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 CLERK U.S. DISTRICT COURT
 CENTRAL DIST. OF CALIF.
 RIVERSIDE

FILED

UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA
 EASTERN DIVISION

RIVERSIDE, CALIFORNIA

ED CV 12 - 01791

GW SPX

JEHAN ZEB MIR, MD

Plaintiff,

vs.

Case No.:

COMPLAINT FOR

INTENTIONAL INTERFERENCE TO
 RIGHT TO PRACTICE A
 PROFESSION

RACKETEER INFLUENCED AND
 CORRUPT ORGANIZATION ACT
 VIOLATION

INTENTIONAL INTERFERENCE
 WITH CONTRACTUAL
 RELATIONSHIP

CONSPIRACY TO VIOLATE CIVIL
 RIGHTS

INTENTIONAL INTERFERENCE WITH
 PROSPECTIVE ECONOMIC
 ADVANTAGE

DEFAMATION

INTENTIONAL INFLICTION OF
 EMOTIONAL DISTRESS

Defendants

1 held the IPA surgical contract previously regained the contract
2 at a much higher asking price.

3 Even though medical board of California in its own independent
4 investigation of the same charges promptly dismissed the
5 Defendants Complaint filed under Business & Profession Code
6 Section 805, the Defendants in bad faith and in order to delay,
7 harass and injure Plaintiff professionally, financially and
8 emotionally continued to conduct sham peer review proceedings
9 lasting over five years on these two charges and then upheld its
10 own Decision to terminate.

11 Defendants then prevented judicial review of their one sided
12 quasi-judicial decision on writ of mandate by opposing filing of
13 the writ of mandate with the superior court.

14 Plaintiff has been denied employment opportunities as a result
15 of Defendant's action in State of Pennsylvania where Plaintiff
16 holds a current, active, unrestricted medical license.

17 Plaintiff alleges:

18 **Jurisdiction:**

19
20 1. This suit is brought under the 5th and 14th Amendment to the
21 United States Constitution, as enforced through 42 U.S.C. §1981,
22 §1983, §1985, §1986; under Racketeer & Corrupt Influence
23 Organization Act. 18 U.S.C. 1964.

24 2. The amount in controversy far exceeds \$75,000 exclusive of
25 interest and costs.

26 3. This court has subject matter jurisdiction over Plaintiff's
27 claims under 28 U.S.C. § 1331; § 1343 (a) (1) (2) (3). The court
28 has jurisdiction of the state law claims contained in Claim 5

1 through Claim 7 under the doctrine of supplemental jurisdiction
2 under 28 U.S.C. § 1367.

3 4. The Complaint is timely. The Defendants opposed Plaintiff's
4 right to judicial remedy or review of their quasi-judicial
5 administrative decision in the California Superior Court in a
6 writ of administrative mandamus pursuant to California Code of
7 Civil Procedure Section 1094.5. The right to sue for damages
8 accrued upon denial of right to file writ petition upon
9 Defendant's Opposition without courts considering the merits of
10 the writ petition. This finally occurred on January 25, 2012
11 when California Supreme Court denied petition for review.
12 Plaintiff could not exhaust a remedy which was not available.
13 (*Westlake v Superior Court*, (Calif. Supreme Court) 17 Cal.
14 3d.465 (1976)

15
16 **Venue**
17

18 5. The U.S. District Court Central District of California,
19 Eastern Division is an appropriate venue for this action under
20 28 U.S.C. §1391 (b) (1) because Defendants in their official and
21 individual capacity reside or conduct business in this district.

22 6. The Central District of California is also an appropriate
23 venue under 28 U.S.C. § 1391(b) (2) because a "substantial part
24 of the events or omissions giving rise to the claims occurred in
25 this district.

26 **Parties:**
27

28 **Plaintiff:**

1 7. Plaintiff Jehan Zeb Mir, MD is a physician who became
2 licensed to practice medicine in the State California in 1972.
3 He has been continuously and fully licensed by Commonwealth of
4 Pennsylvania and by the New York State since 1974. He was
5 certified by American Board of Surgery in 1970 and was twice
6 recertified by American Board of Thoracic Surgery in 1993 and
7 2003. He was trained in General Surgery at New York University
8 Medical Center and in Cardiovascular & Thoracic Surgery at
9 University of Pennsylvania Medical Center. He served in US Navy
10 from 1968 to 1972, as a Commander with 13 months tour of duty
11 with First Medical Battalion, First Marine Division in Vietnam,
12 as trauma surgeon in 1969. He had been in practice and on staff
13 of 12 major hospitals in Los Angeles County since 1976 with an
14 unblemished record with no prior disciplinary actions, with no
15 malpractice judgments or settlements and none pending as of this
16 day, before the Defendants took drastic action of termination of
17 staff membership and all staff privileges on August 2, 2005.

18 **Defendants:**

19 8. At all times mentioned in this Complaint, Defendant San
20 Antonio Community Hospital (hereinafter "SACH") has been a
21 private health care facility, accredited by the Joint Commission
22 on Accreditation of Hospitals, doing business at 999 San
23 Bernardino Road, Upland, California, 91786, located within San
24 Bernardino County.

25 9. Defendant Donald Alpiner D.O., is sued in his individual
26 capacity and has his office located at 685 N. 13th Avenue, Suite
27 11, Upland, CA 91786.

1 10. Defendant Nabil Kouksi, M.D. is sued in his individual
2 capacity and has his office located at 811 E. 11th Street, # 207,
3 Upland, CA 91786.

4 11. Defendant Jayprakash N. Shah, MD, is sued in his individual
5 capacity and has his office located at 1520 North Mountain
6 Avenue, # 205, Ontario, CA 91762.

7 12. Defendant Chang-Ti-Hung, M.D. is sued in his individual
8 capacity and has his office at 629N. 13th Avenue, Upland, CA
9 91786.

10 13. Defendant Samir Anabi, M.D. is sued in his individual
11 capacity and has his office located at 160 E. Artesia Street, #
12 225, Pomona, CA 91767.

13 14. Defendant Carl L. Shultz, M.D. is sued in his individual
14 capacity and has his office located at 999 San Bernardino Road,
15 Upland, CA 91786.

16 15. Defendant Naveen Gupta, M.D. is sued in his individual
17 capacity and has his office at 360 E. 7th Street, Suite # B,
18 Upland, CA 91786.

19 16. Defendant Michael N. Wood, M.D. is sued in his individual
20 capacity and has his office located at 1060 E. Foothill, Upland,
21 CA 91786.

22 17. Defendant Wanda B. Olsen, M.D. is sued in his individual
23 capacity and has her office located at 974 W. Foothill Blvd.
24 Upland, CA 91786.

25 18. Defendant Tami Lin Bortolazzo, M.D. is sued in her
26 individual capacity and her current address is at P.O. Box 3269,
27 Mammoth Lakes, CA 93546-3269.

1 19. Defendant Roger D. Duber, D.O. is sued in his individual
2 capacity and has his office located at 685 N. 13th Avenue, Suite
3 # 9, Upland, CA 91786.

4 20. Defendant Mahmoud A. Ibrahim, M.D. is sued in his individual
5 capacity and has his office located at 1175 E. Arrow Highway,
6 Suite # L, Upland, CA 91786.

7 21. Defendant James M. Lee, M.D. is sued in his individual
8 capacity and has his office located at 7777 Milliken Avenue,
9 Suite # 220B, Rancho Cucamonga, CA 91730.

10 22. Defendant Lothar McMillian, M.D. is sued in his individual
11 capacity and has his office located at 7777 Milliken Avenue,
12 Suite # 240, Rancho Cucamonga, CA 91730.

13 23. Defendant Mahmoud Sani, M.D. is sued in his individual
14 capacity and has his office located at 811 E. 11th Street, Suite
15 # 205, Upland, CA 91786.

16 24. Defendant Henry K. Tan. M.D. is sued in his individual
17 capacity and has his office located at 999 San Bernardino Road,
18 Upland, CA 91786.

19 25. Defendant Nedra Vincent, M.D., is sued in his individual
20 capacity and has his office located at 999 San Bernardino Road,
21 Upland, CA 91786.

22 26. Defendant Stanley R. Saul, M.D. is sued in his individual
23 capacity and has his office located at 999 San Bernardino Road,
24 Upland, CA 91786.

25
26 **FACTUAL BASIS FOR CLAIMS**
27
28

1 27. On December 28, 1998, Plaintiff was appointed to the medical
2 staff of the Defendant "SACH", as a Provisional Staff member
3 with privileges in general surgery and was required to work
4 under supervision / proctoring on all of his cases which
5 included performance of surgeries, including preoperative and
6 postoperative care This requirement was still in effect at the
7 time of termination of staff membership and all privileges.

8 **Defendant's Discretion to Establish Reasonable Standards to**
9 **Expel:**

10 28. Under the ¹decisional law of this state of California,
11 Defendant "SAC" Hospital has discretion to establish reasonable
12 standards for determining whether or not physician should be
13 expelled from staff membership and to establish internal
14 procedures for making such a determination. Defendants had
15 discretion to determine the facts as applied in this case to
16 determine whether or not under these standards a ground existed
17 for expelling Plaintiff from the medical staff for Plaintiff's
18 alleged failure to provide care to two patients where no
19 physician-patient relationship ever existed at all between
20 Plaintiff and these two alleged patients whom he did not know or
21 saw what these patients even looked like. In one patient no
22 physician ever requested a consultation with Plaintiff on a
23 Medicare patient as required by law and in other patient he had
24 no vascular surgery privileges to render vascular surgery
25 services or surgery. Furthermore, Plaintiff was not on vascular
26 surgery call in the E.R.-a fact Plaintiff promptly informed E.R.

