

150a

On Tue, Jul 15, 2014 at 9:03 AM, David T. Schloesser  
M.D.

<davidschloesser@bendcable.com> wrote:

He sent an email asking to meet with me to have some  
sort of arrangement/settlement, or he would sue...  
Mike knows about it already.

David

--

Laura Schaben, MD  
Bend Neurological Associates

Important Notice: This communication, including any attachment, contains information that may be confidential or privileged, and is intended solely for the entity or individual to whom it is addressed. If you are not the intended recipient, you should delete this message and are hereby notified that any disclosure, copying, or distribution of this message is strictly prohibited. Nothing in this email, including any attachment, is intended to be a legally

**APPENDIX V**  
*Email exchange between  
Defendants regarding MRI overhead (5-ER-851)*

**Re: Ancillary/MRI**

Michael Bell  
Thu 5/2/2013 8:24 PM  
To: David Schloesser  
<davidschloesser@bendcable.com>  
Cc: Laura Schaben <Ijschaben@gmall.com>; Rena  
Adkins <renaadkins3@gmail.com>

Your call Laura.

Michael Bell MD  
Sent from my iPhone

On May 2, 2013, at 2:51 PM, David Schloesser  
<davidschloesser@bendcable.com> wrote:

We could distribute it and start building the reserve  
next month instead. I'll defer to  
you guys on that decision.  
David

Sent from my iPhone

On May 2, 2013, at 1:30 PM, Laura Schaben  
<Ijschaben@gmall.c,. > wrote:

Check was pretty puny. And >25K per month per doc  
overhead- it would be nice to sort out what is MRI  
overhead and what is not and account for that

separately so the MRI side of the business makes more sense in terms of being able to actually look at profit and loss for the MRI as an owner. Tech pay rolled in with payroll doesn't make sense to me for example. And BeSCH profit and loss somehow needs finessed out as well for tax purposes I would think. There is the bank loan payment for the building but no rent payment yet... I hope Harrigan has some guidance to make better sense of the accounting and book keeping... I think we're going to need more detailed monthly reports as things have just gotten a lot more complicated now with the building and MRI.

On Thu, May 2, 2013 at 12:09 PM, David Schloesser <[davidschloesser@bendcable.com](mailto:davidschloesser@bendcable.com)> wrote:

My bias is to put that in the MRI/mortgage reserve for next month unless we don't have a clinical distribution--or if we are paying any MRI/bldg expenses from our clinical overhead this month to use it for that. I'd like to see us build up a reserve of \$50k over the next 3 to 6mo and \$100k over 6 to 12 mo but we need to weigh that against income and debt reduction needs. Perhaps we should wait for Harrigan to weigh in on this.

David  
Sent from my iPhone

**APPENDIX W**  
*Email from BNA officer manager  
regarding building loan and MRI (5-ER-852)*

Building Loan/MRI  
RENA ADKINS <admin@bendneuro.com>  
Fri 8/24/2018 10:26 AM

To: Bell, Michael baloogabell@hotmail.com

Building Loan Balance owed as of 08/14/18  
\$1,765,892.55. Original loan was \$1,984,100.00.  
MRI Loan Balance owed as of 08/25/18 \$453,192.77.  
Original loan was \$1,381,362.32.

Also, I will remind DTS and LJS to send John their financial statements so that when the appraisal is completed, the restructure can be completed, and the .55 property can be sold.

Rena

Rena Adkins  
Business Manager

Bend Neurological Associates, LLC  
2349 NE Conners Avenue  
Bend, OR 97701  
PH: 541 317-0044  
FX: 541 728-0707

## APPENDIX X

*Email from BNA neurologist, Bell, instructing recently arrived, competing BMC neurologist, Goins, to never provide coverage for Ireland (5-ER-853)*

### Call schedule July 6, 2015-Jan 3, 2016

Michael  
Sun 5/31/2015 11:50 AM  
To: Cena Abendroth  
<fabendroth@bmctotalcare.com>;  
cgriffin@bmctotatcare.com  
<cgriffin@bmatotalcare.com>;  
gferenz@bmctotalcare.com  
<gferenz@bmctotalcare.com>;  
stevencartergoins@gmail.com  
<stevencartergoins@gmail.com>;  
davidschloesser@bendcable.com  
<davidschloesser@bendcable.com>;  
lischaben@gmail.com <lischaben@gmail.com>;  
Michael <baloogabell@hotmail.com>

...Steve, please note when Ireland is on call, the BNA/BMC doc in parentheses covers both of our clinics while Ireland covers his own and ER/unassigned. We do not cover his clinic ever, and he is obligated to cover his own patients so if the ER or hospitalists call with a consultation on one of his patients, direct them to him. ....

Mike

## APPENDIX Y

*Email from Abendroth to SCMC-Bend switchboard  
describing defendants' concerted refusal to share call  
with Ireland, June 2013 (5-ER-855)*

Dr. Abendroth

From: Dr. Abendroth

Sent: Wednesday, June 12, 2013 4:02 PM

To transferanddispatch@gmail.com

Subject: Neurology call schedule

Transfer Center staff,

As confirmed by phone, you now have access to the call/clinic coverage calendars for the Neurology clinics in Bend. There are two calendars, one for Dr. Ireland/NOB, and one for the other neurologists at BNA/BMC/GDB clinics. The schedules have been made through the end of the year. Dr. Ferenz is a new provider who arrives in early August. Dr. Koller will no longer take call as of August 1, 2013.

Providers per clinic are:

Bend Neurological Associates (BNA)

-Dr. Bell

-Dr. Schaben

-Dr. Schloesser

BMC Neurology (BMC)

-Dr. Abendroth

-Dr. Griffin

-Dr. Ferenz

156a

Gary D. Buchholz, L.C. (GDB)  
-Dr. Buchholz

Neurology of Bend (NOB)  
-Dr. Ireland

As of July 1, 2013, Dr. Ireland will be covering his own patients at Neurology of Bend (NOB). The other providers will cover after hour calls from the ER or hospital for patients of the other 3 clinics (BNA, BMC and GDB).

For any given date, when both calendars are pulled up, one will designate a provider who is on call, and that provider will cover the hospital and ER calls (general questions and patient's without a neurologist), including from outlying facilities. That provider would also be covering their own clinic/s. The provider on the other schedule for that date will cover the designated clinic/s, but will not be taking ER/hospital or outlying calls, unless it is related to one of their clinic's patients.

Please let me know if the call schedule changes are clear, and if you have any questions.

Francena Abendroth, M.D.  
BMC Neurology  
(541) 322-3570

## APPENDIX Z

*Email from Ireland to Defendants requesting that they cover his patients in the "rare instances" when he needed to leave the Bend area (5-ER-856)*

Dr. Abendroth

From: Steve Ireland

<spireland@bendbroadband.com>

Sent: Monday, June 17, 2013 4:18 PM

To: Dr. Abendroth; Michael Bell; David Schloesser;

Dr. Griffin; Laura Schaben

Subject: Call

Doctors,

Can't tell where your letter of 6/12/13 leaves us.

Please review my original email, below. My question is very specific. It is possible one of my patients will present to the emergency room with a problem requiring immediate, personal (in-person) attention of a neurologist. If at all possible, I will provide such attention. If I am out of town and the St. Charles emergency room calls you about such a patient, will you see them?

