

**United States District Court
for the District of Puerto Rico**

Dr. Luis B. Rivera Nazario; Dr. Juan M. López García, Centro Quiropráctico Dr. Juan M. López P.S.C.; Dr. Elvin Siverio Casanova; Dr. Leslie Hernández Quiñones; Dr. Marcos J. Arraiza Cabán; Grupo Quiropráctico del Norte C.S.P.; Dr. Víctor Dominguez; Dr. Miguel Serrano; Dr. Mariano Román; Dr. Nelson Vélez; and Dr. Siro Gutierrez Jovet.

Plaintiffs,

v.

CORPORACIÓN DEL FONDO DEL SEGURO DEL ESTADO (CFSE); Liza M. Estrada Figueroa, in her official capacity as Administrator of the CFSE; Sheila Rivera Serrano, in her personal and official capacity as Director of the CFSE Medical Area; Isabel Lastra González, in her personal and official capacity as Medical Director at the CFSE Bayamón Regional Office; José Colón Grau, in his personal and official capacity as an External Advisor; Lorena Díaz Trancón, in her personal and official capacity as a Type VII Internal Medicine Doctor; and the members of the Industrial Medical Council of the CFSE, in their personal and official capacity, John Does A, B, C and D; John Roes X, Y and Z; and ABC Corporation;

Defendants.

CIVIL NO.

RE: ANTITRUST; DUE PROCESS;
EQUAL PROTECTION;
CONTRACT CLAUSE; INJUNCTION
RELIEF; DAMAGES; PLAINTIFFS
DEMANDS TRIAL BY JURY

VERIFIED COMPLAINT

TO THE HONORABLE COURT:

COME NOW, Plaintiffs through the undersigned attorneys, as and for their complaint against the defendants herein, respectfully state, allege and pray:

I. JURISDICTION AND VENUE

1. This Honorable Court has original federal question jurisdiction over the instant action pursuant to 28 U.S.C. §§ 1331 and 1338, as this case involves substantive claims arising under the Sherman Act, 15 U.S.C. §§ 1-7, *et seq.*, and the Constitution of the United States, specifically, violations to the Contract Clause, U.S. Const., Art. I, § 10, and Due Process and Equal Protection Clauses under the Fourteenth Amendment, U.S. Const. amend. XIV, § 1, and has supplemental jurisdiction over the Puerto Rico law claims pursuant to 28 U.S.C. §1367(a).

2. Venue is proper in this Court pursuant to 28 U.S.C. § 1391 (b) and (c), given that defendants are either domiciles of or are doing business in the Commonwealth of Puerto Rico; and the actions that give rise to the claims alleged in this Complaint arose in this district.

II. NATURE OF THE ACTION

3. Plaintiffs are doctors of chiropractic medicine and are owners of chiropractic clinics who bring this action to obtain equitable relief enjoining defendants

from engaging in wrongful acts of discrimination against chiropractors through actions such as:

- a. Engaging in a scheme to eliminate the chiropractic practice from the medical and health services provided by the State Insurance Fund, formally known as “Corporación del Fondo del Seguro del Estado” (hereinafter referred as “CFSE” for its acronym in Spanish);
- b. Establishing arbitrarily and without reasonable justification, burdensome conditions and discriminatory requirements applicable only to chiropractic services that severely restrict chiropractic services;
- c. Unreasonably restricting access to doctors of chiropractic medicine by impeding, delaying and/or discouraging persons and/or patients covered by the CFSE law from seeking their treatment;
- d. Distributing injurious and harmful communications to patients and doctors contracted by the CFSE, about the chiropractic profession in order to discourage and eliminate patient referrals, and to tarnish patient’s opinion about chiropractic services,
- e. Unduly referring patients covered by CFSE’s medical and health services away from chiropractors and towards other groups of health professionals,

- f. Imposing conditions for covered chiropractic treatment that are incompatible with accepted chiropractic practices;
- g. Breaching contractual obligations established in the “Agreement to provide chiropractic services in private practice” signed between plaintiffs and the CFSE; and
- h. Refusing to issue or renew service contracts to chiropractors and/or imposing onerous conditions to renew said service agreements, with malicious intent and without just cause.

4. Defendants have, individually and acting in concert, wrongfully harmed plaintiffs by acting to exclude and eliminate chiropractic medicine from the medical and health compensation provided under the CFSE law in violation of the of Sections 1 and 2 of the Sherman Act, 15 U.S.C. §§ 1-2; by unlawfully discriminating against Chiropractic doctors through the implementation of an arbitrary, unreasonable and oppressive regulatory scheme not applicable to other medical professionals in violation of substantive due process and equal protections rights guaranteed by federal and Commonwealth constitutions; and by unilaterally modifying and breaching the contractual obligations between Plaintiffs and Defendants in violation of the Contractual Clause under federal and state constitution.

5. Upon information and belief, defendants, acting individually and in concert, have entered into and/or created a scheme to reduce chiropractic services to a secondary and marginal treatment access to which is severely restricted or eliminated altogether for persons covered by the CFSE law. This scheme further impedes those persons from seeking treatment by doctors of chiropractic medicine.

6. Plaintiffs also seek to recover compensatory, punitive damages and costs, including attorneys' fees, for defendants' wrongful conduct as will be more fully described below.

III. THE PARTIES

7. Plaintiff Dr. Luis B. Rivera Nazario is a chiropractor who is licensed to practice chiropractic medicine in the Commonwealth of Puerto Rico and who, at all times relevant herein, has been a licensed chiropractor treating patients in the Commonwealth of Puerto Rico, with business address located in the Municipality of San Juan.

8. Plaintiff Dr. Juan M. López García is a chiropractor who is licensed to practice chiropractic medicine in the Commonwealth of Puerto Rico and who, at all relevant times herein, has been a licensed chiropractor treating patients in the Commonwealth of Puerto Rico, with business address located in the Municipality of San Juan.

9. Plaintiff Centro Quiropráctico Dr. Juan M. López P.S.C is a chiropractic clinic operated by Dr. Juan M. López García, located in the Municipality of San Juan.

10. Plaintiff Dr. Elvin Siverio Casanova is a chiropractor who is licensed to practice chiropractic medicine in the Commonwealth of Puerto Rico and who, at all relevant times herein, has been a licensed chiropractor treating patients in the Commonwealth of Puerto Rico, with business address located in the Municipality of San Juan.

11. Plaintiff Dr. Leslie Hernández Quiñones is a chiropractor who is licensed to practice chiropractic medicine in the Commonwealth of Puerto Rico and who, at all relevant times herein, has been a licensed chiropractor treating patients in the Commonwealth of Puerto Rico, with business address located in the Municipality of Caguas.

12. Plaintiff Dr. Marcos J. Arraiza Cabán is a chiropractor who is licensed to practice chiropractic medicine in the Commonwealth of Puerto Rico and who, at all relevant times herein, has been a licensed chiropractor treating patients in the Commonwealth of Puerto Rico, with business address located in the Municipality of Arecibo.

13. Plaintiff Grupo Quiropráctico del Norte C.S.P. is a chiropractic clinic operated by Dr. Marcos J. Arraiza Cabán, located in the Municipality of Arecibo.

14. Plaintiff Dr. Víctor Dominguez Cay is a chiropractor who is licensed to practice chiropractic medicine in the Commonwealth of Puerto Rico and who, at all relevant times herein, has been a licensed chiropractor treating patients in the Commonwealth of Puerto Rico, with business address located in the Municipality of Humacao.

15. Plaintiff Dr. Miguel Serrano is a chiropractor who is licensed to practice chiropractic medicine in the Commonwealth of Puerto Rico and who, at all relevant times herein, has been a licensed chiropractor treating patients in the Commonwealth of Puerto Rico, with business address located in the Municipality of Carolina.

16. Plaintiff Dr. Mariano Román is a chiropractor who is licensed to practice chiropractic medicine in the Commonwealth of Puerto Rico and who, at all relevant times herein, has been a licensed chiropractor treating patients in the Commonwealth of Puerto Rico, with business address located in the Municipality of Bayamón.

17. Plaintiff Dr. Nelson Vélez is a chiropractor who is licensed to practice chiropractic medicine in the Commonwealth of Puerto Rico and who, at all relevant times herein, has been a licensed chiropractor treating patients in the Commonwealth of Puerto Rico, with business address located in the Municipality of San Juan.

18. Plaintiff Dr. Siro Gutierrez Jovet is a chiropractor who is licensed to practice chiropractic medicine in the Commonwealth of Puerto Rico and who, at all

relevant times herein, has been a licensed chiropractor treating patients in the Commonwealth of Puerto Rico, with business address located in the Municipality of Mayagüez.

