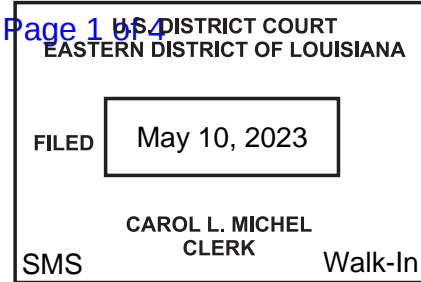


**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**



SHIVA AKULA, MD	§	CIVIL ACTION
v.	§	NO: 23-1057
BERNARD CASSIDY, ET AL.	§	SECTION: "R" (1)
_____	§	

**MOTION FOR LEAVE TO FILE CORRECTED AMENDED COMPLAINT
AND REQUEST FOR CLARIFICATION RE: FILING OF A SEPARATE
RICO CASE STATEMENT AS PER *DOC 18***

NOW INTO COURT, Plaintiff, Shiva Akula, MD, and hereby files this Motion for Leave to File Corrected Amended Complaint and Request for Clarification Re: Filing of a Separate RICO Case Statement as Per *Doc 18*, and in support thereof states as follows:

1. Plaintiff filed his Amended Complaint on May 9, 2023.
2. After filing the Amended Complaint, and returning to his office, Plaintiff recognized that he had picked up the wrong final draft for the Amended Complaint as Plaintiff had been working on multiple copies of a final draft.
3. Plaintiff includes the Corrected Amended Complaint as *Exhibit 1* to this Motion.

TENDERED FOR FILING

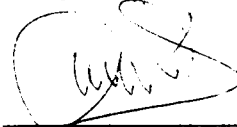
MAY 10 2023

**U.S. DISTRICT COURT
Eastern District of Louisiana
Deputy Clerk**

4. There are few but important corrections in the Corrected Amended Complaint and for this reason Plaintiff respectfully asks that this Court allow the filing of the Corrected Amended Complaint as Plaintiff's operative complaint.
5. Since Defendants have not yet filed any responses to Plaintiff's Amended Complaint, there is no prejudice to Defendants for the Court to permit the filing of Corrected Amended Complaint attached as *Exhibit 1*.
6. Moreover, the Corrected Amended Complaint contains limited but significant additional allegations which allow Plaintiff to meet the stringent pleading requirements in filing complaints involving RICO claims.
7. Finally, since Plaintiff believes he has complied with the Order regarding the filing of RICO complaints, (*Doc 18*), Plaintiff respectfully inquires whether the Court will require Plaintiff to submit an additional "RICO Case Statement" given that Plaintiff has covered each of the itemized statements at *Doc 18* in his Corrected Amended Complaint.
8. Plaintiff has sent a conferral email regarding this motion to all counsel of record and has not yet received responses from counsel.

WHEREFORE, Plaintiff, Shiva Akula, MD, respectfully requests that this Court grant this Motion for Leave to File Corrected Amended Complaint and Request for Clarification Re: Filing of a Separate RICO Case Statement as Per *Doc 18*, and grant any other and further relief as the Court may deem just and proper.

Respectfully Submitted By,

A handwritten signature in black ink, appearing to read 'Shiva Akula', is written over a horizontal line.

Shiva Akula, MD

1750 St. Charles Ave. 7th Floor #D

New Orleans, LA 70130

Tel: (504) 669-3825

Email: akulashiva12@gmail.com

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was filed with the Clerk of District Court which will electronically transmit same to all counsel of record, via email on this 3rd day of May, 2023.

A handwritten signature in black ink, appearing to read 'Shiva Akula', is written over a horizontal line.

Shiva Akula, MD

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA**

DR. SHIVA AKULA,

Plaintiff,

CASE NO: 2:23-cv-01057

SECTION: "R" (1)

JUDGE SUSIE MORGAN

v.

JEFFREY LANDRY, ATTORNEY GENERAL
OF THE STATE OF LOUISIANA,
XAVIER BECERRA, SECRETARY OF HUMAN
AND HEALTH SERVICES, KATHRYN MCHUGH,
ERNEST GREEN, KELLY ANDERSON,
RACHEL MURPHY, MD, NIKITA MURPHY,
VASHELLE HASTINGS, KIEMOND WILLIAMS,
SHAYVON AUGUSTINE, LIONEL BANKS, BETH SEYMOUR,
BERNARD CASSIDY, and ROBERT TOALE.

Defendants.

CORRECTED AMENDED COMPLAINT FOR DAMAGES

NOW INTO COURT, Plaintiff, DR. SHIVA AKULA, ("Akula" and/or "Dr. Akula", a licensed health care practitioner and owner of Canon Hospice which has its principal place of business in the Eastern District of the State of Louisiana, alleges and avers as follows:

This is a lawsuit about how the government, in its quest to go after crime, creates opportunistic criminals who put themselves out as ‘star witnesses’ for the overzealous prosecutors hired by the Department of Justice across the country. These opportunistic criminals go on committing their own crimes right from under the nose of the prosecutor for the government and more often than not, these are junior prosecutors who are drowned in their addiction to power, who become entangled in obstruction of justice by shielding these witness from state criminal prosecution and by turning a blind eye to their criminal conduct. In return for shielding these criminals from state prosecutions, these prosecutors gain the benefit of these criminals to recruit witnesses for the government who are willing to provide false testimony for the government’s case so as to guarantee a successful outcome by securing a conviction usually against a high profile defendant like a physician who is well established and has a successful business involving Medicare billing.

PARTIES

1.

Plaintiff is Dr. Shiva Akula, an individual of the full age of majority domiciled in the State of Louisiana who at all relevant times owned Canon Hospice and was also a physician in private practice as an infectious disease specialist in New Orleans.

Made “Defendants” herein are:

A. Jeffrey Landry, an individual of the full age of majority domiciled in the

State of Louisiana, who at all relevant times was the Attorney General of the State of Louisiana, head of agency of the state criminal investigation investigating the payroll fraud perpetrated at Canon Hospice against Dr. Akula and Canon Hospice.

- B. Xavier Becerra, an individual of the full age of majority domiciled in Washington D.C. and who at all relevant times was the Secretary of Human and Health Services.
- C. Kathryn McHugh, an individual of the full age of majority domiciled in the State of Louisiana who, at all relevant times was employed by the United States Attorney's office for the Eastern District of Louisiana, as an Assistant United States Attorney.
- D. Ernest Green is an individual of the full age of majority domiciled in the State of Louisiana, who was assigned as an agent to the state investigation investigating the payroll fraud perpetrated against Dr. Akula and Canon Hospice under the auspices of the Office of the Attorney General, Defendant Jeffrey Landry, acting the capacity of supervisor to Defendant Chadwick.
- E. Kelly Anderson, an individual of the full age of majority domiciled in the State of Louisiana, who is a former upper management employee who held the title of Administrator for Canon Hospice at the North Shore location.

- F. Rachel Murphy, MD is an individual of the full age of majority domiciled in the State of Louisiana, who was an independent medical practitioner contracted by Canon Hospice for the purpose of providing medical care to hospice patients.
- G. Nikita Murphy, an individual of the full age of majority domiciled in the State of Louisiana, who is a former employee who was in charge of payroll at Canon Hospice.
- H. Vaschelle Hastings, an individual of the full age of majority domiciled in the State of Louisiana, who is a former employee who held the title of office manager at Canon Hospice.
- I. Kiamond Williams, an individual of the full age of majority domiciled in the State of Louisiana, who is a fake former employee at Canon Hospice who was placed on the payroll by Defendant Anderson, sometimes referred collectively as the three fake employees.
- J. Shayvon Augustine, an individual of the full age of majority domiciled in the State of Louisiana, who is a fake former employee at Canon Hospice who was placed on the payroll by Defendant Anderson, sometimes referred collectively as the three fake employees.
- K. Lionel Banks, an individual of the full age of majority domiciled in the State of Louisiana, who is a fake former employee at Canon Hospice who

was placed on the payroll by Defendant Anderson, sometimes referred collectively as the three fake employees.

L. Elizabeth Seymour, an individual of the full age of majority domiciled in the State of Mississippi, who is a former upper management employee at Canon Hospice in Gulfport, Mississippi.

M. Bernard Cassidy, an individual of the full age of majority domiciled in the State of Florida who represented Plaintiff as his criminal defense attorney in US v. Akula 2:21-cr-00098 from February 2022 through December 2022.

N. Robert Toale an individual of the full age of majority domiciled in the State of Louisiana who represented Plaintiff as his criminal defense attorney in US v. Akula 2:21-cr-00098 from February 2022 through December 2022.

II. JURISDICTION AND VENUE

2.

Pursuant to Title 28, United States Code, Section 1331, this Court has subject matter Jurisdiction over the claims alleged in Counts One and Two because such claims arise under the laws of the United States, specifically Title 18, United States Code, Sections 1962(c) and (d) and 1964.

3.

Pursuant to Title 28, United States Code, Section 1367, this Court has subject matter Jurisdiction over the state fraud, conspiracy, and racketeering claims alleged in Counts One through Seven, because they are so related to the RICO claims they form part of the same case or controversy.