Steve

Doctors,

*I want to clarify an issue related to our new call relationship.*

*I will take all calls for my patients. In those rare instances when one of my patients needs immediate, personal attention from a neurologist, I will make myself immediately available, whenever this is feasible. Occasionally, I will be out of town and (even though I will be able to respond by phone) immediate, personal attention from me won't be possible.*

*In these very rare cases, the only options for the patients would be to see one of you, or to be transferred to another facility, like OHSU. The latter would impose a hardship on the patient.*

*Would you, as a group, be willing to see my patients if this is required on an urgent basis while I'm out of town? Given the tenor of our current relations and since I'm usually out town for a few days at a time, arranging for one person to cover me isn't likely to work. The only way this would work is to rotate the responsibility with the call schedule.*

*Steve*

## APPENDIX AA

*Excerpts from Defendants Bend Memorial Clinic, PC, Craigan Griffin, and Francena Abendroth's and Defendants Bend Neurological Associates LLC, Michael Bell, M.D., David T. Schloesser, M.D., and Laura J. Schaben M.D.'s Responses to Plaintiff's First Interrogatories (5-ER-936, 938)*

**INTERROGATORY NO. 1:** Provide the names and the beginning and ending dates of employment at Bend Memorial Clinic, P.C. for all neurologists employed by Bend Memorial Clinic, P.C. from January 1, 2012 to the present.

**ANSWER:**

Francena Abendroth, MD: employed 4/25/12 — 12/30/16

Gary D. Buchholz, MD: employed 4/1/14 — 4/30/15 | 3/21/16 — /13/16[sic]

Gregory J. Ferenz, MD: employed 8/5/13 — 9/9/16

Richard Koller, MD: employed 4/25/12 — 12/31/13

Steven Goins, MD: employed 5/26/15 — 12/30/16

Craigan Griffin, MD: employed 4/30/12 - 12/30/16

**INTERROGATORY NO. 1:** Provide the names and the beginning dates and ending dates (if applicable) of practice at Bend Neurological Associates, LLC for all neurologists who practiced at Bend Neurological Associates, LLC from January 1, 2012 to the present.

**ANSWER:** Other than the named BNA defendants herein, Dr. Jason Polchinski was an employed physician with a start date of August 1, 2017 and an end date of August 10, 2018.

**APPENDIX BB**  
*Letters to Ireland from*  
*Defendants terminating call share with him*  
*and his practice, Neurology of Bend*  
*Jun. 2013 (5-ER-941-942)*

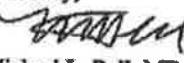
06/20/2013

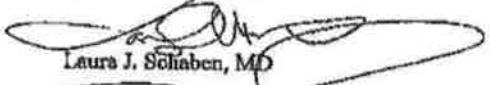
Steve Ireland MD  
Neurology of Bend  
2421 NE Doctors Drive  
Bend OR 97701

Dr. Ireland;

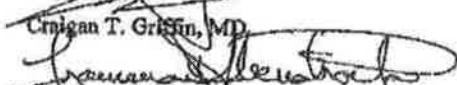
Effective July 1st, we will no longer call share with  
you and your practice, Neurology of Bend.

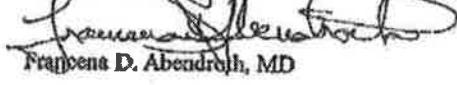
Sincerely,

  
Michael L. Bell, MD

  
Laura J. Schaben, MD

  
David T. Schloesser, MD

  
Craig T. Griffin, MD

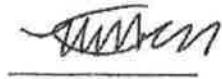
  
Frannica D. Abendroth, MD

June 12, 2013

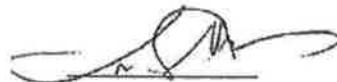
Steve,

As stated in our previous letter, we are ending call sharing in any circumstances with you and your clinic. Please make alternative arrangements to cover your patients if you will be unavailable. We will continue to provide consultation as requested by St. Charles Medical Center to provide appropriate patient care, as needed. If you have any questions or concerns about call responsibilities, please contact the SCHS administration.

Sincerely,



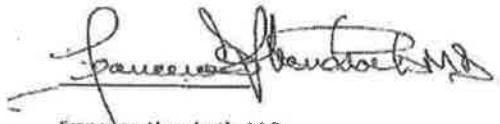
Michael Bell, M.D.



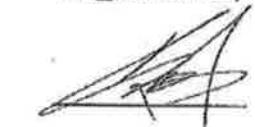
Laura Schaben, M.D.



David Schlosser, M.D.



Francona Abendroth, M.D.



Craig Griffin, M.D.

### APPENDIX CC

*Article from the BEND BULLETIN: "Neurologists in short supply in Bend," Nov 5, 2016 (5-ER- 947-9520)*

Published Nov. 5, 2016 at 12:19AM

#### **Neurologists in short supply in Bend**

#### **Lack of specialists in Central Oregon undermining Alzheimer's and dementia care**



Pamela Seibold stands by her parents, Joel and Shirley Gentles, in the home where they live together in Redmond on Thursday. Seibold has been waiting for months for a neurology appointment for her mother, who is showing signs of dementia. Her father had previously been diagnosed with Alzheimer's

disease, and with BMC discontinuing neurology, they're struggling to find care locally. (Joe Kline / The Bulletin)

When Bend Memorial Clinic announced last month it would discontinue its neurology services, members of an Alzheimer's caregiver support group in Redmond began to panic. The clinic had been the last neurology practice in Central Oregon still accepting dementia patients. If it was going to close its doors, who would care for their loved ones?

"We have lost all of our neurological doctors," said Kevin Seibold, a pastor in Redmond whose wife cares for two aging parents. "This is a crisis situation not just for ourselves but for the aging population and all the elderly folks who are moving here to retire."

While it's now clear that the BMC neurologists will remain in Bend and transition to a new practice at the start of the year, the supply of neurologists in Central Oregon remains woefully short of demand.

Over the past year, both BMC and Bend Neurological Associates have had to triage their patient caseloads to ensure patients with urgent neurological problems such as seizures and strokes could be seen in a timely manner. That has resulted in wait times of weeks if not months for patients with less dire needs, including those with Alzheimer's disease and dementia.

"It's been brutal. We've had turn away all kinds of stuff," said Dr. Michael Bell, one of three neurologists with Bend Neurological Associates. "We have literally

had to close our doors to 95 percent of dementia referrals to keep the doors open for more urgent problems."

### **Falling numbers**

Central Oregon has been undersupplied for some time, but the retirement of three veteran neurologists and the departure of another has cut the number from a high of 10 neurologists five years ago, down to six.

"The demand is probably double that," said Dr. Steve Goins, one of the three neurologists at Bend Memorial Clinic. Goins came to Bend last year after working in Eugene for nearly three decades.

"Things were busy in Eugene," he said. "But I came over here and I didn't appreciate until we got started that it's a real shortage area."

The clinic set up a triaging system to ensure urgent patients, particularly those referred from the emergency room or discharged from the hospital, could be seen within a week or two. But as the three remaining doctors had to absorb the patients left behind by their retiring colleagues, wait times climbed as long as three months.

"That's really not ideal," said Dr. Craigan Griffin, another of the BMC neurologists. "I feel like I'm compromising the quality of care I'd like to provide patients."

The caseload made it difficult for the doctors to follow up with patients to see how they were doing on medications.

