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SUPERIOR COURT OF CALIFORNIA

COUNTY OF ORANGE

PEOPLE OF THE STATE OF CALIFORNIA,
ex rel., ALLSTATE INSURANCE
COMPANY, ALLSTATE INDEMNITY
COMPANY, ALLSTATE FIRE AND
CASUALTY INSURANCE COMPANY,
ALLSTATE PROPERTY AND CASUALTY
INSURANCE COMPANY, ALLSTATE
NORTHBROOK INDEMNITY COMPANY,
ALLSTATE NEW JERSEY INSURANCE
COMPANY, and ALLSTATE NEW JERSEY
PROPERTY AND CASUALTY INSURANCE
COMPANY

Plaintiffs,

vs.

SONNY RUBIN, M.D., an individual;
SONNY RUBIN, M.D. INC., a California
corporation;
COASTAL SPINE AND ORTHOPEDIC
SPECIALISTS, INC., a California corporation
doing business as Newport Institute of
Minimally Invasive Surgery and Downey
Interventional Procedural Center;
NEWPORT INSTITUTE OF MINIMALLY
INVASIVE SURGERY, a California
corporation;
SOUTH COAST SPECIALTY SURGERY
CENTER, a California corporation;
O.C. MULTISPECIALTY SURGERY
CENTER, INC. a California corporation;
DOCTORS and SURGEONS OF LOS
ANGELES, a California corporation;
SURGICAL OUTPATIENT SOLUTIONS,
INC., a California corporation doing business
as SOUTH COAST SPECIALTY SURGERY
CENTER; and DOES 1 through 100, inclusive,

Defendants.

No. 30-2019-01101013-CU-FR-CJC
Judge Unassigned

**COMPLAINT FOR VIOLATION OF
CALIFORNIA INSURANCE FRAUDS
PREVENTION ACT, VIOLATION OF
THE CALIFORNIA UNFAIR
COMPETITION ACT; DEMAND FOR
JURY TRIAL**

**FILED IN CAMERA AND UNDER
SEAL PURSUANT TO CAL. INS.
CODE §1871.7(e)(2)**

1 Plaintiffs People of the State of California *ex rel.* Allstate Insurance Company, Allstate
2 Indemnity Company, Allstate Fire And Casualty Insurance Company, Allstate Property and
3 Casualty Insurance Company, Allstate Northbrook Indemnity Company, Allstate New Jersey
4 Insurance Company, and Allstate New Jersey Property and Casualty Insurance Company
5 (hereinafter referred to collectively as “Plaintiffs”) allege as follows:

6 **I. INTRODUCTION**

7 1. This is an action by Plaintiffs, as *qui tam* relators on behalf of the People of the State
8 of California, and on behalf of themselves, to recover civil penalties, assessments, injunctive relief,
9 costs, expenses, and attorneys’ fees, arising out of a fraudulent scheme carried out by Defendants to
10 prepare and caused to be presented false, fraudulent and/or misleading writings, including medical
11 narrative reports, operative reports, and billing statements, to be used in support of claims for
12 insurance benefits under policies of insurance issued by Allstate Insurance Company, Allstate
13 Indemnity Company, Allstate Fire And Casualty Insurance Company, Allstate Property and
14 Casualty Insurance Company, Allstate Northbrook Indemnity Company, Allstate New Jersey
15 Insurance Company, and Allstate New Jersey Property and Casualty Insurance Company
16 (“ALLSTATE,” collectively).

17 2. At the center of the fraudulent scheme is Defendant Sonny Rubin, M.D. (“RUBIN”),
18 a physician specializing in pain management who caters to personal injury claimants, including
19 those submitting insurance claims to ALLSTATE, through referrals from chiropractors and
20 attorneys. The scheme is carried out through medical practices that are owned, operated and
21 controlled by RUBIN, including SONNY RUBIN, M.D., INC. (“RUBIN M.D., INC.”) and
22 COASTAL SPINE AND ORTHOPEDIC SPECIALISTS, INC. (COASTAL SPINE), and through
23 outpatient surgery centers, including Newport Institute of Minimally Invasive Surgery (“NIMIS”),
24 Downey Interventional Procedural Center (“DIPC”), South Coast Specialty Surgery Center
25 (“SOUTH COAST”), O.C. Multispecialty Surgery Center (“O.C. MULTISPECIALTY”), and
26 Doctors and Surgeons of Los Angeles (“DOCTORS AND SURGEONS”) (hereinafter collectively
27 referred to as “SURGERY CENTERS”). Through RUBIN M.D., INC., COASTAL SPINE and
28 SURGERY CENTERS, RUBIN orchestrates fraudulent conduct in which he routinely recommends

predetermined “one-size-fits-all” treatment plans without regard to medical necessity or patient safety, to fraudulently increase the value of the patients’ claims and to maximize his own revenue, profit, and income. In support of or in connection with claims made against policies of insurance issued by ALLSTATE, DEFENDANTS prepared bills for treatment and procedures represented to have been rendered by RUBIN, which contain false, deceptive, misleading and/or fraudulent statements and information material to the evaluation and payment of claims with regard to the nature of services allegedly provided, the cost of such services, and the location of where services were provided, among other material false, deceptive, misleading and/or fraudulent statements. Through the manipulation of billing codes to maximize reimbursement, bills submitted by DEFENDANTS grossly inflate the value of the services rendered and often contain charges for treatment that was never provided or multiple charges for the same treatment.

