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| <p>DISTRICT COURT, DENVER COUNTY, COLORADO</p> <p>Court Address: 1437 Bannock Street, Room 256, Denver, CO 80202</p> | <p>DATE FILED: March 31, 2021 12:38 PM FILING ID: B59CC89B48A73 CASE NUMBER: 2021CV31061</p> |
| <p>Plaintiff:</p> <p>U.S. Anesthesia Partners of Colorado, Inc.</p> <p>v.</p> <p>Defendants:</p> <p>UnitedHealthcare Insurance Company, UnitedHealthcare of Colorado, Inc., and PacifiCare of Colorado, Inc.</p> | <p>COURT USE ONLY</p> |
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| <p align="center">PLAINTIFF U.S. ANESTHESIA PARTNERS OF COLORADO, INC.’S COMPLAINT AGAINST DEFENDANTS UNITEDHEALTHCARE INSURANCE COMPANY, UNITEDHEALTHCARE OF COLORADO, INC., AND PACIFICARE OF COLORADO, INC.</p> | |

Plaintiff U.S. Anesthesia Partners of Colorado, Inc. (“Plaintiff” or “USAP-CO”) hereby submits this Complaint against Defendants UnitedHealthcare Insurance Company,

UnitedHealthcare of Colorado, Inc., and PacifiCare of Colorado, Inc. (collectively, “Defendants” or “United”), and in support thereof alleges as follows:

NATURE OF THE ACTION

1. This is an action for intentional interference with contractual obligations and intentional interference with prospective business relationships, and violation of the Colorado Antitrust Act of 1992, C.R.S. § 6-1-104.

2. Plaintiff USAP-CO is an anesthesiology physician group, which receives cases/referrals primarily through agreements with healthcare facilities, like hospitals and ambulatory surgery centers, or through relationships with surgeons who need anesthesiologists for their own cases.

3. Defendants, United, are part of UnitedHealthcare Group (“UHG”), a for-profit healthcare company that operates both insurance/health benefits and health services businesses. UHG is the second largest healthcare company, with 2020 revenues exceeding \$257 billion, and UHG also is one of the largest employers of physicians in the country.

4. The State of Colorado is one year into a global pandemic, which has caused, and continues to cause, severe disruption to the state’s healthcare system. USAP-CO’s anesthesiologists are on the front lines in the fight against the pandemic. Notwithstanding the ongoing public health crisis, United has moved forward with an unlawful scheme to eliminate providers like USAP-CO from its network, purely for its own financial benefit, to the detriment of patients and healthcare providers.

5. Indeed, United unilaterally terminated its long-standing contractual relationship with USAP-CO and thereby forced USAP-CO “out-of-network” with United, so that United could attempt to improperly increase its own profits. In doing so, United is wrongfully misusing the Colorado Medical Transparency Act of 2010 (hereinafter “Colorado Balance Billing Act),

C.R.S. § 12-30-113, which exists to protect patients/consumers, not healthcare insurance companies.

6. United's improper efforts to force USAP-CO "out-of-network" was not enough to satiate United's greed, so it then embarked on an intentional scheme to interfere with, undermine, and eliminate USAP-CO's existing business and contractual relationships with healthcare facilities, individual surgeons, and patients. To execute its scheme, United is utilizing a number of interrelated and unlawful tactics and pressure campaigns, including but not limited to the following: (1) United unlawfully induces in-network surgeons who use USAP-CO anesthesiologists to break their relationships with USAP-CO by presenting the surgeons with new contracts that provide significant economic incentives (approximately 50% more compensation) to steer business away from USAP-CO; (2) United strong-arms and coerces hospitals and other healthcare facilities that have existing contractual agreements with USAP-CO to stop using USAP-CO by imposing penalties on facilities that continue to use USAP-CO; and (3) United provides misleading and inaccurate information about USAP-CO to patients and other stakeholders in the healthcare system which have relationships with USAP-CO.

7. United has carried out this intentional scheme knowing fully that USAP-CO has existing contractual, business, and clinical relationships with many of these hospitals, healthcare facilities, surgeons, and patients, and that USAP-CO's anesthesia providers are on the front lines of the ongoing COVID-19 crisis.

