is a citizen of the State of New York. At all relevant times herein, Avanesov has been licensed or otherwise authorized to practice medicine in the State

of New York and was the operator, officer, director and/or employee of Total Ortho. Upon information and belief, Avanesov has been an owner of Total Ortho since at least 2012.

15. Defendant VADIM LERMAN, D.O. ("Lerman" and together with Total Ortho, the "Total Ortho Defendants") resides in and is a citizen of the State of New York. At all relevant times herein, Lerman has been licensed or otherwise authorized to practice medicine in the State of New York and was the operator, officer, director and/or employee of Total Ortho. Upon information and belief, Avanesov has been an owner of Total Ortho since at least 2016.

16. Defendant DANTE LEVEN, D.O. ("Leven" and together with Avanesov, Lerman and Total Ortho, the "Total Ortho Defendants") resides in and is a citizen of the State of New York. At all relevant times herein, Lerman has been licensed or otherwise authorized to practice medicine in the State of New York and was the operator, officer, director and/or employee of Total Ortho. Upon information and belief, Avanesov has been an owner of Total Ortho since at least 2021.

17. Defendant MCCULLOCH ORTHOPAEDIC SURGICAL SERVICES, P.L.L.C. s/d/b/a NEW YORK SPORTS AND JOINTS ORTHOPAEDIC SPECIALISTS ("McCulloch Ortho" or "NY S&J" when utilizing the alias) is a professional service limited liability company duly organized and existing under the laws of the State of New York. At all times relevant herein, McCulloch Ortho maintained its principal place of business in the State of New York and is authorized to and does conduct business in New York.

18. Defendant DAVID R. CAPIOLA, M.D. ("Capiola" and together with McCulloch Ortho and McCulloch, the "McCulloch Defendants") resides in and is a citizen of the State of New York. At all relevant times herein, Capiola has been licensed or otherwise authorized to practice medicine in the State of New York and was the owner, operator, officer, director and/or employee of McCulloch Ortho and NY S&J.

19. Defendant GOTHAM NEUROSURGERY, P.L.L.C. ("Gotham Neurosurgery") is a professional service corporation organized and existing under the laws of the State of New York. At all times relevant herein, Gotham Neurosurgery maintained its principal place of business in the State of New York and is authorized to and does conduct business in New York.

20. Defendant ANDERS COHEN, D.O. ("Cohen" and together with Gotham Neurosurgery, the "Gotham Defendants") resides in and is a citizen of the State of New York. At all relevant times herein, Cohen has been licensed or otherwise authorized to practice medicine in the State of New York and was the owner, operator, officer, director and/or employee of Gotham Neurosurgery.

21. Defendant NJMHMC, LLC d/b/a HUDSON REGIONAL HOSPITAL ("Hudson Regional") is a limited liability company duly organized and existing under the laws of the State of New Jersey. At all times relevant herein, Hudson Regional transacted significant business in the State of New York, including soliciting physicians, patients, and lawyers to utilize its services, providing and arranging transportation for New York patients, soliciting and receiving referrals from New York-based medical practices, and billing New York-based policies and insurers.

22. Defendant ACCELERATE RADIOLOGY, P.C. d/b/a PRECISION ACCELERAD ("AcceleRad") is a professional service corporation organized and existing under the laws of the State of New York. At all times relevant herein, AcceleRad maintained its principal place of business in the State of New York and is authorized to and does conduct business in New York.

23. Defendant SIDDHARTH PRAKASH, M.D. ("Prakash" and together with AcceleRad, the "AcceleRad Defendants") resides in and is a citizen of the State of New York. At all relevant times herein, Prakash has been licensed or otherwise authorized to practice medicine

in the State of New York and was the owner, operator, officer, director and/or employee of AcceleRad.

24. Defendant PAIN PHYSICIANS OF NEW YORK ("Pain Physicians NY") is a professional service corporation organized and existing under the laws of the State of New York. At all times relevant herein, Pain Physicians NY maintained its principal place of business in the State of New York and is authorized to and does conduct business in New York.

25. Defendant BOLESLAV KOSHARSKYY, M.D. ("Kosharskyy") resides in and is a citizen of the State of New York. At all relevant times herein, Kosharskyy has been licensed or otherwise authorized to practice medicine in the State of New York and was the owner, operator, officer, director and/or employee of Pain Physicians NY.

26. Defendant LEONID REYFMAN, M.D. ("Reyfman," and together with Pain Physicians NY and Kosharskyy, the "PPNY Defendants") resides in and is a citizen of the State of New York. At all relevant times herein, Reyfman has been licensed or otherwise authorized to practice medicine in the State of New York and was the owner, operator, officer, director and/or employee of Pain Physicians NY.

27. Defendant JEAN PAUL ERROL TOUSSAINT, M.D. ("Toussaint") resides in and is a citizen of the State of New York. At all relevant times herein, Toussaint has been licensed or otherwise authorized to practice medicine in the State of New York and was the owner, operator, officer, director and/or employee of Physical Rehab.

28. The Total Ortho Defendants, McCulloch Ortho Defendants, Gotham Defendants, Hudson Regional Defendants, AcceleRad Defendants, PPNY Defendants, and Toussaint are collectively referred to herein as the "Medical Provider Defendants."

29. The Legal Service Defendants, the Runner Defendants, the Funding Defendants, and the Medical Provider Defendants are collectively referred to herein as "Defendants."

III. FACTUAL BACKGROUND

A. Fraud Scheme & Conspiracy

30. From at least 2018 to the present, with a marked escalation since 2020, Defendants, together with others known and unknown, for their financial benefit, orchestrated a widespread fraud scheme to defraud Plaintiffs and others by (i) fraudulently misrepresenting pre-existing and degenerative conditions as acute trauma, transforming legitimate minor or localized injuries into lucrative full-body claims, and otherwise manufacturing purported injuries from whole cloth; (ii) preparing and collecting documentation as well as submitting, filing, prosecuting and asserting fraudulent personal injury lawsuits on behalf of Claimants, frequently directly related and within short temporal proximity; (iii) providing or alleging to have provided medically unnecessary and excessive healthcare services to such Claimants; (iv) providing monies directly or indirectly to Defendants and to Claimants to fund the fraud scheme; and/or (v) using the fraudulent diagnoses and medically unnecessary and excessive healthcare services to inflate or manufacture settlement value (the "Fraud Scheme").

31. Despite the complexity of the granular facts of each matter, the goal and *modus operandi* is straightforward: get desperate people to fake and/or grossly exaggerate minor accidents, and fake and/or grossly exaggerate injuries, and undergo needless surgeries to prolong litigation and obtain fraudulent windfall settlements from Plaintiff and others. The Claimants were compelled to cooperate by promises of windfalls by Liakas Firm, litigation funding often timed with, if not directly contingent on, filing suit and undergoing needless surgeries, and by the urging of the Runners.

32. AcceleRad Defendants, PPNY Defendants, and Toussaint provided the knowingly falsified clinical and diagnostic findings to facially justify needless surgery.

33. The Total Ortho Defendants, McCulloch Defendants, and Gotham Defendants performed such needless surgeries, knowing such surgeries to be unnecessary and unwarranted, so as to receive direct payments from litigation funding and to assert lienson Claimant recoveries.[1] Hudson Regional often provided the surgical facility, to receive direct payments from litigation funding and to assert dramatically inflated liens, often on the eve of trial and in part to induce the needed settlements.

34. The Liakas Firm directed Claimants to, and coordinated treatment with, these specific providers for these specific purposes, compiled the knowingly falsified medical and surgical records, and used such documentation to needlessly prolong litigation (driving up the Funding Defendants returns, allowing for further unnecessary treatment to the enrichment of Medical Provider Defendants) and further fraudulently inflate case values, to the common and ultimate goal of a fraudulently obtained windfall, to the Enterprise's benefit; specifically to the Liakas Firm (contingency fees), Medical Providers (liens paid), and Funding Defendants (recoupment of advance plus astronomical interest), often leaving the Claimants with smallest portion of any such recovery. All of this was to the detriment of the Fraud Scheme's intended targets – insurance companies; here, Plaintiff.

35. Each Defendant formed a necessary step in the scheme, and each was aware of the fraud. Each further exercised control over their portion of the scheme, exercised discretion in managing and operating their part of the scheme, and each was aware of the ultimate goal – get Plaintiff to pay a bogus claim. Each was an interlocking piece of the chain which fails without the

[1] A lien is a claim against money recovered in the related lawsuit. The Medical Provider Defendants hold their bill for services, to be paid at the time settlement or other recovery is paid.

organized cooperation of each component. Each agreed, explicitly or implicitly, to aid in this conduct.

36. Each of the Runners, Medical Provider Defendants, and Funding Defendants provided substantial assistance to the Liakas Defendants, aiding and abetting the Liakas Defendants by providing the Claimants needed, and the knowingly falsified supporting documentation for the ultimate and necessary part of the Fraud Scheme, inducement of a fraudulently inflated settlement. The Liakas Defendants in turn substantially aided and abetted the Medical Provider Defendants and Funding Defendants through providing the Claimant referrals, and obtaining the fraudulently inflated settlements to pay off the liens and advances.

37. The conspiracy shares many structural elements similar to those found in *United States v. Rainford*, *supra*, as summarized by the Second Circuit Court of Appeals in its recent decision affirming criminal convictions:

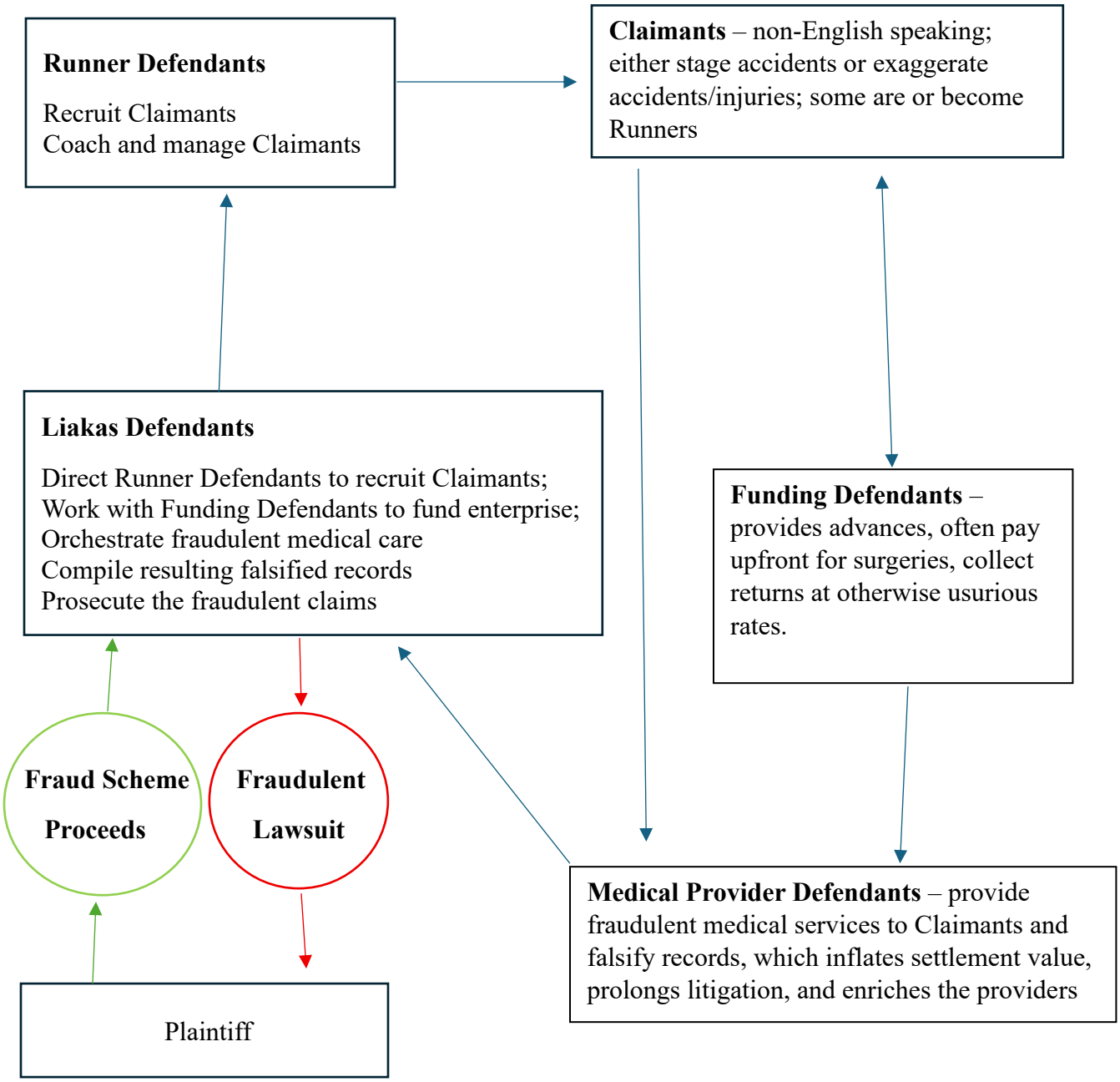
> The scheme involved recruiting poor and homeless people to fake accidents at properties around the New York area. The recruit would stage an accident and then seek unnecessary medical treatment—sometimes including surgery—from doctors who were part of the scheme. The organizers of the scheme would then refer the recruit to a lawyer, who would sue the property owner or the owner's insurance company for damages. The proceeds from the lawsuits, which often settled, were then divided among the co-conspirators, with the recruits receiving relatively little.

United States v. Rainford et al., 110 F.4th at 468 (2d Cir. 2024)

B. <u>The Fraud Scheme Enterprise</u>

38. The Defendants together constituted an association-in-fact enterprise generally structured and operated as depicted below in Figure 1.

Figure 1.


Runner Defendants
Recruit Claimants
Coach and manage Claimants
Claimants – non-English speaking; either stage accidents or exaggerate accidents/injuries; some are or become Runners
Liakas Defendants
Direct Runner Defendants to recruit Claimants;
Work with Funding Defendants to fund enterprise;
Orchestrate fraudulent medical care
Compile resulting falsified records
Prosecute the fraudulent claims
Funding Defendants – provides advances, often pay upfront for surgeries, collect returns at otherwise usurious rates.
Fraud Scheme Proceeds
Fraudulent Lawsuit
Medical Provider Defendants – provide fraudulent medical services to Claimants and falsify records, which inflates settlement value, prolongs litigation, and enriches the providers
Plaintiff

39. Generally, as part of the Fraud Scheme, individuals known as "runners" ("Runners"), including the Runner Defendants, under the direction of the Liakas Defendants and in furtherance of and as a necessary step for the execution of the Fraud Scheme, recruited claimants ("Claimants") into staging and/or perpetuating fake trip and fall accidents at various locations throughout New York.

40. The Runners then referred and/or transported these Claimants to Liakas Firm, where attorneys and/or other employees of Liakas Firm met with these Claimants.

41. Claimants were told that the amount of their ultimate economic recoveries would increase if they had surgeries or rehabilitation, and that funding was available so long as they continued to participate in the treatment protocol predetermined by Defendants.

42. Regardless of any actual bodily injury stemming from the purported accidents, these Claimants were instructed by the Runners, under the direction of the Legal Service Defendants and on behalf of the Defendants, to fake and/or grossly exaggerate particular specified bodily injuries that purportedly resulted from such accidents and to seek medical treatment from providers who would provide treatment and documentation in furtherance of the scheme.

43. The Liakas Defendants represented the Claimants in personal injury lawsuits against the various landlord and tenant parties for purported injuries that resulted from alleged accidents.

44. In order to inflate potential settlement value and thereby effectuate higher profit for the Defendants, Liakas Defendants, directly and/or indirectly through the Runner Defendants and/or others under their control including employed Medical Coordinators, directed the Claimants to seek medical diagnosis and treatment from certain associated medical providers with which the Defendants had an agreement or understanding as to the fraud scheme, 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, with the ultimate goal being to falsely substantiate unwarranted knee and shoulder surgeries, and most valuable, unwarranted spinal fusions.

45. As in *State Farm v. Tri-Borough*, implementation of the fraudulent treatment protocol requires that Medical Provider Defendants "routinely order unnecessary diagnostic tests for patients that do not affect their treatment, and that some of those tests are duplicative of information already obtained…" 120 F.4th at 74.

46. Here, the associated medical service providers routinely ordered a variety of imaging services in every single case – and in virtually every instance, MRIs of the cervical and lumbar spine, shoulders and knees – from certain radiologists involved in the fraudulent scheme, whose reports contain findings that routinely deviate from the claimants' conditions as set forth by the imaging studies themselves.

47. Then, the associated medical service providers used these fraudulent imaging reports, but not the underlying imaging studies that either show degenerative conditions or fail to show any evidence of an acute injury, to justify continued physical therapy, injections, and other modalities for Claimants, with the ultimate intent to falsely justify back and neck surgeries, shoulder surgeries, knee arthroscopies, etc.

48. Despite the fact that the New York State Surgical and Invasive Procedure Protocol has long provided that "[t]he surgeon is responsible for assessing what films/images are appropriate for viewing before and during the surgery" (September 2006, at 8, available online at https://www.health.ny.gov/professionals/protocols_and_guidelines/surgical_and_invasive_procedure/docs/protocol.pdf, last accessed January 13, 2025), the associated medical service providers

routinely did not consult the MRI films themselves, but intentionally relied upon reports calculated to misrepresent the claimants' conditions as causally related to the alleged incidents, so that the otherwise unnecessary procedures would present with the patina of legitimacy. While the specific body arts at issue may vary amongst the claimants, they *always* include the spine and either a knee, a shoulder, or both, and the underlying scheme remained the same.

49. The rote protocol treatment and falsified findings of the clinics (PPNY and Toussaint), in addition to the fraudulent imaging reports (AcceleRad), would then be used to justify pre-determined protocol, "cookbook" surgeries by the Total Ortho, Gotham, and McCulloch Defendants, and to buttress the fraudulent lawsuit.

50. The Medical Provider Defendants provided false diagnoses, the 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 accident, for which the Medical Provider Defendants received compensation through increased referral streams for these purposes, along with financial compensation through both Funding Defendants and *via* liens on Claimant files.

51. Each of the Medical Provider Defendants understood and agreed that in turn for providing the false medical documentation needed for lengthier and more or invasive treatment and thereafter correspondingly higher settlement values, the Liakas Defendants would continue to funnel patients to their offices, with, upon information and belief, the ongoing assistance of the Runner Defendants.

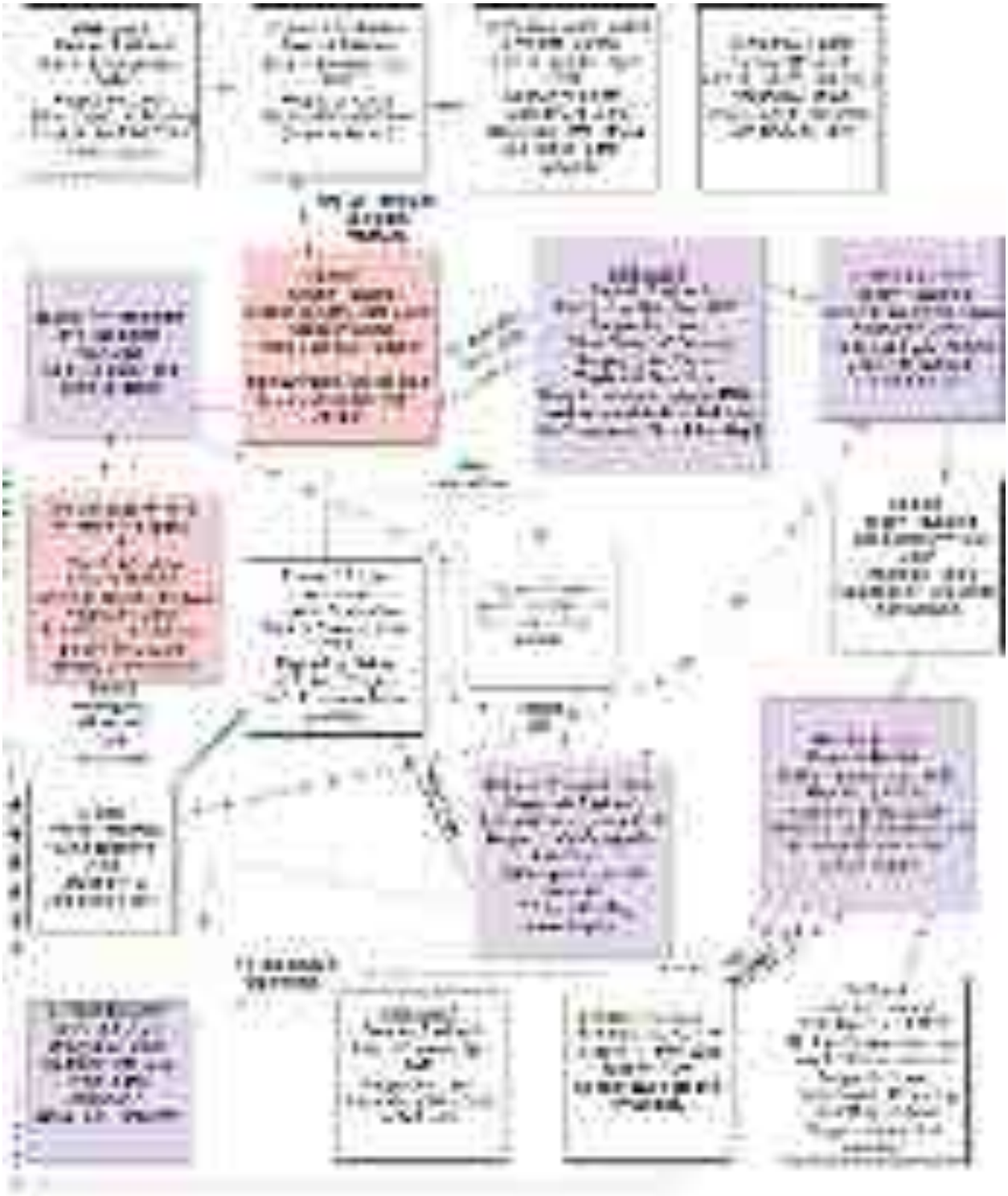
52. Armed with the fraudulently documented medical diagnoses and medical services allegedly related to the accident, the Liakas Defendants fraudulently inflated the settlement values

of personal injury lawsuits in order to extract greater settlements, prolonging litigation and dramatically increasing defense costs to general liability carriers, including from Plaintiff Union.

53. Liakas Defendants provided by mail or by electronic service to defense counsel medical authorizations and HIPAA releases signed by each Claimant (or *via* Power of Attorney) for the release of each Claimant's medical records that Liakas Defendants knew, were recklessly indifferent regarding, or reasonably should have known were false, as well as the Verified Complaints filed in regards to each Claimant, and the Bill of Particulars served upon opposing counsel in relation to each Claimant's lawsuit. Each of the Medical Providers agreed to and did in fact provide substantial assistance in the mail and wire fraud arising out of service of the Bills of Particulars in each matter, providing the falsified content needed to fraudulently prolong litigation and manufacture inflated case value.

54. The Funding Defendants, including Prime, also provided substantial assistance through the advancement of funds to Claimants to keep them on the fraud scheme track in both cooperation with the fraudulent lawsuits and receiving unwarranted medical procedures, and through partial payments to Medical Providers to induce their performance. The Funding Defendants expressly agreed to such substantial assistance, and while it is expected that Funding Defendants will raise the argument they were a disinterested party and the claim went through underwriting, any underwriting that lets the below slip by (**Figure 2)** amounts to putting one's head in the sand.[2]

[2] "Runner 1," below, has subsequently been connected to an additional **eighteen (18)** other Claimants, ten (10) of which are/were repped by Liakas.



- Former tenants of same apartment in Freeport.

C. **Defendants' Roles in the Fraud Scheme Enterprise**

55. At all relevant times, 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. Each Defendant agreed with some or all of the other participants to operate the enterprise and were at least aware of the common purpose of the enterprise and the general contours of the Fraud Scheme.

i. Legal Service Defendants' Participation in the Fraud Scheme

56. Since at least 2018, the Liakas Firm has been involved in thousands of lawsuits, the majority of which involved purported trip and fall injuries, covered by various insurers and reinsurers, including Plaintiff Union and others, in furtherance of and as a necessary step for the execution of the Fraud Scheme.

57. At all times relevant. Liakas Defendants directed, authorized, coordinated, and controlled the conduct engaged in by the Runner to recruit individuals (*i.e.*, Claimants) to stage trip and fall accidents and/or falsely claim injuries unrelated to the alleged trip and fall accidents, and thereafter coordinated and arranged for funding through the Funding Defendants to ensure continued cooperation.