3. From 2012 to present, DEFENDANTS knowingly engaged in the following acts in furtherance of the fraudulent scheme:

- Made written statements that were intended to be presented to insurance companies, including ALLSTATE, in connection with and/or in support of insurance claims that contained false, fraudulent, and/or misleading information concerning material facts;
- Prepared and/or caused to be presented to ALLSTATE false, fraudulent, and/or misleading billing statements, using narrative reports, operative reports, and itemized invoices;
- Concealed, or knowingly failed to disclose, the fraudulent conspiracy, scheme, and/or plan and conduct herein alleged.

4. At all times herein relevant, Defendants, and each of them, knowingly engaged in the conduct described. Their conduct was not the result of mistake, inadvertence or neglect; it was and is intentional, willful, and knowing conduct.

5. The conduct of the Defendants, and each of them, as alleged herein violated California law including, but not limited to, California Penal Code sections 549 and 550; the California Insurance Frauds Prevention Act, codified as California Insurance Code sections 1817.1 *et seq.*, including, but not limited, to section 1871.7; and the California Unfair Competition Act, codified as California Business and Professions Code sections 17200 *et seq.*

II. JURISDICTION AND VENUE

6. The California Insurance Frauds Prevention Act, codified as Insurance Code sections 1871, *et seq.*, empowers and encourages any interested person, including insurers such as Plaintiffs, to bring a civil action under Insurance Code section 1871.7 against persons and entities that submit, or cause to be submitted, false, fraudulent and/or misleading claims against insurers. The California Courts of Appeal have emphasized that the statute has been repeatedly amended specifically to authorize and encourage insurers to bring actions under section 1871.7. In enacting section 1871.7, the California Legislature envisioned that insurance companies, working with law enforcement agencies, could contribute to the effort to combat the prevalent and serious problem of insurance fraud. As such, Insurance Code section 1871.7 provides for a *qui tam* civil action specifically authorizing and encouraging insurers to prosecute proscribed conduct and civil actions under the section.

7. A complaint brought pursuant to section 1871.7 is required to be filed *in camera* and under seal for sixty (60) days to allow the government to conduct its own investigation without the knowledge of Defendants, and to determine whether the government intervenes in the action. Further, a copy of the complaint and written disclosure of substantially all material evidence shall be served on the District Attorney of the county in which the matter is filed and Insurance Commissioner of the State of California. ALLSTATE, as relator, has complied with these requirements. Simultaneously with the filing of the Complaint in this action, ALLSTATE provided written disclosure of substantially all material evidence regarding the allegations contained in this Complaint to the Orange County District Attorney's Office and to the office of the Insurance Commissioner of the State of California. ALLSTATE also offered complete cooperation in any potential investigation initiated by the above-referenced government entities.

8. ALLSTATE is an original source for all of the information contained in this Complaint, as defined by California Insurance Code section 1871.7. ALLSTATE has direct and independent knowledge of the information on which the allegations contained herein are based and has voluntarily provided this information to the District Attorney and Insurance Commissioner at or about the time the present action was filed. Moreover, in addition to being an original source of

1 information, each ALLSTATE-related entity listed above is a direct victim to the extent each has
2 identified false, fraudulent and/or misleading writings submitted to it in support of or in connection
3 with claims made under policies it issued.

4 9. Plaintiffs, Plaintiffs' policyholders, other insurance companies and their insureds, the
5 motoring public, and the State of California were and are victims of the illegal and fraudulent
6 scheme conducted by Defendants, and each of them.

7 10. This is a civil action arising under the laws of the State of California to redress
8 violations of California law including, but not limited to, California Penal Code sections 549, and
9 550; the California Insurance Frauds Prevention Act, codified as California Insurance Code sections
10 1817.1 *et seq.*, including, but not limited, to section 1871.7; and the California Unfair Competition
11 Act, codified as California Business and Professions Code sections 17200 *et seq.*

12 11. This Court has jurisdiction over all causes of action asserted in this Complaint
13 pursuant to the California Constitution, Article VI, section 10, and the California Code of Civil
14 Procedure section 410.10, in that this is a civil action where the matter in controversy, exclusive of
15 interest, exceeds \$25,000.00, and because jurisdiction over this case is not given by statute to other
16 trial courts.