4.

Venue is proper in the Eastern District of Louisiana pursuant to Title 28, United States Code, Section 1391(a) and (c) in that a substantial part of the events or omissions giving rise to the claims alleged herein occurred within this District. Venue is also proper pursuant to Title 18, United States Code, Section 1965.

5.

III. STATEMENT OF FACTS COMMON TO ALL CAUSES OF ACTION

Plaintiff is a 67-year-old physician licensed to practice medicine in the State of Louisiana. Plaintiff's specialty is infectious diseases. Plaintiff provides care solely through his private practice as an infectious disease specialist. As a business owner, Plaintiff owns Canon Hospice which has four (4) locations, three of which are located in Louisiana, and one is located in Mississippi. Within the three (3) hospice locations in Louisiana, approximately 75 patients are cared for on an outpatient basis daily and 15 patients on an inpatient basis. All in all Canon hospice locations provide end of life care to approximately 243,600 patients in the State of Louisiana.

A. General Background

Specific events preceded the formation of the criminal Enterprise which eventually brought about the “Racketeer Influenced and Corrupt Organizations” where the actors were: Attorney General of the State of Louisiana as head of agency, an agent working on the state criminal investigation under the Attorney General, Secretary of State for Human and Health Services as head of agency, one Assistant United States Attorney, a former Administrator at Northshore location of Canon Hospice, a physician independently contracted by Canon Hospice, multiple lower level employees including but not limited to h three fake employees hired to divert large sums of payroll for the purpose of distributing the diverted payroll to the members of the criminal Enterprise through Cash App transfers, and two criminal defense lawyers who stood, in inaction, and did nothing in spite of awareness and knowledge of this ongoing criminal Enterprise.

(i) The First Event Culminating in the Formation of the Criminal Enterprise

In 2012, pursuant to a total of three separate complaints filed by Dr. Akula against the Secretary of Health and Human Services, a settlement check in the amount of \$704,881.58, was issued to Dr. Akula in order to settle all claims raised in (a) Canon Health Care v. Secretary of Health and Human Services2:12-cv-2120, (b) Canon Health Care v. Secretary of Health and Human Services2:10-cv-3150, and (c) Canon Health Care v. Secretary of Health and Human Services2:11-cv-2066.

Immediately after the check was issued and cashed, Dr. Akula received notification that audits were initiated into “99-patients” who were billed for services rendered by Canon Healthcare. These audits were in response to one of the largest settlement checks that was issued to Dr. Akula by the Secretary of Health and Human Services. An immediate response was to find ways to initiate a criminal investigation against Dr. Akula by the Eastern District of Louisiana in order to recoup this large amount from the settlement.

In 2018, a search warrant was executed by the FBI, with Special Agent Krista Bradford at the direction of the United States Attorney from Eastern District on Canon Hospice based on the audit that was initiated immediately after the settlement.

(ii) **The Second Event Culminating in the Formation of the Criminal Enterprise**

The criminal investigation of 2018 created vulnerability for Dr. Akula which Defendants Anderson and Murphy capitalized on. As soon as Defendant Anderson became aware of the ongoing criminal investigation, she designed a payroll fraud scheme for the purpose of skimming hundreds of thousands of dollars from Dr. Akula, believing that Defendant Anderson would not be caught for her criminal behavior due to the fact that Dr. Akula was being criminally investigated by the federal government.

Soon thereafter, Defendant Anderson befriended Assistant United States Attorney, (“AUSA”) who got assigned to Dr. Akula’s case in 2020. Even though

the criminal investigation had begun in 2018, under the direction and supervision of the former and seasoned prosecutor, AUSA Patrice Sullivan, had been unable to have a grand jury return an indictment on the same set of facts.

All this changed when the new AUSA, Kathryn McHugh and Defendant Kelly Anderson became friendly and began to engage in an elaborate scheme of criminal behavior for the purpose of convicting Dr. Akula on trumped up charges of health care fraud.

Defendant Anderson had an advanced employee status with Canon and was the Administrator for the Northshore Location of Canon Hospice and the leader of the pack. Defendant Rachel Murphy was also the leader of the pack working with Defendant Anderson in the payroll fraud scheme. Defendant Murphy was at all times a physician contracted by Canon as provider to see hospice patients. Murphy was paid on a per diem basis.

Soon after the FBI investigation was underway in 2018, and almost immediately after Defendant Anderson was interviewed by the FBI regarding any knowledge she may have, Defendant Anderson began to establish, operate and maintain a payroll scheme along with Defendant Rachel Murphy masterminded and put into operation a scheme involving payroll fraud which drained hundreds of thousands of dollars from Canon Hospice over the next four (4) years. As part of this scheme,

- (1) three fake employees were created and paid through Canon Hospice payroll as if they were authentically employed by Canon Hospice. These three employees are: Defendant Kiemond Williams, Defendant Shayvon Augustine and Defendant Lionel Banks
- (2) paychecks issued to these three fake employees would then be dispersed to co-conspirators and co-participants of the Enterprise through the cash transaction app known as Cash App.
- (3) duplicative paychecks were issued to Defendants Vaschelle Hastings and Nikita Murphy such that instead of receiving one check per payroll period, these individuals would receive two checks with the same amount.
- (4) overtime paychecks were issued to Defendant Kelly Anderson who was a salaried employee and as such who was not enrolled and did not qualify for overtime paychecks
- (5) paychecks were cut to Defendant Rachel Murphy in spite of the fact that Murphy did not earn the paycheck, did not work for it, did not see a single patient, and did not render any care to any Canon Hospice patient

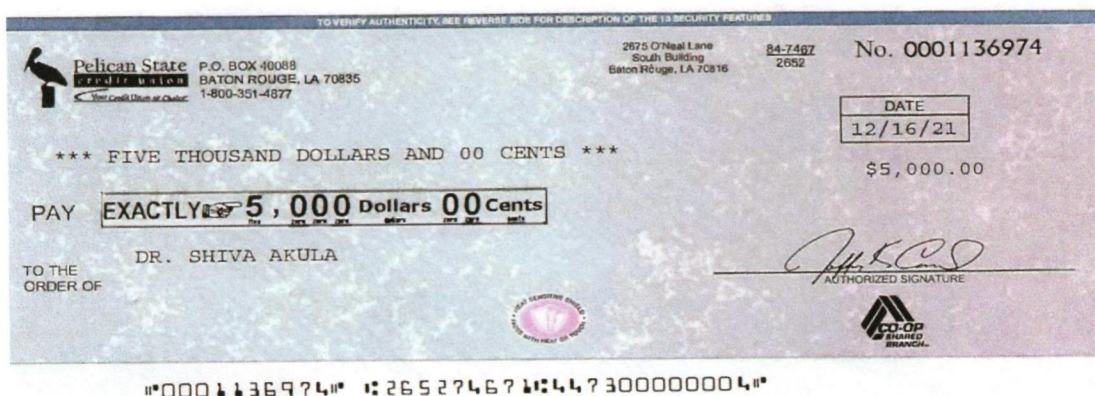
This scheme went on for years from 2018 through 2021 when it was uncovered inadvertently by Plaintiff through an internal review.

Defendant Nikita Murphy held a supervisory role over payroll of all Canon Hospice employees. She was directed and guided by Defendant Anderson. Each individual knew that they were engaging in this payroll fraud and they continued to engage in the fraud in order to illegally enrich themselves. Each active participant, Defendant Anderson, Defendant Nikita Murphy, Defendant Rachel Murphy, Defendant Vaschelle Hastings, and Defendant Elizabeth Seymour money knowing that they were shielded by upper management like Defendant Anderson. Defendant Anderson had a commanding authority over employees due to her upper level management status as an Administrator. When employees who were not involved in the payroll fraud questioned Defendant Anderson's actions, Defendant Anderson became defensive and demanded that these employees be kept away from her. Defendant Anderson also made threats of immediate resignation if she did not receive a promotion and went as far as telling Dr. Akula that she was going to make sure that Dr. Akula goes bankrupt if he does not realize Anderson's value and start increasing her salary . All the while, Anderson was skimming tens of thousands of dollars from the payroll fraud scheme that she had designed.

This payroll fraud scheme continued on with the full knowledge and acquiescence by Defendant Kathryn McHugh who was involved in the criminal investigation starting in 2019. This scheme continued on even after Defendant Anderson left Canon Hospice in 2019. The scheme was put in place and it continued

even in the absence of Defendant Anderson. The payroll checks issued to the two fictitious employees were sent to Cash App accounts from where money was dispersed to Defendants Anderson, Hastings, Nikita Murphy.