58. At all times relevant, Liakas Defendants, in cooperation and mutual understanding with each other, represented Claimants in personal injury lawsuits and directed, authorized, coordinated, and controlled the prosecution of Claimants' lawsuits, assigned duties and responsibilities to attorneys/employees of Liakas Firm, and intentionally submitted or caused 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 fraudulent personal injury lawsuits.

59. Liakas Defendants, directly and through employed medical coordinators, paralegals and case managers, directed the Claimants to seek medical treatment from the Medical Provider

Defendants specifically, knowing and understanding that the Medical Provider Defendants would provide the kind of false and misleading medical documentation needed for higher settlement values in exchange for continuing to funnel patients to the Medical Provider Defendants.

60. Liakas Defendants knowingly transmitted and received by mail, facsimile, and/or email documents that contained assertions of legitimate trip and fall accidents, the existence of injuries, and the necessity of medical treatment that Liakas Defendants knew or reasonably should have known were false. At least one Claimant, Claimant H, was from out of state, and several Claimants were directed to receive surgeries in New Jersey.

61. This unlawful conduct worked to falsely bolster and add value to Claimants' personal injury lawsuits, included the initiation of , and prolonging, litigation (and thus triggereing and increasing defense costs paid by Plaintiff as required, by law, from the moment of the initial fraudulent claim or Complaint) and inflating settlement value, and ultimately, Liakas Defendants' financial gain from the lawsuits.

ii. Runner Defendants' Participation in the Fraud Scheme

62. Upon information and belief, since at least 2018, the Runner Defendants have been involved in recruiting Claimants into stating and/or perpetuating fake trip and fall accidents at various sites throughout New York and/or otherwise instructing Claimants on how to successfully malinger a minor incident into surgeries with the knowing cooperation and substantial assistance of the Medical Provider Defendants, the Legal Defendants, and the Funding Defendants.

63. Upon information and belief, the Runner Defendants communicated with the Claimants and Liakas Defendant through telephone calls, texts, emails and mail, and indirectly through the staff of Co-Conspirator Firm 1.

64. The Runner Defendants, engaged in numerous acts in furtherance of and as a necessary step for the execution of the Fraud Scheme. Among other things, the Runner Defendants

referred and/or transported Claimants to Liakas Defendants so that Claimants could retain Liakas Defendants to a) direct Claimants' medical treatment from Medical Provider Defendants; b) direct Claimants to obtain high-interest funding loans from Funding Defendants; c) direct, authorize, coordinate and control the prosecution of Claimants' personal injury lawsuit; and d) direct, authorize, coordinate and control the prosecution of Claimants' personal injury lawsuits.

65. Upon information and belief, the Runner Defendants participated in meetings with Claimants and Liakas Defendants in furtherance of and as a necessary step for the execution of the Fraud Scheme.

66. Upon information and belief, Runner Defendants would typically be internally referred to as "investigators" or "brokers" for their roles in bringing in claimants and facilitating the initial phases of the Fraud Scheme, though other known descriptors include "paralegal" and "client services liaison," potentially in recognition of roles they serve in later phases of the Fraud Scheme.

iii. Funding Defendants' Participation in the Fraud Scheme

67. Upon information and belief, since at least 2019, the Funding Defendants have been involved in providing high-interest funding loans to Claimants involving purported trip and fall injuries in furtherance of and as a necessary step for the execution of the Fraud Scheme.

68. In concert and with the substantial assistance of the Legal Defendants, Funding Defendants gave Claimants money so as to secure their cooperation, in the form of high-interest litigation funding loans to Claimants to be secured by the settlement payments anticipated from Claimants' personal injury lawsuits. Funding Defendants often paid Medical Provider Defendants upfront for unnecessary and expensive surgeries, so as to secure their cooperation with the scheme; such funds would also be recouped along with high interest from settlement proceeds. Through securing cooperation of Claimants and Medical Provider Defendants, Funding Defendants

astronomically increased the amount of their own recovery *via* astronomical interest and increased the amount of the Legal Defendants' contingency fees.

69. Prime further and specifically required signed agreements which were transmitted *via* the mail and/or electronic mail. Prime further made use of the wires and/or mail in issuing and advances and receiving compensation upon case settlements and awards.

70. Upon information and belief, Prime further provided funding to Claimants on a timeframe suggestive of a *quid pro quo* basis during or just prior to a lawsuit and/or unnecessary surgery.

71. Upon information and belief, the Funding Defendants have received or have the right to receive the majority of, or significant part of, the Claimants' portion of the settlement proceeds from Claimants' personal injury lawsuits.

72. In July 2019, Eastern Asset Funding purchased Prime after "successfully rehabilitating" "non-performing litigation assets" acquired from a hedge fund. Within eighteen (18) months, Prime tripled its originations. This timing is noticeably lockstep with the explosion of the Fraud Scheme detailed herein.

73. While some providers follow the regulatory requirements to file UCC statements (sometimes), as Prime did in at least some instances described herein, which make the existence of funding known, many others – such as Jumpstart Funding LLC – disregard such requirements while actively underwriting and issuing advances. The terms and conditions of the precise agreements, relationships with other actors, and extent of involvement cannot be ascertained absent discovery.

iv. Total Defendants' Participation in the Fraud Scheme

74. Since at least 2018, Total Ortho has been involved in the medical treatment of numerous Claimants involving purported trip and fall injuries in furtherance of and as a necessary step for the execution of the Fraud Scheme.

75. Defendant Avanesov, as an orthopedic surgeon, controlled and directed the medical services provided to Claimants by Total Ortho, including evaluating and recommending surgeries that were unnecessary, excessive, unwarranted, and/or costly and not causally related to the alleged accident.

76. Defendant Lerman, as an orthopedic surgeon, controlled and directed the medical services provided to Claimants by Total Ortho, including evaluating and recommending surgeries that were unnecessary, excessive, unwarranted, and/or costly and not causally related to the alleged accident. This includes at least three (3) surgeries where duly affirmed independent physicians have testified the surgeries performed by Lerman were entirely unjustified and were not performed as described, if at all, and is further evidenced by the no less than twenty-five (25) *identical* operative reports issued regarding different patients, on different dates, all in favor of Liakas Defendants' clients and other similarly situated personal injury law firms.

77. Lerman recently had his re-authorization to provide injured workers with treatment under Workers' Compensation denied, after an extraordinary 19-page decision, finding that, *inter alia*:

a. [Lerman] also consistently fail[ed] to provide or maintain adequate medical documentation or record-keeping.

b. [Lerman] also consistently fail[ed] to provide clinical rationales for seeking variance from the MTGs to justify the medical necessity of the variance that you are requesting.

c. [Lerman] also repeatedly submitted PARs for services that have been denied without escalating them for MDO review. You repeatedly resubmit PARs for services that have already been denied, even when there has been no substantial interim change in the claimant's clinical or functional status to warrant such reconsideration.

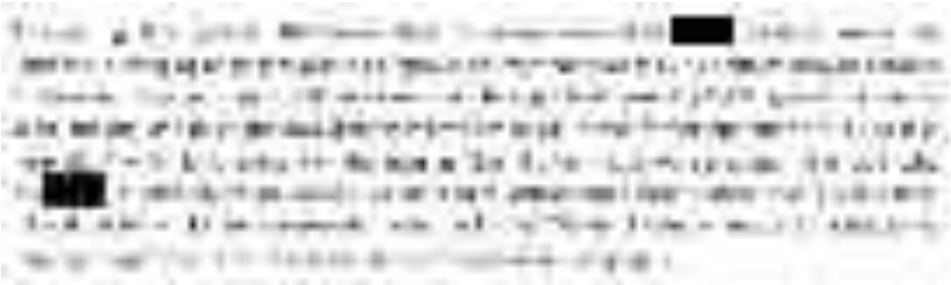
d. [Lerman] ha[s] performed invasive/risky procedures, without adequately exhausting more conservative (and less risky) treatment modalities.

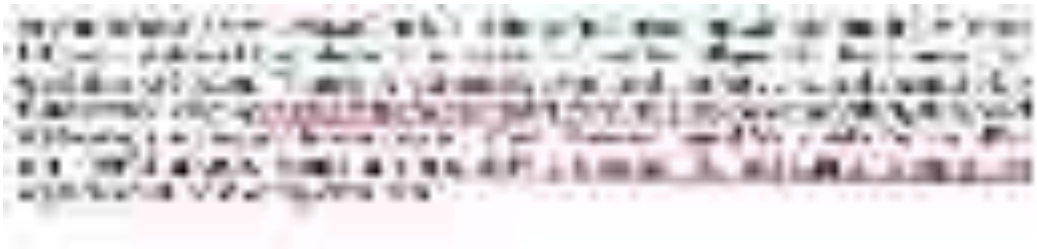
e. [Lerman] ha[s] repeatedly provided incomplete and/or inconsistent medical documentation.

f. [Lerman] ha[s] failed to follow published Board processes for the submission of medical bills, and [Lerman] ha[s] billed in excess of the Board's MFS, at times for services of questionable necessity.

g. [T]his conduct also amounts to professional misconduct pursuant to Education Law §§6530(3), (5), (21) and (35).

78. On several occasions, and made all the more alarming by the Workers' Comp Boards' independent findings above, Lerman has repeatedly been found to provide operative reports which have little to no correlation to objectively observed pre- and post-operative diagnostic films, that his operative reports are "quite unbelievable," and that post-op MRIs have demonstrated **no observable surgical changes**:





79. Defendant Leven, as an orthopedic surgeon and a member of Total Ortho, controlled and directed the medical services provided to Claimants by Total Ortho, including evaluating, recommending and performing surgeries that were unnecessary, excessive, unwarranted, and/or costly and not causally related to the alleged accident. This includes at least seventeen (17) *identical* operative reports issues regarding different patients, on different dates, all in favor of Liakas Defendants' clients and other similarly situated personal injury law firms. As with Dr. Lerman, examples abound of independent review of surgeries finding the operative reports inaccurate, the MRIs upon which they are based misleading or flatly false, and generally, credibility entirely lacking and surgeries unjustified:

[redacted]

[redacted]

(Liakas client, a 24-year-old).

[illegible]

[illegible]

[illegible]

80. As part of the Fraud Scheme, Total Defendants intentionally submitted or caused the submission of fraudulent medical documentation by mail, facsimile and/or email to Union and others involved in Claimants' personal injury lawsuits 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 accident.

81. As part of the Fraud Scheme, Total Defendants provided fraudulent medical documentation by mail, facsimile and/or email to other medical service providers 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 accident.

82. As part of the Fraud Scheme, Total Defendants provided fraudulent medical documentation by mail, facsimile and/or email to Liakas Defendants knowing that the fraudulent medical documentation would be used to falsely bolster and add value to Claimants' personal

injury lawsuits, thereby prolonging litigation and inflating the settlement value of such claims and lawsuits.

83. In virtually every surgery performed by Avanesov, Lerman, Leven, and Total Ortho generally, the same company provided the implants (Spinal Elements/Amendia), a California company, as well as the graft tissue (rebranded to Orios, a Spinal Elements/Amendia trademark, sourced from a tissue bank in Florida). Lerman and Avanesov notably were granted $288,000 worth of stock in Amendia in 2016 (with no investment made), another $150,000 in 2017 (with no investment made), and invested over $250,000 each of their own money into the company in 2017 (the same year Amendia merged with Spinal Elements, with the latter remaining the corporate name, and Lerman/Avanesov's disclosures never having been updated from the grants in the name of the former).

84. Total Defendants knowingly profited from case liens and upfront payments from the Funding Defendants for the alleged medical and diagnostic rendered by Defendants Lerman, Leven, and/or any other employee/agent of Total Ortho, that were unnecessary, excessive, unwarranted and/or costly, and were not causally related to the alleged accident but were rendered in furtherance of and as a necessary step for the execution of the Fraud Scheme.

85. Total Defendants also knowingly profited from the increased number of patients who were referred to them as part of the Fraud Scheme, for whom Defendants Lerman, Leven and/or any other employee/agent of Total Ortho provided medical and diagnostic services and received reimbursement for such services.

v. McCulloch Defendants' Participation in the Fraud Scheme

86. Since at least 2018, McCulloch Ortho has been involved in the medical treatment of numerous Claimants involving purported trip and fall injuries in furtherance of and as a necessary step for the execution of the Fraud Scheme.

87. Since at least 2018, McCulloch Ortho, through selective use of NY S&J, has been involved in the medical treatment of numerous Claimants involving purported trip and fall injuries in furtherance of and as a necessary step for the execution of the Fraud Scheme.

88. Defendant Capiola, as an orthopedic surgeon and employee of McCulloch Ortho and NY S&J, controlled and directed the medical services provided to Claimants, including evaluating, diagnosing and performing surgeries that were unnecessary, excessive, unwarranted, and/or costly and not causally related to the alleged accident, but were performed pursuant to the fraudulent treatment protocol and Fraud Scheme. This included the use of *identical* operative reports for at least three (3) claimants herein, two (2) of which underwent these surgeries on the same day, and *none* of which operative reports corresponded to MRI imaging.

89. As part of the Fraud Scheme, McCulloch Defendants intentionally submitted or caused the submission of fraudulent medical documentation by mail, facsimile and/or email to Plaintiff and others involved in Claimants' personal injury lawsuits 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 accident.

90. As part of the Fraud Scheme, McCulloch Defendants provided fraudulent medical documentation by mail, facsimile and/or email to other medical service providers 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 accident.

91. As part of the Fraud Scheme, McCulloch Defendants provided fraudulent medical documentation by mail, facsimile and/or email to Liakas Defendants knowing that the fraudulent

medical documentation would be used to falsely bolster and add value to Claimants' personal injury lawsuits, thereby prolonging litigation and inflating the settlement value of such lawsuits.

92. McCulloch Defendants knowingly profited from case liens and upfront payments from the Funding Defendants for the alleged medical and diagnostic services rendered by Defendants McCulloch, Capiola, and/or any other employee/agent of McCulloch Ortho, that were unnecessary, excessive, unwarranted and/or costly, and were not causally related to the alleged accident but were rendered in furtherance of and as a necessary step for the execution of the Fraud Scheme, including but not limited to their performance of, and receipt of compensation for, unnecessary surgeries upon Claimants A, B, D, E, F, G, and H.

93. McCulloch Defendants also knowingly profited from the increased number of patients who were referred to them as part of the Fraud Scheme (at times with Capiola performing *at least five [5] surgeries in a single day*), for whom Defendant Capiola, and/or any other employee/agent of McCulloch Ortho and/or NY S&J provided medical and diagnostic services and received reimbursement for such services.

vi. Gotham Defendants' Participation in the Fraud Scheme

94. Since at least 2018, Gotham Neurosurgery has been involved in the medical treatment of numerous Claimants involving purported trip and fall injuries in furtherance of and as a necessary step for the execution of the Fraud Scheme.

95. Defendant Cohen, as a neurosurgeon and a principal of Gotham Neurosurgery, controlled and directed the medical services provided to Claimants by Gotham Neurosurgery, including evaluating, diagnosing and performing surgeries that were unnecessary, excessive, unwarranted, and/or costly and not causally related to the alleged accident, but were performed pursuant to the fraudulent treatment protocol and Fraud Scheme.

96. Despite being the head of neurosurgery at Brooklyn Hospital Center (located where the majority of the Claimants either lived or fell, and which has an ambulatory surgical center) and being affiliated with Weill Cornell (with facilities within New York City), Cohen chose to send Claimants to Hudson Regional, in New Jersey, to have surgeries performed, pursuant to, upon information and belief, a financial arrangement with Hudson Regional. Cohen further chose to repeatedly perform surgeries with only half of the standard instrumentation, a choice that predictably led to the fusions repeatedly failing, including for two (2) claimants herein, one of their relatives, and at least four (4) others – *all of whom were represented by Liakas*.

97. Cohen's wife, who now works for Gotham, was previously a "Medical Coordinator" for the Liakas Firm.

98. As part of the Fraud Scheme, Gotham Defendants intentionally submitted or caused the submission of fraudulent medical documentation by mail, facsimile and/or email to Plaintiff and others involved in Claimants' personal injury lawsuits 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 accident.

99. As part of the Fraud Scheme, Gotham Defendants provided fraudulent medical documentation by mail, facsimile and/or email to other medical service providers 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 accident.

100. As part of the Fraud Scheme, Gotham Defendants provided fraudulent medical documentation by mail, facsimile and/or email to Liakas Defendants knowing that the fraudulent

medical documentation would be used to falsely bolster and add value to Claimants' personal injury lawsuits, thereby prolonging litigation and inflating the settlement value of such lawsuits.

101. Gotham Defendants knowingly profited from case liens and upfront payments from the Funding Defendants for the alleged medical and diagnostic services rendered by Defendant Cohen and/or any other employee/agent of Gotham Neurosurgery, that were unnecessary, excessive, unwarranted and/or costly, and were not causally related to the alleged accident but were rendered in furtherance of and as a necessary step for the execution of the Fraud Scheme.

102. Gotham Defendants also knowingly profited from the increased number of patients who were referred to them as part of the Fraud Scheme, for whom Defendant Cohen and/or any other employee/agent of Gotham Neurosurgery provided medical and diagnostic services and received reimbursement for such services.

vii. Hudson Regional Defendants' Participation in the Fraud Scheme

103. Since at least 2018, Hudson Regional has been involved in the medical treatment of numerous Claimants involving purported trip and fall injuries in furtherance of and as a necessary step for the execution of the Fraud Scheme.

104. As part of the Fraud Scheme, Hudson Regional Defendants intentionally submitted or caused the submission of fraudulent medical documentation by mail, facsimile and/or email to Plaintiff and others involved in Claimants' personal injury lawsuits 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 accident.

105. As part of the Fraud Scheme, Hudson Regional Defendants provided fraudulent medical documentation by mail, facsimile and/or email to other medical service providers 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 accident.

106. As part of the Fraud Scheme, Hudson Regional Defendants provided fraudulent medical documentation by mail, facsimile and/or email to Liakas Defendants knowing that the fraudulent medical documentation would be used to falsely bolster and add value to Claimants' personal injury lawsuits, thereby prolonging litigation and inflating the settlement value of such lawsuits. Upon information and belief, Hudson Regional also provided the transportation for Claimants to and from surgery in New Jersey.

107. Hudson Regional Defendants knowingly profited from case liens and direct payments from the Funding Defendants for the alleged medical, diagnostic, and surgical services caused to be rendered, overseen, or permitted, that were unnecessary, excessive, unwarranted and/or costly, and were not causally related to the alleged accident but were rendered in furtherance of and as a necessary step for the execution of the Fraud Scheme.

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

109. Upon information and belief, Hudson Regional Defendants are engaged in a kickback scheme with certain Medical Providers, including Cohen, whereby financial remuneration or other things of value were provided in exchange for using the Hudson Regional facility despite numerous other available facilities more conveniently located to Cohen and the Claimants, with such other facilities providing opportunities to lower costs or eliminate them through health insurance, or otherwise less costly to the Claimants (and in turn through liens, Union).

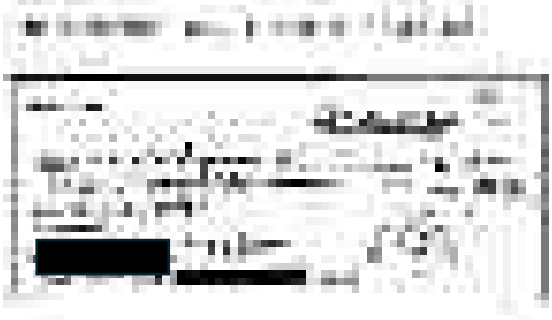
viii. PPNY Defendants' Participation in the Fraud Scheme

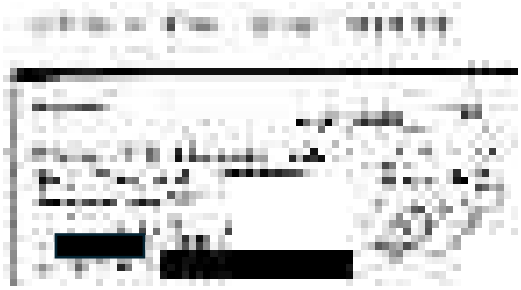
110. Since at least 2018, PPNY has been involved in the medical treatment of numerous Claimants involving purported trip and fall injuries. PPNY serves to provide manufactured justification for surgeries, in furtherance of and as a necessary step for the execution of the Fraud Scheme.

111. Defendant Reyfman, as a physician and a principal of PPNY, controlled and directed the medical services provided to Claimants by PPNY, including providing consultations, evaluating, diagnosing and performing injections and surgeries that were unnecessary, excessive, unwarranted, and/or costly and not causally related to the alleged accident, but were performed pursuant to the fraudulent treatment protocol and Fraud Scheme.

112. Notably, in Geico v. Mayzenberg, Geico established that there was no material fact in genuine dispute and was entitled as a matter of law to prevail on its fraud and RICO claims originating from Igor Dovman's use of shell companies to facilitate an illegal patient referral and kickback scheme in which Mayzenberg participated.[3] Presico Inc. was identified as one such company post-judgment, and Reyfman received a few of those checks during the relevant time period – which included checks made out to at least one Claimant who was ultimately represented by Liakas in their action:[4]

[3] *See* EDNY Docket #: 17-CV-2802, Doc #: 148.
[4] *See* EDNY Docket #: 17-CV-2802, Doc #: 201-4, pp. 53, 61, 81.





113. Defendant Bolesharskyy, as a physician and a principal of PPNY, controlled and directed the medical services provided to Claimants by PPNY, including providing consultations, evaluating, diagnosing and performing injections and surgeries that were unnecessary, excessive, unwarranted, and/or costly and not causally related to the alleged accident, but were performed pursuant to the fraudulent treatment protocol and Fraud Scheme.

114. As part of the Fraud Scheme, PPNY Defendants intentionally submitted or caused the submission of fraudulent medical documentation by mail, facsimile and/or email to Plaintiff and others involved in Claimants' 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 accident.

115. As part of the Fraud Scheme, PPNY Defendants provided fraudulent medical documentation by mail, facsimile and/or email to other medical service providers 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 accident.

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

117. PPNY Defendants knowingly profited from reimbursements for the alleged medical and diagnostic services rendered by Reyfman and Bolesharskyy and/or any other employee/agent of PPNY, that were unnecessary, excessive, unwarranted and/or costly, and were not causally related to the alleged workplace accident but were rendered in furtherance of and as a necessary step for the execution of the Fraud Scheme.

118. PPNY Defendants also knowingly profited from the increased number of patients who were referred to them as part of the Fraud Scheme, for whom Defendant Reyfman and Bolesharskyy and/or any other employee/agent of Pain Physicians provided medical and diagnostic services and received reimbursement for such services.

ix. Toussaint's Participation in the Fraud Scheme

119. Since at least 2018, Defendant Toussaint, as a physician and a principal of non-party Physical Medicine & Rehabilitation ("PMR"), controlled and directed the medical services provided to Claimants by PMR, including providing consultations, evaluating, diagnosing and performing surgeries that were unnecessary, excessive, unwarranted, and/or costly and not causally

related to the alleged accident, but were performed pursuant to the fraudulent treatment protocol and Fraud Scheme.

120. As part of the Fraud Scheme, Toussaint intentionally submitted or caused the submission of fraudulent medical documentation by mail, facsimile and/or email to Plaintiff and others involved in Claimants' 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 accident.

121. As part of the Fraud Scheme, PMR Defendants provided fraudulent medical documentation by mail, facsimile and/or email to other medical service providers 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 accident.

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

123. Toussaint knowingly profited from reimbursements for the alleged medical and diagnostic services rendered by him and PMR, that were unnecessary, excessive, unwarranted and/or costly, and were not causally related to the alleged workplace accident but were rendered in furtherance of and as a necessary step for the execution of the Fraud Scheme.

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

x. Accelerad Defendants' Participation in the Fraud Scheme

125. Since at least 2018, AcceleRad has been involved in the medical treatment of numerous Claimants involving purported trip and fall injuries in furtherance of and as a necessary step for the execution of the Fraud Scheme.

126. Defendant Prakash, as a radiologist and a principal of AcceleRad, controlled and directed the medical services provided to Claimants, who were referred to AcceleRad by each of the Gotham, McCulloch, Total Ortho, PMR, and PPNY Defendants at various times, by providing radiological and imaging diagnostics and MRI reports identifying purported positive findings that are thereafter relied upon by treating providers to justify procedures irrespective of the fact that so-called "abnormal" findings were intentionally misleading, false, manufactured, or otherwise not consistent with the MRI films themselves.