27
28 ¹. Pinsker v Pacific Coast Society of Orthodontists (1974) 12 Cal. 3d
541,560 116 Cal. Rptr.255

1 Physician who immediately contacted another vascular surgeon
2 Defendant Dr. Nabil Kouddsi who provided care resulting in no net
3 delay or injury to patient and Plaintiff did not jeopardize the
4 quality of medical care to any patients ever at the Defendant
5 "SACH".

6 **Defendant's Duty to Provide a Fair Hearing:**

7 29. Pursuant to Section 32150 of the Health and Safety Code,
8 Business & Profession Code Section 809.3, the decisional law of
9 the State of California, the Defendant's internal procedures for
10 making membership decisions are required to include provisions
11 for a ²hearing at which evidence is taken for the determination
12 of facts on which Defendant's membership decision is based.

13 Defendant's provisions for holding a hearing on the facts
14 relating to a membership decisions are set out in Medical Staff
15 Bylaws provisions attached hereto in the administrative record,
16 to be filed subsequently.

17 **Plaintiff Obtains IPA Surgical Subcontract For \$ 600,000.**

18 30. On or about August 2000, Plaintiff obtained an IPA, surgical
19 subcontract from Inland Global for \$ 600,000.to perform
20 thoracic, vascular and general surgery at the Defendant "SACH"
21 with effect from September 1,2000. This contract was previously
22 held by two White Physicians at the Defendant's medical staff.

23 **Defendants Threaten Plaintiff to Drop IPA Contract:**

24 31. Plaintiff received verbal threats from Defendants to drop
25 the contract or else. In order to interfere with Plaintiff's IPA
26 subcontract, the Defendants or their associates first refused to

27
28 ² Code of Civil Procedure § 1094.5 (d)
Anton v San Antonio Community Hospital (1977) 19 Cal. 3d 802,815-
818 n 12 140 Cal. Rptr.442

1 provide backup coverage, without which Plaintiff could not
2 exercise any of his privileges under Medical Staff Bylaws.
3 Defendant Dr. Koudsi, was serving as Chief of Surgery
4 specifically asked staff surgeon, Dr. Bessman to boycott
5 Plaintiff and not to provide coverage for Plaintiff. Just as
6 Plaintiff found a willing surgeon to provide backup coverage,
7 the Defendants moved to suspend and terminate him.

8 **Special Session of MEDICAL EXECUTIVE COMMITTEE to Discipline**
9 **Plaintiff:**

10 32. On September 18, 2000, hardly two weeks into the IPA
11 subcontract, Defendants summoned Plaintiff and Dr. Autar Wali to
12 appear before its Special Session of "MEC" to discuss Case #
13 255926, a general surgery case, after it had completed its
14 investigation on the issue of lack of Plaintiff's response to a
15 mistaken call from a nurse, where no physician had ever
16 consulted Plaintiff on the case, after the nurse failed to find
17 the surgeon Dr. Autar Wali, who had been consulted by the
18 primary care physician by a written physician order in the
19 medical records .

20 33. Plaintiff was not responsible for providing coverage for Dr.
21 Autar Wali, who was on call for himself for 24 hour period at
22 the Defendant 'SACH'. The Defendants could not find any wrong
23 doing on part of Plaintiff and "MEC" found that it was a case of
24 miscommunication, dismissed the matter and closed investigation.
25 This action by Defendants sitting as members of "MEC"
26 constituted final administrative action and closure of the
27 matter.

28 **Collateral Estoppel:**

34. The Defendants were ³collaterally estopped from re-opening the administratively closed case (Case # 255926) however, subsequently formally brought the same issue as Charge(c) in the Notice of Charges against Plaintiff, as one of two cases.

35. Defendant Dr. Michael Wood testified that September 18, 2000 meeting was the final action for patient (# 255926) forming basis for Charge (c) on the Notice of Charges (T.7, 9/12/01, 897, L3-7) And at that meeting, no adverse action was taken against Plaintiff (T.7, 9/12/01, p. 897, L 24-p.898 L 11)

36. At the meeting, it was also noted that Plaintiff did not have vascular surgery privileges at the Hospital. A fact which made Charge (a) in the Notice of Charges, on the second patient irrational, frivolous and unsupported by any evidence.

Defendants Notified Plaintiff, That He Had no Vascular Surgery Privileges;

37. On September 27, 2000, Defendant Dr. Nabil Kouddi informed Plaintiff by letter that he did not have Vascular Surgery privileges.

Mistaken Call by E.R. Physician on the Same Day Requesting Plaintiff to Perform Vascular Surgery on a Patient:

38. On September 27, 2000, Plaintiff was mistakenly contacted by the E.R. Physician at 9.00 am for a patient in stable condition arriving at 8.34 am. ER with a non bleeding, self inflicted vascular wound of the neck.

39. Plaintiff advised the ER Physician to provide emergency room care by transfusing several units of blood to meet the large deficit for blood lost initially at the scene of self-inflicted

³ Brosterous v State Bar of California 48 Cal.Rptr.2d 87 (Cal. 1995)

1 wound in a motel room, based on paramedic account. Within 20
2 minutes, Plaintiff received a panicky call from O.R. personnel
3 inquiring about the patient upon whom Plaintiff was going to
4 perform surgery as per E.R. Physician because it would have
5 disturbed the ongoing O.R. schedule to accommodate for emergency
6 surgery.

7 40. Plaintiff asked the call to be transferred to E.R. physician
8 and informed him that he had no vascular surgery privileges.

9 41. Plaintiff based upon ⁴standard community practice, his
10 experience as trauma surgeon in Vietnam, and then subsequently
11 in private practice for management of such injuries informed
12 E.R. Physician, that patient was not ready for surgery, needed
13 blood transfusions to meet the large deficit for the blood loss
14 at the scene that the patient needed further investigation and
15 consultations by ENT surgeon; Thoracic Surgeon to rule out
16 other, concomitant injuries within the neck.

17 **E.R. Physician Promptly Called Vascular Surgeon Defendant Koudsi**

18 42. The E.R. Physician immediately called Defendant Dr. Nabil
19 Koudsi, a vascular surgeon who was present in the hospital and
20 assumed care and performed surgery without even transfusing any
21 blood or further investigating or requesting additional
22 specialty consultations as is required by standard community
23 practice.

24 43. As a result, the patient crashed blood pressure upon
25 induction of anesthesia due to a depleted blood volume but
26 somehow luckily survived. Defendant Dr. Koudsi also lucked out,
27

28

⁴ Washington Manual of Surgery, (Administrative Record, pages 504-513)

1 as neck injury was limited to a superficial vein, in the neck.
2 The patient was discharged in two days.

3 **Defendant Dr. Alpiner, Chief of Staff Threatens Summary**
4 **Suspension in Violation of Medical Staff Bylaws & Business &**
5 **Profession Code:**

6 44. On October 5, 2000, Defendant Dr. Donald Alpiner, D.O. who
7 was Chief of Staff at the Defendant "SACH", in order to
8 interfere with Plaintiff's IPA Inland Global subcontract
9 threatened Plaintiff on telephone with summary suspension of all
10 privileges because on September 27, 2000, Plaintiff did not
11 perform timely vascular surgery on the patient with self-
12 inflicted stab wound of the neck. Defendant Dr. Alpiner, a
13 general practitioner was not qualified to determine if patient
14 needed immediate surgery.

15 45. Defendant Dr. Alpiner admitted at the hearing that he was
16 not a surgeon. That after graduating from Osteopathy School, he
17 did a year of internship and right away entered general practice
18 at "SACH". That he did not consult any surgeon on the propriety
19 of 'suspension' and he had no mandate from Medical Executive
20 Committee ("MEC") to institute summary suspension.

21 46. Any suspension was illegal because it was in violation of
22 Medical Staff Bylaws 6.3(a) and Business & Profession Code
23 Section 809.5, requiring 'imminent danger to the life or
24 health' of an individual as a pre-requisite to institute summary
25 suspension when Plaintiff could not have been 'imminent danger
26 to life or health of a patient' where the patient with stab
27 wound of the neck had been at home alive and well for six days
28 and where Plaintiff was working under the direct supervision of

1 the Defendants as a Provisional staff member and Plaintiff had
2 no legal duty or had vascular surgery privileges to perform any
3 consultation or vascular surgery.

4 47. Any suspension would automatically cancel the IPA Inland
5 Global surgical subcontract for failure to provide contracted
6 services.

7 **Defendants Coerced Plaintiff to Relinquish All Privileges under**
8 **threat of Suspension:**

9 48. Defendant Dr. Alpiner was extremely unreasonable, hostile
10 and intent upon summarily suspending Plaintiff's privileges
11 which would automatically terminate Plaintiff's IPA subcontract,
12 for failure to provide contracted services. This would also
13 trigger a filing of Business & Profession Section 805 Report
14 with Medical Board of California which would disseminate such
15 information to hospitals adversely affecting Plaintiff's staff
16 membership and take its own action.

17 49. Defendant Dr. Alpiner placed Plaintiff under tremendous
18 duress, extorted relinquishment of privileges in lieu of a
19 Summary Suspension. This resulted in Plaintiff losing his IPA
20 Surgical Subcontract.

21 50. The contract was assumed by two White Physicians on staff of
22 Defendant "SACH". These physicians had held the same contract
23 previously for years, but regained at a much higher price.

24 **Another Special Session of "MEC" to Discipline Plaintiff:**

25 51. On October 10, 2000, Plaintiff was again called by
26 Defendants to appear before "MEC" to discuss the stab wound of
27 the neck case.