This scheme continued until 2021 and stopped only when Dr. Akula inadvertently uncovered the fraud that was being carried out all these years. The fraud was uncovered first by examining the payroll that was being issued to Defendant Vaschelle Hastings. She was confronted with her theft through payroll and fired. In an effort to avoid criminal charges stemming from her theft, Defendant Hastings began to send cashier's check in amounts varying from \$500 to \$5000 to Dr. Akula while sending the message that she is remorseful and would appreciate it if Dr. Akula would accept the payments from Defendant Hastings in lieu of criminal charges against her. One of these cashier's check sent by Hastings was a check for \$5000 as shown here:



As of the date of the filing of this suit, cashier's checks from Defendant Hastings continue to be mailed to Plaintiff and as of the date of the filing of this suit, the total amount of these cashier's checks has reached \$27,500.

Plaintiff did not cash these cashier's checks as doing so could be deemed as acceptance by Plaintiff that Hastings' criminal behavior could be downgraded to civil penalties. Upon discovering this scheme, Dr. Akula immediately contacted New Orleans Police Department which launched a criminal investigation. The Office of the Attorney General under Defendant Landry then took over the criminal investigation and the case was assigned to Agent Robert Chadwick.

Initially, Agent Chadwick diligently pursued the investigation, obtaining Cash App accounts belonging to the ghost employees where money was dispersed to Defendants Anderson, Nikita Murphy, Hastings, Seymour. Unearned paychecks were issued and monies were transferred to these Defendants' accounts even after Defendants Anderson and Nikita Murphy departed from Canon Hospice. Agent Chadwick was steadily reporting his findings in the course of the investigation until November 2022 just as when he had informed Plaintiff and his authorized representative that he was getting ready to issue arrest warrants.

cblack@physiciansagainstabuse.com

From: Chadwick III, Robert <ChadwickR@ag.louisiana.gov>
Sent: Thursday, November 10, 2022 8:58 AM
To: cblack@physiciansagainstabuse.com
Subject: RE: Update on Investigation

Good morning Dr. Black,

I received your email from yesterday. Sorry, I was out of the office on an investigation.

Yes, I have received the court orders returns in the case. In June, during review of the information I had received from you and in these court order returns, I discovered a discrepancy. See the email below. It appears that the ghost employee, Shayvon Augustine, received an extra payment from Canon of which I do not have PayChex records. I still need a copy of this.

The case is progressing fine. As I have developed quite an additional case load since we communicated last. However, the bank records provided excellent information in the case. I am hoping to finalize things soon and charge the suspects.

Thanks,

Rob Chadwick

Special Agent
Louisiana Bureau of Investigation

1085 N Third Street, Baton Rouge, LA 70802

New Orleans Office: 1450 Poydras Street, New Orleans, LA 70112

B.R. Office - 225-326-6100

New Orleans Office - 504-699-3060

Fax - 225-326-6197

Cell - 985-860-6692



At the same time in November 2022, Defendant McHugh was contemplating of ways and means to get around her obligations under *Brady*¹ in the criminal case, notifying Plaintiff's counsel, Defendant Cassidy, in US v. Akula that she would not be disclosing any witness statements in spite of her full knowledge that there was impeaching information which required disclosure under *Brady*.

¹*Brady v. Maryland* 373 U.S. 83 (1973).

In November 2022, when McHugh discovered that Agent Chadwick was getting close to making arrests of her “star” witnesses in the federal case, McHugh immediately took steps to freeze and halt the state criminal investigation through her office’s connections with Defendant Landry. In spite of the imminent arrests that were about to be executed, with Defendant McHugh’s interference in the state criminal investigation, the arrests were not made and the state criminal investigation was brought to complete stop. Defendant Green was instrumental in executing this freeze on the state criminal investigation upon the orders and instructions by Defendant Landry and Defendant McHugh and her office, United States Office for EDLA.

With the cessation of the state criminal investigation into the payroll fraud, McHugh was able to accomplish her goal of shielding the criminal behavior of her star witnesses for the federal case, while she effectively committed the crime of obstruction of justice.

(iii) The Third Event Culminating from the Criminal Enterprise

The payroll fraud initiated by Defendant Anderson was not the only criminal activity swirling around this criminal Enterprise. The indictment of Dr. Akula in August 2021 was another based on the false and fabricated allegations of Anderson and others who were skimming off Dr. Akula’s payroll. On August 5, 2021, Defendant McHugh, relying on the fabricated allegations by Defendant Anderson

and her co-conspirators involved in the payroll fraud, filed a 23-count indictment against Dr. Akula in US v. Akula 2:21-cr-00098.

This indictment was secured by fraud and falsities that McHugh presented to the grand jury- a pattern that McHugh exhibited consistently. Providing falsehoods and lies to grand jury for the purpose of returning a true bill is not the kind of prosecutorial conduct that can be immunized under prosecutorial immunity. Based on the same set of facts, and under the direction of a more senior and seasoned prosecutor, former AUSA Patrice Sullivan was unable to get a grand jury indictment against Dr. Akula.

Immediately after this indictment on August 5, 2021, McHugh again presented falsities in order to convene another grand jury – this time by falsely claiming that a physician advocacy group which was retained by Dr. Akula and one of its Board Members were engaging in witness tampering.

There could not have been any witness tampering by the physician advocacy group or its members when it had been barely a week since the indictment of Dr. Akula and when the government had not yet released the names of any witnesses.

The only intervening event between the first fraudulently convened grand jury and the second fraudulently convened grand jury was a Press Release that was circulated to a single employee at Canon Hospice that was drafted by the physician advocacy group, Physicians Against Abuse, (“PAA”). This Press Release was not

complimentary of Defendant McHugh which led her to abuse the authority of her badge as an Assistant United States Attorney and falsely and by presentation of lies convening the second grand jury.

McHugh continued on with her falsities in subsequent proceedings that took place in US v. Akula. During first appearance, McHugh knowingly and intentionally made the misrepresentation to then Magistrate Judge Dana Douglas that a family member of Dr. Akula had fled the country making Dr. Akula a flight risk. McHugh knew that she was lying to the court when she told the court that the family member had fled because McHugh had access to a flight schedule of this family member who was scheduled to return to the country within mere three days of the date of the first appearance from his annual trip to India that the family member had been consistently going on since 2010. Yet, knowing this fact, McHugh lied and did so without blinking an eye. Lying to the court for the purpose of persuading the judiciary to take an action that it otherwise would not amounts to obstruction of justice and is criminal conduct per se. McHugh's conduct of lying and providing falsities for the purpose of duping the judiciary into taking a course of action that McHugh desires cannot be immunized by prosecutorial immunity.

McHugh did not stop there. She continuously lied and misrepresented facts in order to achieve her means, by hook or crook.

(iv) **Defendants McHugh and Anderson Were the Leaders of the Pack of the Criminal Enterprise**

By 2021, Anderson had established and was fully operating remotely the payroll fraud scheme and McHugh was reassured that Anderson would not only provide false testimony against Plaintiff but also that Anderson would engage in recruiting others who were in the payroll fraud scheme with her to provide false testimony.

Anderson controlled who received extra cash through the payroll fraud and by doing so Anderson controlled who would be providing the false testimony for McHugh when she needed it.

McHugh became deeply involved with Defendant Anderson, covering up her criminal conduct, shielding her from criminal prosecution by state agents, for the sake of Defendant Anderson recruiting other witnesses who would provide false testimony for McHugh for the purpose of her first ever health care fraud case against a physician. Covering up criminal conduct of her star witnesses is not the kind of prosecutorial conduct that can be immunized under prosecutorial immunity.

When Anderson relayed to McHugh that there would be no taking down of Dr. Akula without taking down his attorney, McHugh turned her attention to Lester Johnson and engaged in witness intimidation of Plaintiff's attorney for the sole purpose of driving Lester Johnson away from Plaintiff. McHugh succeeded in this endeavor and Attorney Johnson, despite having been Plaintiff's Medicare

compliance attorney for years, wanted nothing to do with the situation, lawyered up, and stopped communicating with Plaintiff in order not to fall under McHugh's wrath. Attorney Johnson was not only the in-house lawyer with oversight of all Medicare billing by Canon Hospice but he was also the same attorney who had secured the large settlement of \$704,881.58 in 2014 in favor of Dr. Akula.

In 2021, Anderson, although no longer employed at Canon Hospice, was in full control of multiple individuals who were still employed at Canon Hospice through the payroll fraud scheme. In her capacity as the leader of the pack of this criminal Enterprise, Anderson received all internal memos that was circulated at Canon Hospice. In August 2021, one specific memo, titled as Press Release, that was circulated was a derogatory memo about Defendant McHugh that was drafted by PAA.

It read as follows:

PHYSICIANS AGAINST LEGAL ABUSE
In the Absence of Accountability, There Can be No Reliability

PRESS RELEASE

August 9, 2021

IN THE MATTER OF US V. DR. SHIVA AKULA

On August 5, 2021, the Government, through Assistant United States Attorney, Kathryn McHugh filed an indictment against Dr. Shiva Akula, a physician who has been in the New Orleans area practicing medicine for over 30 years.

Ms. McHugh, who does not currently show that she holds a Louisiana State Bar license, relied on a disgruntled former employee of Dr. Akula, Kelly Anderson, to make false accusations against Dr. Akula.