127. Notably, AcceleRad is a continuation of Precision Radiology, a practice previously owned and operated by perpetual RICO defendant Kolb, and his former partner Lichy (who affirmed under oath Kolb had been altering MRI reports to benefit his personal injury clientele). It operates out of the same building and maintains the same employees, including the same custodian of records.

128. Like its predecessor, AcceleRad rents office space that **does not actually house an actual machine with which to actually perform MRI or have an actual technician on-site.**

129. MRIs (or other tests) are performed somewhere else at an undisclosed facility, by an undisclosed technician, and the study is subsequently sent to AcceleRad for review and report, almost universally by Prakash. This has been the case since at least 2016. While AcceleRad relies on these "Excess Capacity Agreements," the lack of disclosure as to actual facility that performed the tests, *who* performed the tests, and the actual origination of the images, leaves AcceleRad

operating as a facility that has never legitimately authenticated an MRI image before a Court of law.

130. As part of the Fraud Scheme, AcceleRad Defendants intentionally submitted or caused the submission of fraudulent medical documentation by mail, facsimile and/or email to Seneca and others to seek reimbursement for medical services that were unnecessary, excessive, unwarranted and/or costly, and were not causally related to the alleged accident.

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

132. AcceleRad Defendants knowingly profited from reimbursements for the alleged medical and diagnostic services rendered by Prakash, Greene and/or any other employee/agent of AcceleRad, that were unnecessary, excessive, unwarranted and/or costly, and were not causally related to the alleged workplace accident but were rendered in furtherance of and as a necessary step for the execution of the Fraud Scheme.

133. AcceleRad Defendants also knowingly profited from the increased number of patients who were referred to them as part of the Fraud Scheme, for whom Prakash, and/or any

other employee/agent of AcceleRad provided medical and diagnostic services and received reimbursement for such services.

D. Defendants' Pattern of Racketeering Activity

134. 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, the following specific predicate acts:

i. Claimant A

135. Claimant A's relevant, redacted records are attached as **Exhibit 1.**

136. Claimant A (Freeport resident, claimed a fall from standing height on a cracked sidewalk in Queens in November 2020, went to Wyckoff hospital in Brooklyn even further away, approximately 30 miles from his residence) retained Liakas on or about three (3) days after his fall.

137. Claimant A first treatment following date of accident was nine (9) days after the fall at NY S&J, on a lien (*i.e.,* to be paid for through proceeds of a claim).

138. Within two weeks he saw McCulloch Ortho and Total Ortho. Claimant A ultimately had surgery with both. Claimant A was provided funding through Prime.

139. Both of Claimant A's brothers, and his cousin, all Freeport residents, purportedly have trip and falls from standing height on cracked sidewalks in December 2020 (in Brooklyn, surgeries with McCulloch and Total Ortho), January 2021 (in Queens, with Prime Case LLC funding, treatment unknown), and April 2021 (in Brooklyn, with Golden Pear Funding, also treated with McCulloch and Total Ortho) – **all are represented by Liakas**.

140. Claimant A cycled through the Toussaint, PPNY, AcceleRad, McCulloch Ortho, and Total Ortho Defendants, ultimately receiving a spinal fusion in May 2021, listed in all records as an L5-S1 fusion (which never had any findings) except Leven's copy of the operative report (with

no notation of change, indicating the surgery was L4-5), purportedly dictated and transmitted a month after the date of surgery.

141. **Leven's operative report used is an identical, verbatim copy-paste job used in no less than seventeen (17) other cases** – and that is just from what is publicly available. **These reports are provided in favor of just three firms – one of which is Defendant Liakas Firm, and another being a law firm run by the principals' cousins.**

142. **One such report is from his <u>brother</u>'s surgery, two (2) days after his own.**

143. Leven's co-surgeon for the operation was Defendant Lerman.

144. The indication given for surgery was a herniation with impingement and radiculopathy.

PREOPERATIVE DIAGNOSES: [illegible] disk herniation with nerve root impingement, lumbar radiculopathy.

145. The only MRI imaging done on Claimant A revealed no herniation at any level, a **bulge** at L4-5, and **no findings at all at L5-S1**:

L4-5 level demonstrates a disc bulge causing impingement upon the anterior thecal sac and bilateral neural foramen, contact with the exiting bilateral L4 spinal nerves.

L5-S1 level: demonstrates no disc bulge or herniation. No foraminal impingement or canal stenosis.

146. As Total Ortho, Lerman, and Leven are well aware, a bulge is not a herniation.

[illegible]

Testimony of Lerman, December 6, 2024 (testifying for Liakas client).

147. Claimant A ultimately required corrective lumbar surgery following this unnecessary procedure.

148. Claimant A and his brother also both received right shoulder surgeries within two (2) weeks of each other from Capiola, despite Claimant A's diagnostic findings of mild "fraying" and low-level degenerative findings.

149. Medical care was rendered, by design and as a matter of intended course, with the Liakas Defendants' knowledge and agreement, according to pre-determined protocols bearing no relationship to any purported accident.

150. On or about February 3, 2021, and continuing thereafter, Kosharskyy of PPNY created knowingly false and/or materially misleading records, otherwise containing material omissions, comprised of recycled language, regarding Claimant A's treatment. This included, as with Total Ortho, administering non-indicated injections and preparing falsified clinical examination reports to falsely justify escalating treatment.

151. These records were forwarded by PPNY to the Liakas Defendants, with knowledge that as a necessary step in and in furtherance of the Fraud Scheme, same would be forwarded by

mail to opposing counsel on Claimant A's lawsuit. On March 15, 2022, these records were mailed as anticipated, in violation of 18 U.S.C. §§ 1341.

152. On or about February 18, 2021, Capiola of McCulloch Ortho created knowingly false and/or materially misleading records, otherwise containing material omissions, comprised of recycled language, regarding Claimant A's shoulder surgery. These records were forwarded by McCulloch Ortho to the Liakas Defendants, with knowledge that as a necessary step in and in furtherance of the Fraud Scheme, same would be forwarded by mail to opposing counsel on Claimant A's lawsuit on March 15, 2022, in order to manufacture or otherwise falsely inflate a claim for damages as a necessary step in and in furtherance of the Fraud Scheme, in violation of 18 U.S.C. §§ 1341.

153. On or about March 4, 2021, Prakash of AcceleRad created knowingly false and/or materially misleading records, otherwise containing material omissions, comprised of recycled language, regarding Claimant A's treatment. These records were forwarded by AcceleRad *via* mail on March 4, 2021 to the McCulloch Defendants in order to falsely justify continuing and escalating treatment as a necessary step in and in furtherance of the Fraud Scheme, in violation of 18 U.S.C. § 1341.

154. On or about May 11, 2021, Leven and Lerman of Total Ortho created knowingly false and/or materially misleading records, otherwise containing material omissions, comprised of recycled language, regarding Claimant A's spine surgery. These records were caused to be forwarded by Total Ortho *via* fax to the opposing counsel on Claimant A's lawsuit on May 5, 2023, in order to manufacture or otherwise falsely inflate a claim for damages as a necessary step in and in furtherance of the Fraud Scheme, in violation of 18 U.S.C. § 1343.

155. On dates unknown and unavailable through due diligence to the pleading party, Prime provided advances to Claimant A and compensation to McCulloch Ortho, Capiola, Leven, and Total Ortho for the unnecessary surgeries. On or about March 24, 2021, Prime filed a UCC statement with the New York State Department of State *via* the Department's online portal, making use of wire communication in furtherance of the scheme in violation of 18 U.S.C § 1343.

156. On or about October 28, 2021, in furtherance of and as a necessary step for the execution of the Fraud Scheme, and in violation of 18 U.S.C. §§ 1343, Dean Liakas executed and filed a Verified Complaint *via* the New York State Courts Electronic Filing system ("NYSCEF"), making use of the wires, containing allegations related to the purported trip and fall accident, including the existence, extent, causal relationship of, and medical care necessitated by, Claimant A's injuries, which were known, made with reckless indifference, or should have been known, to be false.

157. On or about March 15, 2022, in furtherance of and as a necessary step for the execution of the Fraud Scheme, and in violation of 18 U.S.C. §§ 1341, Matthew Kerner of the Liakas Firm, upon the direction of the Firm and Dean Liakas**,** served a Verified Bill of Particulars through the mail containing allegations related to the purported trip and fall accident, including the existence, extent, causal relationship of, and medical care necessitated by, Claimant A's injuries, which were known, made with reckless indifference, or should have been known, to be false.

158. On or about January 10, 2023, in furtherance of and as a necessary step for the execution of the Fraud Scheme, and in violation of 18 U.S.C. §§ 1341, Matthew Kerner of the Liakas Firm, upon the direction of the Liakas Firm**,** filed and served a Verified Bill of Particulars through the mail containing allegations related to the purported trip and fall accident, including

the existence, extent, causal relationship of, and medical care necessitated by, Claimant A's brother's injuries, which were known, made with reckless indifference, or should have been known, to be false.

159. A Verified Bill of Particulars was similarly served in the *other* brother of Claimant A's case, verified by Salah Shawa of the Liakas Firm, upon the direction of the Liakas Firm**,** containing allegations related to the purported trip and fall accident, including the existence, extent, causal relationship of, and medical care necessitated by, Claimant A's other brother's injuries, which were known, made with reckless indifference, or should have been known, to be false, on or about January 20, 2023, in violation of 18 U.S.C. §§ 1341.

ii. Claimant B

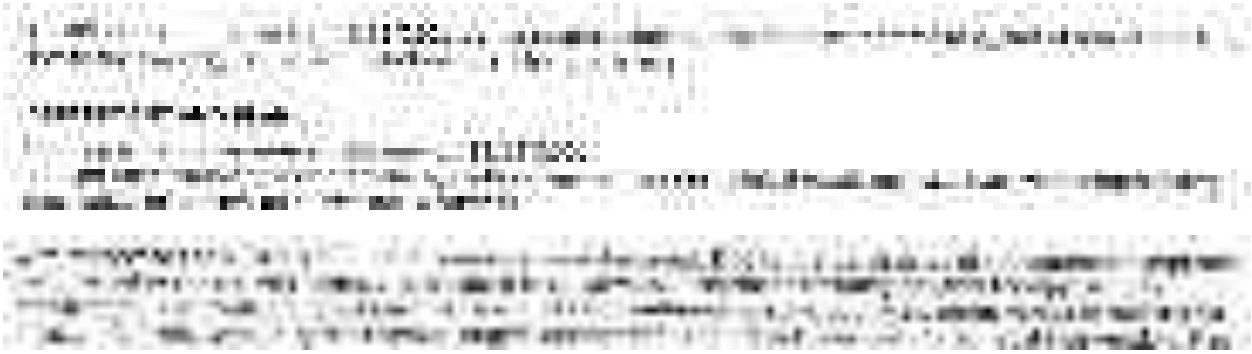
160. Claimant B's relevant, redacted records are attached as **Exhibit 2**.

161. Claimant B (who lives in Freeport, purportedly fell from standing height due to uneven sidewalk in Brooklyn some 30 miles away, presented to Jamaica hospital in the company of Runner 1, and gave the hospital the email address for Co-Conspirator Firm 1's paralegal) initially reported injuries to his right shoulder, lower back, and right knee and claimed a December 13, 2020 trip and fall. Each body part demonstrated normal range of motion and no objective observed indicia of injury beyond subjective complaints of pain. Imaging at the hospital was utterly negative for any issues in these body parts except for demonstrating endplate osteophytes – a archetypal degenerative change which takes time to develop – at the L3-4 level. He was discharged with the suggestion he take Motrin.

162. Claimant B retained the Liakas Firm and secured funding through Prime.

163. MRIS taken and read approximately three (3) months after the "accident," and three (3) months prior to surgery, by an MRI facility not named herein as a Defendant, revealed no meniscal tear of the right knee, but identified a "surface irregularity" of the ACL.

164. Within the same breath, first summarizing the MRI report then providing a treatment plan, Capiola noted the surface irregularity as a "partial tear of the ACL" and characterized chondromalacia (the softening and degeneration of the cartilage on the underside of the kneecap) as "traumatic" (which the MRI report did not) while entirely omitting reference to the meniscus at all; **then promptly provided an assessment of a "clinically occult meniscal tear," and a plan for surgery**:



165. An "occult meniscal tear" has been defined in National Institute of Health studies and peer-reviewed orthopedic journals as "an operatively reported meniscal tear that was not visible on the MRI images, even when the MRI images were retrospectively reviewed." [5]

166. *I.e.*, a meniscal tear discovered during a surgery performed for a reason unrelated to a meniscal tear, which was unknown prior to surgery and not visible even upon later review. By definition, an occult tear is not a *pre*-operative diagnosis.

[5] Iowa Orthop J. 2020; 40(2):30–36; *citing* Laundre BJ, Collins MS, Bond JR, Dahm DL, Stuart MJ, Mandrekar JN. MRI accuracy for tears of the posterior horn of the lateral meniscus in patients with acute anterior cruciate ligament injury and the clinical relevance of missed tears. AJR Am J Roentgenol. 2009;193:515–523. doi: 10.2214/AJR.08.2146.

167. Undeterred, Capiola performed an arthroscopy on Claimant B based upon a single pre-operative diagnosis which was unsupported by any imaging or clinical findings on June 3, 2021:

[illegible]

168. Notably, the "partial tear of the ACL" Capiola intuited from a "surface irregularity" was nowhere to be found:

[illegible]

169. Later independent review of the pre-surgical MRI films confirmed that there were no tears present, and the structures of the knee were demonstrated as intact:

[illegible]

170. Similarly, the right shoulder MRI performed on Claimant B at the same non-Defendant facility found "superficial erosion" of the labrum. There were no tears noted in the MRI report of the labrum or the rotator cuff.

171. Regardless, on the first visit post-knee arthroscopy, Capiola determined a right shoulder arthroscopy was warranted and proceeded with the following on September 16, 2021:

[illegible]

172. This procedure was entirely inconsistent with Claimant B's MRI; however, the procedure, operative report, date, and location are *identical* to Capiola's procedure on Claimant "D," detailed below.

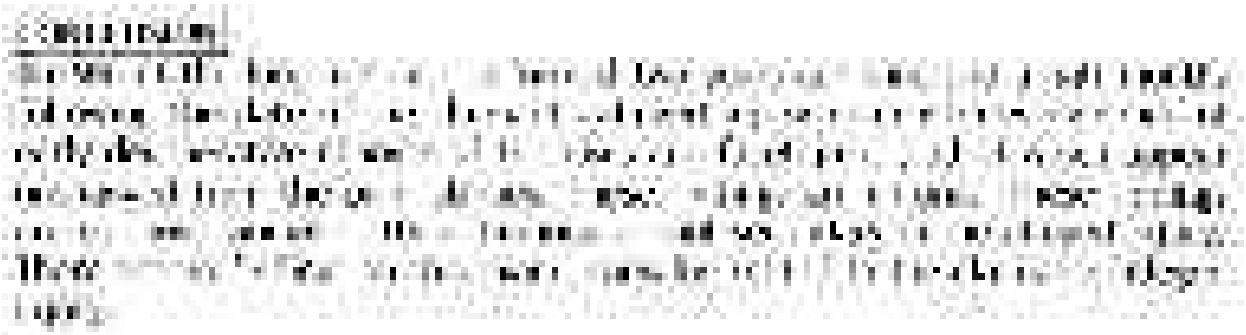
173. An MRI on Claimant B's lumbar spine performed January 4, 2021, found disc bulges throughout L1-S1, and noted there is no significant central spinal stenosis.

174. Later peer review of this MRI found "small disc bulges are evident throughout the lumbar spine, most prominent L2/3, L3/4 and L4/5. There is suggestion of mild early degenerative changes of the facet joints with a degree of osseous hypertrophy. Early degenerative changes of facet joints and disc bulges result in minimal narrowing. There are no acute disc herniations or annular tears evident," and further, "These findings are chronic. These findings are not posttraumatic.These findings are not secondary to the alleged injury. There are no findings on this exam causally related to the claimant's alleged injury."

175. A subsequent MRI of the lumbar spine was performed on February 13, 2021. This MRI again found disc bulges throughout L2-S1. Later peer review of the film again found "small disc bulges are evident, which appear unchanged from the prior exam, dated 01/04/21. Mild, early degenerative changes of facet joints are noted, which appear unchanged. There are no acute disc herniations or annular tears evident," and again, "These findings are chronic. These findings are not posttraumatic. These findings are not secondary to the alleged injury. There are no findings on this exam causally related to the claimant's alleged injury."

176. Another MRI of the lumbar spine was performed on Claimant B on September 26, 2023, nearly three (3) years post-accident. This MRI found "Focal posterior disc herniation just left of the midline at T12-L1. Posterior disc bulge at L4-L5." Later peer review of the film found

"early degenerative changes of the discs and facet joints with disc bulges, all of which appears unchanged from the prior studies," and again:



177. The above MRIs, conducted over a three-year span, including review from a total of **four (4) different radiologists, three (3) of which being Claimant B's treating providers, never observed or diagnosed an L4-5 herniation.**

178. Despite the overwhelming diagnostic evidence above, on November 30, 2023, Leven once again unilaterally determines a pre-operative diagnosis and clinical justification for surgery of "L4-L5 disc herniation with severe nerve impingement, lumbar radiculopathy, extruded disc herniation, neurologic deficits, and axial back pain with gross instability," findings **not one diagnostic film or report supports, with the most recent just two (2) months prior.**

179. On the basis of this imagined justification, Leven performed a posterolateral fusion L4-L5; segmental pedicle fixation L4-L5; bilateral hemilaminectomy L4-L5; bilateral facetectomy L4-L5 foraminotomy; discectomy L4-L5, and neurolysis bilateral S1 nerve roots,

180. In other words, based on an entirely unsupported proposition, with no legitimate justification, Leven, in furtherance of the Fraud Scheme, purportedly removed nerves, tissue, and bone material from Claimant B's spine, and inserted a cage unit screwed into his spine, in substantially similar fashion to Claimant A.

181. On or about December 13, 2020, in furtherance of and as a necessary step for the execution of the Fraud Scheme, Claimant B was given instructions and accompanied to the hospital

by a Runner Defendant associated with numerous Liakas Claimants. Of note, the Runner was living at the time with Claimant A's brother – both with their own cases ("trip and falls" from June 2020 [Runner], December 3, 2020 [Claimant A's brother]), both represented by Liakas, also with Prime Case Funding (Runner) and Total Ortho treatment (Claimant A's brother).

182. On or about June 3, 2021, Capiola of McCulloch Ortho created knowingly false and/or materially misleading records, otherwise containing material omissions, comprised of recycled language, regarding Claimant B's knee surgery. These records were created with the intention to be used in litigation, in cooperation and through the Liakas Defendants, with the foreseeable and intended result that such records would be served on the opposing counsel on Claimant B's lawsuit. On March 27, 2023, as intended, in order to manufacture or otherwise falsely inflate a claim for damages, and as a necessary step in and in furtherance of the Fraud Scheme, these records were mailed to opposing counsel by the Liakas Firm in violation of 18 U.S.C. § 1341.

183. On or about September 16, 2021, Capiola of McCulloch Ortho created knowingly false and/or materially misleading records, otherwise containing material omissions, comprised of recycled language, regarding Claimant B's knee surgery. These records were created with the intention to be used in litigation, in cooperation and through the Liakas Defendants, with the foreseeable and intended result that such records would be served on the opposing counsel on Claimant B's lawsuit. On March 27, 2023, as intended, in order to manufacture or otherwise falsely inflate a claim for damages, and as a necessary step in and in furtherance of the Fraud Scheme, these records were mailed to opposing counsel by the Liakas Firm in violation of 18 U.S.C. § 1341.

184. On or about January 10, 2022, and continuing thereafter, Leven and Total Ortho created knowingly false and/or materially misleading records, otherwise containing material omissions, comprised of recycled language, regarding Claimant B's treatment. These records were

created with the intention to be used in litigation, in cooperation and through the Liakas Defendants, with the foreseeable and intended result that such records would be served on the opposing counsel on Claimant B's lawsuit. On April 25, 2023, as intended, in order to manufacture or otherwise falsely inflate a claim for damages, and as a necessary step in and in furtherance of the Fraud Scheme, these records were mailed to opposing counsel by the Liakas Firm in violation of 18 U.S.C. § 1341.

185. On or about October 8, 2021, in furtherance of and as a necessary step for the execution of the Fraud Scheme, and in violation of 18 U.S.C. § 1343, Dean Liakas filed a Verified Complaint through the NYSCEF system, making use of the wires, containing allegations related to the purported trip and fall accident, including the existence, extent, causal relationship of, and medical care necessitated by, Claimant B's injuries, which were known, made with reckless indifference, or should have been known, to be false.

186. On or about January 3, 2022, in furtherance of and as a necessary step for the execution of the Fraud Scheme, and in violation of 18 U.S.C. § 1343, Dean Liakas filed a Verified Complaint through the NYSCEF system, making use of the wires, containing allegations related to a purported trip and fall accident from October 17, 2020 by Claimant B's *wife*, including the existence, extent, causal relationship of, and medical care necessitated by, Claimant B's wife's injuries, which were known, made with reckless indifference, or should have been known, to be false.

187. Claimant B's wife also secured funding through Prime, as memorialized by UCC Prime filed electronically as a necessary step and in furtherance of the Fraud Scheme, on October 15, 2021, in violation of 18 USC § 1343.

188. On or about March 27, 2023, in furtherance of and as a necessary step for the execution of the Fraud Scheme, and in violation of 18 U.S.C. § 1341, Matthew Kerner of the Liakas Firm, upon the direction of the Firm and Dean Liakas, served a Verified Bill of Particulars through the mail containing allegations related to the purported trip and fall accident, including the existence, extent, causal relationship of, and medical care necessitated by, Claimant B's injuries, which were known, made with reckless indifference, or should have been known, to be false.

189. On dates unknown and unavailable through due diligence to the pleading party, Prime provided advances to Claimant B and compensation to McCulloch, Capiola, Leven, and Total Ortho for the unnecessary surgeries. On or about August 25, 2022, Prime filed a UCC statement with the New York State Department of State *via* the Department's online portal, making use of wire communication in furtherance of the scheme in violation of 18 U.S.C § 1343. (Exhibit 11, p. 2).

190. On or about October 15, 2021, Prime filed a UCC statement with the New York State Department of State *via* the Department's online portal regarding a lien over Claimant B's wife's case, making use of wire communication in furtherance of the scheme in violation of 18 U.S.C § 1343.

iii. <u>Claimant C</u>

191. Claimant C's relevant, redacted records are attached as **Exhibit 3**.

192. Claimant C (a Freeport resident who purportedly fell 30 miles away on uneven sidewalk in Queens on April 30, 2022) presented to the emergency room solely with complaints of pain to the left shoulder and left knee.

193. EMS noted no deformities or swelling to any body part, solely subjective pain upon palpation; these findings were consistent with the hospital's findings. There were no back complaints, with Claimant C expressly denying head, neck, or back pain. He was discharged the same day, and retained the Liakas Firm on or about May 3, 2022.

194. Claimant C sought treatment on May 12, 2022 from Advanced Orthopaedics, PLLC with Dov Berkowitz,[6] and: [illegible]

195. No back complaints. Despite no back complaints, and an utter lack of any indication in the reports, Berkowitz referred Claimant C for a lumbar MRI, which was done May 15, 2025.

196. Two (2) months after the date of incident, on June 27, 2022, Claimant C presented to Lerman at Total Ortho complaining of neck and back pain. He is recommended to commence PT for his lower back. Claimant C sees another physician once in both July and August, who provided epidurals. Each visit again noted Claimant C is in PT for his knee and shoulder and should initiate PT for his back.

197. On September 16, 2022, Claimant C saw Lerman a second time. It was again noted Claimant C was in PT only for his knee and shoulder. Lerman's report also stated "OTC medications are being taken for pain," while the following section indicated Claimant C was actively taking Tramadol, an opioid pain medication. **The physical exam of Claimant C's lumbar spine found no instability – consistent with the MRI which found no spondylolisthesis**. HPI stated numbness/tingling radiating down the limbs; ROS states "Pertinent negatives: numbness, tingling." It was again referenced that Claimant C's PT was limited to knee and shoulder, not

[6] RICO Defendant under EDNY Docket #: 1:24-cv-08606-JRC.

lumbar, yet Lerman provided that Claimant C had exhausted attempts at conservative treatment. Lerman included a diagnosis for lumbar spinal stenosis (M48.06), despite that the MRI made no such finding.