19. Defendant The State Insurance Fund, formally known as “Corporación del Fondo del Seguro del Estado” (hereinafter referred as “CFSE”) is a public corporation in the Commonwealth of Puerto Rico created by virtue of Act. No. 45 of April 18, 1935, as amended, P.R. Laws Ann. tit. 11, § 1-42 (formally known as “Ley del Sistema de Compensaciones por Accidentes del Trabajo”) that provides compensation and medical services to workers injured in accidents arising from their occupation in the course of their employment that has the capacity to sue and to be sued.

20. Defendant, Liza M. Estrada Figueroa, Administrator of the CFSE, is sued in her official capacity.

21. Defendant, Sheila Rivera Serrano M.D., Director of the CFSE Medical Area, is sued individually and in her official capacity.

22. Defendant, Isabel Lastra González M.D., Medical Director at the CFSE Bayamón Regional Office, is sued individually and in her official capacity.

23. Defendant, José Colón Garau, External Advisor to the Director of the CFSE Medical Area, is sued individually and in his official capacity.

24. Defendant, Lorena Díaz Trancón, Type VII Internal Medicine Doctor at the CFSE Medical Services Area, is sued individually and in her official capacity.

25. Defendants A, B, C, and D, are presently unknown members of the Industrial Medical Council who are being sued individually and in their official capacity, and who may be liable to plaintiffs under the facts in this Complaint.

26. Defendants X, Y, and Z are presently unknown individual defendants who may be liable to plaintiffs for the damages caused by their actions as claimed in this Complaint.

27. Defendant ABC Corporation is a fictitious juridical entity representing presently unknown corporations that may be liable to plaintiffs for the damages caused as a result of the actions claimed in this Complaint.

IV. INTERSTATE COMMERCE

28. The CFSE and other entities (private and public hospitals, doctors, clinics, etc.) that have contracts with the CFSE, upon information and belief, use banking facilities to conduct their business.

29. These entities mentioned in paragraph 28, above, purchase substantial quantities of goods and services outside of Puerto Rico, but within the United States, for which they pay through their banking facilities, in order to provide medical services to their patients.

30. The contracting hospitals, doctors, physicians, x-ray and diagnostic clinics, including the chiropractors and Plaintiffs herein, who contract with the CFSE attract and provide medical services to out-of-state patients.

31. A substantial portion of the CFSE's supplies needed to provide medical services to its patients come from out-of-state sellers and/or providers.

32. The CFSE is funded by, and derives significant revenue from, insuring private employers that operate and engage in activities with substantial effect in interstate commerce.

33. The CFSE invests its available financial resources, which are not required for its current operations, in capital and money market instruments such as securities, bonds, notes, promissory notes and other financial instruments issued by the United States government, including Federal Treasury Bills, among others. See P.R. Laws Ann. tit. 11, § 30a.

34. Similarly, the CFSE invests in capital market instruments such as securities, bonds, notes, promissory notes and other instruments issued by private institutions and corporations that engage in commercial activities that have a substantial effect in interstate commerce.

35. CFSE's actions subject of this complaint have been within the flow of and have substantially affected interstate trade and commerce.

V. RELEVANT MARKET

36. The market affected by CFSE's purposeful and intentional conduct is the market for treatment of neuromusculoskeletal disorders and conditions suffered by injured workers in Puerto Rico under the compensation and services provided by Act. No. 45 of April 18, 1935, as amended, P.R. Laws Ann. tit. 11, § 1-42.

37. The CFSE possesses a monopoly in the relevant market and has engaged in anticompetitive conduct with the specific intent to exclude the chiropractic profession from the healthcare treatment for neuromusculoskeletal disorders and conditions suffered by injured workers.

VI. STATEMENTS OF FACTS

A. The CFSE

38. The CFSE is a public corporation that possesses, owns and operates a "monopoly" on workers' compensation insurance and medical services in Puerto Rico. Private insurance companies are not allowed to offer workmen's compensation insurance to employers in Puerto Rico. This social compensation system, created by statute, is supported by a compulsory and exclusive insurance that is funded by employer contributions. Employers are required by law to insure their employees with the CFSE, which in turn provides them complete immunity against any claim by their employees. Thus, the benefits provided by the CFSE constitute the only remedy available to an

injured employee in Puerto Rico. If health care service is not provided by the CFSE, the patient is unable to obtain the required health care or, more drastically, he has to pay for it himself.

39. In relation to the medical services to be provided to injured workers, Act. No. 45 states:

“The injured worker should be guaranteed **the best and fastest treatment that medical science is able to provide** so that it can return to their regular jobs, fully recovered from his injuries, as soon as possible. Failure to achieve this primary objective because of physical or mental incapacity of a permanent nature, it is essential to establish individual vocational rehabilitation programs, provided **the best and most advanced techniques that have been developed in this field** and with the necessary economic incentives to achieve the worker to maximize the benefit of their rehabilitation program and return to the job market with no loss of revenue, or be it inevitable that the decline in revenues is the smallest.”

P.R. Laws Ann. tit. 11, § 1a.

40. The CFSE contracts with numerous healthcare providers, including doctors of chiropractic medicine, as required, in order to fulfill its purpose of providing and/or administering medical healthcare services to injured workers of insured employers.

41. Given that it is the only legal entity allowed to provide health care to injured workers of insured employers, the CFSE is in the unique position to dictate which providers will be contracted for that purpose.

42. The CFSE, being a Public Corporation, is governed by a Board of Directors whose members are appointed by the Governor of Puerto Rico. The Board includes an Administrator and an Industrial Medical Council.

43. The Industrial Medical Council is composed of seven (7) members, four (4) of which are medical doctors. None of the members of the Council are doctors of chiropractic medicine.

44. Among its duties and powers, the Industrial Medical Council designs guidelines for the proper treatment of most common medical conditions suffered by employees who receive benefits from the CFSE. These guidelines include an overview of treatment to be offered for each condition and the frequency of appointments with the medical inspector, the specialists, in appropriate cases, and sets forth the maximum period of treatment for each condition. P.R. Laws Ann. tit. 11, § 1c.

45. These treatment guidelines must be submitted to the Board of Directors of the Corporation for ratification.

B. Chiropractic Healthcare

46. Chiropractic medicine is a licensed health care profession in all fifty states, the District of Columbia and Puerto Rico. It focuses on the relationship between the body's structure—mainly the spine—and its performance. Although practitioners may use a variety of treatment approaches, they primarily perform adjustments

(manipulations) to the spine or other parts of the body, including the neck, in order to correct alignment problems, alleviate pain, improve function, and support the body's natural ability to heal itself.

47. Since “spinal manipulation” benefits people with low-back pain and may also be helpful for headaches, neck pain, upper -and lower- extremity joint conditions, and whiplash-associated disorders; thus, many who seek chiropractic care suffer from low-back pain or other kinds of musculoskeletal pains and problems.

48. A 2010 review of scientific evidence on manual therapies for a range of conditions concluded that spinal manipulation may be helpful for several conditions that, in addition to back pain, include migraine and cervicogenic (neck-related) headaches, neck pain, upper- and lower- extremity joint conditions, and whiplash-associated disorders.¹

49. Chiropractic medicine has been authorized and regulated by the Commonwealth of Puerto Rico since 1952. Licensing of chiropractic medicine is provided for by Article 5 of Act. No. 493 of May 15, 1952, P.R. Laws Ann. tit. 20, § 155 (formally known as “Ley para crear la Junta Examinadora de Quiropráticos”).

50. Chiropractic medicine is defined as “the science of treating the human body through adjustments and manipulations designed to correct deviations and partial

¹ Bronfort G, Haas M, Evans R, et al. Effectiveness of Manual Therapies: The UK Evidence Report. *Chiropractic & Osteopathy*. 2010; 18 (3):1-33.

dislocations of the spine that put pressure on nerves, hindering the transmission of vital energy from the brain to the organs, tissues and cells of the body human.” P.R. Laws Ann. tit. 20, § 151.

51. In Puerto Rico, access to chiropractic health care is guaranteed to all patients by virtue of Act 194 of 2000, P.R. Laws Ann. tit. 24, § 3041, (formally known as “Carta de Derechos y Responsabilidades del Paciente”), which was amended in 2006 for the purposes of defining chiropractors or doctors of chiropractic as “Health Professionals” and including chiropractic care as a health care and treatment that every patient, user or consumer has the right to choose and have access to.

52. Section 2706 of the Patient Protection and Affordable Care Act affords a non-discrimination provision that reads in part: “A group of health plan and health insurance issuer offering group or individual health insurance shall not discriminate with respect to participation under the plan or coverage against any health care provider who is acting within the scope of that provider’s license or certification under applicable State law.” This section makes it illegal for insurance companies to discriminate against doctors of chiropractic medicine relative to their participation in and coverage in health plans.