The employment rap sheet for Kelly Anderson is a mile long with threats and extortion while she was an employee at Canon Hospice. When Ms. Anderson did not get the raise that she wanted from Dr. Akula, she turned to the government to get that money that she was looking for by turning herself into a so-called "whistleblower". Ms. Anderson is not a whistleblower. She is a disgruntled former employee who just happened to meet an unseasoned prosecutor who did not investigate Ms. Anderson's false claims. Ms. McHugh, the Assistant United States Attorney, who has just recently completed law school, is an inexperienced prosecutor who does not understand Medicare's billing practices.

We are somewhat taken back by the Government's sloppy work demonstrated through the indictment filed by Ms. McHugh. We are not used to the Government filing such charges without a thorough and verified investigation.

Realizing the resourcefulness of PAA, Defendant McHugh furthered her criminal conduct of obstruction of justice by using the grand jury that she had convened on false predicate to issue grand jury subpoenas against PAA and its Board Member, Dr. Black. These grand jury subpoenas were a tool to intimidate, threaten and drive away PAA and Dr. Black from Dr. Akula. McHugh unequivocally let PAA's General Counsel know that Dr. Black as well as PAA would face criminal investigation- all for drafting the Press Release. Ultimately, McHugh achieved her

goal and PAA parted ways with Dr. Akula. McHugh's actions of intimidating members of Dr. Akula's defense team for the purpose of interfering with Dr. Akula's defense preparation is not the kind of prosecutorial action that can be immunized under prosecutorial immunity.

McHugh and Anderson continued to conspire to make sure that Dr. Akula would also face insurmountable denial of claims out of Canon Hospice location in Gulfport, Mississippi.

Defendant Elizabeth Seymour was the Administrator at Canon Hospice at the Mississippi location who was instructed and guided by both Anderson and McHugh to intentionally allow deadlines of appeals lapse so as to leave those claims unappealable and as denied claims. Seymour let essentially more than 23 claims to lapse in the appeal deadlines without submitting the proper documentation at the direction of McHugh and Anderson. This led to substantial losses by Canon Hospice to the tune of \$600,000. Seymour was fired but not before she was able to inflict this kind of financial damage and loss to Canon Hospice and to Dr. Akula.

Directing an employee to take action that would bring financial harm to a criminal defendant is not the kind of prosecutorial conduct that can be immunized under prosecutorial immunity.

McHugh also worked closely with Defendant Rachel Murphy who was receiving a generous amount of salary for never seeing a patient and not putting in a

single minute of work for Canon Hospice. False time sheets were generated to justify paying large sums of money to Defendant Dr. Rachel Murphy. McHugh learned of Murphy's involvement in the payroll fraud but to this too, she turned a blind eye as well because Murphy was willing to provide false testimony against Dr. Akula.

McHugh would shield any of these opportunistic criminals who were once employees of Canon Hospice from criminal prosecution so long as they were willing to provide false testimony against Dr. Akula. Moreover, McHugh encouraged and enticed Defendant Dr. Rachel Murphy to take over Canon Hospice by relaying a deal to a former counsel of Dr Akula which involved selling Canon Hospice where Murphy could become the new owner. None of these activities fall within the purview of prosecutorial immunity and McHugh cannot be immunized for any of these extra-prosecutorial behavior.

(v) **Defendant McHugh Was Charged With Providing Falsities to Federal Court**

In January 2022, in furtherance of the Enterprise and racketeering conduct, Defendant McHugh also presented falsities in the course of a hearing for protective order relating to discovery production in US v. Akula. In order to achieve her goal of removing PAA and Dr. Black from Dr. Akula's defense team, Defendant McHugh provided falsities about PAA and Dr. Black making up lies that there was witness tampering going on when in fact all that had gone on was an internal memo

circulated at Canon Hospice that was critical of McHugh. Judge Roby smelled that something was not right about McHugh's story and behavior and immediately sprung to action, issuing the following order: ck to the Magistrate Judge. When Magistrate Judge uncovered that these efforts were made under the pretense of witness tampering when there was no witness tampering, the order at *Doc 66* was issued.

McHugh also lacked candor by only disclosing that Dr. Black was involved in a press release leak and suggesting that there was an attempted to intimidate witnesses. AUSA McHugh clearly knew that the Court was being mislead and filed [sic] to correct the falsity.

The order then outlined McHugh's impermissible conduct of ex parte attempt with the Judge Roby:

Finally, and most concerning is AUSA McHugh's call to chambers suggesting the undersigned contact another judicial officer to obtain information regarding Dr. Black.

6.

(vi) **The Criminal Defense Attorneys Remained Without Action in Presence of Glaring Fraudulent Conduct by McHugh and In Spite of the Conspiracy Surrounding Payroll Fraud**

In February 2022, Plaintiff retained the services of Bernard Cassidy and Robert Toale in his defense in US v. Akula. The retainer agreement required Plaintiff to pay the sum of \$250,000 in exchange for Cassidy and Toale to represent Plaintiff through the end of the criminal trial.

For the next 10 months, neither Cassidy nor Toale conducted any discovery, any investigation or any examination of the government's evidence. During this ten month period, Cassidy learned that McHugh did in fact provide falsities to the court for the purpose of achieving her personal objectives in connection with the Akula matter. Cassidy and Toale also knew and was informed of the payroll fraud scheme along with McHugh's involvement in shielding these opportunistic criminals from state prosecution because of McHugh's desire to use them as her star witnesses in the Akula case. In spite of this knowledge, Cassidy and Toale remained silent without any action, while falsities were made by McHugh depriving further and further Dr. Akula of his ability to prepare a defense.

When McHugh notified Cassidy and Toale that she would not be producing any government witness statements as is ordinarily and routinely done in all criminal prosecutions, Cassidy and Toale did not take any action, did not move the court to

unearth the basis for McHugh's claims, and did not seek to expose McHugh for her willful Brady violations.

Accepting McHugh's course of illegal conduct, Cassidy and Toale became participants in the cover up of state crimes and obstruction of justice.

In December 2022, Plaintiff terminated the services of Cassidy and Toale and requested a refund of the retainer fee in the amount of \$250,000 given the fact that no useful legal work had been done, no meaningful discovery was obtained in the 10 months while these two were babysitting the case and watching McHugh violate the rights of Dr. Akula by failing on false predicate to provide the necessary discovery to the defense. Had Cassidy and Toale investigated the basis for McHugh's unusual behavior, they would have uncovered the criminal Enterprise with which McHugh had become embedded in with Defendant Anderson for the sole purpose of Defendant Anderson aiding McHugh in securing an unlawful conviction through recruitment of witnesses who would provide false testimony against Dr. Akula.

6.

IV. CAUSES OF ACTION

A. COUNT ONE - RICO 1962(c)

(Against All Defendants Cassidy and Toale for Violation of Title 18, United States Code, Section 1962(c))

1. THE ENTERPRISE:

Plaintiff incorporates as though fully set forth herein, each and every allegation contained in paragraphs 1 through 6 above.

7.

Defendants, herein, Landry, Becerra, Green, McHugh, Anderson, Nikita Murphy, Rachel Murphy, Seymour, Williams, Augustine, Banks, Cassidy and Toale are an association in fact and "Enterprise" as that term is defined in Title 18, United States Code, Section 1961(4).

8.

The Enterprise has an identifiable structure, with each member fulfilling a specific role to carry out and facilitate its purpose as follows:

Defendant Anderson established the payroll scheme issuing payroll checks to members of the Enterprise totaling hundreds of thousands of dollars by putting in place a scheme which included but was not limited to (a) creating three (3) fake employees who were paid through Canon Hospice payroll as if they were hired

employees when they were never interviewed, never filled out a job application and were never part of the employee roster, (b) issuing duplicative paychecks to all co-conspirators and co-participants in the in the Enterprise (c) overtime paychecks were issued to those who were opted out of overtime payroll as a matter of law, (d) paychecks were issued in spite of not performing the duties required for said paychecks. Anderson maintained this elaborate payroll fraud scheme both during and after her employment with Canon Hospice, keeping the payroll fraud going even after leaving Canon Hospice in 2019. The unauthorized overtime paychecks, the paychecks to three fake employees where funds received by these fake employees would then be dispersed through Cash App to Anderson, Nikita Murphy, Hastings and Rachel Murphy went on for years where the stolen funds from payroll reached over \$300,000.

Defendant Anderson controlled the flow of information at Canon Hospice. Even in her absence, Canon Hospice employees like Hastings, Keri Chilton, Seymour and Nikita Murphy were all loyal to Defendant Anderson because Defendant Anderson was their ticket to supplemental income that was stolen money out of Plaintiff's payroll account.