17 12. Jurisdiction over the person and venue are proper because Defendants reside in, can
18 be found in, transact and transacted business in, and/or maintain their principal offices in Orange
19 County; and while in Orange County, Defendants, and each of them, engaged in illegal and
20 fraudulent conduct prohibited by Penal Code sections 549 and 550, Insurance Code section 1871.7,
21 and Business and Professions Code section 17200 *et seq.*

22 **III. PARTIES**

23 13. Plaintiff Allstate Insurance Company is a corporation organized and existing under
24 the laws of the State of Illinois with its principal place of business in the State of Illinois. Allstate
25 Insurance Company is an insurance company which, *inter alia*, issues automobile insurance policies
26 and is licensed to conduct business in the State of California. Allstate Insurance Company operates
27 as part of a consolidated group of insurers identified as the Allstate Insurance Group, National
28 Association of Insurance Commissioners Group Number 0008. Allstate Insurance Company brings

1 this action for its own benefit and also as a relator on behalf of and for the benefit of the People of
2 the State of California under the provisions of California Insurance Code section 1871.7(e)(1).

3 14. Plaintiff Allstate Indemnity Company is a corporation organized and existing under
4 the laws of the State of Illinois with its principal place of business in the State of Illinois. Allstate
5 Indemnity Company is an insurance company which, *inter alia*, issues automobile insurance
6 policies and is licensed to conduct business in the State of California. Allstate Indemnity Company
7 operates as part of a consolidated group of insurers identified as the Allstate Insurance Group,
8 National Association of Insurance Commissioners Group Number 0008. Allstate Indemnity
9 Company brings this action for its own benefit and also as a relator on behalf of and for the benefit
10 of the People of the State of California under the provisions of California Insurance Code section
11 1871.7(e)(1).

12 15. Plaintiff Allstate Fire and Casualty Insurance Company is a corporation organized
13 and existing under the laws of the State of Illinois with its principal place of business in the State of
14 Illinois. Allstate Fire and Casualty Insurance Company is an insurance company which, *inter alia*,
15 issues automobile insurance policies and is licensed to conduct business in the State of California.
16 Allstate Fire and Casualty Insurance Company operates as part of a consolidated group of insurers
17 identified as the Allstate Insurance Group, National Association of Insurance Commissioners Group
18 Number 0008. Allstate Fire and Casualty Insurance Company brings this action for its own benefit
19 and also as a relator on behalf of and for the benefit of the People of the State of California under
20 the provisions of California Insurance Code section 1871.7(e)(1).

21 16. Plaintiff Allstate Property and Casualty Insurance Company is a corporation
22 organized and existing under the laws of the State of Illinois with its principal place of business in
23 the State of Illinois. Allstate Property and Casualty Insurance Company is an insurance company
24 which, *inter alia*, issues automobile insurance policies and is licensed to conduct business in the
25 State of California. Allstate Property and Casualty Insurance Company operates as part of a
26 consolidated group of insurers identified as the Allstate Insurance Group, National Association of
27 Insurance Commissioners Group Number 0008. Allstate Property and Casualty Insurance Company
28 brings this action for its own benefit and also as relator on behalf of and for the benefit of the

1 People of the State of California under the provisions of California Insurance Code section
2 1871.7(e)(1).

3 17. Plaintiff Allstate Northbrook Indemnity Company is a corporation organized and
4 existing under the laws of the State of Illinois with its principal place of business in the State of
5 Illinois. Northbrook Indemnity Company is an insurance company which, *inter alia*, issues
6 automobile insurance policies and is licensed to conduct business in the State of California.
7 Northbrook Indemnity Company operates as part of a consolidated group of insurers identified as
8 the Allstate Insurance Group, National Association of Insurance Commissioners Group Number
9 0008. Allstate Northbrook Indemnity Company brings this action for its own benefit and also as a
10 relator on behalf of and for the benefit of the People of the State of California under the provisions
11 of California Insurance Code section 1871.7(e)(1).

12 18. Plaintiff Allstate New Jersey Insurance Company is a corporation organized and
13 existing under the laws of the State of Illinois with its principal place of business in the State of
14 Illinois. Allstate New Jersey Insurance Company is an insurance company which, *inter alia*, issues
15 automobile insurance policies and is licensed to conduct business in the State of California. Allstate
16 New Jersey Insurance Company operates as part of a consolidated group of insurers identified as
17 the Allstate Insurance Group, National Association of Insurance Commissioners Group Number
18 0008. Allstate New Jersey Insurance Company brings this action for its own benefit and also as a
19 relator on behalf of and for the benefit of the People of the State of California under the provisions
20 of California Insurance Code section 1871.7(e)(1).