1 52. Plaintiff reiterated above facts and informed Defendants
2 that within 20 minutes of the first call from ER when he
3 suggested to ER physician to transfuse six units of whole blood
4 to meet the deficit, he told E.R. physician that he had no
5 vascular surgery privileges and to call a vascular surgeon. The
6 E.R. physician did promptly call Vascular Surgeon Defendant Dr.
7 Koudsi who immediately took over the case.

8 **Defendants File Business & Profession Code Section 805 report**

9 53. On October 23, 2000, Defendant Dr. Alpiner filed Business &
10 Profession Code Section 805 Report, informing that Plaintiff had
11 relinquished his privileges on October 5, 2000 in the face of
12 investigation into significant quality of care issues involving
13 three patients contrary to what he told Plaintiff and the "MEC",
14 thus adversely affecting Plaintiff's staff membership and
15 privileges at other hospitals. Defendants also improperly filed
16 Report with National Data Bank about Plaintiff's alleged
17 unproven incompetence.

18 **Medical Board of California Found No Wrong Doing, Closed its**
19 **Investigation on Three Cases:**

20 54. The Medical Board of California investigated all three cases
21 reported by Defendants. Medical Board called Plaintiff for an
22 interview and discussed cases. The Medical Board found no
23 culpability on part of Plaintiff and closed its investigation
24 and files on three cares reported by Defendants.

25 **Notice of Charges:**

26 55. On October 30, 2000, Defendants served Notice of Charges on
27 the same three patients.

28 **Judicial Review Hearing:**

1 56. A Judicial Review Committee ('JRC') consisting of three
2 physician members, namely Defendant Dr. Samir Anabi, MD,
3 Defendant Dr. Jay N. Shah MD, and Defendant Dr. Chuang-Ti Hung,
4 M.D was impanelled.

5 57. As a delaying and harassing tactic, Defendants held 15
6 sessions of hearings on frivolous charges. The hearings were
7 held on the following dates; 12/7/00; 1/15/2001; 3/13/01;
8 3/20/01; 6/14/01; 8/30/01; 9/12/01; 11/14/01; 11/28/01;1/23/02;
9 2/6/02; 5/28/02 ;7/30/02; 9/30/02 and 3/4/03.

10 58. A verbatim transcript of the record of the hearing was
11 prepared and was included in the administrative record.

12 **Decision of Judicial Review Committee:**

13 59. On March 4, 2003, Defendants, held its last session when
14 they heard the closing arguments. As a further delaying and
15 harassing tactic, Defendants, issued its Decision on October 26,
16 2004 .Defendants dismissed Charge (b) on one patient with whom
17 Plaintiff did have a physician-patient relationship and found
18 against Plaintiff on Charge (a) and Charge (c) on two patients
19 with whom Plaintiff had no physician-patient relationship as
20 described above.

21 **Defendants Prejudicially Abused Discretion, Denied Fair Trial:**

22 60.. Defendants prejudicially abused discretion in that it
23 failed to proceed according to law and failed to provide
24 Plaintiff a fair trial and made unreasonable findings which were
25 not supported by evidence. Abuse of discretion is established if
26 the Defendants had not proceeded in a manner required by law, or
27 the order or decision is not supported by the findings, or the
28 findings are not supported by the evidence. (CCP § 1094.5 (b))

Defendant's Findings Unsupported by Evidence:

61. The evidence received at the hearing did not support the findings. The Decision is invalid for the following reasons.

The Charge (a) of the Notice of Charges provided,

"On September 2, 2000 at 0834 hours, this patient was brought to the Emergency Department of the Hospital as a result of a self-inflicted stab wound to the neck. **Dr. Mir failed to meet the standard of care in that, despite two Requests from Emergency Room Physician, at approximately 0834 and 0930 Hours, Dr. Mir, the surgeon on call for the Emergency Department, failed to timely come to the Hospital to examine and evaluate the patient. Dr. Mir finally arrived at the Operating Room at approximately 1100 hours when surgery had already begun by another physician ."**

62. Timeline: The Charge was false, frivolous and harassing and unsupported by evidence.

The nurse's notes in the Medical records show that Plaintiff was first contacted at 9.00.a.m. and not at 8.34 am as was alleged. The chest x-ray was taken at 8.45 am and Plaintiff was informed about the negative chest x-ray radiology report by the E.R. Physician on telephone.

63. **Plaintiff Had No Legal Duty To Attend; Was Not on Vascular**

Surgery E.R. Back up Call Panel: The charge is false because

Plaintiff was not on call on E.R. Back up Call Panel for

Vascular Surgery and as per California ⁵decisional law, providing

'if physician is not on call,

⁵ .McKenna v Cedar of Lebanon Hospital (1979) 15 Cal. Rptr. 631, 93 Cal App. 3d 282

1 he has no legal duty to respond.'

2 In fact, Defendants negligently maintained no Vascular Surgery
3 E.R. Back up Call Panel at all. The E.R. Physician Dr. Creagan
4 testified that Vascular Surgeons are contacted on emergency
5 vascular surgery cases on ad-hoc basis, whoever is available and
6 Plaintiff had no vascular surgery privileges.

7 **Plaintiff was called to Perform Surgery & Not Examine and**
8 **Evaluate as Charged:**

9 64. The Charge (a) is false because Plaintiff was not called to
10 examine and evaluate patient as charged. The E.R. Physician Dr.
11 Creagan testified that he was qualified to perform examination
12 and evaluation on this patient which he did perform. That it was
13 his duty as E.R. Physician to examine, evaluate and stabilize
14 the patient even with serious vascular injury. That he had 30
15 year experience as E.R. Physician. That Plaintiff informed him
16 to transfuse blood .That patient did not need another
17 examination and evaluation but needed surgery. That patient
18 definitely had vascular injury. That he called Plaintiff to take
19 patient to surgery. That Plaintiff requested him to call a
20 Vascular Surgeon and a Head and Neck surgeon. That had he known
21 that Plaintiff did not have vascular surgery privileges, he
22 would have called vascular surgeon and he did call vascular
23 surgeon once he became aware of that. That the second phone call
24 was made at 9.30 am when Defendant Koudsi assumed care.

25 **Testimony of Defendant Dr. Koudsi**

26 65. Defendant Dr. Koudsi testified that Plaintiff was called to
27 do surgery and not examine and evaluate the patient as charged.
28

1 66. Defendant Dr. Koudsi was questioned why Plaintiff was needed
2 to examine and evaluate the patient (as alleged) if examination
3 and evaluation had been done by E.R. Physician. Defendant Dr.
4 Koudsi testified "I think Dr. Mir is mixed up about emergency
5 room_physician and specialist on call. ER Physician can evaluate
6 patient but he can't do surgery." (T.3, 3/13/01, p .491, L. 1-8)

7 **Testimony of Defendant Dr. Wood:**

8 67. Defendant Dr. Wood testified, that ER Physician is supposed
9 to evaluate and examine patient and ER physician did examine and
10 evaluate patient. (T.7, 9/12/01,p.943, L 3-9)

11 68. Defendant Dr. Wood testified that the charge of not coming
12 and examining and evaluating the patient would be potentially
13 false, if the emergency room physician wanted Dr. Mir to take
14 the patient to surgery. (T. 7, 9/12/0, p.981, L 24 - p.982,7), (T
15 2.1/15/01, Creagan p.201, L 17-2)

16 **Testimony of Defendant Dr. Alpiner:**

17 69. Defendant Dr. Alpiner admitted that there was no charge that
18 Dr. Mir did not perform surgery. That Dr. Creagan had made the
19 correct diagnosis of the stab wound of the neck. That Dr.
20 Creagan had admitted that it was his responsibility to examine
21 and evaluate the patient. (T.8, 11/14/01, p.1082)

22 70. The charge was unreasonable, because Dr. Alpiner could not
23 explain upon repeated questioning what would be gained by Dr.
24 Mir examining and evaluating patient again. (T.8, 11/14/01
25 p.1082, L. 22 -1085)

26 71. The charge was false because Plaintiff was never asked to
27 examine and evaluate the patient. Defendant Dr. Alpiner did not
28

1 even know, whether a demand had ever been made upon Plaintiff to
2 examine and evaluate the patient. (T. 9, 11/28/01, p 1125, L 17)
3 72. The testimony of Dr. Creagan was read and Defendant Dr.
4 Alpiner was questioned if the nature of dispute between Dr. Mir
5 and Dr. Creagan was made clear to him. **Defendant Dr. Alpiner**
6 **admitted that the nature of the dispute between Dr. Mir and Dr.**
7 **Creagan was clear to him that Dr. Creagan called Dr. Mir to take**
8 **patient to surgery.** (T.8.11/14/01 p.1094, L 14- 18, 1096, L7-
9 11).

10 73. Defendant Dr. Alpiner even did not know if the patient was
11 ready for surgery at 0830, or 0930.Hour. (T.9 11/28/01,.p.1130,
12 L 4-25)

13 74. Defendant Dr. Alpiner was questioned whether it was true
14 that not transfusing blood to the patient would jeopardize the
15 patient, and not Dr. Mir coming in at 10.30-10.15.am. Defendant
16 Alpiner testified, "One may consider that, yes "(T.9, 11/28/01,
17 p.1131, L 20)

18 75. Dr. Alpiner admitted that he called Plaintiff on October 5,
19 2000 to institute summary suspension for not doing timely
20 surgery.