8. In addition and in furtherance of this scheme, United initiated and is facilitating a group boycott of USAP-CO. Specifically, on information and belief, United is orchestrating an agreement among USAP-CO's competitors (i.e., anesthesiologists and anesthesiology groups) as

well as other physician groups, to intentionally drive future patient referrals away from USAP-CO.

9. United and the other parties to the group boycott have joined forces to improperly pressure surgeons to refer cases away from USAP-CO and towards the anesthesia providers who are part of the boycott. This unlawful group boycott threatens USAP-CO's very existence.

PARTIES, JURISDICTION, AND VENUE

10. Plaintiff, U.S. Anesthesia Partners of Colorado, Inc. is a company organized under the laws of Colorado with operations in Colorado and doing business at 8000 E. Maplewood Ave, Bldg. 5, Ste 200, Greenwood Village, Colorado.

11. Defendant UnitedHealthcare Insurance Company is a company organized and existing under the laws of Connecticut with operations in Colorado and throughout the country and doing business at 6465 Greenwood Plaza Blvd., Ste. 300, Centennial, Colorado.

12. Defendant UnitedHealthcare of Colorado, Inc. is a company organized under the laws of Colorado with operations in Colorado and doing business at 6465 Greenwood Plaza Blvd., Ste. 300, Centennial, Colorado.

13. Defendant PacifiCare of Colorado, Inc. is a company organized under the laws of Colorado with operations in Colorado and doing business at 6465 Greenwood Plaza Blvd., Ste. 300, Centennial, Colorado.

14. This Court has general long-arm jurisdiction over United pursuant to C.R.S. § 13-1-124(1)(a), because of United's continuous and systematic contacts with the State of Colorado through its business, with United Healthcare Insurance Company's registered agent's street address of 1560 Broadway, Denver, Colorado 80202, and United Healthcare of Colorado, Inc. and PacifiCare of Colorado, Inc.'s registered agents' street address of 7700 E Arapahoe Rd, Ste 220, Centennial, Colorado, 80112-1268.

15. This Court also has specific long-arm jurisdiction over United pursuant to § 13-1-124(1)(b), C.R.S., because the causes of action against United arise from and are related to significant tortious acts committed by United, which were purposely intended to cause and did cause harm to a corporate resident of this State, USAP-CO, and to its business operations in this State.

16. Pursuant to C.R.C.P. 98(c) venue is proper in Denver County, Colorado because the torts alleged herein were committed in whole or in part in this County.

17. USAP-CO elects to be excluded from Colo. R. Civ. P. 16.1(b)(2) because the amount in controversy exceeds \$100,000.

GENERAL ALLEGATIONS

A. USAP-CO's High-Quality Anesthesia Practice.

18. Plaintiff USAP-CO is a physician provider organization dedicated to consistently providing high-quality anesthesia services for the benefit of patients throughout the state of Colorado. USAP-CO is the Colorado anesthesia practice which is affiliated with US Anesthesia Partners.

19. USAP-CO delivers critically important healthcare services in Colorado, and on the front lines of the fight against the coronavirus pandemic, through its groups of high-quality anesthesiologists and other anesthesia clinicians. USAP-CO's physicians maintain clinical governance of their practices, and they focus on delivering top quality care to patients throughout Colorado.

20. USAP-CO's clinicians have numerous board-certifications in subspecialties such as cardiac, pediatrics, obstetrics, and critical care anesthesiology, and USAP-CO provides care for the most complex types of cases, including liver, heart, and kidney transplants, total joint replacements, and many other complex cases. USAP-CO's physicians share operational and

clinical best practices, to help facilitate the delivery of consistent, high-quality services for patients, surgeons, facilities and payers.

21. As part of its high-quality practice, USAP-CO provides critically important anesthesia services in numerous hospitals and facilities throughout Colorado, including but not limited to, hundreds of the major hospitals and other clinical sites throughout Colorado.

22. To fully protect patients and to facilitate the proper functioning of the health system in Colorado, it is absolutely imperative to ensure the availability and continuity of high-quality anesthesia services for these major hospitals and clinical sites throughout Colorado.

