

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

The STATE of ILLINOIS and STATE of CALIFORNIA)	
<i>ex rel</i> Scott Schichtl,)	
)	
Plaintiffs,)	
v.)	
ZT Technical Services, Inc., ZT Technical Services, LLC,)	No. 03 L 008704
ZT Technical Services Sub, LLC, HTZ Technical Services, Inc.,)	
Veridian Health, LLC, Veridian Health Management, LLC,)	(transferred to Chancery)
ClarigoMed, LLC, Medical Alliances, LLC, Prema, LLC,)	
Diagnostic Services America, LLC,)	Judge Richard J. Billik
Neurological Testing Services, LLC,)	
Edward J. Herba, M.D. & Associates, S.C.,)	
Associated Neurologists & Radiologists, SC,)	
Diagnostic Neurological Medical Practice, P.A.,)	
Diagnostics Unlimited, LLC, Millennium Neuroscience, PA,)	
American Neurologists and Radiologists, SC,)	
Empire State Medical Diagnostics, PC,)	
Garden State Neurological Medical Practice, PC,)	
Keystone Neurology, PC, Key West Neurology, PA,)	
Lake Cook Neurology, SC, Lincoln Neurology, SC,)	
Mid Atlantic Neurology, SC, Tampa Bay Neurology, PA,)	
Heritage Neurology Group, PC,)	
Great Lakes Neurologists & Radiologists, SC,)	
Gulfport Neurology Group, PC, Gulf Stream Neurology, PA,)	
Oceanside Therapy, PA, Smoky Mountain Therapy, PC,)	
Sooner Neurology, PC, Red River Neurology, PA,)	
Rio Grande Neurology, PA, Stone Mountain Neurology, PC,)	
Affiliated Diagnostic Associates, LLC,)	
Affiliated Neurological & Radiological Assoc., PA,)	
Total Neurological Diagnostic Care, PA,)	
Tri State Neurology, PC, Alabaster Neurology, PC,)	
Augusta Neurology & Therapy, PC, Boulder Neurology, PC,)	
Cape Cod Therapy, PC, Buckeye State Neurology Corp.,)	
Bayou Neurology Professional Corp.,)	
Crimson Tide Neurology, PC,)	
First Diagnostics, LLC, FirsTherapy, LLC)	
Delta Therapy, PC, American Medical Consulting Group, LLC,)	
Factor, LLC, Factors, LLC, MISU, LLC, MISU Midwest, LLC,)	
MISU Illinois, LLC, MISU Florida, LLC)	
Universal Enterprises Illinois, LLC,)	
Universal Enterprises Florida, LLC,)	
Universal Enterprises Midwest, LLC, GTA Group, LLC,)	(cont'd)
Rubin Consulting Group, Inc., MR Family Limited Partnership,)	

SR Irrevocable Trusts, Rubin II Family Partnership,)
Rubin Family Partnership, LLC,)
Rubin Family Trust(s), Venture Capital Partners, LLC,)
Venture Capital Lending Partners, LLC,)
and Edward J. Herba, Dan Asher, Fred Goldman,)
Mitchell E. Rubin, Lawrence Rubin, Nils Anderson,)
Harish D. Thaker, Jozef Verhaert, Mark Sanna,)
Lori Mihaly and Suzanne Rubin, individually,)
)
Defendants.)

~~THE PEOPLE'S VERIFIED SECOND AMENDED COMPLAINT~~

Plaintiffs, the PEOPLE OF THE STATE OF ILLINOIS, by and through Attorney General Lisa Madigan (“People” or “Attorney General”), the PEOPLE OF THE STATE OF CALIFORNIA and RELATOR SCOTT SCHICHTL bring this action pursuant to 740 ILCS 92/15(a) of the Insurance Claims Fraud Prevention Act (“Insurance Fraud Act”), 225 ILCS 60/61 of the Medical Practice Act (“MPA”), 815 ILCS § 505/7 of the Illinois Consumer Fraud and Deceptive Business Practices Act (“Consumer Fraud Act”), Cal. Ins. Code § 1871.7 (“California Insurance Frauds Act”) and other statutory and common law causes of action and allege as follows:

I. INTRODUCTION

1. This action is brought by the State of Illinois, State of California and Relator Scott Schichtl for injunctive relief and to recover treble damages and penalties arising from a fraudulent scheme whereby Defendants submitted, and caused to be submitted, over two hundred thirty-four million dollars (\$234,000,000) in false claims for electrodiagnostic testing services to private insurers in Illinois and around the country. Defendants, motivated solely by their own financial gain, and by means of the fraud described herein, subjected, and continue to subject, Illinois patients to an unreasonable risk of bodily harm, in addition to bilking these

patients and their insurers for tens of millions of dollars per year for worthless testing.

2. As discussed further below, Defendants at all times have known: (a) the testing reflected on the bills they submit and cause to be submitted to private insurers has no diagnostic value and lacks medical necessity; (b) the tests performed by Defendants fail to meet the standard of medical care; (c) even though the majority of the test “results” are unreadable and display “static” and other evidence of shoddy technique, neurologists employed by Defendants purport to “interpret” such tests and render medical opinions based on them; (d) Defendants submit bills for such interpretation services at rates 3-10 times higher than the neurologists’ usual and customary charges; (e) the purported findings from these tests are worthless and in some cases, dangerously misleading to the patients who are subjected to them; (f) the procedure codes and charges reflected on these bills include tests that are not even done and for which there is no data to support; (g) Defendants submit claims for reimbursement for multiple units of inherently bilateral tests and also in excess of the number of units that may properly be billed for such tests; and (h) the number of tests purportedly performed are designed solely to maximize the profit potential presented by each patient.

3. The Defendants performing the medical testing on patients and submitting claims for reimbursement for purportedly “reading” the test results are, for all practical purposes, owned and controlled by a non-physician, Defendant Mitchell Rubin (“Rubin”), along with partners Fred Goldman (“Goldman”) and Dan Asher (“Asher”). All proceeds of the sham testing flow to Rubin, Goldman and Asher.

4. Defendants’ fraud dates back to at least December 1998 when Rubin formed Defendant Prema, LLC. It involves thousands, and possibly hundreds of thousands of

fraudulent claims submitted to private insurers in Illinois and elsewhere around the country including Blue Cross/Blue Shield of Illinois, Aetna U.S. Healthcare, Allstate, United Healthcare, Guardian, Principal Life Insurance, Benchmark Health Insurance Company, CMMS, State Farm and possibly others including self-insured entities and organizations (collectively, the “private insurers”).

5. Defendants managed to perpetuate this fraud for so many years because of a complex corporate structure and policy and practice of setting up new medical corporations to bill private insurers whenever one “hit a red flag” and stopped paying. Defendants employed and continue to employ this strategy solely to conceal their fraud.

II. JURISDICTION AND VENUE

6. This Court has jurisdiction over this matter pursuant to 735 ILCS 5/2-209(a)(1) as this Complaint derives from Defendants’ transaction of business in Illinois and frauds committed in this State.

7. Venue is proper in this district pursuant to 735 ILCS 5/2-101 because Defendants conduct business in Cook County and/or also maintain principal places of business in Cook County, Illinois.

III. THE PARTIES

A. The Plaintiffs

8. This action is brought by the State of Illinois, Lisa Madigan, Attorney General, and Relator, Scott Schichtl, to recover damages and penalties arising from Defendants’ submission of false claims to private insurers and to prevent Defendants from committing further violations of the Insurance Claims Fraud Prevention Act, 740 ILCS § 92/1 *et seq.*

(“Insurance Fraud Act”), the Consumer Fraud and Deceptive Business Practices Act, 815 ILCS § 505/1 *et seq.* (“Consumer Fraud Act”), and the Medical Practice Act, 225 ILCS 60/61 (“MPA”). The State of Illinois has a profound interest in protecting its citizens from painful, unnecessary, worthless and misleading medical procedures. The State of Illinois also has a profound interest in detecting and prosecuting consumer and insurance fraud and in protecting the citizens of this State from such frauds. These interests are codified in the Insurance Fraud Act, the Consumer Fraud Act and the MPA.

9. The Attorney General is authorized and empowered to enforce the Insurance Fraud Act by Section 10 of the Act, which provides: “The ... Attorney General may bring a civil action under this Act.” 740 ILCS 92/10.

10. The Attorney General is authorized and empowered to enforce the Illinois Consumer Fraud and Deceptive Practices Act by Section 7 of the Act, which provides:

(a) Whenever the Attorney General or a State's Attorney has reason to believe that any person is using, has used, or is about to use any method, act or practice declared by this Act to be unlawful, and that proceedings would be in the public interest, he or she may bring an action in the name of the People of the State against such person to restrain by preliminary or permanent injunction the use of such method, act or practice. The Court, in its discretion, may exercise all powers necessary, including but not limited to: injunction; revocation, forfeiture or suspension of any license, charter, franchise, certificate or other evidence of authority of any person to do business in this State; appointment of a receiver; dissolution of domestic corporations or association suspension or termination of the right of foreign corporations or associations to do business in this State; and restitution.

(b) In addition to the remedies provided herein, the Attorney General or State's Attorney may request and the Court may impose a civil penalty in a sum not to exceed \$50,000 against any person found by the Court to have engaged in any method, act or practice declared unlawful under this Act. In the event the court finds the method, act or practice to have been entered into with the intent to defraud, the court has the authority to impose a civil penalty in a sum not to exceed \$50,000 per violation.