198. Lerman recommended, and purportedly performed, a posterolateral fusion with hemilaminectomy, facetectomy, and foraminotomy with insertion of pedicle screws and insertion of a 45mm rod. This was a clinically unjustifiable decision, compounded by an operative report that made zero medical sense.

199. Neither the MRI nor the clinic notes documented spondylolisthesis, pars defects, gross facet arthropathy, or pre-operative instability—classic prerequisites for fusion. Major guidelines (*e.g.*, Blue Cross/Blue Shield medical-policy criteria, NASS) state that fusion *is **not** routine after primary discectomy for radiculopathy* unless imaging-proven instability is present, which here, it was not.

200. Lerman appeared to try and justify the fusion using intra-op findings:

201. This fails when a) the operative report up until the notation of "70% resection" <u>provides no indication of such resection having occurred</u>, and b) the stated *intent* of the surgery was a fusion (as clinically non-indicated as it was), it was not an intra-operative pivot procedure.

202. Further still, Lerman purportedly observed a bilateral herniation (L4-L5 MRI showed only a *right* herniation, and a L5-S1 *left* herniation which was simply never discussed or addressed). <u>There is no language in the operative report regarding actual removal of herniated disc material</u>.

203. Further confounding is that the MRI demonstrated *anterior* impingement – *i.e.*, compression from the *front* of the nerves.

204. Lerman removed instead *posterior* facet bone material – allegedly 70% of it – despite no offending condition therein, and performed a fusion for the "instability" and "motion" *not present on clinical exam, MRI, or by any metric prior to the surgery,* which Lerman's own inexplicable surgery *itself caused.*

205. Making matters worse, the precise same operative report – *verbatim*, word for word, copy-pasted – **appears in no less than *twenty-five* (25) other cases.**[7]

206. Given the level of inconsistencies between the MRI report and the operative report, with the operative report having been recycled several times over, only two explanations present:

a. The operative report does not accurately describe the operation performed, or;

b. The operative report accurately describes an operation which made no clinical sense.

Item	**MRI report (objective radiology)**	**Operative report (Lerman's narrative)**	**Problem**
Level(s) with disc herniation	**L4-5:** broad-based disc bulge plus a **right** foraminal herniation.	Describes a ventrally located disc herniation in neuro-foramina **bilaterally** at L4-5, with bilateral nerve-root mobilization.	MRI shows *only right* foraminal herniation at L4-5 and the *left* herniation is at L5-S1, not L4-5.
	L5-S1: left foraminal herniation.	No mention of treating the documented L5-S1 herniation.	Surgery treats bilateral L4-5 and ignores L5-S1.

[7] Including a Liakas client who was 23 years old at the time Lerman inserted screws and a rod into the young man's spine, following a motor vehicle accident with no reported injuries and less than $1000 in damage to the vehicles. Independent review of the pre- and post-operative MRIs in that matter determined a) such surgery was wholly unjustified, and b) **post-operative imaging reports did not show any evidence of the operation claimed to have been performed by Lerman**:

Item	MRI report (objective radiology)	Operative report (Lerman's narrative)	Problem
Facet joints / instability	"Mild diffuse facet hypertrophy"; **no spondylolisthesis; alignment preserved.**	Lerman resects ~**70 % of the facet joints bilaterally** at L4-5, then states there was "evidence of motion" and proceeds to instrument and **posterolaterally fuse L4-5** with pedicle screws, rods, BMP and graft.	**MRI shows no pre-existing facet destruction or instability**. Removing most of the facets itself *creates* instability that then "needs" fusion.
Extent of decompression	No central canal stenosis; only foraminal impingement identified.	Performs hemilaminectomy, facetectomy, foraminotomy under the microscope.	Central laminectomy/ facetectomy is not indicated for isolated foraminal herniation and is not supported by MRI findings.

207. As Claimant C treated on a lien and on litigation funding, Lerman was not just able to foresee, but was in fact keenly aware, that as a necessary step and in furtherance of the fraud scheme, the records he created in providing the fraudulent treatment would be mailed several times over, including on June 28, 2024, when the subject records were mailed by Total Ortho's health information management service to opposing counsel on the underlying matter, in violation of 18 USC § 1341.

208. Similarly, trading his Total Ortho hat for his Associate Director of Orthopedic Spine Surgery at NUMC hat, Lerman was not just able to foresee, but was in fact keenly aware, that as a necessary step and in furtherance of the fraud scheme, the false records he authored in providing the fraudulent treatment at the facility would be mailed several times over, including on June 26,

2024, when the subject records were mailed by NUMC's health information management service to opposing counsel on the underlying matter, in violation of 18 USC § 1341.

209. On February 3, 2023, in furtherance of and as a necessary step for the execution of the Fraud Scheme, and in violation of 18 U.S.C. § 1343, Dean Liakas served a Verified Complaint, as so Verified by Scott Steinberg of the Liakas Firm, through the NYSCEF system, making use of the wires, containing allegations related to a purported trip and fall accident from April 30, 2022 by Claimant C, including the existence, extent, causal relationship of, and medical care necessitated by, Claimant C's injuries, which were known, made with reckless indifference, or should have been known, to be false. This included the following allegation, with the "aforesaid premises" being 37-14 97th St. in Queens:

210. On or about October 2, 2023, in furtherance of and as a necessary step for the execution of the Fraud Scheme, and in violation of 18 U.S.C. § 1341, Paul Generosa verified personally and, on behalf of the Liakas Firm, served a Verified Bill of Particulars through the mail containing sworn allegations related to the purported trip and fall accident, including the existence, extent, causal relationship of, and medical care necessitated by, Claimant C's injuries, which were known, made with reckless indifference, or should have been known, to be false.

211. Claimant C's action remains pending; no filings have been made on that matter since September 2023.

212. On April 14, 2025, two (2) years after the first Complaint and just prior to expiration of the statute of limitations, in furtherance of and as a necessary step for the execution of the Fraud

Scheme, and in violation of 18 U.S.C. § 1343, Dean Liakas served a Verified Complaint, so Verified by Dean Liakas himself, through the NYSCEF system, making use of the wires, containing allegations related to a purported trip and fall accident from April 30, 2022 by Claimant C, including the existence, extent, causal relationship of, and medical care necessitated by, Claimant C's injuries, which were known, made with reckless indifference, or should have been known, to be false. This included the following allegation, now suing Con Edison, with the "aforesaid premises" being 37-14 97th St. in Queens:

[redacted]

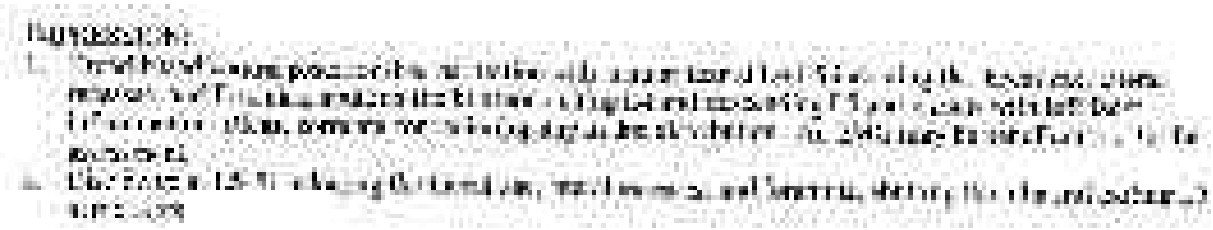
iv. Claimant D

213. Claimant D's relevant, redacted records are attached as **Exhibit 4**. Claimant D alleges to have tripped and fallen on uneven sidewalk in Brooklyn on January 24, 2021 – just like his brother, who allegedly fell on uneven sidewalk exactly one week prior on January 17, 2021, right around the corner, also represented by Liakas:

214. Claimant D's brother presented two (2) days after the fact to Woodhull Hospital complaining of left shoulder, left knee, and lower back pain. Claimant D presented a day after his purported date of "accident" to Woodhull Hospital complaining of right shoulder, right knee, and lower back pain.

215. Claimant D and his brother both treated at PMR. All of Claimant D's PMR records erroneously reflect his brother's date of accident, even from the first appointment of February 9, 2021. Both Claimant D and his brother were sent to AcceleRad for MRIs – or more precisely, *to some unknown and undisclosed facility* for an MRI that would be sent to AcceleRad for a Fraud Scheme-friendly read. These reports were then used to justify multiple surgical interventions.

216. As to the lumbar spine, the Accelerad report indicated the following:



217. Peer review of the film later would contradict AcceleRad's findings, noting not just discrepancies in the report as compared to the films, but material omissions simply unreported due to their degenerative etiology (omitting material that would undercut needed Fraud Scheme findings):

218. Claimant D and his brother both treated with Gotham/Cohen. Once again, all of Claimant D's Gotham records reflect his brother's date of accident and not his own date of accident. Claimant D first purportedly treated with Gotham and Cohen on March 4, 2021, *via* Zoom. Cohen allegedly performed range of motion testing virtually. Additionally, Cohen noted he "extensively reviewed" cervical and lumbar MRIs from October 1, 2020, predating Claimant D's fall by three months, and assessed identical herniations claimed here, as the result of a motor vehicle accident.

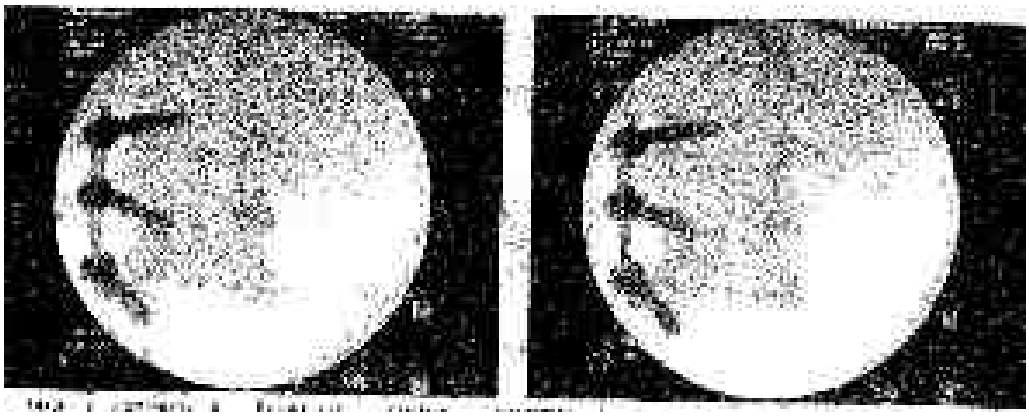
219. The next visit recorded is *post-surgery.*

220. Cohen, despite being the Director of Neurosurgery at Brooklyn Hospital Center (which has both its own OR and its own ASC) and an affiliate of Weill Cornell, performed surgery

on both brothers at Hudson Regional, across state lines in New Jersey – both specifically receive a "left decompression, discectomy, interbody cage fusion, postero-lateral fusion and stabilization."

221. The paperwork from Hudson Regional list Liakas Law as Claimant D's insurance provider, and again state his brother's date of accident.

222. Regardless of the claimed *central* herniation at L4-L5, abutting the *bilateral* L4 and L5 nerves, as well as the disc bulge at L5-S1 abutting the *bilateral* L5 nerve (*i.e.*, no mention whatsoever of any S1 nerve compression), Cohen performs an **exclusively left-sided** surgery, and "removed the herniation encroaching the S1 nerve root." He then placed three pedicle screws – on the left side only – into L4, L5, and S1, and connected them with a single bar, without any support or connection to the other side:



223. This generally makes no sense, as without properly being supported, a single-sided fusion construct has higher rates of cage subsidence, non-union ("pseudoarthrosis"), and revision

surgery. This makes even *less* sense in a patient with a *bilateral* issue. Picture a ladder with the rungs screwed in on only one side.

224. Perhaps unsurprisingly, a subsequent CT scan post-op found the following:

a. Noted degenerated endplate osteophytes at L5/S1 that AcceleRad omitted;

b. There was now osseous material impacting the left S1 nerve (not present previously);

c. The spacers and osseous material at the surgical levels showed subsidence (sunken, pushed into the lower spinal level);

d. The right side of the L4/L5 herniation remained, in the vicinity of the L5 nerve (Cohen inexplicably only operated on the left side, and on the S1 nerve root);

e. There was now osseous material within the spinal canal itself at the L5/S1 level, resulting in contact with the S1 nerve (not observed in prior imaging and purportedly "corrected" during surgery; graft compressed out into the canal);

f. There were now disc bulges in L1/2, L2/3, and L3/4 (**messed up the rest of his lumbar spine**).

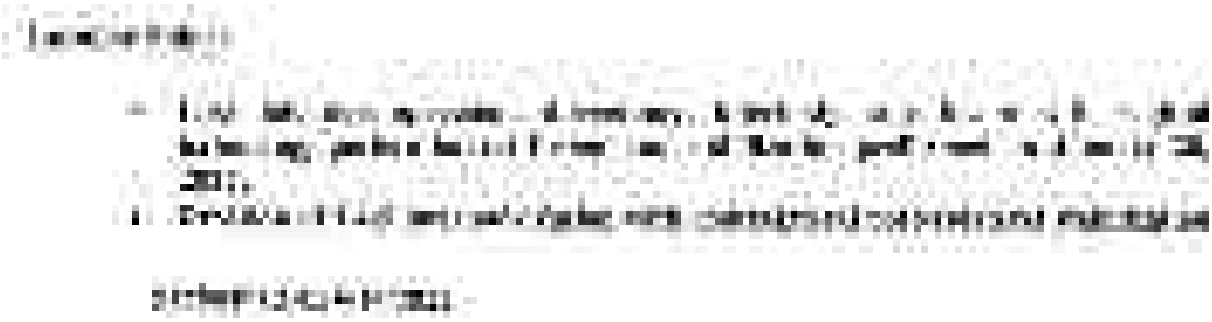
225. Put in simplest terms, and rendered further unjustifiable by the bilateral nature of the claimed MRI findings, Cohen only bolted the spine down on one side, put the weight-bearing cages in the middle, and called the job done. Those cages then sank (pushed into the degenerated bone below) and bone graft oozed into the nerve canal - *exactly what you'd expect when half the hardware is missing*.

226. *I.e.,* the surgery was not only an eminently foreseeable failure, it made matters significantly worse, with little to no correlation to conditions shown by any objective metrics.

227. It makes perhaps more sense, in a horrifying way, that this operative report was written long before Claimant D's surgery. It is copy-pasted, *verbatim*, from another surgery in 2019, also by Cohen, also at Hudson Regional, *and also for another Liakas client* (who *also* had a meniscal repair by Capiola/McCulloch).

228. Cohen performed a predetermined procedure from his "cookbook." Cohen would go on to use the copied operative report, word-for-word, and use it as Claimant H's operative report in 2022.

229. Incredibly, it appears Cohen performed a virtually identical surgery on Claimant D's *brother*, also at Hudson Regional, also represented by Liakas, regarding his "fall" seven (7) days prior to Claimant D. In identical fashion, **his surgery failed too – for *the same reason***, and required revision surgery to add the other half of the procedure he has repeatedly failed to perform (when paid by litigation finance for Liakas claimants) – this language was added to Claimant D's brother's Bill of Particulars, *attributing the revision surgery to the purported accident*:



230. In researching this approach (outside of the three examples herein, **as well as Claimant G**, which were all Liakas claimants, all done by Cohen, all at Hudson Regional, and all the result of trip and falls), four (4) other instances of utilizing one-sided pedicle screws joined by a single, essentially free-flying connecting rod were located - 529165/2021, 509492/2021, 150464/2019, and 512449/2018. They are notably each also:

a. All Liakas claimants;

b. All done by Cohen;

c. All at Hudson Regional; and,

d. **<u>All the result of claimed trip and falls</u>.**

231. The nature of these surgeries, the identical operative reports, the fact they all involved Cohen going to a private facility in New Jersey despite ready access to surgical facilities locally, all on behalf of the same firm's clients, all give rise to a reasonable inference of a kickback scheme, "unlawful activity" under 18 USC § 1952. In travelling from New York to New Jersey to perform these surgeries, and relevant here, *this* surgery on September 10, 2021, with the intent to carry on, or facilitate the promotion, management, establishment, or carrying on of such scheme, and proceeding to perform the surgery to carry on such scheme, Cohen engaged in a violation 18 USC § 1952.

232. Hudson Regional is a hospital in New Jersey, and looks like this:

233. Meanwhile, Claimant D testified he had his back surgery in a clinic in either Manhattan or Brooklyn.

234. Claimant D also treated with the McCulloch Defendants, and ultimately underwent an arthroscopy with meniscal repair by Capiola. Claimant D's first appointment with them was on February 11, 2021, eight (8) days after retaining Liakas, with his insurance listed as "self," despite Medicaid, and later on a case lien.

235. The initial examination of Claimant D and the earlier Liakas client referenced above (¶ 227) were both performed by Capiola, one at McCulloch Ortho (Claimant D) and one at NY S&J (earlier client), and have **entirely identical findings, down to the precise degrees of range of motion**.

236. As with the others, Capiola "erroneously" lists the date of accident as Claimant D's *brother*'s date of accident, January 17, 2021. Claimant D was told to get an MRI and return in three (3) weeks.

237. Two (2) months later, Claimant D returned to Capiola with MRIs, who immediately scheduled an arthroscopy. Claimant D was seen again in May 2021 for a substantially identical appointment, and ultimately underwent the right knee arthroscopy on June 3, 2021.

238. The operative report is virtually identical to the procedure received by the same earlier Liakas client referenced above (¶ 227). Further, **Claimant D's operative report is a carbon copy of Claimant B's operative report, which is purportedly conducted <u>the same day by Capiola</u>.**

239. For the second time (that day), Capiola's surgery treated a tear not found on any prior diagnostics, in an operative report disassociated from any prior findings.

2/24/21 MRI

[illegible]	<u>No lateral meniscal tear</u>.
[illegible]	<u>No chondromalacia</u>.

No synovitis.

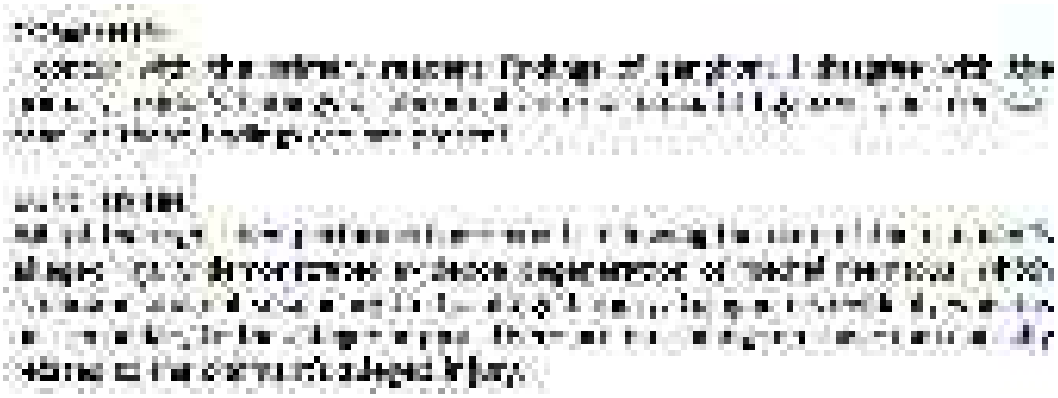
6/3/21 Surgery: Lateral meniscal tear. Chondromalacia. Synovitis. No medial meniscus tear. ACL intact.

240. This MRI and operative report are flatly incompatible. The fact it was the second operative report that is *identical*, from the same day, and representing a *second* instance on that same day of providing a surgical report bearing not even passing relevancy to prior diagnostics, leaves only two reasonable inferences, both of which give rise to fraud:

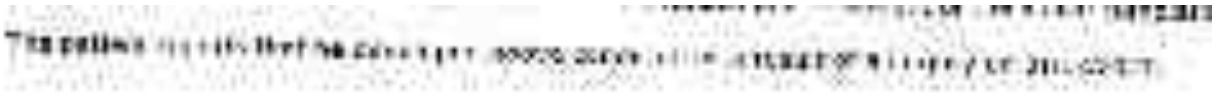
a. Capiola did not accurately report his operations, or;

b. Capiola accurately reported unnecessary operations on healthy tissue and structures.

241. Once again, later independent review of the films themselves, not simply of the reports, revealed *there was no meniscal tear in the first instance*, with no evidence of trauma present on the MRI films:



242. Claimant D presented to PPNY on May 18, 2021, and the date of accident proffered was his *brother's* date of accident, not his own.



243. While his "Attending Provider" was listed as Roman Shulkin, Claimant D repeatedly treated with Defendant Reyfman. The narratives contained in each visit are substantially identical and the reported pain numbers never vary despite injections from PPNY and surgery from other providers, and on each date it is detailed that the patient developed the claimed symptoms as a result of injury on 1/17/2021 – his brother's fall date, a week before his own. Claimant D treats on a lien despite having Medicaid.

244. Claimant D further treated with Physical Medicine and Rehab with several of their providers, including Defendant Toussaint. Each and all continue to represent Claimant D's date of accident as January 17, 2024 – Claimant D's *brother's* date of accident. These providers, including Toussaint, falsely supported the varying escalated treatments provided by the Defendants above through falsified range of motion reports and purported "conservative" modalities.

245. On May 21, 2021, four (4) months before any lawsuit was filed, in furtherance of and as a necessary step for the execution of the Fraud Scheme, and in violation of 18 U.S.C. §

1343, Prime made use of the wires in submitting a UCC statement through the NYSDOS UCC portal, perfecting a security interest in the proceeds of Claimant D's case.

246. On September 16, 2021, six (6) days after the Cohen surgery, in furtherance of and as a necessary step for the execution of the Fraud Scheme, and in violation of 18 U.S.C. § 1343, Dean Liakas served a Verified Complaint, so Verified by Dean Liakas, through the NYSCEF system, making use of the wires, containing allegations related to a purported trip and fall accident from January 24, 2021 by Claimant D, including the existence, extent, causal relationship of, and medical care necessitated by, Claimant D's injuries, which were known, made with reckless indifference, or should have been known, to be false.

247. On June 22, 2022, in furtherance of and as a necessary step for the execution of the Fraud Scheme, and in violation of 18 U.S.C. § 1343, Dean Liakas served a Verified Complaint, so Verified by Dean Liakas, through the NYSCEF system, making use of the wires, containing allegations related to a purported trip and fall accident from January 17, 2021 by Claimant D's brother, including the existence, extent, causal relationship of, and medical care necessitated by, Claimant D's brother's injuries, which were known, made with reckless indifference, or should have been known, to be false.

248. On or about December 27, 2022, in furtherance of and as a necessary step for the execution of the Fraud Scheme, and in violation of 18 U.S.C. § 1341, Salah Shawa of the Liakas Firm served a Verified Bill of Particulars through the mail and/or email falsely attesting to the truthfulness of the allegations set forth therein related to the trip and fall accident, including the existence, extent, causal relationship of, and medical care necessitated by, Claimant D's *brother's* injuries.

249. On or about May 5, 2023, in furtherance of and as a necessary step for the execution of the Fraud Scheme, and in violation of 18 U.S.C. § 1341, Salah Shawa of the Liakas Firm served a Verified Bill of Particulars through the mail falsely attesting to the truthfulness of the allegations set forth therein related to the trip and fall accident, including the existence, extent, causal relationship of, and medical care necessitated by, Claimant D's injuries.

250. On or about February 18, 2021, Prakash of AcceleRad created knowingly false and/or materially misleading records, otherwise containing material omissions and comprised of recycled language, regarding Claimant D's treatment, in order to falsely justify continuing and escalating treatment. In a necessary step and in furtherance of the fraud scheme, and both foreseeable and intended by Prakash, these records were forwarded by AcceleRad *via* email to opposing counsel in Claimant D's lawsuit on or about June 26, 2023, in violation of 18 U.S.C. § 1343.

251. On or about June 3, 2021, Capiola of McCulloch Ortho created knowingly false and/or materially misleading records, otherwise containing material omissions, comprised of recycled language, regarding Claimant D's knee surgery. Capiola, compensated through liens and litigation funding, was acutely aware that these records would be mailed and/or transmitted as a necessary step and in furtherance of the scheme, which they were by the Liakas Defendants by mail to opposing counsel on Claimant D's lawsuit on May 5, 2023, in violation of 18 U.S.C. § 1341.