23. As a core part of its quality-focused business model, USAP-CO is dedicated to utilizing the highest quality anesthesia providers in Colorado and maintaining contracts with all possible payers to ensure that USAP-CO's patients can receive their care through in-network benefits.

24. USAP-CO invests substantial resources in processes and systems to deliver best-in-class clinical care, and USAP-CO has a proven and established record of providing high-quality care, as evidenced by the best-in-class quality scores under the federal MACRA/MIPS reporting system, the SurveyVitals anesthesia patient satisfaction measurement system, and numerous hospital and hospital system metrics.

25. USAP-CO's focus on high-quality care improves patient outcomes and reduces costs. For example, twenty-four facilities served by USAP-CO clinicians have been recognized for anesthesia patient satisfaction in the top 10% of the nation. Indeed, USAP-CO has successfully developed and implemented forty-two ERAS (enhanced recovery after surgery) protocols across fourteen service lines. These ERAS protocols decrease narcotics use, reduce length of stay, and save payers like United hundreds or thousands of dollars per patient.

Benchmarking shows that each patient readmission prevented by USAP-CO's service-line protocols saves the payer, an average of \$27,000.

26. For example, for colorectal patients, implementation of USAP-CO's protocols has decreased postoperative narcotic usage by 62%. These actions advance the goal of preventing long-term dependence on opiate medications in order to save lives and to reduce healthcare costs. In addition, USAP-CO's clinicians have reduced the average hospital length of stay for total joint replacements by 1.3 days and reduced the risk for unplanned postoperative readmission. Shorter length of stay means better patient outcomes and lower overall healthcare costs.

B. United's Role as the Nation's Largest Insurance Company and Largest Provider of Physician Services Uniquely Positions It to Abuse the Colorado Balance Billing Act to Its Benefit and to the Detriment of Patients and Unaffiliated Providers.

27. Defendant UnitedHealthcare Insurance Company is the largest healthcare insurance company in the United States. Its parent company, UHG, also owns Optum, which—through its division OptumCare—operates the largest physician practice organization in the United States, with approximately 53,000 employed and affiliated physicians nationwide. OptumCare is highly acquisitive with plans to add 10,000 more employed and affiliated physicians in 2021. Optum also owns a significant interest in Sound Physicians, which is a physician practice group with over 3,500 clinical providers nationwide, including anesthesiologists and Certified Registered Nurse Anesthetists.

28. UHG, United, and their affiliates are abusing their collective behemoth strength during a global pandemic to drive revenue away from healthcare providers and towards United. Patients, however, do not benefit, and healthcare costs do not decrease. Instead, patients (i.e., United's members), if anything, risk losing access to high quality anesthesia providers and pay *more* because their out of pocket costs may increase as quality providers like USAP-CO are

forced out-of-network with United. In addition, plan sponsors may also pay more insofar as higher surgeon fees may be passed through to them, and the total cost of care may be higher too, with lower quality providers. Moreover, clinical outcomes could be worse.

29. USAP-CO has multiple relationships with UHG and its subsidiaries or affiliates. First, prior to United's unilateral actions to force USAP-CO out-of-network, USAP-CO was contracted with United to provide in-network healthcare services for United's members. USAP-CO continues to provide healthcare services for United's members on an out-of-network basis, often because surgeons continue to utilize USAP-CO's trusted and high quality anesthesia providers for their cases, and because USAP-CO's agreements with hospitals require USAP-CO to treat all hospital patients. Second, USAP-CO anesthesiologists provide services at, and contract with, many OptumCare facilities. These facilities include those owned by at least five Optum Care subsidiaries or affiliates based in Colorado, including some of the highest volume surgery centers in the state. USAP-CO anesthesia providers therefore have to compete with physicians who are part of some of these groups and rely on these groups and facilities for referrals. Third, Sound Physicians, which provides anesthesiology services in multiple states appears to be planning efforts to begin offering those services in Colorado in the near future.