While engaging in this criminal activity, Anderson had arranged with Defendant McHugh to provide shield to each member of the Enterprise criminal prosecution by state agents. In exchange for providing cover and shield from

criminal prosecution, Defendant Anderson recruited witnesses for Defendant McHugh who were willing to and did in fact provide false testimony for the purpose of McHugh prevailing in the Akula matter, and for the purpose of McHugh securing a conviction against Dr. Akula. There were other ways that Defendant Anderson also aided in Dr. Akula's business diminishing by loss of revenue that steadily deprived Dr. Akula of his earnings. Through employees like Tom Guidry, Defendant Anderson made sure that Canon Hospice would lose its credibility and standing in the community as a hospice facility. Anderson accomplished this by influencing and intimidating Guidry who was in charge of all social media posts for Canon. Under the guidance, direction and instruction by Anderson, Guidry took down favorable information from social media posts of Canon Hospice, deleted numerous favorable social media videos of positive ratings by patients of the care they received at Canon Hospice. When Guidry was confronted with his deeds, while he expressed remorse for doing what he did, he did not restore these critical social media videos. Guidry's refusal to restore these social media posts and videos favorable to Canon Hospice was under the direction of Defendant Anderson who was acting at the behest of Defendant McHugh.

As a member of the Enterprise, Defendant McHugh was in charge of cover up of the state crimes of payroll theft that was being committed. McHugh accomplished this cover up by influencing and interfering with the investigation that had been

initiated by the Office of Attorney General, Jeffrey Landry, and with the cooperation from Defendant Landry and Defendant Green who was supervising the state criminal investigation. Defendants Landry and Green fell in line with Defendant McHugh and abruptly ceased their investigation as they were about to issue arrest warrants for Defendants Anderson and others in the caption involved in the payroll fraud. It was essential for McHugh to ensure that the state criminal investigation did not taint or stain the credibility of her star witnesses, all of whom were participants in the payroll fraud that had been perpetrated against Plaintiff and his business starting as early as 2018.

In exchange for McHugh's shielding of Defendant Anderson and her payroll scheme, Defendant Anderson recruited witnesses to provide false testimony for McHugh in the case she had against Akula, delivered internal memos at Canon Hospice to McHugh, set up an administrator by the name of Sue May for a conviction, and designed ways and means where Dr. Akula would suffer substantial financial losses through influence of employees and administrators like Seymour who intentionally allowed deadlines for administrative appeals lapse in order to cause substantial losses for claims.

9.

Defendant McHugh participated in the criminal Enterprise by cover-up of state crimes, interfering and using her influence to shut down the state criminal

investigation as it was on the verge of arresting Defendants Anderson, Hastings, Nikita Murphy. This cover up and interference amounted to obstruction of justice as McHugh directed the state actors involved in investigating the payroll fraud scheme to cease and desist from further investigating Defendants Anderson, Hastings, Nikita Murphy, and Rachel Murphy. Defendant McHugh shielded these Defendants in exchange for their corroboration in the federal case by way of false and fabricated witness statements and ultimately trial testimony in the federal criminal case filed against Dr. Akula.

None of the activities engaged by Defendant McHugh were authorized actions as a prosecutor. All of McHugh's activities were extra-prosecutorial and not subject to prosecutorial immunity. McHugh was the central actor in the criminal Enterprise along with Defendant Anderson.

Defendant McHugh and Defendant Landry knew at all times that it was illegal to halt a state derived criminal investigation involving payroll fraud for the purpose of keeping the perpetrators of the crime in the state criminal investigation as clean and unencumbered witnesses for the federal trial against Dr. Akula. Yet Defendants McHugh and Landry conspired in a scheme wherein Defendant Landry acquiesced and comported with Defendant McHugh to cause Defendants Chadwick and Green to cease and desist in the moving forward with arrests of Defendants Anderson, Hastings, Nikita Murphy and Rachel Murphy.

Defendants McHugh and Landry knew at all times that their Enterprise was set up for the purpose of covering up the state crimes and thereby obstructing justice, rendering their conduct a RICO violation.

The Enterprise engages in, and its activities affect, interstate commerce.

-

2. THE PURPOSE OF THE SCHEME:

10.

The purpose of the scheme was to illicitly and illegally enrich some of the Defendants at the expense of Plaintiff, (Defendants Anderson, Nikita Murphy, Rachel Murphy, Hastings, Seymour, Williams, Augustine, Banks, Cassidy and Toale), and for others the purpose of the scheme was to illegally enhance, financially enrich themselves and promote their professional careers as government employees by securing a false conviction in a health care fraud case against a physician (Defendants Landry, Becerra, McHugh, and Green).

The purpose of the scheme was to illicitly and illegally keep Defendant McHugh's star witnesses, who were the perpetrators in the state criminal case, as "clean", unencumbered as possible at least until the federal criminal trial would be concluded in US v. Akula.

3. THE PATTERN OF RACKETEERING ACTIVITIES:

11.

Defendants knowingly conducted and/or participated, directly and indirectly, in the conduct of the affairs of the above described Enterprise through a “pattern of racketeering activity as defined by Title 18, United States Code, Section 1961(5) arising out of cover up of state crimes involving a massive payroll fraud scheme in order so that the perpetrators of the state crime could still be reliably used as star witnesses in the federal case against Dr. Akula without having been arrested or officially be accused of their state crimes at or before the time of the federal trial so as to guarantee a conviction against Dr. Akula by the false testimony that these state perpetrators intended to provide in exchange for shield by Defendant McHugh.

The racketeering activity consists of repeated violations of the Federal Wire Fraud Statute, in violation of Title 18, United States Code, Section 1343 telephone communications, email communications, and transfer of funds by wire and check, which crossed state lines. Defendants Anderson and McHugh routinely communicated via email and text messages via telephone communications and these communications also crossed state lines to Mississippi when it involved Defendant Elizabeth Seymour. Defendant Seymour was instructed to ensure that the administrative appeal deadlines lapse as both Defendant Anderson and McHugh used their cooperative ability to secure a conviction of Sue May, as former

administrator at Canon Hospice, to gain cooperation by Defendant Seymour. McHugh and Anderson did in fact gain Defendant Seymour's cooperation wherein Defendant Seymour caused the appeals for large portion of denied Medicare claims out of the Mississippi Canon location to lapse leaving Dr. Akula with no redress to collect on these claims. These denied claims required simple supplementation of documentation in order for Medicare to authorize the payments but because the deadlines were allowed to lapse by Seymour, Plaintiff was deprived of doing so and collecting payment for services that were rendered to beneficiaries. Other Defendants, Defendants Green, McHugh, Rachel Murphy, Nikita Murphy and Vaschelle Hastings also engaged in email and telephone communications in the time span of 2018 through 2021. Transfer of funds through the payroll fraud scheme was also a pattern of racketeering activity as Cash App was used to transfer the salaries paid to three fake employees to others in the Enterprise. The transfer of funds continued month to month with each payroll starting in 2018 and ending in late part of 2021 when the fraud was uncovered through Defendant Vaschelle Hastings who, in an effort to leave the Enterprise so as not to face criminal charges, began to make repayments for the stolen money that she had gotten out of the payroll fraud scheme at Canon Hospice.

The racketeering activity also consists of repeated violations of Title 18, United States Code, Section 1513 involving retaliation against witnesses and witness

tampering. One such witness tampering was with Les Johnson. Starting in 2019 and continuing until 2021, McHugh tampered with Les Johnson who was the in house attorney who was responsible for oversight of all the Medicare billing at Canon Hospice. McHugh intimidated and threatened Mr. Johnson with criminal prosecution in order to ensure his silence and his distance from Dr. Akula. Dr. Black was also another potential witness whom McHugh intimidated and threatened with criminal prosecution. Based on the internal memo of Press Release which was drafted by PAA on August 9, 2021, McHugh falsely claimed to a grand jury that there was witness tampering- which opened the door for McHugh to obtain grand jury subpoenas which she served on Black and PAA, intimidating both with criminal prosecution on the basis of witness tampering when there was not a scintilla of evidence that either Black or PAA could have intimidated any witness just in 4 days following the indictment when the government had not released its witness list. McHugh retaliated against Black and intimidated Black and PAA through grand jury subpoenas which were obtained on false predicament. In a subsequent order issued by the district court in US v. Akula, and in response to a motion to disqualify McHugh, McHugh was unable to refute that she provided false information to the grand jury for the purpose of issuance of the grand jury subpoenas that were served on Black and PAA.

As a result of the threats of criminal prosecution by McHugh, both Dr. Black and Les Johnson distanced themselves from Dr. Akula, refused to provide any further assistance to Dr. Akula, and did not want to be further involved in any way with Dr. Akula.

The racketeering activity also consists of repeated violations of Title 18, United States Code, Section 1512 involving concealing documents and obstructing official proceedings. Official proceedings such as administrative proceedings with Medicare and other credentialing proceedings were effectively obstructed by the racketeering activities of the members of the Enterprise. For instance, as a direct result of the concealment of the documents uncovered through the state criminal investigation regarding the payroll fraud which McHugh's star witnesses, like Defendant Anderson, Nikita Murphy, Vaschelle Hastings and Seymour were engaged in, in January 2022, the Department of Health moved to terminate Dr. Akula's Medicaid provider agreement based solely on the indictment that was predicated and maintained upon false testimony recruitment by witnesses who were involved in the payroll fraud like Defendant Anderson.

These predicate acts are part of a scheme, and are not isolated events.