252. On or about September 10, 2021, Cohen of Gotham created knowingly false and/or materially misleading records, otherwise containing material omissions, comprised of recycled language, regarding Claimant D's back surgery. Cohen, compensated through liens and litigation funding, was acutely aware that these records would be mail and/or transmitted as a necessary step

and in furtherance of the scheme, which they were by the Liakas Defendants by mail to opposing counsel on Claimant D's lawsuit on May 5, 2023, in violation of 18 U.S.C. § 1341.

253. On or about June 28, 2023, Hudson Regional forwarded records *via* mail to opposing counsel on Claimant D's lawsuit in order to manufacture or otherwise falsely inflate a claim for damages, and as a necessary step and in furtherance of the Fraud Scheme, in violation of 18 U.S.C. § 1341.

254. PPNY, Reyfman, and Toussaint, all being compensated through liens, were acutely aware that the falsified records they were creating were intended to be presented in litigation, and that such records would be mailed or transmitted as a necessary step and in furtherance of the Fraud Scheme. On May 5, 2023, such records were in fact mailed by Liakas firm to defense counsel on the matter, a violation of 18 USC § 1341.

255. On dates unknown and unavailable through due diligence to the pleading party, Prime provided advances to Claimant D and compensation to McCulloch, Capiola, Cohen, and Gotham for the unnecessary surgeries.

256. Claimant D's case remains pending.

v. Claimant E

257. Claimant E's relevant, redacted records are attached as **Exhibit 5**.

258. Claimant E claimed to have fallen on sidewalk near her house on April 6, 2020 (Total Ortho records), April 7, 2020 (McCulloch Ortho records), or April 20, 2020 (Complaint and Bill of Particulars). She did not go to the hospital or make any complaint that day, and there are no witnesses.

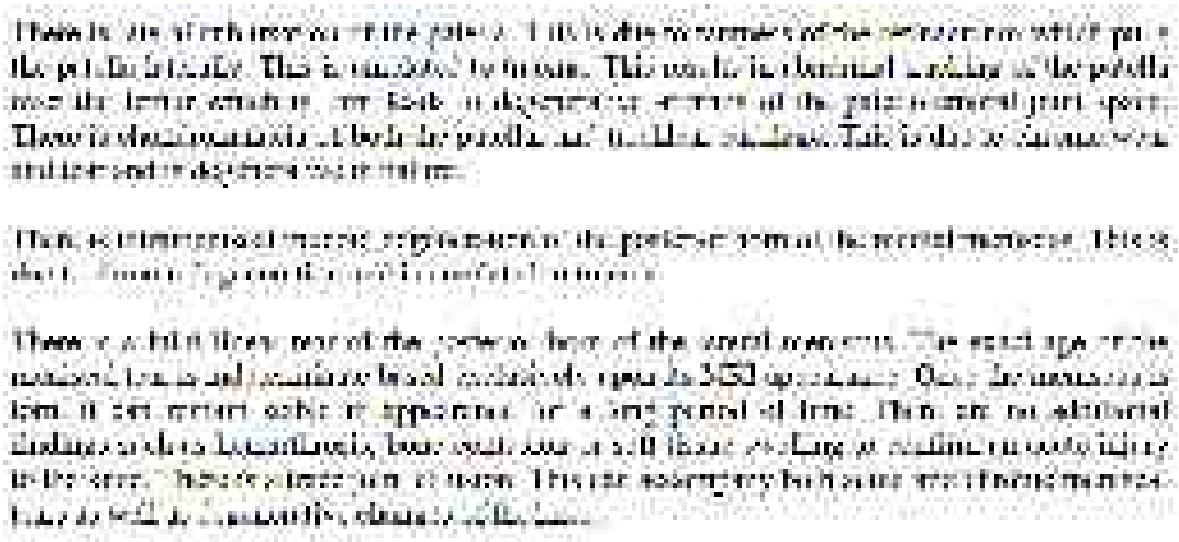
259. Claimant E's first treatment was with Defendant Toussaint on April 23, 2020. He noted complaints about the right knee and ankle. Toussaint purportedly conducted range of motion tests on those body parts, as well as the lumbar spine despite no noted complaint, sent her for MRIs

of the ankle and knee, and X-ray of the lumbar. Claimant E started PT at PMR on May 12, 2020, on a lien, and the billing statement indicates that first April 23, 2020 visit was on a lien as well.

260. On May 7, 2020. Claimant E had her initial appointment with McCulloch Ortho. It was a telemedicine visit, the physician is listed as Eric LeClair, PA, and signed by LeClair, but is "co-signed" by Capiola with an undated signature. The record indicates a fall date of April 7, 2020, and a "visual" range of motion test was conducted. The MRI report is referenced and flatly misrepresented.

261. The MRI report, dated April 28, 2020, indicated a "type 1 signal" involving the body of the medial meniscus. This is a classic indicator of mild degeneration and is not indicative of a tear. This is particularly true in the degenerative setting demonstrated by the MRI report: "thinning of the chondral surfaces," "variant marrow edema… not uncommonly seen in overweight females," "tendinosis/tendinopathy," and a textbook degenerative horizontal lateral meniscus tear that extends to the free margin. Such a tear is commonly referred to as a "cleavage tear," and arises from internal meniscal breakdown.

262. Indeed, later peer review was consistent with degeneration and lack of acute indicators, and found no medial meniscal tear:



263. Regardless, McCulloch Ortho (more specifically, their PA) nakedly claimed both medial and lateral meniscal tears were demonstrated. It was immediately stated that "future surgical intervention may be required."

264. Claimant E did not return to McCulloch Ortho until six (6) months later, on November 16, 2020. Capiola recommended surgery right knee surgery.

265. Claimant E then did not return to McCulloch Ortho until nearly a year later, on September 21, 2021. The narrative of the report is verbatim identical to report from the year prior as are the ROM and exam findings. Capiola again recommended surgery despite no documented progression and without any new films, relying solely on a year and half old MRI, and claimed Claimant E had been going to physical therapy despite no such PT for the preceding 10 months.

266. Claimant E underwent right knee arthroscopy with Capiola on October 7, 2021. Despite that each of Claimants B, D, and E had distinct MRIs and entirely different purported conditions, Capiola once again used the virtually identical "cookbook" operative report, with virtually the exact same procedure purportedly performed.

267. The operative report once again, just like Claimants B and D, found synovitis and performed synovectomies in all compartments, despite no such MRI findings. The operative report here also indicated a chondroplasty of the lateral femoral condyle and tibial plateau – where no such chondromalacia was found on the MRI – and makes no reference to the medial patellofemoral articulation, where the MRI did find chondromalacia.

268. On June 5, 2020, Claimant E first presented to Avanesov at Total Ortho. The date of fall was alleged to be April 6, 2020. Avanesov provided an epidural.

269. Total Ortho reiterated that an MRI that was performed on May 6, 2020, by AcceleRad; more accurately, AcceleRad reviewed and reported on an MRI performed at an

unknown and undisclosed facility that was forwarded to them. The MRI claimed left paracentral disc herniations at L1/2, L2/3, and a broad-based central posterior disc herniation at L4/5 abutting the exiting L4 nerve root, with no bulge or herniation at L3/4 or L5/S1. Notably, there was no mention of an extruded disc fragment.

270. A subsequent MRI was performed at non-Fraud Scheme provider on August 26, 2020 (3 weeks before surgery). This subsequent MRI found disc bulges at L1/2, L2/3, nothing at L3/4, a bulging disc with biforaminal impingement on the exiting L4 nerve root, and a disc bulge with no stenosis at L5/S1. Notably, again, there was again no mention of an extruded disc fragment, and notably no herniations, on an MRI just three (3) weeks prior to surgery. This MRI depicted a far less severe picture than that falsely portrayed earlier by AcceleRad. Total Ortho never reviewed the August 26, 2020 MRI before proceeding with surgery on September 17, 2020.

271. Peer review of the August 26, 2020 MRI film found demonstrated disc desiccation and "mild" disc bulges at L1/2, L2/3, and L4/5, as well as osteophytes at L1/2 and L2/3 further indicating a degenerative picture. Again, no extruded disc fragment. The reader's ultimate conclusion was:

> [illegible]

272. On July 9, 2020, Total Ortho performed an EMG test. The listed impression was "evidence of right L4/L5 radiculopathy," without noting this was **a clinically negative test on the data points, and was inconsistent with both *all* of the MRIs (bilateral impingement) and the clinical tests (straight leg test purportedly positive bilaterally).**

273. On that same day, the clinical note further misrepresented the *clinically negative* EMG test as "consistent with L4/5 radiculopathy."

274. On August 7, 2020, after a virtually identical set of clinical findings to the prior visits, with no findings or discussion regarding spinal instability, Avanesov recommended an L4/5 decompression and fusion.

275. On September 17, 2020, Avanesov, with Leven assisting, purportedly performed that procedure. The incredible and apparent arbitrary operation described therein requires examination:

9/17/2020 Surgery	Incompatibility
Removed an "extruded disc fragment"	Neither the May 6, 2020 nor the August 26, 2020 MRI reports (nor the peer review of the August 26, 2020 film) identified an extruded disc fragment.
"L5 nerve root were mobilized allowing medial retraction of the nerve roots over the ventrally located disc herniation."	Both MRIs identified compressed **L4 nerve root**. **L5 nerve root never identified compressed**. This operation described a herniation under L5. The May 6, 2020 MRI identified a **posterior** (rear) herniation, not a **ventral** one (front) (and no herniation observed on August 26, 2020 MRI).
Specimen of purportedly removed material not preserved.	NUMC Hospital, where the surgery was performed, is Joint Commission Accredited. Joint Commission Standards (QSA.13.01.01) requires all removed tissue be preserved and sent to pathology unless exempt. No indication this was or would be so, just stated "No specimen submitted."
Fusion	No indication of instability in prior MRIs or notes. No indication for widescale laminectomy, particularly not as evidenced on the more recent MRI, instability itself is indicated as a *post-op* finding, despite the fusion planned from the outset.

276. On June 4, 2021, in furtherance of and as a necessary step for the execution of the Fraud Scheme, and in violation of 18 U.S.C. § 1343, Dean Liakas served a Verified Complaint, so

Verified by Dean Liakas, through the NYSCEF system, making use of the wires, containing allegations related to a purported trip and fall accident from April 20, 2020 by Claimant E, including the existence, extent, causal relationship of, and medical care necessitated by, Claimant E's injuries, which were known, made with reckless indifference, or should have been known, to be false.

277. On or about October 15, 2021, in furtherance of and as a necessary step for the execution of the Fraud Scheme, and in violation of 18 U.S.C. § 1341, Matthew Kerner of the Liakas Firm served a Verified Bill of Particulars through the mail falsely attesting to the truthfulness of the allegations set forth therein related to the trip and fall accident, including the existence, extent, causal relationship of, and medical care necessitated by, Claimant E's injuries.

278. On or about November 13, 2023, in furtherance of and as a necessary step for the execution of the Fraud Scheme, and in violation of 18 U.S.C. § 1341, Matthew Kerner of the Liakas Firm, upon the direction of the Firm and Dean Liakas, served a Second Supplemental Verified Bill of Particulars through the mail falsely attesting to the truthfulness of the allegations set forth therein related to the trip and fall accident, including the existence, extent, causal relationship of, and medical care necessitated by, Claimant E's injuries.

279. On or about April 23, 2020, and continuing thereafter, Toussaint of PMR created knowingly false and/or materially misleading records, otherwise containing material omissions, comprised of recycled language, regarding Claimant E's treatment. Toussaint, paid on a case lien, was acutely aware these records would be presented in litigation and either mailed or transmitted as a necessary step and in furtherance of the Fraud Scheme. These records were forwarded by PMR via mail and/or email to the Liakas Defendants and forwarded by mail to opposing counsel

on Claimant E's lawsuit on October 15, 2021, in order to manufacture or otherwise falsely inflate a claim for damages, in violation of 18 U.S.C. § 1341.

280. On or about September 17, 2020, Avanesov created knowingly false and/or materially misleading records, otherwise containing material omissions, comprised of recycled language, regarding Claimant E's spinal surgery. Avanesov, paid on a case lien, was acutely aware these records would be presented in litigation and either mailed or transmitted as a necessary step and in furtherance of the Fraud Scheme. As with the other Total Ortho operative reports, this particular one has been utilized, *verbatim*, in no less than seven (7) other matters based on publicly available documents alone. These records were in fact so mailed by Total Ortho to opposing counsel on Claimant E's lawsuit on November 9, 2021, in violation of 18 U.S.C. § 1341.

281. On or about October 7, 2021, Capiola of McCulloch Ortho created knowingly false and/or materially misleading records, otherwise containing material omissions, comprised of recycled language, regarding Claimant E's knee surgery. Capiola, paid on a case lien, was acutely aware these records would be presented in litigation and either mailed or transmitted as a necessary step and in furtherance of the Fraud Scheme. These records were forwarded by McCulloch Ortho via mail and/or email to the Liakas Defendants and forwarded by mail to opposing counsel on Claimant E's lawsuit on October 15, 2021, in order to manufacture or otherwise falsely inflate a claim for damages, in violation of 18 U.S.C. § 1341.

282. On August 18, 2022, in furtherance of and as a necessary step for the execution of the Fraud Scheme, and in violation of 18 U.S.C. § 1343, Prime made use of the wires in submitting a UCC statement through the NYSDOS UCC portal, perfecting a security interest in the proceeds of Claimant E's case.

283. On dates unknown and unavailable through due diligence to the pleading party, Prime provided advances to Claimant E and compensation to Capiola, McCulloch Ortho, and Total Ortho for the unnecessary surgeries.

284. Claimant E's case remains pending.

vi. Claimant F

285. Claimant F's relevant records are attached hereto as **Exhibit 6**. Claimant F presented to the emergency room with complaints regarding the right shoulder, hip, and knee, following a purported standing height fall due to uneven sidewalk. Full range of motion was found for all body parts and the only objective observation of any trauma whatsoever was a "superficial abrasion" on the right knee. No neck complaints were made, and the hospital felt the need to **bold** the following:

286. He was given Motrin and discharged with instructions to follow up with his PCP. The Liakas Firm was retained within 24 hours.

287. Six (6) days after being seen with no objective findings except a "superficial abrasion" of the knee, Toussaint were consulted, who issued a finding of **total disability**. Once again, there was **no reference to any neck complaints**.

288. Three (3) days after being seen by Toussaint with no neck complaints, and nine (9) days after the purported accident and hospital visit with no neck complaints, Claimant F consulted with a neurosurgeon, Cohen at Gotham Neuro, regarding a chief complaint of neck and low back pain. Clinical examination was entirely absent of any findings at C3-4. Claimant F was sent to AcceleRad for MRIs of the cervical spine and lumbar spine. While the lumbar MRI purportedly displayed disc bulges, the cervical results of that MRI from August 2, 2022 were as follows:

289. After primarily treating Claimant F for his back, with discussion of intervention limited to the L5-S1 level, on March 23, 2023, Cohen, without elaboration and nine (9) months post-"accident," with no intervening diagnostics or testing, decided Claimant F was a candidate for C3-4 surgery and sent Claimant F for a medical clearance referral along with a referral for new MRIs at AcceleRad, who attempted to accommodate the request for justification:

290. On April 20, 2023, while noting that Claimant F already secured the surgical clearance prior to this visit which is pretextually to review the MRIs from the day before, Cohen made findings entirely unsupported by the diagnostic studies.

291. Within eleven (11) days of the X-rays finding nothing wrong with C3-C4, ten (10) days of the second MRI which *again* found nothing wrong at C3-4, Claimant F was nonetheless sent to Hudson Regional to undergo neck surgery with hardware implants at C3-4.

292. **<u>The justification for surgery provided by Cohen in the Hudson Regional pre-operative documentation was utterly fictional</u>**:

293. There was never a finding of a herniation in any reports, even Cohen's own. The operative report was already written before the surgery. The *verbatim, word-for-word* operative report by Cohen shows up on at least four (4) other cases, purportedly performed on other patients, on publicly available documents alone. Three (3) of them pre-date Claimant F's surgery. Two of those three (2/3) were for Liakas Firm clients.

294. A CT scan performed in August 2024 showed new osteophyte development at C4/5 - consistent with adjacent-segment stress after an unnecessary upper-level fusion.

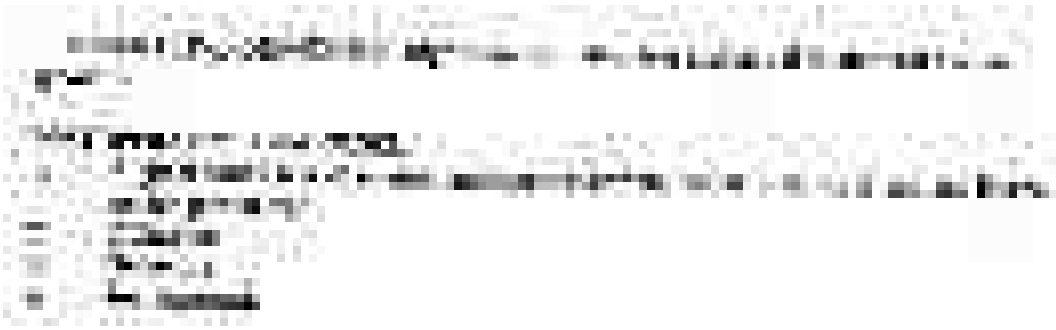
295. The surgery is simply and utterly inexplicable, unless incentives other than Claimant F's well-being mandated the surgery. Below is the implant used in the surgery:

296. The Blackhawk device is made by ChoiceSpine, LLC. Below are CMS-required disclosures regarding moneys received by Dr. Cohen, by what companies, and for what products:

297. The circumstances of this operation and the relationship with the implant company plainly give rise to a reasonable inference of a kickback scheme, in turn considered unlawful activity within the meaning of the Travel Act, rendering Cohen's travel to New Jersey on April 28, 2023 with the intent to carry on and facilitate such unlawful activity, and in fact doing so *via* the surgery, a violation of 18 § USC 1952.

298. Claimant F, with no observable loss in range of motion and no observable injury on date of accident, also treated with the McCulloch Defendants. He was sent out for an MRI at AcceleRad which stated the following:

299. Capiola performed an arthroscopy on August 17, 2023. The pre- and post-op diagnoses were flatly at odds with the MRI findings, and even the notes, findings, and plans set forth in McCulloch Defendants' records.



300. These diagnoses were, however, consistent with the *four* (4) *other* shoulder arthroscopies performed *that very day* by Capiola – all for personal injury clientele with pending lawsuits.

301. On March 21, 2023, in furtherance of and as a necessary step for the execution of the Fraud Scheme, and in violation of 18 U.S.C. § 1343, Dean Liakas served a Verified Complaint, so Verified by Dean Liakas, through the NYSCEF system, making use of the wires, containing allegations related to a purported trip and fall accident by Claimant F, including the existence, extent, causal relationship of, and medical care necessitated by, Claimant F's injuries, which were known, made with reckless indifference, or should have been known, to be false.

302. On or about November 22, 2023, in furtherance of and as a necessary step for the execution of the Fraud Scheme, and in violation of 18 U.S.C. § 1341, Salah Shawa of the Liakas Firm served a Verified Bill of Particulars through the mail falsely attesting to the truthfulness of

the allegations set forth therein related to the trip and fall accident, including the existence, extent, causal relationship of, and medical care necessitated by, Claimant F's injuries.

303. On or about June 13, 2022, and continuing thereafter, Toussaint of PMR created knowingly false and/or materially misleading records, otherwise containing material omissions, comprised of recycled language, regarding Claimant F's treatment. Toussaint, paid on a case lien, was acutely aware these records would be presented in litigation and either mailed or transmitted as a necessary step and in furtherance of the Fraud Scheme. These records were so mailed by the Liakas Defendants to opposing counsel on Claimant F's lawsuit on November 22, 2023, in order to manufacture or otherwise falsely inflate a claim for damages, in violation of 18 U.S.C. § 1341.

304. On or about April 18, 2023, Prakash created knowingly false and/or materially misleading records, otherwise containing material omissions, regarding Claimant F's treatment. Prakash, paid on a case lien, was acutely aware these records would be presented in litigation and either mailed or transmitted as a necessary step and in furtherance of the Fraud Scheme. These records were so faxed by AcceleRad to Cohen on April 19, 2023, and subsequently mailed by the Liakas Defendants to opposing counsel on Claimant F's lawsuit on November 22, 2023, in order to manufacture or otherwise falsely inflate a claim for damages, in violation of 18 U.S.C. §§ 1341 and 1343.

305. As described *supra*, Cohen created knowingly false and/or materially misleading records, otherwise containing material omissions, regarding Claimant F's treatment. Cohen, paid on a case lien, was acutely aware these records would be presented in litigation and either mailed or transmitted as a necessary step and in furtherance of the Fraud Scheme. These records were so e-mailed by Gotham on January 5, 2024, in order to manufacture or otherwise falsely inflate a claim for damages, in violation of 18 U.S.C. § 1343.

306. On or about January 12, 2024, as a necessary step and in furtherance of the Fraud Scheme, Hudson Regional forwarded records via mail to opposing counsel on Claimant F's lawsuit in order to manufacture or otherwise falsely inflate a claim for damages, in violation of 18 U.S.C. § 1341.

307. On or about August 17, 2023, Capiola created knowingly false and/or materially misleading records, otherwise containing material omissions, comprised of recycled language, regarding Claimant F's shoulder surgery. Capiola, paid on a case lien, was acutely aware these records would be presented in litigation and either mailed or transmitted as a necessary step and in furtherance of the Fraud Scheme. These records were so mailed by the Liakas Defendants to opposing counsel on Claimant F's lawsuit on November 22, 2023, in order to manufacture or otherwise falsely inflate a claim for damages, in violation of 18 U.S.C. § 1341.

308. On dates unknown and unavailable to the pleading party, upon information and belief, one or more Funding Defendants provided advances to Claimant F and financial remuneration to McCulloch, Capiola, Cohen, and Gotham for the unnecessary surgeries.

309. Claimant F's case remains active.

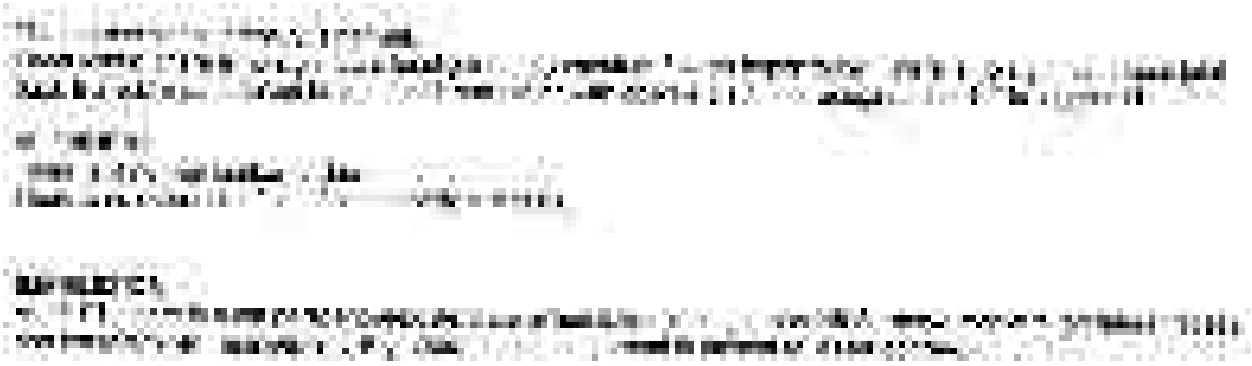
vii. Claimant G

310. Claimant G's relevant records are attached hereto as **Exhibit 7.**

311. Claimant G claimed to have fallen on March 7, 2020. She did not go to the hospital. The following day, at approximately 10:30 PM, Claimant G presented to the clinic at Wyckoff Heights with complaints of back pain and right hand pain from the prior day. The following day (2 days post-accident), Claimant G returned to the ER with complaints of mid-back pain and right hand pain following a slip and fall. She denied neck pain and any right upper extremity pain, and the only observed symptom was a subjective complaint of tenderness of the thoracic spine. The

only test run was a thoracic spine X-ray, which demonstrated multi-level degenerative disc disease. Claimant G felt better after being given a Motrin and was discharged.

312. Claimant G underwent a lumbar MRI on March 23, 2020, purportedly as requested by Cohen, despite that Cohen's first appointment with Claimant G would not be for another two (2) months. The MRI found that, in sum, Claimant G's facet joints were fine, no instability (no evidence of significant spondylolisthesis), normal curvature (normal lordosis), no bulge or herniation L1-L4/5, and at L5/S1 a **left-sided** paracentral/posterolateral herniation impinging upon the **left S1 nerve root**, with a lesser degree of general foraminal impingement on the right side.