30. United is like a boa constrictor squeezing USAP-CO from all angles. By wrongfully terminating its relationship with USAP-CO, United abused its position as the largest health insurance company to slash USAP-CO's revenue and to divert business away from USAP-CO for its own benefit. Simultaneously, United poses an enormous threat to healthcare providers who have existing business and contractual relationships with USAP-CO; indeed, if the healthcare providers continue to refer patients and cases to USAP-CO or contract with USAP-CO, United penalizes them financially and/or bribes them to cease their relationships with

USAP-CO by offering them commercially unreasonable inducements and “incentives” that are too good to refuse.

31. In addition, United uses its relationship with the OptumCare facilities, many of which have existing facility contracts with USAP-CO, to pressure those facilities into severing their contractual relationships with USAP-CO or directing patients to alternative anesthesia providers. Those alternative providers include anesthesiologists who are (i) affiliated with United because they are part of a provider group wholly or partially owned by OptumCare; or (ii) contracted as in-network with United.

32. Because United is the largest healthcare insurance company, the largest physician practice group operator, and a facility owner too, United has improperly decided to use its extraordinary resources to intentionally target and harm USAP-CO, healthcare facilities and individual surgeons that otherwise would have contractual or business relationships with USAP-CO and cannot afford to keep those relationships.

C. The Prior Contractual Relationship Between USAP-CO and United.

33. As alleged above, Defendants provide, operate and/or administer health insurance plans in Colorado. United also provides in-network anesthesia coverage for its members, a service that United previously contracted with USAP-CO to provide. Thus, as further alleged herein, during the time period from about September of 2012 until September 1, 2020, USAP-CO and its providers served as an integral part of United’s “in-network” anesthesia provider group in Colorado, and USAP-CO consistently delivered the highest quality of care and anesthesia medical services to patients who were members of United.

34. Defendants provide, operate and/or administer health insurance plans in Colorado, and United previously entered into a long-term contractual relationship with USAP-CO.

35. Specifically, on or about September of 2012, United and USAP-CO, through its predecessor in interest, entered into the parties' initial Medical Group Participation Agreement with an effective date of September 1, 2012 (the "Participation Agreement").

36. Thereafter, during the years of the parties' prior contractual relationship, USAP-CO and United entered into a number of intervening amendments to the Participation Agreement to extend the duration of the parties' contractual relationship, to address certain specific issues, and to further memorialize the terms of the parties' contractual relationship.

37. For the most recent amendment, the parties expressly agreed upon and entered into an Amendment to the Medical Group Participation Agreement dated September 1, 2018 (the "9/18 Amendment"), which set forth a mutually agreeable extension of the term of the Participation Agreement and a corresponding mutually agreeable fee schedule and reimbursement plan through August 31, 2021.

38. However, prior to August 2021, United unilaterally terminated the parties' contract and USAP-CO was forced "out-of-network" with United as of September 1, 2020.¹

39. Therefore, from September 1, 2020 going forward to the present, USAP-CO's anesthesia providers have been "out-of-network" with United, and they have not been under contract with United. During this time, USAP-CO's anesthesia providers must continue to provide services to United members because USAP-CO's agreements with facilities often require USAP-CO to serve all patients regardless of the patient's insurance.

40. Unfortunately, as further alleged below, during the time-period since September 1, 2020, United has been engaging in a pattern of intentional, improper, and unlawful activities

¹ There is a separate pending arbitration proceeding previously brought by USAP-CO against United relating to the distinct contract-based claims arising from United's improper unilateral actions.

designed to severely harm USAP-CO, and to intentionally freeze-out USAP-CO's high-quality anesthesia providers.

41. United is engaging in such conduct in an effort to improperly exert pressure on USAP-CO, and in direct contravention to the best interests of its members and patients.

42. As further explained below, not only are United's actions harmful to USAP-CO and its providers, but such actions are harmful and detrimental to patients/members throughout Colorado, and such actions undermine and subvert prevailing public policy objectives.