(c) In addition to any other civil penalty provided in this Section, if a person is found by the court to have engaged in any method, act, or practice declared unlawful under this Act, and the violation was committed against a person 65 years of age or older, the court may impose an additional civil penalty not to exceed \$10,000 for each violation.

815 ILCS § 505/7.

11. The Attorney General is authorized and empowered to enforce the Medical Practices Act by Section 60/61 which provides:

§60/61. The practice of medicine in all of its branches or the treatment of human ailments without the use of drugs and without operative surgery by any person not at that time holding a valid and current license under this Act to do so is hereby declared to be inimical to the public welfare and to constitute a public nuisance. The Director of the Department, the Attorney General of the State of Illinois, the State's Attorney of any County in this State, or any resident citizen may maintain an action in the name of the people of the State of Illinois, may apply for an injunction in the circuit court to enjoin any such person from engaging in such practice; and, upon the filing of a verified petition in such court, the court or any judge thereof, if satisfied by affidavit, or otherwise, that such person has been engaged in such practice without a valid and current license to do so, may issue a temporary restraining order or preliminary injunction without notice or bond, enjoining the defendant from any such further practice.

225 ILCS § 60/61.

12. The State of California, on the relation of Scott Schichtl, brings this action to recover damages and penalties arising from Defendants' submission of false claims to private insurers in the State of California and relating to testing performed on California patients. The State of California likewise has a profound interest in protecting its citizens from painful, unnecessary, worthless and misleading medical procedures. This interest is codified in statutes such as the California Insurance Frauds Act. Like the Illinois Insurance Fraud Act, the California statute likewise contains a *qui tam* or "private attorney general" provision authorizing and rewarding private citizens for bringing forth knowledge of fraud and abuse and entitling

them to bring the action for themselves and on behalf of the State.

13. The Relator, Scott Schichtl, is a citizen and resident of the State of Illinois. Relator is a board-certified chiropractic neurologist with a subspecialty in electro-diagnostics. Relator is an interested party under the Insurance Fraud Act as the Defendants' fraud competes with his legitimate practice and tarnishes the reputations of medical providers in his field. It also makes it more difficult for providers engaged in the legitimate practice of medicine and electrodiagnostic testing to be reimbursed for their services. Relator has direct and personal knowledge of the fraudulent scheme described in the People's Second Amended Verified Complaint (and his Original Complaint) and provided this information to the State's Attorney and Attorney General for the State of Illinois prior to filing suit. Relator also provided his information to the California Department of Insurance and the California District Attorneys' Office and complied with the disclosure and service provisions of the California Insurance Frauds Act. The Relator provided substantial assistance to the State's investigation in this matter.

B. The Defendants

14. The Defendants are related entities and individuals headquartered in Deerfield, Illinois. Through a myriad and ever-changing corporate structure and affiliations, Defendants conduct the fraud scheme described herein. By creating new corporate entities through which they perform and bill their worthless testing and "interpretation" services, Defendants attempt to "fly under the radar" of the private insurers that may otherwise flag the enormous and fraudulent billings generated by, what in reality is a single enterprise and one or two individuals (including defendant Edward J. Herba) who purportedly "read" thousands of test results at any given time.

15. Defendants ZT Technical Services, Inc., ZT Technical Services, LLC and ZT Technical Services, Sub, LLC (collectively, “ZT”) are an Illinois corporation and Illinois limited liability companies, respectively, with their principal places of business located at 1650 Lake Cook Road, Deerfield, Illinois 60015. ZT and possibly other of the affiliated companies also purport to provide “management services” to the various medical corporations they set up in an effort to get around the “corporate practice of medicine,” which prohibits lay involvement in medical care and decision-making. The agreements attendant to the “management services” are simply a means to bill and funnel proceeds directly back to ZT.

16. Defendant Veridian Health, LLC and Veridian Health Management, LLC (collectively, “Veridian Health”) are Illinois limited liability companies with their principal places of business at 1650 Lake Cook Road, Deerfield, Illinois 60015. According to Veridian Health’s internet website, on September 20, 2004, Defendants ZT, DTCA and HTZ, Technical Services, Inc. (formerly based in Florida) merged to form “Veridian Health.” *See* www.veridianhealth.com. Veridian Health claims to be a “national healthcare service company” and the largest, in-office electrodiagnostic testing company in the United States, with clients in all 50 states and Puerto Rico. *See* www.veridianhealth.com.

17. Defendants ClarigoMed, LLC (“Clarigo”) and FirsTherapy, LLC (“FirsTherapy”) are Illinois limited liability companies with their principal places of business at 1650 Lake Cook Road, Deerfield, Illinois 60015.

18. Defendants Prema, L.L.C. (“Prema”) and Medical Alliances, LLC (“Medical Alliances”) are Illinois limited liability companies with their principal places of business at 1650 Lake Cook Road, Deerfield, Illinois 60015. Defendant Prema was formerly known as Medical

Alliances, LLC. “Medical Alliances” also is the assumed name of Defendant Neurological Testing Services, LLC. At some point Medical Alliances, LLC was converted from a ZT testing company to a medical or other corporation that would be used as a vehicle to bill for Defendant Herba’s purported “interpretation” services. Accordingly, Defendant Medical Alliances is both a “ZT Defendant” and a “Neurology Defendant,” as defined below.

19. Factor, LLC (“Factor”) is an Illinois limited liability company with its principal place of business at 1650 Lake Cook Road, Deerfield, Illinois 60015. Factor is owned by the ZT Defendants. All of the proceeds of the Defendants’ scheme flow into Factor. The ZT Defendants cause the Neurology Defendants to assign all of their receivables (consisting of reimbursement from private insurers and the occasional patient co-pay that is collected) to Factor or in some instances, possibly other of the ZT Defendants. On information and belief, Defendant Factors, LLC operates in the same or similar fashion.

20. Defendant Mitchell E. Rubin is a resident of the State of Illinois and the owner, President and controlling manager of all of the corporate Defendants. Rubin, a non-physician, initiates, plans and directs the fraud scheme described in this Complaint. Rubin additionally reaps the substantial monetary fruits of the scheme. Rubin Consulting Group, Inc. (“Rubin Consulting”) is an Illinois corporation with its principal place of business at 1650 Lake Cook Road, Deerfield, Illinois 60015. Rubin Consulting is a vehicle through which Rubin drains \$100,000 to \$300,000 per month from Factor and other of the ZT and Neurology Defendants to support a lavish lifestyle made possible by the fraud. Mitchell E. Rubin and Rubin Consulting are collectively “Rubin.”

21. Defendant Lawrence Rubin, DPM (“Dr. Rubin”) is a resident of the State of

Illinois and also a licensed podiatrist. Dr. Rubin is employed as a “consultant” for ZT and was, and is, directly responsible, along with Rubin, for determining and setting the billing rates and Current Procedure Technology (“CPT”) codes to be charged for the Neurology Defendants’ interpretation services. Dr. Rubin also was active in other policy making aspects of Defendants’ operations. Dr. Rubin was formerly employed by Blue Cross/Blue Shield of Illinois (“BC/BS”) and in that capacity, gained knowledge of various billing, claims and audit procedures. Dr. Rubin utilized this knowledge and along with Rubin, conceived of the scheme to bill under multiple provider names and numbers in order to avoid detection and “fly under the radar” of private insurers such as BC/BS.

22. Defendants Goldman and Asher are residents of the State of Illinois and are, through their wholly-owned investment vehicle, defendant GTA Group, investors and owners in the corporate Defendants. In January 2003, Goldman and Asher purchased from Rubin 50% of ZT Technical Services. Goldman functions as Asher’s agent. Soon after GTA purchased 50% of ZT, Goldman, at the request and direction of Asher, took an active role in the management of ZT, directing and implementing the fraud scheme described herein. Goldman and Asher also are recipients of the fruits of the scheme.¹ Goldman (along with Rubin) attend weekly and/or monthly management meetings and are part of the discussions, and make decisions with respect to, the billing and operations of the ZT Defendants. Goldman kept Asher informed as to the goings-on at ZT. As examples only, Goldman had actual knowledge of (and in fact was involved in authorizing and/or approving) the substantial kickback payments being made to Sanna, Verhaerdts and others as a means for ZT to procure patients for diagnostic testing. Goldman also received daily, weekly and monthly updates regarding ZT’s sales and

marketing activity and had knowledge that ZT employed a fluctuating “balance billing” policy and that in or about January 2005, and as a result of a drop-off in testing numbers, again turned to a “soft” collection effort from patients. The “soft” collection effort was designed to, and did, have the effect of securing more referrals and disguising the lack of medical necessity of the diagnostic testing. Goldman also had actual knowledge of the serious problems ZT had in being reimbursed from BlueCross/Blue Shield of Illinois because it had become aware of ZT’s fraud scheme. To get around this (and as further described below), Goldman knew that the decision was made to “introduce new billing corporations” to disguise the claims coming in to Blue Cross/Blue Shield of Illinois from ZT. Goldman then proceeded to monitor the billings coming in from BlueCross/Blue Shield under the disguised names and billing numbers. Asher and Goldman also had knowledge of the serious allegations of insurance fraud being made by private insurers, among others and set all of that aside in deciding to join up with the company.

23. Defendants MISU, LLC, MISU Illinois, LLC, MISU Florida, LLC, MISU Midwest, LLC, GTA Group, LLC, Universal Enterprises Florida, LLC, Universal Enterprises Illinois, LLC, Universal Enterprises Midwest, LLC, Venture Capital Partners, LLC and Venture Capital Lending Partners, LLC (collectively, the “Management Entities”) are investment vehicles owned by Rubin, Goldman and Asher (and various family members including Suzanne Rubin) utilized in the June 2003 restructuring of the ZT companies and addition of Goldman and Asher as investors and managers. These entities manage the operations of the ZT Defendants.

