

A. . . . I think you're a good neurologist. I think if a good neurologist leaves town it's not a positive, . . . [A] good doc leaves it's a negative. [3-ER-434:13-435:4].

G. Ireland's declaration in support of his MPSJ creates a genuine dispute of material fact for all elements of his antitrust claim and is sufficient to warrant reversal of the district court's grant of Appellees' MSJ.

Set up against Appellees' argumentative assertions and the conclusory allegations and inadmissible hearsay in their deposition testimony, Ireland has presented a declaration under penalty of perjury that establishes all elements of his claims. The difference is that Ireland has presented factual evidence that supports his sworn statements. [4-ER-713-734 ¶¶ 5, 7-11, 13-14, 16-19, 24-26, 41-48, 58, 65-70, 72-77, 82-86, 88-90, 93-99, 101-102, 108-114, 119-122, 124-125].

H. Summary

In concluding its analysis of Ireland's antitrust claim, the district court quotes *Weiss v. York Hosp* where that court held that "doctors who have a history of trouble in interpersonal relations can legitimately be excluded because, if admitted, they will reduce the effectiveness of the medical staff." [1-ER-12] (quoting *Weiss* 745 F.2d 786, 820 (3rd Cir. 1984)).

But, it is one thing for a hospital — after an impartial evaluation by its departmental credentials committee, medical staff credentials committee,

medical executive committee, and board of directors (*Id.* p 796) — to exclude a physician who has exhibited problems with interpersonal relations and very much another to accept argumentative assertions and conclusory allegations of such problems by a combination of Ireland's competitors as a legitimate excuse for excluding him from the market.

The district court based its grant of summary judgment on its assertions that Ireland presented no admissible evidence to establish that Appellees had the requisite intent to restrain competition and that Appellees' proffered procompetitive justifications offset any anticompetitive effects of their conduct. But the district court adduced no evidence that negates any element of Ireland's claims. Because it failed to reference any of the evidence Ireland presented that established Appellees' intent or demonstrated the anticompetitive effects of their conduct, it cannot show how the evidence Ireland presented will not allow him to meet his burden of proof at trial without. Therefore, the district court's analysis does not establish the absence of a genuine dispute of material fact that would entitle Appellees to summary judgment. The district court's decision to grant Appellees summary judgment as to Ireland's antitrust claim should be reversed.

III. The district court erred by granting Appellees summary judgment of Ireland's IIER claim.

In vacating the district court's dismissal of Ireland's IIER claim this Court held: "Because we conclude that the district court erred by dismissing the 'rule of reason' Sherman Act claim, we conclude that the district court erred by dismissing Ireland's IIER claim." Case 18-35316 [5-ER-1116].

Similarly, because the district court has erred in granting Appellees summary judgment of Ireland's antitrust claim, it has erred in granting summary judgment of Ireland's IIER claim.

The factual evidence shows that Appellees intentionally interfered with Ireland's economic relationships through the improper means of a coordinated group boycott for the improper purpose of restraining trade — conduct that is "wrongful by statute" — § 1 of the Sherman Act. *Top Serv. Body Shop, Inc.* 283 Or at 209.

IV. This case should be remanded to a different district court.

This Court has held that three factors are considered when deciding whether to remand a case to a different district judge:

"(1) whether the original judge would reasonably be expected upon remand to have substantial difficulty in putting out of his or her mind previously-expressed views or findings determined to be erroneous or based on evidence that must be rejected, (2) whether

reassignment is advisable to preserve the appearance of justice, and (3) whether reassignment would entail waste and duplication out of proportion to any gain in preserving the appearance of fairness.” *Disability Rights Mont., Inc. v. Batista*, No. 15-35770, at *18 (9th Cir. July 19, 2019).

A finding of either of the first two factors “is sufficient to support reassignment on remand.” *Id.* In the instant case, reassignment is advisable to preserve the appearance of justice.

This Court has held that when “parties and observers may justifiably doubt whether the future disposition of their matter in the continuing proceedings will be based on proper considerations of law and equity . . . [and] judicial decisions [are not] . . . responsive to the facts and rational arguments before the court. . . . [t]he appearance of justice is undermined.” *Id.* at *19.

The district court’s mere assertion that Ireland did not present admissible evidence that would establish a genuine dispute of the intent element of his Sherman Act claim is, as a matter of law, insufficient to establish an absence of a genuine dispute of that element, does not hold up on review of the evidence of intent Ireland has presented, and indicates that the district court ignored that evidence.

Similarly, the district court’s assertion that “any anticompetitive harm [was] offset by the procompetitive effects” fails to take into consideration any of the evidence Ireland presented of that

anticompetitive harm. [1-ER-12]. The district court cannot be found to have balanced the procompetitive and anticompetitive effects of Appellees' conduct without having taken into consideration the evidence of the anticompetitive effects of that conduct.

Moreover, while Ireland provides factual evidence of procompetitive effects, the district court employed as evidence argumentative assertions from Appellees' legal memoranda cited to deposition testimony that is devoid of supporting factual evidence. In so doing, the district court has disregarded Rule 56's requirement that testimony used to support a motion for summary judgment must "set out *facts* that would be admissible in evidence." Fed.R.Civ.P. 56(c)(4) (emphasis added). Further, the court ignored the admissible evidence that Ireland presented that directly contradicted those assertions.

The district court asserted that to prove intent Ireland is required to show that Appellees had the specific intent to restrain competition. Even though Ireland has presented evidence that establishes that specific intent, the district court's assertion ignores the well-established legal principle that, if Appellees coordinated conduct harmed competition it is not necessary to prove specific intent. Ireland highlighted this fact in his MPSJ. [5-ER-969-970].

The district court cited an excerpt from Ireland's deposition testimony about an email he sent to Abendroth, *after* Appellees informed him of their coordinated refusal to share call, as justification for that conduct, even though Ireland highlighted the timing of that email in every one of his responses to Appellees' MSJ. [1-ER-11-12] [3-ER-537-538] [4-ER-

659] [4-ER-607] [4-ER-561]. The district court completely ignored the significance of the timing of Ireland's email.

The district court's failure to take into consideration any of the evidence Ireland presented in support of his claims and its failure to follow substantive law governing motions for summary judgment and antitrust litigation justifiably raises doubt that its disposition of this case will be based on proper considerations of law and equity and responsive to the facts and rational arguments before it. To preserve the appearance of justice, this case should be remanded to a different district court.

CONCLUSION

As detailed above, Ireland has presented admissible evidence that proves there is no genuine dispute of material fact and that he is entitled to judgment as a matter of law for all elements of his rule of reason Sherman Act claim. The district court's decision to deny Ireland's MPSJ of that claim should be reversed.