D. United's Unlawful Actions and Bad-Faith Efforts to Destroy USAP-CO's Existing and Prospective Business Relationships

43. As alleged above, after United's unilateral actions drove USAP-CO out-of-network as of September 1, 2020, United promptly commenced an intentional and malicious campaign to tortiously interfere with and destroy USAP-CO's existing and prospective business relationships with surgeons, hospitals, other healthcare facilities like outpatient or ambulatory surgery centers, and patients throughout Colorado.

44. As part of the wrongful and tortious conduct, during the time-period after USAP-CO was forced out-of-network with United, USAP-CO discovered that United was engaged in a pattern of sending false, misleading, and disparaging communications to numerous patients and third-party employers regarding USAP-CO and USAP-CO's business activities.

45. Among other improper communications, United sent a document titled "Employer Update and Message to Members" to numerous patients and employers (with health plans) in Colorado, which was replete with false and inaccurate information about USAP-CO, and was designed to intentionally mislead patients and employers, and to harm USAP-CO.

46. Upon discovering that United was circulating these misleading and harmful communications, or about December 31, 2020, USAP-CO sent a cease-and-desist letter

demanding that United immediately refrain from sending any further misleading or disparaging communications to patients and third parties.

47. Furthermore, among other wrongful conduct, USAP-CO discovered that United offered, and continues to offer, multiple well-established surgeons in Colorado artificially inflated and unreasonable compensation for their professional services (i.e., approximately 50% more compensation than they would otherwise receive), in exchange for the surgeons' agreement not to use USAP-CO's high quality anesthesia providers. These surgeons had long-standing and well-established existing business and clinical relationships with USAP-CO's anesthesia providers, and United is intentionally inducing these surgeons to sever such relationships and perform their procedures without using USAP-CO's anesthesia providers. Instead, the surgeons are being steered towards USAP-CO competitors who have agreed with United to enforce a boycott of USAP-CO.

48. United does not have a legitimate commercial or business reason for offering surgeons these significant inducements and "incentives" to steer patients away from USAP-CO. Rather, United is extending these offers and inducements to the surgeons to redirect patient referrals unlawfully, and to target, punish, and financially harm USAP-CO and its anesthesia providers.

49. United's agreements to pay surgeons throughout Colorado artificially inflated professional compensation (50% more than it otherwise would), solely for the purpose of inducing such surgeons to blackball USAP-CO's anesthesia providers, regardless of the effect on patient choice and quality of care, is unreasonable and an unlawful restraint of trade.

50. United has no valid economic business reason for presenting surgeons with new contracts that provide for 50% increased compensation in exchange for steering procedures away

from USAP-CO. These contracts are intended solely to force USAP-CO into an economically precarious position, increasing United's bargaining leverage against USAP-CO, and furthering United's efforts to drive reimbursement for physician services below competitive levels.

51. United's actions are causing healthcare facilities who have contractual arrangements with USAP-CO to terminate those contracts because (i) the surgeons who work at the facilities are being induced to drive cases away from USAP-CO, and, therefore, may be taking United cases elsewhere; and (ii) United penalizes healthcare facilities that use out of network providers like USAP-CO.

52. For example, USAP-CO had an agreement with UC Health whereby USAP-CO provided anesthesiology services for UC Health ambulatory surgery centers on an exclusive basis. UC Health informed USAP-CO that a major contributing factor to the termination was USAP-CO's current out of network status with United because United penalizes UC Health for using an out of network provider.

53. In other instances, facilities with which USAP-CO has existing business and/or contractual relationships have informed USAP-CO that all United cases will be performed by non-USAP-CO anesthesia providers, regardless of the terms of the agreement between the facility and USAP-CO. For example, one surgery center in Denver, Colorado—where USAP-CO is contracted to provide anesthesiology services—reported to USAP-CO that its surgeons were taking United cases (at minimum) to other facilities. At another Optum Care affiliated surgery center in Denver, Colorado, USAP-CO was forced into renegotiating its contract with the facility at the risk of losing the facility's business altogether. This is because the surgery center was losing hundreds of thousands of dollars per month due to surgeons taking cases elsewhere due to United's improper actions and USAP-CO's out-of-network status with United.

On information and belief, those surgeons did so because of the substantially increased incentives they received from United not to refer cases to USAP-CO anesthesiologists.