313. **So as not to bury the lede, Cohen, treating on a case lien, without clinical justification in the first instance, ultimately performed surgery and installed pedicle screws on the wrong side, implanted materials during the surgery which the op report entirely omitted, removed healthy facets, and used the same defective one-sided approach as with Claimants D and H, which predictably failed - and then Cohen lied about it.**

314. Claimant G first saw Cohen at Gotham on May 15, 2020. Claimant G, now two (2) months post-accident, made no complaint of mid-back pain, only neck and lower back pain. The report noted she was only in PT for her right shoulder. Cohen noted the **left-sided L5-S1 herniation with nerve impingement**, and sent Claimant G out for a cervical MRI.

315. Claimant G saw Cohen again at Gotham on May 27, 2020. Cohen again noted the above, and now added to his impression the following, and further stated he showed Claimant G the "area of concern" at L5-S1, and "believe[d] it correlate[d] to the clinical exam":

316. Claimant G returned to Cohen five (5) months later on October 26, 2020. Cohen gave the same clinical Impression and a minor update to the MRI findings language, again focused on the **left-sided** issues:

317. On December 23, 2020, Claimant G returned to Cohen, who repeated the same MRI findings and now a **solely left-sided** clinical Impression regarding the L5-S1 level, "Disc injury at L5-S1 with left paraspinal herniation and nerve root encroachment." On January 7, 2021 Cohen administered an epidural.

318. On January 20, 2021, Claimant G complained of "pain radiat[ing] down her legs bilaterally, **left worse than right**." Cohen recommended a "minimally invasive discectomy decompression with fusion stabilization," to address Claimant G's "Disc injury at L5-S1 with **left** paraspinal herniation and nerve root encroachment."

319. On March 16, 2021 Claimant G visited a different provider in the Bronx for a pre-surgical clearance. She reported 8/10 back pain and the doctor noted limited range of motion. Notably, Claimant G saw that same doctor on October 27, 2020, for her pre-surgical clearance regarding Capiola's surgery, *infra*. That visit was **1 day after a Cohen/Gotham visit on October**

26, 2020 where Claimant G reported 10/10 back pain and 9/10 neck pain that was "affecting all her average daily activities of life." Meanwhile, on October 27, 2020, 1 day later while seeking pre-surgical clearance for her shoulder, Claimant G reported shoulder pain 8/10, but as to her back:

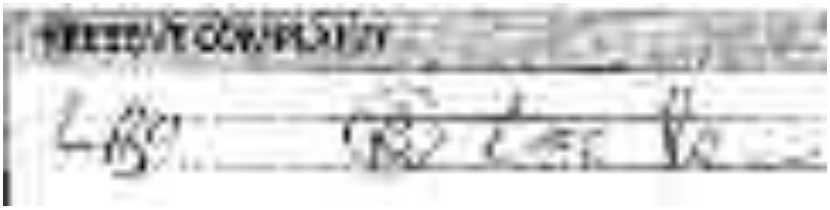
a. **Reported no back pain.**

b. **Full range of motion observed.**

c. **"Able to perform heavy work around the house."**

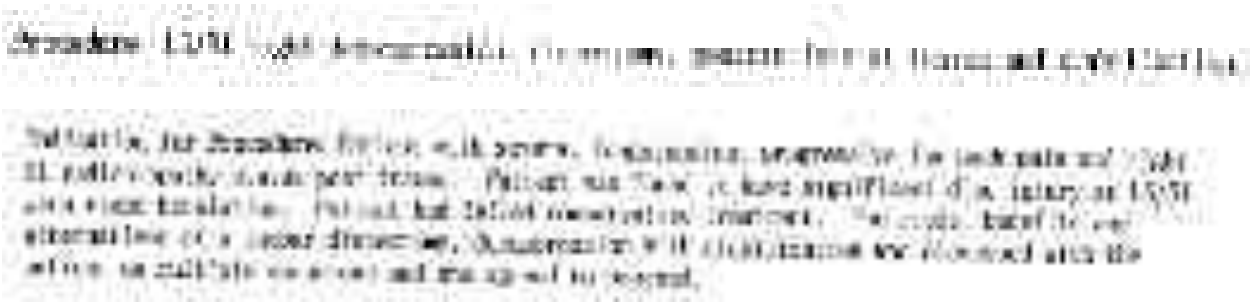
320. On April 16, 2021, Cohen performed Claimant G's surgery at Hudson Regional, despite ready availability of local operating rooms and ambulatory surgical centers. Upon information and belief, Hudson Regional arranged transportation for New York-based Claimant G. In doing so, both Cohen and Hudson Regional made use of facilities in interstate commerce with the intent to carry on and facilitate unlawful activity, and in fact did so, in violation of 18 USC § 1952.

321. At Hudson Regional, the "History & Physical" form states LBP (lower back pain) R (right) pain." Similarly, the informed consent form identifies the operation to be on the right side.



322. No explanation was given as to why a right-sided surgery was being done to address a left sided herniation with a left S1 nerve root compression.

323. Cohen proceeded with surgery on the right side to address a purported right-sided herniation (contradicting not just the MRI but months of his own clinical notes):



324. Cohen proceeded to do a right-sided laminectomy (removing bone), facetectomy (removing part of Claimant G's healthy right facet), all to perform a right-sided foraminotomy, a procedure to widen the opening in the spine where nerve roots exit to relieve a compressed nerve root – such as, according to the prior MRI, months of Cohen's notes, and Cohen's claimed indication for surgery in the first plance, Claimant G's **left S1 nerve root.**

325. Cohen also made use of a TLIF (transforaminal lumbar interbody fusion) cage device. This was noted both in the implants list utilized, appears in the Anesthesia record as the "Actual Surgery Performed," and the device is confirmed to have been put in by intra-op CT.

INTRAOPERATIVE RECORD
IMPLANT SUPPLEMENT

HUDSON

DocOP

[redacted]

HUDSON

Anesthesia Record

[redacted]

326. **<u>There was not only no indication TLIF was planned to be performed in any of Cohen's clinical notes or hospital paperwork, but also no indication to perform same was contained in the "informed consent," and outrageously, the operative report itself entirely omitted any information whatsoever about any TLIF procedure, including omission of any steps taken to prepare the insertion of the device (including endplate preparation, disc curetting, cage sizing, etc.), nor did it state the device was used or inserted at all</u>**.

327. Notably, such TLIF prep results in a small amount disc fragments and shavings – **much like the aggregate material fragments turned in to pathology that Cohen claimed to be the removed (phantom) right-side herniation he.**

328. A herniation which extends far enough to compress a root nerve is significant, and Cohen claimed to have fully "remove[d] the disc herniation that was encroaching the S1 nerve root." However, the total volume of the purportedly removed disc material was 1.2 x. 0..8 x .3 cm in the aggregate – a volume of 0.28 cubic cm, **or between 1/4th and 1/3rd the size of a pea** – was nowhere near substantial enough to be a removed herniation that had been previous compressing a root nerve. It is, however, fully consistent with fragments from TLIF preparation.

329. It is alleged Cohen never removed any herniation during the procedure and his record is false. It is further alleged that evidence and record suggests Cohen recognized an error had been made and immediate efforts were made to conceal same.

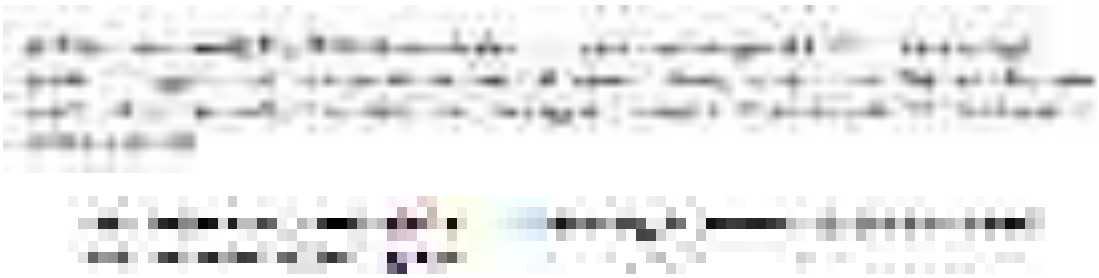
330. As with several other claimants, he further installed one-sided pedicle screws – again, on the wrong side.

331. While Cohen may have made an egregious error in **performing the surgery on the wrong side**, he made a **conscious and intentional decision to install hardware - and indeed perform a different operation than claimed** – with major operative steps that were not recorded in the op report.

332. On August 17, 2021, Claimant G underwent a 4-month post-op CT scan, which found the following:

[illegible]

333. At the following appointment, Cohen described these CT results as follows:



334. These statements are utterly incompatible with what the CT scan reported. More directly stated, they were false with the intent to minimize damage Cohen had caused.

CT Scan	Cohen
"S1 pedicle screw extends 3mm beyond the anterior sacral cortex." "The spacer device is retropulsed 4mm dorsally into the anterior epidural space."	"Slight posterior migration of the expandable cage." "Pedicle screw construct is intact."
"At L5/S1, evaluation is limited secondary to streak artifact however there is no definite neural foraminal narrowing." No mention of left S1 root or any findings, specifically says can't really see that level.	"The exiting left S1 nerve root is well visualized."

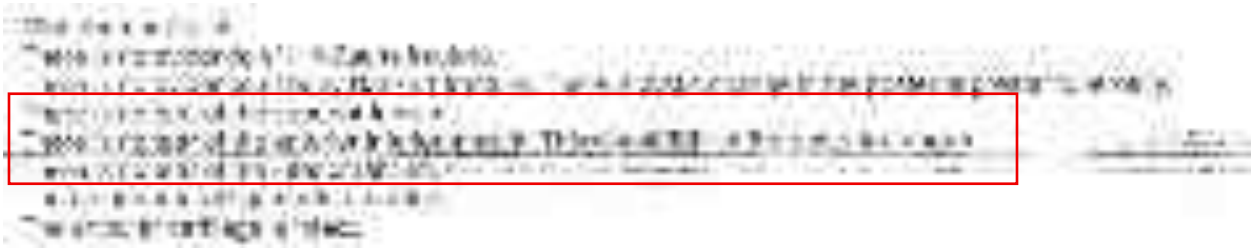
335. Incredibly, despite that the MRI *upon which the surgery was predicated* demonstrated a left-sided S1 nerve root compression, which *Cohen did not correct while he performed wrong-sided surgery*, Cohen assessed "Based on her current complaint, I believe it is suspicious for left S1 joint inflammation." This was a bald attempt to shift the root cause away from the condition that the surgery was purportedly intended to address, **which he surgically did not do** while performing a host of unnecessary and unjustified procedures, removing healthy bone and healthy tissue, and installing screws on the wrong side of Claimant G's spine.

336. Claimant G also treated with Capiola, on a case lien, first on September 24, 2020 (over 6 months post-"accident"). Capiola, on the first appointment, recommends a right shoulder arthroscopy.

337. X-rays of Claimant G's right shoulder were already done on March 23, 2020, purportedly requested by Cohen (who she did not have her initial appointment with until 2 months after such time). The X-ray, closest in time to the accident, found no indication of acute trauma or injury; the only abnormality was sclerosis (a hallmark of degenerative/osteoarthritic change) at the margins of the acromioclavicular joint.

338. MRIs from September 17, 2020, showed low-grade interstitial tears of supraspinatus & infraspinatus, osteophytes at the acromioclavicular joint (consistent with the degenerative sclerosis), a low-lying, curved acromion (a congenital condition, can cause tears in its own right), and the only *potentially* acute findings of mild effusion and bursitis.

339. Most notable from the MRI:



340. On November 5, 2020 Capiola performed the right shoulder arthroscopy on Claimant G, with upfront funding.

341. The pre-operative diagnosis for surgery flatly contradicted the MRI findings.

342. No explanation is given for the inconsistency, and the full description of that portion of the procedure was "There was found to be tearing of the anterior and superior labrum. This was aggressively debrided."

343. Capiola, in the operative report, morphed the identified low-grade, likely degenerative, interstitial tears of supraspinatus & infraspinatus into a single "near full-thickness rotator-cuff tear" which needed repaired with FiberWire/FiberTape and a 4.75 mm SwiveLock anchor.

344. Notably, the internal paperwork at the surgical facility did not identify Claimant G's condition as traumatic, and listed Liakas Firm as the referral source.

345. On April 24, 2021, in furtherance of and as a necessary step for the execution of the Fraud Scheme, and in violation of 18 U.S.C. § 1343, Dean Liakas served a Verified Complaint, so Verified by Dean Liakas, through the NYSCEF system, making use of the wires, containing allegations related to a purported trip and fall accident by Claimant G, including the existence, extent, causal relationship of, and medical care necessitated by, Claimant G's injuries, which were known, made with reckless indifference, or should have been known, to be false.

346. On or about October 19, 2022, in furtherance of and as a necessary step for the execution of the Fraud Scheme, and in violation of 18 U.S.C. § 1341, Matthew Kerner of the Liakas Firm served a Verified Bill of Particulars through the mail falsely attesting to the

truthfulness of the allegations set forth therein related to the trip and fall accident, including the existence, extent, causal relationship of, and medical care necessitated by, Claimant G's injuries.

347. On or about March 13, 2020, and continuing thereafter, Toussaint of PMR created knowingly false and/or materially misleading records, otherwise containing material omissions, comprised of recycled language, regarding Claimant G's treatment. Toussaint, paid on a case lien, was acutely aware these records would be presented in litigation and either mailed or transmitted as a necessary step and in furtherance of the Fraud Scheme. These records were so mailed by the Liakas Defendants to opposing counsel on Claimant F's lawsuit on October 19, 2022, in order to manufacture or otherwise falsely inflate a claim for damages, in violation of 18 U.S.C. § 1341.

348. On or September 24, 2020, and continuing thereafter, Capiola created knowingly false and/or materially misleading records, otherwise containing material omissions, comprised of recycled language, regarding Claimant G's treatment and shoulder surgery. Capiola, paid on a case lien, was acutely aware these records would be presented in litigation and either mailed or transmitted as a necessary step and in furtherance of the Fraud Scheme. These records were so emailed by McCulloch Ortho to opposing counsel on Claimant G's lawsuit on November 22, 2023, in order to manufacture or otherwise falsely inflate a claim for damages, in violation of 18 U.S.C. § 1343.

349. On or about April 16, 2021, Cohen created knowingly false and/or materially misleading records, otherwise containing material omissions, regarding Claimant G's treatment and spinal surgery. Cohen, paid on a case lien, was acutely aware these records would be presented in litigation and either mailed or transmitted as a necessary step and in furtherance of the Fraud Scheme. These records, along with a purported billing statement, were so e-mailed by Gotham on

January 13, 2024, in order to manufacture or otherwise falsely inflate a claim for damages, in violation of 18 U.S.C. § 1343.

350. On or about May 26, 2023, as a necessary step and in furtherance of the Fraud Scheme, Hudson Regional forwarded records via mail to opposing counsel on Claimant G's lawsuit, in violation of 18 U.S.C. § 1341.

351. On dates unknown and unavailable through due diligence to the pleading party, Prime provided advances to Claimant G and financial remuneration to Cohen and Gotham for the unnecessary surgeries. On or around November 5, 2020, Prime provided funding for Claimant G's arthroscopy.

352. On or about January 11, 2021, Prime filed a UCC statement with the New York State Department of State *via* the Department's online portal, making use of wire communication in furtherance of the scheme in violation of 18 U.S.C § 1343.

353. Claimant G's case was settled, at a falsely manufactured and fraudulently inflated amount, to Plaintiff's damage.

354. Upon information and belief, Liakas Firm initially received the aggregate Fraud Scheme proceeds from Claimant G's case.

355. In turn, and knowing the funds to be the proceeds of some form of unlawful activity, on dates unknown, with such information solely within the knowledge of Defendants and unobtainable to Plaintiff outside of discovery, Liakas Firm conducted several financial transactions which in fact involved the proceeds of specified unlawful activity (18 USC § 1956), with each such transaction exceeding $10,000 (18 USC § 1957), including:

a. Disbursement to Gotham and Cohen of over $10,000; upon information and belief, approximately $31,050;

b. Disbursement to McCulloch Ortho and Capiola of at least $10,000;

c. Disbursement to Hudson Regional of at least $10,000; and,

d. Disbursement to Prime of at least $10,000.

356. Cohen, Gotham, Capiola, McCulloch Ortho, and Prime layered Fraud Scheme Enterprise proceeds from this matter, each in excess of $10,000, into their legitimate income accounting so as to conceal the nature and origin of funds, as well as to promote the carrying on of specified unlawful activity.

viii. Claimant H

357. Claimant H, a Pennsylvania resident, purportedly fell on uneven sidewalk in Queens, 144 miles away, on October 17, 2020. The relevant and redacted records for Claimant H are attached as **Exhibit 8.**

358. She presented to Jamaica Hospital at approximately 6:30 PM after a purported fall that morning, with complaints of pain exclusively to her right knee, as well as earlier pain to her right wrist which "has resolved"; she specifically "denied any neck pain, back pain, hip pain or any other injury." No objective signs of injury were present on physical examination, with the sole observation being a subjective complaint of tenderness to the right knee. No range of motion limitations were noted, and it was specifically identified that there was "No L-spine or paraspinal tenderness." A right knee X-ray was performed with no acute findings, and Claimant H was discharged.

359. On November 2, 2020, over two (2) weeks after this uneventful hospital visit with a negative X-ray and no objective sign of any injury, Claimant H went directly to a knee surgeon's office, Capiola, for her very treatment appointment – on a case lien, despite having Medicaid. Without any diagnostic films, Capiola's PA Eric LeClair diagnosed a meniscal tear.

360. Claimant H, on a lien despite Medicaid, first consulted with PMR on November 5, 2020. Claimant H returned for visits with PMR thereafter on April 7, 2022, an EMG test on April 26, 2022, and once more on March 16, 2023.

361. Claimant H started physical therapy, on a lien despite Medicaid, November 18, 2020. She went three (3) days in a row, once more on November 25, 2020, once on December 2, 2020, and then returned April 19, 2022, April 20, 2022, and April 26, 2022.

362. On November 21, 2020, Claimant H underwent an MRI (which noted the history was "motor vehicle accident"), which found a standard degenerative "cleavage" lateral meniscus tear, a horizontal tear that runs in the anterior horn to the surface with concordant mild joint effusion. The MRI also found intermediate grade cartilage loss in the medial trochles, and low grade cartilage loss in the patella; common degenerative findings, particularly in the complete absence of any indication of trauma. No fracture, no dislocation, no bone lesion, no erosion, no contusion, no ACL or PCL damage, no hematoma, no bursitis. A mildly degenerated knee in a clinically obese woman.

363. On December 7, 2020, Claimant H returned to Capiola, who claimed the cartilage loss as "traumatic chondromalacia," without clinical explanation, and literature, recommended a right knee arthroscopy. Capiola further based the recommendation on the "failure of conservative treatment," and listed conservative treatment modalities with no indication as to what conservative treatment had actually been done. At this point Claimant H had in fact been in PT for less than a month and gone a total of 5 times.

364. Claimant H did not return to Capiola again until March 28, 2022. It was noted Claimant H had been pregnant and gave birth in August 2021. Despite the year and 3 month gap, the pain complaint is identical at 8-9/10. Relying upon a year and 5 month old MRI and again on

the "failure of conservative treatment" including physical therapy (which she had not done in over a year), Capiola again recommended surgery. It was noted Claimant H would restart PT and return. Claimant H went to PT on three dates: April 19, 2022, April 20, 2022, and April 26, 2022.

365. Claimant H returned to Capiola on April 28, 2022. The visit note is virtually identical to the previous visit except to note she was now scheduled for a May 5, 2022 surgery without any new imaging ordered.

366. Notably, examination under anesthesia revealed a "stable knee," in contradiction to the repeated claims of mechanical instability/buckling partially used to justify the surgery. Capiola once again claimed to perform complete synovectomies in all compartments in yet another patient with no consistent imaging with any conditions indicative of same, let alone tri-compartmental synovitis. Grade 2 and 3 chondromalacia was found, consistent with the degenerative conditions found on MRI that continued to degenerate for another year and a half, as is the tear described in the MRI that is found to have further degenerated in the operative report. The scope confirmed a chronic, horizontally cleaved, degenerative meniscus that had progressed—exactly what one would expect given the 16-month delay and virtually no non-operative management.

367. Capiola affirmed as true over the course of years that these conditions were caused by an accident, including arbitrarily assigning a textbook degenerative condition, chondromalacia, as "degenerative chondromalacia," identifying "buckling/mechanical instability" despite imaging showing intact ligaments, and shown to be false or exaggerated on examination under anesthesia, and misrepresenting Claimant H's conditions with the understanding the records would be used in litigation. Capiola further failed to follow clinical guidelines as imaging, likely to *avoid* imaging confirmation of degenerative conditions that would weigh against surgery, failed to actually consider what conservative measures had been attempted or request records,

368. Turning to Claimant H's back, she had an MRI performed on November 21, 2020, which showed degenerative endplate changes at L4-5 and L5-S1, mild diffuse facet hypertrophy (degenerative), no evidence of instability (no spondylolisthesis), L4-5 central herniation and diffuse disc bulge (degenerative) with bilateral impingement and in close proximity to bilateral L5 nerve root, and L5-S1 broad-based central/right herniation (degenerative) with bilateral S1 nerve root concerns and bilateral foraminal impingement.

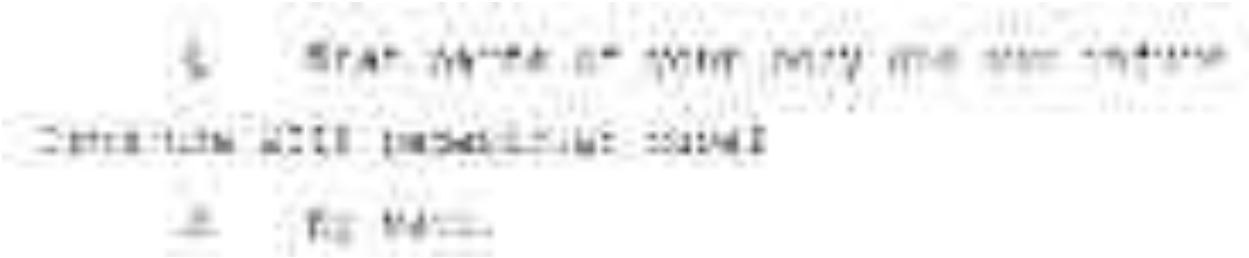
369. There is no evidence of an acute injury. Each condition was qualified with degenerative descriptions and in the setting of chronic degenerative endplate changes at those levels, and notably all issues at L4-5 and L5-S1 were bilateral.

370. Cohen met with Claimant H on December 9, 2020 and despite further noting loss of hydration and loss of height at L4-5 and L5/S1 (key findings demonstrating degenerative disc disease consistent with multilevel diffuse bulges, broad-based herniations and chronic endplate

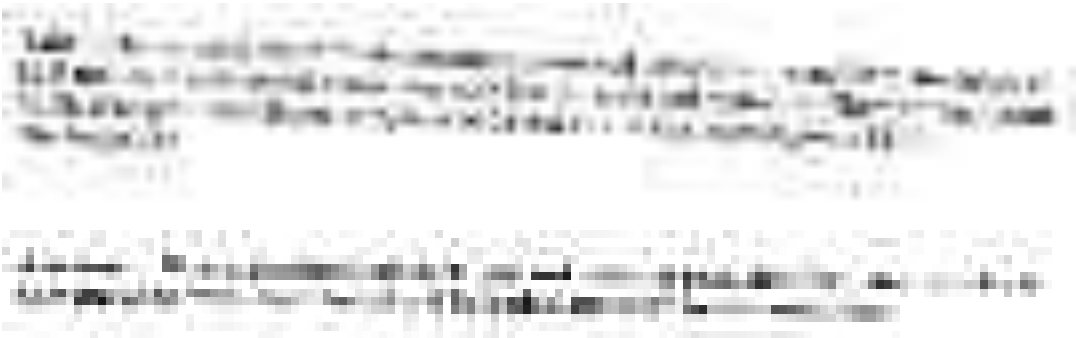
changes), Cohen still inexplicably refers to the levels as "injured discs." Laterality of any condition is not identified and Cohen claimed to identify an inconsistent L3-4 bulge.

371. Cohen noted Claimant H was in physical therapy three times a week. As above, Claimant H was not in physical therapy three times a week at this time, or at all again for another year and three months.

372. Cohen noted Claimant H had no contributing history. Claimant H was in fact struck by a vehicle in 2018, injuring her back.