21 76. Dr. Rene Umali, a Loma Linda medical graduate and a surgeon
22 testified on behalf of Plaintiff and testified that when a
23 physician signs in the Medical Staff application, the physician
24 agrees to abide by the medical staff bylaws, that physician
25 shall practice within the privileges awarded and if a surgeon
26 does a procedure for which he has no privileges, that's a cause
27 for disciplinary action. That Plaintiff besides not having
28 vascular surgery privileges, was still working under proctoring

1 [direct supervision of defendants] and would require a proctor
2 on site to supervise whatever he was going to do in a major case
3 like this. (T.14, 9/30/2002 ,p.1696, L11-p.1698, L1). That the
4 vascular surgeon agreed to come in immediately after the E.R.
5 physician agreed to call the vascular surgeon, so there does not
6 seem to be an issue in regards to whether or not Plaintiff did
7 not agree to go to the E.R. Plaintiff did agree to go to the ER
8 initially, the consultant was changed ,thus relieving Plaintiff
9 of the responsibility. (T.14, 9/30/02, p.1665, L14-p.1666,L 16)

10 77. Emergency Room physician Dr. Creagan testified that in all
11 his years at SAC Hospital, he was unaware of any E.R. Vascular
12 Surgery Back up on Call Panel. That vascular surgeon is most
13 qualified to attend vascular injury patient. (T. 2, 1/15/01, p.
14 185). Had he known that Plaintiff did not have vascular surgery
15 privileges, he would have called someone else. (T.2, 1/15/01,
16 p. 202, L 20).

17 78. Defendants were negligent for not having a Vascular Surgery
18 ER Backup Call Panel and for not notifying the E.R. which
19 physicians had the vascular surgery privileges.

20 79. Defendants were setting up Plaintiff. Defendants knew that
21 Plaintiff had no vascular surgery privileges. If Plaintiff by
22 mistake provided any services to this patient needing vascular
23 surgery or care, then Defendants could charge him for violating
24 the scope of his privileges and expel him from staff. That did
25 not happen, so they deceptively tried the other trick, that
26 Plaintiff did not come to E.R. and evaluate the patient.

27 80. Defendants also tried to make Plaintiff a scapegoat for its
28 gross negligence and gross violation of law .The Defendants

1 violated Title 22,70415 (a)(3) when it did not develop a roster
2 of specialty physicians available for consultations at all times
3 and its responsibilities under Medicare Participation in
4 Emergency Cases (EMTALA), Tag A 404 to provide with an on call
5 list of physicians specialties (Under interpretive guidelines,
6 489.20(r)(2),) According to Dr. Rodereick Hinshaw of Department
7 of Health Services if a hospital offers a service to public, the
8 service should be available through the on call coverage of the
9 emergency department. Defendant "SACH" accepted patients with
10 vascular emergencies, yet did not comply with the law.

11 81. The Charge (c) of the Notice of Charges provided,

12
13 "The patient was brought to the Emergency Department by
14 paramedics on September 10, at 1400 hours. On September 11
15 , 2000 at 2200 hours. Dr. Mir was contacted by pager and
16 stated that he would see the Patient "tomorrow".

17 **He failed to meet the standard of care in that he**
never came to examine the patient. (Emphasis added)

18 82. The charge was utterly false and unsupported by any evidence
19 whatsoever because primary care physician Jin Wang's wrote a
20 physician order in the medical records requesting a private
21 Surgical Consultation with another surgeon Dr. Autar Wali.

22 83. Dr. Jin Wang never wrote an order requesting consultation
23 with Plaintiff in the medical records for or verbally requested
24 Plaintiff to see the patient for a consultation as is required
25 in Medical Staff Bylaws.

26 **Call from Nurse:**

27 84. The nurse David Deoung, R.N. after failing to get a call
28 back from Dr. Autar Wali called Plaintiff to find out if

1 Plaintiff was covering Dr. Autar Wali. Dr. Autar Wali was on
2 call at that time for himself at Defendant "SACH" emergency room
3 for 24 hour period when the nurse called Plaintiff.

4 85. No evidence was ever presented at the hearing that Plaintiff
5 either covered Dr. Wali or any physician including Dr. Autar
6 Wali ever requested a surgical consultation by the Plaintiff on
7 this case. The nurse had no authority to request a consultation.
8 (T.7, 9/12/01, *Wood*, p 906, L5-p.907, L 16; T 7 p.911-L17-21)

9 **No Primary Care Physician's Request for a Surgical Consultation**
10 **with Plaintiff and No Physician-Patient Relationship**

11 **Established:**

12 86. No physician -patient relationship was ever established
13 between Plaintiff and the patient under HIPAA and Defendant
14 "SACH" Rules and Regulations and the admissions by Defendant's
15 witnesses.

16 87. The HIPAA (Medicare) requires a referring physician to
17 request a formal consultation in order to authorize a consultant
18 to see the patient. Furthermore, Plaintiff would violate strict
19 privacy laws protecting patient's rights by going through the
20 medical records of the patient, without primary care physician's
21 authorization.

22 88. Defendant "SACH" Rules and Regulations provide that the
23 physician must contact the consultant personally. (T 1. p.109, L
24 110-p.110, L 11-20)

25 89. There was no evidence that Dr. Jin Wang ever personally
26 contacted Plaintiff or wrote an order in the medical records
27 requesting surgical consultation with Plaintiff as stated above.

28 **Primary Care Physician Requested A New Surgical Consultation**

1 **With Defendant Dr. Koudsi & Not Plaintiff:**

2 90. Even on the following day, on September 12, 2000, when Dr.
3 Jin Wang found out that patient had not been seen by Dr. Autar
4 Wali, the night before on September 11,2000, he requested a
5 brand new consultation with Defendant Dr. Koudsi and not with
6 the Plaintiff. That further proved that Dr Jin Wang never
7 intended or expected any surgical consultation with Plaintiff
8 the night before.

9 91. Defendant Dr. Koudsi testified that there was nothing in the
10 "MEC"'s Investigative Report that Dr. Mir was contacted next day
11 on September 12, 2000. (T 3, 3/13/01, p 451, L 6-14). Dr.
12 Koudsi testified that if the consultation had been made with Dr.
13 Wali, it look like it was his (Dr. Wali) patient.

14 (T.3, 3/13/01, p 429, L 18-430, L13)

15 92. Defendant Dr. Wood testified that he did not see anywhere a
16 consultation made out to Dr. Mir. That the consultation was made
17 to Dr. Wali .That Dr. Wali was on call for himself on September
18 11, 2000, in the emergency room at San Antonio Community
19 Hospital.

20 93. Defendant Dr. Wood admitted that it would be inappropriate
21 for Dr. Mir to see a patient on consultation which had been made
22 to Dr. Wali and he was on call unless that doctor was covering
23 for Dr. Wali. (T. 7, 9/12/01. p.907, L12 through p.908, L15)

24 94. Defendant Wood testified that he would not see a patient on
25 consultation without referring physician calling him for
26 consultation and he would not see a patient if request was made
by a nurse. (T. 7. 9/12/01.p. 902, L 4-18)

27 95. Defendant Dr. Alpiner, admitted that there was no evidence
28 that Dr. Mir covered Dr Wali. (T.10, 1/23/02, p 1318, L 14-

16).Dr. Wali had back -up coverage by Dr. Koudsi and Dr. Bressman. (T 3, 3/13/01, p. 427, Exhibit # 23)

The Crux of the Charge that Plaintiff Never Came to See Patient Next Day was Irrational and Factually False:

96. The Physician Back up Coverage routinely ends at 7.00 a. m. the physician is then responsible for continuing care on his / her patients or consultations. The charge that Plaintiff never came to see patient the following day ("tomorrow") is irrational because Plaintiff was not never consulted by the primary care physician in the first place and was not required to see patient at all and assuming even if he was covering for Dr. Autar Wali, he would not be responsible for providing care beyond 7.00 am on the following day when Dr. Autar Wali would assume care.

97. The crux of the Charge (c) that the Plaintiff never came to see patient the following day was also factually false because Plaintiff out of curiosity did stop by the following day to find out what had happened. Plaintiff found that Dr. Jin Wang had consulted Defendant Dr. Koudsi who was planning surgery on the patient.

98. A Letter from Elsa Ornelas, RN stated that she saw Dr. Mir at the unit, asking about the patient on September 12, 2000, but the patient had already been taken to surgery by Defendant Dr. Koudsi.

99. Defendant Dr. Koudsi testified that Dr Mir came to see the patient next day.(September 12,2000) That he had not yet started the surgery, when Dr. Mir offered to assist him at surgery, but he had already called Dr. Beseth to assist him. (T. 3 , 3/13/0, p. 460, L 19,20; p.451,23-25-452, L 1-4)

Defendants Abused Discretion Amended Charge(c) After the Close of the Hearing, in Violation of Medical Staff Bylaws:

100. Defendants abused discretion amended the charge (c) without authority that Plaintiff should have seen the patient that night in violation of Section 7.3.4 of Medical Staff Bylaws, providing that charges cannot be amended after close of the hearing.

The Amended Charge Unsupported By Evidence:

101. Furthermore, this amended Charge (c) was irrational and contrary to the evidence.

102. Plaintiff could not have seen without request for consultation by the primary care physician Jin Wang as stated above. However, the Nurse Deoung R.N. testified that he did not call the primary care doctor that night that Dr. Mir was going to come" tomorrow " and not see patient that night because patient had been there for a couple of days and he saw no change .That if Dr. Mir saw the patient by 10. 00 am or so when he made rounds, it would still be Okay because patient was pretty much stable, not complaining of any pain and he knew the patient very well. He testified that there were no pressing circumstances for Dr. to be there right there.

(T.1, 12/7/00, p.111, line 13- 122, line 21)

103. The Defendants prejudicially abused discretion in that it failed to proceed according to law and failed to provide Plaintiff a fair trial in that it required Plaintiff to provide treatment, where he was not consulted by any physician. Plaintiff without a request for consult, had no work order or no legal authority to provide care or could have any physician-patient relationship, or could breach the privacy and confidentiality of patient's medical records. The requirement of a request for consult before providing any care are mandatory

1 under Medicare Regulations for this Medicare patient. The
 2 findings by JRC on Charge (c) of the Notice of Charges are
 3 unreasonable, capricious, arbitrary and unsupported by any
 4 evidence.