Because it neglected to take into consideration any of Ireland's evidence in support of his antitrust claim, the district court failed to show that Ireland will not be able to carry his burden of persuasion at trial. *Nissan Fire & Marine Ins. Co.*, 210 F.3d at 1105. Its decision to grant Appellees summary judgment should be reversed.

The district court's decision does not follow the factual evidence from the record and is out of line with substantive law governing motions for summary judgment and antitrust litigation — justifiably raising doubt that its future decisions in this case will be based on proper considerations of law and equity and responsive to the facts and rational arguments before it. Reassignment at this stage of the proceedings would entail very little waste or duplication of judicial effort. To preserve the appearance of justice, this case should be remanded to a different district court.

99a

Dated: September 8, 2021

Respectfully submitted,

s/ Stephen P. Ireland M.D.
STEPHEN IRELAND M.D.,
Plaintiff pro se

APPENDIX G

*Email to Ireland from Defendants regarding
call coverage of Ireland's patients and the
repercussions of Ireland's failure to cover call (2-ER-21)*

Dr. Abendroth

To: Steve Ireland

Cc: David Schloesser; ... Dr. Griffin; Gary Buchholz;
Laura Schaben; Mike Bell; Dr. Massine
Steve,

As indicated in the previous two letters you have received, the neurology call group comprised of Drs. Abendroth, Bell, Griffin, Schaben and Schloesser will not be providing call coverage for your patients under any circumstances.

You are responsible for covering your patients 24/7 or arranging appropriate coverage in your absence, which includes coverage of your patients if they present to the ER or are admitted to the hospital and require urgent, in-person, neurological care. If you, or an appropriate covering provider, are not available to respond in a timely manner, the Medical Staff president would be notified by the ER or admitting provider to request coverage of the patient as an unassigned patient, and an EMS report filed.

If you have any further questions regarding this call coverage policy, you may contact the Medical Staff office. Members of the call group above will no longer respond to questions regarding this matter.

Francena Abendroth, M.D.
Neurology Division Chief

APPENDIX H

*Email to Ireland from Defendant Griffin
asking Ireland to cover his patients a few
weeks before joining boycott (2-ER-22)*

-----Original Message-----

From: Steve Ireland
To: Craigan Griffin
Sent: Monday, April 15, 2013 9:23 AM
Subject: Re: Call Switch

Yes, I think that will work. Will check with my wife
when she brings lunch today. Confirm this afternoon.

-----Original Message-----

From: Craigan Griffin
To: Steve Ireland
Sent: Monday, April 15, 2013 10:12 AM
Subject: Call Switch

Steve,
My wife, Shelly, has thyroid surgery set for this
Thursday...80% chance of being benign, but would like
to not be on call this weekend. Dick and Cena are
away, David is not available, it would put Laura on 4
days in a row; would you be willing to switch this
weekend for your May 10-12 weekend? If not, I can
still check with Mike or Gary...

Craigan

APPENDIX I

*Email to Ireland from Defendant Buchholz asking
Ireland to cover his clinic patients just months before
boycott (2-ER-83)*

From: Steve Ireland
<spireland@bendbroadband.com>
Date: Tue, Mar 12, 2013 at 8:56 PM
Subject: Re: patient coverage
To: Gary Buchholz <gdbuchholz@gmail.com>
I'm not covering your patients.
Sent from my iPhone

On Mar 12, 2013, at 7:03 PM, Gary Buchholz
<gdbuchholz@gmail.com> wrote:

- > Steve -
- > I will be in San Diego next week for the AAN
meetings. I understand you will be in Boston part of
the following week.
- > I'm assuming that until I leave NOB we will cover
each other's patients. Are you in agreement?
- > Gary

APPENDIX J

*Excerpts from the Deposition of Francena Abendroth,
M.D. [2-ER-39-130]*

2-ER-99:11-24:

[Ireland] So, if you had any reason of any kind to stop sharing call with me, why did you combine with the other neurology practice?

[Abendroth] So, it was a situation in which there were several options for call coverage sharing, and I had to consider which options would be best for myself, my family, and my practice, and the options were -- the option that we chose was the best one in relation to my personal circumstance and my family situation.

[Ireland] Okay. what were the other options other than the one you chose that you considered?

[Abendroth] Dr. Griffin and I, I think we were the only ones under consideration as far as partners because the other individuals would be retiring, or. Griffin and I doing call on our own or doing call on our own and with you, or doing call with the other clinic ourselves without sharing call with you.

2-ER-103:13-23:

[Ireland] ...is it true that, in fact, Bend Neurological Associates said to you that if you took call with me they would not take call with you, just like my e-mail to you on June 4th indicates?

MS. KUCERA: Object to form. Go ahead, Dr Abendroth.

[Abendroth] Yes. They had said that if we continued to share call with you or wanted to do that that they would separate as -- their call arrangements and cover their own call.

2-ER-125:23-126:5:

[Ireland] So, if you -- if you resigned or lost your hospital privileges, then according to this document you wouldn't be able to provide continuous coverage of your patients and you couldn't contract because it says "I agree to provide continuous care for my patients" and if you can't do that you can't contract with them.

Is that fair?

[Abendroth] That seems to be true.

2-ER-128:11-19:

[Ireland] Okay. And so since not all people are Bill Gates, if you are a provider who is unable to contract with a large segment of the population's health plans, it would likely reduce the number of patients who would come to see you; is that correct?

MS. KUCERA: objection to the extent it calls for speculation.

[Ireland] Okay. You are in the business--

[Abendroth] I could imagine that that's true.

APPENDIX K

*Excerpts from the Deposition of Laura Joelle
Schaben, M.D. (2-ER-131-195)*

2-ER-135:2-12:

[Shaben] We provide phone service but we do not physically go to any other hospital other than St. Charles Hospital in Bend, Oregon.

[Ireland] Okay. All right.

And so -- so if somebody calls from say an emergency room at St. Charles Medical Center-Redmond, you might answer their questions?

[Shaben] Correct.

[Ireland] But you don't go and see the patient?

[Shaben] Correct. If they need the patient seen, the transfer them to Bend.

2-ER-141:15-21:

[Ireland] Prior to July 1st, 2013, the neurologists -- all the neurologists who shared call in Bend mutually agreed that if a patient of theirs, an assigned patient of theirs came to the E.R. after 5:00 and needed the attention of a neurologist, that the neurologist on call for the E.R. would cover that patient.

[Schaben] A. Correct.

2-ER-146:5-10:

[Ireland] So whatever you call this group, it consisted of an agreement between you, Dr. -- Dr. Bell, Dr. Griffin, Dr. Abendroth, Dr. Schloesser and Dr.

Buchholz not to share call with me after July 1st, 2013; is that correct?

[Shaben] That's correct.

2-ER-147:17-148:8

[Ireland] ...is the coverage by the insurance company of the cost of their visit better if they see a provider who's contracted with their health insurance plan, typically?