53. Despite legislative recognition and licensing of chiropractic medicine nationwide over the years, anti-chiropractic bias has existed and continues to exist in

insurance companies and in the medical community in general. Nonetheless, chiropractic medicine's benefits are well documented and recognized.

54. Cervical spine manipulation was associated with results of significant improvement for headaches in trials involving patients with neck pain and/or neck dysfunction and other headache related symptoms.² Spinal manipulative therapy has been found to be an effective treatment for tension headaches. Studies revealed that four weeks after ceasing chiropractic treatment, patients who received spinal manipulative therapy experienced a sustained therapeutic benefit in all major headaches outcomes in contrast to patients that received amitriptyline therapy, who reverted to baseline values.³

55. For patients suffering from back and/or neck complaints who experienced chiropractic care, was an effective means of resolving or ameliorating pain and functional impairments. This supports the previous findings that show the benefits of chiropractic treatment for back and neck pain.⁴ The National Center for Complementary and Alternative Medicine (NCCAM)⁵ of the Nation Institutes of Health (NIH) funded a study to test the effectiveness of different approaches for treating mechanical neck pain.

2 McCrory, Penzlen, Hasselblad, Gray (2001), Duke Evidence Report.

3 Boline et al. (1995), Journal of Manipulative and Physiological Therapeutics.

4 Verhoef et al. (1997), Journal of Manipulative and Physiological Therapeutics.

5 The mission of the National Center for Complementary and Alternative Medicine (NCCAM) is to define, through rigorous scientific investigation, the usefulness and safety of complementary and alternative medicine interventions and their roles in improving health and health care. The Center's vision is that scientific evidence informs decision-making by the public, by health care professionals, and by health policymakers regarding use and integration of these approaches. See <http://www.nih.gov/about/almanac/organization/NCCAM.htm>

In that study, two hundred and seventy-two (272) participants were divided into three groups that received either spinal manipulative therapy from a doctor of chiropractic care, pain medication (over-the-counter pain relievers, narcotics and muscle relaxants) or exercise recommendations. After twelve (12) weeks, about fifty-seven (57) percent of those who met with doctors of chiropractic care and forty-eight (48) percent who exercised reported at least a seventy-five (75) percent reduction in pain, compared to thirty-three (33) percent of the people in the medication group. After one year, approximately fifty-three (53) percent of the drug-free groups continued to report at least a seventy-five (75) percent reduction in pain; compared to just thirty-eight (38) percent pain reduction among those who took medication.⁶ Similarly, during a controlled trial, one hundred and eighty-three (183) patients with neck pain were randomly allocated to manual therapy, physiotherapy or general practitioner care in a fifty-two (52) week study. The clinical outcome showed that manual therapy resulted in faster recovery than physiotherapy and general practitioner care.⁷

56. In relation to acute and chronic low-back pain, a 2010 review looked at various manual therapies for a range of conditions and found strong evidence that spinal manipulation is effective for chronic low-back pain, and moderate evidence of its

⁶ Bronfort et al. (2012), *Annals of Internal Medicine*.

⁷ Korthals-de Bos et al (2003), *British Medical Journal*.

effectiveness for acute low-back pain.⁸ Studies also revealed that chiropractic care is more effective than medical care in treating chronic low-back pain in the patients' first year of symptoms.⁹ Patients with chronic low-back pain treated by chiropractors showed greater improvement and satisfaction after one month than patients treated by physicians. A higher proportion of chiropractic medicine patients, fifty six (56) percent versus thirteen (13) percent, reported that their low-back pain was better or much better, whereas nearly one-third of medical patients reported that their low-back pain was worse or much worse.¹⁰

57. An analysis in the use of complementary health practices for back pain, based on data from the National Health Interview Survey (NHIS), found that chiropractic was by far the most commonly used therapy. Among survey respondents who had used any of these therapies for their back pain, seventy four (74) percent (approximately four (4) million Americans) had used chiropractic care. Among those who had used

8 See Dagenais S, Tricco AC, Haldeman S. Synthesis of Recommendations for the Assessment and Management of Low Back Pain from Recent Clinical Practice Guidelines. *Spine Journal*. 2010; 10(6):514-529; and Furlan A, Yazdi F, Tsertsvadze A, et al. *Complementary and Alternative Therapies for Back Pain II*. Evidence Report/Technology Assessment, no. 194. Rockville, MD: Agency for Healthcare Research and Quality; 2010. AHRQ publication no. 10 (11)-E007.

9 *A Practical Based Study of Patients with Acute and Chronic Low Back Pain Attending Primary Care and Chiropractic Physicians: Two Week to 48 Month Follow-up*, J Manipulative Physiol Ther. 2004; 27(3):160-169.

10 Nyiendo et al (2000), Journal of Manipulative and Physiological Therapeutics.

chiropractic for back pain, sixty six (66) percent reported having received “great benefit” from their treatments.¹¹

58. In addition, a recent study conducted by medical and healthcare professionals outside the chiropractic profession, concludes that chiropractic care is more effective for common, work-related, low back pain, when compared to treatment by a physical therapist or physician.¹² Overall, chiropractic patients had lower medical expenses, fewer disability recurrences and shorter initial periods of disability. Indeed workers compensation studies report that injured workers with the same specific diagnosis of low-back pain returned to work much sooner when treated by chiropractors than by physicians¹³ and showed health improvements, in both functional scores and subjective response, in the treatment for acute, sub-acute and chronic pain.¹⁴

59. Another study conducted in 2011 found that a person is more likely to become disabled if they get care from a physical therapist than from a chiropractic doctor.

11 Agency for Health Care Policy and Research. *Chiropractic in the United States: Training, Practice, and Research*. Rockville, MD: Agency for Health Care Policy and Research; 1997. AHCPR publication no. 98-N002.

12 Health Maintenance Care in Work-Related Low Back Pain and Its Association with Disability Recurrence. *Journal of Occupational and Environmental Medicine*, April 2011, Vol. 53 Is. 4, p: 396-404.

13 Manga P., Angus D. et al. (1993) *Effectiveness and Cost-Effectiveness of Chiropractic Management of Low-back Pain*. Pran Manga and Associates, University of Ottawa, Canada.

14 *Functional Scores and Subjective Responses of Injured Workers with Back or Neck Pain Treated With Chiropractic Care in an Integrative Program: A Retrospective Analysis of 100 Cases*, J Manipulative Physiol Ther. 2009 (Nov); 32 (9): 765-771.

It also found that patients were sixty (60) percent more likely to become disabled if they chose a medical doctor to manage their care rather than a chiropractic doctor.¹⁵

60. In sum, numerous studies throughout the world have shown that chiropractic treatment, including manipulative and spinal therapy, is both safe and effective.

61. In 1990, the CFSE introduced a pilot plan for purposes of providing chiropractic treatment. From 1990 through 2009 the services consisted of 18 treatment sessions with a licensed chiropractor.

62. In August 26, 2009, at a legislative public hearing, the CFSE expressed its position for a bill aimed at explicitly including chiropractic services among those available for workers who had suffer accidents at their respective workplace. It stated:

“The chiropractic services that the Corporation has offered the workers gave them the opportunity to have more flexible alternatives in the search for a mechanism to provide improved health status. The effectiveness demonstrated by this type of alternative medicine has had its effects on the improvement of musculoskeletal conditions that injured workers face, allowing them to integrate to their workplaces satisfied with the services offered by the Corporation.” [Exhibit I at p. 6]

63. In 2009, the CFSE had contracted twenty three (23) licensed chiropractors to provide chiropractic care services to injured employees throughout the whole island of Puerto Rico.

¹⁵ *Health Maintenance Care in Work-Related Low Back Pains and Its Association with Disability Recurrence*, Journal of Occupational and Environmental Medicine. 2011; 53(4):396-404.

C. Unlawful Discrimination against Chiropractic Doctors

64. Chiropractors have long suffered from illegal, anti-competitive bias at the hands of the medical community and health care providers. In 1963, the American Medical Association (“AMA”) established a “Committee on Quackery”, which considered “its prime mission to be, first, the containment of chiropractic and ultimately, the elimination of chiropractic.”

65. In 1988, in Wilk v. American Medical Ass’n.,¹⁶ the United States District Court for the Northern District of Illinois, in an antitrust action brought by a group of chiropractors, found that the AMA, by far the largest and most powerful association of medical doctors, organized and led a nationwide, illegal conspiracy to “contain and eliminate” the profession of chiropractic. This conspiracy included, an effort to ban all voluntary professional association between medical doctors, medical institutions, insurance programs, etc., and doctors of chiropractic. The District Court found that the AMA instituted an unlawful boycott of chiropractic, which intent was: to prevent all medical physicians in the United States from referring patients to chiropractors and from accepting referrals of patients from chiropractors; to prevent chiropractors from obtaining access to hospital diagnostic services and membership on hospital medical staffs; to prevent medical physicians from teaching at chiropractic colleges or engaging in any joint

¹⁶ 671 F.Supp. 1465, 1471 (N.D. Ill. 1987)

research; and to prevent any cooperation whatsoever between the two professional groups in delivering healthcare services.