“It was a real struggle,” Goins said. “Our first duty was to established patients, people who needed follow-up. We’ve been so busy we had to shut down our practice to new referrals about three months ago.”

Goins, Griffin and Dr. Francena Abendroth will join a new practice, Pacific Crest Neurology, in January, to be housed in the Pinnacle Building on Mary Rose Place on the east side of Bend. The practice will be owned by Adaugeo Healthcare Solutions, the company that owns High Lakes Health Care and several specialty practices in Central Oregon.

“Neurology was already at the top of list of areas that our patients have desired additional access,” Adaugeo administrator Dan McCarthy said, and High Lakes primary care physicians had complained that referrals to neurology often took several weeks if not months.

### **Attracting doctors**

Adaugeo has plans to expand the neurology practice next year, adding physician assistants and two new neurologists. Bend Neurological Associates is also planning on hiring two additional neurologists next year.

But recruiting neurologists has been a challenge, in part because of a nationwide shortage of them. A 2013 study published in the journal *Neurology*, found that

nationwide there was a gap of more than 1,800 full-time neurologists, and that the gap was expected to grow to 3,380 neurologists by 2025. The researchers said Oregon's shortfall of 40 neurologists would grow to 62 by 2025.

"We're predicting about a 20 percent shortfall of neurologists over the next 10 years," said Dr. Nicholas Johnson, an assistant professor of neurology at the University of Utah, and chairman of the government relations committee for the American Academy of Neurology. "Particularly here in the West, the issues in terms of neurologists are very significant."

He attributed the shortfall to a freeze on residency slots nationwide that has prevented more doctors from being trained, and an increasing paperwork burden that has prompted older neurologists to retire.

According to physician research and consulting firm Merritt Hawkins, in 2013, a full 50 percent of practicing neurologists were older than 55 and nearing retirement.

Neurology may be less attractive to prospective doctors than other specialties in part because of the payment system that reimburses physicians for performing procedures. Specialties such as neurology or primary care that involve discussing, diagnosing and managing health problems suffer in comparison.

"Taking the time to diagnose a patient with Alzheimer's disease and then talking to them about the diagnosis and management takes a tremendous

amount of time," Johnson said. "It takes a lot more time than a simple procedure."

Neurologists also tend to choose more urban areas to practice, making it harder to recruit them to Central Oregon.

"Neurologists tend to be city nerds," Bell said. "We're not like orthopedic surgeons who want to ski Mt. Bachelor."

Griffin says it's been harder to recruit new neurologists to Central Oregon in part because they are still required to be on call for emergency cases at the hospital, as often as once a week.

"I think the younger neurologists are really looking for a work situation where there is a hospitalist taking care of the inpatient, and they are freed from nighttime call," he said. "That may be true in other areas, but that hasn't occurred in Central Oregon."

### **Waiting game**

With limited access, some area caregivers are taking elderly patients to Portland or other places in the valley with better access to neurology services. But that can be a difficult trip with an elderly dementia patient.

That also could leave patients with migraines or other neurological issues to rely on primary care doctors, who lack the specialized neurological training and experience, and who may struggle to manage more

complex conditions in the limited time of a primary care appointment.

Seibold and his wife, Pamela, had been waiting four months for a neurology appointment for her elderly mother when they learned BMC was discontinuing its neurology practice. Her father had been diagnosed with Alzheimer's disease six years ago, and her parents had moved to Redmond last year to live with them. Now her mother is showing signs of dementia, and Seibold wants to get her evaluated.

"We really need to have our first appointment," she said. "The earlier treatment can begin, the better off you are long term."

Her father had an appointment scheduled at Bend Memorial Clinic in November, but she canceled it, not wanting to start the process with a doctor who might be leaving.

"The biggest problem is who do you reach out to? Where is that support?" she asked. That's left the Seibolds wondering whether the region, with its aging population and reputation as a retirement destination, is prepared for the onslaught of elderly needing care and services.

"If we can't give sufficient and efficient care to the aging population, what's the use in building all this elder care?" she asked. "What's the use in making these services available, if you don't have the right specialists to support the needs of that community?"

Griffin agrees the region is not yet prepared for the demand.

“Because we’re very much a retirement community, there’s inevitably going to be more and more patients reaching an age where memory care and dementia is going to be a concern,” he said. “The community as a whole is going to need to come together to develop these resources.”

— *Reporter: 541-633-2162,  
mhawryluk@bendbulletin.com*

**APPENDIX DD**  
*Declaration of Steven Goins MD*  
*Feb. 11, 2020 (5-ER- 953)*

I, Steven Goins, M.D. declare:

1. I am a neurologist who currently practices neurology in Bend, Oregon at 2500 Northeast Neff Road Bend, Oregon 97701.
2. In the summer of 2016, I practiced neurology as an employee of Bend Memorial Clinic LLC.
3. Sometime prior to November 5, 2016, I was interviewed by a representative of the Bend, Oregon newspaper, THE BULLETIN.
4. In a November 5, 2016 THE BULLETIN article titled *Neurologists in short supply in Bend*, I was quoted:

"Things were busy in Eugene," he said.  
"But I came over here and I didn't appreciate until we got started that it's a real shortage area."

"Our first duty was to establish patients, people who needed follow-up. We've been so busy we had to shut down our practice to new referrals about three months ago."

5. The above statements, attributed to me in THE BULLETIN article, accurately portrayed my opinions.

172a

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

Signed

A handwritten signature in black ink, appearing to read "Steven Goins".

Steven Goins, M.D.

Executed on

2-11-2020

**APPENDIX EE**

*American Academy of Neurology/Neurology  
Career Center Job Posting  
for Neurology Opportunity in Bend OR  
Jan 10, 2013 (5-ER-1077)*

American Academy of Neurology (AAN), Neurology  
Career Center  
<http://careers.aan.com/hr/jobs/manage/?status=5>

Neurology Career Center

**TITLE**

Neurology Opportunity in Bend, OR

**LOCATION**

Bend, OR USA

**POSTED**

01/10/13

**CLOSED**

03/12/13

**ACTION**

Copy

**APPENDIX FF**  
*United States District Court  
for the District of Oregon, Complaint,  
Filed Oct. 21, 2016*

Stephen Ireland M.D.  
3400 East River Valley Street  
Apartment F 202  
Meridian, ID 83646  
Telephone: (541) 480-8038  
E-mail: [stephenpireland@gmail.com](mailto:stephenpireland@gmail.com)  
*Plaintiff pro se*

UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON  
EUGENE DIVISION

STEPHEN IRELAND M.D., an individual,  
Plaintiff,

*v.*

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-2054-JR

**COMPLAINT**

(Unlawful Conspiracy in Restraint of  
Trade, 15 USC § 1; Tortious  
Interference with Contractual and  
Business Relationships)

**DEMAND FOR JURY TRIAL**

**INTRODUCTION**

1. The plaintiff, Stephen Ireland M.D., is a neurologist who is currently employed by St. Luke's Health Systems and practices neurology at St. Luke's Medical Center in Meridian, Idaho. Prior to September 2015, Dr. Ireland practiced neurology for 23 years at Neurology of Bend in Bend, Oregon.

2. In this Complaint, the use of the term defendants will include all the entities, juristic and natural persons described as defendants in the Complaint's caption.