21 19. Plaintiff Allstate New Jersey Property and Casualty Insurance Company is a
22 corporation organized and existing under the laws of the State of Illinois with its principal place of
23 business in the State of Illinois. Allstate New Jersey Property and Casualty Insurance Company is
24 an insurance company which, *inter alia*, issues automobile insurance policies and is licensed to
25 conduct business in the State of California. Allstate New Jersey Property and Casualty Insurance
26 Company operates as part of a consolidated group of insurers identified as the Allstate Insurance
27 Group, National Association of Insurance Commissioners Group Number 0008. Allstate New
28 Jersey Property and Casualty Insurance Company brings this action for its own benefit and also as a

1 relator on behalf of and for the benefit of the People of the State of California under the provisions
2 of California Insurance Code section 1871.7(e)(1).

3 20. Plaintiffs are informed and believe, and thereon allege that, Defendant Sonny Rubin,
4 M.D. is a physician licensed by the State of California and is a resident of the city of Huntington
5 Beach, County of Orange, State of California.

6 21. Plaintiffs are informed and believe, and thereon allege that, Defendant Sonny Rubin,
7 M.D., Inc. is a professional corporation with its principal place of business in the city of Newport
8 Beach, County of Orange, State of California.

9 22. Plaintiffs are informed and believe, and thereon allege that, Defendant Coastal Spine
10 and Orthopedic Specialists dba Newport Institute of Minimally Invasive Surgery and Downey
11 Interventional Procedural Center, is a professional corporation with its principal place of business in
12 the city of Newport Beach, County of Orange, State of California.

13 23. Plaintiffs are informed and believe, and thereon allege that, Defendant Newport
14 Institute of Minimally Invasive Surgery is a general corporation with its principal place of business
15 in the city of Newport Beach, County of Orange, State of California.

16 24. Plaintiffs are informed and believe, and thereon allege that, Defendant South Coast
17 Specialty Surgery Center is a general corporation with its principal place of business in the city of
18 Costa Mesa, County of Orange, State of California.

19 25. Plaintiffs are informed and believe, and thereon allege that, Defendant O.C.
20 Multispecialty Surgery Center is a general corporation with its principal place of business in the
21 city of Anaheim Hills, County of Orange, State of California.

22 26. Plaintiffs are informed and believe, and thereon allege that, Defendant Doctors and
23 Surgeons of Los Angeles is a general corporation with its principal place of business in the city of
24 Anaheim Hills, County of Orange, State of California.

25 27. Plaintiffs are informed and believe, and thereon allege that, Defendant Surgical
26 Outpatient Solutions, Inc. dba South Coast Surgery Center, is a general corporation with its
27 principal place of business in the city of Costa Mesa, County of Orange, State of California.

28 28. Plaintiffs are informed and believe, and thereon allege that, at all times herein

1 mentioned, on information and belief, each of the Defendants was the agent, servant, employee or
2 joint venturer of each other remaining Defendants and in doing the things herein alleged was acting
3 within the course and scope of their agency, and employment to further each other's own financial
4 interest. Defendants, and each of them, acted with the knowledge, notification, consent and
5 ratification of each of the other Defendants.

6 29. The true names and capacities whether individual, corporate, associate or otherwise,
7 of any of the Defendants named herein as DOES 1 through 100 are unknown to Plaintiffs, who
8 therefore sue said Defendants by such fictitious names and will amend this complaint to show their
9 true names and capacities together with appropriate charging allegations necessary when the same
10 are ascertained. DOES 1 through 100 were or are individuals or entities that are legally responsible
11 in some manner for the conduct herein alleged; or are individuals or entities acting as agents or
12 employees of the other Defendants, acting within the scope of agency or employment and
13 knowingly engaging in the conduct hereinafter alleged; or were or are individuals or entities that
14 solicited, accepted, or referred any business to or from any individual or entity with the knowledge
15 that, or with reckless disregard for whether, the individual or entity for or from whom the
16 solicitation or referral was made, or the individual or entity who was solicited or referred, intended
17 to violate California Penal Code section 550; or were or are individuals or entities who knowingly
18 aided, abetted, assisted, conspired with or otherwise participated in, or were or are involved in, the
19 conduct hereinafter alleged; or were or are individuals who aided, abetted, or assisted the other
20 Defendants with full knowledge of the illegality of the activities and conduct.

21 30. Plaintiffs are informed and believe, and thereon allege that each Defendant herein
22 acted with full knowledge of the illegality of the activities and conduct as alleged herein, and
23 acquiesced, ratified, or approved of the conduct and acts of the other Defendants as herein alleged.

24 31. Plaintiffs are informed and believe, and thereon allege, that Defendants and each of
25 them, knowingly, willfully, and intentionally aided, abetted and conspired with each other and
26 agreed to a course of action to defraud Plaintiffs through illegal schemes as well as fraudulent
27 and/or unlawful claims made against insurance policies, including, but not limited to, automobile
28 liability policies issued by Plaintiffs, as herein alleged.

32. Plaintiffs are informed and believe, and thereon allege that, at all times herein relevant, there was a unity of interest between RUBIN, RUBIN M.D., INC., COASTAL SPINE, and SURGERY CENTERS, such that any individuality and separateness between them has ceased.