66. In affirming *Wilk*, the United States Court of Appeals for the Seventh Circuit noted: “Indeed, the [district] court found that the AMA intended to ‘destroy a competitor,’ namely chiropractors.”¹⁷ The Seventh Circuit confirmed the equitable relief granted by the district court: “The district court’s form of injunction and method of ensuring its publication (and thus its efficacy) was a reasonable attempt at eliminating the consequences of the AMA’s lengthy, systematic, successful, and unlawful boycott.”¹⁸

67. Upon information and belief, on or about 2003, defendant Isabel Lastra González denied, without any reasonable cause, contracts to several chiropractors and these plaintiffs in particular. The doctors of chiropractic, and plaintiffs in particular, had to appear and fight for their rights at the CFSE headquarters to get their contracts awarded.

68. In May 2004, Lastra González, through an internal memo sent to the regional medical directors, arbitrarily instructed that all referrals of new patients to Chiropractors were to cease during a three weeks period, without any prior notification to doctors of chiropractic medicine in violation of their services agreements. At that time, Lastra González maliciously initiated communication efforts inside the CFSE to inform

¹⁷ *Wilk v. AMA*, 895 F.2d 352, 361 (7th Cir. 1990), cert. den.

¹⁸ *Id.* at 371.

that the public corporation was in the process of eliminating chiropractic care from the health services it provided because of its harmful side effects and the ineffectiveness of the treatment. To this day, some occupational primary care physician do not refer patients to chiropractors as a direct consequence of the negative and misleading information, and erroneous perception of chiropractic care intentionally disseminated by defendant Lastra González in accordance and in agreement with other defendants as well.

69. Upon information and belief, on or about 2004, Lastra González sent a letter denying a services agreement to plaintiff, Dr. Siro Gutierrez Jovet, in which she stated that the CFSE “did not need a chiropractor in Mayaguez because chiropractic care was injurious to patients.”

70. Upon information and belief, beginning in February 2013 and continuing through to present day, defendant Lastra González has arbitrarily and without reasonable cause denied patients referrals to doctor of chiropractic medicine after the treatment has been approved by their occupational primary care physicians. Lastra González has denied the required chiropractic treatments with a mere “does not proceed” note. This illicit practice of arbitrarily denying chiropractic care without any reasonable cause to injured workers constitutes irreparable harm to plaintiffs and to the patients themselves, with the potential effect of deteriorating their health, affecting their well-being and contributing to the development of potentially physical disability.

71. Despite the existence of this type of behavior and discriminatory actions, plaintiffs have attempted to continue providing chiropractic services to patients in need.

72. The full extent of the anticompetitive and discriminatory scheme was discovered by Plaintiffs when they came into knowledge and possession of a CFSE letter issued in August 9, 2013, signed by defendant Dr. Sheila Rivera Serrano relative to the adoption of new guidelines and policies regarding chiropractic services and patients referrals within the CFSE. In this communication, defendants presented misleading and out of context information about chiropractic care. Defendants pointed out, in an inflammatory and exaggerated manner, the contraindications and side effects of chiropractic care, when they maliciously expressed that chiropractic care may cause “vertebral artery tear resulting in stroke; injury to the spinal column that can result in paralysis; and developing cerebral bleeding between the skull and the layers which can trigger a coma or death.” [Exhibit II at P. 4] This letter was sent to nine (9) Regional Directors and three hundred and ten (310) occupational primary care physician and several patients

73. Upon information and belief, defendant Dr. Lorena Díaz Trancón had a fundamental role in drafting this letter and in elaborating the policies and information contained therein.

74. Defendants have promulgated and disseminated the new CFSE guidelines for chiropractic services as a mean to boycott chiropractors by labelling them as “unsafe and dangerous”. This is defendants’ most recent attempt to discourage injured workers from seeking chiropractic services and care, and to keep medical physicians from referring patients to chiropractors.

75. However, according to the U.S. Department of Health and Human Services, the National Institutes of Health and the National Center for Complementary and Alternative Medicine (NCCAM) reviews have concluded that spinal manipulation pain is relatively safe when performed by a trained and licensed chiropractic practitioner.¹⁹ The most common side effects are generally minor and include tiredness or temporary soreness.

76. Similarly, in various studies conducted in the United States and Canada,²⁰ the alleged side effects relating to strokes, paralysis, coma and death stated in the Dr. Rivera Serrano letter do not only have an almost remote possibility of occurring as a result of a regular chiropractic treatment, but may be common to other types of treatment that currently provides the CFSE like physiotherapy, among others. Accordingly, the Manual

19 See NCCAM, *Spinal Manipulation for Low-Back Pain*. Pub No. D409, April 2013. Accessed at <http://nccam.nih.gov/health/pain/spinemanipulation.htm?lang=es> on Jan 21, 2014.

20 See Gouveia LO, Castanho P, Ferreira JJ. *Safety of chiropractic interventions: a systematic review*. Spine. 2009; 34(11):E405-E413; and Haneline M, Croft A, Frishberg B. *Association of Internal Carotid Artery Dissection and Chiropractic Manipulation*. The Neurologist. 2003; 9(1): 35-44.

medicine guidelines for musculoskeletal injuries (Guideline Summary NGC-7427) indicates that the potential harms and side effects that may occur during the treatment of musculoskeletal injuries are common to Physical Medicine, Rehabilitation and Chiropractic.²¹

77. Even when the alleged potential harms and side effects are common to Physical Medicine and Rehabilitation Medicine, defendants have unreasonably linked those side effects and harms only to Chiropractic treatment.

78. Upon information and belief, the CFSE currently has contracts to provide services with eleven (11) doctors of chiropractic medicine and around one hundred (100) physiatrists.

79. Around October, 2013, plaintiff Dr. Miguel Serrano, met with defendant Dr. Sheila Rivera Serrano to discuss the information contained in the letter and the new policy outlined therein but she expressly denied the existence of the letter. During the meeting Dr. Serrano tried to explain the benefits of chiropractic healthcare for the treatment of neuromusculoskeletal illnesses to which Dr. Rivera Serrano replied that chiropractic care was just an alternative medicine treatment. She emphasized that

²¹ Braddock EJ, Greenlee J, Hammer RE, Johnson SF, Martello MJ, O'Connell MR, Rinzler R, Snider M, Swanson MR, Tain L, Walsh G. *Manual medicine guidelines for musculoskeletal injuries*. Sonora (CA): Academy for Chiropractic Education; 2009 May 1. 64 p.

chiropractors were not specialists medicine doctors²² able to cure those medical conditions, and justified that she once had to be treated for back pain and although the “squeeze” —as she referred to the chiropractic treatment— she received from a chiropractic doctor “felt good” and relieved her pain there were far better and more effective medical treatments like surgery, which in her opinion is able to correct neuromusculoskeletal injuries.

80. Upon information and belief, defendant Dr. Sheila Rivera Serrano's nephew, Dr. Yamil C. Rivera-Colon, is an orthopedic spine surgeon who has been recently hired by the CFSE and who as result of the new policy is treating patients that were previously referred for chiropractic treatment. Since the adoption of the policy stated in the above referenced letter there has been a significant rise in the performance of surgeries for the treatment of neuromusculoskeletal conditions in the CFSE.

81. In a meeting held in November 12, 2013, between plaintiff, Dr. Elvin Siverio Casanova, and defendants, Dr. José Colón Grau and Dr. Sheila Rivera Serrano, they expressly assured that there were no changes made to the guidelines and policies regarding chiropractic services and patients referrals within the CFSE and that no such changes had been ever communicated to any Regional Directors. Also, they asserted that

²² The Medicare's Physician Compare List that details the healthcare professionals who are qualified to practice in a specialty includes Chiropractic Medicine as a medical physician specialty. See <http://www.medicare.gov/physiciancompare/staticpages/resources/specialtydefinitions.html>

the Bill of Patient Rights and Responsibilities was not applicable to the CFSE and, as consequence, patients were not entitled to participate in the decision or discussion of their healthcare treatment. In the course of the meeting, Dr. Siverio Casanova indicated that patient referral for chiropractic services had decreased substantially, to which defendants responded that they were unaware of the situation and they did not know the cause and thus they would investigate the matter. Once again they expressly denied the existence of the letter.

82. These representations concerning the profession of chiropractic care made by defendants are injurious and have been made part of a broad and coordinated scheme to discretely eliminate chiropractic care from the services provided by the CFSE and/or impede and discourage CFSE's patients from seeking treatment by doctors of chiropractic medicine and occupational primary care physician from referring patients to chiropractors.