3. Dr. Ireland brings this action against the defendants, representing competing independent neurology groups and constituting all of the other neurologists in the Bend, Oregon service area at the time of the violation in June 2013, seeking monetary damages for collusive anticompetitive conduct in furtherance of their scheme to eliminate Dr. Ireland

from the market — in clear violation of Section 1 of the Sherman Act (15 U.S.0 § 1) and common law.

4. The unlawful conduct is documented by two letters, signed by all the neurologists practicing at Bend Memorial Clinic, P.C. and Bend Neurological Associates LLC, sent to Dr. Ireland in June of 2013. In both letters, the group boycott was expressly extended to include Dr. Ireland and his clinic, Neurology of Bend LLC.

5. Pursuant to the conduct described in the letters, the defendants combined to refuse to continue to see Dr. Ireland's patients for urgent and emergent neurological problems when the defendants were on call for St. Charles Medical Center-Bend, the only hospital in the Bend, Oregon service area.

6. The unlawful coordinated boycott of Dr. Ireland succeeded in its anticompetitive scheme by placing Dr. Ireland in the unsustainable position of having to remain available to be at the bedside within 40 minutes, 24 hours a day/365 days a year, should one of his patients present to the hospital and require immediate in-person neurological care or face devastating consequences to his career.

7. As the anticipated result, the defendants' unlawful conspiracy forced Dr. Ireland to resign his hospital privileges, terminate his contractual relationships with health insurance providers, abandon business relationships he had established over 23 years of practicing neurology in Bend, close his practice and relocate to another area of the country — eliminating him and his clinic as competitors for

patients who required neurological care in the Bend service area.

8. In their attempt to eliminate competition the defendants have conspired to purge and, through coordinated action, have purged Dr. Ireland and his neurology clinic from the Bend neurology market and have destroyed Dr. Ireland's business.

9. The defendants' indisputable goal throughout the conspiracy was to destroy Dr. Ireland's practice of neurology.

10. Through their unlawful coordinated boycott of Dr. Ireland and his clinic, the defendants succeeded in eliminating Dr. Ireland and his clinic as a competitor. On August 17, 2015, Dr. Ireland closed his practice and Dr. Ireland's entire business, including its goodwill, reputation, employee work force and patient customer base, was destroyed.

11. The defendants have achieved their ultimate goal of reducing the number of competing clinics providing neurological services in Bend.

12. The success of the defendants' unlawful coordinated actions against Dr. Ireland has set the stage for their use of similar coordinated anticompetitive activity to prevent other independent neurologists and neurology clinics from entering the market, erecting a barrier to entry to the market for potential competitors. Similar collusive anticompetitive conduct could be used by the defendants to raise prices for neurological services.

13. A significant portion of the services provided by Dr. Ireland and the defendants were provided to Medicare and Medicaid patients. Bend has

a large tourist industry. As a result, the defendants and Dr. Ireland often provided neurological care for out-of-state patients. Recruiting physicians, obtaining necessary supplies, equipment, and continuing medical education often occurred across state lines. The unlawful combination significantly affected interstate commerce.

14. Prior to the loss of his Bend neurology practice, Dr. Ireland maintained significant business relationships with other health care providers in the Bend service area and valid contracts to provide neurological services at St. Charles Medical Center-Bend and with federal and commercial health insurance carriers.

15. The defendants had similar business relationships with other health care providers, the same contractual relationships with the hospital and the same or similar contractual relationships with health insurance carriers. They were, at all relevant times, aware of Dr. Ireland's business relationships and contractual relationships with the hospital and health insurance carriers.

16. The defendants conspired to force, and through concerted action succeeded in forcing, Dr. Ireland to resign his hospital privileges and close his practice. As a result, Dr. Ireland could not maintain his business and contractual relationships.

17. The defendants had no privilege to interfere with Dr. Ireland's business relationships or his contractual relationships with health insurance providers and the hospital.

18. The defendants destroyed Dr. Ireland's contractual and business relationships and his business through their unlawful group boycott.

## PARTIES

19. Plaintiff Stephen Ireland M.D. graduated Magna Cum Laude from The University of Oregon Health Sciences Center, later renamed The Oregon Health and Science University, in June 1977. He completed a residency in internal medicine at The Peter Bent Brigham Hospital, later renamed the Brigham and Women's Hospital, in Boston, Massachusetts in June 1980. He was a Clinical Fellow in Medicine at Harvard Medical School from June 1977 through June 1980. He completed a residency in neurology at The University of California, San Francisco in June 1983. He is board certified in internal medicine and neurology. He practiced neurology in Bend, OR from June 1992, until he was forced to leave as a result of the defendants' unlawful conduct, in August of 2015. He was elected and served as president of the medical staff for St. Charles Medical Center-Bend in 2000. He is an accomplished neurologist and has given numerous talks to physicians on a range of topics in neurology.

20. Neurology of Bend LLC is an Oregon limited liability company, wholly owned by Dr. Ireland.

21. Stephen P. Ireland M.D., P.C. is an Oregon professional corporation wholly owned by Dr. Ireland.

22. Bend MRI LLC is an Oregon limited liability company, wholly owned by Dr. Ireland.

23. BUSCIR LLC is an Oregon limited liability company, wholly owned by Dr. Ireland.

24. Neurology of Bend LLC, Stephen P. Ireland M.D., P.C., Bend MRI LLC and BUSCIR LLC have assigned all claims against the defendants to Dr. Ireland.

25. At the time of the defendants' unlawful combination, Dr. Ireland was in solo practice as a neurologist at Neurology of Bend with active medical staff privileges at St. Charles Medical Center-Bend.

26. Defendant Bend Memorial Clinic, P.C. is a multidisciplinary medical clinic registered in the State of Oregon. Its main office is located in Bend, OR. It has satellite clinics in multiple locations in Central Oregon, including: Bend, Oregon, Sisters, Oregon and Redmond, Oregon.

27. Defendants Francena Abendroth M.D. and Craigan Griffin M.D. are neurologists employed by Bend Memorial Clinic.

28. Defendant Bend Neurological Associates LLC is an Oregon limited liability company, specializing in neurology, located in Bend, OR.

29. Defendants Laura J. Schaben M.D., P.C., David T. Schloesser M.D., P.C. and Michael Bell M.D., P.C. are professional corporations registered in the State of Oregon and members of Bend Neurological Associates LLC.

30. Defendants Laura Schaben M.D., David Schloesser M.D., and Michael Bell M.D. are

neurologists whose practices are located at Bend Neurological Associates in Bend, OR.

31. Defendant Gary D. Buchholz M.D., P.C. is a professional corporation registered in the State of Oregon.

32. Defendant Gary Buchholz M.D. practiced neurology in Bend, Oregon until he retired from active practice as an employee of Bend Memorial Clinic in the fall of 2014.

## **JURISDICTION AND VENUE**

33. This complaint is brought to recover damages caused by the defendants in violation of Section 1 of the Sherman Act (15 U.S.C. § 1) and common law.

34. It is filed under, and jurisdiction is conferred upon this Court by, 15 U.S.C. §§ 15 and 22. Dr. Ireland also alleges tortious interference with contractual and business relationships under Oregon State Law and seeks monetary damages under those state laws. All claims under federal and state law are based on a common nucleus of operative facts, and the entire action commenced by this Complaint constitutes a single case that would ordinarily be tried in one judicial proceeding.