33. Plaintiffs are informed and believe, and thereon allege that RUBIN is, therefore, the alter ego of RUBIN M.D., INC., COASTAL SPINE and SURGERY CENTERS, which are and were mere shells, instrumentalities, and conduits through which RUBIN carried on his business.

34. Adherence to the fiction of the separate existence of RUBIN M.D., INC., COASTAL SPINE, and SURGERY CENTERS, as distinct from RUBIN, would permit an abuse of the corporate privilege and would promote injustice by protecting RUBIN from liability for the wrongful acts committed by them. Any references or allegations regarding or relating to RUBIN M.D., INC., COASTAL SPINE and SURGERY CENTERS, apply equally to RUBIN.

35. Plaintiffs are further informed and believe and thereon allege that RUBIN had common supervision, control, management, officers, and a unity of interest in ownership of RUBIN, M.D., INC., COASTAL SPINE, and SURGERY CENTERS, which is reflected in the commingling and pooling of their earnings, expenses, and losses, such that for all intents and purposes, they are one and the same and the alter ego of one another.

36. The “alternative” alter ego relationship between RUBIN, RUBIN, M.D., INC., COASTAL SPINE, and SURGERY CENTERS should therefore be recognized to prevent an injustice. If the alter ego relationship between such Defendants should not be recognized, an inequity would result because an individual responsible for wrongdoing would be shielded from liability.

IV. FACTUAL ALLEGATIONS

37. Plaintiffs are informed and believe, and thereon allege that, from 2012 to the present, RUBIN, through RUBIN M.D., INC., COASTAL SPINE, and SURGERY CENTERS, engaged in a conspiracy, scheme, or plan to prepare and present false, fraudulent and/or misleading narrative reports, operative reports, and billing statements to be used in support of, or in connection with, claims made against policies of insurance issued by ALLSTATE and other similarly situated insurance companies, with an intent to unfairly and fraudulently deceive such insurance companies

1 and to falsely and fraudulently inflate or increase the value of the claims.

2 38. Plaintiffs are further informed and believe, and thereon allege that RUBIN routinely
3 and knowingly exaggerated the severity of his patients' medical conditions and recommended pre-
4 ordained courses of treatment without regard to patient need, patients' medical histories, test results,
5 imaging studies, and subjective complaints. For every patient that RUBIN examined, he prepared,
6 or had others in his control and direction prepare, templated narrative reports containing uniform
7 findings, used to support his pre-determined, "one-size-fits-all" treatment regimens, including
8 repeated epidural steroid injections and facet blocks, which were billed at exorbitant rates on a lien
9 basis. In so doing, RUBIN, through RUBIN M.D., INC., COASTAL SPINE, and SURGERY
10 CENTERS, knowingly made false, fraudulent, and/or misleading statements, knowing that such
11 statements would be presented to insurance companies in support of, or in connection with, claims
12 made against policies of insurance by his patients.

13 39. Plaintiffs are further informed and believe, and thereon allege that RUBIN, through
14 RUBIN, M.D., INC., COASTAL SPINE and SURGERY CENTERS, solicited and received the
15 referral of patients through chiropractors and attorneys and performed examinations, recommended
16 treatment, and performed procedures on a lien basis, which gave him a financial interest in the
17 outcome of any claim or lawsuit, including those covered by insurance. Thus, motivated by
18 financial gain, RUBIN engaged in such conduct as set forth herein knowing that statements and
19 documents prepared by the defendant entities under his direction and control would be presented to
20 insurance companies in connection with insurance claims, directly or indirectly, through attorneys
21 representing his patients. He also engaged in such conduct knowing that the uniform findings and
22 the pre-determined treatment would be used by attorneys to fraudulently increase the value of
23 claims and lawsuits and that the dollar amount billed would be a factor to be considered by
24 insurance companies in the evaluation of claims for settlement.

25 40. Plaintiffs are further informed and believe, and thereon allege that RUBIN routinely
26 recommended pre-determined treatment plans for patients referred to him by chiropractors and
27 attorneys, which were intended to maximize the value of the claim or lawsuit filed by the patient
28 and to fraudulently maximize RUBIN's monetary recovery in the patient's claim or lawsuit via his

1 lien interest. Furthermore, RUBIN recommend invasive and expensive medical procedures,
2 including epidural steroid injections, without regard to medical necessity or patient safety, knowing
3 that such recommendations would fraudulently inflate the value of the patient's claim or lawsuit,
4 thereby serving the interests of the patient and the patient's attorney in making a claim. Upon
5 information and belief, the pre-determined treatment was correlated, at least in part, with available
6 insurance proceeds under available policies of insurance. Thus, the treatment actually provided by
7 RUBIN was reimbursement-driven, meaning that in instances with larger policies, the treatment
8 would be rendered regardless of need, and in the instance of smaller available proceeds, the
9 treatment would be recommended but not provided.