[Shaben] Are you talking about out-of-network versus in-network cases? ... I would expect that out-of-network care would have more out-of-pocket expense to the new patient.

[Ireland] Okay. And so being out of network, patients would be -- because they have to pay more...would be less likely to see a provider who is out of plan; is that correct?

[Shaben] I would think that would be true.

2-ER-151:20-152:4:

[Ireland] ...This is Exhibit 13.

[Shaben] Yes. I see that.

[Ireland] And Michael Bell, David B. Schloesser, Craigan Griffin and Gregory Ferenz are listed.

[Shaben] Correct.

[Ireland] ...this indicates to the insurer, the health plan, that you have coverage for your patients if you are unavailable; is that correct?

[Shaben] I believe that's correct.

2-ER-154:25-155:15:

[Ireland] Okay. So, if -- you could resign your hospital privileges and then the hospital doesn't have anything to say about whether you go in and see your patients in the hospital -- matter of fact, you couldn't, but you would still have your obligation to cover your patients under the contracts on your health insurance contracts, those that I showed you.

[Shaben] Correct.

[Ireland] ...if you couldn't go in, if you didn't have privileges so you couldn't go in and see them, and if you had no other neurologists or if you had no other person who was going to go in and see them for you, then you couldn't contract with those health insurance carriers.

[Shaben] That appears to be correct based on the documents.

2-ER-161:4-10:

[Ireland] Okay. At this meeting, did you discuss stopping sharing call with me?

[Shaben] Yes.

[Ireland] Okay...who brought that up?

[Shaben] I do not recall.

[Ireland] Okay. Was it Dr. Griffin or Dr. Abendroth?

[Shaben] No. The idea came from our clinic.

2-ER-164:25-165:9:

[Ireland] ...On July 1st, 2013, you stopped sharing call with me; is that right?

[Shaben] That is correct.

[Ireland] And that included you, Dr. Schloesser, Dr. Bell, Dr. Abendroth, Dr. Griffin and Dr. Buchholz.

[Shaben] That sounds correct.

[Ireland] Okay. Were there any other neurologists who were sharing call at that time from whom I could secure call coverage?

[Shaben] No.

2-ER-165:18-166:10:

[Ireland] ...later that summer Dr. Gregory Ferenz joined Bend Memorial Clinic?

[Shaben] I don't recall when he started, but Gregory Ferenz did join BMC.

[Ireland] ...when Dr. Ferenz joined BMC, he also was included in the group that would not cover my patients when he was [on] for emergency call; is that correct?

[Shaben] That sounds correct.

[Ireland] ... in the spring of 2015 Dr. Goins joined BMC, right?

[Shaben] ... that sounds correct.

[Ireland] ...and when Dr. Goins arrived, he was also part of the group who refused to share call with me, correct?

[Shaben] That sounds correct.

2-ER-172:13-22:

[Ireland] So, would recruiting another neurologist have been financially beneficial to Bend Neurological Associates?

[Shaben] I think recruiting another neurologist into a small practice is always beneficial.

[Ireland] Okay. Because you would have -- if the -- by recruiting another neurologist, one way or another they would contribute to the overhead and they might refer more to your MRI; am I right?

[Shaben] Yes. I would say that would be true.

2-ER-175:15-20:

[Ireland] ...if you only wanted to suggest you weren't going to share call with me, how could it be any more clear than to just say we're not going to share call with you anymore?

[Shaben] I don't know how you would cover one person within a clinic on assigned call and not somebody else's...

2-ER-188:18-21:

[Ireland] ...where were they going to go for their -- for their treatment after that if --

[Shaben] It looks like at that point in time they were referred to you.

2-ER-188:22-189:2

[Ireland] Well, but what if—but after I left Bend in 2015, where were those people going to go?

110a

[Schaben] Well, they could talk with their primary care provider who could make a call on their behalf and try to get them in for high acuity, or they could go the [Willamette] valley or Portland.

APPENDIX L

*Excerpts from the Deposition of Gary D. Buchholz,
M.D. (2-ER-196-246)*

2-ER-198:22-200:1:

[Ireland] Okay. And when you left Neurology of Bend, where did you practice?

[Buchholz] I practiced in my own practice, Gary D. Buchholz, M.D. P.C.

[Ireland] And for how long did you practice -- when did you start practice there?

[Buchholz] April of 2013.

[Ireland] And then for how long did you practice at Gary D. Buchholz, M.D. P.C.?

[Buchholz] One year.

[Ireland] One year. Okay. And then did you -- did you take a break from practice after that year?

[Buchholz] No.

[Ireland] Okay. Did you retire?

[Buchholz] No.

[Ireland] Okay. So you practiced for a year. What happened after that with respect to your practice?

[Buchholz] I joined Bend Memorial Clinic.

[Ireland] Uh-huh. And for how long did you practice at Bend Memorial Clinic?

[Buchholz] Six months or so, until November of 2014.

[Ireland] Okay. And then you -- you left practice in November of 2014, and then did you -- you took a leave of absence, retired, something of that nature at that time?

[Buchholz] It was a leave of absence for six months.

[Ireland] Okay. Did you go back to practice after that time?

[Buchholz] No, I did not.

2-ER-206:18—207:11:

[Ireland] But anyway, the upshot is as of July 1st Dr. Ireland will be covering his own patients at Neurology of Bend, the other providers will cover after hours for the E.R. or the hospital for their patients -- for patients of the other three clinics.

So, that was that arrangements, right?

[Buchholz] It appears so.

[Ireland] Well, is that the arrangement?

[Buchholz] Yes.

[Ireland] Was that the arrangement?

* * *

This is this something that you -- something you agreed to do with the other neurologists at BMC and BNA?

Is this an arrangement you agreed to?

[Buchholz] Yes.

2-ER-208:10-18:

[Ireland] ...if adverse actions were taken on providers -- on a provider's clinical privileges, it could prejudice their ability to maintain or -- maintain hospital privileges, state licenses and contracts with health insurance plans; is that right?

[Buchholz] That would be entirely my opinion, but presumably it doesn't help them if they've had adverse actions.

2-ER-210:12-21:

[Ireland] Okay. So, let's go back to the number of call days again, and if you say asked and answered I'll accept it, but you could have continued to share call with me as well as all the other neurologists at BMC and BNA, couldn't you?

[Buchholz] I did ask -- answer that previously as to why I didn't. Could I have? Presumably.

[Ireland] Okay. And actually --

[Buchholz] Unless the group said that if I covered your patients I wouldn't be part of their group.

2-ER-246:8-13:

[Ireland] When were you first aware of any neurologists' plans to stop sharing call with me?

[Buchholz] I suspect it was that e-mail in March. I don't have the specific e-mail up.