35. The Court has jurisdiction over federal claims under 28 U.S.C. §§ 1331 and 1337. The Court has jurisdiction over the state claims under 28 U.S.C. § 1337 because those claims are so related to the

federal claims that they form the same case or controversy.

36. Venue is proper in this Division and District under 15 U.S.C. §§ 22 and 28 U.S.C. § 1391(b), and L. R. 3-2, because the defendants' medical practices are located and conducted within Deschutes County, they committed illegal and tortious acts within Deschutes County and all of the events giving rise to the claims arose in Deschutes County.

37. The conduct of the defendants, as described herein, disrupted Dr. Ireland's contractual relations with federal health insurance providers. Because of Bend's large tourist industry Dr. Ireland frequently treated patients from other states. Recruiting physicians, obtaining necessary supplies, equipment, and continuing medical education often occurred across state lines. The defendants' collusive anticompetitive conduct significantly affected interstate commerce.

## **BACKGROUND**

### **Medical Staff Call Coverage Requirements**

38. The St. Charles Medical Staff Bylaws require that all physicians provide coverage for their patients — if a physician's patient presents to the hospital with a problem that falls within that physician's scope of practice and requires immediate in-person evaluation, the physician, or another physician with similar training, must be present at the bedside within 40 minutes. Traditionally,

coverage for neurological cases was provided by the neurologist designated as on call for the hospital. This on-call responsibility was rotated among all the neurologists on staff at St. Charles Medical Center-Bend in a mutually agreed upon schedule.

**Consequences of Failure to Comply with Medical Staff Call Coverage Requirements**

39. Failure to comply with medical staff bylaws can result in disciplinary action, including the loss of medical staff privileges. Physicians are required to report such adverse clinical privileges actions when applying for or renewing contracts with health insurance carriers, state medical licenses, hospital privileges and employment. Hospitals are required to report such actions to the National Practitioner Data Bank. The loss or restriction of medical staff privileges is a "red flag" that can have draconian effects on a physician's career, preventing the physician from obtaining or renewing contracts with health insurance carriers, state medical licenses, hospital privileges and employment.

**Implications of Defendants' Concerted Refusal to Deal Combined with Medical Staff Call-Coverage Requirements**

40. As a result of the defendants' unlawful combination, Dr. Ireland could not travel beyond the immediate environs of Bend, Oregon without violating

the medical staff bylaws, unless he engaged a locum tenens. Engaging a locum tenens was far too expensive, too cumbersome and too disruptive to his patients' continuity of care to use in all but the rarest of circumstances.

41. To meet his financial obligations, Dr. Ireland performed forensic medical examinations in several Oregon cities including Portland, Salem, Eugene and Medford. As a result of the defendants' group boycott, Dr. Ireland could not perform these examinations and comply with his obligations under the medical staff bylaws. Visiting his children in higher education around the country, attending their graduations, family vacations, traveling, skiing at the local ski resort, fishing, hiking, or trail riding on bike or horseback are just some of the activities that Dr. Ireland could no longer engage in without risking his career. Dr. Ireland could never take a day or night off without taking the risk that he would lose his medical staff privileges and his career.

### **Insurers Call-Coverage Requirements**

42. All of the federal and commercial health insurance providers in the Bend service area require that physicians provide hospital coverage for their patients — if an enrolled patient of a physician who is contracted with the patient's health insurance provider is admitted to the hospital and requires the services of the contracted physician, that physician must be able to treat that patient or provide for coverage by another, similarly trained, physician.

Because the defendants' unlawful combination included all of the physicians capable of providing coverage for Dr. Ireland's patients, he could not relinquish his medical staff privileges without breaching his contracts with federal and commercial health insurance carriers in the Bend service area.

43. Patients are reluctant to see physicians who do not have contracts with their health insurance carriers — copays are generally higher and deductibles are often twice as high for patients seeing a physician who is out-of-plan. When an enrolled patient is seen by a physician contracted by the health insurance carrier, the carrier pays the physician directly. When the patient sees an out-of-plan physician, the carrier pays the patient — a significant financial risk for the physician.

#### **How Defendants Used Call-Coverage Requirements in Furtherance of Their Anticompetitive Scheme**

44. Dr. Ireland could not comply with the medical staff call-coverage requirements and he could not sustain the loss of income that would result from resigning his medical staff privileges and losing his contractual relationships with health insurance providers. The defendants anticipated that Dr. Ireland would not be able to remain within forty minutes of the hospital 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 he

provide coverage for his hospital patients. The defendants' unlawful anticompetitive scheme forced Dr. Ireland to close his practice in Bend, OR and relocate to another region of the country where he could obtain call coverage.

#### **Effects of the Unlawful Conspiracy on Patient Care**

45. By entering into the unlawful combination, the defendants disrupted treating relationships Dr. Ireland had established with patients over twenty-three years of practice in Bend. Many of Dr. Ireland's patients established their relationship with him because they and/or the referring provider preferred that Dr. Ireland provide their neurological care rather than any of the defendants.

46. Patients were experiencing long wait times for appointments even before Dr. Ireland left, sometimes many months.

47. Reimbursement for physician services for patients with some types of federal health insurance, such as Medicare and Medicaid, is much less than for providing the same services for patients with most commercial insurances; often, reimbursement from Medicare and Medicaid is one third or less than commercial insurance reimbursement for the same service.

48. The defendants and Dr. Ireland were members of the Central Oregon Independent Physicians

Association (COIPA). Member physicians were required to sign the COIPA Physicians Agreement, which provided that members agree not to discriminate on the basis of a patient's health insurance; COIPA members agree to see all patients with the same availability regardless of their health insurance coverage.

49. Beginning at around the time of the formation of the group boycott, Bend Neurological Associates, in a transparent attempt to circumvent the covenant of COIPA's Physicians Agreement not to discriminate on the basis of health insurance, instituted a policy of reviewing referrals to their clinic from Mosaic Medical, a Bend area clinic that primarily served Medicare and Medicaid patients, accepting referrals for some patients and refusing to see many. At around the same time, Bend Memorial Clinic began refusing to see referrals from Mosaic Medical, representing that their neurologists were not accepting new patients. Bend Neurological Associates had no similar review process for patients with commercial insurance and Bend Memorial Clinic neurologists saw many new patients with commercial insurance. At the time he was forced to leave Bend, Dr. Ireland was the only neurologist available to patients whom Bend Neurological Associates and Bend Memorial Clinic refused to see.

50. Some of Dr. Ireland's former patients with chronic neurological problems, like epilepsy, faced the prospect of needing to establish care at Oregon Health and Science University located in Portland, Oregon, a three and one half hour drive from Bend, Oregon — a drive that many patients with

chronic neurological diseases, like epilepsy, simply cannot make.

51. By eliminating Dr. Ireland as a competitor, the illegal conduct of the defendants deprived Bend area patients with neurological problems access to their choice of neurologist, timely access to a neurologist and, in many cases, access to any neurologist.