10 41. By treating personal injury claimants on a lien basis via referral from chiropractors
11 and attorneys, RUBIN had and has an inherent conflict of interest between rendering medical care
12 solely in the interest of patient health, safety and well-being and his own financial recovery under
13 his lien. Thus, to maximize the settlement value of a claim, RUBIN regularly made false statements
14 in his templated reports that the injuries he diagnosed and treated arose solely from the injury-
15 producing event at issue in the immediate claim or lawsuit. RUBIN's decision-making as a
16 physician, therefore, was and is compromised by his self-interest in maximizing his personal
17 financial recovery in the claim or lawsuit. RUBIN, therefore, knowingly made material
18 misrepresentations of fact to ensure the unnecessary, expensive, and questionable treatment he
19 recommended and provided appeared justified, regardless of medical necessity.

20 42. Plaintiffs are further informed and believe, and thereon allege that, as part of the
21 fraudulent scheme to falsely inflate the value of personal injury claims, RUBIN consistently and
22 uniformly referred patients to SURGERY CENTERS in which he held financial interests. In
23 exchange for the referral of patients to SURGERY CENTERS, RUBIN received kickbacks from
24 SURGERY CENTERS in the form of a share of the facility fees billed by the centers or some other
25 form of consideration or other remuneration. The undisclosed self-referrals made by RUBIN were
26 designed to defraud insurance carriers and increase the revenue and profit to RUBIN and
27 SURGERY CENTERS by participating in a scheme designed to falsely inflate the value of claims,
28 with the ultimate goal of securing the maximum available insurance proceeds under each applicable

policy. Defendants, and each of them, intentionally concealed their financial relationships, knowing that if ALLSTATE and other insurance carriers were aware of the true nature of the relationship between Defendants, such claims would not be paid.

43. Plaintiffs are further informed and believe, and thereon allege that, like RUBIN, the SURGERY CENTERS routinely prepared billing statements containing fraudulently inflated fees, with the intent that the billing statements would be presented to insurance companies, including Plaintiffs, in support of or in connection with claims against insurance companies for compensation. Defendants, and each of them, knowingly made material misrepresentations and/or otherwise falsified billing statements and invoices regarding the services purportedly rendered, through the fraudulent manipulation of billing codes with the intent to maximize the reimbursement value of the treatment. In furtherance of this scheme, Defendants, and each of them, engaged in several types of fraudulent billing practices, including “unbundling” Current Procedural Terminology (“CPT”) codes¹, billing for treatment not rendered, and double billing when only one service was provided. The billing statements were knowingly presented to, or caused to be presented to, Plaintiffs by Defendants, and each of them, including numerous instances of false, fraudulent, or misleading use of CPT codes to make it falsely appear that more treatment was rendered than actually occurred.

44. Plaintiffs are further informed and believe, and thereon allege that, at all times, Defendants, and each of them, knew that the narrative reports, operative reports, and billing statements prepared in connection with the services provided by them contained false, fraudulent, and/or misleading facts material to ALLSTATE’s evaluation of the claims, including the nature and severity of the patient’s purported injuries, the level of services provided, and the financial relationships between the various Defendants. Defendants, and each of them, knowingly prepared these writings, with the intent that they be presented to insurance companies in support of personal injury claims, so as to justify the unnecessary, pre-ordained, reimbursement-driven treatment provided by or at the direction of RUBIN and to obtain a greater monetary settlement than would

¹ Current Procedural Terminology (CPT) codes identify a medical procedure performed by a healthcare provider on a patient and services associated with such procedures. The CPT codes are published by the American Medical Association and provide a standard language to report medical, surgical, diagnostic, therapeutic, and other services across many stakeholders. The codes provide the most widely accepted medical nomenclature used to report medical procedures and services for processing claims.

otherwise be obtained.

45. Plaintiffs are further informed and believe, and thereon allege that, as a result of the fraudulent scheme implemented by Defendants, and each of them, from 2012 to the present, false, fraudulent and/or misleading writings, consisting of narrative reports, operative reports, and billing statements, have been prepared by or at the direction of RUBIN and presented to Plaintiffs in support of, or in connection with, claims made against policies of insurance issued by Plaintiffs. The representations made in these false, fraudulent, and/or misleading writings were, at all times, material to ALLSTATE's evaluation of the claim and ultimate payment therefor. Defendants, and each of them, aided, abetted, assisted and/or conspired with each other with knowledge that the writings presented to ALLSTATE in support of or in connection with claims for compensation or payment, including but not limited to narrative reports, operative reports, and billing statements, contained false, fraudulent and/or misleading information and omissions of material information, but persisted in engaging in such conduct solely for their own financial gain.

FIRST CAUSE OF ACTION

(California Insurance Frauds Prevention Act)
(California Insurance Code § 1871.7)
(As to all Defendants and DOES 1-100 only)

46. Plaintiffs reallege and incorporate paragraphs 1 through 45 above as though fully set forth herein.

47. Plaintiffs seek civil penalties, assessments, expenses, costs and attorneys' fees under the Insurance Frauds Prevention Act, California Insurance Code section 1871.1 *et seq.*, including, but not limited to, section 1871.7.