[Ireland] What e-mail was that?

[Buchholz] It was one from Bell to me, I believe.

APPENDIX M

*Excerpts from the Deposition of Craigan Todd
Griffin, M.D. (3-ER-251-332)*

3-ER-253:1-254:6:

[Ireland] Okay. So, there are two e-mails here. The bottom e-mail is from you on Monday, April 15th, 2013, to me; is that correct?

[Griffin] Correct.

[Ireland] Okay. And you indicate that your wife is having thyroid surgery and that you want me to cover you for the weekend, correct?

[Griffin] Correct.

[Ireland] And you indicate that Dr. Abendroth -- I'm sorry, Dr. Koller and Cena, that's Dr. Abendroth, are away and that David, Dr. Schloesser, is not available; is that correct?

[Griffin] That's correct.

[Ireland] And you were concerned because you didn't want to ask Laura, Dr. Schaben, because that would put her on four days in a row; is that correct?

[Griffin] Correct.

[Ireland] So you asked me if I would be willing to switch that weekend for another one in May; is that correct?

[Griffin] Yes. That's correct.

[Ireland] Okay. And so -- and you put in the proviso that if not I can check with Mike, Dr. Bell, or Gary, Dr. Buchholz; is that right?

[Griffin] That's right.

[Ireland] Okay. So you hadn't asked them yet?

[Griffin] Correct.

[Ireland] And I agreed to do that.

[Griffin] Correct.

[Ireland] And I covered for you.

[Griffin] Correct.

3-ER- 255:24-256:1:

[Griffin] ... I felt like given your expertise in neurology your care was adequate, more than adequate.

3-ER-264:23-265:7:

[Griffin] "when we talked with the hospital they clarified that . . . you would need to continue to provide coverage for your assigned patients . . . 24-hours seven-day-a-week."

3-ER-277:5-14:

[Ireland] Any time a physician is added to the community it provides some benefit to patients in terms of reducing wait times.

[Griffin] Yes.

[Ireland] Would you agree with that? Okay.

And if a physician is eliminated from the community, that has an adverse effect on patient care because it could increase wait times.

Would you agree with that?

[Griffin] It does increase wait times.

3-ER-298:11-24:

[Ireland] And so he says "We've been so busy we had to shut down all our practice to new referrals about three months ago."

Is he referring to, you know, BMC Neurology?

[Griffin] Yes.

[Ireland] Okay. And -- and is that true, that you -- that your practice had to shut down your practice to new referrals three months before this -- before he was interviewed?

[Griffin] He was speaking in general terms, but it's true that for a short period of time we closed to new patients...

3-ER-323:20-22:

[Griffin] Well, call burden is definitely a factor from a quality of life perspective, so it would influence my decision.

3-ER-325:14-18:

[Ireland] ...nobody in town who is a neurologist will cover for you, what would you do in that situation?

[Griffin] I would find a new job in another location where I had the support that I needed.

3-ER-331:13-14:

[Griffin] ...being on call 24/7 would not be conducive to a good quality of life as a physician.

APPENDIX N

*Excerpts from the Deposition of David Turk
Schloesser, M.D. (3-ER- 333-456)*

3-ER-343:22-25:

[Ireland] And if you weren't able to contract with health insurance carriers, that could have substantial financial consequences for you; is that right?

[Schloesser] I would think so, if you can't be paid, sure.

3-ER-350:8-18:

[Ireland] Okay. Now, this is an e-mail that you sent to Dr. Buchholz on November 15th, 2012, and this was less than a month after the September 23rd e-mail that you drafted but didn't send until a year later.

[Schloesser] Yeah.

[Ireland] Okay? we got the timeline right?

So, it says "Mike and I were trying to figure out how to get you on board in our new facility."

Do you see that on the first line of that e-mail to Dr. Buchholz?

[Schloesser] Yes.

3-ER-355:12-18:

[Ireland] Did you and your partners at Bend Neurological Associates move into a new building in March of 2013?

[Schloesser] Yes.

[Ireland] And that building was roughly 3,900 square feet, had enough space for five neurologists, had an MRI suite and a new MRI scanner; is that correct?

[Schloesser] Yes.

3-ER-364:18-21:

[Ireland] And when you first started performing MRIs on your MRI, were you functioning under an in-house ancillary services exemption?

[Schloesser] Yes, we -- we were.

3-ER-381:3-6:

[Ireland] Okay. And then you say "We see no reason to support or even encourage his practice in the event he recruits," is that correct?

[Schloesser] Yes.

3-ER-381:14-17:

[Ireland] What were you personally or BNA doing at that time that supported or encouraged my practice?

[Schloesser] I think we were just cross-covering your patients.

3-ER-385:2-386:2:

[Ireland] You were considering asking Drs. Abendroth and Griffin if they would agree to join you in refusing to share call with me in the event that I recruit, and now your statement today under oath is that you did not intend to interfere with my

recruitment of another neurologist for Neurology of Bend.

[Schloesser] I never interfered with anything you did.

MR. ARMOSINO: Is there a question?

[Ireland] Is that right? Is that your statement today under oath?

[Schloesser] No. My statement under oath is I've never interfered with your decisions to practice or not practice.

[Ireland] That wasn't my question.

[Schloesser] You can choose to practice in Bend even now if you choose to, if you want to. I've never had any influence on your life.

DR. IRELAND: I would like the court reporter to repeat the question that I asked Dr. Schloesser.

(Reporter read the requested question.)

THE WITNESS: The answer to that is I never sent it; therefore, correct.

[Ireland] I didn't ask if you sent it. I asked if you were considering that.

[Schloesser] Of course, in the moment in this e-mail I was considering it.

3-ER-391:5-7:

[Ireland] Did you advertise for a neurologist in the American Academy of Neurology Career Center?

[Schloesser] Oh, I'm sure we have done it more than once.

3-ER-404:4-5:

[Schloesser] ...when we were cross-covering each other I didn't have any problems.

3-ER-404:12-15

[Schloesser] ...we didn't have, being — feeling like we could trust you, that you are not going to, you know, do your thing and try to be the smartest man in the room on Monday, prove everyone else wrong.

3-ER-418:6-11:

[Ireland] ...So, on June 30th, 2013, there were seven neurologists practicing in Bend and in November of 2016 there were six.

[Schloesser] Okay.

[Ireland] All right.

[Schloesser5-ER] Sounds like it, yes.

3-ER-418:21-419:2:

[Ireland] So, there was at least three clinics practicing in 2013, three neurology clinics that were practicing in 2013, correct.

[Schloesser] Yep.

[Ireland] And in November of 2016, how many neurology clinics were practicing in Bend?

[Schloesser] Well, two at that point.

3-ER-434:13-435:4:

[Ireland] ...how was neurologic care for patients improved in Bend by your combining with the other neurologists to refuse to share call with me?