5 **Defendants Abused Discretion In Upholding Summary Suspension:**

6 104. Defendants abused discretion, denied fair trial by
 7 upholding 'summary suspension' when no 'summary suspension' had
 8 been instituted in lieu of Defendants coercing the Plaintiff to
 9 relinquish his privileges. Regardless, the Defendants had no
 10 grounds to threaten summary suspension, because Plaintiff could
 11 not be 'imminent danger' to a patient who had been home for six
 12 days in violation of Medical Staff Bylaws Section 6.3.1, and
 13 Business & Profession Code Section 809.5, requiring 'imminent
 14 danger 'to life and health of an individual as a prerequisite to
 15 any suspension. Defendants upheld summary suspension to justify
 16 their own wrongful actions.

17 105. Furthermore, Plaintiff could not be any danger 'imminent
 18 'or otherwise to any patient because he was working under the
 19 direct supervision of the Defendants as a provisional staff
 20 member. Defendant Dr. Koudsi testified that new members
 21 (provisional) cannot do surgery without a proctor.(T.3,
 22 3/13/01, p 471,L 7-10).

23 106. Defendant Dr. Alpiner was not qualified to determine if
 24 patient needed immediate surgery. He never consulted a surgeon
 25 and he had no mandate from "MEC". The⁶ procedure employed by the
 26
 27

28 ⁶ Appelbaum v Board of Directors of Barton Memorial Hospital 104 Cal.
 App. 3d 648; 163 Cal. Rptr 831

1 Defendants in suspending Plaintiff's privileges was outrageously
2 unfair.

3 **Defendant "SACH" Paid Money to other Defendants In Violation of**
4 **Medical Staff Bylaws:**

5 107. The Defendant "SACH" in bad faith corrupted and paid money
6 to Defendants Dr. Samir Anabi, Dr. Jayprakash N. Shah and Dr.
7 Chuang-Ti-Hung who were members of the Judicial Review Committee
8 in violation of Medical Staff Bylaws which require service on
9 the JRC on voluntary basis and refused to provide the accounting
10 of the money paid to these Defendants.

11 **Defendants Caused Inordinate Delay in Conducting Hearings In**
12 **Order To Cause Harassment & Delay & to ever Exclude Plaintiff**
13 **from Practice:**

14 108. Defendants in bad faith procrastinated hearings for 5 years
15 for trying frivolous charges. The Defendants issued its Decision
16 on October 26, 2004, one year and six months after the final
17 adjournment of the hearing on March 4, 2003 when closing
18 arguments were held. This was in violation of Section 7.3.21, of
19 Medical Staff Bylaws, which require that JRC render its Decision
20 within 15 days of its final adjournment.

21 109. Defendants had already secured exclusion of Plaintiff from
22 practice of medicine by extorting relinquishment of all
23 privileges under threat of 'summary suspension'. The delay over
24 5 year period in completing hearing process on frivolous charges
25 was just another attempt to ever exclude Plaintiff from entering
26 practice and effectively delaying judicial review by California
27 courts.

28 **Defendants Denied Fair Trial By Appointing JRC Member on "MEC":**

110. Defendants prejudicially abused discretion, denied fair trial and violated Plaintiff's fair procedure rights to an impartial tribunal by virtue of a practical probability of unfairness when it appointed J.R.C. member Defendant Dr. Jay Shah to the Medical Executive Committee to represent its interests on the JRC's deliberation process to prevent fair trial prohibited by California⁷ decisional law. Defendant Dr. Jayprakash Shah then reviewed its own Decision as a member of "MEC".

Defendants Denied Fair Trial By Repeatedly Producing Perjured Testimony.

111. As a further demonstration of bad faith, and denial of fair trial, the Defendants repeatedly recklessly, produced perjured testimony by its witnesses without any fear, guilt or compunction.

112. Defendant Dr. Koudsi was questioned if the E.R. Physician told him that Dr. Mir had asked the E.R. Physician to call a vascular surgeon. Dr. Koudsi twice falsely testified, "He did not" (T.3, 3/13/01, p 479, 22-p. 480, L.2)

Defendant Koudsi was impeached by his own Incident Report and the "MEC"s Q/A Investigative Report which provided that the emergency room physician was asked by Dr. Mir to get a vascular surgeon. (T.3. 3/13/01, p 479, L. 22 - 483, L. 2) Incident Report "MEC" ,Investigative report)

⁷ . Applebaum v Board of Directors of Barton Memorial Hospital (1980, 3rd.Dist)

104 Cal. App.3d 648; 163 Cal.Rptr.831

1 113. Defendant Dr. Koudsi testified that he had given vascular
2 surgery privileges to Plaintiff in order to stick the Charge in
3 case of the self-inflicted stab wound of the neck and was
4 impeached by his letter dated September 27, 2000, the very day
5 of the incident to Plaintiff providing that Plaintiff had no
6 vascular surgery privileges. (T. 3, 3/13/01, p 467, L 11-12 -
7 469, L 11-12)

8 114. According to plan, Dr. Creagan testified that Plaintiff
9 never told him to call a vascular surgeon. (T. 2, 1/15/01, page
10 192, L 24- 193, L) Dr. Creagan admitted that he had talked to
11 Defendant Dr. Koudsi about the incident and discussed the
12 matter. (T. 2, 1/15/01, p 193, 20-22).

13 115. The Incident Report prepared by Defendant Dr. Koudsi, was
14 based upon his conversations with Dr. Creagan. The incident
15 report showed that Dr. Mir had asked Dr.Creagan to call a
16 vascular surgeon.(T. 2, 1/15/01, p 195, 6-7, *Supra* Exhibit 40,
17 Incident Report)

18 **Defendants Denied Fair Trial By Appointing an In House Hearing**
19 **Officer;**

20 116. Plaintiff moved to disqualify the Hearing Officer on the
21 grounds that Hearing Officer had prior professional associations
22 with the hospital attorney who got him this job. Defendants
23 provided additional economic incentive to the Hearing Officer by
24 appointing him as a Hearing Officer on another concurrent
25 lengthy peer review matter, at the hospital.

1 117. This repeat financial interest is prohibited by ⁸California
 2 Decisional Law, where the hearing officer controls the factual
 3 scenario of the case by ruling on the admissibility of evidence
 4 as is evident from facts below.

5 **The Defendants / Hearing Officer Prejudicially Abused Discretion**
 6 **& Denied Fair Trial By Repeatedly Excluding Relevant Evidence:**

7 118. The Section 7.3.16 of Medical Staff Bylaws provides that
 8 any relevant evidence including hearsay shall be admitted which
 9 responsible persons are accustomed to rely on the conduct of
 10 serious affair. The Defendants / Hearing Officer prejudicially
 11 abused discretion, denied fair trial by excluding relevant
 12 evidence, prejudicing Petitioner.

13 119. The Defendants / Hearing Officer excluded ER Back up On
 14 Call schedules showing Plaintiff was on not on call for Vascular
 15 Surgery on September 27, 2000, when the neck wound patient
 16 arrived.

17 120. The Defendants / Hearing Officer excluded Defendant "SACH"
 18 's OR Schedule showing that Plaintiff was in the Hospital doing
 19 surgery till 9.30 pm, rebutting Nurse Deoung testimony that
 20 Plaintiff did not respond to calls during that time.

21 121. The Defendants / Hearing Officer excluded letter of
 22 termination of IPA Surgical Contract, dated October 6, 2000,
 23 based on Plaintiff's relinquishment /suspension of privileges,
 24 on October 5, 2000 thus providing a nexus and a motive for
 25 Defendants to threaten summary suspension to interfere with

26 ⁸ Haas v City of San Bernardino 27 Cal. 4th 1017, 119 Cal. Rptr, 2d
 27 341 (May 2002)

1 contract and extort relinquishment of privileges rather than
2 patient safety.

3 122. The Defendants / Hearing Officer excluded 4 written expert
4 opinions with verifications, sent directly to the Medical Staff
5 Office, including opinion from his attorney based on McKenna.

6 123. The Defendants /Hearing Officer denied Plaintiff's motion
7 to exclude Inland Global on Call Schedule on the ground of
8 relevancy to Charge(c) that it was not available on September
9 11, 2000 and was irrelevant to patients who had been directly
10 consulted by primary care physician as per letter from Dr. Atil.
11 Dr. Jin Wang had directly consulted with Dr. Autar Wali on this
12 patient and Inland Global Schedule had nothing to do with that.

13 124. Defendant Dr. Wood testified that he had done over 100
14 general surgery cases in the prior year in order to qualify as
15 an expert. Plaintiff had never seen his name on the O.R.
16 schedule doing any general surgery. Plaintiff requested Deborah
17 Nicols, Director Medical Staff Office to provide list of general
18 surgery cases done by Defendant Wood in the past 5 years in
19 order to impeach his testimony.

20 The Defendants / Hearing Officer ruled against it on grounds of
21 relevancy, thus preventing impeachment.

22 125. The Defendants / Hearing Officer denied Plaintiff's motion
23 to exclude testimony of Nurse David Doung on the ground of
24 relevancy, because Nurse Doung was not present on the day when
25 Plaintiff was supposed to see patient, the gravamen of the
Charge (c).