83. Defendants' aforementioned actions and misrepresentations have tarnished the reputation and the public's perception of chiropractic healthcare. They have resulted in reducing the total demand for chiropractic services within the CFSE. In this regard, these have created and caused irreparably injury to plaintiffs of such a nature that cannot be adequately compensated by an award of monetary damages alone.

84. Furthermore, based on that misinformation, defendants justify the implementation of an institutional policy to limit chiropractic services in the CFSE by establishing a set of unreasonable and arbitrary requirements that impair the right of injured workers to obtain chiropractic health services and engaging in a scheme to eliminate the chiropractic profession within the CFSE by refusing to deal with the plaintiffs and other chiropractors.

85. As detailed in the new guidelines, the CFSE has completely eliminated chiropractic healthcare for chronic spine related conditions.

86. Moreover, for the CFSE to refer injured workers with acute spinal related conditions, an occupational primary care physician must first “complete a referral form (CFSE-1135) in all parts and accompany it with the medical history, relevant physical examination, an Employers’ Report, a Special Medical Report and evidence of previous treatments, consultations and referrals studies, before referring the case to a chiropractic physician.” [Exhibit II at page 6]

87. Second, the chiropractic service needs to be authorized by the Regional Medical Director. Once the Regional Medical Director has approved the service, he is required to submit a monthly report to the Director of the CFSE Medical Area for her final approval. [Id.] This new regulatory scheme is only applicable to chiropractors and does not bear any rational relationship to a legitimate aim.

88. For the past fifteen (15) years, the referral made by the occupational primary care physician to a doctor of chiropractic did not have to be approved by the Regional Medical Director.

89. As set forth in the Statement of Facts, Section B, above, chiropractic care is not only effective and safe, but is more cost efficient. In fact, the cost for episodes of care initiated with a chiropractic doctor is almost 40 percent less than episodes initiated with a medical doctor.²³ Even insurances companies databases indicate lower treatment costs, less workdays lost, lower compensation payments, and lower utilization of ancillary medical services for patients treated by a chiropractic doctor.²⁴

90. The regulation promulgated by the CFSE through defendants' anticompetitive actions is based on unsupported conclusions that differ from the real scientific data relating to chiropractic healthcare.²⁵

23 *Cost of Care Common Back Pain Conditions Initiated with Chiropractic Doctor vs Medical Doctor/Doctor of Osteopathy as First Physician: Experience of One Tennessee-based General Health Insurer*, J Manipulative Physiol Ther. 2010; 33(9):640-643.

24 *An Evaluation of Medical and Chiropractic Provider Utilization and Costs: Treating Injured Workers in North Carolina*, J Manipulative Physiol Ther. 2004; 27(7):442-448.

25 See Bialosky JE, Bishop MD, Robinson ME, et al. Spinal manipulative therapy has an immediate effect on thermal pain sensitivity in people with low back pain: a randomized controlled trial. *Physical Therapy*. 2009;89 (12):1292-1303. Bronfort G, Haas M, Evans R, et al. Effectiveness of manual therapies: the UK evidence report. *Chiropractic & Osteopathy*. 2010;18 (3):1-33.

Bronfort G, Haas M, Evans R, et al. Evidence-informed management of chronic low back pain with spinal manipulation and mobilization. *Spine Journal*. 2008;8 (1):213-225.

Bronfort G, Haas M, Evans RL, et al. Efficacy of spinal manipulation and mobilization for low back pain and neck pain: a systematic review and best evidence synthesis. *Spine Journal*. 2004;4 (3):335-356.

Cagnie B, Vinck E, Beernaert A, et al. How common are side effects of spinal manipulation and can these side effects be predicted? *Manual Therapy*. 2004;9 (3):151-156.

Cherkin DC, Sherman KJ, Deyo RA, et al. A review of the evidence for the effectiveness, safety, and cost of

91. According to the new CFSE guidelines and health policy for chiropractic services, as approved, it limits chiropractic service to two (2) weeks of treatment with a frequency of three (3) visits per week. If an extension of the treatment is necessary, the

acupuncture, massage therapy, and spinal manipulation for back pain. *Annals of Internal Medicine*. 2003;138 (11):898-906. Chou R, Huffman LH. Nonpharmacologic therapies for acute and chronic low-back pain: a review of the evidence for and American Pain Society/American College of Physicians clinical practice guideline. *Annals of Internal Medicine*. 2007;147 (7):492-504.

Chou R, Qaseem A, Snow V, et al. Diagnosis and treatment of low-back pain: a joint clinical practice guideline from the American College of Physicians and the American Pain Society. *Annals of Internal Medicine*. 2007;147 (7):478-491.

Dagenais S, Tricco AC, Haldeman S. Synthesis of recommendations for the assessment and management of low back pain from recent clinical practice guidelines. *Spine Journal*. 2010;10 (6):514-529.

Elder WG Jr, King M, Dassow P, et al. Managing lower back pain: you may be doing too much. *Journal of Family Practice*. 2009;58 (4):180-186.

Ferreira ML, Ferreira PH, Latimer J, et al. Comparison of general exercise, motor control exercise and spinal manipulative therapy for chronic low back pain: a randomized trial. *Pain*. 2007;131 (1-2):31-37.

Ferreira ML, Ferreira PH, Latimer J, et al. Efficacy of spinal manipulative therapy for low back pain of less than 3 months' duration. *Journal of Manipulative and Physiological Therapeutics*. 2003;26 (9):593-601.

Furlan A, Yazdi F, Tsertsvadze A, et al. *Complementary and Alternative Therapies for Back Pain II*. Evidence Report/Technology Assessment, no. 194. Rockville, MD: Agency for Healthcare Research and Quality; 2010. AHRQ publication no. 10(11)-E007.

Hoiriis KT, Pflieger B, McDuffie FC, et al. A randomized clinical trial comparing chiropractic adjustments to muscle relaxants for subacute low back pain. *Journal of Manipulative and Physiological Therapeutics*. 2004;27 (6):388-398.

Hurwitz EL, Morgenstern H, Kominski GF, et al. A randomized trial of chiropractic and medical care for patients with low back pain: eighteen-month follow-up outcomes from the UCLA low back pain study. *Spine*. 2006;31 (6):611-621.

Kinkade S. Evaluation and treatment of acute low back pain. *American Family Physician*. 2007;75 (8):1181-1188.

Machado LAC, Kamper SJ, Herbert RD, et al. Analgesic effects of treatments for non-specific low back pain: a meta-analysis of placebo-controlled randomized trials. *Rheumatology*. 2009;48 (5):520-527.

National Institute of Arthritis and Musculoskeletal and Skin Disorders. *Handout on Health: Back Pain*. National Institute of Arthritis and Musculoskeletal and Skin Disorders Web site. Accessed at http://www.niams.nih.gov/health_info/back_pain/default.asp on April 11, 2012.

Olipphant D. Safety of spinal manipulation in the treatment of lumbar disk herniations: a systematic review and risk assessment. *Journal of Manipulative and Physiological Therapeutics*. 2004;27 (3):197-210.

Rubinstein SM, van Middelkoop M, Assendelft WJ, et al. Spinal manipulative therapy for chronic low-back pain. *Cochrane Database of Systematic Reviews*. 2011; (2):CD008112. Accessed at <http://www.thecochranelibrary.com> on April 11, 2012.

Santaguida PL, Gross A, Busse J, et al. *Complementary and Alternative Medicine in Back Pain Utilization Report*. Evidence Report/Technology Assessment no. 177. Rockville, MD: Agency for Healthcare Research and Quality; 2009. AHRQ publication no. 09-E006.

Van Tulder MW, Koes B, Malmivaara A. Outcome of non-invasive treatment modalities on back pain: an evidence-based review. *European Spine Journal*. 2006;15 (suppl 1):S64-S81.

chiropractor must evaluate the patient and submit a written request to Regional Medical Director justifying the need for the extension. Only if the Regional Medical Director authorizes, the treatment will be extended for two additional weeks or to complete twelve (12) visits of treatment. [Exhibit II at p. 7]

92. Defendants claim that the determination to limit the quantity of treatment sessions to be provided is based on the Council on Chiropractic Guidelines and Practice Parameters (CCGPP) as approved by The American Chiropractic Association (ACA). However, the CCGPP low-back guidelines in the Journal of Manipulative and Physiological Therapeutics (JMPT)²⁶ and the Acute and Chronic Treatment Guidelines available in Topics in Integrative Healthcare²⁷ used nationwide for chiropractic care do not limit care to only six visits and allow for substantially more treatment as warranted.

93. For the past fifteen (15) years, chiropractic treatment in the CFSE has consisted of eighteen (18) visits to be offered in up to a six (6) week period.