MR. ARMOSINO: Object to the form of the question. Go ahead and answer.

[Schloesser] Well, look, I never wanted to run you out of town. I think you're a good neurologist. I think if a good neurologist leaves town it's not a positive, right? But the issue was about the call group, that's it, never about getting you out of town. I never had that in my head, you know.

I was mad at times with you, but at the end of the day, Steve, I'm not going to want to run anyone out of town. It's not my style.

So, to answer your question, sure, a good doc leaves it's a negative, it's always been that way, you know?

3-ER-447:2-5:

[Ireland] Is it true that I was the only other person she could see in the Central Oregon area as a neurologist?

[Schloesser] In Central Oregon, yes.

3-ER-453:19-25:

[Ireland] So with respect to that last patient, Shelby M., because BMC wasn't seeing new patients and because your office declined to see the patient, the only place where she could be seen for her problems, which was migraine, was my office, at least the only place in Central Oregon; is that correct?

[Schloesser] Yeah.

3-ER-454:6-9:

[Ireland] Where is the closest neurologist outside of Bend, Oregon?

[Schloesser] Zakir goes down to Klamath, goes from Ashland to Klamath weekly.

3-ER-454:24-25:

[Schloesser] No. I don't remember that, but besides Klamath, there is Medford, there is –

3-ER-455:8-9:

[Schloesser] But there is metro Salem, Eugene, Portland, and Hood River.

*Excerpts from the Deposition of David Turk
Schloesser, M.D. (FER 40-54)*

FER 47:9-15

[Ireland] Did you meet with [your attorney] on the same date of the letter, June 28th, 2013.

[Schloesser] I don't know.

[Ireland] After you met with [your attorney], did you request e-mails from Drs. Abendroth and Bell describing reasons for deciding to stop sharing call with me?

[Schloesser] Yes.

APPENDIX O

*Excerpts from the Deposition of Michael Lance Bell,
M.D. (3-ER-457-536)*

3-ER-460:14-17:

[Ireland] So, if the Medical Staff President is alerted of my failure and this happens repeatedly, I could lose my medical staff privileges; is that correct?

[Bell] That's correct.

3-ER-462:1-10:

[Ireland] Okay. All right. When -- do you -- are you familiar with Dr. Gregory Ferenz?

[Bell] Yes.

[Ireland] And did he join Bend Memorial Clinic in the summer of 2013 or thereabouts?

[Bell] Yes.

[Ireland] And when he joined BMC, did he -- was he also part of your call group, the group that refused to share call with me?

[Bell] Yes.

3-ER-470:21-471:6

[Ireland] Did you and your partners at Bend Neurological Associates move to a new building in March of 2013?

[Bell] Yes.

[Ireland] Okay. This is an e-mail from Rena Adkins to you on August 24th, 2018, and that e-mail indicates that the building loan -- the original loans on the building and -- sorry, the original loan on the MRI was \$1,981,100 and the original loan on the building was \$1,381,352.32 for a total of \$3,362,462.32.

Does that sound right to you?

[Bell] Yes.

3-ER-472:13-17:

[Ireland] ...so you are aware that they dropped reimbursements substantially in 2013; is that right?

[Bell] I'm aware because we opened our MRI scan in 2013. They dropped Medicaid roughly three fold and Medicare quite dramatically as well.

3-ER-475:15-17:

[Bell] Yeah. In a high overhead practice with - with an MRI, definitely it's tough to float without a large number of MRI's, and so yes.

3-ER-494:15

[Bell] ...I referred a patient to you...

3-ER-495:3-5:

[Bell] ...you enjoy catching me with my pants down, you enjoy diagnosing patients with -- or differing in my opinion on the diagnosis of patients...

3-ER-500:7-10:

[Ireland] ...So -- so, who -- was it your group or BMC that -- that -- that first broached the subject of not sharing call with me?

[Bell] I believe it was our group.

3-ER-514:6-8:

[Bell] ...patients with Alzheimer's disease who wanted to see a specialist at that time that it was a challenge to accommodate that.

3-ER-519:10-13:

[Ireland] So, would -- would it have been helpful to have more neurologists in town to meet the demands that were present in November of 2016?

[Bell] Yes.

3-ER-534:6-18:

[Ireland] Okay. So, when a patient was referred to you, did that indicate that the patient or the referring provider wanted the patient to see you?

[Bell] Yes.

[Ireland] Okay. And if they returned to see you repeatedly, then that indicated that they would -- that would suggest that they were accepting of you as their provider of their neurologic services; is that right?

126a

[Bell] Yes.

[Ireland] Okay. In other words, you had patients that you saw in your clinic that chose you; is that right?

[Bell] Yes.

APPENDIX P

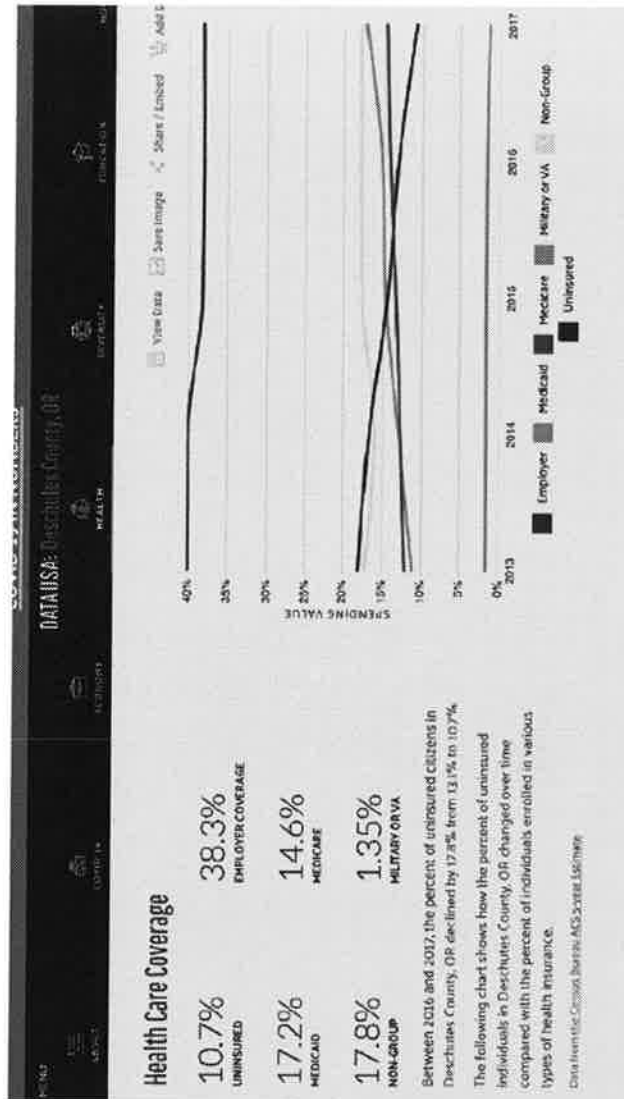
Table showing the decreased number of Medicaid patient seen by BNA in 2016 and the increase in Medicaid patients residing in the Bend area (Deschutes County) from 2012-2016