24. Defendant Suzanne Rubin (“Suzanne”) is a resident of the State of Illinois and for the last six years, the wife of Mitchell E. Rubin. Suzanne also is a recipient of the substantial

(...continued)

¹ Dan Asher is a Defendant as Count VII (Constructive Trust) only.

fruits of the scheme. Defendant Lori Mihaly (“Mihaly”), also a resident of the State of Illinois, and the sister of Defendant Rubin, likewise received substantial proceeds of the fraud scheme including money used to purchase a new home. Defendants MR Family Limited Partnership, SR Irrevocable Trust, Rubin II Family Partnership, Rubin Family Partnership, LLC and various Rubin Family Trust(s) (the various Rubin family partnerships and trusts collectively are, the “Rubin Family Trusts”) also were recipients of the fraud proceeds.²

25. Defendants ZT, HTZ, Veridian Health, Clarigo, FirsTherapy, Prema, Medical Alliances, all of the Management Entities, Rubin, Goldman, and Dr. Rubin collectively are referred to as the “ZT Defendants” or “ZT.” The ZT Defendants, by means of the mobile technicians they employ, perform the worthless testing services described in this Complaint. Medical Alliances, ZT, HTZ, Veridian Health, FirsTherapy, and possibly other affiliated companies additionally enter into the so-called “lease agreements” with the chiropractors and other doctors described in this Complaint.

26. Defendant Edward J. Herba, M.D. and Associates, S.C. (“Herba & Associates”) is an Illinois professional service corporation with its principal place of business at 1650 Lake Cook Road, Deerfield, Illinois 60015.

27. Diagnostic Services America, LLC (“DSA”), Neurological Testing Services, LLC (“NTS”), Associated Neurologists and Radiologists, SC (“ANR”), Diagnostic Neurology Medical Practice, P.A. (“DNMP”), Diagnostics Unlimited (“DU”), Millennium Neuroscience, P.A. (“Millennium”), American Neurologists and Radiologists, SC (“AMER”), Empire State Medical Diagnostics, PC (“Empire”), Garden State Neurological Medical Practice, PC (“Garden

² Suzanne Rubin, Lori Mihaly, the Rubin Family Trusts and Factor are Defendants as to Count VI (Constructive Trust) only.

State”), Keystone Neurology, PC (“Keystone”), Key West Neurology, PA (“Key West”), Lake Cook Neurology, SC (“Lake Cook”), Lincoln Neurology, SC (“Lincoln”), Mid Atlantic Neurology, SC (“Mid Atlantic”), Tampa Bay Neurology, PA (“Tampa Bay”), Heritage Neurology Group, PC (“Heritage”), Great Lakes Neurologists & Radiologists, SC (“GLNR”), Gulfport Neurology Group, PC (“Gulfport”), Gulf Stream Neurology, PA (“Gulf Stream”), Oceanside Therapy, PA (“Oceanside”), Smoky Mountain Therapy, PC (“Smoky Mountain”), Sooner Neurology, PC (“Sooner”), Red River Neurology, PC (“Red River”), Rio Grande Neurology, PA (“Rio Grande”), Stone Mountain Neurology, PC (“Stone Mountain”), Affiliated Diagnostic Associates, LLC (“ADR”), Affiliated Neurological and Radiological Associates, LLC (“Affiliated”), Total Neurological Diagnostic Care, PA (“TNDC”), Tri State Neurology, PC (“Tri State”), Alabaster Neurology, PC (“Alabaster”), Augusta Neurology & Therapy, PC (“Augusta”), Boulder Neurology, PC (“Boulder”), Cape Cod Therapy, PC (“Cape Cod”), Buckeye State Neurology Corp. (“Buckeye”), Bayou Neurology Professional Corp. (“Bayou”), Crimson Tide Neurology, PC (“Crimson”) and Delta Therapy, PC (“Delta”) also are limited liability companies or professional service corporations incorporated in various states, including Illinois and having their principal places of business at 1650 Lake Cook Road, Deerfield, Illinois 60015.

28. Defendant Edward J. Herba (“Herba”) is a resident and licensed neurologist in the State of Illinois. Herba, along with possibly a handful of purportedly board-certified neurologists read and “interpret” the worthless testing services performed by the ZT Defendants. Defendant Herba purports to “read” the vast majority of the testing performed by the ZT Defendants.

29. Nils Anderson is a resident and licensed neurologist in the State of Illinois. Anderson purports to read and “interpret” the worthless testing performed by the ZT Defendants in return for a substantial salary. Anderson is or has been associated with (though plays no active role in) a litany of medical corporations set up by ZT in the States of Illinois, Oklahoma, Florida, Georgia, Connecticut, Ohio, New York, New Jersey, Pennsylvania and possibly others for the exclusive purpose of submitting fraudulent billings. These medical corporations, which exist on paper only, include but are not limited to American Neurologists & Radiologists, SC, Empire State Medical Diagnostics, PC, Garden State Neurological Medical Practice, PC, Great Lakes Neurologists & Radiologists, SC, Keystone Neurology, PC, Lake Cook Neurology, SC, Mid Atlantic Neurology, SC, Stone Mountain Neurology, PC, Tri State Neurology, PC, Augusta Neurology & Therapy, PC, Buckeye State Neurology Corp., Gulf Stream Neurology, PC, Lincoln Neurology, SC, Oceanside Therapy, PA, Sooner Neurology, PC and Key West Neurology, P.A. Through these various medical corporation Anderson purports to interpret hundreds of diagnostic tests per month (and as many as 450 tests per month) in addition to maintaining a full time neurology practice elsewhere. Anderson joined the fraud scheme described herein sometime in or after 2003 and remained active up to and including May, 2005. Anderson has never seen a single patient whose diagnostic tests he purported to interpret for ZT and also never left the State of Illinois though purporting to provide services under medical corporations set up and for patients tested all around the country.

30. Defendant Harish D. Thaker (“Thaker”) is a resident and licensed neurologist in the State of Florida. Thaker, along with Herba and Anderson, purports to read and “interpret” the worthless testing performed by the ZT Defendants in return for a substantial salary. Thaker is or has been associated with (though plays no active role in) multiple medical corporations set up by ZT in the State of Florida and possibly elsewhere for the exclusive purpose of submitting fraudulent billings. These include but are not limited to Key West Neurology and Total Neurological Diagnostic Care, PA. By and through these medical corporations and likely others Thaker purports to read and “interpret” diagnostic testing performed on patients in Illinois and elsewhere around the country and submits claims for reimbursement to private insurers in Illinois and elsewhere around the country including BlueCross BlueShield of Illinois. On information and belief, Thaker is not licensed to practice medicine in the State of Illinois and likely the many other states in which he purports to provide a service. Thaker joined the fraud scheme described herein sometime in or after 2003 and remained active up to and including May, 2005.

31. Jozef Verhaerdts is a resident of the State of Texas and a doctor of chiropractic medicine licensed in Texas. Verhaerdts is a recipient of the illegal kickbacks ZT pays to gain access to patients for diagnostic testing. Verhaerdts receives substantial income from ZT in the form of waived “lease” payments and also is paid a substantial salary in return for providing testimonials touting the alleged benefits of ZT’s testing services, the most prominent of which is the lucrative income stream he (and others) achieves by referring patients to ZT. Verhaerdts also is a paid member of the ZT “advisory board.” Verhaerdts, though himself untrained in diagnostic

testing and further unable to determine if the testing performed by ZT's technicians even generates a meaningful result (which it most often doesn't), submits claims for reimbursement to private insurers for the "technical component" of ZT's testing as if himself had performed the tests. The fees generated by the "technical component" of ZT's testing billed by Verhaerdts to private insurers run in upwards of thousands of dollars per patient.

32. Claims for the "professional component" of the Defendants' testing are submitted to private insurers by ZT through Medical Alliances, Herba & Associates and the litany of medical corporations identified in paragraph 27, above (all collectively, and also including Edward J. Herba, Anderson and Thaker are referred to as the "Neurology Defendants"). Since the fraud's inception, Defendants have submitted over two hundred thirty-four million dollars (\$234,000,000) in false claims to private insurers, and of this, so far collected nearly seventy million dollars.

33. Defendant Mark Sanna is the President and/or Chief Executive Officer of Breakthrough Coaching, Inc. ("Breakthrough") and manages its operations. Breakthrough is in the business of promoting individual chiropractic practices through a variety of seminars, business plans and other instruction. Breakthrough and its "coaches" travel all around the country, including Illinois, instructing and coaching chiropractors on ways to build their practices including the substantial income they can earn by incorporating diagnostic testing into their practices. Breakthrough charges a substantial consulting fee for its services. On information and belief, Sanna also is a licensed doctor of chiropractic and is a resident of the State of Florida.

34. In or about 2003, ZT developed a relationship with Breakthrough and Sanna whereby Breakthrough and Sanna would scout for chiropractors to recruit for ZT's diagnostic testing scheme. As part of this, ZT and Sanna entered into a kickback arrangement whereby ZT began paying Sanna to refer patients to ZT for testing. ZT paid Sanna a \$100 fee for each patient one of his chiropractic recruits set up for diagnostic testing with ZT. The \$100 fee was paid to Sanna by ZT exclusively for the patient referral. By May of 2005, Sanna's income from the ZT patient referrals reached \$480,000 per year and was one of ZT's largest operational expenses. The same or similar "per patient" referral fee applied to other so-called "coaches" employed by Breakthrough and generated substantial additional cash flow. ZT also paid Sanna a \$50,000 per year fee for membership on the ZT "advisory board."