94. The frequency and duration of a chiropractic treatment may be influenced by individual factors or characteristics and by the type of condition or injury suffered, although most patients respond within anticipated timeframes. Accordingly, the CCGPP

26 Globe GA, Morris CE, Whalen WM et al. (2008) *Chiropractic Management of Low Back Disorders: Report from A Consensus Process*, The *Journal of Manipulative and Physiological Therapeutics*. Vol. 31, No. 9. The JMPT is the official journal of the American Chiropractic Association dedicated to the advancement of chiropractic health care. It provides the latest information on current developments in therapeutics, as well as reviews of clinically oriented research and practical information for use in clinical settings.

27 *Topics in Integrative Health Care* 2012, Vol. 3(4) ID: 3.4007.

algorithms and guidelines recognize that a typical chiropractic care begins with an initial therapeutic trial of up to twelve (12) visits within a four (4) weeks period, with the doctor monitoring the patient's progress with each visit to ensure that acceptable clinical gains are realized.²⁸ Upon completion of the initial therapeutic trial, if the appropriate criteria are met, the CCGPP algorithms and guidelines provide for a continued treatment phase consisting of up to twelve (12) more visits over a two (2) to four (4) weeks period.²⁹ This means that a complete chiropractic care could consists of twenty four (24) visits over an eight (8) weeks period. Correspondingly, the CCPGG algorithms and guidelines establish that the described procedure is the same for the chiropractic treatment of acute and chronic pain.

95. Overall, under the new guidelines the CFSE is only providing up to twelve (12) visits over a four (4) weeks period with the burdensome condition that the chiropractor requests and receives a written approval conceding the extension of the treatment after the first six (6) visits. By limiting the sessions of treatment for chiropractic care to only 6 visits and imposing unreasonable requirements to extend it to twelve (12) visits, defendants are restraining chiropractic care by relying upon inaccurate information and imposing conditions that are incompatible with well-established and accepted chiropractic practice principles. The reality is that defendants are substituting

²⁸ Globe GA, Morris CE, Whalen WM et al., *supra*.

²⁹ *Id.*

their judgment for that of a professionally trained and experienced Chiropractor, which will, in the end, place the patient in danger of not receiving the required Chiropractic care.

96. The lack of uniformity in handling Chiropractic care cases can make matters worse. For instance, in the case of the Humacao Regional Office, they count the initial evaluation visit as a treatment visit resulting in further limiting chiropractic treatment from six (6) to five (5) visits in the first two weeks.

97. Although extensive scientific literature and data prove the effectiveness of chiropractic care for chronic conditions and the CCGPP algorithms and guidelines provide for their treatment, defendants have completely eliminated chiropractic care for such conditions from the services the CFSE renders.

98. The CFSE's limitation of coverage for chiropractic care to a maximum of twelve (12) therapeutic sessions also substantially impairs and alters the terms and conditions of the "Agreement to provide chiropractic services in private practice" signed between plaintiffs and defendants without a reasonable intent to promote a significant and legitimate public purpose that justifies such impairment. The agreement establishes that "the treatment plan will last a maximum of six weeks and/or eighteen chiropractic treatments." [Exhibit III at P. 2]

99. As shown, the promulgated regulations are inconsistent with established standards of chiropractic care and scientific data. Thus, the CFSE's regulations are arbitrary, capricious and contradict the legislative policy under state law, as well as violate the federal contract clause, substantive due process and equal protection of the law; antitrust laws; and CFSE's implementation of these rules make their application even more detrimental, damaging and discriminatory to plaintiffs.

100. Defendants have willfully discriminated, misinterpreted and misrepresented the literature, and as a result, their decision-making process for regulating the chiropractic healthcare services rendered at the CFSE and by their contractors, is discriminatory and unreasonable.

101. The "Agreement to provide chiropractic services in private practice" also provides that it is governed by Act. No. 194, better known as the Bill of Patient Rights and Responsibilities, which insures that every patient has the right to choose and have access to chiropractic services. In relevant part Act. No. 194 states that "Every patient is entitled to receive health services of the highest quality, consistent with generally accepted principles of medical practice." P.R. Laws Ann. tit. 24, § 3042.

102. The recently adopted guidelines and policy for chiropractic care implemented by the CFSE violate the letter and spirit of Act. No. 194 and Act. No. 45.

103. Defendants have unreasonably limited the coverage of chiropractic treatment, and by doing so they have wrongfully interfered with the patient's right and choice to elect to be treated by a doctor of chiropractic medicine.

104. Defendants have unlawfully disregarded the CFSE's legal duty to deliver the best and fastest treatment that medical science is able to provide, contrary to state public policy enacted through the aforementioned legislations.

105. Upon information and belief, the Industrial Medical Council, a body in which four (4) out of seven (7) members are medical doctor that compete with chiropractors, exerted a substantial role in the preparation and adoption of the guidelines and policies in controversy. The Council clearly has a competitor's interest in discouraging the use of chiropractic services through CFSE policies, thus creating a standing conflict of interest in promulgating these rules and policies. It has long been established that doctors of medicine provide competing services, i.e., patients may substitute one provider for other based on satisfaction, perceived well-being and notions on medical professions.

106. Chiropractors and medical doctors compete with each other in the market for healthcare services, and particularly in the submarket for treatment of neuromusculoskeletal conditions.

107. The medical doctors who determined the policies of the CFSE have an interest in the market for healthcare services that derives directly from their profession, which is distinct from and in addition to their interest as members of the Industrial Medical Council.

108. The medical doctors who are members of the CFSE's Industrial Medical Council, and defendants herein, in their role as agents of the CFSE, have acted in concert causing injury to chiropractors and their patients, as they have an independent personal stake in achieving the CFSE illegal objectives.

109. The medical doctors, who are members of the CFSE's Industrial Medical Council, and defendants herein, have demonstrated a professional and personal bias against Chiropractic medicine in total disregard of Acts No. 194 and No. 45.

110. This demonstrates that the actions of defendants and their bias are in part the result of medical doctors' strong influence on and dominating presence within the CFSE. The end result is defendants' desire to control and reduce access to chiropractic healthcare within the CFSE in order to eliminate competition.

111. The anti-chiropractic and arbitrary policies adopted and enforced by the CFSE and its medical physicians have created an illegal boycott of chiropractic care and comprise a concerted refusal to deal with the chiropractic profession.

112. As part of the scheme to eliminate chiropractic services, defendants have reduced the number of chiropractors hired by the CFSE. Plaintiffs have successfully provided chiropractic services to CFSE year after year. However, the CFSE has suddenly refused to renew or extend their service agreements.

113. All of plaintiffs' service agreements will have expired by the end of June, 2014.

114. On June, 2014, Dr. Juan M. López received an email from the CFSE stating that the renewal of his service agreement had been authorized and that he needed to provide the required documents in order to complete the process.

115. On June 18, 2014, around 9:00 a.m., Dr. López received a telephone call from Brenda L. Martínez, a CFSE attorney, urging him to sign his new service contract on that day since the employees of the CFSE were about to go on strike.

116. Later that day, around 12:30 p.m., Dr. López arrived at the CFSE offices to sign his new service agreement. He was informed by Ms. Martínez that his contract was among the only two that were going to be renewed because of the effects of the recently adopted Act for the Fiscal Sustainability and Special Operations of the Government of the Commonwealth of Puerto Rico. According to Ms. Martínez, the other agreements were not going to be renewed until the CFSE personnel knew about the effects of the new law signed by the Governor.

117. Once Dr. López received the new contract he noticed that there were several changes with respect to previous service agreements. The most notorious was the inclusion of a clause that states that the services agreement was to be governed by the content of an “Attachment A”. Dr. López proceeded to read the “Attachment A” and realized that it was the letter issued on August 9, 2013, by defendant, Rivera Serrano. [See Exhibit IV]

118. After reading the attachment, Dr. López questioned the statements concerning the contraindications and side effects of spinal manipulation and chiropractic care. He also, pointed out that some of the references cited in the letter were mere web pages and newspaper articles that had no reliability or scientific expertise. Ms. Martínez replied that the information was provided by the chiropractors of the CFSE and by “our information sources” without explaining the precise bases for formulating the statements contained therein.

119. Correspondingly, Dr. López inquired whether the CFSE in order to recruit or renew surgeons or other medical specialists follows the same procedure and requires them to sign an attachment stating that their respective healthcare fields may cause the death of their patients, could render them disable or may cause any other serious side effects. Ms. Martínez responded that she agreed with Dr. López’s position, that for other medical specialists this was not a requirement and that conditioning the renewal of the

service agreement to the acceptance of the “Attachment A” had no sense. However, she advised Dr. López that he should sign the new agreement because the term of the contract was two (2) and after that it could be reviewed and changed.