(Excerpted from Defendants' Response to Plaintiff's Amended Motion for Partial Summary Judgment, US District Court, District of Oregon, Case No. 6:16-cv-2054, DktEntry 166, p 19)

Table 3. BNA Insurance Data Summary.					
	2012 ¹²	2013	2014	2015	2016
Ex. 17 — Patients of Bend					
MEDICAID Percentage (%)	11.05	13.07	14.63	14.14	12.79
MEDICAID Number (#)	118	609	703	729	513
MEDICARE Percentage (%)	44.21	41.35	41.93	45.64	48.74
MEDICARE Number (#)	752	1,926	2,015	2,353	1,955
COMMERCIAL Percentage (%)	33.22	31.15	31.40	30.33	29.84
COMMERCIAL Number (#)	565	1,451	1,509	1,564	1,197

¹² Available data for 2012 limited to September 1 through December 31.

Chart showing increase in number of Medicaid patients in Bend, OR (Deschutes Co.) 2013-2017 (FER-1)



APPENDIX Q

Excerpts from the Declaration of Stephen Ireland, M.D. In Support of Plaintiff's Amended Motion for Partial Summary Judgment

**UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
EUGENE DIVISION**

STEPHEN IRELAND M.D., an individual

vs.

BEND NEUROLOGICAL ASSOCIATES LLC, an Oregon limited liability company; BEND MEMORIAL CLINIC, P.C., an Oregon professional Corporation; MICHAEL BELL M.D., P.C., an Oregon professional corporation; MICHAEL BELL M.D., an individual; DAVID T SCHLOESSER M.D., P.C., an Oregon professional corporation; DAVID SCHLOESSER M.D., an individual; LAURA J SCHABEN M.D., P.C., an Oregon professional corporation; LAURA SCHABEN M.D., an individual; FRANCENA ABENDROTH M.D., an individual; CRAIGAN GRIFFIN M.D., an individual; GARY BUCHHOLZ M.D., an individual and GARY D BUCHHOLZ M.D., P.C., an Oregon professional corporation,

Defendants.

Case No. 6:16-cv-002054-MK Plaintiff,

**DECLARATION OF STEPHEN IRELAND, M.D. IN
SUPPORT OF PLAINTIFF'S AMENDED MOTION
FOR PARTIAL SUMMARY JUDGMENT**

I, Stephen Ireland M.D., declare,

1. I am the Plaintiff in the above captioned case.

2. I submit this declaration in support of my Motion for Partial Summary Judgment.

3. I have personal knowledge of the facts set forth in this declaration and can competently testify thereto.

4. I am neurologist who is currently employed by St. Luke's Health System and practices neurology at St. Luke's Medical Center in Meridian, Idaho. Prior to September 2015, I practiced neurology for 23 years at Neurology of Bend ("NOB") in Bend Oregon.

5. On July 1, 2013, Defendants — members of multiple, independent, competing neurology groups — combined to refuse to continue to cover my and my clinic's patients for urgent and emergent neurologic problems when Defendants were on call for St. Charles Medical Center-Bend ("hospital"), the only hospital in the Bend, Oregon service area with neurologists on its staff.

6. The unlawful conduct is documented by two letters sent to me in June of 2013, subsequent emails sent to me by Defendants, and Defendants' submissions to this Court, produced by Defendants in discovery, and by their deposition testimony.

7. Hospital medical staff bylaws and its rules and regulations require physicians to provide continuous — 24/7 — of their patients.

8. Hospital rules and regulations provided that repeated failure to provide adequate and timely coverage of patients shall result in the loss of medical staff privileges.

9. Defendants were the only neurologists with hospital privileges capable of providing call coverage for me. By combining to refuse to continue to provide that coverage, Defendants placed me in the untenable position of having to remain, at all times, available to provide timely and adequate coverage of my patients for as long as I continued to practice in Bend.

10. Defendants combined their concerted refusal to cover call with an explicit threat to initiate a medical staff process that could lead to the restriction or loss of my medical staff privileges and injure or end my professional career if I were unavailable to get to the hospital within the time required.

11. Contracts with federal and commercial health insurance carriers in the Bend service area require that contracting physicians provide continuous coverage for their patients.

12. Because Defendants' unlawful combination included all of the physicians capable of providing coverage for my patients, I could not relinquish my medical staff privileges without losing my contracts with federal and commercial health insurance carriers and suffering severe financial consequences.

13. In the spring of 2013, I began recruiting a neurologist. BMC and BNA were recruiting neurologists during that same time.

14. Even though I was in solo practice, Defendants included my clinic, NOB, as well as me, in their combined refusal to share call coverage. Defendants expressed their intention to boycott my

clinic in both letters announcing the coordinated group boycott sent to me in June 2013.

15. By targeting my clinic, Defendants signaled their intention to boycott any neurologist I recruited and succeeded in forcing me to abandon my recruiting attempts. Defendants' inclusion of my clinic in their boycott eliminated competition from any future NOB neurologist, eliminated competition for potential neurologists for their clinics, and closed the door on the possibility of my finding call coverage, furthering their goal of eliminating me and my clinic from the market.

16. I could not provide continuous coverage of my patients for the rest of my career and maintain an acceptable quality of life for myself and my family.

17. At the same time, I could not sustain the severe financial consequences that would have occurred if I resigned my hospital privileges. Therefore, as soon as I could find a new job where I had call coverage and sell my medical office building, I closed my practice in Bend, resigned my hospital privileges, terminated my contractual relationships with health insurance providers, abandoned business relationships I had established over 23 years of practicing neurology in Bend, and relocated to Idaho where I have call coverage.

65. I could not remain available to get to the hospital in a timely manner, 24/7, for the rest of my career and I could not sustain the loss of income that would result from resigning my medical staff privileges and losing my contractual relationships

with health insurance providers. Defendants knew that I would not be able to provide continuous coverage of my patients indefinitely and, because they all had the same or similar contracts with health insurance carriers, they were aware of the contractual requirements of the health insurance carriers that I provide coverage for my hospital patients. Defendants harnessed their concerted refusal to share call coverage to hospital rules and regulations and insurer's call-coverage requirements to eliminate me and my clinic from the market.