26 126. The Defendant / Hearing Officer excluded Plaintiff's
27 Exhibit, a letter from Dr. Bressman showing that before
28 Defendants took action, Defendant Dr. Koudsi forced Dr. Bressman

1 to boycott Plaintiff and to drop back up coverage for Plaintiff,
2 after he had agreed to cover, showing bad faith, hostility and
3 motive to interfere with Plaintiff's IPA Inland Global Surgical
4 Subcontract and basis for discipline. Defendant Dr. Koudsi
5 prepared the letter on SAC Hospital stationery for Dr. Bressman
6 to sign. The Hearing Officer then denied Plaintiff's request to
7 call Defendant Dr. Koudsi and Dr. Bressman as witnesses to
8 testify on the facts.

9
10 127. The Defendants / Hearing Officer excluded a letter from
11 Medical Board of California dismissing charges, based upon its
12 independent investigation and closing its file on three cases
13 subject of Notice of Charges against Plaintiff by the Hospital.

14 128. The Defendants / Hearing Officer excluded Medical Records
15 of three patients who were subject of the Charges and the
16 hearing, where these records had been admitted into evidence by
17 stipulation of the parties.

18 129. The Defendants serving on JRC received money from Defendant
19 "SACH", in violation of Bylaws which provide that such services
20 on the JRC are on voluntary basis. The Defendants /Hearing
21 Officer denied request that MEC provide full accounting of money
22 paid to JRC members by the Hospital.

23 130. The Defendants / Hearing Officer denied request to
24 disqualify Defendant Dr. Jayprakash N. Shah who was also member
25 of "MEC" and represented "MEC"s interests on JRC.

26 131. Defendants coerced Plaintiff to extort relinquishment of
27 privileges in order to interfere with the Plaintiff's IPA,
28 surgical subcontract, caused boycott, filed Business &
Profession Section 805 Report and reported to National Data

1 Bank, in order to injure Plaintiff's reputation and standing in
2 the community and his staff membership and privileges at other
3 hospitals.

4 132. Defendants harassed and delayed hearings for 5 years on
5 frivolous charges, deprived him of his livelihood, denied fair
6 trial and made irrational findings unsupported by evidence, all
7 in violation of Business & Profession Code § 16721 (d), and Civil
8 Code Section 51, (Unruh Civil Rights Act) predicated on
9 Plaintiff's race, national origin, ethnicity and religion. His
10 contract was taken over by two White surgeons who had held this
11 IPA contract previously but at a greatly increased price, in
12 violation of Business & Profession Code Section 16720.

13 133. Defendants used peer review process discriminatively by not
14 taking action against other physicians for providing far serious
15 substandard medical care in the same three patients, on which
16 Plaintiff was charged and was terminated on two of them e.g.
17 Defendant Dr. Koudsi improperly performed surgery on self-
18 inflicted stab wound of the neck case without transfusing blood
19 and doing necessary investigations.

20 134. Plaintiff had no plain, speedy, or adequate remedy in the
21 ordinary course of law.

22 135. As a result of the fact that Plaintiff had been deprived of
23 membership on Defendant "SACH" medical staff as well as other
24 hospitals, Plaintiff had been denied the right to fully practice
25 the profession of medicine and suffered a detriment to a
26 substantial economic interest.

27 136. Defendants like Plaintiff were also staff of its sister
28 Hospital, Pomona Valley Hospital ("PVH"). By virtue of Business

1 & Profession Section 805 report, "PVH" reopened a twice peer
2 reviewed closed and cleared chart on one patient (GF) and
3 suspended vascular surgery privileges and refused to provide
4 'acts and omissions'.

5 137. Defendants enjoy a great influence on State Court system,
6 its judges and justices. Defendant requested 'Injunctive Relief'
7 against "PVH" because there was no 'imminent danger 'to anyone
8 and Plaintiff could not be threat to anyone as he was working
9 under the direct supervision or proctorship of the "PVH"
10 surgeons as a provisional staff member.

11 138. "PVH" opposed because Plaintiff had not exhausted
12 administrative remedies. The superior court also denied for the
13 same reason.

14 139. In retaliation "PVH" terminated all privileges and staff
15 membership and again refused to provide 'acts or omissions'.

16 140. Plaintiff requested 'declaratory relief' in superior court
17 for "PVH" to provide 'acts or omissions' as provided under
18 medical staff bylaws and Business & Profession Code and under
19 issue specific California case law Rosenfeld v Superior Court,
20 (1991) 231 Cal. App. 3rd 1434) in which the Fountain Valley
21 Hospital had refused to provide Dr. Rosenfeld 'acts or
22 omissions' and Court of Appeal found that due process required
23 that physician is provided 'acts or omissions' in order to
24 defend himself, that physician is not left to guess.

25 141. "PVH" opposed on the ground that Plaintiff had not
26 exhausted administrative remedies and made a motion to find
27 Plaintiff vexatious litigant because Plaintiff could not afford
28 to retain an attorney and had represented himself.

1 142. Superior Court Judge Sohagian held lengthy oral arguments
2 on this issue and could not find Plaintiff vexatious litigant
3 and took the motion off calendar making it un-appealable. The
4 court denied declaratory relief on the ground Plaintiff had not
5 exhausted administrative remedies.

6 143. Plaintiff had an action for payment of fees for covering
7 E.R. pursuant to written agreement against Charter Suburban
8 Hospital, Paramount, CA ("CSH").

9 144. The 'CSH' attorneys Rushfeld, Shelly & Drake got wind of
10 "PVH" motion to find Plaintiff a vexatious litigant and filed
11 upon judge shopping two successive motions to find Plaintiff
12 vexatious litigant successively before two different superior
13 court judges and both denied the motion to find Plaintiff
14 vexatious litigant.

15 145. Plaintiff retained attorney King and appealed. "PVH"
16 without standing filed cross appeal to find Plaintiff vexatious.
17 The Court of appeal denied relief to order "PVH" to provide
18 'acts or omissions'.

19 146. The Court of Appeal could not take up "PVH" appeal and
20 without tentative, Notice or order to show cause took upon its
21 own motion to find Plaintiff vexatious based on same cases on
22 which three superior court judges had denied the motion to find
23 vexatious litigant.

24 California Code of Civil Procedure § 391 (b) (1) provides,
25 " In the immediately preceding seven-year period has commenced,
26 prosecuted, or maintained in propria persona at least five
27 litigations other than in a small claims court that have been
28 (i) finally determined adversely to the person or (ii)

1 unjustifiably permitted to remain pending at least two years
2 without having been brought to trial or hearing."

3 147. The Court of appeal did not have five cases in seven years
4 determined finally and adversely to Plaintiff as pro-per. The
5 Court of Appeal relied on one personal injury case (Mir v Little
6 India Grill) which was more than seven years old as shown by the
7 dates on the opinion itself. Two other cases (Mir v FHP, Inc.
8 and Mir v Green) had been settled three years earlier and in
9 one case (Phoenix Healthcare Consulting v Mir) Plaintiff was a
10 defendant as is implied by caption of the case ,cited by the
11 court. In another case(Mir v U.S. Navy),was filed by Plaintiff
12 to protect statutes on the last day of expiration of statutes in
13 Los Angeles after he found out that his attorney in Washington
14 ,D.C. had not filed the action. However, Plaintiff's attorney in
15 Washington D.C. was also able to file in Washington D.C. on the
16 same day by mail drop method at 10.00 p.m. Once confirmed,
17 Plaintiff tried to find attorney in Los Angeles and could not.
18 Plaintiff changed attorneys in Washington, D.C. and dismissed
19 the Complaint in Los Angeles. The Court of Appeal held that
20 dismissal against Plaintiff. Nonetheless, Court of appeal had
21 nothing close to five cases in seven years determined adversely
22 finally against Plaintiff to find Plaintiff vexatious. The Court
23 of Appeal also improperly used Section 391(b) (2); (3); (4) by
24 citing cases in which Plaintiff was represented by attorneys or
25 Plaintiff had prevailed with no mention of "PVH" under these
26 subsections against Plaintiff. A subsequent Court of Appeal
27 Opinion (Lucket v Panos, 161 Cal. App. 4th 77, 73 Cal. Rptr. 3d.
28 745, 2008) provided that Section 391(b) (2); (3); (4) only apply

1 to the instant litigation which would be "PVH" in this case and
2 not to other cases.

3 148. Just as Court of Appeal issued its opinion, "PVH"
4 immediately terminated hearing process without hearing ever
5 getting started and reported to medical board of California.
6 On one hand "PVH" and Court of Appeal denied relief for not pro
7 viding acts or omissions and on the other hand blocked
8 Plaintiff's right of access to the court.

9 149 In 2012 CCP. § 391.8 were added to allow vexatious litigants
10 to have the stigma removed by showing material change. Plaintiff
11 applied to Court of Appeal that he had filed only one case in
12 pro-per in seven years and that case was settled close to amount
13 prayed in the complaint. That writ petition against San Antonio
14 Community Hospital did not count because court never acquired
15 jurisdiction because the writ petition was not allowed to be
16 filed. (**Fink v Shemtov** (180 Cal. App. 4th 1160, 1172; 103 Cal.
17 Rptr. 3d 509, 517, 2010 Cal. App. LEXIS 1, 22)... We hold the
18 summary denial of a writ petition does not necessarily
19 constitute a litigation that has been "finally determined
20 adversely to the person" within the meaning of *section 391,*
21 *subdivision (b) (1).*)

22 The Court of Appeal promptly summarily denied.

23 150. On July 31, 2009, Plaintiff filed writ of administrative
24 mandamus with the San Bernardino County Superior Court (Rancho
25 Cucamonga; CIVRS 908494).

26 151. The superior court stayed action and ordered Plaintiff to
27 obtain a pre-filing order from the presiding judge of the court.