IV. DEFENDANTS' LONG RUNNING SCHEME TO DEFRAUD PRIVATE INSURERS

35. The People's Verified Complaint alleges a long-running scheme by Defendants to defraud private insurers. Defendants pay illegal inducements or "kickbacks" to generate referrals for their electrodiagnostic testing services. These services are provided by mobile technicians employed by Defendants that travel around to the offices of chiropractor and primary care physicians (collectively, the "Referring Physicians") to perform the so-called diagnostic tests. The Referring Physicians Defendants tend to target are generally chiropractors, podiatrists and primary care physicians who are untrained in electrodiagnostic testing.

36. In performing the tests, largely untrained technicians place electrodes on the patient's limbs and, in an attempt to stimulate and measure nerve response, send a series of electrical currents or "shocks" through the patient's body. The electrodiagnostic tests, as performed by Defendants, lack any diagnostic value and the graphic results generated

demonstrate clear evidence of the shoddy technique. Despite this, off-site neurologists employed by Defendants purported to “interpret” them and bill private insurers thousands of dollars per patient.

37. Making matters worse, Defendants bill for services and tests they do not even perform, including a somatosensory evoked potential or SSEP of the trunk or head. In fact, these phantom tests generate billings higher than the tests they actually do – to the tune of over \$36 million to date.

38. Neurologists employed by Defendants are mere puppets of the fraud and are instructed how to frame their findings and diagnoses by the non-physicians who run these medical corporations. If these neurologists fail to comport their recommendations with ZT’s “business plan,” ZT threatens to terminate the relationship. All of the proceeds of the neurologists’ purported “interpretation” services (other than a salary or “per test” fee) flow to the non-physicians who control these companies.

39. Defendants employ various strategies to conceal their fraudulent billings. Defendants create and utilize a new medical corporation whenever one “hits a red flag” and a private insurer stops paying. New medical corporations are “kept in the drawer” so the billings flow uninterrupted.

A. The Neurodiagnostic Testing Involved In The Scheme.

40. The ZT Defendants purport to conduct specialized diagnostic tests including neurological tests and spinal diagnostic ultrasound tests (collectively, the “electrodiagnostic tests”). The ZT Defendants falsely advertise the diagnostic testing they perform is of “hospital quality.” The electrodiagnostic tests include: (a) nerve conduction velocity studies (“NCVs”);

and (b) somatosensory evoked potentials (“SSEPs”). The NCVs are further broken down into sensory NCVs, motor NCVs, F-Wave and H-Reflex tests.

41. The NCVs and SSEPs are non-invasive electrodiagnostic tests in which various peripheral nerves in the arms or legs are stimulated with electrical currents. The velocity, amplitude and the shape of the response is then recorded by electrodes attached to the surface of the skin or scalp. The NCVs are moderately painful for most patients.

42. According to the ZT Defendants, the Referring Physicians should order ZT’s electrodiagnostic tests when a patient experiences *any* of the following symptoms: tingling, numbness, muscle weakness, radiating pain, neuropathy, carpal tunnel, tarsal tunnel, radiculopathy, extremity pain, neck pain, low back pain, muscle atrophy, disc injuries and foot pain. *See* ZT Marketing Materials, p. 3, attached as Exh. A.

43. The ZT Defendants falsely claim the electrodiagnostic tests they perform can diagnose neuropathy, radiculopathy (*i.e.*, pinched nerves arising from the spinal cord), myelopathy, carpal tunnel syndrome, spinal cord dysfunction, nerve disorders such as amyotrophic lateral sclerosis and neuromuscular disorders such as myasthenia gravis. *See* ZT Marketing Materials, p.3, attached as Exh. A. Proper diagnosis of these conditions usually requires performance of a needle EMG test (and in case cases, an MRI) which can only be performed by a physician. The ZT Defendants do not perform the needle EMG test.

44. Spinal diagnostic ultrasound tests involve the use of ultrasound technology to obtain images of various spinal and paraspinal regions, including the cervical, thoracic and lumbar regions of the spine, the sacroiliac joints and trapezius muscles. ZT’s practice is to systematically perform spinal ultrasounds on each patient for whom a bill is submitted to a

private insurer. Furthermore, to maximize profitability, the ZT Defendants consistently cause the spinal ultrasounds to be performed on multiple regions of the spine and then submit charges for each test performed on each region.

45. The American College of Radiology, the American Institute of Ultrasound in Medicine, the American Academy of Neurology, and the American Chiropractic College of Radiology have issued position statements concluding that there is no evidence spinal ultrasounds have any clinical value in diagnosing neurological conditions, including those described by ZT in its advertising materials. In sum, these professional associations have concluded that spinal ultrasounds have no utility for the purposes for which Defendants purport to use them. *See* position statements of the above organizations, attached as Exh. B.

B. Unsupervised Technicians Perform The Electrodiagnostic Tests On Patients.

46. ZT technicians travel around to chiropractic and other doctors' offices to perform all of worthless electrodiagnostic testing described in the People's Verified Complaint. The position of the American Association of Electrodiagnostic Medicine (AAEM) is that technicians may be used to perform the electrodiagnostic tests, but only under the supervision of a qualified physician. *See* Position Statement of the AAEM, attached as Exh. C.

47. The ZT technicians have no medical background and receive little to no training. In fact, there are no minimum standards whatsoever (except *maybe* a high school diploma) to become a ZT technician

48. The supervision of a qualified physician who knows how to perform the electrodiagnostic testing is necessary because testing must be specifically tailored to each patient. Moreover, it often is necessary to modify or add to the tests performed during the examination

as findings unfold.

49. Despite these requirements, ZT Technicians perform the electrodiagnostic tests without the supervision of a qualified physician, nor is one even on the premises while the testing is performed. Defendants are well aware the Referring Physicians it solicits are not trained in electrodiagnostic testing and cannot effectively supervise the testing, nor will they know whether the electrodiagnostic data was properly collected or even useful. Defendants, as part of their sales “pitch,” further advise the Referring Physicians they need not even be present when the testing is performed.

C. Each Patient Tested By ZT Receives A Full Battery Of The Medically Unnecessary And Useless Tests.

50. Since no qualified physician ever sees a patient subjected to Defendants’ testing, decisions as to the medical necessity of the testing are not made. Instead, the tests all are performed in “cookie cutter” fashion in the highest possible quantity (each and every nerve on each and every limb), subjecting patients to unnecessary and excessive tests for the sole purpose of generating exorbitant bills.

51. Each patient subjected to ZT’s testing receives a pre-set line-up or battery of tests for an “upper profile,” “lower profile,” or both. Defendants then pay bonuses to the technicians if they succeed in “adding on” one of the profiles in the case where only one was initially set up. Defendants perform the exact same “profile” or “profiles” on each and every patient without regard to the patient’s actual medical condition and without regard to whether all of these tests truly are needed. ZT also performs each test bilaterally in every instance regardless if they tests needed to be performed bilaterally.

52. The battery of tests performed on each patient includes multiple and bilateral F-

wave tests. To perform an F-wave test, the ZT technician sends a series of 8-10 electrical stimulations or shocks through *each* nerve tested. ZT repeats this process on each of three nerves in the patient's arms and/or legs. Because the F-wave requires 8-10 repeated stimulations per test, some patients cannot even tolerate it. Performing F-waves waves in every instance and bilaterally in every instance needlessly increases the patient's pain and discomfort.

53. Electrodiagnostic testing, properly performed, is tailored to each patient and each patient's medical condition and because of this, a competent physician would not conduct a pre-set battery of tests on each patient.

D. The Critical Electrodiagnostic Test That Is Not Performed.

54. The electrodiagnostic test that *is* medically necessary to diagnose the neurological conditions described by ZT is a needle EMG test. Unlike NCVs and SSEPs, the needle EMG requires the insertion of a needle into various muscles to measure electrical activity in each such muscle and must be performed in most states by a qualified physician. Only a combination of the needle EMG and other electrodiagnostic tests Defendants purport to perform can lead to a meaningful diagnosis that confirms or rules out such neurological conditions including radiculopathy. The needle EMG test is far and away the standard of care in diagnosing the types of conditions the ZT Defendants purport to test for.

55. With respect to radiculopathy – the single most common condition tested for by ZT – the NCV tests actually would be expected to be *normal* even if the patient had the condition. The needle EMG is required to diagnose radiculopathy. Patients are therefore subjected to the painful and repeated NCV tests with the expectation that it will help solve their problem but actually receive zero medical benefit.

56. ZT's rich profits would quickly evaporate if it had to hire a neurologist or other specialist who was capable of performing the needle EMG. Until recently the ZT Defendants did not perform a needle EMG in any instance. The ZT Defendants likewise instructed its neurologists to "leave out" any recommendation for a needle EMG test even where the physician believed one is needed. *See* letter from ZT's in-house counsel to Dr. Ruby Saulog, attached as Exh. D.

57. In approximately January 2004, the ZT Defendants announced the addition of the needle EMG test to its services and began employing nurse practitioners to perform it. This was done solely to increase the reimbursement potential. And then, ZT demanded its neurologists frame their recommendations consistent with ZT's business model and availability of someone to perform the needle EMG at a later time. Even now, the needle EMG test is performed only sporadically, based on availability of the single nurse practitioner ZT employs.