### **THE ANTICOMPETITIVE CONSPIRACY**

#### **Documentation of the Conspiracy**

52. On or around June 6 of 2013, Dr. Ireland received a letter signed by Drs. Bell, Schaben, and Schloesser of Bend Neurological Associates and Drs. Griffin and Abendroth of Bend Memorial Clinic, stating:

*"Effective July 1st, we will no longer call share with you and your practice, Neurology of Bend"*

53. In response to Ireland's inquiries about how this would affect his patients if they presented to the emergency room when he was unavailable or could not be reached, a second letter, dated June 12, 2013, was sent, subscribed by the same physicians:

*"As stated in our previous letter, we are ending call sharing in any circumstances with you and your clinic. Please make alternative arrangements to cover your patients"*

*if you will be unavailable. We will continue to provide consultation as requested by St. Charles Medical Center to provide appropriate patient care, as needed. If you have any questions or concerns about call responsibilities, please contact the SCHS administration.”*

54. In response to Ireland's request for further clarification, Dr. Abendroth, sent an email several days later:

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

*“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, in person, neurological care. If you, or an appropriate covering provider, are not available to respond in a timely manner, the medical staff president will be noted 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.”*

55. “EMS” in Dr. Abendroth’s email above stands for event management system, the first step in disciplinary action that could, ultimately, lead to loss of medical staff privileges.

56. On June 28, 2013 counsel for Dr. Ireland, William Buchanan, sent a letter to Drs, Abendroth, Griffin, Bell, Schloesser and Schaben:

*“This office represents the interests of Dr. Stephen Ireland. You apparently caused a letter to be sent to Dr. Ireland on or about June 12, 2013, signed by yourself and four other neurologists practicing at different medical groups in the Bend service area. The letter and subsequent correspondence provided that all neurologists signing the letter would no longer provide call coverage after July 1, 2013, for any of Dr. Ireland’s patients. As you know, arranging for call coverage is a requirement of the medical staff bylaws at St.*

*Charles Medical Center, the only hospital in the Bend service area. Call coverage for neurology at the hospital emergency department usually has been shared through an equitable call coverage protocol established by the hospitals Division of Neurology.”*

*“Dr. Ireland believes the letter, the expression of the intent in the letter, and the conduct related to the letter may be a violation of ORS 646.725 and its federal counterpart. That statute is both a criminal and civil statute and provides: ‘every contract, combination in the form of trust or otherwise, or conspiracy in restraint of trade or commerce is declared to be illegal.’ This is the same law that prohibits competing medical groups from jointly negotiating or boycotting insurance contracts. Before persisting in such conduct covered by the statute, if you have not consulted with legal counsel, that would be a prudent course of action. If you already have legal counsel who has provided advice about this conduct, please let me know and I would be glad to engage in further discussions directly with them. Notably, the*

*conduct may involve other legal issues (including without limitation payment of treble damages and attorneys' fees) and could affect medical staff privileges.*

*"For now, Dr. Ireland will assume you do not intend to violate ORS 646.725 and the call coverage will continue to remain available through the Division of Neurology's traditional call coverage protocol, including coverage for those limited times with [sic] Dr. Ireland is out of town. If however, you intend to move ahead with the conduct contained in the document, Dr. Ireland reserves any and all rights with respect to such conduct."*

57. In response to this letter, Gregory Lynch, indicating he represented all of the defendants, replied that the defendants would persist in their group boycott.

58. Although Dr. Buchholz was not signatory to either of the letters expressing an intent not to share call and is not described as part of the neurology call group in Dr. Abendroth's letter, from the effective date of the termination of the traditional call-sharing relationship between Dr. Ireland and the neurologists from Bend Memorial Clinic and Bend Neurological Associates (July 1, 2013), Dr. Buchholz participated in the group boycott. Dr. Buchholz

became an employed neurologist at Bend Memorial Clinic in the Spring of 2014. Dr. Buchholz's participation in the group boycott continued until the fall of 2014, when he retired from active practice in the Bend service area.

### **Defendants Conspired to Remove Dr. Ireland and His Clinic as Competitors**

59. As revealed in the correspondence described above, the indisputable goal of the defendants' conspiracy was to eliminate Dr. Ireland as a competitor by presenting him with two unacceptable alternatives: 1) constrain his personal and professional activities so that he was available, 24/7/365, to get to St. Charles Medical Center-Bend within 40 minutes for the rest of his career or 2) relinquish his Medical Staff privileges, attempt to continue to practice in the Bend area and suffer the severe financial consequences. The cartel succeeded. Dr. Ireland had no choice but to resign from the medical staff; terminate his contracts with health insurance carriers, close his practice of 23 years and relocate to another region of the country.

60. The fact of collusion speaks eloquently to the defendants' cartel's intention to force Dr. Ireland from the market. Any of the defendants, individually or as an independent group, could have refused to cover Dr. Ireland's patients without violating the law but, without combining, it was unlikely to have the desired effect of forcing him to close his practice in Bend. Only by using the market power of a cartel that

included all the other neurologists in the Bend service area to refuse to provide such coverage — and extending that refusal to his clinic so that Dr. Ireland was effectively constrained from engaging an associate — could they be sure of putting Neurology of Bend out of business and ending Dr. Ireland's career in the region.

61. An email from Dr. Schaben to Dr. Ireland documents that the defendants researched the implications of their concerted action by consulting a hospital employee they identified as an expert in medical staff bylaws call-coverage requirements. Dr. Abendroth's email to Dr. Ireland clearly indicates the defendants were prepared to pursue disciplinary action against Dr. Ireland, if he failed to comply with the bylaws coverage requirements. They were aware that Dr. Ireland, who had children in higher education all over the country and the financial need to work on weekends out of town, would not be able to maintain his hospital privileges indefinitely. Indeed, the plaintiff contends that it is not reasonable to believe that anyone could voluntarily submit to such a constraint on their personal freedom, indefinitely.

**Defendants Conspired to Prevent Dr. Ireland from Engaging an Associate**

62. Dr. Ireland and the defendants competed directly for patients. They also competed for associates.

63. In the months before the defendants entered into their group boycott/concerted refusal to

deal, Dr. Ireland actively sought a partner to join his practice. As owner of Neurology of Bend, Dr. Ireland 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.

64. As a result of the additional income generated by the MRI, in 2012, the last full year Neurology of Bend had two practicing neurologists, Dr. Ireland's income was far beyond the 90th percentile for neurologists nationwide. Because of its income potential and the attractive amenities of Bend, Neurology of Bend represented an excellent opportunity for an associate.

65. Because of the very large overhead that attended such a large building and operating the MRI, Dr. Ireland's income from his practice, and especially from the MRI, decreased dramatically when Dr. Buchholz left Neurology of Bend in April 2013.

66. The defendants were aware of Dr. Ireland's need to engage an associate. Drs. Bell, Schloesser and Buchholz had been associates of Neurology of Bend and were well acquainted with its overhead structure. They realized that it would be difficult for Dr. Ireland to keep Neurology of Bend a going concern, without adding an associate.

67. At the time of the boycott, Bend Neurological Associates and Bend Memorial Clinic were, also, planning to engage additional neurologists.

Bend Neurological Associates had recently built a large office building that included an MRI. A new associate would have substantially helped Bend Neurological Associates defray overhead and increase their MRI income.

68. In early 2013, Dr. Ireland ran advertisements for an associate in The Neurology Career Center, an on-line service provided by the American Academy of Neurology to help members find associates and jobs. Bend Neurological Associates and Bend Memorial Clinic advertised for associates in the same on-line service.