120. Dr. López refused to sign the agreement because he did not agreed with the content of the “Attachment A”. He stated that he was more than willing to work with the CFSE, but he could not sign something that was not true and was not well grounded on scientific data. Ms. Martínez stated that if he did not agreed with the “Attachment A” the CFSE could not give him a service agreement and that for any discrepancy regarding the content of the agreement he had to talk to defendant, Dr. Rivera Serrano, to see what she could do about.

121. In the same manner, Ms. Martínez reminded him of all he went through in order to renew his agreement and assured that if he did not signing the agreement on that day he will have to do the process all over again.

122. After this situation with Dr. López, on or around June 23, 2014, plaintiffs, Dr. Roman and Dr. Siverio, also received an email from the CFSE stating that the renewal of their service agreements had been authorized and that they needed to provide the required documents in order to complete the process.

123. The inclusion of “Attachment A” [See Exhibit IV] as part of the new service agreements shows that defendants, individually and acting in concert, have

implemented their boycott against chiropractic care, hidden until now, as an official policy of the CFSE.

124. In imposing this type of onerous and unreasonable conditions for renewing the service agreements to chiropractors, particularly to plaintiffs, defendants have and are excluding doctors of chiropractic medicine from providing services to injured workers.

125. The CFSE anti-chiropractic and arbitrary policies have caused patients who desired and/or needed chiropractic care, to either fail to visit a chiropractor or to fail to visit a chiropractor with the regularity required to receive an adequate professional care.

126. Plaintiffs possess more than seventy (70) surveys signed by injured employees stating that their continued chiropractic treatment was denied by the CFSE.

127. In conclusion, defendants have utilized the CFSE's market strength to injure doctors of chiropractic medicine, and particularly these plaintiffs, in numerous additional ways, all of which have served to damage these plaintiffs and to restrict and restrain them from pursuing their chosen profession.

128. Defendants' illegal anti-competitive and discriminatory practices have severely damaged the chiropractic practice of plaintiffs both in the market of healthcare treatment for neuromusculoskeletal problems suffered by injured workers and in their respective private practices. Additionally, the intentional injury has harmed the reputation of chiropractic medicine as well as that of its practitioners.

129. Defendants have implemented a policy and have taken specific discriminatory, arbitrary and anti-competitive actions to eliminate the chiropractic profession from the services they render by: discouraging occupational primary care physicians from referring patients to chiropractors, including plaintiffs herein; discouraging CFSE's patients from seeking treatment by doctors of chiropractic medicine; imposing unreasonable requirements through which a doctor of chiropractic medicine cannot obtain referrals from an occupational primary care physician; directing patients away from chiropractors through the publication of misleading, defamatory and injurious information about the chiropractic healthcare profession; altering substantially the terms and conditions of the contractual relationship between plaintiff and defendant; and restricting the scope of treatment provided by chiropractors.

130. These actions by defendants are arbitrary, capricious, and without reasonable justification, and are done with the intent to injure and damage the chiropractic profession resulting in injuries in fact and in a damaged chiropractic profession to these plaintiffs in particular.

VII.
COUNT I
VIOLATION OF SECTION ONE OF THE SHERMAN ACT

131. Plaintiffs repeat, reassert and re-allege each and every one of the allegations set forth in Paragraphs 1 through 130, with the same force and effect as if fully set forth herein.

132. Defendants have entered into an agreement in restraint of trade or commerce in violation of section one of the Sherman Act. 15 U.S.C. § 1. The agreement has been made between the CFSE and defendants herein, and, upon information and belief, others as well.

133. The agreement affects interstate commerce.

134. The agreement has resulted in an antitrust injury to the plaintiffs.

135. Plaintiffs are entitled to damages under Section 4D of the Clayton Act, 15 U.S.C. §15d.

136. As a result of the illegal agreement and anti-competitive actions, defendants have caused plaintiffs to suffer financial loss in that CFSE, with its monopolistic market strength, has: (i) severely curtailed or altogether eliminated the services provided by plaintiffs to injured patients covered under Act. No. 45; (ii) directed persons covered by medical health services offered or administered by CFSE away from Doctors of Chiropractic medicine and towards other healthcare providers that compete in the relevant market; (iii) unilaterally, arbitrarily, and capriciously imposed guidelines and policies for covered chiropractic treatment that are incompatible with accepted

chiropractic practices and scientific data; and (v) utilized the newly adopted guidelines and policies to deny chiropractic treatment from being provided to injured patients.

137. As a consequence of defendants' illegal activities, plaintiffs have suffered and will continue to suffer financial loss and have been injured and will continue to be injured in the pursuit of their profession. Plaintiffs are entitled to recover such actual damages as the jury may find, treble, plus costs, expenses and attorneys' fees, as permitted by law. Plaintiffs further seek injunctive relief in the form of an order prohibiting defendants from engaging in the anti-competitive, discriminatory and otherwise wrongful acts as described above.

VIII.
COUNT II
VIOLATION OF SECTION TWO OF THE SHERMAN ACT

138. Plaintiffs repeat, reassert and re-allege each and every one of the allegations set forth in Paragraphs 1 through 137, with the same force and effect as if fully set forth herein.

139. Defendants have acted in violation of section two of the Sherman Act, 15 U.S.C. §2, in that they have monopolized or attempted to monopolize the market for the treatment of neuromusculoskeletal disorders and conditions suffered by injured works in Puerto Rico under the compensation provided by Act. No. 45.

140. Such services have a substantial economic effect and the business activity conducted by the CFSE affects the trade and commerce among the several states of the United States. The defendants have thereby caused an antitrust injury to plaintiffs.

141. Plaintiffs are entitled to damages under Section 4D of the Clayton Act, 15 U.S.C. §15d.

142. As a result of the illegal and anti-competitive actions, defendants have caused plaintiffs to suffer financial loss in that CFSE, with its monopolistic market strength, has: (i) severely curtailed or altogether eliminated the services provided by plaintiffs to injured patients covered under Act. No. 45; (ii) directed persons covered by medical health services offered or administered by CFSE away from Doctors of Chiropractic and towards other healthcare providers that compete in the relevant market; (iii) unilaterally, arbitrarily, and capriciously imposed guidelines and policies for covered chiropractic treatment that are incompatible with accepted chiropractic practices and scientific data; and (v) utilized the newly unilaterally, arbitrarily, and capriciously imposed adopted guidelines and policies to deny chiropractic treatment provided to injured patients.

143. As a consequence of defendant's illegal activities, plaintiffs have suffered and will continue to suffer financial loss, have been injured and will continue to be injured in the pursuit of their profession. Plaintiffs are entitled to recover such actual damages as the jury may find, treble, plus costs, expenses and attorneys' fees, as permitted by law. Plaintiffs further seek injunctive relief in the form of an order prohibiting defendants from engaging in the anti-competitive, discriminatory and otherwise wrongful acts as described above.

IX.
COUNT III
VIOLATION OF SUSTANTIVE DUE PROCESS AND EQUAL PROTECTION

144. Plaintiffs repeat, reassert and re-allege each and every one of the allegations set forth in Paragraphs 1 through 143, with the same force and effect as if fully set forth herein.

145. Plaintiffs seek a declaratory judgment that the CFSE regulations and defendants' actions violate the Due Process and Equal Protection rights of chiropractors, and particularly to these plaintiffs and their patients, under the Fourteenth Amendment of the United States Constitution, U.S. Const. amend. XIV, § 1, and under the Puerto Rico State Constitution, P.R. Laws Ann. tit. 1, Art. II, § 7, insofar as the provisions for the new CFSE guidelines and policies are unreasonable, arbitrary and capricious and do not bear a rational relationship to any legitimate aim.

146. The CFSE guidelines and regulations also violate the Equal Protection Clauses as they unfairly and irrationally apply only to chiropractors although the alleged basis for such policies —the side effect of chiropractic— are also present in other healthcare services currently provided by the CFSE.

147. The classification of chiropractors by the CFSE is based upon an impermissible and arbitrary criteria used to burden and treat them less favorably than similarly situated healthcare providers.

148. By the conduct described throughout this complaint, defendants have, without justification or basis, interfered with plaintiffs' Due Process and Equal Protection rights in that, among other things, have unreasonably restricted access to doctors of chiropractic by: (i) impeding, delaying, or discouraging persons covered by CFSE from seeking or continuing medically necessary treatment from doctors of chiropractic; (ii) directing persons covered by CFSE's medical and health services away from chiropractors; (iii) imposing conditions for covered chiropractic treatment that are incompatible with accepted chiropractic practices and scientific data or evidence; (iv) restricting the scope and magnitude of treatment provided by chiropractors despite the fact that such healthcare profession is authorized and licensed by the laws of the Commonwealth of Puerto Rico; (v) restricting, eliminating, or denying coverage for given services while allowing other providers to be covered for services for which chiropractors

are licensed; and (vi) arbitrarily, capriciously, and without reasonable justification establishing severely restrictive limits for chiropractic services.