E. The Neurology Defendants Purport To "Interpret" Worthless Test Results.

58. The electrodiagnostic tests performed by the ZT Defendants generate graphic results that are then delivered to the Neurology Defendants for "interpretation." *See* ZT Marketing Materials, p. 3, attached as Exh. A. These graphic results display the poor technique of the ZT technicians and the failure to adjust or tailor the tests according to the patient's needs and circumstances. Many tests display unreadable "static" such that nothing can be gleaned from the test other than it wasn't done properly.

59. Despite that the electrodiagnostic test results are unreadable, display "static" and other evidence of shoddy technique, the Neurology Defendants purport to "interpret" the tests and render a medical opinion as to the patient's condition. The ZT Defendants require the

Neurology Defendants to “read” and “interpret” up to 350 tests every month.

60. The neurologists employed by ZT spend only minutes “reading” and “interpreting” each test for which ZT bills private insurers \$4,750 - \$10,600 (depending on if one or two “profiles” were performed on the patient). The boilerplate interpretations generated by this process are as worthless as the testing and the findings bear no relation to the patient’s actual medical condition or even the “data” collected by the testing. The Neurology Defendants and the one or two neurologists who work for them at any given time process hundreds of thousands of electrodiagnostic tests in this fashion.

61. And, as it turns out, ZT billed private insurers for “interpretation” of the electrodiagnostic tests before they even received any results back from the neurologists and without regard to whether they were interpreted at all. The neurologists hired by ZT often did send tests back as completely uninterpretable and noted tests that were “obliterated by artifact.” These tests too, were billed to private insurers.

F. Defendants Conceal Their Fraudulent Billings And Scheme To “Fly Under The Radar.”

62. Defendants employ various strategies to conceal their fraudulent billings. Defendants create and utilize a new medical corporation whenever one “hits a red flag” and a private insurer stops paying. New medical corporations are “kept in the drawer” so the billings flow uninterrupted.

63. Rubin further directs that billing be spread out among as many medical corporations as possible so as to “stay off the radar screen” of the private insurers. These strategies ensure uninterrupted cash flow.

64. Another tactic employed by ZT is to alter the neurologists’ recommendations. In

the event an insurance company asks for “back up” for a claim but the neurologists’ report indicates problems with the testing, ZT alters the report to reflect more favorable information. This includes “deleting” any recommendations for an EMG test and also deleting when tests are obliterated by “artifact” and uninterpretable (but already billed for).

G. How ZT Recruits Referring Physicians Into The Scheme.

65. ZT, through its sales force, aggressively recruit Referring Physicians into the scheme by touting the enormous financial rewards they can gain by setting patients up for this testing. As one of ZT’s solicitations asks:

“Why is this doctor smiling?”

The answer: “He just added diagnostic testing to his practice, adding an additional **\$5,000 to \$10,000 per month** to his revenue stream.” *See* ZT Promotional Materials, attached as Exh. E. ZT further explains, “[b]y leasing our equipment and technicians, you can bill for the technical component of the tests. All you need to provide is a small exam room for the tests, which you can schedule whenever it is convenient for you.” *See* ZT Marketing Materials, p. 2, attached as Exh. A.

66. Of course, the Referring Physicians do not actually perform any of these tests and don’t even know how to supervise the testing. ZT sales staff, as part of their pitch, further advise the Referring Physicians don’t even have to be on site for the testing. ZT purports to charge a nominal fee to the Referring Physicians in exchange for “leasing” the ZT testing equipment and technicians. A sample Lease Agreement is attached as Exh. F.

67. Though ZT’s Lease Agreement states that the Referring Physicians are responsible for “interpreting or arranging for the interpretation” of the electrodiagnostic testing,

it is understood that referral specifically to the Neurology Defendants also is the “*quid pro quo*” for the sham lease agreement.

H. ZT Pays Illegal Kickbacks To Gain Access To Patients.

68. In order to keep up a steady stream of referrals, the “lease payments” provided for in the agreements with the Referring Physicians are never seriously collected *except* when the doctor stops referring patients to ZT. In this event, the Referring Physicians no longer is a “good testing” doctor, thus triggering a bill.

69. Likewise, ZT has a policy of not balance billing the patients of “good testing” doctors, as further described below. This is done because if the patients of the Referring Physicians were to receive one of ZT’s enormous bills they would flag the bill to their insurance company. If patients were to receive a bill it also would endanger the patient’s relationship with the Referring Physician and that doctor would likely stop referring patients for ZT’s electrodiagnostic testing.

70. The financial benefits of waived lease payments and systematically waiving all patient portions of a bill are made for the sole purpose of obtaining referrals for the electrodiagnostic testing and constitute illegal kickbacks in violation of 740 ILCS § 92/5(a).

I. Defendants Routinely Waive Any Patient Portions Of A Bill.

71. Defendants also have a policy of not balance billing patients so that: (1) they can maintain a consistent referral stream from the Referring Physicians they recruit; and (2) patients will not flag these outrageous billings to their insurer.

72. To this end, Defendants provide the Referring Physicians it solicits a “Electrodiagnostic Testing Script” instructing them to advise their patients the testing is going to

be “very expensive, sometimes running into the thousands of dollars,” but [that] they have “the ability to have the tests performed at no out of pocket expense...by indicating to the technician that you do not wish to be balance billed.” *See* ZT’s Testing “Script,” attached as Exh. G. ZT’s practice is to go after patient co-pays and deductibles only where a doctor stops using their services.

73. While a provider may occasionally waive a patient charge based on financial hardship, Defendants make no such inquiry and instead, routinely waive the patient portion of the bill as an inducement to utilize their services over that of legitimate providers and also to mask their enormous bills.

J. The Rich Profits Generated From The Scheme

74. For each patient subjected to Defendants’ worthless electrodiagnostic testing, private insurers are billed to the tune of \$7,500 - \$15,000. Of this amount, approximately \$1,500 - \$4,000 is billed by Referring Physician as the “technical component” and \$4,750 to \$10,600 by the Neurology Defendants as the “professional component.” This amount may even be more with the addition of needle EMG tests. The cookie-cutter nature of Defendants’ testing is evident by the standardized nature of the charges. The “professional component” fee Defendants systematically charge is \$4,750-\$5,850 for an upper or lower “profile” or \$10,600 if both profiles are performed.

75. The amounts charged for the “professional component” of ZT’s testing are 3-10 times the “usual and customary” charges of the neurologists employed to interpret ZT’s tests. A typical neurologist in a hospital setting only charges between \$600-\$1,700 for electrodiagnostic testing *including* the critical needle EMG test.

**V. DEFENDANTS SUBMIT AND CAUSE TO BE SUBMITTED
HUNDREDS OF THOUSANDS OF FALSE CLAIMS TO PRIVATE
INSURERS ACROSS THE COUNTRY**

76. Defendants submit claims for reimbursement to private insurers on forms commonly known as CMS 1500s (“CMS” is the Centers for Medicare and Medicaid Services, formerly known as “HCFA,” or the Health Care Financing Administration). Most, if not all private insurers and also government-funded health care programs such as Medicare and Medicaid require use of the CMS 1500 form in submitting a claim for reimbursement. In filling out the CMS 1500, providers are required to use the Current Procedure Technology Manual (“CPT”) published by the American Medical Association (AMA) each year. The CPT contains more than 8,000 procedure or CPT codes and descriptions for physicians to use in describing their services for billing purposes. Providers must select the appropriate CPT Code for the service provided. The CPT also defines how many units of each CPT code are properly billable. In addition to conducting their billing according to the CPT, providers also are required to charge the “usual and customary” rates for their services.

77. In submitting (and causing to be submitted) claims for the worthless testing Defendants falsely stated on each CMS 1500 (and billed for) services that were never provided (including SSEPs of the trunk or head corresponding to CPT Code 95927), for multiple units of SSEP tests (CPT Codes 95925, 95926 and 95927) where the CPT allows only 1 or 2 units to be billed and also for services at rates over and above the “usual and customary” charges for this type of service. Defendants additionally charged rates that misrepresented their actual charges for the services. Providers require payment of a patient co-pay or deductible (and base their

reimbursement on that assumption) but Defendants never collected patient co-pays or deductibles or did so only sporadically. As a result of all of the above, each and every claim submitted by Defendants was, in many respects, false on its face.

78. Further, each and every claim Defendants submitted (or caused to be submitted) was false in that the services provided to patients all were medically unnecessary, incompetently performed and useless, tantamount to no service at all. This includes:

- The NCVs (billed under CPT Codes 95900, 95903, 95904, 95934 and 95936);
- The SSEPs (billed under CPT Codes 95925, 95926 and 95927); and
- The spinal ultrasounds (billed under CPT Codes 76536, 76800, 76856, 76970, 76604, 76999, and 99273).

79. In addition to submitting false claims in violation of 740 ILCS § 92/5(b), each and every claim submitted (or caused to be submitted) by Defendants violated the anti-kickback provision of Insurance Fraud Act. Defendants violated this provision by:

- Paying illegal kickbacks and other incentives to referring physicians to gain access to patients; and
- Routinely waiving the patient portion of the bill regardless of financial hardship and solely to induce patients to utilize their services rather than that of a qualified provider.

In sum, the testing service provided by Defendants is entirely worthless and in addition, violates express and implied conditions of reimbursement including that the services were actually performed and performed by qualified providers and were medically necessary for the patient's care. Defendants also repeatedly paid illegal kickbacks to gain referrals and maintain a stream of

business. Independently and certainly collectively, all of the above conduct violates 740 ILCS § 92/5(a) and (b) and constitutes insurance fraud.