28 152. The presiding judge even before receiving the Opposition by
the defendant "SACH" promptly denied pre-filing without making a

1 finding that the writ was filed for purposes of harassment or
2 delay and was unmeritorious as the presiding judge was required
3 to find under California Code of Civil Procedure Section
4 391.7(b) providing, " The presiding judge shall permit the
5 filing of that litigation only if it appears that the litigation
6 has merit and has not been filed for the purposes of harassment
7 or delay."

8 153. Plaintiff requested pre-filing order with Court of Appeal
9 4th District, Division 2. Defendant "SACH" opposed.

10 154. On February 11, 2010 Presiding Justice Ramirez found that
11 it was not clear why the pre-filing order had been denied by the
12 presiding judge and vexatious litigant has right to petition
13 presiding judge... for permission to file any litigation he
14 chooses.... (citation)... the presiding judge should rule on
15 application for pre-filing order and granted pre-filing order to
16 file appeal.

17 155. The Defendant "SACH" repeatedly opposed filing of writ
18 petition at the superior court for judicial review of its quasi-
19 judicial decision pursuant to California Code of Civil Procedure
20 Section 1094.5 and opposed filing of appeal and the appeal
21 itself thus subverting due process, as it had done during the
22 Hospital proceeding.

23 156. The pre-filing order was not required because Plaintiff was
24 defendant in the underlying quasi-judicial proceeding and
25 continued to be a defendant on judicial review of the same
26 decision by the defendant "SACH" and he had not commenced the
27 action. Plaintiff was only in the court for the acts of the
28

1 Defendants and he tried to "undo" the effects of Defendant's
2 actions. (*Mahdavi v Superior Court* (2008) 166 Cal. App. 4th 32)
3 157. The broad power of judicial review is based on the
4 consideration that administrative agencies do not possess full
5 judicial power, in the constitutional sense, such power being
6 vested solely in the courts of record (Cal. Constitution Art.
7 VI, § 1,) ***Bixby v Pierno*** 4 Cal. 3d 141 144) but also stems from
8 recognition of the dangers inherent in a system where
9 administrative agencies investigate their own cases, institute
10 and prosecute them, and then render the ultimate *quasi-judicial*
11 decisions. (***Guyman v Board of Accountancy*** (1976) 55 Cal. App. 3d
12 1010.

13 158. In judicial review of administrative decisions the court
14 undertakes a unique, supervisory role in reviewing the quasi-
15 judicial decisions of administrative agencies- agencies, it must
16 be emphasized, lack judicial power that is rooted in the
17 constitution. (***Wendigo Mills v Unemployment Insurance Appeal Bd.***
18 (1979) 92 Cal. App.3d 586 596.

19 159. On October 18, 2011, the court of Appeal denied because
20 Plaintiff had not filed California Judicial Council Form MC-701
21 with the presiding judge. Form MC 701 is only for Optional use
22 as per California Judicial Council and Form MC 701 was not an
23 issue on appeal.

24 160. The Court of Appeal like the presiding judge of superior
25 court did not make finding pursuant to California Code of Civil
26 Procedure Section 391.7(b) that presiding judge denied pre-
27 filing order because writ petition was unmeritorious and was
28 filed for harassment and delay.

1 161. On January 25, 2012, the California Supreme Court denied
2 Petition for Review (S 197851)

3
4 **FIRST CLAIM**
5 **INTENTIONAL INTERFERENCE WITH RIGHT**
6 **TO PRACTICE A PROFESSION**
7 **(42 U.S.C. § 1983)**

8 **(AGAINST ALL DEFENDANTS)**

9 Plaintiff incorporates, re-alleges paragraphs 1-161 of the
10 Complaint and alleges:

11 162. That Defendants acting individually and in concert with
12 each other intentionally interfered with Plaintiff's
13 constitutionally protected right to practice medicine and
14 exercise his property rights by threatening, coercing to
15 relinquish all privileges under threat of summary suspension
16 which would adversely affect Plaintiff his right to practice
17 medicine at other hospitals before Plaintiff even had a hearing

18 163. Plaintiff in order to limit damage relinquished all
19 privileges but Defendants called it summary suspension and
20 reported to medical board of California and other hospitals
21 particular its sister hospital Pomona Valley Hospital, Pomona ,
22 California which also suspended and terminated Plaintiff without
23 giving 'acts or omissions' and a fair hearing and reported to
24 medical board.

25 164. Even though medical board of California promptly dismissed
26 all charges Defendants had complained of in the Notice of
27 Charges, the Defendants in order to delay harass and injure
28 Plaintiff continued to prosecute and held proceedings lasting
for five years on Charges which the Defendants knew were false
and frivolous.

1 165. The Charges were related to two patients with whom
2 Plaintiff had no physician-patient relationship and Plaintiff
3 had no legal authority or request for Consultation by any
4 physician to see one of the two patients. The patient belonged
5 to primary care physician who had requested a private
6 consultation with another surgeon Dr. Autar Wali and Plaintiff
7 had no agreement with Dr. Wali to provide surgical coverage for
8 him. Dr. Wali was covered by Defendant Dr. Koudsi. The primary
9 care physician after failing to contact Dr. Wali requested
10 consultation with Defendant Dr. Koudsi who performed surgery on
11 the patient.

12 166. The Defendants in bad faith tried to set up Plaintiff to
13 provide vascular surgery services to an E.R. patient which they
14 knew would exceed the scope of his privileges at the hospital
15 and would be a ground for disciplinary action by the Defendants
16 and the medical board of California.

17 167. When Defendants failed in that endeavor, they falsely
18 charged Plaintiff that he did not come to evaluate patient where
19 Plaintiff was not on call in the E.R. for vascular surgery and
20 had no vascular surgery privileges. Plaintiff had no legal duty
21 to provide any coverage and where E.R. Physician admitted that
22 he had 31 year experience of working in the E.R. and he had
23 evaluated the patient and he had called Plaintiff to take
24 patient to surgery and not to evaluate the patient and if he had
25 known that Plaintiff did not have vascular surgery privileges,
26 he would have not called Plaintiff, that there was no delay in
27 getting Defendant Dr. Koudsi who was present in the Hospital at
28 that time and saw patient.

1 168. Defendants in bad faith prosecuted the matter for five
2 years on these two issues in order to delay, harass and in order
3 to prevent Plaintiff seeking timely judicial remedy to get
4 reinstated and to limit damage at other facilities.

5 169. Defendant's actions were predicated upon Plaintiff's race,
6 national origin, ethnicity and religion and to punish him for
7 acquiring \$ 600,000 a year surgical contract.

8 As a direct and proximate cause of defendant's actions,
9 Plaintiff was damaged in millions of dollars.

10
11 **SECOND CLAIM**

12 **RACKETEER INFLUENCED and CORRUPT ORGANIZATION ACT**

13 **(18 U.S.C. § 1964 (c))**

14 **(AGAINST ALL DEFENDANTS)**

15 Plaintiff re-alleges paragraph 1-169 of this Complaint and alleges:

16 170. Defendants conducted or participated, directly or indirectly,
17 in the conduct of the enterprise affairs, through pattern of
18 racketeering activity within meaning of 18 U.S.C. § 1964.

19 171. The enterprise "SACH" is comprised of San Antonio Community
20 Hospital, its Board of directors, its employees, officers, agents,
21 members and all of the defendants who were members of the
22 enterprise and served on the Medical executive committee and three
23 members of the judicial review committee, where Defendant Dr.
24 Jayaprakash Shah who served both on Judicial Review Committee and
25 Medical Executive Committee.

26 171. The purpose of the 'enterprise' is to protect the interests of
27 its members and have certain physicians obtain contracts and these
28

1 physicians in turn would support the enterprise by admitting
2 patients and ordering tests regardless of the necessity.

3 172. The 'enterprise' would not take any actions against
4 incompetent physician members of the 'enterprise'-the defendant San
5 Antonio Community Hospital and instead would take adverse actions
6 against other innocent, competent, qualified physicians on staff of
7 the Hospital because they posed competition and were not members of
8 the 'enterprise' or inner circle of the San Antonio Community
9 Hospital.

10 173. This racketeering activity differs from other activity of
11 maintaining and running the hospital or conducting the affairs of
12 administration.

13 174. Defendants extorted all privileges under threat of illegal
14 summary suspension in order to deprive Plaintiff of the contract
15 and have it awarded to two other White surgeons members of the
16 'enterprise' where Plaintiff had done absolutely nothing wrong.

17 175. Defendants conducted harassing prolonged hearings on two
18 charges which the Defendants knew were false for a period of five
19 years in order to prevent Plaintiff from seeking any speedy
20 judicial review by writ of mandate with the superior court and
21 defendants did prevent Plaintiff from getting judicial review of
22 their one sided quasi-judicial decision by corruptly exercising
23 improper influence on the superior court judge and the court of
24 appeal.

25 176. The Defendants opposed judicial review of its decision by
26 opposing filing of the petition for administrative mandamus.

27 177. Defendants prevented Plaintiff from seeking employment in out
28 of state facilities by their actions particularly in Pennsylvania

1 where Plaintiff has held unrestricted, active, current medical
 2 license since 1974. The Pennsylvania Medical Board rejected the
 3 Decision of medical board of California on the 805 complaint filed
 4 by "PVH" . The "MBC" Decision was twice set aside and vacated by
 5 the Sacramento Superior Court and the Court of Appeal and the
 6 matter is still pending.

7 178. Plaintiff has been injured in his business, occupation and
 8 property by reasons of violation of 18 U.S.C. § 1864 (c) in that
 9 Plaintiff lost \$ 600,000 a year contract and has been drastically
 10 injured in his business and occupation at other hospitals and out
 11 of state facilities and hospitals since Defendants acted against
 12 Plaintiff.

13 179. The unlawful interruption of Plaintiff's business and
 14 occupation has directly and proximately caused Plaintiff to lose
 15 millions of dollars in income and incur expenses in defending
 16 false, fraudulent charges.