48. By virtue of the conduct alleged herein, Defendants, and each of them, violated California Insurance Code section 1871.7 by violating the provisions of California Penal Code sections 549 and/or 550, or by aiding, abetting, soliciting, assisting, or conspiring with other Defendants in the violation of sections 549 and 550 by knowing engaging the following acts:

- a. Soliciting, accepting, or referring any business to or from any individual or entity with the knowledge that, or with reckless disregard for whether, the individual or entity for or from whom the solicitation or referral was made, or

the individual or entity who was solicited or referred, intended to violate California Penal Code section 550;

- b. Presenting or causing to be presented false or fraudulent claims for the payment of a loss of injury under a contract of insurance;
- c. Preparing, making or subscribing writings, with the intent to present or use them, or allowing them to be presented, in connection with and/or in support of a false or fraudulent claim;
- d. Making or causing to be made false or fraudulent claims for payment of a health care benefit;
- e. Presenting or causing to be presented written or oral statements as part of, or in connection with and/or in support of claims for payment or other benefit pursuant to an insurance policy, knowing that the statement contained false or misleading information concerning material facts;
- f. Preparing or making any written or oral statements that were intended to be presented to an insurer in connection with, or in connection with and/or in support of, claims for benefits pursuant to an insurance policy, knowing that the statements contained false or misleading information concerning material facts; and/or
- g. Concealing, or knowingly failing to disclose the occurrence of an event that affected any person's initial or continued right or entitlement to any insurance benefit or payment, or the amount of any benefit or payment to which the person was entitled.

49. As a result of the conduct of the Defendants in carrying out the conspiracy, scheme, and/or plan, as herein alleged, Plaintiffs are entitled to statutory civil penalties and assessments for each claim that was prepared, presented, or caused to be presented in which there was a violation of a predicate act under sections 549 and 550, as set forth in Insurance Code section 1871.7. In addition, Plaintiffs are entitled to recover their reasonable expenses, costs, and attorney's fees in connection with the investigation and the prosecution of the instant action.

SECOND CAUSE OF ACTION
(California Unfair Competition Act)
(California Business and Professions Code § 17200 *et seq.*)
(As to all Defendants and DOES 101-200 only)

50. ALLSTATE realleges and incorporates paragraphs 1 through 49- above as though fully set forth herein.

51. California’s Unfair Competition Law (California Business and Professions Code section 17200 *et seq.*) was enacted by the California State Legislature in 1933 to protect businesses from the unfair business practices of competitors. By the late 1970’s the statute was expanded to protect consumers from any “unlawful, unfair or fraudulent business act or practice” and any “unfair, deceptive, untrue or misleading advertising.”

52. Under California Business and Professions Code section 17203, “[a]ny person who engages, has engaged, or proposes to engage in unfair competition may be enjoined in any court of competent jurisdiction. The court may make such orders or judgments, including the appointment of a receiver, as may be necessary to prevent the use or employment by any person of any practice which constitutes unfair competition, as defined in this chapter, or as may be necessary to restore to any person in interest any money or property, real or personal, which may have been acquired by means of such unfair competition.”

53. Under California Business and Professions Code section 17201, ALLSTATE and its constituent companies as herein alleged are “persons” as defined by the statute.

54. The conduct of Defendants, and each of them, as alleged herein, constitutes “unfair competition” under California Business and Professions Code section 17200, which includes, “any unlawful, unfair or fraudulent business act or practice and unfair, deceptive, untrue or misleading advertising” Defendants’ conduct constitutes unlawful, unfair, and/or fraudulent business acts in that such conduct violates California law including, but not limited to, California Penal Code sections 549, and 550; the California Insurance Frauds Prevention Act, codified as California Insurance Code sections 1817.1 *et seq.*, including, but not limited, to section 1871.7; and the California Unfair Competition Act, codified as California Business and Professions Code sections

17200 *et seq.*

55. As a result of the conduct of Defendants, and each of them, as alleged herein, Plaintiffs have suffered the loss of substantial amounts of money. Under California Business and Professions Code section 17204, Plaintiffs are each a “person who has suffered injury in fact and has lost money or property as a result of such unfair competition.” Accordingly, Plaintiffs ask this court to issue orders and enter judgment in favor of Plaintiffs and against Defendants as hereinafter set forth.

Wherefore, Plaintiffs pray for judgment as set forth below.