80. The fraud scheme described herein and with it, Defendants' submission of false claims was undertaken knowingly and deliberately. Defendants made every attempt to conceal their fraudulent billings and to "fly under the radar." Defendants also misrepresented the nature of their services and even would resort to outright alteration and forgery of medical documents to avoid detection. The scheme was master-minded by Defendant Rubin and implemented by him along with Defendants Asher, Goldman, Herba and Dr. Rubin. In conducting the worthless testing, medical necessity was completely ignored (as was the patient's well-being) and instead, tests were designed and administered to patients solely for their profit potential. Efforts made by certain of the neurologists employed by ZT and the Neurology Defendants to correct the fraudulent billings, instruct as to the proper coding of these tests and to implement procedures to ensure the testing was performed competently each were rejected.

VI. HOW DEFENDANTS' FRAUDULENT SCHEME HARMS PATIENTS

81. As a result of Defendants' fraudulent scheme, patients are subjected to worthless and unnecessary electrodiagnostic testing and dangerously misleading results. One of the documents the ZT Defendants provide to Referring Physicians in its standard "Clipboard Kit" is the "Patient's guide to diagnostic testing" ("Patient's Guide"). The Patient's Guide (which the ZT Defendants instruct the Referring Physicians to provide to their patients) advises patients that they have been scheduled for diagnostic testing and that the testing is going to be "valuable" in diagnosing their condition. *See* Clipboard Kit, Patient's Guide, attached as Exh. H. In fact, the electrodiagnostic testing the ZT Defendants perform has no diagnostic or other value to

patients, but rather, is dangerously misleading. The vast majority of patients who have a neurological condition such as radiculopathy, for example, will have normal NCV, SSEP or DEP results. The critical EMG test the ZT Defendants do not perform would, in most cases, reveal the radiculopathy, if present. Therefore, patients with “normal” test results are led to believe they have no such condition.

82. Defendants’ fraud further harms patients and other Illinois citizens in that the Defendants bill (and cause others to bill) the patients’ insurers for enormous sums of money depleting the patients’ insurance benefits and requiring them to pay higher insurance premiums because of testing designed solely for Defendants’ financial gain. To date, Defendants have submitted and/or caused to be submitted over two hundred thirty-four million dollars in false and fraudulent insurance claims.

COUNT I
VIOLATION OF THE INSURANCE CLAIMS FRAUD
~~PREVENTION ACT AGAINST THE ZT AND NEUROLOGY DEFENDANTS~~

83. Plaintiffs repeat and re-allege paragraphs 1-82, above, as if fully set forth herein.

84. This action is brought by the State of Illinois and Relator Scott Schichtl to recover treble damages and civil penalties under 740 ILCS 92/1 *et seq.*, the Illinois Insurance Claims Fraud Prevention Act (“Insurance Fraud Act”).

85. 740 ILCS § 92/5(a) provides a civil cause of action against any person who commits the crime of insurance fraud or who “knowingly offer or pay any remuneration, directly or indirectly, in cash or in kind, to induce any person to procure clients or patients to obtain services or benefits under a contract of insurance or that will be the basis for a claim against an insured person or the person’s insurer.”

86. Pursuant to 720 ILCS § 5/46-1 of the Illinois Criminal Code, a person commits the offense of insurance fraud when he or she:

[K]nowingly obtains, attempts to obtain, or causes to be obtained, by deception, control over property of an insurance company or self-insured entity by the making of a false claim or by causing a false claim to be made on any policy of insurance issued by an insurance company. . .

720 ILCS 5/46-1(a).

87. Defendants violated 720 ILCS 5/46-1(a) and committed insurance fraud in that from at least December 1998, they repeatedly, knowingly and intentionally subjected Illinois patients to the worthless electrodiagnostic testing services described herein and then presented (the Neurology Defendants), or caused to be presented (the ZT Defendants), false claims for payment in connection with that worthless testing to the private insurers.

88. The ZT Defendants further violated 740 ILCS § 92/5(a) and engaged in an illegal kickback scheme from at least December 1998, by virtue of the fraudulent acts described herein.

89. The private insurers, unaware of Defendants' fraudulent acts, paid many of the claims submitted to them in connection with that fraud. Had the insurers known of the Defendants' fraudulent acts (which Defendants actively concealed), they would not have paid any claims.

90. Likewise, if the patients subjected to Defendants' fraudulent acts had known that the electrodiagnostic testing ZT Defendants purported to provide was worthless and unnecessary, they would not have submitted to it.

91. As a result of Defendants' commission of the insurance fraud and illegal kickback scheme described herein, the State of Illinois and its citizens have been damaged in an amount in excess of millions of dollars, exclusive of interest.

WHEREFORE Plaintiffs respectfully request this Court: (1) enter judgment in their favor and against all Defendants; (2) enter a temporary restraining order and thereafter, a permanent injunction pursuant to 740 ILCS 92/5(b) to protect the public and prevent dissipation of illegal proceeds; (3) order that all proceeds of the fraud scheme described herein and received by any Defendant (including its or their successors and agents) be held in constructive trust for the benefit of Plaintiffs; and (4) award the following damages to the following parties, and against all Defendants:

To the STATE OF ILLINOIS:

- a. Disgorgement of all monies received by Defendants through the submission of false claims;
- b. Three times the amount of each false claim Defendants submitted and caused to be submitted under a contract of insurance;
- c. An Order permanently enjoining Defendants from conducting electrodiagnostic testing without properly trained and certified technicians and direct, on-site supervision by a neurologist or other qualified physician;
- d. A civil penalty of not less than \$5,000 and not more than \$10,000 for each false claim Defendants submitted or caused to be submitted under a contract of insurance;
- e. An award of reasonable attorneys' fees incurred by the State;
- f. Prejudgment interest; and
- g. All expenses and costs of this action.

To RELATOR, SCOTT SCHICHTL:

- a. An amount not less than thirty percent (30%) of the proceeds of this action pursuant to 740 ILCS §92/25;
- b. Reimbursement of all expenses Relator incurred in connection with this action;
- c. An award of reasonable attorneys' fees;
- d. Prejudgment interest;

- e. All expenses and costs of this action; and
- f. Such further relief the Court deems just and proper.

COUNT II
VIOLATION OF THE INSURANCE CLAIMS FRAUD
~~PREVENTION ACT AGAINST SANNA AND THE ZT DEFENDANTS~~

92. Plaintiffs repeat and re-allege paragraphs 1-82, above, as if fully set forth herein.

93. This action is brought by the State of Illinois and Relator Scott Schichtl to recover treble damages and civil penalties under 740 ILCS 92/1 *et seq.*, the Illinois Insurance Claims Fraud Prevention Act (“Insurance Fraud Act”).

94. 740 ILCS § 92/5(a) provides a civil cause of action against any person who commits the crime of insurance fraud or who “knowingly offer or pay any remuneration, directly or indirectly, in cash or in kind, to induce any person to procure clients or patients to obtain services or benefits under a contract of insurance or that will be the basis for a claim against an insured person or the person’s insurer.”

95. Each and every \$100 fee paid (and accepted) by ZT to Sanna as described herein violates 740 ILCS 92/5(a) in that each such fee was a payment by ZT to induce Breakthrough to procure patients for diagnostic testing payable under a contract of insurance and in fact, had that very effect. For each illegal payment made to Sanna by ZT in return for a patient being set up for diagnostic testing, each party (ZT on the one hand and Sanna on the other) are liable for statutory damages of three times the amount of each claim submitted under a contract of insurance for the diagnostic testing plus a penalty of not less than \$5,000 or more than \$10,000 for each claim. On information and belief, the kickback payments to Sanna are payable to Sanna directly or through his company, Breakthrough Coaching, Inc. or other entity to which he directs the payments.

96. As a result of Defendants' commission of the illegal kickback scheme described herein, the State of Illinois and its citizens have been damaged in an amount in excess of millions of dollars, exclusive of interest.

WHEREFORE Plaintiffs respectfully request this Court: (1) enter judgment in their favor and against Sanna and ZT Defendants; (2) order that all proceeds of the fraud scheme described herein by received by any Sanna and/or any ZT Defendant (including its or their successors and agents) be held in constructive trust for the benefit of Plaintiffs; and (3) award the following damages to the following parties, and against Sanna and the ZT Defendants:

To the STATE OF ILLINOIS:

- a. Disgorgement of all monies received by Defendants through the submission of false claims;
- b. Three times the amount of each false claim Defendants submitted and caused to be submitted under a contract of insurance;
- c. A civil penalty of not less than \$5,000 and not more than \$10,000 for each claim submitted or caused to be submitted under a contract of insurance procured by an illegal kickback payment;
- e. An award of reasonable attorneys' fees incurred by the State;
- f. Prejudgment interest; and
- g. All expenses and costs of this action.

To RELATOR, SCOTT SCHICHTL:

- a. An amount not less than thirty percent (30%) of the proceeds of this action pursuant to 740 ILCS §92/25;
- b. Reimbursement of all expenses Relator incurred in connection with this action;
- c. An award of reasonable attorneys' fees;
- d. Prejudgment interest;
- e. All expenses and costs of this action; and
- f. Such further relief the Court deems just and proper.

COUNT III
VIOLATION OF THE INSURANCE CLAIMS FRAUD
PREVENTION ACT AGAINST VERHAERDT

97. Plaintiffs repeat and re-allege paragraphs 1-82, above, as if fully set forth herein.

98. This action is brought by the State of Illinois and Relator Scott Schichtl to recover treble damages and civil penalties under 740 ILCS 92/1 *et seq.*, the Illinois Insurance Claims Fraud Prevention Act (“Insurance Fraud Act”).