54. United's actions therefore have damaged and continue to damage USAP-CO's relationships and goodwill with the hospitals and health systems that USAP-CO works with throughout the state.

55. Moreover, United's intentional conduct disregards the best interests of patients and potentially compromises the quality of the anesthesia care being provided to its members by improperly inducing surgeons to use anesthesia providers other than USAP-CO. This is particularly true in light of USAP-CO's significant experience on the front lines of the coronavirus pandemic. Furthermore, United's intentional conduct risks increasing the total cost of care (e.g., care associated with opioid usage) if lower quality anesthesia providers replace USAP-CO's high-quality services.

56. By eliminating USAP-CO and its providers from the pool of anesthesia providers available in Colorado, United is reducing competition in the market in general, which ultimately affects both the quality of services received and the price paid by patients.

57. On information and belief, United also is coordinating and facilitating a group boycott among USAP-CO competitors and other healthcare providers that refer cases to anesthesiologists. This agreement is illegal *per se* under the Colorado antitrust laws because United is acting as the hub coordinating an agreement among competitors at the same level of the healthcare chain, and because United—through its OptumCare affiliates—competes directly with USAP-CO and with the other providers with whom it contract.

58. Specifically, on information and belief, United has coordinated with two former USAP-CO physicians who formed a competing anesthesiology practice and reached an

anticompetitive agreement with the purpose of driving cases away from USAP-CO, to the benefit of competing anesthesiology providers.

59. The anesthesia practices that entered into an anticompetitive agreement with United acted against their own interests. In a properly functioning competitive market, USAP-CO's competitors would negotiate for the best rates that they could achieve with United at the time of the negotiations. Instead of doing so, on information and belief, USAP-CO's competitors have entered into in-network agreements with United far below what they otherwise would have agreed to because of United's promise to work with them to continue to drive USAP-CO out of the market, reducing overall competition.

60. Evidenced by the fact that they are acting against their own interests in their interactions with United, on information and belief, these anesthesia practices know that their competitors are entering similar agreements with United, and thus have a tacit agreement with their competitors. This agreement has the collective end goal of driving USAP-CO out of business to their benefit.

FIRST CLAIM FOR RELIEF
(INTENTIONAL INTERFERENCE WITH PROSPECTIVE ECONOMIC ADVANTAGE)

61. USAP-CO adopts and re-alleges the allegations contained in paragraphs 1 through 60 as if the same were fully set forth herein.

62. United was fully aware of the existing business relationships between USAP-CO and the multiple surgeons throughout Colorado, including the fact that but for United's intentional and improper offer to compensate such surgeons with an artificially inflated 50% premium to refrain from working with USAP-CO anesthesia providers, USAP-CO anesthesia providers would continue their business and clinical relationships with such surgeons and

provide their high-quality anesthesia services during procedures and surgeries performed by such surgeons for United members.

63. United was fully aware of the prospective business relationship between USAP-CO and patients, including the fact that but for United's intentional and improper offer to compensate surgeons with a 50% premium to work with non-USAP-CO anesthesia providers, USAP-CO anesthesia providers would provide their high-quality services to those patients.

64. Indeed, by virtue of USAP-CO's existing business relationships and contractual arrangements with surgeons and medical facilities, USAP-CO was likely to form contracts and business relationships with patients who received surgeries and other procedures at those facilities and from those surgeons.

65. United interfered with those prospective relationships, thereby preventing the formation of a contract or formal business relationship and preventing the patients and USAP-CO from continuing their prospective relationships.

66. United's interference was intentional.

67. United's interference was accomplished by the use of improper means. Specifically, United offered surgeons a 50% premium for their services based solely on the condition that surgeons would not work with USAP-CO anesthesia providers.

68. USAP-CO suffered damages as a result of United's improper, intentional interference.

SECOND CLAIM FOR RELIEF
(INTENTIONAL INTERFERENCE WITH EXISTING CONTRACTS)

69. USAP-CO adopts and re-alleges the allegations contained in paragraphs 1 through 68 as if the same were fully set forth herein.

70. United knew or should have known USAP-CO had contracts with multiple hospitals and medical facilities throughout the State of Colorado.