PRAYER

WHEREFORE, Plaintiffs pray for the following relief:

Under the First Cause of Action for Violation of California Insurance Code Section 1871.7

Plaintiffs pray for judgment as follows:

1. For all penalties allowable under California Insurance Code Section 1871.7(b) as to each Defendant for each instance in which the Defendant is found to have violated California Penal Code sections 549 and/or 550 for each fraudulent, false or misleading claim presented to ALLSTATE in an amount in excess of \$5,010,000 and according to proof;

2. For all assessments allowable under California Insurance Code Section 1871.7(b) as to each Defendant for each instance in which the Defendant is found to have violated California Penal Code sections 549 and/or 550 for each fraudulent, false or misleading claim presented to ALLSTATE in an amount in excess of \$29,100,000 and according to proof;

3. A temporary injunction to prevent the transfer, concealment, or dissipation of illegal proceeds by Defendants;

4. A temporary injunction to protect the public, prohibiting Defendants from engaging in the conduct complained of; from further violating California Insurance Code section 1871.7, subsections (a) and (b); and from further violating California Penal Code sections 549 and/or 550;

5. A permanent injunction with the same terms as set forth above in connection with the temporary injunction;

6. Attorneys’ fees pursuant to Insurance Code section 1871.7 and other applicable

1 statutes;

2 7. Reasonable expenses pursuant to Insurance Code section 1871.7 and other
3 applicable statutes;

4 8. Costs of suit; and

5 9. Such further and other relief as may be deemed appropriate by the court;

6 **Under the Second Cause of Action for Violation of California Business and Professions Code**

7 **Section 17200 et seq.**

8 ALLSTATE prays for judgment as follows:

9 1. For the imposition of a lien and/or constructive trust for all payments made to
10 Defendants directly or indirectly that were based on the false, fraudulent, and/or misleading
11 representations and/or omissions of material fact;

12 2. For a permanent injunction prohibiting RUBIN from engaging in the practices
13 complained of herein, as well as any other unfair and illegal practices identified in the course of this
14 litigation, subject to proof;

15 3. For a permanent injunction prohibiting Defendants from engaging the practices that
16 represent a threat of harm to the public;

17 4. For Attorney's fees;

18 5. For costs of suit; and

19 6. For such further and other relief as may be deemed appropriate by the court.

20 **Under All Causes of Action**

21 1. That the court impose a constructive trust on Defendants, as constructive trustees for
22 the benefit of Plaintiffs with respect to any real or personal property, to prevent the transfer,
23 concealment and/or dissipation of property that was acquired with the illegal proceeds gained
24 through the acts of Defendants; on information and belief, Defendants, and each of them, have used
25 monies and proceeds from the wrongful conduct herein alleged to acquire title to real property; on
26 information and belief, Defendants, and each of them, have used monies and proceeds from the
27 wrongful conduct alleged herein to deposit monies into accounts at various banks; Plaintiffs are
28 presently unaware of the location of any further monies and proceeds wrongfully taken from

1 Plaintiffs and other insurers by the Defendants; as further investigation and discovery is conducted
2 on this matter, Plaintiffs will amend this complaint to allege the location and nature of the monies
3 and proceeds wrongfully taken by the Defendants; on information and belief, and due to the nature
4 of the Defendants' conduct alleged herein, Plaintiffs have not been able to identify all real property,
5 personal property, or accounts acquired by Defendants, and each of them, with monies or proceeds
6 from the wrongful conduct alleged herein; and Plaintiffs are entitled to, and request, equitable relief
7 in the form of a constructive trust, upon all real property, personal property, and accounts which are
8 identified at the time of trial;

9 2. That the court imposes an equitable lien on Defendants to prevent such Defendants
10 from retaining and enjoying the benefits of property acquired as a result of Defendants' wrongful
11 and fraudulent conduct, as herein alleged; it is respectfully requested that the court find an equitable
12 lien in favor of Plaintiffs and against Defendants in the amount of the judgment for the Plaintiff in
13 this action; on information and belief, Plaintiffs' monies and funds acquired by Defendants, and
14 each of them, as alleged herein, can be traced to the purchase, improvement, betterment, or deposit
15 into real property, personal property, or accounts at banks, savings and loans, mutual fund
16 companies, corporations, partnerships, or other accounts or business entities; the retention by
17 Defendants, and each of them, of the real property, personal property, or accounts purchased,
18 improved, bettered, or added to with monies or funds that Defendants have wrongfully acquired
19 from Plaintiffs would result in unjust enrichment; on information and belief, and due to the nature
20 of the Defendants' conduct alleged herein, Plaintiffs have not been able to identify all real property,
21 personal property, or accounts acquired by Defendants with monies or proceeds from the wrongful
22 conduct alleged above; and Plaintiffs are entitled to, and requests, equitable relief in the form of an
23 equitable lien, upon all real property, personal property, and accounts which are identified at the
24 time of trial;

25 3. For costs of suit;

26 4. For attorney's fees; and

27 5. For such other and further relief as the court may deem appropriate.

28 ///

DEMAND FOR JURY TRIAL AS TO ALL CAUSES OF ACTION

Plaintiffs hereby demand that this matter be tried by jury.

Dated: September 27, 2019

KNOX RICKSEN LLP

By: _____

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