66. The Defendants and I competed directly for patients. We also competed for associates.

67. In the months before Defendants entered into their group boycott/concerted refusal to deal, I actively sought a partner to join my practice. As owner of NOB, I owned a 4300+ square foot office building with three dedicated physician offices, eight examining rooms, rooms for the performance of electroencephalography and electromyography and a state-of-the-art magnetic resonance imaging suite. The latter housed a high-field-strength MRI scanner, which was certified by the American College of Radiology for neuroimaging.

68. As a result of the additional income generated by the MRI, in 2012, the last full year NOB had two practicing neurologists. My income was far beyond the 90th percentile for neurologists nationwide. Because of its income potential and the attractive amenities of Bend, before Defendants began their boycott, NOB represented an excellent opportunity for an associate.

69. I began searching for an associate in early 2013. I ran advertisements for an associate in The Neurology Career Center, an online service provided by the American Academy of Neurology to help members find associates and jobs. BNA and BMC were recruiting for neurologists during that same period and ran advertisements in the same online service.

APPENDIX R

*Excerpt from St. Charles Health System Inc. Rules &
Regulations for St. Charles-Bend (5-ER-933)*

5. a. Each member of the active and visiting medical staff shall provide round the clock coverage for his patients who present themselves to the hospital for care.

b. Each physician or dentist providing such specialty or subspecialty coverage for the emergency service shall physically attend the patient at the bedside within forty (40) minutes when requested to do so by an emergency medicine physician.

c. Repeated failure of the active medical staff member to provide adequate and timely coverage of patients shall result in loss of hospital privileges.

APPENDIX S

Examples of credentialing applications, including the Oregon Health Authority's Universal Practitioner Credentialing Application, demonstrating that physicians are required to report adverse actions on clinical privileges and provide continuous coverage for their patients.

Excerpt from the Oregon Health Authority's Universal Practitioner Credentialing Application (2-ER-946):

XXI. ATTESTATION QUESTIONS - This section to be completed by the Practitioner.

Modification to the wording or format of these Attestation Questions will invalidate the application.

Please answer the following questions "yes" or "no". If your answer to any of the following questions is "yes", please provide details and reasons, as specified in each question, on a separate sheet. **Please sign and date each additional sheet.**

A	<p>Has your license, certification, or registration to practice your profession, Drug Enforcement Administration (DEA) registration, or narcotic registration/certificate in any jurisdiction ever been denied, limited, suspended, revoked, not renewed, voluntarily or involuntarily relinquished, or subject to stipulated or probationary conditions, had a corrective action, or have you ever been fined or received a letter of reprimand or is any such action pending or under review?</p>	<p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p>
B.	<p>Have you ever been suspended, fined, disciplined, or otherwise sanctioned, restricted or excluded for any reasons, by Medicare, Medicaid, or any public program or is any such action pending or under review?</p>	<p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p>
C.	<p>Have you ever been denied clinical privileges, membership, or contractual participation by any health care related organization*, or have clinical privileges, membership, participation or employment at any such organization ever been placed on probation, suspended, restricted, revoked, voluntarily or involuntarily relinquished or not renewed, or is any such action pending or under review?</p>	<p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p>

D.	Have you ever surrendered clinical privileges, accepted restrictions on privileges, terminated contractual participation or employment, taken a leave of absence, committed to retraining, or resigned from any health care related organization* while under investigation or potential review?	YES <input type="checkbox"/> NO <input type="checkbox"/>
E.	Has an application for clinical privileges, appointment, membership, employment or participation in any health care related organization* ever been withdrawn on your request prior to the organization's final action?	YES <input type="checkbox"/> NO <input type="checkbox"/>
F.	Has your membership or fellowship in any local, county, state, regional, national, or international professional organization ever been revoked, denied, limited, voluntarily or involuntarily relinquished or not renewed, or is any such action pending or under review?	YES <input type="checkbox"/> NO <input type="checkbox"/>
G.	Have you ever voluntarily or involuntarily left or been discharged from medical school or subsequent training programs?	YES <input type="checkbox"/> NO <input type="checkbox"/>
H.	Have you ever had board certification revoked?	YES <input type="checkbox"/>

I	Have you ever been the subject of any reports to a state or federal data bank or state licensing or disciplinary entity?	YES <input type="checkbox"/> NO <input type="checkbox"/>
J.	Have you ever been charged with a criminal violation (felony or misdemeanor)?	YES <input type="checkbox"/> NO <input type="checkbox"/>
K.	Do you presently use any illegal drugs?	YES <input type="checkbox"/>
L	Do you now have, or have you had, any physical condition, mental health condition, or chemical dependency condition (alcohol or other substance) that affects or is reasonably likely to affect your current ability to practice, with or without reasonable accommodation, the privileges requested?	YES <input type="checkbox"/> NO <input type="checkbox"/>
	If reasonable accommodation is required, please specify the accommodation(s) required on a separate sheet.	
M	Are you unable to perform any of the services/clinical privileges required by the applicable participating practitioner agreement/hospital appointment, with or without reasonable accommodation, according to accepted standards of professional performance?	YES <input type="checkbox"/> NO <input type="checkbox"/>
N	Have any professional liability claims or lawsuits ever been closed and/or filed against you?	

140a

	If yes, please complete Attachment A, Professional Liability Action Detail , for each past or current claim and/or lawsuit.	YES <input type="checkbox"/> NO <input type="checkbox"/>
0.	Has your professional liability insurance ever been terminated, not renewed, restricted, or modified (e.g. reduced limits, restricted coverage, surcharged), or have you ever been denied professional liability insurance?	YES <input type="checkbox"/> NO <input type="checkbox"/>
<i>*e.g. hospital, medical staff medical group, independent practice association (WA), health plan, health maintenance organization (HMO), preferred provider organization (PPO), physician hospital organization (PHO), medical society, professional association, health care faculty position or other health delivery entity or system</i>		

I certify the information in this entire application is complete, current, correct, and not misleading. I understand and acknowledge that any misstatements in, or omissions from this application will constitute cause for denial of my application or summary dismissal or termination of my clinical privileges, membership or practitioner participation agreement. A photocopy of this application, including this attestation, the authorization and release and any or all attachments has the same force and effect as the original. I have reviewed this information on the most recent date indicated below and it continues to be true and complete. While this application is being processed, I agree to update the information originally provided in this application should there be any change in the information.

I agree to provide continuous care for my patients, until the practitioner/patient relationship has been properly terminated by either party, or in accordance with contract provisions.

Signature:

Date:

Excerpts from Recredentialing Profile required for continued participation as a provider for Regence BlueCross Blue Shield of Oregon produced by Defendant David Schloesser MD. (4-ER-760, 762):

Since your last appointment or reappointment have you been, or are you now in the process of being, denied, revoked, terminated, suspended, restricted, limited, sanctioned, placed on probation, monitored or not renewed for any of the following? . .