99. 740 ILCS § 92/5(a) provides a civil cause of action against any person who commits the crime of insurance fraud or who “knowingly offer or pay any remuneration, directly or indirectly, in cash or in kind, to induce any person to procure clients or patients to obtain services or benefits under a contract of insurance or that will be the basis for a claim against an insured person or the person’s insurer.”

100. The ZT Defendants and Verhaerdts entered into a purported “lease” agreement pursuant to which Verhaerdts referred patients to ZT for diagnostic testing and then submitted claims to private insurers for the “technical component” of that testing. ZT, in turn, submitted a claim for the “professional component” of the testing. ZT attempted to legitimize this arrangement at least on paper by purporting to charge “lease” fees for use of its technicians and equipment. In reality and certainly the case here, ZT never charged, much less collected, any of the “lease” fees from “good testing” doctors such as Verhaerdts. The arrangement allowed the Referring Physician (and including Verhaerdts) to bill private insurers for the “technical component” of the testing (totaling thousands of dollars per patient) for simply opening up his door and allowing ZT in to do the test. Verhaerdts did not pay any lease fees for the service, never effectively supervised any testing performed by ZT and the amounts he billed to private

insurers bore no relation to any service he provided if in fact he had provided any service at all. Verhaerdts also received a \$50,000 per year “fee” for serving as a member of the ZT”advisory board” which in reality was yet another payment made to procure patients to ZT.

101. For each illegal payment made to Verhaerdts by ZT (whether in the form of a waived “lease” payment, submission of a claim for testing he never performed, salary or otherwise) in return for referring a patient for diagnostic testing, each party (ZT on the one hand and Verhaerdts on the other) are liable for statutory damages of three times the amount of each claim submitted under a contract of insurance for the diagnostic testing plus a penalty of not less than \$5,000 or more than \$10,000 for each claim.

102. As a result of Defendants’ commission of the illegal kickback scheme described herein, the State of Illinois and its citizens have been damaged in an amount in excess of millions of dollars, exclusive of interest.

WHEREFORE Plaintiffs respectfully request this Court: (1) enter judgment in their favor and against Verhaerdts; (2) order that all proceeds of the fraud scheme described herein received by Verhaerdts be held in constructive trust for the benefit of Plaintiffs; and (3) award the following damages to the following parties, and against Verhaerdts:

To the STATE OF ILLINOIS:

- a. Disgorgement of all monies received by Defendants through the submission of false claims;
- b. Three times the amount of each false claim Defendants submitted and caused to be submitted under a contract of insurance;
- c. A civil penalty of not less than \$5,000 and not more than \$10,000 for each claim submitted or caused to be submitted under a contract of insurance procured by an illegal kickback payment;
- e. An award of reasonable attorneys’ fees incurred by the State;
- f. Prejudgment interest; and
- g. All expenses and costs of this action.

To RELATOR, SCOTT SCHICHTL:

- a. An amount not less than thirty percent (30%) of the proceeds of this action pursuant to 740 ILCS §92/25;
- b. Reimbursement of all expenses Relator incurred in connection with this action;
- c. An award of reasonable attorneys' fees;
- d. Prejudgment interest;
- e. All expenses and costs of this action; and
- f. Such further relief the Court deems just and proper.

COUNT IV
VIOLATIONS OF THE MEDICAL PRACTICE ACT
~~AGAINST THE ZT AND NEUROLOGY DEFENDANTS~~

103. Plaintiffs repeat and re-allege paragraphs 1-82, above, as if fully set forth herein.

104. As described herein, the ZT Defendants all are owned and controlled by Defendants Rubin, Goldman and Asher. The ZT Defendants, in turn and for all practical purposes, own and control the Neurology Defendants. The ZT Defendants receive all proceeds from the Neurology Defendants' purported services and in fact, these proceeds are deposited directly into bank accounts held by the ZT Defendants. The ZT Defendants create each medical corporation that will be owned in name only by a neurologist and that will be used as a vehicle to bill private insurers.

105. The ZT Defendants then direct and require the neurologists working for each of the Neurology Defendants to conform their findings and diagnoses to ZT's "business plan." This includes "leaving out" recommendations necessary for proper patient care and that would have a detrimental impact on ZT's business, including that a patient actually needs an EMG test. The ZT Defendants further require that the neurologists not include that any tests were incorrectly performed or display any technical problems (which most of them do). The ZT

Defendants require the Neurology Defendants to “play ball” and conform to ZT’s business plan or the relationship will be terminated.

106. The actions described herein and in paragraphs 104-105, above, constitute the “corporate practice of medicine” in violation of the Medical Practice Act (“MPA”), 735 ILCS 60 *et seq.* and Medical Corporations Act, 805 ILCS 15/13. These statutes strictly prohibit any non-physician or any corporation from having any part in the ownership, management or control of any medical corporation and deem any such acts inimical to the public and a public nuisance. A corporation may not employ any physician as only a human being can sustain the education, training, and character-screening that are prerequisites to receiving a professional license. This is supported by public policy concerns including the dangers of lay control over professional judgment, the division of a physician’s loyalty between his patient and his profit-making employer and the commercialization of the profession. The substance rather than form of any arrangement between a physician and a corporation controls.

107. In the event of a violation of the MPA, the Attorney General of the State of Illinois may apply for an injunction to enjoin any such person from engaging in such practice. 735 ILCS 60/61.

WHEREFORE, Plaintiffs respectfully request this Court enter a permanent injunction enjoining the ZT Defendants from any further violations of the MPA, a declaration that any and all agreements between any Neurology Defendant and any ZT and/or Rubin Defendant are void and unenforceable, for an award of attorneys’ fees and costs in bringing this action pursuant to 735 ILCS 60/61 and for such further relief the Court deems just and proper.

COUNT V
VIOLATIONS OF THE CONSUMER FRAUD AND DECEPTIVE BUSINESS
PRACTICES ACT AGAINST THE ZT DEFENDANTS –
~~815 ILCS § 505/2 (UNLAWFUL PRACTICES)~~

108. Plaintiffs repeat and re-allege paragraphs 1-82, above, as if fully set forth herein.

109. Section 2 of the Illinois Consumer Fraud and Deceptive Business Practices Act (“CFA”) declares unlawful “any [u]nfair methods of competition and unfair or deceptive acts or practices, including but not limited to the use or employment of any deception, fraud, false pretense, false promise, misrepresentation or the concealment, suppression or omission of such material fact . . . in the conduct of any trade or commerce . . . whether any person has in fact been misled, deceived or damaged thereby.”

110. The ZT Defendants claim to offer “hospital quality” electrodiagnostic testing done by “board certified” technicians. The ZT Defendants make this claim to patients and referring physicians. This claim is false and fraudulent; the testing done by the ZT Defendants does not come close to meeting the accepted standard of care or that which would be performed in a hospital setting. ZT technicians are *not* board certified; in fact, the technicians are poorly trained and operate without any real supervision. The tests results are misleading and uninterpretable. The tests are never tailored to the patients’ conditions; rather a pre-set battery of tests is administered to each and every patient regardless of their condition and medical history. Despite over-testing every patient, the ZT Defendants never do the one test – the needle EMG test – that is absolutely necessary to diagnose the most common patient complaint. The vast majority of tests performed are medically unnecessary, and the neurologists’ interpretations are boilerplate and misleading. Many of the test performed, including nearly all of the Evoked Potential tests, are so poorly performed as to be unreadable and diagnostically

useless. In short, rather than “hospital quality” testing, the ZT Defendants’ testing is dangerous, deceptive and ultimately worthless.

111. Patients and referring physicians reasonably rely on the ZT Defendants’ false and misleading statements regarding the effectiveness of the medical testing, the quality of the technicians, and ZT’s relationship with the interpreting neurologists.

112. By committing the acts alleged above, the ZT Defendants violated §2 of the CFA by engaging in unfair and/or deceptive practices, including, but not limited to, the misrepresentation, concealment, suppression, or omission of material facts, while participating in trade or commerce with the knowledge and/or intent that the State of Illinois, its citizens and others would rely on their deceptive conduct.

WHEREFORE, Plaintiffs respectfully request this Court enter judgment in their favor and against the ZT Defendants and further:

- a. Declare that the ZT Defendants’ conduct as described above constitutes unfair and/or deceptive acts or practices within the meaning of § 2 of the Illinois Consumer Fraud Act;
- b. Permanently enjoin the ZT Defendants and its employees, officers, directors, agents, successors, assigns, affiliates, merged or acquired predecessors, parent or controlling entities, subsidiaries, and any and all persons acting in concert or participation with the ZT Defendants, from continuing the unlawful conduct, acts, and practices described above;
- c. Award the People of the State of Illinois restitution and actual damages;
- d. Award penalties for each violation found by the Court to have been committed by the ZT Defendants with the intent to defraud in the amount of \$50,000.00 pursuant to 815 ILCS § 505/7(b), and penalties in the amount of \$10,000.00 for each violation found by the Court to have been committed against a person 65 years of age or older pursuant to 815 ILCS § 505/7(c);
- e. Award the State of Illinois its attorneys’ fees and costs; and
- f. Such further relief the Court deems just and proper.