373. Claimant H did not return to Cohen until April 20, 2022. Cohen again noted Claimant H was attending physical therapy 3x/week; however, Claimant H more accurately attended PT three times *that* week, and at no other point in 2021 or 2022. (April 19, 2022, April 20, 2022, and April 26, 2022). Cohen again reiterated his read on the MRI and his clinical impression, which remained internally impossibly inconsistent. Once again no laterality is identified, and again the discs are referred to as "injured" with no explanation, particularly within the overwhelming constellation of degenerative findings he himself noted.



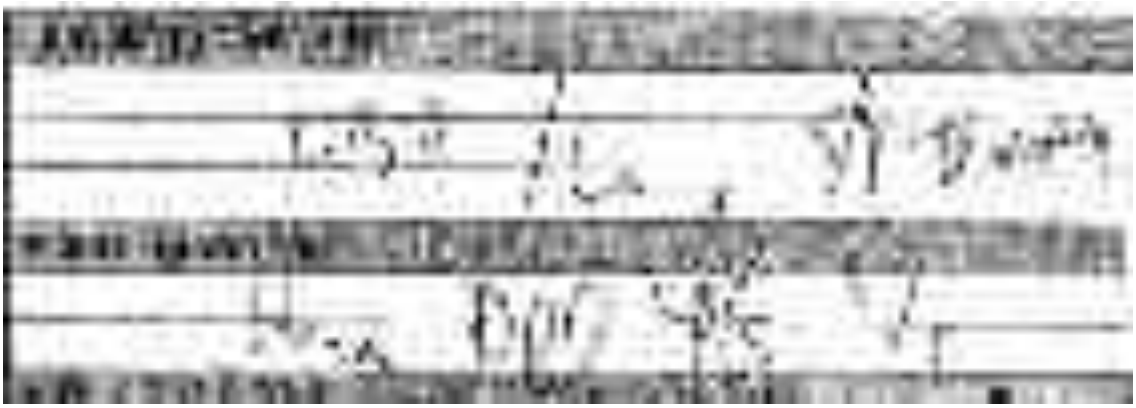
374. Claimant H returned to Gotham and Cohen on June 23, 2022, one (1) day before her surgery. At no point did Cohen order updated MRIs. Even on this date no notation is made as to surgical or condition laterality. Cohen noted "she can no longer live with this pain."

375. Meanwhile, on June 20, 2022, at a pre-operative clearance visit with a non-defendant doctor, Claimant H had full range of motion, was in no acute distress, but claimed to have "two severed discs." Claimant H's medication list was reviewed: she was prescribed Motrin, once, in March 2022, and never refilled the prescription.

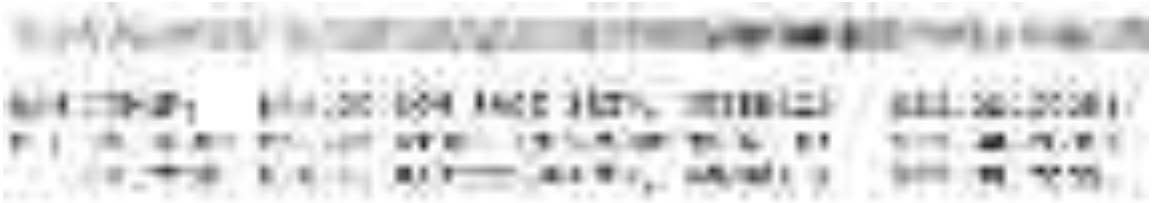
376. On June 24, 2022, Cohen performed back surgery on Claimant H. Once again, Liakas Firm was listed as the insurance provider:

377. Notably, on <u>all</u> of the internal documentation at Hudson Regional, Claimant H's condition prompting surgery was <u>chronic and degenerative, not traumatic.</u>

History & Physical: Degenerative Disc Disease (DDD)



Registration Form: Non-Specific Low Back (inappropriate codes for trauma)



ICD codes:

M51.26 - Other intervertebral disc displacement, lumbar region

"This code is utilized to diagnose a herniated disc in the lower back that <u>is not caused by any specific condition</u>."

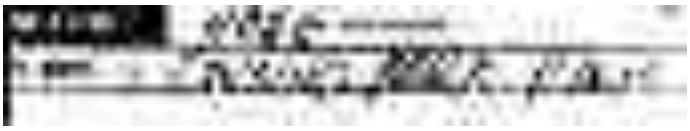
M54.50 - low back pain, unspecified

ICD-10 guideline I.C.13.b: "any current, acute injury should be coded to the appropriate injury code from chapter 19."

M54.50 – Radiculopathy, Lumbar Region

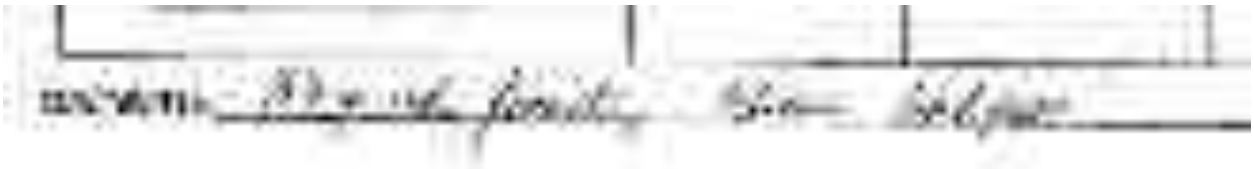
Non-specific coding

Intra-operative report: Chronic back pain



Surgical Services Hand Off: Chronic back pain

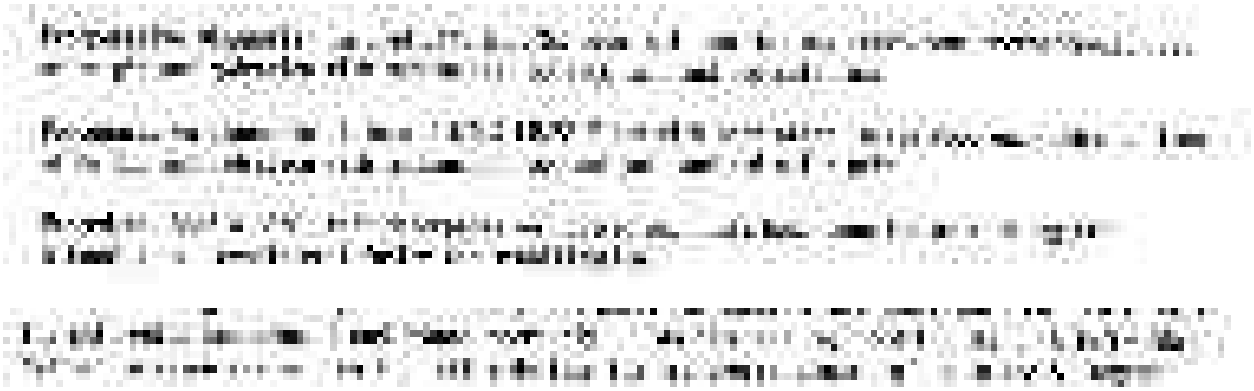
PAT Checklist: Chronic back pain



Pre-Op form: Lumbar Disc Desease

378. As with the other Claimants with inherently deficient Cohen surgeries, no mention is made – right up until Claimant H is on the operating table – of what side the surgery will take place on. Here, despite that every condition which the surgery purported to correct was bilateral, Cohen once again decided to utilize a one sided surgery.

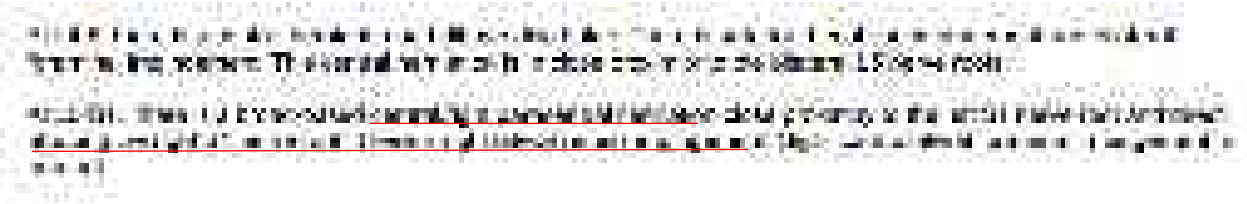
379. Here, the left side. For no discernable reason, whatsoever. The same line about "injured discs" demonstrating classic degenerative indicia is proffered, and with no explanation, the entirely bilateral conditions are addressed left side only.



380. Cohen proceeded to perform extensive left sided surgical work. Intra-operative imaging confirmed Cohen proceeded to instrument the left side only.

381. Turning all the way back to the *only imaging* Cohen relied upon in performing such extensive and invasive treatment, while every condition was bilateral, the most imperative conditions were right-sided. The surgery addresses none of this, focused solely on left-sided work,

and used half the traditional implementation while leaving all right-sided symptoms unaddressed for what appears to have been an arbitrary decision on the operating table.



382. On October 24, 2022, 4 months post-surgery, the post op CT scan showed:

383. L3-4 has now been impacted by Cohen's apparently arbitrary surgical choices. The entirety of the areas Cohen performed surgery on now had increased degeneration and osteophytes, as well as protrusions.

384. The choice for this one-sided surgery made no medical sense, nor did it for the prior Claimants.

385. Each subsequent Claimant who underwent these surgeries – one-sided instrumentation despite repeated failures, with side appearing arbitrarily chosen and appearing never to correct core problems claimed to justify the surgery, inevitably causing additional spinal damage and ongoing problems – lessens the inference of negligence and raises the inference of intentional conduct by Cohen, with foreseeable additional bills of particulars about further surgery or continuing problems benefitting the Fraud Scheme Enterprise.

386. On July 26, 2022, in furtherance of and as a necessary step for the execution of the Fraud Scheme, and in violation of 18 U.S.C. § 1343, Dean Liakas served a Verified Complaint, so Verified by Dean Liakas, through the NYSCEF system, making use of the wires, containing allegations related to a purported trip and fall accident by Claimant H, including the existence, extent, causal relationship of, and medical care necessitated by, Claimant H's injuries, which were known, made with reckless indifference, or should have been known, to be false.

387. On or about April 26, 2023, in furtherance of and as a necessary step for the execution of the Fraud Scheme, and in violation of 18 U.S.C. § 1341, Matthew Kerner of the Liakas Firm, served a Verified Bill of Particulars through the mail and/or email falsely attesting to the truthfulness of the allegations set forth therein related to the trip and fall accident, including the existence, extent, causal relationship of, and medical care necessitated by, Claimant H's injuries.

388. On or about November 5, 2020, and continuing thereafter, Toussaint created knowingly false and/or materially misleading records, otherwise containing material omissions, regarding Claimant H's treatment. Toussaint, paid on a case lien, was acutely aware these records would be presented in litigation and either mailed or transmitted as a necessary step and in furtherance of the Fraud Scheme. These records were so mailed by Liakas Defendants on April 26,

2023, in order to manufacture or otherwise falsely inflate a claim for damages, in violation of 18 U.S.C. § 1341.

389. 348. On or May 5, 2022, and continuing thereafter, Capiola created knowingly false and/or materially misleading records, otherwise containing material omissions, comprised of recycled language, regarding Claimant H's treatment and knee surgery. Capiola, paid on a case lien, was acutely aware these records would be presented in litigation and either mailed or transmitted as a necessary step and in furtherance of the Fraud Scheme. These records were so emailed by McCulloch Ortho to opposing counsel on Claimant H's lawsuit on April 4, 2024, in order to manufacture or otherwise falsely inflate a claim for damages, in violation of 18 U.S.C. § 1343.

390. On or about June 24, 2021, Cohen created knowingly false and/or materially misleading records, otherwise containing material omissions, regarding Claimant H's treatment and spinal surgery. Cohen, paid on a case lien, was acutely aware these records would be presented in litigation and either mailed or transmitted as a necessary step and in furtherance of the Fraud Scheme. These records, along with a purported billing statement, were so e-mailed by Gotham on November 25, 2023, in order to manufacture or otherwise falsely inflate a claim for damages, in violation of 18 U.S.C. § 1343.

391. On or about September 30, 2023, Hudson Regional forwarded records via mail to opposing counsel on Claimant H's lawsuit in order to manufacture or otherwise falsely inflate a claim for damages, in violation of 18 U.S.C. § 1341.

392. On dates unknown and unavailable to the pleading party, upon information and belief, one or more Funding Defendants provided advances to Claimant H and financial

remuneration to McCulloch Ortho, Capiola, Cohen, Gotham, and Hudson Regional for the unnecessary surgeries.

ix. Additional Predicate Acts

393. In addition to the acts set forth above, the predicate acts as alleged against the Liakas Firm, Dean Liakas, Total Ortho, Lerman, Leven, PPNY, Kosharskyy, McCulloch Ortho, NY S&J, Capiola, Cohen, and Gotham Defendants as set forth in EDNY Docket No. #: 25-cv-00300, Doc. #: 1, Roosevelt Road RE, LTD., *et. al.* v. Liakas Law, P.C., *et. al.* (attached as **Exhibit 9**), are incorporated by reference as if fully set forth herein.

394. In addition to the acts set forth above, the predicate acts as alleged against Total Ortho, Lerman, PPNY, Kosharskyy, and McCulloch Ortho Defendants as well as set forth in EDNY Docket No. #: 25-cv-03386-LKE, Doc. #: 1, Roosevelt Road RE, LTD., *et. al.* v. William Shwitzer & Assoc., P.C., *et. al.*, (attached as **Exhibit 10**), are incorporated by reference as if fully set forth herein.

IV. PLAINTIFFS' JUSTIFIABLE RELIANCE

395. 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, concealment of material facts, and fraudulent conduct.

396. The mere filing of the subject Complaints in the State Courts mandated an actionable level of reliance – Plaintiff was forced to rely on the misrepresentation of the Defendants insofar as the retention of attorneys, investigators, and experts was necessary to avoid default judgments; these are actions Plaintiff would not have taken (or had to take) but for the knowing misrepresentations made by the Defendants. New York law requires that the insurer abide the duty to defend, which is triggered upon the filing of a claim or complaint, regardless of whether same is fraudulent or meritless.

397. Each Complaint, Bill of Particulars, bill, lien, and individual medical record created and transmitted by the Defendants, when viewed in isolation, does not reveal its fraudulent nature. Only when the bills and supporting documentation are viewed together as a whole, in conjunction with their repeated use in numerous cases, do the patterns emerge revealing the fraudulent nature of these submissions.

398. Each subsequent falsified record produced in the course of the Fraud Scheme, upon disclosure and transmission to Plaintiff, required Plaintiff to, at minimum, rely on such submissions in incurring further fees and costs in discharging its legal obligation to provide a defense to its insured, prolonged litigation, required additional reserves, and were relied upon in valuing the claim as to exposure and/or settlement.

399. As to settlements made as a result of the Fraud Scheme, Plaintiff at all times comported with reasonable due diligence requirements through the retention of reputable defense firms, investigators, and experts. However, the Fraud Scheme was designed and implemented in order to circumvent these safeguards. Further, the protections under HIPAA and attorney-client privilege, along with New York's insulation of litigation financing disclosures, rendered the scheme unable to be detected through the use of ordinary due diligence. Any payments made were after Plaintiff had engaged in reasonable due diligence and were made in reasonably justified reliance.

V. DAMAGES

400. Plaintiff is an insurance carrier which underwrites policies that cover the various claims and lawsuits filed and prosecuted by Claimants and the Legal Defendants, with the necessary and substantial assistance of the Medical Defendants, the Runner Defendants, and the Funding Defendants, as part of the Fraud Scheme.

401. As a result of the Fraud Scheme, Plaintiff has incurred substantial damages. Such damages include the payments that Plaintiff made to Legal Defendants in the form of settlements due to Defendant's pattern of fraudulent conduct. Damages also include payments Plaintiff made as legal and investigative costs for defending fraudulent lawsuits and/or for reimbursement for payments made as part of settlement which were diverted to Defendant Medical Providers through liens for treatment predicated upon, in whole or in part, the fraudulent reports generated by Defendants.

402. But for Defendants' perpetration of the Fraud Scheme, Plaintiff would not have incurred such damages. Each and every predicate act contributed to the damages incurred, as the scheme is designed reinforce itself, becoming more difficult to discern, more expensive to combat, and more effective generally upon each subsequent production of false statements and documents, effectuated through the use or mail and wire communication, and through reinvestment in the scheme and iteration, in an ever-escalating bootstrap; damages would have lessened or not incurred at all but for fraudulent scheme.

403. New York law mandates that an insurer's duty to defend is triggered by the filing of a claim or suit - even if the allegations are false or groundless, the insurer has a duty to defend its insured. By law, each and every fraudulent claim and lawsuit immediately and directly triggered mandated expenses by Plaintiff in discharging its duty to defend its insured.

404. Each transmission of records of fraudulent medical treatment rendered (or falsely recorded) had the direct and immediate effect of causing additional damages through Plaintiff's further incurred fees and costs in discharging its legal obligation to provide a defense to its insured, through prolonged litigation, the need for experts, required additional reserves, and were relied

upon in valuing the claim as to exposure and/or settlement in figures that were fraudulently inflated.

405. Further, Plaintiff's business operations include general liability services from underwriting through claims handling and subsequent administrative and legal actions, including effective handling of personal injury claims. As a direct and foreseeable result of the fraudulent scheme, Plaintiff was obligated to hire and retain additional personnel specifically to address fraudulent claims beyond the normal scope of business.

VI. CAUSES OF ACTION

COUNT I
RICO Violation (§ 1962(c))

As Against ("Count I Defendants"):

LIAKAS LAW, P.C.,
DEAN N. LIAKAS,
PRIME CASE, LLC,
ORTHOPAEDICS SPINE & SPORTS MEDICINE,LLC
d/b/a TOTAL ORTHOPAEDICS,
DANTE LEVEN, D.O.,
MCCULLOCH ORTHOPAEDIC SURGICAL SERVICES, P.L.L.C.
s/d/b/a NEW YORK SPORTS AND JOINTS ORTHOPAEDIC SPECIALISTS,
DAVID R. CAPIOLA, M.D.;
GOTHAM NEUROSURGERY, P.L.L.C.;
ANDERS COHEN, D.O.;
NJMHMC, LLC d/b/a HUDSON REGIONAL HOSPITAL,
ACCELERATE RADIOLOGY, P.C. d/b/a PRECISION ACCELERAD,
SIDDHARTH PRAKASH, M.D.,
PAIN PHYSICIANS OF NEW YORK, P.C., and,
JEAN PAUL ERROL TOUSSAINT, M.D.

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

407. At all times relevant herein, Count I 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 Count I Defendants participated in the operation or management of the enterprise, which Liakas Firm orchestrated, coordinated and led.

408. In addition to any legitimate transactions, the course of conduct of this enterprise included a pattern of racketeering activity carried out by Count I Defendants. *See, supra*.

409. Each of the Count I 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).

410. The Count I Defendants engaged in a pattern of racketeering activity involving numerous predicate acts in the conduct of the Enterprise as described in detail *supra*, constituting mail fraud (18 U.S.C. § 1341), wire fraud (18 U.S.C. § 1343), bribing a witness under New York law (NY Penal Code § 215), money laundering (18 U.S.C. § 1956) and violations of the Travel Act (18 U.S.C. § 1952) – each being "racketeering activity" as defined in 18 U.S.C. § 1961(1)(A).

411. The predicate acts of mail fraud, wire fraud, bribing a witness or victim, Travel Act violations, and money laundering, all 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 claims and personal injury lawsuits arising out of fraudulent accidents.

412. Each Defendant engaged in a pattern of racketeering activity in the conduct or in participation of the conduct of the Fraud Scheme Enterprise's conduct as follows:

Liakas Law

Date	Claimant	Predicate Act	Conduct
3/15/22	A	18 USC § 1341 *Via* Kerner	Mailed falsified BP to opposing counsel in furtherance of Fraud Scheme
1/10/23	A	18 USC § 1341 *Via Kerner*	Mailed falsified BP to opposing counsel in furtherance of Fraud Scheme re A's brother
1/20/23	A	18 USC § 1341 *Via Shawa*	Mailed falsified BP to opposing counsel in furtherance of Fraud Scheme re A's other brother
3/27/23	B	18 USC § 1341 *Via Kerner*	Mailed falsified BP to opposing counsel in furtherance of Fraud Scheme
10/2/23	C	18 USC § 1341 *Via Generosa*	Mailed falsified BP to opposing counsel in furtherance of Fraud Scheme
12/17/22	D's brother	18 USC § 1341 *Via Shawa*	Mailed falsified BP to opposing counsel in furtherance of Fraud Scheme
5/5/23	D	18 USC § 1341 *Via Shawa*	Mailed falsified BP to opposing counsel in furtherance of Fraud Scheme
10/15/21	E	18 USC § 1341 *Via Kerner*	Mailed falsified BP to opposing counsel in furtherance of Fraud Scheme
11/13/23	E	18 USC § 1341 *Via Kerner*	Mailed falsified BP to opposing counsel in furtherance of Fraud Scheme
11/22/23	F	18 USC § 1341 *Via Shawa*	Mailed falsified BP to opposing counsel in furtherance of Fraud Scheme
10/19/22	G	18 USC § 1341 *Via Kerner*	Mailed falsified BP to opposing counsel in furtherance of Fraud Scheme
Unknown*	G	18 USC § 1956	Layered fraud scheme proceeds into its legitimate income so as to conceal the nature and origin of funds, as well as to promote the carrying on of specified unlawful activity.
Unknown*	G	18 USC § 1957	Knowingly engaged in transactions utilizing fraud scheme proceeds in excess of $10,000
4/26/23	H	18 USC § 1341 *Via Kerner*	Mailed falsified BP to opposing counsel in furtherance of Fraud Scheme

*Exclusively within Defendants' knowledge and unascertainable without discovery.

Dean Liakas

Date	Claimant	Predicate Act	Conduct
5/5/22	A	18 USC § 1343	Filed Verified Complaint on NYSCEF, making use of the wires, in furtherance of Fraud Scheme
10/8/21	B	18 USC § 1343	Filed Verified Complaint on NYSCEF, making use of the wires, in furtherance of Fraud Scheme
1/3/22	B's wife	18 USC § 1343	Filed Verified Complaint on NYSCEF, making use of the wires, in furtherance of Fraud Scheme
2/3/23	C	18 USC § 1343	Filed Verified Complaint on NYSCEF, making use of the wires, in furtherance of Fraud Scheme
4/14/25	C	18 USC § 1343	Filed Amended Verified Complaint on NYSCEF, making use of the wires, in furtherance of Fraud Scheme
9/16/21	D	18 USC § 1343	Filed Verified Complaint on NYSCEF, making use of the wires, in furtherance of Fraud Scheme
6/22/22	D's brother	18 USC § 1343	Filed Verified Complaint on NYSCEF, making use of the wires, in furtherance of Fraud Scheme
6/4/21	E	18 USC § 1343	Filed Verified Complaint on NYSCEF, making use of the wires, in furtherance of Fraud Scheme
3/21/23	F	18 USC § 1343	Filed Verified Complaint on NYSCEF, making use of the wires, in furtherance of Fraud Scheme
1/11/21	G	18 USC § 1343	Filed Verified Complaint on NYSCEF, making use of the wires, in furtherance of Fraud Scheme
7/26/22	H	18 USC § 1343	Filed Verified Complaint on NYSCEF, making use of the wires, in furtherance of Fraud Scheme

Prime Case

Date	Claimant	Predicate Act	Conduct
3/14/21	A	18 USC § 1343	Filed UCC Statement electronically in furtherance of Fraud Scheme
8/25/22	B	18 USC § 1343	Filed UCC Statement electronically in furtherance of Fraud Scheme
10/15/21	B's wife	18 USC § 1343	Filed UCC Statement electronically in furtherance of Fraud Scheme
5/21/21	C	18 USC § 1343	Filed UCC Statement electronically in furtherance of Fraud Scheme
8/18/22	E	18 USC § 1343	Filed UCC Statement electronically in furtherance of Fraud Scheme
1/11/21	G	18 USC § 1343	Filed UCC Statement electronically in furtherance of Fraud Scheme

Unknown*	G	18 USC § 1956	Layered fraud scheme proceeds into its legitimate income so as to conceal the nature and origin of funds, as well as to promote the carrying on of specified unlawful activity.
Unknown*	G	18 USC § 1957	Knowingly engaged in transactions utilizing fraud scheme proceeds in excess of $10,000

*Exclusively within Defendants' knowledge and unascertainable without discovery.