Clinical privileges at any facility, including hospitals, . . . 4-ER-760

Provider Release/Authorization

(Modified releases will not be accepted)

By submitting this application I understand and agree as follows:

1. I understand and acknowledge that, as an applicant for medical staff membership at the designated hospital(s) and/or participation status with the Healthcare Organization(s)** indicated in this application (initial credentialing/ recredentialing), I have the burden of producing adequate information for proper evaluation of my competence, character, ethics, mental and physical health status, and other qualifications. In this application I have provided information on my qualifications, professional training and experience, prior and current licensure, Drug Enforcement Agency registration and history, and certification of CPR training. I have provided peer references familiar with my professional competence and ethical character if

requested. I have disclosed and explained any past or pending professional corrective action, licensure limitations or related matter, If any. I have reported my malpractice claims history, if any, and have attached or will provide a copy of a current certificate of professional liability coverage.

2. I further understand and acknowledge that the Healthcare Organization(s) or designated agent will investigate the information in this application. By submitting this application, I agree to such investigation and to the disciplinary reporting and information exchange activities of the Healthcare Organization(s) as a part of the verification and credentialing process. . . . 4-ER-762

Excerpt from the Recredentialing Profile required for continued participation as a provider for Regence BlueCross Blue Shield of Oregon produced by Defendant Michael Bell MD indicating physicians on staff at SCMC-Bend who will cover their patients in the case of their unavailability. (4-ER-743):

X. COVERING PROVIDERS/CALL GROUP	
Provider Name	
David T. Schlosser	MD
Laura V. Schaben	MD
Craig Gruffer	MD
Gregory Ferenz	DO

***Excerpt from Provider Services Agreement
Oregon for Clear One Health Plans, Inc. (4-ER-
769):***

2.6 Emergency Coverage.

Unless Health Plan enters into other arrangements for the provision of Emergency care coverage, Provider shall be responsible for responding to or making arrangements for emergent needs of Members with respect to Covered Services twenty-four (24) hours per day, seven (7) days per week, including holidays. In the event that Provider is unable to provide required Covered Services, Provider shall arrange for a Covering Physician.

Excerpt from Coventry Health Care Provider Agreement (4-ER-791):

2. PROVIDER OBLIGATIONS

2.1 Provision of Covered Services.

2.1.2 Provider shall make Covered services available and accessible to Members, including telephone access to Provider, on a twenty-four (24) hour, seven (7) day per week basis.

Excerpt from MODA Health Plan, Inc. Oregon Participating Provider Agreement Medicare Advantage (5-ER-816):

ARTICLE
PROVISION OF SERVICES

4

- 4.3 Coverage During Absence. To the extent applicable, Provider agrees to maintain appropriate coverage arrangements among Participating Providers so that Covered Services remain available and accessible to Members, including access to Provider's Emergency Medical services, on a 24-hour, 7-day-a-week basis.

Excerpt from Providence Health Plan Provider Agreement (4-ER-834):

ARTICLE
OBLIGATIONS OF PROVIDER

III

Call/Non-Par Coverage. Provider agrees to make prior arrangements to provide coverage for Members on a 24-hour a day, 7-day a week basis.

Excerpt from United HealthCare of Oregon/Clark County WA Oregon Practitioner Credentialing Application (5-ER-846):

I agree to provide continuous care for my patients, until the provider/patient relationship has been properly terminated by either party, or in accordance with contract provisions.

Excerpt from Oregon Practitioner Credentialing Application (5-ER- 946):

I agree to provide continuous care for my patients, until the practitioner/patient relationship has been properly terminated by either party, or in accordance with contract provisions.

Excerpt from Central Oregon Independent Practice Association ("COIPA") Practicing Physician Agreement (5-ER-863):

IX. ACCESSIBILITY AND CONTINUITY OF CARE

9.1 Physician agrees to make prior arrangements for other Participating Physician(s) to provide coverage for Members on a 24-hour a day, 7-day a week basis when Physician is unavailable to Members. The same terms and conditions as agreed to be Physician shall be in effect and primary coverage may not be through a hospital emergency room or urgent care center.

APPENDIX T

*Email from Defendant Schloesser to
Ireland refusing Ireland's request for call
Coverage and threatening to report
Ireland to hospital authorities if he failed
to cover his patients (9-ER-847-848)*

Re: Draft response--what do ou hunk?
Michael Bell
Tue 6/18/2013, 8:13 AM David Schloesser
(davidschloesser@bendcable.com); Cena
(fabendroth@BMCTOTALCARE.com); Craigan
Griffin (craigangriffin@hotmail.com);

I would omit the last two sentences.

Michael Bell MD
Sent from my iPhone

On Jun 17, 2013, at 10:50 PM, David Schloesser
<davidschloesser@bendcable.com> wrote:

>> Steve,

>> We have been very clear in our interactions with you. Please take your policy questions to the hospital at this point as they are managing your call. Please don't contact this group further by email or individually from now on. We expect no coverage from your call group and you should expect none from us. We will not abandon any acutely ill patient that needs appropriate help from the emergency room. But if it is your patient, we will expect the hospital to make every effort to assist you to fulfill your obligations and will

notify the administration if you are unavailable. We will simultaneously allow the system to work while allowing no patient to be denied proper access to care. If you choose to resign your hospital privileges, this is one way to avoid your obligations.

» David

»

>> Sent from my iPad

>

> Sent from my iPad

>

> On Jun 17, 2013, at 6:56 PM, Steve Ireland <spireland@bendbroadband.com> wrote:

>

>> The honor of a prompt reply to my email sent earlier today is requested. I acknowledge all of you are in collusion (whether willingly or because of coercion), so just reply by email. Send a copy to all the coconspirators. If no one sends me an email stating otherwise, I will assume your response represents the group's response. You can send a registered letter later.

»

» A restatement of the content of your last letter will not suffice. Provide a yes or no response to the question posed in my last two emails. I need it to better plan my patients' care.

»

>> Sent from my iPhone

APPENDIX U

Email from Ireland to Defendant Schloesser to discuss settlement and Schaben's comment that she hoped this meant "end is near" for Ireland's Bend neurology practice. (5-ER-850)

-----Forwarded message-----

From: Laura Schaben <ljschaben@gmail.com>
Date: Tue, Jul 15, 2014 at 5:47 PM
Subject: Re: ireland
To: "David T. Schloesser M.D."
<davidschloesser@bendcable.com>

Oh, that sucks.

Sent from my iPhone

On Jul 15, 2014, at 9:51 AM, "David T. Schloesser M.D." <davidschloesser@bendcable.com> wrote:

He apparently plans to practice here in another building according to what I have heard...

Original Message:

From: l'oelles .
To: David T. Schloesser M.D.
Sent: Tuesday, July 15, 2014 9:48 AM
Subject: Re: ireland

Sorry he is back to acting up again-- hopefully the end is near-- for his practice in Bend at least.