COUNT VI
CONSTRUCTIVE TRUST AGAINST SUZANNE RUBIN, LORI MIHALY
AND THE RUBIN FAMILY TRUSTS

113. Plaintiffs repeat and re-allege paragraphs 1-82, above, as if fully set forth herein.

114. By and through the fraud scheme described in this Complaint, over \$234 million in false claims were submitted to private insurers. Potential damages are more than triple this amount under the Insurance Fraud Act.

115. For the last several years, Suzanne, along with Defendant Rubin have been living a life of extravagance made possibly by the fraud scheme described in this Complaint. Since 1998, and particularly within the last few years, the two have amassed over a million dollars in luxury automobiles, a private jet, a \$6.5 million dollar home, a \$3.3 million dollar home, and employ a staff of 10 individuals who attend to their personal needs, among other lavishes. This wealth all is attributed to the fraud scheme and nothing else. Suzanne, Lori Mihaly and the Rubin Family Trusts are the beneficiaries of, and presently in possession of a substantial portion of these fraud proceeds.

116. Allowing Suzanne, Lori Mihaly and the Rubin Family Trusts to retain the proceeds of Defendants' fraud scheme would allow them to unfairly profit from Defendants' wrong and unjustly enrich themselves to the detriment of the State of Illinois and others to which these funds rightfully belong. Without imposition of a constructive trust, insufficient assets will be available to repay the State of Illinois and its citizens for Defendants' fraud. Moreover, many of the assets held by Suzanne and the Rubin Family Trusts are held jointly with Defendant Rubin who masterminded the fraud scheme. To the extent Suzanne and the Rubin Family Trusts now hold an ownership interest in such assets, it is solely by virtue of the transfer

of these assets to Suzanne and the Rubin Family Trusts by Rubin.

WHEREFORE, Plaintiffs respectfully request the Court: (1) order Suzanne Rubin, Lori Mihaly and the Rubin Family Trusts to account for any and all proceeds received since January 1, 1998 from or relating to Mitchell E. Rubin, Rubin Consulting Group, Inc., or any “ZT” company or “Neurology Defendant” as described herein and regardless of whether such proceeds are held directly or indirectly by Suzanne Rubin, Lori Mihaly and/or the Rubin Family Trusts, such as through trusts, accounts or entities in which any of them hold an ownership interest in and/or is a beneficiary of; (2) find and order that any and all proceeds and profits obtained by Suzanne Rubin, Lori Mihaly and the Rubin Family Trusts since January 1, 1998 from or relating to Mitchell E. Rubin, Rubin Consulting Group, Inc. or any “ZT” company or “Neurology Defendant” as described herein are held in a constructive trust for the benefit of the Plaintiffs, the State of Illinois, and that the Court order that all proceeds and profits be transferred and conveyed to the State of Illinois and (3) award such further relief the Court deems just and proper.

COUNT VII
CONSTRUCTIVE TRUST AGAINST FACTOR, LLC,
~~AND ALTERNATIVE COUNT AGAINST DAN ASHER AND FRED GOLDMAN~~

117. Plaintiffs repeat and re-allege paragraphs 1-82, above, as if fully set forth herein.

118. By and through the fraud scheme described in this Complaint, over \$234 million in false claims were submitted to private insurers. Potential damages are more than triple this amount under the Insurance Fraud Act.

119. As described herein, the ZT Defendants created Factor as a vehicle through which the fraud proceeds generated by the various Neurology Defendants would flow. To

accomplish this, the ZT Defendants cause the Neurology Defendants to enter into so-called “management services” agreements pursuant to which ZT or one of its various affiliates purported to provide specified management services to the Neurology Defendants. In return, the receivables of the Neurology Defendants (consisting of all of the proceeds of the fraud scheme) were assigned to Factor for nominal consideration. Factor has no legitimate business function separate from the fraud and is under the direct control of, and owned by, the ZT Defendants. Factor retains the fraud proceeds which ultimately are paid out to the various ZT Defendants and then, in turn, flow to the individual Defendants including Dan Asher and Goldman and the various family trusts, bank accounts and assets they own and control.³

120. Allowing Factor, Goldman and Asher to retain the proceeds of the fraud described herein (and in which Goldman and Asher were active participants) would allow it and them to unfairly profit from Defendants’ wrong and unjustly enrich it and themselves to the detriment of the State of Illinois and others to which these funds rightfully belong.

WHEREFORE, Plaintiffs respectfully request the Court: (1) order Factor, LLC, Dan Asher and Fred Goldman to account for any and all proceeds received since January 1, 1998 from or relating to Mitchell E. Rubin, Rubin Consulting Group, Inc., or any “ZT” company or “Neurology Defendant” as described herein and regardless of whether such proceeds are held directly or indirectly by it or whether assigned to any entity or individual; (2) find and order that any and all proceeds and profits obtained by Factor, LLC, Dan Asher and Fred Goldman since January 1, 1998 from or relating to Mitchell E. Rubin, Rubin Consulting Group, Inc. or any “ZT” company or “Neurology Defendant” as described herein are held in a constructive trust for

the benefit of the Plaintiffs, the State of Illinois, and that the Court order that all proceeds and profits be transferred and conveyed to the State of Illinois and (3) award such further relief the Court deems just and proper.

COUNT VIII
VIOLATIONS OF THE CALIFORNIA INSURANCE FRAUDS PREVENTION ACT
AGAINST THE ZT AND NEUROLOGY DEFENDANTS

121. Plaintiffs repeat and re-allege paragraphs 1-82, above, as if fully set forth herein.

122. Relator Scott Schichtl brings this count on behalf of himself and the State of California to recover treble damages and civil penalties under Cal. Ins. Code § 1871.7 *et seq.*, the California Insurance Frauds Prevention Act (“California Insurance Frauds Act”). This claim under the California Insurance Frauds Act is based on the exact same facts as the Illinois Insurance Frauds Act only involving separate and additional harm to the State of California in that the ZT and Neurology Defendants also submitted false claims for reimbursement to private insurers in California for patients tested by ZT in California. The Relator requests the Court accept jurisdiction over this claim as it involves the same parties, facts and elements as the Illinois Insurance Frauds Claim (Count I).

123. The California Insurance Frauds Act provides a civil cause of action against any person who commits the crime of insurance fraud or who offers or pays illegal inducements or kickbacks to secure benefits under a contract of insurance.

124. Pursuant to Cal. Penal Code § 550, a person commits the offense of insurance fraud when he or she “knowingly make[s] or cause[s] to be made any false or fraudulent claim

(...continued)

³ As to Defendant Goldman, this count is in the alternative as Goldman also is a Defendants in Counts I, II, IV, V and VIII for his direct role in the fraud and causing the submission of false insurance claims.

for payment of a health care benefit.” Cal. Penal Code. § 550. Section 549 of the California Penal Code likewise prohibits illegal referrals in connection with health care services payable under contracts of insurance. Cal. Penal Code. § 549.

125. Defendants violated Cal. Ins. Code § 1871.7(b) and committed insurance fraud in that from at least December 1998, they repeatedly, knowingly and intentionally subjected California patients to the worthless electrodiagnostic testing services described herein and then presented (the Neurology Defendants), or caused to be presented (the ZT Defendants), false claims for payment in connection with that worthless testing to the private insurers.

126. The ZT Defendants further violated Cal. Ins. Code § 1871.7(a) and engaged in an illegal kickback scheme from at least December 1998, by virtue of the fraudulent acts described herein.

127. The private insurers, unaware of Defendants’ fraudulent acts, paid many of the claims submitted to them in connection with that fraud. Had the insurers known of the Defendants’ fraudulent acts (which Defendants actively concealed), they would not have paid any of the claims.

128. Likewise, if the patients subjected to Defendants’ fraudulent acts had known that the electrodiagnostic testing ZT Defendants purported to provide was worthless and unnecessary, they would not have submitted to it.

129. As a result of Defendants’ commission of the insurance fraud and illegal kickback scheme described herein, the State of California and its citizens have been damaged in an amount in excess of millions of dollars, exclusive of interest.

WHEREFORE Plaintiffs respectfully request this Court: (1) enter judgment in their favor and against all Defendants; and (2) award the following damages to the following parties, and against all Defendants:

To the STATE OF CALIFORNIA:

- a. Disgorgement of all monies received by Defendants through the submission of false claims in or relating to patients in the State of California;
- b. Three times the amount of each false claim Defendants submitted and caused to be submitted under a contract of insurance in or relating to an insured in the State of California;
- c. A civil penalty of \$5,000 to \$10,000 for each false claim Defendants submitted or caused to be submitted under a contract of insurance in or relating to an insured in the State of California;
- d. An award of reasonable attorneys' fees incurred by the State of California;
- e. Prejudgment interest; and
- f. All expenses and costs of this action.

To RELATOR, SCOTT SCHICHTL:

- a. An amount not less than thirty percent (30%) of the proceeds of this action pursuant to Cal. Ins. Code § 1871.7(g);
- b. Reimbursement of all expenses Relator incurred in this action;
- c. An award of reasonable attorneys' fees;
- d. Prejudgment interest;
- e. All expenses and costs of this action; and
- f. Such further relief the Court deems just and proper.

Date: July 7, 2005

Respectfully submitted,

LISA MADIGAN, ATTORNEY GENERAL OF THE
STATE OF ILLINOIS AND RELATOR SCOTT
SCHICHTL,

By: _____

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VERIFICATION

Under penalties as provided by law pursuant to 735 ILCS 5/1-109, I hereby certify that the statements set forth in the People's Verified Second Amended Complaint are true and correct except as to matters therein stated to be on information and belief and as to such matters I certify that I verily believe the same to be true.

July 7, 2005

Scott Schichtl