69. Since Dr. Ireland was the only neurologist practicing at Neurology of Bend, the defendants' extension of the unlawful group boycott/concerted refusal to deal to include Dr. Ireland's clinic in addition to him personally, explicitly expressed in both letters documenting the conspiracy, could imply only one thing — the defendants intended to boycott any associates Dr. Ireland engaged. The stigma attached to the group boycott/concerted refusal to deal made it very unlikely anyone would want to join Dr. Ireland and Neurology of Bend. Because of the defendants' illegal conduct, an associate joining Neurology of Bend would have been required to take call every other night. If an associate joined Bend Neurological Associates or Bend Memorial Clinic, they would have been required to take call only once every seven nights. As a direct result of the defendants' unlawful anticompetitive conduct, Dr. Ireland was forced to abandon his search for an associate.

**DEFENDANTS HAD SUBSTANTIAL MARKET POWER**

**Relevant Service Market**

70. The relevant service market for this action is the market for inpatient and outpatient neurological services.

**Relevant Geographical Market**

71. The relevant geographical market, the locale in which consumers of inpatient and outpatient neurological services can turn for alternative sources of supply, is the City of Bend and its immediate environs. The closest neurology services outside the Bend service area are in Eugene and Salem, Oregon. The outer boundary of the Bend market is defined by the time needed for a neurologist to travel to St. Charles Medical Center-Bend after they have been notified their services are urgently needed for a hospital patient. That travel time, in turn, is 40 minutes pursuant to hospital policy. This description of the relevant geographical market reflects the fact that the relevant consumer of inpatient neurological services is St. Charles Medical Center-Bend.

72. The defendants include all the other neurologists in the relevant market, the only physicians capable of providing call coverage for Dr. Ireland's patients. The number of neurologists involved in the unlawful conspiracy ranged from six at its inception in June of 2013 to seven when Dr. Ireland

was forced to close his practice in August of 2015. The Defendants' unlawful conspiracy had the market power to succeed in their anticompetitive scheme and force Dr. Ireland from the market.

**DEFENDANTS ESTABLISHED EXCLUSIVE ACCESS TO AN ELEMENT ESSENTIAL TO COMPETITION IN THE BEND SERVICE AREA**

73. Shared call coverage is an element essential to remaining in business as a neurologist in Bend, Oregon. By refusing to share call with Dr. Ireland and extending their unlawful group boycott to his clinic, thereby causing Dr. Ireland to abandon his attempts to engage an associate, the defendants used their market power to force Dr. Ireland into the unsustainable position of needing to be available to get to the hospital within forty minutes, 24/7/365, for as long as he remained in practice in Bend, Oregon. While such a loss of freedom to pursue professional opportunities and the enjoyment of travel and recreation is something some could tolerate for a limited period of time, it is not reasonable to expect anyone to be able to tolerate such a profound infringement on his or her personal freedom indefinitely. The defendants' concerted action amounted to a form of house arrest imposed by their unlawful conspiracy.

74. By using their market power to withhold an element essential to compete in the Bend market for neurological services, the defendants' unlawful conspiracy destroyed Dr. Ireland's business.

## **EFFECTS OF THE UNLAWFUL CONSPIRACY ON COMPETITION**

75. Dr. Ireland and his clinic competed directly with the defendants for patients who required neurological services in the Bend service area. The defendants' unlawful combination eliminated Dr. Ireland and his clinic as a provider of these services.

76. Many patients and referring physicians preferred Dr. Ireland to any of the defendants. In many cases, they believed — based on their experience with Dr. Ireland, his reputation, training, and experience — that he would provide better care than the defendants. In other cases, patients and referring physicians had bad experiences with the care the defendants delivered.

77. Dr. Ireland's performance in medical school and the quality of his training programs in medicine and neurology reflect an unusually strong academic and clinical aptitude and a dedication to the study and clinical practice of neurology. This aptitude and dedication have been proven by his outstanding record of clinical practice throughout his career. The defendants' anticompetitive scheme has eliminated Dr. Ireland as a provider of high-quality neurological care in the Bend service area.

78. The extension of the defendants' collusive anticompetitive agreement to Dr. Ireland's clinic created a barrier to entry for a potential associate for Neurology of Bend. The potential for the

defendants to engage in similar collusive anti-competitive conduct is, and will continue to be, a deterrent to entry into the Bend neurology market for other independent neurologists and neurology clinics.

79. By unlawfully combining to eliminate Dr. Ireland from the market and erecting barriers to entry to other neurologists and neurology clinics, the defendants' conspiracy has reduced quality, access and choice of provider for patients requiring neurological care in the Bend service area. It has set the stage for the cartel to take advantage of the inelasticity of demand for services, in this geographically isolated region, and raise prices.

80. Because of the cherry-picking strategies used by the defendants to circumvent their COIPA contractual obligation not to discriminate on the basis of a patient's health insurance, the reduced output caused by the defendants' unlawful concerted action is likely to have a particularly pernicious effect on Medicare and Medicaid patients.

81. No pro-competitive benefits in terms of increased efficiency, quality, or output of neurological services were contemplated by the defendants' cartel.

82. The market for providing neurological services was open and competitive until the unlawful concerted action of the defendants closed the market to their competitor, Dr. Ireland and his clinic, and erected barriers to entry for other neurologists. The defendants' conduct unreasonably displaced the competitive process.

## **DAMAGES**

### **Economic Damages**

83. Neurology of Bend represented a significant economic opportunity for Dr. Ireland. As sole owner of Neurology of Bend, Dr. Ireland had sole ownership of a high field strength MRI and the state-of-the-art suite in which it was housed. The MRI was debt free. Because of the high income generating potential of its MRI, Neurology of Bend offered an excellent financial opportunity to prospective associates. The Bend area has numerous attractive outdoor and cultural amenities. But for the unlawful conduct of the defendants, Dr. Ireland would have engaged at least one, more likely two, associates. As a result of the defendants' unlawful concerted refusal to deal, Dr. Ireland lost his business, Neurology of Bend, and was deprived of the opportunity to profit from the MRI and its revenue stream either by selling an interest in the MRI to his associates or retaining some or all of his ownership of the MRI and its profits.

84. Dr. Ireland was offered his job in Meridian in the spring of 2014 but he could not relocate without leasing or selling his medical office building. Bend was one of the areas of the country most affected by the real estate downturn in 2007. In 2014 commercial real estate prices were just beginning to recover and there was a glut of medical office buildings on the Bend market; it was not an optimum time to sell a medical office building in the Bend area. It was very unlikely the job offer in Meridian would be available indefinitely and the defendants' unlawful conduct put Dr. Ireland at risk

for disciplinary action every time he had to leave town to earn money to meet his financial obligations. For these reasons he needed to sell his medical building as soon as possible and, ultimately, sold it at a significant discount to its likely future value. He had to sell his MRI at a fire-sale price.

85. As a result of his move to Meridian and the need to rent an apartment until his wife and family can join him, he has incurred moving and significantly increased living expenses. Frequent trips for Dr. Ireland and his family back and forth from Bend to Meridian have resulted in significant travel expenses.

### **Noneconomic Damages**

86. At the time Dr. Ireland was forced to leave Bend, his youngest son had yet to finish high school. In an attempt to mitigate the emotional damage to their family caused by the defendants' unlawful conduct, Dr. Ireland and his wife decided that she and their son would continue to live in Bend until their son graduated from high school.