Total Ortho

Date	Claimant	Predicate Act	Conduct
5/11/21	A	18 USC § 1343	Faxed falsified records to opposing counsel in case in furtherance of Fraud Scheme
4/25/23	B	18 USC § 1341	Caused to be mailed falsified records to opposing counsel in case in furtherance of Fraud Scheme
6/28/21	C	18 USC § 1341	Caused to be mailed falsified records to opposing counsel in case in furtherance of Fraud Scheme
11/9/21	E	18 USC § 1341	Mailed falsified records to opposing counsel in case in furtherance of Fraud Scheme

Leven

Date	Claimant	Predicate Act	Conduct
5/11/21	A	18 USC § 1343	Caused to be faxed falsified records to opposing counsel in case in furtherance of Fraud Scheme
4/25/23	B	18 USC § 1341	Caused to be mailed falsified records to opposing counsel in case in furtherance of Fraud Scheme
11/9/21	E	18 USC § 1341	Caused to be mailed falsified records to opposing counsel in case in furtherance of Fraud Scheme

McCulloch Ortho

Date	Claimant	Predicate Act	Conduct
3/15/22	A	18 USC § 1341	Caused mailing of falsified records to opposing counsel in furtherance of Fraud Scheme
3/27/23	B	18 USC § 1341	Caused mailing of falsified records to opposing counsel in furtherance of Fraud Scheme

5/5/23	D	18 USC § 1341	Caused mailing of falsified records to opposing counsel in furtherance of Fraud Scheme
11/22/23	F	18 USC § 1341	Caused mailing of falsified records to opposing counsel in furtherance of Fraud Scheme
11/28/23	G	18 USC § 1343	E-mailed falsified records to opposing counsel in furtherance of Fraud Scheme
Unknown*	G	18 USC § 1956	Layered fraud scheme proceeds into its legitimate income so as to conceal the nature and origin of funds, as well as to promote the carrying on of specified unlawful activity.
Unknown*	G	18 USC § 1957	Knowingly engaged in transactions utilizing fraud scheme proceeds in excess of $10,000
4/26/23	H	18 USC § 1341	Caused mailing of falsified records to opposing counsel in furtherance of Fraud Scheme

*Exclusively within Defendants' knowledge and unascertainable without discovery.

Capiola

Date	Claimant	Predicate Act	Conduct
3/15/22	A	18 USC § 1341	Caused mailing of falsified records to opposing counsel in furtherance of Fraud Scheme
3/27/23	B	18 USC § 1341	Caused mailing of falsified records to opposing counsel in furtherance of Fraud Scheme
5/5/23	D	18 USC § 1341	Caused mailing of falsified records to opposing counsel in furtherance of Fraud Scheme
10/15/21	E	18 USC § 1341	Caused mailing of falsified records to opposing counsel in furtherance of Fraud Scheme
11/22/23	F	18 USC § 1343	Caused mailing of falsified records to opposing counsel in furtherance of Fraud Scheme
11/28/23	G	18 USC § 1343	Caused mailing of falsified records to opposing counsel in furtherance of Fraud Scheme.
Unknown*	G	18 USC § 1956	Layered fraud scheme proceeds into its legitimate income so as to conceal the nature and origin of funds, as well as to promote the carrying on of specified unlawful activity.
Unknown*	G	18 USC § 1957	Knowingly engaged in transactions utilizing fraud scheme proceeds in excess of $10,000
4/26/23	H	18 USC § 1341	Caused mailing of falsified records to opposing counsel in furtherance of Fraud Scheme

*Exclusively within Defendants' knowledge and unascertainable without discovery.

Gotham

Date	Claimant	Predicate Act	Conduct
5/5/23	D	18 USC § 1341	Caused mailing of falsified records to opposing counsel in furtherance of Fraud Scheme
1/5/24	F	18 USC § 1343	E-mailed falsified records to opposing counsel in furtherance of Fraud Scheme
1/13/24	G	18 USC § 1343	E-mailed falsified records and invoice to opposing counsel in furtherance of Fraud Scheme
Unknown*	G	18 USC § 1956	Layered fraud scheme proceeds into its legitimate income so as to conceal the nature and origin of funds, as well as to promote the carrying on of specified unlawful activity.
Unknown*	G	18 USC § 1957	Knowingly engaged in transactions utilizing fraud scheme proceeds in excess of $10,000
11/15/23	H	18 USC § 1343	E-mailed falsified records and invoice to opposing counsel in furtherance of Fraud Scheme

*Exclusively within Defendants' knowledge and unascertainable without discovery.

Cohen

Date	Claimant	Predicate Act	Conduct
5/5/23	D	18 USC § 1341	Caused mailing of falsified records to opposing counsel in furtherance of Fraud Scheme
9/10/21	D	18 USC § 1952	With intent to facilitate and carry on kickback and fraud scheme, travelled to NJ and performed surgery in furtherance of same
4/28/23	F	18 USC § 1952	With intent to facilitate and carry on kickback and fraud scheme, travelled to NJ and performed surgery in furtherance of same
1/5/24	F	18 USC § 1343	Caused transmission of falsified records to opposing counsel in furtherance of Fraud Scheme
4/16/21	G	18 USC § 1952	With intent to facilitate and carry on kickback and fraud scheme, travelled to NJ and performed surgery in furtherance of same
1/13/24	G	18 USC § 1343	Caused transmission of falsified records and invoice to opposing counsel in furtherance of Fraud Scheme
Unknown*	G	18 USC § 1956	Layered fraud scheme proceeds into its legitimate income so as to conceal the nature and origin of funds, as well as to promote the carrying on of specified unlawful activity.

Unknown*	G	18 USC § 1957	Knowingly engaged in transactions utilizing fraud scheme proceeds in excess of $10,000
11/15/23	H	18 USC § 1343	Caused transmission of falsified records and invoice to opposing counsel in furtherance of Fraud Scheme
5/5/22	H	18 USC § 1952	With intent to facilitate and carry on kickback and fraud scheme, travelled to NJ and performed surgery in furtherance of same

*Exclusively within Defendants' knowledge and unascertainable without discovery.

Hudson Regional

Date	Claimant	Predicate Act	Conduct
6/28/23	D	18 USC § 1341	Mailed falsified records to opposing counsel in furtherance of Fraud Scheme
1/12/24	F	18 USC § 1341	Mailed falsified records to opposing counsel in furtherance of Fraud Scheme
5/26/23	G	18 USC § 1341	Mailed falsified records to opposing counsel in furtherance of Fraud Scheme
Unknown*	G	18 USC § 1956	Layered fraud scheme proceeds into its legitimate income so as to conceal the nature and origin of funds, as well as to promote the carrying on of specified unlawful activity.
Unknown*	G	18 USC § 1957	Knowingly engaged in transactions utilizing fraud scheme proceeds in excess of $10,000
9/30/2021	H	18 USC § 1341	Mailed falsified records to opposing counsel in furtherance of Fraud Scheme

*Exclusively within Defendants' knowledge and unascertainable without discovery.

AcceleRad

Date	Claimant	Predicate Act	Conduct
3/4/21	A	18 USC § 1341	Mailed falsified records in furtherance of Fraud Scheme to Capiola
6/27/23	D	18 USC § 1343	E-mailed falsified records in furtherance of Fraud Scheme to opposing counsel on underlying case
4/19/23	F	18 USC § 1343	Faxed falsified records in furtherance of Fraud Scheme to Cohen
11/22/23	F	18 USC § 1341	Caused mailing of falsified records to opposing counsel in furtherance of Fraud Scheme

Prakash

Date	Claimant	Predicate Act	Conduct
3/4/21	A	18 USC § 1341	Caused to be mailed falsified records in furtherance of Fraud Scheme to Capiola
6/27/23	D	18 USC § 1343	Caused falsified records to be emailed in furtherance of Fraud Scheme to opposing counsel on underlying case
11/22/23	F	18 USC § 1341	Caused mailing of falsified records to opposing counsel in furtherance of Fraud Scheme

PPNY

Date	Claimant	Predicate Act	Conduct
3/15/22	A	18 USC § 1341	Caused mailing of falsified records to opposing counsel in furtherance of Fraud Scheme
5/5/23	D	18 USC § 1341	Caused mailing of falsified records to opposing counsel in furtherance of Fraud Scheme

Toussaint

Date	Claimant	Predicate Act	Conduct
5/5/23	D	18 USC § 1341	Caused mailing of falsified records to opposing counsel in furtherance of Fraud Scheme
10/15/21	E	18 USC § 1341	Caused mailing of falsified records to opposing counsel in furtherance of Fraud Scheme
11/22/23	F	18 USC § 1341	Caused mailing of falsified records to opposing counsel in furtherance of Fraud Scheme
4/26/23	H	18 USC §1341	Caused mailing of falsified records to opposing counsel in furtherance of Fraud Scheme

413. As a result of the pattern of racketeering activity, Plaintiff has suffered damage to their 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])
(Against All Defendants)

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

415. 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).

416. 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, constituting mail fraud (18 U.S.C. § 1341), wire fraud (18 U.S.C. § 1343) Travel Act violations (18 USC § 1952), and money laundering (18 U.S.C. § 1956) – all of which is "racketeering activity" as defined in 18 U.S.C. § 1961(1)(A).

417. The substantive 18 USC § 1962(c) violations are set forth in Count I.

418. Such pattern of racketeering in the conduct or in the participation of the conduct of the Fraud Scheme Enterprise included, but was not limited to, mail and wire fraud under 18 USC §§ 1341 and 1343, Travel Act violations under 18 USC § 1952, Money Laundering under 18 USC § 1956 & 1957, and Bribery under New York Penal Law § 215.00

419. The predicate acts of mail fraud, wire fraud, bribing a witness or victim, and money laundering 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 claims and personal injury lawsuits arising out of fraudulent accidents.

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

421. These predicate acts were necessary steps in and in furtherance of the Fraud Scheme Enterprise, in meeting the necessary steps of the Fraud Scheme agreed upon by the Defendants, including:

a. Recruiting Claimants and staging accidents;

b. Securing retainer of the attorneys within the Fraud Scheme Enterprise;

c. Managing Claimants through pre-determined protocol treatment;

d. Performing pre-determined and unnecessary surgeries;

e. Filing and prosecuting the fraudulent suits;

f. Laundering and concealing the nature of the Fraud Scheme proceeds; and,

g. Concealing the nature of the Fraud Scheme itself to perpetuate the scheme.

422. Each Defendant knew that the acts detailed herein were part of a pattern of racketeering activity and agreed to facilitate, and did facilitate, the Fraud Scheme to the benefit of the Fraud Scheme Enterprise. At least one conspirator committed overt acts in furtherance of the conspiracy, including the predicate acts as alleged in Count I. Each Defendant had knowledge of, at minimum, the general contours of the overall scheme and common objective; specifically, defrauding Plaintiffs and those similarly situated.

423. While not necessary to establish herein, each Defendant named herein and not named as a Count I Defendant engaged in overt acts in furtherance of the conspiracy, including but not limited to:

Avanesov

Date	Claimant	Overt Act	In Furtherance
9/17/20	E	18 USC § 1341	Caused mailing of falsified records to opposing counsel in furtherance of Fraud Scheme
9/17/20	E	Performed unnecessary surgery	To construct false medical narrative, inflate case value, prolong litigation Assert lien/receive funding for unnecessary surgery

Lerman

Date	Claimant	Overt Act	In Furtherance
6/26/24	C	18 USC § 1341	Caused mailing of falsified records to opposing counsel in furtherance of Fraud Scheme
6/26/24	C	Performed unnecessary surgery	To construct false medical narrative, inflate case value, prolong litigation Assert lien/receive funding for unnecessary surgery

Kosharskyy

Date	Claimant	Overt Act	In Furtherance
3/15/22	A	18 USC § 1341	Caused mailing of falsified records to opposing counsel in furtherance of Fraud Scheme
2/3/21	A	Prepared falsified reports	To justify escalating treatment toward pre-determined and unnecessary surgery

Reyfman

Date	Claimant	Overt Act	In Furtherance
5/5/23	D	18 USC § 1341	Caused mailing of falsified records to opposing counsel in furtherance of Fraud Scheme
5/18/22	D	Prepared falsified reports	To justify escalating treatment toward pre-determined and unnecessary surgery

424. As a direct and proximate result of the § 1962(c) violations that Defendants conspired to commit, Plaintiff has been injured in its business or property in an amount to be determined at trial, including but not limited to fraudulent claim payments, settlements, investigative costs, claims handling fees, and attorneys' fees.

425. Plaintiffs' injuries were the foreseeable and intended consequence of the conspiracy; absent Defendants' agreement and the predicate acts committed in furtherance thereof, Plaintiff would not have suffered the losses described.

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
RICO Violation (§ 1962[a])
(Against Prime)

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

427. The advances made by Prime to Claimants directly and *via* payments to Medical Provider Defendants are and were structured not as "loans" (which would render the interest rates of the advances wildly usurious), but as a purchase of future receivables.

428. When challenged, New York law has repeatedly held that these advances are not "loans," but instead an "ownership interest" – an "investment."

Matter of Lynx Strategies LLC v Ferreira, 957 NYS2d 636 (Sup Ct., NY County 2010)	"The concept of usury applies to loans, which are typically paid at a fixed or variable rate over a term. **The instant transaction, by contrast, is an ownership interest in proceeds for a claim, contingent on the actual existence of any proceeds.**"
Kelly, Grossman & Flanagan, LLP v Quick Cash, Inc., 950 NYS2d 723 (Sup Ct., Suffolk County 2012]	"**Usury laws do not apply to investments** (GOL § 5-501[2]). Where a transaction involves interest to be paid based upon a contingency which is in the control of the debtor, usury will not apply."
Lawsuit Funding LLC v Lessoff, 2013 NY Slip Op 33066[U], *10-11 (Sup Ct., NY County 2013)	"…**the Sale Agreement and the Stipulation are not loans, but investments, and are not subject to usury laws**."

429. This is Defendant Prime's directly stated understanding and intent, as demonstrated in its own verified court filings and within its own terms and conditions identifying a "purchased interest."

430. Upon information and belief, since 2019, and indeed at least tripling in originations since that time, Prime has derived income from both the instant Fraud Scheme Enterprise alleged and others similarly structured.

431. Upon information and belief, at least a portion of that income has been issued back out into further advances, including to the Claimants identified herein.

432. Defendant Prime's advances, in the instant matter and others related, constituted direct investments into the Fraud Scheme, with an ownership interest in the Fraud Scheme proceeds directly.

433. Prime's investments into the Fraud Scheme were essential to its operation.

434. Prime's investments paid surgeons for needless surgery, prolonging litigation and falsely inflating open claim values.

435. Prime's investments mandate that the recipient cooperate and proceed with the case – not as a matter of when warranted, where appropriate under the law, not pursuant to any form of legitimacy, but with the sole qualifier of where a recovery is *possible,* and locks them into continuation of the Fraud Scheme.

436. In the case of Claimant D's matter, Prime invested in the outcome of the matter at least four (4) months prior to the filing of the Complaint. The terms of Prime's contract thus *mandated* the occurrence of such fraudulent filing (*infra*), triggering Plaintiff's duty to defend and

the occurrence of Plaintiff's damages. Plaintiff thus suffered an "investment injury" in, at minimum, Claimant D's case.

WHEREFORE, Plaintiff demands judgment against Prime 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 IV

Common Law Fraud
(Against Liakas Defendants and Medical Provider Defendants)
("Count IV Defendants")

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

438. The Count IV Defendants made knowing and material misrepresentations of facts, and deliberately concealed and otherwise omitted materials facts that they had a duty to disclose, in connection with the Fraud Scheme.

439. These misrepresentations of fact by the Count IV 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. A list of such misrepresentations, who they were made by, and when, are detailed in the tables under Count I.

440. The Count IV Defendants' representations were false or required disclosure of additional facts to render the information furnished not misleading. The falsity of each such

representation is set forth under Count I and the corresponding Claimant sections of this Complaint, *supra*.

441. The Count IV Defendants made these misrepresentations with the intent they reach Plaintiff, and in furtherance of the scheme to defraud Plaintiff by submitting claims for payment of general liability insurance proceeds, knowingly falsified treatment records, inflated liens, and other submissions presented to Plaintiff through the course of the Fraud Scheme. The Liakas Defendants presented such misrepresentations directly to Plaintiff and/or its attorneys. The Medical Provider Defendants presented such misrepresentations in some instances directly to Plaintiff, or *via* the Liakas Defendants as a conduit with Plaintiff as the intended recipient.

442. The Count IV 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. The knowledge of such falsity can be reasonably inferred from the constellation of facts set forth in each Claimant section, *supra*.

443. Plaintiff reasonably and justifiably relied, to its detriment, on the Count IV Defendants' representations concerning their eligibility to receive payments of general liability insurance proceeds, the validity of such claims and treatment, and without knowledge of the Count IV Defendants' scheme and artifice to defraud them.

444. The Count IV Defendants knew, or should have known, that Plaintiff would rely on such representations, and planned to exploit such reliance.

445. But for the Count IV Defendants' misrepresentations, omissions, concealment of material facts, and fraudulent course of conduct, Plaintiff would not have incurred damages.

446. As a matter of New York law, which requires Plaintiff to fulfill its duty to defend its insured immediately upon the filing of a claim or lawsuit, regardless of merit, and even in the

face of suspected fraud, such reliance was thrust upon Plaintiff. Plaintiff was forced to take action it otherwise would not have taken, based on the contents of the false misrepresentations.

447. Each subsequent falsified record produced in the course of the Fraud Scheme, upon disclosure and transmission to Plaintiff, forced reliance upon Plaintiff to, at minimum, rely on such submissions in discharging its legal obligation to provide a defense to its insured, as well as necessarily resulted in prolonged litigation, required additional reserves, and in valuing the claim as to exposure and/or settlement within the parameters of discharging its legal duty to defend.

448. As to settlements made as a result of the Fraud Scheme, Plaintiff at all times comported with reasonable due diligence requirements through the retention of reputable defense firms, investigators, and experts. However, the Fraud Scheme was designed and implemented in order to circumvent these safeguards. Further, the protections under HIPAA and attorney-client privilege, along with New York's insulation of litigation financing disclosures, rendered the scheme unable to be detected through the use of ordinary due diligence. Any payments made were after Plaintiff had engaged in reasonable due diligence and were made in reasonably justified reliance.

449. Plaintiff at no time knew or had reason to know in the exercise of due diligence or reasonable care that the Count IV Defendants were engaged in misrepresentations, omissions, and fraudulent conduct.

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

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

WHEREFORE, Plaintiff demands judgment against the Count IV 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 the Count IV Defendants' illegal conduct;

c. Punitive damages to be established at trial; and,

d. Such other relief as the Court deems just and proper.

COUNT V
Aiding and Abetting Fraud
(Against All Defendants)

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

453. All Defendants named herein had actual knowledge of the Fraud Scheme, and the common law fraud as set forth in Count IV.

454. As set forth in detail, *supra*, and in the charts set forth under Counts I and II, each Defendant engaged in overt acts in furtherance of the fraud, or otherwise provided substantial assistance to advance such fraud's commission.

455. But for the substantial assistance of each Defendant, such Fraud Scheme would not have been possible.

456. As a direct and proximate cause of the Defendants' aiding and abetting of the Fraud Scheme, Plaintiff has been damaged.

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

WHEREFORE, Plaintiff demands judgment against all 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 the Defendants' illegal conduct;

c. Punitive damages to be established at trial; and,

d. Such other relief as the Court deems just and proper.

COUNT VI
Unjust Enrichment
(Against Legal Service Defendants and Medical Provider Defendants)
(collectively, "Count V Defendants")

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

459. As described above, the Count VI Defendants conspired to induce Plaintiff to make or expend numerous and substantial payments to them or others.

460. The Count VI Defendants were never eligible to make claims or seek reimbursement under New York law because, at all relevant times, the accidents, injuries and treatment were fraudulent.

461. When Plaintiff paid the Count VI Defendants and others resulting from the Fraud Scheme, Plaintiff reasonably believed that it was legally obligated to make such payments based upon the misrepresentations and omissions that the Count VI Defendants, or those persons working

under their control, made concerning the Count VI Defendants' eligibility to make claims or seek reimbursement under New York law.

462. Each and every payment that Plaintiff made or were caused to make to the Count V Defendants and others during the course of the Fraud Scheme constitutes a benefit that the Count V Defendants sought and voluntarily accepted.

463. Throughout the course of their scheme, the Count VI Defendants wrongfully obtained from Plaintiff benefit payments as a direct and proximate result of the unlawful conduct detailed above.

464. Retention of those benefits by the Count VI Defendants would violate fundamental principles of justice, equity, and good conscience.

WHEREFORE, Plaintiff demands judgment against the Count VI 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

b. Such other relief as the Court deems just and proper.

COUNT VII
General Business Law § 349
(Against Legal Service, Medical Provider, and Funding Defendants (collectively, "Count VI Defendants"))

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

466. New York State General Business Law ("GBL") § 349 provides that (a) "Deceptive acts or practices in the conduct of any business, trade or commerce or in the furnishing of any service in this state are hereby declared unlawful," and (h) "any person who has been injured by

reason of any violation of this section may bring an action… to recover his actual damages... [and t]he Court may award reasonable attorney's fees to a prevailing plaintiff."

467. It is well-established virtually all commercial activity which involves goods or services rendered to public consumers, including legal and medical services, and providing loans and/or advances, are subject to the provisions of GBL § 349.

468. It is equally well-established that a deceptive practice need not reach the level of common-law fraud to be actionable under § 349, intent to defraud and justifiable reliance are not elements of a statutory claim, and GBL § 349 is not subject to heightened pleading standards.

469. As set throughout this Complaint, *supra*, each of the Count VII Defendants have engaged in deceptive acts and practices in the conduct of their businesses; particularly, in the furtherance of the Fraud Scheme.

470. GBL § 349 provides that any party which has been injured by such deceptive acts and practices may recover their actual damages thereto, and the Court may award reasonable attorney's fees to a prevailing plaintiff.

471. The alleged conduct of Defendants as set forth above and herein has dramatic and widespread effects on consumers extending far beyond the direct damages caused by the deceptive acts and practices alleged herein. These deceptive acts and practices, and the Fraud Scheme itself, has a broader impact on consumers at large.

472. The Fraud Scheme, and its various permutations amongst similar schemes and overlapping actors, have an impact locally – clogged Court dockets, needless investigative, legal, other claims and defense-related spend, and fraudulently obtained settlements and awards - and nationally, wrongfully driving up the cost of legitimate insurance business operations, resulting in

needlessly escalating premiums to the ultimate consumers of liability insurance and the cost of healthcare (*i.e., everyone*).

473. This phenomenon and its effects have begun to attract media attention. New York Post, June 16, 2024: MS-13, Russian mobsters use migrants in elaborate injury scam — even getting spinal surgery to pull it off ("Insurance insiders claim losses have tripled since the pandemic, with payouts so massive they're driving up the cost of living for all New Yorkers… The scams are ballooning costs for insurance, housing, construction, food, utilities, and basic living expenses"); ABC News, October 4, 2024: 7 On Your Side investigation finds dozens of injury lawsuits from people living in same apartment buildings ("We have a system that allows for fraudulent claims, leads to million dollars settlements and it raises the cost of insurance premiums across the board," Brian Sampson, president of the Empire State Chapter of the Associated Builders & Contractors, said. "We need to find a way to get it to stop."); ABC News, March 17, 2024: Construction workers in NY faking falls on sites part of larger fraud scheme, lawsuit claims ("'These fraudulent acts have emerged as widespread insurance scams which lead to inflated costs in construction and housing throughout New York State,' said Assemblyman David Weprin.").

474. The deceptive trade practices of the Count VII Defendants – *i.e.,* the Fraud Scheme – occurred and is continuing to occur in New York, Count VII Defendants maintain a business presence in New York, and the effects are felt by consumers at large in New York.

475. Under these circumstances, an entity such as Plaintiff has standing to pursue claims for violations of GBL § 349. Count VII Defendants are liable to Plaintiff for compensatory damages and the attorneys' fees incurred in bringing and prosecuting this Action.

WHEREFORE, Plaintiff demands judgment against Count VII Defendants for:

a. An award of Plaintiff's actual damages to be established at trial;

b. Plaintiff's attorneys' fees incurred in the preparation and prosecution of this Action; and,

c. Such other relief as the Court deems just and proper.

VII. JURY TRIAL DEMAND

476. Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiffs demand a trial by jury on all claims.

Dated: July 18, 2025

Respectfully submitted,

THE WILLIS LAW GROUP, PLLC

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