Furthermore, the Defendants' pattern of racketeering activity has involved at least three separate incidents of cover up of state crimes and obstruction of justice involving multiple individuals participating in the racketeering activity. **First**

incident is the retaliatory criminal investigation that began once the Secretary of Health and Human Services had to settle with Dr. Akula for a large sum of money. The **second** incident was the cover up of the state perpetrators' criminal conduct because these perpetrators were the federal government's star witnesses in the federal case filed against Dr. Akula. The **third** incident was to foster and encourage false testimony by the state perpetrators in exchange for providing them shield and immunity in their state crimes involving the massive payroll fraud scheme.

In addition to these three predicate acts, Defendant McHugh engaged in retaliation by intimidation and threat of criminal prosecution of Dr. Black and Les Johnson for the purpose of driving them away from Dr. Akula so as to ensure that Dr. Akula could not receive assistance from these two individuals- assistance that was crucial and critical for Dr. Akula in his criminal case.

The pattern of racketeering activity span a period that began in 2018 and continuing through to date.

12.

The racketeering activity by Defendants consisted of repeated violations of the Federal Conspiracy to Commit Wire Fraud statute, Title 18, United States Code, Section 371, arising out of purposeful obstruction of a state criminal investigation for the sake of getting a conviction in a federal case where criminal proceedings

were halted against the perpetrators, who were all fake federal witnesses for Defendant McHugh in US v. Akula.

The racketeering activity also consists of repeated violations of the Federal Wire Fraud Statute, in violation of Title 18, United States Code, Section 1343, arising out of obstruction of justice of a state derived criminal investigation, based upon the repeated interstate telephone communications, email communications, and transfer of funds by cash app which crossed state lines, to wit, Mississippi Canon Hospice facility.

13.

These predicate acts are part of a scheme, and are not isolated events.

Furthermore, the Defendants' pattern of racketeering activity has involved the cover up of state crimes amounting to obstruction of criminal investigation as well as fostering and encouraging of false testimony by these state perpetrators in exchange for their participation in the Enterprise.

4. INJURY TO PLAINTIFF:

14.

As a direct and proximate result of the Defendants' conduct, Plaintiff Dr. Shiva Akula, was injured by losing more than \$300,000 in undeserved payroll checks being issued, and becoming a target of the federal government with cloud of being indicted by those who were committing the state crimes of payroll fraud

against Plaintiff. Between the payroll fraud scheme and being the subject of an indictment that came about as a proximate result of a criminal Enterprise that was formed by state perpetrators and the amateur prosecutor seeking to make a name for herself in the EDLA, Dr. Akula has suffered more than seven and a half million dollars (\$7,500,000) out of pocket losses. In addition to monetary losses from the payroll fraud and the defense of the criminal case, Plaintiff has suffered damage to his reputation as a physician in the community, lost income, internal expenses, increase in insurance premiums, and other actual and pecuniary injury and damages which will be shown at the trial on this matter. Finally, Dr. Akula has suffered damages because hundreds of Canon Hospice patients have been misplaced being forced to seek medical treatment by outside providers who, unlike Canon Hospice providers, were not familiar with these patients' chronic course of medical treatment.

15.

By reason of their injury. Plaintiff is entitled to **treble damages**, costs, and reasonable attorneys' fees pursuant to Title 18, United States Code, Section 1964(c).

B. COUNT TWO - RICO 1962(d)

(Against All Defendants for Violation of Title 18, United States Code, Section 1962(d))

16.

Plaintiff incorporates, as though fully set forth herein, each and every allegation contained in paragraphs 1 through 15 above.

17.

Since at least 2018, Defendants willfully combined, conspired and agreed with one another and with others to violate Title 18, United States Code, Section 1962(c), that is, to conduct and/or participate, directly or indirectly, in the affairs of the Enterprise, the activities of which were conducted through a pattern of racketeering activities, in violation of U.S.C. Section 1962(d).

18.

The object of this conspiracy was to defraud Plaintiff and cause total financial ruin to Plaintiff while being excused for the criminality that Defendants engaged in and were given shield for because of Defendant McHugh's personal goal and desire to prevail in the first health care fraud to prosecute as a junior prosecutor out of EDLA.

19.

As a direct and proximate result of the Defendants' conduct, Plaintiff Dr. Shiva Akula, was injured by losing more than \$300,000 in undeserved payroll checks being issued, and becoming a target of the federal government with cloud of being indicted by those who were committing the state crimes of payroll fraud against Plaintiff. Between the payroll fraud scheme and being the subject of an

indictment that came about as a proximate result of a criminal Enterprise that was formed by state perpetrators and the amateur prosecutor seeking to make a name for herself in the EDLA, Dr. Akula has suffered more than seven and a half million dollars (\$7,500,000) out of pocket losses. In addition to monetary losses from the payroll fraud and the defense of the criminal case, Plaintiff has suffered damage to his reputation as a physician in the community, lost income, internal expenses, increase in insurance premiums, and other actual and pecuniary injury and damages which will be shown at the trial on this matter. Finally, Dr. Akula has suffered damages because hundreds of Canon Hospice patients have been misplaced being forced to seek medical treatment by outside providers who, unlike Canon Hospice providers, were not familiar with these patients' chronic course of medical treatment.

20.

By reason of their proximate injury to Plaintiff, Plaintiff is entitled to **treble damages**, costs, and reasonable attorneys' fees pursuant to Title 18, United States Code, Section 1964(c).

C. COUNT THREE - STATE LAW FRAUD

(Against Defendants Landry, Green, Chadwick Anderson, Nikita Murphy, Rachel Murphy, Hastings, Seymour, the Three Fake Employees, Cassidy and Toale under Louisiana State Law Fraud in accordance with La. Civ. Code Art. 1953 et seq)

21.

Plaintiff incorporates, as though fully set forth herein, each and every allegation contained in paragraphs 1 through 20 above.

22.

Under state law of Louisiana, fraud is a misrepresentation or a suppression of the truth made with the intention either to obtain an unjust advantage for one party or to cause a loss or inconvenience to the other. Fraud may also result from silence or inaction.

Defendants Anderson, Nikita Murphy, Hastings, Rachel Murphy, Seymour and the three fake employees stole hundreds of thousands of dollars from Dr. Akula in their payroll fraud scheme at Canon Hospice. The unauthorized payroll checks in the form of duplicate paychecks, paychecks for overtime and for hours not worked, each and every one of these defendants knew that they were unlawfully enriching themselves at the expense of Dr. Akula and Canon Hospice.

Defendants Cassidy and Toale engaged in commission of fraud under state law by their silence and inaction as they took no action when they learned of the

crimes committed by McHugh for the cover up of the state crimes amounting to obstruction of justice.

D. COUNT FOUR - LOUISIANA RACKETEERING ACT - La. R.S.
15:1353(A)

(Against Defendants Landry, Green, Chadwick, Anderson, Nikita Murphy, Rachel Murphy, Hastings, Seymour, the Three Fake Employees, Cassidy and Toale for violation of the Louisiana Racketeering Act in accordance with La. R.S. 15:1353(A))

23.

Plaintiff incorporates, as though fully set forth herein, each and every allegation contained in paragraphs 1 through 22 above.

24.

The above-identified Defendants knowingly and intentionally received proceeds directly or indirectly, through a pattern of racketeering activity in Louisiana as set forth above, to use or invest, directly or indirectly some or all of the proceed derived from the pattern of racketeering activity to acquire an interest in property or to establish or operate an Enterprise as set forth above in violation of the provisions of La. R.S. 15:1353(A).

25.

As a direct and proximate result of the Defendants' intentional, willful and wanton actions while engaged in the racketeering activities in violation of the provisions of La. R.S. 15:1353(A),as set forth above, Plaintiff Dr. Shiva Akula, was

injured by losing more than \$300,000 in undeserved and unearned payroll checks being issued, and becoming a target of the federal government with cloud of being indicted by those who were committing the state crimes of payroll fraud against Plaintiff. Between the payroll fraud scheme and being the subject of an indictment that came about as a proximate result of a criminal Enterprise that was formed by state perpetrators and the amateur prosecutor seeking to make a name for herself in the EDLA, Dr. Akula has suffered more than seven and a half million dollars (\$7,500,000) out of pocket losses. In addition to monetary losses from the payroll fraud and the defense of the criminal case, Plaintiff has suffered damage to his reputation as a physician in the community, lost income, internal expenses, increase in insurance premiums, and other actual and pecuniary injury and damages which will be shown at the trial on this matter. Finally, Dr. Akula has suffered damages because hundreds of Canon Hospice patients have been misplaced being forced to seek medical treatment by outside providers who, unlike Canon Hospice providers, were not familiar with these patients' chronic course of medical treatment.

26.

In accordance with the provisions of La. R.S. 15:1356 et seq., Plaintiff herein is entitled to recover treble damages of three times the actual damages sustained or 7,500,000million dollars, whichever is greater, arising from the Defendants' intentional, willful and wanton actions while engaged in the racketeering activities

in violation of the provisions of La. R.S. 15:1353(A) as set forth above, in addition to attorneys' fees and costs incurred in the investigation and litigation of the same.