71. In those contracts, the hospitals and medical facilities agreed that USAP-CO would provide anesthesia services to the hospitals and facilities' patients. Many of these agreements are either exclusive or semi-exclusive, meaning that the hospitals and medical facilities agree to use USAP-CO anesthesiologists for all anesthesia services for all of certain types of anesthesia services. In exchange, USAP-CO generally waives fees that otherwise would be charged, and USAP-CO agrees to provide anesthesia services on a continuous, 24/7 schedule, to all patients in need regardless of insurance company or ability to pay.

72. United also was fully aware that USAP-CO's anesthesia providers had significant business relationships with surgeons throughout the State of Colorado. In particular, USAP-CO anesthesiologists have longstanding relationships with surgeons who prefer to use USAP-CO for their procedures because of the quality of care provided and because the longstanding nature of the relationship means surgeries run more smoothly, to the benefit of everyone.

73. But for United's intentional and improper offer to compensate surgeons with a 50% premium to work with non-USAP-CO anesthesia providers, USAP-CO anesthesia providers would continue to provide high-quality services to patients at those facilities.

74. Despite United's actual awareness of the existing contractual and business relationships between USAP-CO and medical facilities, United intentionally and improperly interfered with those relationships by offering surgeons a commercially unreasonable 50% premium to work with non-USAP-CO anesthesia providers. United had no legitimate right, justification or excuse to interfere in the relationships in that manner, and its conduct was wholly calculated to damage USAP-CO.

75. United devised this commercially unreasonable practice with the intention that the hospitals and other medical facilities would fail to perform their contracts with USAP-CO in a significant way.

76. United's conduct induced medical facilities to breach the implied covenant of good faith and fair dealing in their contracts with USAP-CO or make it impossible for the medical facilities to perform the covenant of good faith and fair dealing in those contracts, or, at a minimum, impair the medical facilities' performance of the contracts short of inducing or causing an actual breach.

77. The contractual and business relationships between USAP-CO and medical facilities was such that the parties would have continued to enjoy the benefits of their enforceable and lucrative arrangements were it not for United's wrongful interference.

78. USAP-CO has suffered damages as a direct and proximate result of United's intentional and improper conduct including lost revenues and opportunities which USAP-CO would have realized absent United's interference.

THIRD CLAIM FOR RELIEF
(GROUP BOYCOTT IN VIOLATION OF THE COLORADO ANTITRUST ACT OF 1992)

79. USAP-CO adopts and re-alleges the allegations contained in paragraphs 1 through 78 as if the same were fully set forth herein.

80. C.R.S. § 6-4-104 makes illegal “[e]very contract, combination . . ., or conspiracy in restraint of trade,” including group boycotts. Specifically, group boycotts are “illegal *per se*,” meaning that they are so detrimental to competition that they are illegal as a matter of law regardless of whether they have any procompetitive purpose.

81. United facilitated and coordinated a group boycott among USAP-CO's anesthesia service provider competitors within Colorado and other physician groups, with the purpose of driving USAP-CO out of competition within Colorado.

82. USAP-CO's competitors acted against their own interest in entering the agreement with their competitors, which United facilitated.

83. United's intentional act of coordinating a boycott by USAP-CO's anesthesia service provider competitors and other Colorado physician groups constitutes an impermissible group boycott, which constitutes an unlawful restraint of trade under C.R.S. § 6-4-104.

84. USAP-CO has suffered damages as a result of this group boycott initiated by United.

PRAYER FOR RELIEF

WHEREFORE, USAP-CO prays for the following relief:

1. With respect to the First, Second and Third Claims for Relief, that judgment be entered against United on each of these claims, and in favor of USAP-CO in an amount to be determined by the trier of fact.

2. USAP-CO be awarded its costs, reasonable attorneys' fees, pre-judgment interest and post-judgment interest, and such other and further relief as the Court deems just and proper.

DEMAND FOR JURY

USAP-CO demands trial by jury of all issues plead or which may hereafter be plead,
which are triable by a jury.

DATED this 31st day of March, 2021.

Respectfully submitted,

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