X.
COUNT IV
VIOLATION OF THE CONTRACT CLAUSE

149. Plaintiffs repeat, reassert and re-allege each and every one of the allegations set forth in Paragraphs 1 through 148, with the same force and effect as if fully set forth herein.

150. Plaintiffs seek a declaratory judgment that the CFSE regulations and defendants' actions violate the United States Constitutional Contract Clause, U.S. Const., Art. I, § 10, and the Puerto Rico State Constitution Contract Clause, P.R. Laws Ann. tit. 1, Art. II, § 7, insofar as they are unreasonable, arbitrary and capricious and impair a preexisting contractual relation between plaintiffs and the CFSE, which affects substantial rights of the parties.

151. In the same manner, plaintiffs assert that the CFSE regulations violate the Contract Clause because of the following factors: (i) the impairment of the contract for providing chiropractic services is substantial; (ii) the imposed guidelines and policies are not necessary to remedy an important and general social problem or any legitimate aim; (iii) the imposed guidelines and policies are not reasonably tailored to promote a significant or important public purpose that justifies the impairment; (iv) the measure

taken by the CFSE are unreasonable and do not rely on any legitimate scientific data or evidence; and (v) the CFSE cannot refuse to meet its contractual obligation because capriciously prefers medical doctors, rather than doctors of chiropractic, for the treatment of neuromusculoskeletal disorders and conditions suffered by injured workers in Puerto Rico.

152. As described throughout this complaint, defendants conduct has, without justification or basis, interfered with the contractual relationship between Plaintiffs and the CFSE in that it has, among other things, unreasonably restricted access to doctors of chiropractic medicine by: (i) impeding, delaying, or discouraging persons covered by CFSE from seeking or continuing medically necessary treatment from doctors of chiropractic; (ii) directing persons covered by CFSE's medical and health services away from chiropractors; (iii) imposing unconscionable conditions for covered chiropractic treatment that are incompatible with accepted chiropractic practices and scientific data or evidence; (iv) restricting the scope and magnitude of treatment provided by chiropractors despite the fact that such healthcare profession authorized and licensed by the laws of the Commonwealth of Puerto Rico; (v) restricting, eliminating, or denying coverage for given services while allowing other providers to be covered for services for which chiropractors are licensed; and (vi) arbitrarily, capriciously, and without reasonable justification establishing severely restrictive limits for chiropractic services.

XI.
COUNT VI
PUERTO RICO NEGLIGENCE STATUTE

153. Plaintiffs repeat, reassert and re-allege each and every one of the allegations set forth in Paragraphs 1 through 152, with the same force and effect as if fully set forth herein.

154. Art. 1802 of the Puerto Rico Civil Code, 31 P.R. Laws Ann. § 5141, governs tort liability in Puerto Rico and provides that “any person who by act or omission causes damages to another through fault or negligence shall be obligated to repair the damage so done.”

155. Constitutional rights ensured by the Bill of Rights of the Puerto Rico and Federal Constitutions may be asserted via a claim sounding in tort pursuant to the provisions of Art. 1802.

156. Defendants have engaged in intentional and/or negligent acts or omissions that caused and are causing damages to plaintiffs and are therefore obligated to repair that damage.

157. Defendants have failed to comply with its legal duty under Act. No. 45 to provide the best and fastest treatment that medical science is able to offer and the best and most advanced techniques that have been developed.

158. Defendants have failed to comply with Act. No. 194, which insures that every patient has the right to choose and have access to chiropractic services.

159. Defendants' actions have been the proximate or adequate cause of the damages suffered and currently being suffered by plaintiffs as detailed above.

160. Defendants' aforesaid acts have caused and will continue to cause plaintiffs to suffer injury and damages, as explained below.

XII.
COUNT VII
PRELIMINARY AND PERMANENT INJUNCTION PROHIBITING THE
IMPLEMENTATION OF THE CFSE POLICY AND GUIDELINES

161. Plaintiffs repeat, reassert and re-allege each and every one of the allegations set forth in Paragraphs 1 through 160, with the same force and effect as if fully set forth herein.

162. The aforesaid acts by defendants are greatly and irreparably damaging to plaintiffs, present a threatened loss, and will continue to cause great and irreparable harm as well as losses to plaintiffs unless enjoined by this Honorable Court pursuant to Rule 65 of the Federal Rules of Civil Procedure and Section 16 of the Clayton Act, 15 U.S.C. § 26.

163. Under 15 U.S.C. § 26 private parties "threatened with loss or damage by a violation of the antitrust laws" may seek injunctive relief.

164. Based on the violations of the Federal Antitrust Laws, the Federal Constitution and the Puerto Rico State Constitution, plaintiffs seeks a preliminary and permanent injunction relief prohibiting defendants and all of their employees or agents from taking any action to put into effect the regulations as they pertain to treatment rendered by chiropractors.

XIII.
COUNT VIII
FOR RELIEF DAMAGES, ATTORNEYS' FEES, AND EXPENSES

165. Plaintiffs repeat, reassert and re-allege each and every one of the allegations set forth in Paragraphs 1 through 164, with the same force and effect as if fully set forth herein.

166. Plaintiffs demand judgment against defendants for compensatory and punitive damages in an amount to be determined by the Court, plus interest and costs, including attorneys' fees, as permitted by law.

167. Defendants' actions have resulted in injury and damage to plaintiffs financially in the loss of business opportunities, and professionally in the restriction of plaintiffs' licensed ability to render honest services and medically necessary chiropractic care to prospective patients who have medical health coverage provided or administered by the CFSE.

168. Plaintiffs also have suffered injury and harm to their business reputations and have suffered mental anguish and emotional distress as a consequence of defendants' conduct.

169. Plaintiffs request that this Court enter a judgment against defendants in an amount, as to be determined by the trier of fact at the jury trial of this matter, of no less than \$3,000,000.00.

WHEREFORE, Plaintiffs respectfully pray and request for relief as follows:

1) That the Court issue an injunction enjoining and prohibiting defendants from engaging in wrongful acts that wrongfully discriminate against chiropractors by actions such as: engaging in a scheme to eliminate the chiropractic practice from the medical and health services provided by the CFSE; establishing arbitrarily and without reasonable justification, burdensome conditions and discriminatory requirements applicable only to chiropractic services that severely restrict benefit limits for chiropractic services; unreasonably restricting access to doctors of chiropractic medicine by impeding, delaying and/or discouraging persons and/or patients covered by the CFSE law from seeking their treatment; distributing injurious and harmful communications to patients and doctors contracted by the CFSE, about the chiropractic profession in order to discourage and eliminate patient referrals, and to tarnish patient's opinion about chiropractic services; unduly referring patients covered by CFSE's medical and health

services away from chiropractors and towards other groups of health professionals; imposing conditions for covered chiropractic treatment that are incompatible with accepted chiropractic practices; breaching contractual obligations established in the “Agreement to provide chiropractic services in private practice” signed between plaintiffs and the CFSE; and refusing to issue or renew service contracts to chiropractors and/or imposing onerous conditions to renew said service agreements, with malicious intent and without just cause.

2) That the Court order expedited discovery on the issues presented by plaintiffs’ claims for injunctive relief due to the immediate and irreparable harm being done to plaintiffs by defendant’s violations of law set forth herein;

3) That this Court adjudge and decree that defendants have engaged in the violations of law by implementing a policy and taking specific discriminatory, arbitrary and anti-competitive actions to: eliminate the chiropractic profession from the services the CFSE renders; discourage occupational primary care physicians from referring patients to chiropractors, including plaintiffs herein; discourage CFSE’s patients from seeking treatment by doctors of chiropractic medicine; impose unreasonable requirements through which a doctor of chiropractic medicine cannot obtain referrals from an occupational primary care physician; direct patients away from chiropractors through the publication of misleading, defamatory and injurious information about the

chiropractic healthcare profession; alter substantially the terms and conditions of the contractual relationship between plaintiff and defendant; and restrict the scope of treatment provided by chiropractors.

3) That plaintiffs recover such actual damages as the jury shall find Plaintiffs to have sustained, together with such double, treble or punitive or exemplary damages as the law shall permit or the jury shall find, in an amount of no less than \$3,000,000.00;

4) That plaintiffs recover their costs of suit herein, including reasonable attorneys' fees; and

5) That plaintiffs have such other and further relief as this Court shall deem just and proper.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 3rd day of July, 2014.



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UNSWORN STATEMENT UNDER PENALTY OF PERJURY

I, Mariano Román, state under penalty of perjury, that the foregoing is true and correct.

Executed in San Juan, Puerto Rico, on June 3, 2014.



Mariano Román