87. Dr. Ireland, his wife and their children were actively involved in the breeding, training and showing of Morgan and Peruvian horses, a passion for the family they pursued on a small ranch near Bend, Oregon. As a consequence of the defendants' illegal conduct, Dr. Ireland and his family are forced to sell their ranch and horses before his wife and family join him in Idaho.

88. As a result of the defendants' unlawful conduct, Dr. Ireland was forced to leave the area in which he dreamed of living since he was a child growing-up in Eugene, Oregon. Dr. Ireland was an avid Nordic and Alpine skier, often backcountry or cross-country skiing before or after work, an amenity uniquely available for a neurologist in Bend. He enjoyed the region's ready access to beautiful hiking, horseback riding and mountain-bike riding trails. World-class fly fishing, a hobby of Dr. Ireland's, was close to home.

89. Dr. Ireland, his wife and his family have strong ties to the Bend area community. Dr. Ireland and his wife have served on the Boards of several not-for-profit entities, his wife serving as chairperson of the board for one of them. They have been socially active and have deep friendships in the area. His children are fourth generation residents of Central Oregon. His wife's father, now in his late 80s, continues to live in Central Oregon.

90. The defendants' illegal conduct severely disrupted the harmonious life of Dr. Ireland and his family, depriving Dr. Ireland of the companionship, support and protection of his family and inflicting severe emotional pain, suffering and humiliation on him and his family.

#### **FIRST CLAIM**

**(Unlawful Conspiracy in Restraint of Trade —  
Violation of Section 1 of the Sherman Act, 15  
USC § 1)**

**(Against All Defendants)**

91. Dr. Ireland incorporates the preceding paragraphs as if fully alleged herein.

92. Dr. Ireland and the defendants were direct competitors for providing inpatient and outpatient neurological services in the Bend, Oregon service area.

93. The defendants represent independent groups of neurologists and included all the other neurologists in the Bend service area at the time of the violation.

94. In June of 2013 the defendants knowingly formed and joined in a conspiracy to unreasonably restrain trade in violation of section 1 of the Sherman Act (15 U.S.C. § 1).

95. The defendants engaged in a conspiracy to eliminate competition in the Bend neurology market through the wrongful destruction of Dr. Ireland's neurology practice.

96. The defendants conspired to eliminate Dr. Ireland and his neurology clinic from the market by combining to refuse to see Dr. Ireland's patients when any member of the conspiracy was on call, forcing him into the unsustainable position of having to be available to be at the hospital within 40 minutes, 24/7/365, or risk disciplinary action, including the loss of his medical staff privileges, and the attendant dire consequences to his career.

97. By harnessing the market power of their collusive anticompetitive conduct to the medical staff bylaws and expressly extending their concerted action to his clinic, thereby effectively eliminating the possibility of engaging an associate, the defendants were able to deny Dr. Ireland an element essential to

remain in business in the Bend service area, call coverage, and drive him and his clinic from the market.

98. The defendants' unlawful conduct had the immediate effect of destroying Dr. Ireland's ability to continue to practice neurology in Bend, causing substantial damages to Dr. Ireland. As a direct and proximate result of the defendants' unlawful conduct, Dr. Ireland suffered the loss of his business.

99. The conspiracy had the effect of restraining trade by eliminating and suppressing competition in the Bend neurology market — reducing the quality, access and choice of provider for patients requiring neurological services in the Bend service area.

100. By preventing Dr. Ireland from engaging an associate, the anticompetitive conspiracy erected a barrier to entry to the Bend neurology market. The threat the defendants will engage in similar collusive anticompetitive conduct is, and will continue to be, a barrier to entry for other independent neurologists and neurology clinics.

101. Federally funded health insurance, including Medicare and Medicaid, provided reimbursement for a significant portion of the services performed by the defendants and Dr. Ireland. Bend has an important tourist industry. As a result, the defendants and Dr. Ireland often provided neurological care for out-of-state patients. Recruiting physicians, obtaining necessary supplies, equipment, and continuing medical education often occurred across state lines. The unlawful combination significantly affected interstate commerce.

102. The defendants' conduct is a naked, horizontal group boycott/concerted refusal to deal that used its substantial market power to control an element necessary to remain a viable competitor in the Bend neurology market and destroy Dr. Ireland's neurology practice.

103. The defendants' conspiracy has no legitimate pro-competitive justification.

104. The defendants' conspiracy is per se unlawful under section 1 of the Sherman Act, 15 U.S.C. § 1. No elaborate industry analysis is required to demonstrate the anticompetitive character of the agreement.

105. The exclusively anticompetitive nature of the defendants' conduct is obvious and is, therefore, unlawful under Section 1 of the Sherman Act, 15 U.S.C. § 1, under the abbreviated or "quick look" rule of reason analysis.

106. The group boycott/concerted refusal to deal agreement is also an unreasonable restraint of trade that is unlawful under Section 1 of the Sherman Act, 15 U.S.C. § 1, under the rule of reason analysis. The principal tendency of the defendants' concerted action was to eliminate competition and the agreement had no legitimate pro-competitive justification.

107. To the extent that any particular defendant is not directly liable, it is vicariously liable for any actions of the other defendants which were made on its behalf or with apparent authority to act on its behalf.

108. By reason of the foregoing, Dr. Ireland has been damaged in the amount of \$3,000,000.

**SECOND CLAIM  
(Tortious Interference)  
(Against All Defendants)**

109. Dr. Ireland incorporates the preceding paragraphs as if fully alleged herein.

110. At the time Dr. Ireland was forced to leave the Bend neurology market he maintained significant business relationships with other health care providers and contractual agreements to provide neurological services with all commercial and federal health insurance carriers in Central Oregon and with St. Charles Medical Center-Bend.

111. The agreements between Dr. Ireland and the health insurance providers and St. Charles Medical Center-Bend were valid, binding contracts.

112. The defendants all had the same contract with St. Charles Medical Center-Bend and the same or similar business relationships and contracts with commercial and federal health insurance carriers in the Bend service area. They were at all relevant times aware of the business relationships between Dr. Ireland and other health care providers and the contractual relationships between Dr. Ireland and the hospital and insurers.

113. The defendants intentionally and unjustifiably have interfered with Dr. Ireland's business relationships and contractual agreements by combining to refuse to share call with Dr. Ireland and his clinic, thereby forcing Dr. Ireland into the

unsustainable position of needing to be at all times available to be at the hospital within forty minutes.

114. The defendants interfered with Dr. Ireland's business relationships and contractual agreements with the intent of causing harm to Dr. Ireland by destroying his business and expelling Dr. Ireland from the marketplace.

115. The defendants' unlawful, tortious conspiracy forced Dr. Ireland to resign his hospital privileges and terminate his business relationships with other health care providers and his contractual relationships with all health insurance providers in the Bend service area.

116. Since contracts with health insurance carriers and active staff privileges were necessary to continue to practice in Bend, Dr. Ireland was forced to close his practice.

117. The defendants undertook their wrongful, intentional and unjustifiable acts in furtherance of their ongoing conspiracy to destroy Dr. Ireland's business through, among other things, tortious interference.

118. As a result of the defendants' wrongful conduct as alleged herein, Dr. Ireland and his family suffered and will continue to suffer in the future emotional distress, mental anguish, humiliation and other noneconomic damages.

119. To the extent that any particular defendant is not directly liable, it is vicariously liable for any actions of the other defendants which were made on its behalf or with apparent authority to act on its behalf.