Defendants are liable, in solido.

E. COUNT FIVE - LOUISIANA RACKETEERING ACT - La. R.S. 15:1353(B)

(Against All Defendants in violation of the Louisiana Racketeering Act
in accordance with La. R.S. 15:1353(8))

27.

Plaintiff incorporates, as though fully set forth herein, each and every allegation contained in paragraphs 1 through 26 above.

28.

The Defendants have knowingly acquired or maintained, directly or indirectly, an interest in or control of an Enterprise through a pattern of racketeering activity in the State of Louisiana as set forth above in violation of the provisions of La. R.S. 15:1353(8).

29.

As a direct and proximate result of the Defendants' intentional, willful and wanton actions while engaged in the racketeering activities in violation of the provisions of La. R.S. 15:1353(8) as set forth above, Plaintiff Dr. Shiva Akula, was injured by losing more than \$300,000 in undeserved and unearned payroll checks being issued, and becoming a target of the federal government with cloud of being

indicted by those who were committing the state crimes of payroll fraud against Plaintiff. Between the payroll fraud scheme and being the subject of an indictment that came about as a proximate result of a criminal Enterprise that was formed by state perpetrators and the amateur prosecutor seeking to make a name for herself in the EDLA, Dr. Akula has suffered more than seven and a half million dollars (\$7,500,000) out of pocket losses. In addition to monetary losses from the payroll fraud and the defense of the criminal case, Plaintiff has suffered damage to his reputation as a physician in the community, lost income, internal expenses, increase in insurance premiums, and other actual and pecuniary injury and damages which will be shown at the trial on this matter. Finally, Dr. Akula has suffered damages because hundreds of Canon Hospice patients have been misplaced being forced to seek medical treatment by outside providers who, unlike Canon Hospice providers, were not familiar with these patients' chronic course of medical treatment.

Defendants are liable, in solido.

30.

In accordance with the provisions of La. R.S. 15:1356 et seq. Plaintiff herein is entitled to recover treble damages of three times the actual damages sustained or \$7,500,000 million dollars, whichever is greater, arising from the Defendants' intentional, willful and wanton actions while engaged in the racketeering activities

in violation of the provisions of La. R.S. 15:1353(6) as set forth above, in addition to attorneys' fees and costs incurred in the investigation and litigation of the same.

F. COUNT SIX - LA RACKETEERING ACT - La. R.S. 15:1353(C)

(Against All Defendants for violation of the Louisiana Racketeering Act in accordance with La. R.S. 15:1353(C))

31.

Plaintiff incorporates, as though fully set forth herein, each and every allegation contained in paragraphs 1 through 30 above.

32.

The Defendants, individually and/or collectively, are associated with an Enterprise as set forth above, and have knowingly conducted or participated, directly or indirectly, in the activities of that Enterprise through a pattern of racketeering activity in violation of the provisions of La.R.S. 15:1353(C).

33.

As a direct and proximate result of the Defendants' intentional, willful and wanton actions while engaged in the racketeering activities in violation of the provisions of La. R.S. 15:1353(C) as set forth above, Plaintiff, Dr. Shiva Akula, was injured by losing more than \$300,000 in undeserved and unearned payroll checks being issued, and becoming a target of the federal government with cloud of being indicted by those who were committing the state crimes of payroll fraud against Plaintiff. Between the payroll fraud scheme and being the subject of an indictment

that came about as a proximate result of a criminal Enterprise that was formed by state perpetrators and the amateur prosecutor seeking to make a name for herself in the EDLA, Dr. Akula has suffered more than seven and a half million dollars (\$7,500,000) out of pocket losses. In addition to monetary losses from the payroll fraud and the defense of the criminal case, Plaintiff has suffered damage to his reputation as a physician in the community, lost income, internal expenses, increase in insurance premiums, and other actual and pecuniary injury and damages which will be shown at the trial on this matter. Finally, Dr. Akula has suffered damages because hundreds of Canon Hospice patients have been misplaced being forced to seek medical treatment by outside providers who, unlike Canon Hospice providers, were not familiar with these patients' chronic course of medical treatment.

Defendants are liable, in solido.

34.

In accordance with the provisions of La. R.S. 15:1356 et seq.. Plaintiff herein is also entitled to recover treble damages of three times the actual damages sustained or \$7,500,000 dollars, whichever is greater, arising from the Defendants' intentional, willful and wanton actions while engaged in the racketeering activities in violation of the provisions of La. R.S. 15:1353(C) as set forth above, in addition to attorneys' fees and costs incurred in the investigation and litigation of the same.

**G.COUNT SEVEN - CONSPIRACY TO VIOLATE THE LOUISIANA
RACKETEERING ACT - La. R.S. 15:1353(A) and (D)**

(Against All Defendants for violation of the Louisiana Racketeering Act in accordance with La. R.S. 15:1353(D) by conspiracy to violate La. R.S. 15:1353(A))

35.

Plaintiff incorporates, as though fully set forth herein, each and every allegation contained in paragraphs 1 through 34 above.

36.

The Defendants knowingly and intentionally have conspired with one another and attempted to receive proceeds directly, or indirectly, through a pattern of racketeering activity in Louisiana as set forth above, to use or invest, directly or indirectly some or all of the proceed derived from the pattern of racketeering activity to acquire an interest in property or to establish or operate an Enterprise as set forth above in violation of the provisions of La. R.S. 15:1353 (D),by conspiracy to violate the provisions of La. R.S. 15:1353(A).

37.

As a direct and proximate result of the Defendants' intentional, willful and wanton actions and conspiracy to commit these intentional, willful and wanton actions while engaged in the racketeering activities in violation of the provisions of La. R.S. 15:1353(A) and (D) as set forth above, Plaintiff Dr. Shiva Akula, was injured by losing more than \$300,000 in undeserved and unearned payroll checks being issued, and becoming a target of the federal government with cloud of being

indicted by those who were committing the state crimes of payroll fraud against Plaintiff. Between the payroll fraud scheme and being the subject of an indictment that came about as a proximate result of a criminal Enterprise that was formed by state perpetrators and the amateur prosecutor seeking to make a name for herself in the EDLA, Dr. Akula has suffered more than seven and a half million dollars (\$7,500,000) out of pocket losses. In addition to monetary losses from the payroll fraud and the defense of the criminal case, Plaintiff has suffered damage to his reputation as a physician in the community, lost income, internal expenses, increase in insurance premiums, and other actual and pecuniary injury and damages which will be shown at the trial on this matter. Finally, Dr. Akula has suffered damages because hundreds of Canon Hospice patients have been misplaced being forced to seek medical treatment by outside providers who, unlike Canon Hospice providers, were not familiar with these patients' chronic course of medical treatment.

Defendants are liable, in solido.

38.

In accordance with the provisions of La. R.S. 15:1356 et seq.. Plaintiff herein is also entitled to recover treble damages of three times the actual damages sustained or \$7,500,000 dollars, whichever is greater, arising from the Defendants' intentional, wailful and wanton actions while engaged in the racketeering activities in violation

of the provisions of La. R.S. 15:1353(C) as set forth above, in addition to attorneys' fees and costs incurred in the investigation and litigation of the same.

**H. COUNT EIGHT - CONSPIRACY TO VIOLATE THE LOUISIANA
RACKETEERING ACT - La. R.S. 15:1353(B) and (D)**

(Against All Defendants for violation of the Louisiana Racketeering Act in accordance with La. R.S. 15:1353(D) by conspiracy to violate La. R.S. 15:1353(8))
39.

Plaintiff incorporates, as though fully set forth herein, each and every allegation contained in paragraphs 1 through 38 above.

40.

The Defendants have knowingly conspired with one another and attempted to acquire or maintain, directly or indirectly, an interest in or control of an Enterprise through a pattern of racketeering activity in the State of Louisiana as set forth above in violation of the provisions of La. R.S. 15:1353(D), by conspiracy to violate the provisions of La. R.S. 15:1353(8).

41.

As a direct and proximate result of the Defendants' intentional, willful and wanton actions and conspiracy to commit these intentional, willful and wanton actions while engaged in the racketeering activities in violation of the provisions of La. R.S. 15:1353 (8) and (D) as set forth above, Plaintiff Dr. Shiva Akula, was injured by losing more than \$300,000 in undeserved payroll checks being issued,

and becoming a target of the federal government with cloud of being indicted by those who were committing the state crimes of payroll fraud against Plaintiff. Between the payroll fraud scheme and being the subject of an indictment that came about as a proximate result of a criminal Enterprise that was formed by state perpetrators and the amateur prosecutor seeking to make a name for herself in the EDLA, Dr. Akula has suffered more than seven and a half million dollars (\$7,500,000) out of pocket losses. In addition to monetary losses from the payroll fraud and the defense of the criminal case, Plaintiff has suffered damage to his reputation as a physician in the community, lost income, internal expenses, increase in insurance premiums, and other actual and pecuniary injury and damages which will be shown at the trial on this matter. Finally, Dr. Akula has suffered damages because hundreds of Canon Hospice patients have been misplaced being forced to seek medical treatment by outside providers who, unlike Canon Hospice providers, were not familiar with these patients' chronic course of medical treatment.