17 **THIRD CLAIM**

18 **INTENTIONAL INTERFERENCE WITH CONTRACTUAL RELATIONSHIP**

19 **(42 U.S.C. § 1981)**

20 **(AGAINST ALL DEFENDANTS)**

21 Plaintiff re-alleges paragraphs 1-179 of this Complaint and
 22 alleges:

23 180. Defendants motivated by Plaintiff's race, national origin,
 24 ethnicity and religion interfered with Plaintiff's contract, first
 25 by making threats to drop the contract. After having failed to
 26 scare Plaintiff out of the contract with IPA Inland Global.
 27 Defendants extorted privileges out of Plaintiff under threats of
 28 illegal summary suspension, notified National Data Bank and

1 reported to medical board of California in order to prevent
2 Plaintiff from performing the terms of his contract caused it to be
3 terminated by Inland Global predicated on his race and had it
4 awarded to two White Surgeons who acquired at their much higher
5 asking price.

6 181. As a direct and proximate result of the acts of the
7 defendants. Plaintiff lost 600,000 a year surgical subcontract with
8 Inland Global and has been prevented from seeking employment at out
9 of state facilities.

10 **FOURTH CLAIM**

11 **CONSPIRACY TO VIOLATE CIVIL RIGHTS**

12 **(42 U.S.C. § 1985. § 1986)**

13 **(AGAINST ALL DEFENDANTS)**

14 Plaintiff re-alleges paragraphs 1-181 of this complaint and
15 alleges:

16 182. That the Defendants and each of them conspired to deny
17 Plaintiff benefit of full and equal rights under the law to
18 property affecting practice and to make and enforce contracts", at
19 the Defendant "SACH" and at out of State Hospitals and facilities.

20 183. The Defendants and each of them conspired to obstruct justice
21 by producing false testimonies at the hearing, delaying hearings
22 for several years and then obstructed justice by opposing the
23 filing of the writ petition both at the superior court and
24 California Court of Appeal and in the process consuming two more
25 year further depriving Plaintiff of his rights and privileges and
26 preventing Plaintiff from conducting business at out of state
27 facilities.

1 184. The Defendants and each of them conspired and knowingly,
2 intentionally, willfully neglected or refused to prevent conspiracy
3 to commit wrongful acts which interfered with Plaintiff's \$ 600,000
4 a year contract in 2000 predicated on Plaintiff's race, national
5 origin, ethnicity and religion.

6 185. The conduct of defendants directly and proximately caused
7 Plaintiff to lose millions of dollars in income and caused to incur
8 expenses to defend false fraudulent charges at the defendant "SACH"
9 and other facilities.

10
11 **FIFTH CLAIM**

12 **(INTERFERENCE WITH PROSPECTIVE ECONOMIC ADVANTAGE)**

13 **(AGAINST ALL DEFENDANTS)**

14 Plaintiff re-alleges paragraphs 1-185 of the complaint and
15 alleges:

16 186. Defendants and each of them permanently destroyed Plaintiff's
17 business relationships with patients and referring physicians
18 resulting in serious economic losses. The unlawful suspension,
19 termination of staff membership, privileges at the defendant "SACH"
20 and other facilities and interference with the contract with Inland
21 Global directly and proximately caused Plaintiff to incur
22 substantial expenses and lose income over the years to which
23 Plaintiff was justly entitled.

24 **SIXTH CLAIM**

25 **DEFAMTION**

26 **(AGAINST ALL DEFENDANTS)**
27
28

1 Plaintiff re-alleges paragraphs 1- 186 of the complaint and alleges
2 187. That at all times mentioned in this complaint, defendants
3 were agents and employees of their codefendants and in doing the
4 things alleged in this complaint were acting within the course and
5 scope of such agency and membership or employment.

6 188. As soon as defendants extorted relinquishment of privileges,
7 defendants notified National Data Bank for publication to the
8 entire Nation falsely stating that Plaintiff was suspended for
9 providing substandard and incompetent care to patients. Defendants
10 could only notify National Data Bank, after exhaustion of all
11 remedies and proving Plaintiff incompetent after a full, fair and
12 impartial quasi-judicial and a judicial review on writ petition
13 which Plaintiff never had had.

14 189. As a direct and proximate result of the above described
15 publication, Plaintiff has suffered loss of reputation, shame,
16 mortification and injury to his feelings all to his damage in an
17 amount to be established by proof at trial.

18 190. The above described publication was not privileged because it
19 was published by defendants with malice, hatred and ill will
20 towards Plaintiff and the desire to injure him in that defendants
21 had expressed a desire to "get" Plaintiff. Because of defendants
22 malice in publishing, plaintiff seeks punitive damages in an amount
23 to be established by proof at trial.

24
25 **SEVENTH CLAIM**

26 **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

27 **(AGAINST ALL DEFENDANTS)**
28

1 Plaintiff re-alleges paragraphs 1-190 of the complaint and
2 alleges:

3 191. Plaintiff always provided highest quality of medical care
4 to his patients. This is evidenced by the fact Plaintiff never
5 paid a single dime in medical malpractice judgments or
6 settlements ever and none are pending as of this day. Plaintiff
7 deserved and was entitled to peace of mind and security in his
8 life and to enjoy the practice of his profession and pursue a
9 normal life like the rest of physicians.

10 192. Defendants caused mental suffering and destroyed comfort,
11 happiness and personal esteem by wiping out his personal savings
12 and subjecting him to debts and abuse. Defendants conduct was
13 extreme and outrageous as to exceed all bounds of that usually
14 tolerated in a civilized community.

15 193. Defendants knew that Plaintiff was in a very precarious
16 financial condition for losing his business and property and
17 incurred expenses in defending false, frivolous charges, that he
18 was going to be burdened with further debts as there was no
19 immediate end in sight of the pending matter against defendants
20 because first they prolonged hearings for five years and denied
21 due process and then they opposed hearing on writ petition for
22 two years in order for Plaintiff to get speedy justice and have
23 his name cleared.

24 194. Defendants upon extorting privileges immediately notified
25 National Data Bank before Plaintiff even had a hearing.
26 Plaintiff's reputation and standing in the community had been
27 seriously damaged and it was imperative for plaintiff to get his
28 name cleared in order to get back on his feet.

1 195. Defendants delayed and harassed and prolonged hearings for
2 five years and then opposed and delayed for two more years in
3 the superior court and court of appeal and succeeded in blocking
4 filing of the writ petition and a hearing on merit with reckless
5 disregard of probability that emotional distress will result.

6 196. In doing the acts of which Plaintiff complains, Defendants
7 intended and did cause severe emotional distress and shock to
8 the Plaintiff by their outrageous conduct with reckless
9 disregard of the probability of causing emotional distress, when
10 in fact they knew that Plaintiff was susceptible to emotional
11 distress due to ongoing legal battles and unemployment for
12 years.

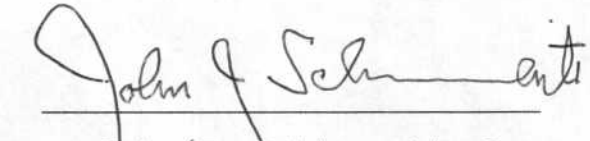
13 197. As a direct and proximate cause of Defendant's acts,
14 Plaintiff was subjected to extreme emotional distress for having
15 to pay huge legal fees and costs with no income to support and
16 to face ridicule, embarrassment of losing staff membership and
17 privileges and standing in the community.

18 198. As a direct and proximate cause of the Defendant's acts and
19 each of them, Plaintiff was subjected to anxiety for when having
20 to defend false fraudulent charges and thus was caused to suffer
21 humiliation and extreme mental and emotional distress including
22 but not limited to pain, nervousness, anxiety, strain, worry,
23 grief, torment, mortification, embarrassment. Plaintiff
24 suffered from physical symptoms of nausea, vomiting, headaches,
25 sleeplessness, nightmares and fatigue requiring Plaintiff to
26 take medications.

27 WHEREFORE, Plaintiff prays judgment against defendants and each
28 of them jointly and severally in favor of Plaintiff as follows:

- 1 1. Compensatory Damages for damage and injury to business,
- 2 occupation or property in an amount according to proof.
- 3 2. For treble damages for injury to business or property
- 4 trebled in accordance with 18 U.S.C. § 1964(c).
- 5 3. For damages for interfering with the contract under 42
- 6 U.S.C 1981.
- 7 4. For damages for mental anguish and emotional distress.
- 8 5. For punitive damages.
- 9 6. For reasonable attorney fees in accordance with 18 U.S.C. §
- 10 1964 (c), and
- 11 7. For cost of investigation in an undetermined amount trebled
- 12 in accordance with U.S.C. § 1964 (c).
- 13 8. For any other relief the court deem fit and proper.

14
15
16 October 17, 2012

17 
18 John V. Schimmenti, Esq.
19 Attorney for Plaintiff
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VERIFICATION

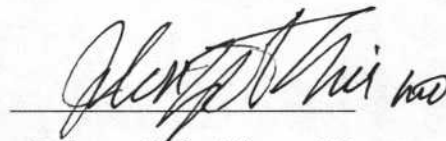
I, Jehan Zeb Mir, declare

That I know the following facts from my personal knowledge and I could and would competently testify if called to do so.

1. I am the Petitioner. I have prepared this petition. I know the facts from my personal knowledge and verify it to be true of my own personal knowledge except as those matters which are stated on information and belief and as to those matters I believe them to be true.

I declare under the penalty of perjury that foregoing is true and correct.

Executed on October 17, 2012 at Redondo Beach, CA 90277



Jehan Zeb Mir, MD

Plaintiff