Defendants are liable, in solido.

42.

In accordance with the provisions of La. R.S. 15:1356 et seq., Plaintiff herein is also entitled to recover treble damages of three times the actual damages sustained or \$7,500,000 million dollars, whichever is greater, arising from the Defendants' intentional, willful and wanton actions and conspiracy to commit these intentional,

willful and wanton actions while engaged in the racketeering activities in violation of the provisions of La. R.S. 15:1353(B) and (D) as set forth above, in addition to attorneys' fees and costs incurred in the investigation and litigation of the same.

**I. COUNT NINE - CONSPIRACY TO VIOLATE THE LOUISIANA
RACKETEERING ACT - La. R.S. 15:1353(0 and (D)**

(Against All Defendants for violation of the Louisiana Racketeering Act in accordance with La. R.S. 15:1353(D) by conspiracy to violate La. R.S. 15:1353(C))

43.

Plaintiff incorporates, as though fully set forth herein, each and every allegation contained in paragraphs 1 through 42 above.

44.

The Defendants, individually and/or collectively, are associated with an Enterprise as set forth above, and have knowingly conspired with one another and attempted to conduct or participate, directly or indirectly, in the activities of that Enterprise through a pattern of racketeering activity in violation of the provisions of La. R.S. 15:1353(D), by conspiracy to violate the provisions of La. R.S. 15:1353(C).

45.

As a direct and proximate result of the Defendants' intentional, willful and wanton actions and conspiracy to commit these intentional, willful and wanton actions while engaged in the racketeering activities in violation of the provisions of

La. R.S. 15:1353(C) and (D) as set forth above, Plaintiff Dr. Shiva Akula, was injured by losing more than \$300,000 in undeserved payroll checks being issued, and becoming a target of the federal government with cloud of being indicted by those who were committing the state crimes of payroll fraud against Plaintiff. Between the payroll fraud scheme and being the subject of an indictment that came about as a proximate result of a criminal Enterprise that was formed by state perpetrators and the amateur prosecutor seeking to make a name for herself in the EDLA, Dr. Akula has suffered more than seven and a half million dollars (\$7,500,000) out of pocket losses. In addition to monetary losses from the payroll fraud and the defense of the criminal case, Plaintiff has suffered damage to his reputation as a physician in the community, lost income, internal expenses, increase in insurance premiums, and other actual and pecuniary injury and damages which will be shown at the trial on this matter. Finally, Dr. Akula has suffered damages because hundreds of Canon Hospice patients have been misplaced being forced to seek medical treatment by outside providers who, unlike Canon Hospice providers, were not familiar with these patients' chronic course of medical treatment.

Defendants are liable, in solido.

46.

In accordance with the provisions of La. R.S. 15:1356 et seq.. Plaintiff herein is also entitled to recover treble damages of three times the actual damages sustained

or \$7,500,000 million dollars arising from the Defendants' intentional, willful and wanton actions and conspiracy to commit these intentional, willful and wanton actions while engaged in the racketeering activities in violation of the provisions of La. R.S. 15:1353(C) and (D) as set forth above, in addition to attorneys' fees and costs incurred in the investigation and litigation of the same.

J. COUNT TEN- STATE LAW UNJUST ENRICHMENT
(Against Defendants Bernard Cassidy and Robert Toale)

47.

Plaintiff repeats and realleges the allegations contained within paragraphs 1 through 46 as if set forth at length herein.

48.

Under Louisiana law, to recover for unjust enrichment, the following five elements are required:

- (1) there must be an enrichment- there was in the amount of \$250,000
- (2) there must be an impoverishment- there was as Plaintiff did not receive any services in exchange of this amount
- (3) there must be a connection between the enrichment and resulting impoverishment- there was a direct connection
- (4) there must be an absence of "justification" or "cause" for the enrichment and the impoverishment- there was no justification for Defendants Cassidy and

Toale to remain silent and without action to bring the illegal behavior of the prosecutor to the court's attention especially given that Plaintiff has paid them generously for his defense

(5) there must be no other remedy at law available to the plaintiff- there is not

As a result of the foregoing, Defendants Cassidy and Toale were unjustly enriched, at Plaintiff's expense, by virtue of their inaction and silence against the fraud that they became aware of was being committed against Plaintiff.

49.

It is against equity and good conscience to permit Defendants to retain such enrichment of \$250,000 when Defendants failed to carry the criminal case to trial. . Accordingly, Plaintiff is entitled to an award for restitutionary damages in an amount equal to or greater than the total and actual monetary gain received by Defendants in pretending to represent Plaintiff in his criminal case.

In addition, due to the egregious and deliberate nature of Defendants' wrongdoing, the outrageous and wide-spanning nature of his breach of attorney-client privilege, and his conscious and wanton disregard for Plaintiff's rights as a client and/or former client, Plaintiff is entitled to an award of punitive damages.

V. DAMAGES

50.

Plaintiff incorporates, as though fully set forth herein, each and every allegation contained in paragraphs 1 through 49 above.

51.

Plaintiff has been damaged by Defendants' practices outlined in this Complaint. These include, but are not limited to, Defendants' intentionally causing and conspiring to.

52.

Plaintiff herein was forced to pay substantial attorney's fees, costs and expenses in the investigation and defense of the criminal case filed against Plaintiff.

VI. JURY DEMAND

53.

Trial by jury is requested on all issues triable by jury.

PRAYER FOR RELIEF

WHEREFORE, premises considered, Plaintiff, Shiva Akula, MD, respectfully requests that upon final trial of this cause, the Court enter a judgment against Defendants, in solido, as follows:

(1) Upon the First Claim for Relief, all damages resulting from Defendants' violation of Title 18, United States Code, Section 1962(c), including prejudgment interest, costs, expenses, and attorneys' fees, the sum trebled pursuant to Title 18, United States Code, Section 1964(c);

(2) Upon the Second Claim for Relief, all damages resulting from Defendants' violation of Title 18, United States Code, Section 1962(d), by conspiracy to violate Title 18, United States Code, Section 1962(c), including prejudgment interest, costs, expenses, and attorneys' fees, the sum trebled pursuant to Title 18, United States Code, Section 1964(c);

(3) Upon the Third Claim for Relief, all damages resulting from Defendants' fraudulent conduct including but not to damages resulting from Defendants' violation of La. Civ. Code art. 1953, et seq., including prejudgment interest, costs, expenses, and attorneys' fees;

(4) Upon the Fourth Claim for Relief, all damages resulting from Defendants' conspiracy to cover-up state crimes involving payroll fraud against Plaintiff and his business, Canon Hospice, including but not limited to damages resulting from Defendants' violation of La. Civ. Code art. 2324, et seq., including prejudgment interest, costs, expenses, and attorneys' fees;

(5) Upon the Fifth Claim for Relief, all damages resulting from Defendants' violation of La.R.S. 15:1353(A), including prejudgment interest, costs, expenses, and attorneys' fees, the sum trebled pursuant to La. R.S. 15:1356 et seq.

(6) Upon the Sixth Claim for Relief, all damages resulting from Defendants' violation of La.R.S. 15:1353(B), including prejudgment interest, costs, expenses, and attorneys' fees, the sum trebled pursuant to La. R.S. 15:1356 et seq.

(7) Upon the Seventh Claim for Relief, all damages resulting from Defendants' violation of La. R.S. 15:1353(C), including prejudgment interest, costs, expenses, and attorneys' fees, the sum trebled pursuant to La. R.S. 15:1356 et seq.'.

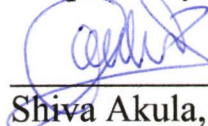
(8) Upon the Eighth Claim for Relief, all damages resulting from Defendants' violation of La. R.S. 15:1353(D), by conspiracy to violate La. R.S. 15:1353(A), including prejudgment interest, costs, expenses, and attorneys' fees, the sum trebled pursuant to La. R.S. 15:1356 et seq.

(9) Upon the Ninth Claim for Relief, all damages resulting from Defendants' violation of La.R.S. 15:1353(D), by conspiracy to violate La. R.S. 15:1353(B), including prejudgment interest, costs, expenses, and attorneys' fees, the sum trebled pursuant to La. R.S. 15:1356 et seq. and

(10) Upon the Tenth Claim for Relief, all damages resulting from Defendants' violation of La. R.S. 15:1353(D), by conspiracy to violate La. R.S. 15:1353(C),

including prejudgment interest, costs, expenses, and attorneys' fees, the sum trebled pursuant to La. R.S. 5-.U56 et. seq.

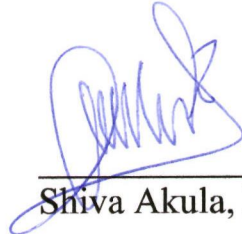
Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was filed with the Clerk of Court at EDLA and served on all counsel of record through CM/ECF via email on this 10th day of May, 2023.



Shiva Akula, MD